BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Continue Oversight of Electric Integrated Resource Planning and Procurement Processes	R.25-06-019 (Filed June 26, 2025)

CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA'S AMENDED JUNE 2026 INTEGRATED RESOURCE PLAN MTR COMPLIANCE FILING [PUBLIC VERSION]

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June 9, 2026

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In compliance with the requirements of California Public Utilities Code Sections 454.51 and 454.52; California Public Utilities Commission ("Commission") Decision ("D.")18-02-018, D.19-11-016, D.20-12-044, D.21-06-035, D. 23-02-040, and D.26-02-057; and Energy Division's directions emailed on May 8, 2026, Clean Power Alliance of Southern California ("CPA") hereby provides its Amended June 2026 Integrated Resource Plan MTR ("Amended IRP") Compliance Filing to the Commission. CPA filed its original June 2026 Integrated Resource Plan MTR Compliance Filing on June 1, 2026 ("Original IRP"). At the direction of the Energy Division, CPA hereby provides its Amended IRP, which incorporates a requested correction to the Original IRP to add an officer signature to the verification tab of CPA's RDTv3, but does not make any substantive changes to the Original IRP.

I. INTEGRATED RESOURCE PLAN INCLUDED AS ATTACHMENTS TO THIS FILING

CPA is filing this pleading in Rulemaking 25-06-019 ("Rulemaking") and serving it to all parties identified in this Rulemaking's service list.[1] The confidential version of CPA's filing

[1] R.25-06-019, Assigned Commissioner's Scoping Memo and Ruling, filed October 28, 2025 at 10: "Beginning with the December 1, 2025 procurement compliance filing, LSEs should make their compliance filings in this proceeding instead of R.20-05-003."

consists of an unredacted RDTv3 template and supporting documentation ("Supporting Documentation"), demonstrating progress of procured incremental capacity resources toward project milestones, as required by D.20-12-044 (together, "Compliance Filing"). CPA's confidential version of the Compliance Filing has been provided to the Commission through the Commission's secure FTP site. Attached to this pleading are CPA's verification, pursuant to Rule 1.11, and CPA's redacted, public version of CPA's RDTv3 template. With the exception of public, non-confidential documents, CPA's Supporting Documentation has been redacted as appropriate from the public version of CPA's Compliance Filing.

II. CONCLUSION

CPA appreciates the Commission's effort in this Rulemaking and for its review of CPA's Compliance Filing.

Dated: June 9, 2026

Respectfully submitted,

/s/ *C.C. Song*

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Attachment A: CPA Verification

Verification

Consistent with the direction provided in Energy Division's May 8, 2026 Guidance Email and Rule 1.11 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure, Clean Power Alliance of Southern California provides this Verification. I am an officer of the reporting organization herein and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters, I believe them to be true. I declare under the penalty of perjury that the foregoing is true and correct.

Executed on June 9, 2026, at Los Angeles, California.

Respectfully submitted,

/s/ Matthew Langer
Matthew Langer
Chief Operating Officer
Clean Power Alliance of Southern California
801 S. Grand Ave., Suite 400
Los Angeles, CA 90017
(213) 713-7012
mlanger@cleanpoweralliance.org

Attachment B: CPA RDTv3 and Supporting Documents [Public]

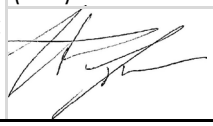
RDT Certification Form – Verification Declaration

Load Serving Entity Full Name:	Clean Power Alliance of Southern California
Load Serving Entity Abbreviation:	CPA
Submission Type:	MTR Compliance Filing
Date of Filing:	6/9/2026

Note: Consistent with Rules 1.1 & 1.11 of the CPUC's Rules of Practice and Procedure, this Procurement Showing has been verified by an officer of the corporation or organization, who expressly certifies, under penalty of perjury, the following:

1. I have responsibility for the activities reflected in this showing;
2. I have reviewed, or have caused to be reviewed, this showing;
3. Based on my knowledge, information, or belief, this filing does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made;
4. Based on my knowledge, information, or belief, this filing contains all of the information required to be provided by CPUC orders, rules, and regulations.

LSE Officer

Title:	Chief Operating Officer
Name:	Matthew Langer
Email:	mlanger@cleanpoweralliance.org
Phone:	(213) 713-7012
Signature:	

Backup Contact Information

Title:	Vice President, Power Supply
Name:	Lindsay Descagnia
Email:	ldescagnia@cleanpoweralliance.org
Phone:	(213) 280-4011
Signature:	

Load Serving Entity Information

LSE Address Line 1:	801 S. Grand Ave.
LSE Address Line 2:	Suite 400
LSE City:	Los Angeles
LSE State:	CA
LSE Zip:	90017

lse_unique_contract_id	resource	alternative_resource_name	contract_status	project_interconnection_position	interconnection_substation	marginal_addition	marginal_addition_to	total_nameplate_capacity	contracted_nameplate_capacity	sop_contracted_mw_nqc	contract_gwh_annual	is_hybrid_paired	can_charge_from_grid	total_generator_mw	contracted_generator_mw
energyCPAS0005b.General	SUNCAT_2_A2ABT2	ARLINGTON SOLAR UNIT 2A BESS	Online		Colorado River	NA		132	132		0.00	ExistingSolarExistingStorage	NO	0	0
energyCPAS0005b.DCR	SUNCAT_2_A2ABT2	ARLINGTON SOLAR UNIT 2A BESS	Online		Colorado River	NA		132	132		0.00	ExistingSolarExistingStorage	NO	0	0
energyCPAS0005c	SUNCAT_2_A2BSR2	ARLINGTON SOLAR UNIT 2B	Online		Colorado River	NA		133	133		393	ExistingSolarExistingStorage	NO	133	133
energyCPAS0005a	ARLNTN_2_AR1SR1	ARLINGTON	Online		Colorado River	NA		100	100		296	ExistingSolarExistingStorage	NO	100	100
energySanborn Storage.General	SANBRN_2_ESBBT1	EDSAN 1B	Online		Windhub	NA		75	75		0.00	NotHybrid			
energyCPAS0064.PV	POLRIS_2_ASESR1	ANTELOPE SOLAR 2 ESTRELLA	Online		Big Sky North	NA		56	56		164	ExistingSolarExistingStorage	NO	56	56
energyCPAS0064.BESS	POLRIS_2_ASEBT1	ANTELOPE SOLAR 2 ESTRELLA BESS	Online		Big Sky North	YES	POLRIS_2_ASESR1	28	28		0.00	ExistingSolarExistingStorage	NO	0	0
energyCPAS0065.PV.General	SISPRG_2_DS3SR1	DAGGETT SOLAR 3 A PV	Online		Kramer	NA		123	123		379	ExistingSolarExistingStorage	YES	123	123
energyCPAS0065.BESS.General	SISPRG_2_DS3BT1	DAGGETT SOLAR 3 BESS	Online		Kramer	YES	SISPRG_2_DS3SR1	62	62		0.00	ExistingSolarExistingStorage	YES	0	0
energyCPAS0065.PV.DCR	SISPRG_2_DS3SR1	DAGGETT SOLAR 3 A PV	Online		Kramer	NA		123	123		379	ExistingSolarExistingStorage	YES	123	123
energyCPAS0065.BESS.DCR	SISPRG_2_DS3BT1	DAGGETT SOLAR 3 BESS	Online		Kramer	YES	SISPRG_2_DS3SR1	62	62		0.00	ExistingSolarExistingStorage	YES	0	0
energyCPAS0072.PV.General	CMBLND_2_DS2SR1	DAGGETT 2 PV	Online		Kramer	NA		65	65		200	ExistingSolarExistingStorage	YES	65	65
energyCPAS0072.BESS.General	CMBLND_2_DS2BT1	DAGGETT 2 A BESS	Online		Kramer	YES	CMBLND_2_DS2SR1	52	52		0.00	ExistingSolarExistingStorage	YES	0	0
energyCPAS0072.PV.DCR	CMBLND_2_DS2SR1	DAGGETT 2 PV	Online		Kramer	NA		65	65		200	ExistingSolarExistingStorage	YES	65	65
energyCPAS0072.BESS.DCR	CMBLND_2_DS2BT1	DAGGETT 2 A BESS	Online		Kramer	YES	CMBLND_2_DS2SR1	52	52		0.00	ExistingSolarExistingStorage	YES	0	0
energyCPAS0073.PV	KRAMER_1_R2PX2	RESURGENCE 2 PV	Online		Kramer	NA		48	48		143	ExistingSolarExistingStorage	NO	48	48
energyCPAS0073.BESS	KRAMER_1_R2BX2	RESURGENCE 2 BESS	Online		Kramer	YES	KRAMER_1_R2PX2	40	40		0.00	ExistingSolarExistingStorage	NO	0	0
energyCPAS0063.PV	REXFRD_2_RSFSX2	Rexford Solar Farm	Online		Vestal	NA		300	300		848	ExistingSolarExistingStorage	YES	300	300
energyCPAS0063.BESS	REXFRD_2_RSFBX2	Rexford Solar Farm BESS	Online		Vestal	YES	REXFRD_2_RSFSX2	240	240		0.00	ExistingSolarExistingStorage	YES	0	0
energyCPAS0071.PV.General	VICPAS_2_SOCSR2	Sol Catcher BESS PV2	Online		Red Bluff	NA		94	94		281	ExistingSolarExistingStorage	YES	93.5	93.5
energyCPAS0071.BESS.General	VICPAS_2_SOCBT2	Sol Catcher BESS 2	Online		Red Bluff	YES	VICPAS_2_SOCBT2	71	71		0.00	ExistingSolarExistingStorage	YES	0	0
energyCPAS0071.PV.DCR	VICPAS_2_SOCSR2	Sol Catcher BESS PV2	Online		Red Bluff	NA		94	94		281	ExistingSolarExistingStorage	YES	93.5	93.5
energyCPAS0071.BESS.DCR	VICPAS_2_SOCBT2	Sol Catcher BESS 2	Online		Red Bluff	YES	VICPAS_2_SOCBT2	71	71		0.00	ExistingSolarExistingStorage	YES	0	0
energyCPAS0080.PV	FILIPPI_2_QZSSRX	Quartzite Solar 8	Online		Colorado River	NA		300	300		935	ExistingSolarExistingStorage	YES	300	300
energyCPAS0080.BESS	FILIPPI_2_QZSBTX	Quartzite Solar 8 BESS	Online		Colorado River	YES	FILIPPI_2_QZSSRX	150	150		0.00	ExistingSolarExistingStorage	YES	0	0
CPAS0088	_NEW_GENERIC_SOLAR_1AXIS	DOMINGUEZ CARSON	Online		Alon	NA		1	1		2	NotHybrid			
CPAS0089	_NEW_GENERIC_SOLAR_1AXIS	El Segundo Hawthorne	Online		Yukon	NA		1	1		1	NotHybrid			
CPAS0090	_NEW_GENERIC_SOLAR_1AXIS	Wilmington 1	Online		Watson	NA		2	2		4	NotHybrid			
CPAS0091	_NEW_GENERIC_SOLAR_1AXIS	Wilmington 2 Carson	Online			NA		1	1		2	NotHybrid			
CPAS0093	_NEW_GENERIC_SOLAR_1AXIS	Pivot Beverly Solar	Online			NA		0.4	0.4		1	NotHybrid			
CPAS0094	_NEW_GENERIC_SOLAR_1AXIS	Pivot San Gabriel Solar	Online			NA		0.27	0.27		0.50	NotHybrid			
CPA30087	_NEW_GENERIC_GEOTHERMAL	Cape Station Geothermal	Development	geothermal_import_planned	IPP	NA		30	30		217	NotHybrid			
CPA30099	_NEW_GENERIC_GEOTHERMAL	Geysers 18 MW Geothermal	Online	Existing Interconnect	Eagle Rock, Fulton, Lakeville	NA		18	18		158	NotHybrid			
CPAS0007	WSTWND_2_SBSBT2	SAGEBRUSH SOLAR 2 ESS 4D	Online		Vincent	NA		40	40		0.00	NotHybrid			
EnergyCarson1	_NEW_GENERIC_SOLAR_1AXIS	Carson Town Center 1	Development	WDT1941		NA		1	1		1	NotHybrid			
EnergyCommerce4	_NEW_GENERIC_SOLAR_1AXIS	Commerce Dis Ctr 4	Development	WDT1980	Laguna Bell	NA		1	1		2	NotHybrid			
EnergyEaves1	_NEW_GENERIC_SOLAR_1AXIS	Eaves Dic Dtr 1	Development	WDT10373	Laguna Bell	NA		1	1		1	NotHybrid			
EnergyEaves3	_NEW_GENERIC_SOLAR_1AXIS	Eaves Dis Ctr 3	Development	WDT1978	Laguna Bell	NA		1	1		2	NotHybrid			
EnergySouthbay20	_NEW_GENERIC_SOLAR_1AXIS	South Bay Dis Ctr 20	Development	WDT1943	Pacline	NA		1	1		3	NotHybrid			
EnergySouthbay6	_NEW_GENERIC_SOLAR_1AXIS	South Bay Dis Ctr 6	Development	WDT1946	Davison City	NA		1	1		3	NotHybrid			
EnergyKey75LDS	_NEW_GENERIC_BATTERY_STORAGE	Key 75 MW Long Duration Storage	Development	1479	Gates	NA		300	75		0	NotHybrid			
EnergyCapeStation18	NEW_GENERIC_GEOTHERMAL	Cape Station Geothermal 18MW Incremental	Development	geothermal_import_planned	IPP	YES	_NEW_GENERIC_GEOTHERMAL	18	18		137	NotHybrid			
energy.SunZiaNorth37.RAOnly	_NEW_GENERIC_WIND_OOS_AZNM	SunZia Wind North	Online	wind_import_existing	Pete Heinrich AC Switching Station	NA		37.3	37.3		0	NotHybrid			
energy.SunZiaNorth37	_NEW_GENERIC_WIND_OOS_AZNM	SunZia Wind North	Online	wind_import_existing	Pete Heinrich AC Switching Station	NA		37.3	37.3		119	NotHybrid			
energy.SunZiaNorth171	_NEW_GENERIC_WIND_OOS_AZNM	SunZia Wind North	Online	wind_import_existing	Pete Heinrich AC Switching Station	NA		171.5	171.5		548	NotHybrid			
energy.sunZiaSouth87.RAOnly	_NEW_GENERIC_WIND_OOS_AZNM	SUNZIA WIND SOUTH	Online	wind_import_existing	Pete Heinrich AC Switching Station	NA		171.5	171.5		0	NotHybrid			
energy.sunZiaSouth87	_NEW_GENERIC_WIND_OOS_AZNM	SUNZIA WIND SOUTH	Online	wind_import_existing	Pete Heinrich AC Switching Station	NA		87.7	87.7		275	NotHybrid			
energy.SunZiaSouth403	_NEW_GENERIC_WIND_OOS_AZNM	SUNZIA WIND SOUTH	Online	wind_import_existing	Pete Heinrich AC Switching Station	NA		403.5	403.5		1267	NotHybrid			
EnergyKey190BESS	_NEW_GENERIC_BATTERY_STORAGE	Key 190 MW BESS	Development	1479	Gates 500 kV	NA		190	190		0	NotHybrid	YES		
energySolarStar3.BESS	SLST34_2_SS3BT1	SOLAR STAR 3 STORAGE	Development	Q-1322	Whirlwind	NA		23	23		0	NewSolarNewStorage	YES		
energySolarStar3.PV	SLST34_2_SS3SR1	SOLAR STAR 3 PV	Development	Q-1322	Whirlwind	NA		24	24		75	NewSolarNewStorage		24	24
energySolarStar4.BESS	SLST34_2_SS4BT1	SOLAR STAR 4 STORAGE	Development	Q-1323	Whirlwind	NA		23	23		0	NewSolarNewStorage	YES		
energySolarStar4.PV	SLST34_2_SS4SR1	SOLAR STAR 4 PV	Development	Q-1323	Whirlwind	NA		24	24		75	NewSolarNewStorage		24	24
energyDenali.BESS	_NEW_GENERIC_BATTERY_STORAGE	DENALI ENERGY STORAGE	Development	1690	Vierra 115 kV Substation	NA		93	93		0	NotHybrid	YES	0	

total_storage_mw	contracted_storage_mw	solar_technology_sub_type	storage_technology_sub_type	total_storage_depth_mwh	contracted_storage_depth_mwh	viability_cod_reasonableness	viability_technical_feasibility	viability_financing_sitecontrol	resource_mix	d1911016_vamo_ghgfree	buy_sell_own	counterparty	generator_supplier	developer_name	capacity_area	capacity_sub_area	cpuc_approval_ref
132	132	1Axis	Li	528	528				[solar, 233] [battery, 132]			non-LSE supplier		NEXTERA	SCE		
132	132	1Axis	Li	528	528				[solar, 233] [battery, 132]			non-LSE supplier		NEXTERA	SCE		
0	0	1Axis	Li	0	0				[solar, 233] [battery, 132]			non-LSE supplier		NEXTERA	SCE		
0	0	1Axis	Li	0	0				[solar, 233] [battery, 132]			non-LSE supplier		NEXTERA	SCE		
74.642	74.642		Li	298.568	298.568				[battery, 74.642]			non-LSE supplier		TERRA GEN	Kern		
0	0	1Axis	Li	0	0				[solar, 56] [battery, 28]			non-LSE supplier		AES	BigCreekVentura		
28	28	1Axis	Li	112	112				[solar, 56] [battery, 28]			non-LSE supplier		AES	BigCreekVentura		
0	0	1Axis	Li	0	0				[solar, 123] [battery, 61.5]			non-LSE supplier		CLEARWAY	SCE		S
61.5	61.5	1Axis	Li	246	246				[solar, 123] [battery, 61.5]			non-LSE supplier		CLEARWAY	SCE		S
0	0	1Axis	Li	0	0				[solar, 123] [battery, 61.5]			non-LSE supplier		CLEARWAY	SCE		S
61.5	61.5	1Axis	Li	246	246				[solar, 123] [battery, 61.5]			non-LSE supplier		CLEARWAY	SCE		S
0	0	1Axis	Li	0	0				[solar, 65] [battery, 52]			non-LSE supplier		CLEARWAY	SCE		S
52	52	1Axis	Li	208	208				[solar, 65] [battery, 52]			non-LSE supplier		CLEARWAY	SCE		S
0	0	1Axis	Li	0	0				[solar, 65] [battery, 52]			non-LSE supplier		CLEARWAY	SCE		S
52	52	1Axis	Li	208	208				[solar, 65] [battery, 52]			non-LSE supplier		CLEARWAY	SCE		S
0	0	1Axis	Li	0	0				[solar, 48] [battery, 40]			non-LSE supplier		NEXTERA	SCE		S
40	40	1Axis	Li	160	160				[solar, 48] [battery, 40]			non-LSE supplier		NEXTERA	SCE		S
0	0	1Axis	Li	0	0				[solar, 300] [battery, 240]			non-LSE supplier		AES	BigCreekVentura		
240	240	1Axis	Li	960	960				[solar, 300] [battery, 240]			non-LSE supplier		AES	BigCreekVentura		
0	0	1Axis	Li	0	0				[solar, 93.5] [battery, 71]			non-LSE supplier		CLEARWAY	SCE		
71	71	1Axis	Li	284	284				[solar, 93.5] [battery, 71]			non-LSE supplier		CLEARWAY	SCE		
0	0	1Axis	Li	0	0				[solar, 93.5] [battery, 71]			non-LSE supplier		CLEARWAY	SCE		
71	71	1Axis	Li	284	284				[solar, 93.5] [battery, 71]			non-LSE supplier		CLEARWAY	SCE		
0	0	1Axis	Li	0	0				[solar, 300] [battery, 150]			non-LSE supplier		EDF RENEWABLES	SCE		
150	150	1Axis	Li	600	600				[solar, 300] [battery, 150]			non-LSE supplier		EDF RENEWABLES	SCE		
									[solar, 1]			non-LSE supplier		PROLOGIS	LABasin		CPA Advice Letter 0019-E
									[solar, 1]			non-LSE supplier		PROLOGIS	LABasin		CPA Advice Letter 0019-E
									[solar, 2]			non-LSE supplier		PROLOGIS	LABasin		CPA Advice Letter 0019-E
									[solar, 1]			non-LSE supplier		PROLOGIS	LABasin		CPA Advice Letter 0019-E
									[solar, 0.4]			non-LSE supplier		PIVOT ENERGY	LABasin		CPA Advice Letter 0019-E
									[solar, 0.27]			non-LSE supplier		PIVOT ENERGY	LABasin		CPA Advice Letter 0019-E
						4	3	2	[geothermal, 30]			non-LSE supplier		FERVO	LDWP		
									[geothermal, 18]			non-LSE supplier		GEYSERS POWER COMPANY	PGE		
40	40		Li	160	160				[battery, 40]			non-LSE supplier		TERRA GEN	SCE		
						4	3	4	[solar, 1]			non-LSE supplier		PROLOGIS	LABasin		CPA Advice Letter 24-E
						4	3	4	[solar, 1]			non-LSE supplier		PROLOGIS	LABasin		CPA Advice Letter 24-E
						4	3	4	[solar, 1]			non-LSE supplier		PROLOGIS	LABasin		CPA Advice Letter 24-E
						4	3	4	[solar, 1]			non-LSE supplier		PROLOGIS	LABasin		CPA Advice Letter 24-E
						4	3	4	[solar, 1]			non-LSE supplier		PROLOGIS	LABasin		CPA Advice Letter 24-E
						4	3	4	[solar, 1]			non-LSE supplier		PROLOGIS	LABasin		CPA Advice Letter 24-E
75	75		Li	600	600	4	3	4	[battery, 75]			non-LSE supplier		NEXTERA	GreaterFresno		
						4	3	2	[geothermal, 18]			non-LSE supplier		FERVO	LDWP		
									[wind, 37.3]			non-LSE supplier		PATTERN ENERGY	AZPS		
									[wind, 37.3]			non-LSE supplier		PATTERN ENERGY	AZPS		
									[wind, 171.5]			non-LSE supplier		PATTERN ENERGY	AZPS		
									[wind, 171.5]			non-LSE supplier		PATTERN ENERGY	AZPS		
									[wind, 87.7]			non-LSE supplier		PATTERN ENERGY	AZPS		
									[wind, 403.5]			non-LSE supplier		PATTERN ENERGY	AZPS		
190	190		Li	760	760	4	3	4	[battery, 190]			non-LSE supplier		NEXTERA	PacGE		
23	23		Li	92	92	4	3	4	[solar, 24] [battery, 23]			non-LSE supplier		BERKSHIRE HATHAWAY ENERGY RENEWABL	SCE		
		1Axis				4	3	4	[solar, 24] [battery, 23]			non-LSE supplier		BERKSHIRE HATHAWAY ENERGY RENEWABL	SCE		
23	23		Li	92	92	4	3	4	[solar, 24] [battery, 23]			non-LSE supplier		BERKSHIRE HATHAWAY ENERGY RENEWABL	SCE		
		1Axis				4	3	4	[solar, 24] [battery, 23]			non-LSE supplier		BERKSHIRE HATHAWAY ENERGY RENEWABL	SCE		
93	93		Li	372	372	4	3	2	[battery, 93]			non-LSE supplier		ORMAT	PacGE		

county	COD_year	COD_month	COD_day	contract_start_date_year	contract_start_date_month	contract_start_date_day	contract_end_date_year	contract_end_date_month	contract_end_date_day	contract_execution_date_year	contract_execution_date_month	contract_execution_date_day	contract_type	contract_price	contract_price_unit	tx_upgrades	tx_upgrade_date_year	tx_upgrade_date_month	tx_upgrade_date_day	tx_upgrade_description
RiversideCounty	2022	8	21	2022	8	21	2039	11	30	2020	10	2	RA+RPS	[redacted]	$/kW-month	NA				
RiversideCounty	2022	8	21	2022	8	21	2039	11	30	2020	10	2	RA+RPS		$/kW-month	NA				
RiversideCounty	2023	11	1	2023	11	1	2039	10	31	2020	10	2	RA+RPS		$/MWh	NA				
RiversideCounty	2022	3	21	2022	3	21	2039	11	30	2020	10	2	RA+RPS		$/MWh	NA				
KernCounty	2021	11	1	2021	11	15	2036	11	14	2020	6	4	RA		$/kW-month	NA				
LosAngelesCounty	2023	12	31	2023	12	31	2039	12	30	2022	7	8	RA+RPS		$/MWh	NA				
LosAngelesCounty	2023	12	31	2023	12	31	2039	12	30	2022	7	8	RA+RPS		$/kW-month	NA				
anBernardinoCoun	2023	11	17	2023	11	17	2038	11	16	2022	10	7	RA+RPS		$/MWh	NA				
anBernardinoCoun	2023	11	17	2023	11	17	2038	11	16	2022	10	7	RA+RPS		$/kW-month	NA				
anBernardinoCoun	2023	11	17	2023	11	17	2038	11	16	2022	10	7	RA+RPS		$/MWh	NA				
anBernardinoCoun	2023	11	17	2023	11	17	2038	11	16	2022	10	7	RA+RPS		$/kW-month	NA				
anBernardinoCoun	2023	12	8	2023	12	8	2038	12	7	2022	10	7	RA+RPS		$/MWh	NA				
anBernardinoCoun	2023	12	8	2023	12	8	2038	12	7	2022	10	7	RA+RPS		$/kW-month	NA				
anBernardinoCoun	2023	12	8	2023	12	8	2038	12	7	2022	10	7	RA+RPS		$/MWh	NA				
anBernardinoCoun	2023	12	8	2023	12	8	2038	12	7	2022	10	7	RA+RPS		$/kW-month	NA				
anBernardinoCoun	2023	9	14	2023	9	14	2044	9	13	2022	7	8	RA+RPS		$/MWh	NA				
anBernardinoCoun	2023	9	14	2023	9	14	2044	9	13	2022	7	8	RA+RPS		$/kW-month	NA				
TulareCounty	2025	2	21	2025	2	21	2040	2	20	2022	10	17	RA+RPS		$/MWh	NA				
TulareCounty	2025	2	21	2025	2	21	2040	2	20	2022	10	17	RA+RPS		$/kW-month	NA				
RiversideCounty	2024	4	23	2024	4	23	2039	4	22	2022	10	7	RA+RPS		$/MWh	NA				
RiversideCounty	2024	4	23	2024	4	23	2039	4	22	2022	10	7	RA+RPS		$/kW-month	NA				
RiversideCounty	2024	4	23	2024	4	23	2039	4	22	2022	10	7	RA+RPS		$/MWh	NA				
RiversideCounty	2024	4	23	2024	4	23	2039	4	22	2022	10	7	RA+RPS		$/kW-month	NA				
RiversideCounty	2024	12	21	2025	3	1	2040	2	28	2022	10	7	RA+RPS		$/MWh	NA				
RiversideCounty	2024	12	21	2025	3	1	2040	2	28	2022	10	7	RA+RPS		$/kW-month	NA				
LosAngelesCounty	2025	8	15	2025	8	15	2040	8	14	2022	10	10	RPS		$/MWh	YES				
LosAngelesCounty	2025	7	29	2025	7	29	2040	7	28	2022	10	10	RPS		$/MWh	YES				
LosAngelesCounty	2025	9	25	2025	9	25	2040	9	24	2022	10	10	RPS		$/MWh	NA				
LosAngelesCounty	2025	8	15	2025	8	15	2040	8	14	2022	10	10	RPS		$/MWh	NA				
LosAngelesCounty	2025	2	28	2025	2	28	2040	2	27	2022	12	2	RPS		$/MWh	NA				
LosAngelesCounty	2025	2	28	2025	2	28	2040	2	27	2022	12	2	RPS		$/MWh	NA				
Beaver	2028	6	1	2028	6	1	2043	5	31	2022	9	1	RA+RPS		$/MWh	YES	2028	6	1	
LakeCounty	2026	6	1	2026	6	1	2046	5	31	2023	2	24	RA+RPS		$/MWh	NO				
KernCounty	2024	6	1	2024	6	1	2040	12	31	2023	7	7	RA		$/kW-month	NO				
LosAngelesCounty	2026	2	24	2026	2	24	2046	2	23	2023	9	19	RPS		$/MWh	NA				
LosAngelesCounty	2026	1	29	2026	1	29	2046	1	28	2023	9	19	RPS		$/MWh	NA				
LosAngelesCounty	2026	11	28	2026	11	28	2046	11	27	2023	9	19	RPS		$/MWh	NA				
LosAngelesCounty	2026	11	27	2026	11	27	2046	11	26	2023	9	19	RPS		$/MWh	NA				
LosAngelesCounty	2026	1	27	2026	1	27	2046	1	26	2023	9	19	RPS		$/MWh	NA				
LosAngelesCounty	2026	12	1	2026	12	1	2046	11	30	2023	9	19	RPS		$/MWh	NA				
FresnoCounty	2026	12	1	2026	12	1	2041	11	30	2024	9	14	RA		$/kW-month	YES	2026	8	1	
Beaver	2028	6	1	2028	6	1	2043	5	31	2025	2	27	RA+RPS		$/MWh	YES	2028	6	1	
NewMexico	2026	5	26	2026	5	26	2028	12	31	2025	9	17	RA		$/kW-month	NA				
NewMexico	2026	5	26	2029	1	1	2041	5	25	2025	9	17	RA+RPS		$/MWh	NA				
NewMexico	2026	5	20	2026	5	20	2041	5	19	2025	10	3	RA+RPS		$/MWh	NA				
NewMexico	2026	5	26	2026	5	26	2028	12	31	2025	9	17	RA		$/kW-month	NA				
NewMexico	2026	5	26	2029	1	1	2041	5	25	2025	9	17	RA+RPS		$/MWh	NA				
NewMexico	2026	5	20	2026	5	20	2041	5	19	2025	10	3	RA+RPS		$/MWh	NA				
FresnoCounty	2027	6	1	2027	6	1	2047	5	31	2024	5	3	RA		$/kW-month	YES	2027	1	1	
KernCounty	2026	10	1	2026	10	1	2046	9	30	2024	6	10	RA+RPS		$/kW-month	NA				
KernCounty	2026	10	1	2026	10	1	2046	9	30	2024	6	10	RA+RPS		$/MWh	NA				
KernCounty	2026	10	1	2026	10	1	2046	9	30	2024	6	10	RA+RPS		$/kW-month	NA				
KernCounty	2026	10	1	2026	10	1	2046	9	30	2024	6	10	RA+RPS		$/MWh	NA				
SanJoaquinCounty	2028	12	29	2028	12	29	2048	12	28	2024	5	15	RA		$/kW-month	NO				

d2106035_procurement_cat	mtr_tranche1_NQC	mtr_tranche2_NQC	mtr_tranche3_NQC	mtr_tranche4_NQC	mtr_tranche5_NQC	mtr_tranche6_NQC	mtr_NQC_ZE_gen_paired_dr	mtr_tranche7_NQC	mtr_tranche8_NQC	mtr_tranche9_NQC	mtr_bridge_to	contract_RA_compliant	engineering_assement_included	capacity_factor	contract_changed	previous_COD_year
[redacted]												NO	No		NO	2022
												NO	No		NO	2022
												NO	No		NO	2023
												NO	No		NO	2022
												NO	No		NO	2021
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												NO	No		NO	2025
												NO	No		NO	2025
												NO	No		NO	2025
												NO	No	87%	NO	2028
												NO	No	100%	NO	2026
												NO	No		NO	2024
												NO	No		NO	2026
												NO	No		NO	2026
												NO	No		NO	2026
												NO	No		NO	2026
												NO	No		NO	2026
												NO	No		NO	2026
												NO	No	87%	NO	2028
												NO	No		YES	
												NO	No		YES	
												NO	No		YES	
												NO	No		YES	2026
												NO	No		YES	2026
												NO	No		YES	2026
												NO	No		YES	
												NO	No		YES	
												NO	No		YES	
												NO	No		YES	
												NO	No		YES	

previous_COD_month	previous_COD_day	remediation_plan	signed_contract	notice_to_proceed	public_contract	buying_energy_capacity	NQC_reporting_source	procurement_origin	planned_project_retention_priority	csp_reserve_category	csp_annual_2028	csp_annual_2030	csp_annual_2035	csp_annual_2040	csp_annual_2045	macro_supertype	notes
8	21	NO	YES		YES	EnergyCapacity	Calculated	D1911016, D2106035									
8	21	NO	YES		YES	EnergyCapacity	Calculated	D1911016, D2106035									
11	1	NO	YES		YES	EnergyCapacity	Calculated	D1911016, D2106035									
3	21	NO	YES		YES	EnergyCapacity	Calculated	D1911016, D2106035									
11	1	NO	YES		YES	CapacityOnly	Calculated	D2106035									
12	31	NO	YES		YES	EnergyCapacity	Calculated	D2106035									
12	31	NO	YES		YES	EnergyCapacity	Calculated	D2106035									
11	17	NO	YES		YES	EnergyCapacity	Calculated	D2106035									
11	17	NO	YES		YES	EnergyCapacity	Calculated	D2106035									
11	17	NO	YES		YES	EnergyCapacity	Calculated	D2106035									
11	17	NO	YES		YES	EnergyCapacity	Calculated	D2106035									
12	8	NO	YES		YES	EnergyCapacity	Calculated	D2106035									
12	8	NO	YES		YES	EnergyCapacity	Calculated	D2106035									
12	8	NO	YES		YES	EnergyCapacity	Calculated	D2106035									
12	8	NO	YES		YES	EnergyCapacity	Calculated	D2106035									
9	14	NO	YES		YES	EnergyCapacity	Calculated	D2106035									
9	14	NO	YES		YES	EnergyCapacity	Calculated	D2106035									
2	21	NO	YES		YES	EnergyCapacity	Calculated	D2106035									
2	21	NO	YES		YES	EnergyCapacity	Calculated	D2106035									
4	23	NO	YES		YES	EnergyCapacity	Calculated	D2106035									
4	23	NO	YES		YES	EnergyCapacity	Calculated	D2106035									
4	23	NO	YES		YES	EnergyCapacity	Calculated	D2106035									
4	23	NO	YES		YES	EnergyCapacity	Calculated	D2106035									
12	21	NO	YES		YES	EnergyCapacity	Calculated	D2106035									
12	21	NO	YES		YES	EnergyCapacity	Calculated	D2106035									
8	15	NO	YES		YES	EnergyOnly		DACGT_CSGT_program									
7	29	NO	YES		YES	EnergyOnly		DACGT_CSGT_program									
9	25	NO	YES		YES	EnergyOnly		DACGT_CSGT_program									
8	15	NO	YES		YES	EnergyOnly		DACGT_CSGT_program									
2	28	NO	YES		YES	EnergyOnly		DACGT_CSGT_program									
2	28	NO	YES		YES	EnergyOnly		DACGT_CSGT_program									
6	1	NO	YES		YES	EnergyCapacity	Calculated	D2106035									
6	1	NO	YES		YES	EnergyCapacity	Calculated	D2106035									
6	1	NO	YES		YES	CapacityOnly	Calculated	D2106035									
1	30	NO	YES		YES	EnergyOnly		DACGT_CSGT_program									
1	30	NO	YES		YES	EnergyOnly		DACGT_CSGT_program									
6	11	NO	YES		YES	EnergyOnly		DACGT_CSGT_program									
6	11	NO	YES		YES	EnergyOnly		DACGT_CSGT_program									
1	30	NO	YES		YES	EnergyOnly		DACGT_CSGT_program									
6	30	NO	YES		YES	EnergyOnly		DACGT_CSGT_program									
12	1	NO	YES	YES	YES	CapacityOnly	Calculated	D2106035									The Key 75 MW project was assigned from the Desert Sands II
6	1	NO	YES		YES	EnergyCapacity	Calculated	D2106035									
		NO	NO	YES	YES	CapacityOnly	Calculated	D2302040		ote that since the last filing, the SunZia PPAs are now bifurcated between SunZia North and South projects, and CPA is reporting an additional 125 MW of capacity from the SunZia project, for a total of 700 MW of capacity from SunZia across 4 PPAs. Certain milestone evidence, such a							
		NO	YES	YES	YES	EnergyCapacity	Calculated	D2302040									The SunZia North Incremental 37 MW contract is RA Only from contract start until 202
		NO	YES	YES	YES	EnergyCapacity	Calculated	D2302040									
10	31	NO	YES	YES	YES	CapacityOnly	Calculated	D2302040									The SunZia South Incremental 87 MW contract is RA Only from contract start until 202
10	31	NO	YES	YES	YES	EnergyCapacity	Calculated	D2302040									The SunZia South Incremental 87 MW contract is RA Only from contract start until 202
10	31	NO	YES	YES	YES	EnergyCapacity	Calculated	D2302040									
		NO	YES	YES	YES	CapacityOnly	Calculated	D2302040									The site control and interconnection documentation provided for the Key 75 LDS contrac
		NO	YES	YES	YES	EnergyCapacity	Calculated	D2302040									
		NO	YES	YES	YES	EnergyCapacity	Calculated	D2302040									
		NO	YES	YES	YES	EnergyCapacity	Calculated	D2302040									
		NO	YES	YES	YES	EnergyCapacity	Calculated	D2302040									
		NO	YES		YES	CapacityOnly	Calculated	D2302040									

AMENDMENT NO. 1

to the

RENEWABLE POWER PURCHASE AGREEMENT

between

CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA

and

SOLAR STAR 3, LLC

This Amendment No. 1 ("Amendment") to the Agreement (as that term is defined below), dated as of September 5, 2025 (the "Amendment 1 Effective Date"), is entered between **CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA**, a California joint powers authority ("Buyer")), and **SOLAR STAR 3, LLC** a Delaware limited liability company ("Seller"). CPA and Seller are sometimes referred to herein individually as a "Party" and jointly as the "Parties". Capitalized terms used and not otherwise defined in this Amendment shall have the meanings ascribed to such terms in the Agreement.

RECITALS

The Parties enter into this Amendment with reference to the following facts:

A. The Parties entered into that certain Renewable Power Purchase Agreement, entered into as of June 10, 2024 (as amended from time to time, the "Agreement"), under which, among other things, Seller agreed to sell to Buyer, and Buyer agreed to purchase from Seller, Product under the terms and conditions set forth in the Agreement.

B. Seller has informed Buyer that Seller will not be able to achieve Commercial Operation on or before the Guaranteed Commercial Operation Date, even as such date may be extended due to Development Cure Period delays and/or the payment of Commercial Operation Delay Damages (the "COD Delay").

C. The Parties desire to amend the Agreement on the terms and subject to the provisions set forth herein.

AGREEMENT

In consideration of the promises, mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows.

1. Amendments to the Agreement. The Agreement is amended as follows:

(a) On the Cover Sheet, in the table titled "**Milestones**", the Expected Dates for Completion of the following Milestones are replaced with the following:

Milestone	Expected Date for Completion
Initial Synchronization	July 20, 2026
Expected Date of CAISO Commercial Operation	August 12, 2026
Expected Commercial Operation Date	October 1, 2026

(b) On the Cover Sheet, in the section titled "**Guaranteed Commercial Operation Date**", the date of July 1, 2025 is replaced with October 1, 2026.

(c) In Section 1.1, new defined terms are added as follows:

"**Additional Commercial Operation Delay Damages**" has the meaning set forth in Section 2 of PPA Amendment 1.

"**Amendment 1 Effective Date**" has the meaning set forth in the Preamble of PPA Amendment 1.

"**Delay Damages Payment**" has the meaning set forth in Section 2 of PPA Amendment 1.

"**PPA Amendment 1**" means that certain Amendment No. 1 to the Agreement dated as of September 5, 2025.

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

(d) A new Section 3.7(e) is added as follows:

Seller shall provide RA Substitute Capacity in accordance with applicable CAISO requirements in connection with Facility outages. Seller acknowledges and agrees that any failure by Seller to provide such RA Substitute Capacity may result in CAISO rejecting or cancelling Seller's request for CAISO to approve such Facility outage. If Seller fails to provide RA Substitute Capacity, then Buyer may elect to not include the Facility (or, if applicable, the portion of the Facility) in its RA Plan and such failure shall be deemed an "Facility RA Shortfall" and Seller's sole liability to Buyer for such failure to provide the RA Substitute Capacity will be payment of the RA Deficiency Amount for such RA Shortfall pursuant to Section 3.8.

(e) In Section 4.6(b)(A), the phrase "(including replacement Capacity Attributes as required by the CAISO)" is replaced by the phrase "(including RA Substitute Capacity pursuant to Section 3.7(e))".

(f) Section 10.4(a) is replaced in its entirety with the following:

If Seller is delayed in achieving Commercial Operation by the Guaranteed Commercial Operation Date due to one or more Force Majeure Events occurring after the Amendment 1 Effective Date for a cumulative two hundred seventy (270) days, and Seller has paid to Buyer Additional Commercial Operation Delay Damages for such two hundred seventy (270)-day period, then Seller may terminate this Agreement upon Notice to Buyer. Upon such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Sections 2.1(b) and 11.6, and Buyer shall promptly return to Seller any Development Security then held by Buyer plus the full amount of Additional Commercial Operation Delay Damages paid by Seller (but excluding the Delay Damage Payment), less any amounts drawn in accordance with this Agreement.

(g) In Section 11.6, each occurrence of the phrase "Error! Reference source not found." is replaced with "11.6".

(h) In Section 14.5, the phrase "Error! Reference source not found." is replaced with "14.5".

(i) In Section 1(b) of Annex I of Exhibit L, the phrase "Section 1Error! Reference source not found." is replaced with "Section 1(d)".

2. Delay Damages Payment. As consideration for Buyer's agreement to the terms of this Amendment, and as compensation for its damages due to the COD Delay, Seller has paid to Buyer a total of four million nine hundred thirty-five thousand dollars ($4,935,000) ("Delay Damages Payment"). No further Delay Damages shall be owed by Seller if Commercial Operation is achieved by the Guaranteed Commercial Operation Date set forth in this Amendment. Seller is deemed to have exhausted its right to pay Commercial Operation Delay Damages to extend the Guaranteed Commercial Operation Date as set forth in Section 2 of Exhibit B; *provided*, the Parties may, in their respective sole discretion, agree in writing to allow Seller an opportunity to pay additional Commercial Operation Delay Damages (as agreed, "**Additional Commercial Operation Delay Damages**") to further extend the Guaranteed Commercial Operation Date.

3. No Further Development Cure Period. Notwithstanding anything in the Agreement to the contrary, Seller shall not be entitled to any further Development Cure Period delays under the Agreement for any reason.

4. Miscellaneous.

(a) Reservation of Rights. Each of the Parties expressly reserves all of its respective rights and remedies under the Agreement.

(b) Legal Effect. Except as expressly modified as set forth herein, the Agreement remains unchanged and, as so modified, the Agreement shall remain in full force and effect. Seller hereby represents and warrants that the representations contained in Section 13.1 of the Agreement are true on and as of the Amendment 1 Effective Date as if made by Seller on and as of the Amendment 1 Effective Date with respect to this Amendment. CPA hereby represents and warrants that the representations

contained in Section 13.2 of the Agreement are true on and as of the Amendment 1 Effective Date as if made by Seller on and as of the Amendment 1 Effective Date with respect to this Amendment.

(c) Governing Law. This amendment and the rights and duties of the parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law. To the extent enforceable at such time, each party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this amendment.

(d) Successors and Assigns. This Amendment shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

(e) Authorized Signatures; Notices. Each Party represents and warrants that the person who signs below on behalf of that Party has authority to execute this Amendment on behalf of such Party and to bind such Party to this Amendment. Any written notice required to be given under the terms of this Amendment shall be given in accordance with the terms of the Agreement.

(f) Effective Date. This Amendment shall be deemed effective as of the Amendment 1 Effective Date.

(g) Further Agreements. This Amendment may only be amended, modified or supplemented by an instrument in writing executed by duly authorized representatives of Seller and CPA; provided, this Amendment may not be amended by electronic mail communications.

(h) Counterparts. This Amendment may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument and each of which shall be deemed an original.

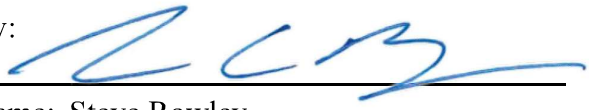
(i) Electronic Delivery. This Amendment may be duly executed and delivered by a Party by electronic format (including portable document format (.pdf)) delivery of the signature page of a counterpart to the other Party.

[*Remainder of this page intentionally left blank*]

IN WITNESS WHEREOF, the Parties have read this Agreement, understand it, and agree to be bound by its terms as of the Effective Date.

SOLAR STAR 3, LLC,

a Delaware limited liability company.

By: 

Name: Steve Rowley

Title: Vice President

Date: September 5, 2025

CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA,

a California joint powers authority.

By: 

Name: Theodore Bardacke

Title: Chief Executive Officer

Date: 08/09/2025

BHER - CPA Renewable PPA - Amendment No 1 Solar Star 3

Final Audit Report 2025-09-08

Created:	2025-09-08
By:	Emily Andrews (eandrews@cleanpoweralliance.org)
Status:	Signed
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Adobe Acrobat Sign

LARGE GENERATOR INTERCONNECTION AGREEMENT AMONG

SOLAR STAR 3, LLC AND

SOUTHERN CALIFORNIA EDISON COMPANY AND

CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION

PROJECT: SOLAR STAR 3 TOT795 (Q1322)

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LARGE GENERATOR INTERCONNECTION AGREEMENT

SOLAR STAR 3, LLC

SOUTHERN CALIFORNIA EDISON COMPANY

CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION

THIS LARGE GENERATOR INTERCONNECTION AGREEMENT ("LGIA") is made and entered into this _11th_ day of ___October___ 2019, by and among Solar Star 3, LLC, a limited liability company organized and existing under the laws of the State/Commonwealth of Delaware ("Interconnection Customer" with a Large Generating Facility), Southern California Edison Company, a corporation organized and existing under the laws of the State of California ("Participating TO"), and California Independent System Operator Corporation, a California nonprofit public benefit corporation organized and existing under the laws of the State of California ("CAISO"). Interconnection Customer, Participating TO, and CAISO each may be referred to as a "Party" or collectively as the "Parties."

RECITALS

WHEREAS, CAISO exercises Operational Control over the CAISO Controlled Grid; and

WHEREAS, the Participating TO owns, operates, and maintains the Participating TO's Transmission System; and

WHEREAS, Interconnection Customer intends to own, lease and/or control and operate the Generating Facility identified as a Large Generating Facility in Appendix C to this LGIA; and

WHEREAS, Interconnection Customer, Participating TO, and CAISO have agreed to enter into this LGIA for the purpose of interconnecting the Large Generating Facility with the Participating TO's Transmission System;

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein, it is agreed:

When used in this LGIA, terms with initial capitalization that are not defined in Article 1 shall have the meanings specified in the Article in which they are used.

ARTICLE 1. DEFINITIONS

ADNU shall mean Area Delivery Network Upgrade.

Adverse System Impact shall mean the negative effects due to technical or operational limits on conductors or equipment being exceeded that may compromise the safety and reliability of the electric system.

Affected System shall mean an electric system other than the CAISO Controlled Grid that may be affected by the proposed interconnection, including the Participating TO's electric system that is not part of the CAISO Controlled Grid.

Affiliate shall mean, with respect to a corporation, partnership or other entity, each such other corporation, partnership or other entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such corporation, partnership or other entity.

Applicable Laws and Regulations shall mean all duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority.

Applicable Reliability Council shall mean the Western Electricity Coordinating Council or its successor.

Applicable Reliability Standards shall mean the requirements and guidelines of NERC, the Applicable Reliability Council, and the Balancing Authority Area of the Participating TO's Transmission System to which the Generating Facility is directly connected, including requirements adopted pursuant to Section 215 of the Federal Power Act.

Area Deliverability Constraint shall mean a previously identified transmission system operating limit, based on a CAISO interconnection study or transmission planning study and listed on the CAISO website, that would constrain the deliverability of a substantial number of generators if the CAISO were to assign full capacity or partial capacity deliverability status to additional generating facilities in one or more specified geographic or electrical areas of the CAISO Controlled Grid in a total amount that is greater than the TP Deliverability for those areas. May also be a transmission system operating limit that constrains all or most of the same generation already constrained by a previously identified Area Deliverability Constraint.

Area Delivery Network Upgrade shall mean a transmission upgrade or addition identified by the CAISO to relieve an Area Deliverability Constraint.

Area Off-Peak Constraints shall mean a transmission system operating limit that would cause excessive curtailment to a substantial number of Generating Facilities

during Off-Peak Load conditions, as described in Section 6.3.2.2 of Appendix DD and the CAISO Off-Peak Deliverability Assessment posted on the CAISO Website.

Area Off-Peak Network Upgrades (AOPNUs) shall mean a transmission upgrade or addition the CAISO identifies in the Transmission Planning Process to relieve an Area Off-Peak Constraint.

Assigned Network Upgrade (ANU) shall mean Reliability Network Upgrades, Local Off-Peak Network Upgrades, and Local Delivery Network Upgrades currently assigned to the Interconnection Customer. Assigned Network Upgrades exclude Conditionally Assigned Network Upgrades unless they become Assigned Network Upgrades.

Asynchronous Generating Facility shall mean an induction, doubly-fed, or electronic power generating unit(s) that produces 60 Hz (nominal) alternating current.

Balancing Authority shall mean the responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a Balancing Authority Area, and supports Interconnection frequency in real time.

Balancing Authority Area shall mean the collection of generation, transmission, and loads within the metered boundaries of the Balancing Authority. The Balancing Authority maintains load-resource balance within this area.

Base Case shall mean the base case power flow, short circuit, and stability databases used for the Interconnection Studies.

Breach shall mean the failure of a Party to perform or observe any material term or condition of this LGIA.

Breaching Party shall mean a Party that is in Breach of this LGIA.

Business Day shall mean Monday through Friday, excluding federal holidays and the day after Thanksgiving Day.

CAISO Controlled Grid shall mean the system of transmission lines and associated facilities of the parties to the Transmission Control Agreement that have been placed under the CAISO's Operational Control.

CAISO Tariff shall mean the CAISO's tariff, as filed with FERC, and as amended or supplemented from time to time, or any successor tariff.

Calendar Day shall mean any day including Saturday, Sunday or a federal holiday.

Commercial Operation shall mean the status of an Electric Generating Unit or project phase at a Generating Facility that has commenced generating electricity for sale, excluding electricity generated during Trial Operation.

Commercial Operation Date of an Electric Generating Unit or project phase shall mean the date on which the Electric Generating Unit or project phase at the Generating Facility commences Commercial Operation as agreed to by the applicable Participating TO, the CAISO, and the Interconnection Customer pursuant to Appendix E to this LGIA, and in accordance with the implementation plan agreed to by the Participating TO and the CAISO for multiple individual Electric Generating Units or project phases at a Generating Facility where an Interconnection Customer intends to establish separate Commercial Operation Dates for those Electric Generating Units or project phases.

Conditionally Assigned Network Upgrade (CANU) shall mean Reliability Network Upgrades, Local Off-Peak Network Upgrades, and Local Delivery Network Upgrades currently assigned to an earlier Interconnection Customer, but which may be assigned to the Interconnection Customer.

Confidential Information shall mean any confidential, proprietary or trade secret information of a plan, specification, pattern, procedure, design, device, list, concept, policy or compilation relating to the present or planned business of a Party, which is designated as confidential by the Party supplying the information, whether conveyed orally, electronically, in writing, through inspection, or otherwise, subject to Article 22.1.2.

Current Cost Responsibility (CCR) shall mean the Interconnection Customer's current allocated costs for Assigned Network Upgrades, not to exceed the Maximum Cost Responsibility. This cost is used to calculate the Interconnection Customer's Interconnection Financial Security requirement.

Deliverability shall mean (1) The annual Net Qualifying Capacity of a Generating Facility, as verified through a Deliverability Assessment and measured in MW, which specifies the amount of resource adequacy capacity the Generating Facility is eligible to provide. (2) The annual Maximum Import Capability of an Intertie which specifies the amount of resource adequacy capacity measured in MW, that load-serving entities collectively can procure from imports at that Intertie to meet their resource adequacy requirements.

Default shall mean the failure of a Breaching Party to cure its Breach in accordance with Article 17 of this LGIA.

Distribution System shall mean those non-CAISO-controlled transmission and distribution facilities owned by the Participating TO.

Distribution Upgrades shall mean the additions, modifications, and upgrades to the Participating TO's Distribution System. Distribution Upgrades do not include Interconnection Facilities.

Effective Date shall mean the date on which this LGIA becomes effective upon execution by all Parties subject to acceptance by FERC, or if filed unexecuted, upon the date specified by FERC.

Electric Generating Unit shall mean an individual electric generator and its associated plant and apparatus whose electrical output is capable of being separately identified and metered.

Emergency Condition shall mean a condition or situation: (1) that in the judgment of the Party making the claim is imminently likely to endanger life or property; or (2) that, in the case of the CAISO, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the CAISO Controlled Grid or the electric systems of others to which the CAISO Controlled Grid is directly connected; (3) that, in the case of the Participating TO, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Participating TO's Transmission System, Participating TO's Interconnection Facilities, Distribution System, or the electric systems of others to which the Participating TO's electric system is directly connected; or (4) that, in the case of the Interconnection Customer, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Generating Facility or Interconnection Customer's Interconnection Facilities. System restoration and black start shall be considered Emergency Conditions; provided, that Interconnection Customer is not obligated by this LGIA to possess black start capability.

Environmental Law shall mean Applicable Laws or Regulations relating to pollution or protection of the environment or natural resources.

Federal Power Act shall mean the Federal Power Act, as amended, 16 U.S.C. §§ 791a et seq.

FERC shall mean the Federal Energy Regulatory Commission or its successor.

Force Majeure shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A Force Majeure event does not include acts of negligence or intentional wrongdoing by the Party claiming Force Majeure.

General Reliability Network Upgrade (GRNU) shall mean Reliability Network Upgrades that are not Interconnection Reliability Network Upgrades.

Generating Facility shall mean the Interconnection Customer's Electric Generating Unit(s) used for the production and/or storage for later injection of electricity identified in the Interconnection Customer's Interconnection Request, but shall not include the Interconnection Customer's Interconnection Facilities.

Generating Facility Capacity shall mean the net capacity of the Generating Facility and the aggregate net capacity of the Generating Facility where it includes multiple energy production devices.

Generator Interconnection and Deliverability Allocation Procedures (GIDAP) shall mean the CAISO protocol that sets forth the interconnection and allocation procedures applicable to an Interconnection Request pertaining to a Large Generating Facility that is included in CAISO Tariff Appendix DD.

Generator Interconnection Study Process Agreement shall mean the agreement between the Interconnection Customer and the CAISO for the conduct of the Interconnection Studies.

Good Utility Practice shall mean any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be any one of a number of the optimum practices, methods, or acts to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

Governmental Authority shall mean any federal, state, local or other governmental, regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that such term does not include the Interconnection Customer, CAISO, Participating TO, or any Affiliate thereof.

Governing Independent Study Process Interconnection Studies shall mean the engineering study(ies) conducted or caused to be performed by the CAISO, in coordination with the applicable Participating TO(s), that evaluates the impact of the proposed interconnection on the safety and reliability of the Participating TO's Transmission System and, if applicable, an Affected System, which shall consist primarily of a Facilities Study as described in Section 4.5 of the Generation Interconnection Procedures, a System Impact Study as described in Section 4.4 of the

Generation Interconnection Procedures, or a system impact and facilities study as described in Section 4.4 of the GIDAP.

Hazardous Substances shall mean any chemicals, materials or substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "hazardous constituents," "restricted hazardous materials," "extremely hazardous substances," "toxic substances," "radioactive substances," "contaminants," "pollutants," "toxic pollutants" or words of similar meaning and regulatory effect under any applicable Environmental Law, or any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any applicable Environmental Law.

Initial Synchronization Date shall mean the date upon which an Electric Generating Unit is initially synchronized and upon which Trial Operation begins.

In-Service Date shall mean the date upon which the Interconnection Customer reasonably expects it will be ready to begin use of the Participating TO's Interconnection Facilities to obtain back feed power.

Interconnection Customer's Interconnection Facilities shall mean all facilities and equipment, as identified in Appendix A of this LGIA, that are located between the Generating Facility and the Point of Change of Ownership, including any modification, addition, or upgrades to such facilities and equipment necessary to physically and electrically interconnect the Generating Facility to the Participating TO's Transmission System. Interconnection Customer's Interconnection Facilities are sole use facilities.

Interconnection Facilities shall mean the Participating TO's Interconnection Facilities and the Interconnection Customer's Interconnection Facilities. Collectively, Interconnection Facilities include all facilities and equipment between the Generating Facility and the Point of Interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Generating Facility to the Participating TO's Transmission System. Interconnection Facilities are sole use facilities and shall not include Distribution Upgrades, Stand Alone Network Upgrades or Network Upgrades.

Interconnection Financial Security (IFS) shall mean any of the financial instruments listed in Section 11.1 of the GIDAP that are posted by an Interconnection Customer to finance the construction of facilities or Network Upgrades.

Interconnection Handbook shall mean a handbook, developed by the Participating TO and posted on the Participating TO's web site or otherwise made available by the Participating TO, describing technical and operational requirements for wholesale generators and loads connected to the Participating TO's portion of the CAISO Controlled Grid, as such handbook may be modified or superseded from time to time. Participating TO's standards contained in the Interconnection Handbook shall be deemed consistent with Good Utility Practice and Applicable Reliability Standards. In

the event of a conflict between the terms of this LGIA and the terms of the Participating TO's Interconnection Handbook, the terms in this LGIA shall apply.

Interconnection Reliability Network Upgrades (IRNU) shall mean Reliability Network Upgrades at the Point of Interconnection to accomplish the physical interconnection of the Generating Facility to the CAISO Controlled Grid. IRNUs are treated as Reliability Network Upgrades unless otherwise noted.

Interconnection Request shall mean a request, in the form of Appendix 1 to the GIDAP, in accordance with the CAISO Tariff.

Interconnection Service shall mean the service provided by the Participating TO and CAISO associated with interconnecting the Interconnection Customer's Generating Facility to the Participating TO's Transmission System and enabling the CAISO Controlled Grid to receive electric energy and capacity from the Generating Facility at the Point of Interconnection, pursuant to the terms of this LGIA, the Participating TO's Transmission Owner Tariff, and the CAISO Tariff.

Interconnection Study shall mean

(i) For Interconnection Requests processed under the cluster study process described in the GIDAP, any of the following: the Phase I Interconnection Study conducted or caused to be performed by the CAISO, the reassessment of the Phase I Interconnection Study Base Case conducted or caused to be performed by the CAISO prior to the commencement of the Phase II Interconnection Study, or the Phase II Interconnection Study conducted or caused to be performed by the CAISO, pursuant to the GIDAP.

(ii) For Interconnection Requests processed under the Independent Study Process described in the GIDAP, the governing study(ies) conducted or caused to be performed by the CAISO, in coordination with the applicable Participating TO(s), pursuant to the GIDAP, which shall consist primarily of a system impact and facilities study as described in Section 4.4 of the GIDAP.

IRS shall mean the Internal Revenue Service.

Large Generating Facility shall mean a Generating Facility having a Generating Facility Capacity of more than 20 MW.

LDNU shall mean Local Delivery Network Upgrades.

Local Deliverability Constraint shall mean a transmission system operating limit modeled in the GIDAP study process that would be exceeded if the CAISO were to assign full capacity or partial capacity deliverability status to one or more additional generating facilities interconnecting to the CAISO Controlled Grid in a specific local area, and that is not an Area Deliverability Constraint.

Local Delivery Network Upgrade shall mean a transmission upgrade or addition identified by the CAISO in the GIDAP study process to relieve a Local Deliverability Constraint.

Local Off-Peak Constraints shall mean a transmission system operating limit modeled in the generator interconnection study process that would be exceeded or lead to excessive curtailment, as described in the Off-Peak Deliverability Assessment methodology, if the CAISO were to assign Off-Peak Deliverability Status to one or more Generating Facilities interconnecting to the CAISO Controlled Grid in a specific local area, and that is not an Area Off-Peak Constraint.

Local Off-Peak Network Upgrades (LOPNUs) shall mean a transmission upgrade or addition the CAISO identifies in the generator interconnection study process to relieve a Local Off-Peak Constraint.

Loss shall mean any and all damages, losses, and claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties.

Material Modification shall mean those modifications that have a material impact on the cost or timing of any Interconnection Request or any other valid interconnection request with a later queue priority date.

Maximum Cost Exposure (MCE) shall mean, pursuant to Appendix DD, the sum of (1) the Interconnection Customer's Maximum Cost Responsibility and (2) the Conditionally Assigned Network Upgrades from its Phase I or Phase II Interconnection Study.

Maximum Cost Responsibility (MCR) shall mean, pursuant to Appendix DD, the lower sum of the Interconnection Customer's (1) full cost of assigned Interconnection Reliability Network Upgrades and (2) allocated costs for all other Assigned Network Upgrades, from its Phase I or Phase II Interconnection Studies, not to exceed the Maximum Cost Exposure.

Merchant Network Upgrades – Network Upgrades constructed and owned by an Interconnection Customer or a third party pursuant to Article 5.1.5 of this LGIA, Section 14.3 of the GIDAP, and Sections 24.4.6.1 and 36.11 of the CAISO Tariff.

Metering Equipment shall mean all metering equipment installed or to be installed for measuring the output of the Generating Facility pursuant to this LGIA at the metering points, including but not limited to instrument transformers, MWh-meters, data acquisition equipment, transducers, remote terminal unit, communications equipment, phone lines, and fiber optics.

NERC shall mean the North American Electric Reliability Corporation or its successor organization.

Net Scheduled Generating Unit shall mean an Electric Generating Unit identified in a Net Scheduled PGA operated as a single unit such that the energy bid or self-schedule with the CAISO is the net value of the aggregate electrical net output of the Electric Generating Unit and the self-provided load.

Net Scheduled PGA shall mean a Net Scheduled Participating Generator Agreement specifying the special provisions for the operating relationship between a Net Scheduled Generating Unit and the CAISO, a pro forma version of which is set forth in Appendix B.3 of the CAISO Tariff.

Network Upgrades shall be Participating TO's Delivery Network Upgrades and Participating TO's Reliability Network Upgrades.

Off-Peak Deliverability Constraints shall mean a transmission system operating limit that constrains Generating Facilities in an area, leading to the excessive curtailment of expected Energy.

Off-Peak Network Upgrades shall mean Network Upgrades needed to relieve Off-Peak Deliverability Constraints. Area Off-Peak Network Upgrades address Area Off-Peak Constraints. Local Off-Peak Network Upgrades address Local Off-Peak Constraints.

Operational Control shall mean the rights of the CAISO under the Transmission Control Agreement and the CAISO Tariff to direct the parties to the Transmission Control Agreement how to operate their transmission lines and facilities and other electric plant affecting the reliability of those lines and facilities for the purpose of affording comparable non-discriminatory transmission access and meeting applicable reliability criteria.

Option (A) Generating Facilities shall mean a Generating Facility for which the Interconnection Customer has selected Option (A) as the Deliverability option under Section 7.2 of the GIDAP.

Option (B) Generating Facilities shall mean a Generating Facility for which the Interconnection Customer has selected Option (B) as the Deliverability option under Section 7.2 of the GIDAP.

Participating TO's Delivery Network Upgrades shall mean the additions, modifications, and upgrades to the Participating TO's Transmission System at or beyond the Point of Interconnection, other than Reliability Network Upgrades, identified in the Interconnection Studies, as identified in Appendix A, to relieve constraints on the CAISO Controlled Grid. Participating TO Delivery Network Upgrades can be either ADNU or LDNU.

Participating TO's Interconnection Facilities shall mean all facilities and equipment owned, controlled or operated by the Participating TO from the Point of Change of Ownership to the Point of Interconnection as identified in Appendix A to this LGIA, including any modifications, additions or upgrades to such facilities and equipment. Participating TO's Interconnection Facilities are sole use facilities and shall not include Distribution Upgrades, Stand Alone Network Upgrades or Network Upgrades.

Participating TO's Reliability Network Upgrades shall mean the additions, modifications, and upgrades to the Participating TO's Transmission System at or beyond the Point of Interconnection, identified in the Interconnection Studies, as identified in Appendix A, necessary to interconnect the Large Generating Facility safely and reliably to the Participating TO's Transmission System, which would not have been necessary but for the interconnection of the Large Generating Facility, including additions, modifications, and upgrades necessary to remedy short circuit or stability problems resulting from the interconnection of the Large Generating Facility to the Participating TO's Transmission System. Participating TO's Reliability Network Upgrades also include, consistent with Applicable Reliability Standards and Applicable Reliability Council practice, the Participating TO's facilities necessary to mitigate any adverse impact the Large Generating Facility's interconnection may have on a path's Applicable Reliability Council rating. Participating TO's Reliability Network Upgrades do not include any Participating TO's Delivery Network Upgrades.

Participating TO's Transmission System shall mean the facilities owned and operated by the Participating TO and that have been placed under the CAISO's Operational Control, which facilities form part of the CAISO Controlled Grid.

Party or Parties shall mean the Participating TO, CAISO, Interconnection Customer or the applicable combination of the above.

Phase I Interconnection Study shall mean the engineering study conducted or caused to be performed by the CAISO, in coordination with the applicable Participating TO(s), that evaluates the impact of the proposed interconnection on the safety and reliability of the Participating TO's Transmission System and, if applicable, an Affected System. The study shall identify and detail the system impacts that would result if the Generating Facility(ies) were interconnected without identified project modifications or system modifications, as provided in the On-Peak Deliverability Assessment (as defined in the CAISO Tariff), and other potential impacts, including but not limited to those identified in the Scoping Meeting as described in the GIDAP. The study will also identify the approximate total costs, based on per unit costs, of mitigating these impacts, along with an equitable allocation of those costs to Interconnection Customers for their individual Generating Facilities.

Phase II Interconnection Study shall mean an engineering and operational study conducted or caused to be performed by the CAISO in coordination with the

applicable Participating TO(s), to determine the Point of Interconnection and a list of facilities (including the Participating TO's Interconnection Facilities, Network Upgrades, Distribution Upgrades, and Stand Alone Network Upgrades), the cost of those facilities, and the time required to interconnect the Generating Facility(ies) with the Participating TO's Transmission System.

Phased Generating Facility shall mean a Generating Facility that is structured to be completed and to achieve Commercial Operation in two or more successive sequences that are specified in this LGIA, such that each sequence comprises a portion of the total megawatt generation capacity of the entire Generating Facility.

Point of Change of Ownership shall mean the point, as set forth in Appendix A to this LGIA, where the Interconnection Customer's Interconnection Facilities connect to the Participating TO's Interconnection Facilities.

Point of Interconnection shall mean the point, as set forth in Appendix A to this LGIA, where the Interconnection Facilities connect to the Participating TO's Transmission System.

Precursor Network Upgrades (PNU) shall mean Network Upgrades required for the Interconnection Customer consisting of (1) Network Upgrades assigned to an earlier Interconnection Customer in an earlier Queue Cluster, Independent Study Process, or Fast Track Process, that has executed its GIA pursuant to Section 14.2.2 of the GIDAP; and (2) Network Upgrades in the approved CAISO Transmission Plan.

Reasonable Efforts shall mean, with respect to an action required to be attempted or taken by a Party under this LGIA, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

RNU shall mean Reliability Network Upgrades.

Reliability Network Upgrades (RNU) shall mean the transmission facilities at or beyond the Point of Interconnection identified in the Interconnection Studies as necessary to interconnect one or more Generating Facility(ies) safely and reliably to the CAISO Controlled Grid, which would not have been necessary but for the interconnection of one or more Generating Facility(ies), including Network Upgrades necessary to remedy short circuit or stability problems, or thermal overloads. Reliability Network Upgrades shall only be deemed necessary for system operating limits, occurring under any system condition, which cannot be adequately mitigated through Congestion Management, or Operating Procedures based on the characteristics of the Generating Facilities included in the Interconnection Studies, limitations on market models, systems, or information, or other factors specifically identified in the Interconnection Studies. Reliability Network Upgrades also include, consistent with WECC practice, the facilities necessary to mitigate any adverse impact the Generating Facility's interconnection may have on a path's WECC rating. Reliability Network

Upgrades include Interconnection Reliability Network Upgrades and General Reliability Network Upgrades.

Scoping Meeting shall mean the meeting among representatives of the Interconnection Customer, the Participating TO(s), other Affected Systems, and the CAISO conducted for the purpose of discussing alternative interconnection options, to exchange information including any transmission data and earlier study evaluations that would be reasonably expected to impact such interconnection options, to analyze such information, and to determine the potential feasible Points of Interconnection.

Stand Alone Network Upgrades shall mean Network Upgrades that are not part of an Affected System that the Interconnection Customer may construct without affecting day-to-day operations of the CAISO Controlled Grid or Affected Systems during their construction. The Participating TO, the CAISO, and the Interconnection Customer must agree as to what constitutes Stand Alone Network Upgrades and identify them in Appendix A to this LGIA. If the CAISO, the Participating TO, and the Interconnection Customer disagree about whether a particular Network Upgrade is a Stand Alone Network Upgrade, the CAISO or Participating TO must provide the Interconnection Customer a written technical explanation outlining why it does not consider the Network Upgrade to be a Stand Alone Network Upgrade within 15 days of its determination.

Surplus Interconnection Service shall mean any unneeded portion of Interconnection Service Capacity established herein, such that if Surplus Interconnection Service is utilized the total amount of Interconnection Service Capacity at the Point of Interconnection would remain the same.

System Protection Facilities shall mean the equipment, including necessary protection signal communications equipment, that protects (1) the Participating TO's Transmission System, Participating TO's Interconnection Facilities, CAISO Controlled Grid, and Affected Systems from faults or other electrical disturbances occurring at the Generating Facility and (2) the Generating Facility from faults or other electrical system disturbances occurring on the CAISO Controlled Grid, Participating TO's Interconnection Facilities, and Affected Systems or on other delivery systems or other generating systems to which the CAISO Controlled Grid is directly connected.

TP Deliverability shall mean the capability, measured in MW, of the CAISO Controlled Grid as modified by transmission upgrades and additions identified in the annual Transmission Plan to support the interconnection with Full Capacity Deliverability Status or Partial Capacity Deliverability Status of additional Generating Facilities in a specified geographic or electrical area of the CAISO Controlled Grid.

Transmission Control Agreement shall mean CAISO FERC Electric Tariff No. 7.

Trial Operation shall mean the period during which the Interconnection Customer is engaged in on-site test operations and commissioning of an Electric Generating Unit prior to Commercial Operation.

Variable Energy Resource shall mean a device for the production of electricity that is characterized by an Energy source that: (1) is renewable; (2) cannot be stored by the facility owner or operator; and (3) has variability that is beyond the control of the facility owner or operator.

ARTICLE 2. EFFECTIVE DATE, TERM AND TERMINATION

2.1 Effective Date. This LGIA shall become effective upon execution by all Parties subject to acceptance by FERC (if applicable), or if filed unexecuted, upon the date specified by FERC. The CAISO and Participating TO shall promptly file this LGIA with FERC upon execution in accordance with Article 3.1, if required.

2.2 Term of Agreement. Subject to the provisions of Article 2.3, this LGIA shall remain in effect for a period of thirty (30) years from the Effective Date (Term Specified in Individual Agreements to be ten (10) years or such other longer period as the Interconnection Customer may request) and shall be automatically renewed for each successive one-year period thereafter.

2.3 Termination Procedures.

2.3.1 Written Notice. This LGIA may be terminated by the Interconnection Customer after giving the CAISO and the Participating TO ninety (90) Calendar Days advance written notice, or by the CAISO and the Participating TO notifying FERC after the Generating Facility permanently ceases Commercial Operation.

2.3.2 Default. A Party may terminate this LGIA in accordance with Article 17.

2.3.3 Suspension of Work. This LGIA may be deemed terminated in accordance with Article 5.16, if applicable.

2.3.4 Notwithstanding Articles 2.3.1, 2.3.2, and 2.3.3, no termination shall become effective until the Parties have complied with all Applicable Laws and Regulations applicable to such termination, including the filing with FERC of a notice of termination of this LGIA (if applicable), which notice has been accepted for filing by FERC, and the Interconnection Customer has fulfilled its termination cost obligations under Article 2.4.

2.4 Termination Costs. Immediately upon the other Parties' receipt of a notice of the termination of this LGIA pursuant to Article 2.3 above, the CAISO and the Participating TO will determine the total cost responsibility of the Interconnection Customer. If, as of the date of the other Parties' receipt of the notice of termination, the Interconnection Customer has not already paid its share of

Network Upgrade costs, as set forth in Appendix G to this LGIA, the Participating TO will liquidate the Interconnection Customer's Interconnection Financial Security associated with its cost responsibility for Network Upgrades, in accordance with Section 11.4 of the GIDAP.

The Interconnection Customer will also be responsible for all costs incurred or irrevocably committed to be incurred in association with the construction of the Participating TO's Interconnection Facilities (including any cancellation costs relating to orders or contracts for Interconnection Facilities and equipment) and other such expenses, including any Distribution Upgrades for which the Participating TO or CAISO has incurred expenses or has irrevocably committed to incur expenses and has not been reimbursed by the Interconnection Customer, as of the date of the other Parties' receipt of the notice of termination, subject to the limitations set forth in this Article 2.4. Nothing in this Article 2.4 shall limit the Parties' rights under Article 17. If, as of the date of the other Parties' receipt of the notice of termination, the Interconnection Customer has not already reimbursed the Participating TO and the CAISO for costs incurred to construct the Participating TO's Interconnection Facilities, the Participating TO will liquidate the Interconnection Customer's Interconnection Financial Security associated with the construction of the Participating TO's Interconnection Facilities, in accordance with Section 11.4 of the GIDAP. If the amount of the Interconnection Financial Security liquidated by the Participating TO under this Article 2.4 is insufficient to compensate the CAISO and the Participating TO for actual costs associated with the construction of the Participating TO's Interconnection Facilities contemplated in this Article, any additional amounts will be the responsibility of the Interconnection Customer, subject to the provisions of Section 11.4 of the GIDAP. Any such additional amounts due from the Interconnection Customer beyond the amounts covered by its Interconnection Financial Security will be due to the Participating TO immediately upon termination of this LGIA in accordance with Section 11.4 of the GIDAP.

If the amount of the Interconnection Financial Security exceeds the Interconnection Customer's cost responsibility under Section 11.4 of the GIDAP, any excess amount will be released to the Interconnection Customer in accordance with Section 11.4 of the GIDAP.

2.4.1 Notwithstanding the foregoing, in the event of termination by a Party, all Parties shall use commercially Reasonable Efforts to mitigate the costs, damages and charges arising as a consequence of termination. With respect to any portion of the Participating TO's Interconnection Facilities that have not yet been constructed or installed, the Participating TO shall to the extent possible and with the Interconnection Customer's authorization cancel any pending orders of, or return, any materials or equipment for, or contracts for construction of, such facilities; provided that in the event the Interconnection Customer elects not to authorize such cancellation, the Interconnection Customer shall assume all payment

obligations with respect to such materials, equipment, and contracts, and the Participating TO shall deliver such material and equipment, and, if necessary, assign such contracts, to the Interconnection Customer as soon as practicable, at the Interconnection Customer's expense. To the extent that the Interconnection Customer has already paid the Participating TO for any or all such costs of materials or equipment not taken by the Interconnection Customer, the Participating TO shall promptly refund such amounts to the Interconnection Customer, less any costs, including penalties, incurred by the Participating TO to cancel any pending orders of or return such materials, equipment, or contracts.

2.4.2 The Participating TO may, at its option, retain any portion of such materials, equipment, or facilities that the Interconnection Customer chooses not to accept delivery of, in which case the Participating TO shall be responsible for all costs associated with procuring such materials, equipment, or facilities.

2.4.3 With respect to any portion of the Interconnection Facilities, and any other facilities already installed or constructed pursuant to the terms of this LGIA, Interconnection Customer shall be responsible for all costs associated with the removal, relocation or other disposition or retirement of such materials, equipment, or facilities.

2.5 Disconnection. Upon termination of this LGIA, the Parties will take all appropriate steps to disconnect the Large Generating Facility from the Participating TO's Transmission System. All costs required to effectuate such disconnection shall be borne by the terminating Party, unless such termination resulted from the non-terminating Party's Default of this LGIA or such non-terminating Party otherwise is responsible for these costs under this LGIA.

2.6 Survival. This LGIA shall continue in effect after termination to the extent necessary to provide for final billings and payments and for costs incurred hereunder, including billings and payments pursuant to this LGIA; to permit the determination and enforcement of liability and indemnification obligations arising from acts or events that occurred while this LGIA was in effect; and to permit each Party to have access to the lands of the other Parties pursuant to this LGIA or other applicable agreements, to disconnect, remove or salvage its own facilities and equipment.

ARTICLE 3. REGULATORY FILINGS AND CAISO TARIFF COMPLIANCE

3.1 Filing. The Participating TO and the CAISO shall file this LGIA (and any amendment hereto) with the appropriate Governmental Authority(ies), if required. The Interconnection Customer may request that any information so provided be subject to the confidentiality provisions of Article 22. If the Interconnection Customer has executed this LGIA, or any amendment thereto, the

Interconnection Customer shall reasonably cooperate with the Participating TO and CAISO with respect to such filing and to provide any information reasonably requested by the Participating TO or CAISO needed to comply with applicable regulatory requirements.

3.2 Agreement Subject to CAISO Tariff. The Interconnection Customer will comply with all applicable provisions of the CAISO Tariff, including the GIDAP.

3.3 Relationship Between this LGIA and the CAISO Tariff. With regard to rights and obligations between the Participating TO and the Interconnection Customer, if and to the extent a matter is specifically addressed by a provision of this LGIA (including any appendices, schedules or other attachments to this LGIA), the provisions of this LGIA shall govern. If and to the extent a provision of this LGIA is inconsistent with the CAISO Tariff and dictates rights and obligations between the CAISO and the Participating TO or the CAISO and the Interconnection Customer, the CAISO Tariff shall govern.

3.4 Relationship Between this LGIA and the Net Scheduled PGA. With regard to the rights and obligations of a Net Scheduled Generating Unit that has entered into a Net Scheduled PGA with the CAISO and has entered into this LGIA, if and to the extent a matter is specifically addressed by a provision of the Net Scheduled PGA that is inconsistent with this LGIA, the terms of the Net Scheduled PGA shall govern.

ARTICLE 4. SCOPE OF SERVICE

4.1 Interconnection Service. Interconnection Service allows the Interconnection Customer to connect the Large Generating Facility to the Participating TO's Transmission System and be eligible to deliver the Large Generating Facility's output using the available capacity of the CAISO Controlled Grid. To the extent the Interconnection Customer wants to receive Interconnection Service, the Participating TO shall construct facilities identified in Appendices A and C that the Participating TO is responsible to construct.

Interconnection Service does not necessarily provide the Interconnection Customer with the capability to physically deliver the output of its Large Generating Facility to any particular load on the CAISO Controlled Grid without incurring congestion costs. In the event of transmission constraints on the CAISO Controlled Grid, the Interconnection Customer's Large Generating Facility shall be subject to the applicable congestion management procedures in the CAISO Tariff in the same manner as all other resources. Full Capacity Deliverability Status, Partial Capacity Deliverability Status, and Off-Peak Deliverability Status do not confer any priority over other Generating Facilities to deliver Energy; nor provide any warranty or guarantee to deliver any amount of Energy or avoid curtailment at any time.

4.2 Provision of Service. The Participating TO and the CAISO shall provide Interconnection Service for the Large Generating Facility.

4.3 Performance Standards. Each Party shall perform all of its obligations under this LGIA in accordance with Applicable Laws and Regulations, Applicable Reliability Standards, and Good Utility Practice, and to the extent a Party is required or prevented or limited in taking any action by such regulations and standards, such Party shall not be deemed to be in Breach of this LGIA for its compliance therewith. If such Party is the CAISO or Participating TO, then that Party shall amend the LGIA and submit the amendment to FERC for approval.

4.4 No Transmission Service. The execution of this LGIA does not constitute a request for, nor the provision of, any transmission service under the CAISO Tariff, and does not convey any right to deliver electricity to any specific customer or point of delivery.

4.5 Interconnection Customer Provided Services. The services provided by Interconnection Customer under this LGIA are set forth in Article 9.6 and Article 13.5.1. Interconnection Customer shall be paid for such services in accordance with Article 11.6.

4.6 TP Deliverability. To the extent that an Interconnection Customer is eligible for and has been allocated TP Deliverability pursuant to Section 8.9 of the GIDAP, the Interconnection Customer's retention of such allocated TP Deliverability shall be contingent upon satisfying the obligations set forth in Section 8.9.3 of the GIDAP. In the event that the Interconnection does not retain allocated TP Deliverability with regard to any portion of the Generating Facility, such portion of the Generating Facility shall be deemed to receive Interconnection Service under this LGIA as Energy Only Deliverability Status.

ARTICLE 5. INTERCONNECTION FACILITIES ENGINEERING, PROCUREMENT, AND CONSTRUCTION

Interconnection Facilities, Network Upgrades, and Distribution Upgrades shall be studied, designed, and constructed pursuant to Good Utility Practice. Such studies, design and construction shall be based on the assumed accuracy and completeness of all technical information received by the Participating TO and the CAISO from the Interconnection Customer associated with interconnecting the Large Generating Facility.

5.1 Options. Unless otherwise mutually agreed among the Parties, the Interconnection Customer shall select the In-Service Date, Initial Synchronization Date, and Commercial Operation Date; and either the Standard Option, Alternate Option, or, if eligible, Merchant Option, set forth below, Interconnection Facilities, Network Upgrades, and Distribution Upgrades, and such dates and selected option shall be set forth in Appendix B, Milestones. At the same time, the

Interconnection Customer shall indicate whether it elects the Option to Build set forth in Article 5.1.3 below. If the dates designated by the Interconnection Customer are not acceptable to the CAISO and Participating TO, they shall so notify the Interconnection Customer within thirty (30) calendar days. Upon receipt of the notification that the Interconnection Customer's designated dates are not acceptable to the CAISO and Participating TO, the Interconnection Customer shall notify the CAISO and Participating TO within thirty (30) calendar days whether it elects to exercise the Option to Build if it has not already elected to exercise the Option to Build.

5.1.1 Standard Option. The Participating TO shall design, procure, and construct the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades, using Reasonable Efforts to complete the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades by the dates set forth in Appendix B, Milestones. The Participating TO shall not be required to undertake any action which is inconsistent with its standard safety practices, its material and equipment specifications, its design criteria and construction procedures, its labor agreements, and Applicable Laws and Regulations. In the event the Participating TO reasonably expects that it will not be able to complete the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades by the specified dates, the Participating TO shall promptly provide written notice to the Interconnection Customer and the CAISO and shall undertake Reasonable Efforts to meet the earliest dates thereafter.

5.1.2 Alternate Option. If the dates designated by the Interconnection Customer are acceptable to the Participating TO, the Participating TO shall so notify the Interconnection Customer within thirty (30) Calendar Days, and shall assume responsibility for the design, procurement and construction of the Participating TO's Interconnection Facilities by the designated dates.

If the Participating TO subsequently fails to complete the Participating TO's Interconnection Facilities by the In-Service Date, to the extent necessary to provide back feed power; or fails to complete Network Upgrades by the Initial Synchronization Date to the extent necessary to allow for Trial Operation at full power output, unless other arrangements are made by the Parties for such Trial Operation; or fails to complete the Network Upgrades by the Commercial Operation Date, as such dates are reflected in Appendix B, Milestones; the Participating TO shall pay the Interconnection Customer liquidated damages in accordance with Article 5.3, Liquidated Damages, provided, however, the dates designated by the Interconnection Customer shall be extended day for day for each day that the CAISO refuses to grant clearances to install equipment.

5.1.3 Option to Build. The Interconnection Customer shall have the option to assume responsibility for the design, procurement and construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades. The Participating TO, CAISO, and Interconnection Customer must agree as to what constitutes Stand Alone Network Upgrades and identify such Stand Alone Network Upgrades in Appendix A to this LGIA. Except for Stand Alone Network Upgrades, the Interconnection Customer shall have no right to construct Network Upgrades under this option.

5.1.4 Negotiated Option. If the dates designated by the Interconnection Customer are not acceptable to the CAISO and Participating TO, the Parties shall in good faith attempt to negotiate terms and conditions, including revision of the specified dates and liquidated damages, the provision of incentives, or the procurement and construction of all facilities other than the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades if the Interconnection Customer elects to exercise the Option to Build under Article 5.1.3. If the Parties are unable to reach agreement on such terms and conditions, then, pursuant to Article 5.1.1 (Standard Option), the Participating TO shall assume responsibility for the design, procurement and construction of all facilities other than the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades if the Interconnection Customer elects to exercise the Option to Build.

5.1.5 Merchant Option. In addition to any Option to Build set forth in Article 5.1.3 of this LGIA, an Interconnection Customer having an Option (B) Generating Facility may elect to have a party other than the applicable Participating TO construct some or all of the LDNU and ADNU for which the Interconnection Customer has the obligation to fund and which are not subject to reimbursement. Such LDNU and ADNU will be constructed and incorporated into the CAISO Controlled Grid pursuant to the provisions for Merchant Transmission Facilities in CAISO Tariff Sections 24.4.6.1 and 36.11.

5.2 General Conditions Applicable to Option to Build. If the Interconnection Customer assumes responsibility for the design, procurement and construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades, or assumes responsibility for any stand-alone task, such as telecommunications, environmental, or real-estate related work:

(1) within six (6) months of the execution of this LGIA, or at a later date agreed to by the Parties, the Interconnection Customer will submit to the CAISO and the Participating TO a milestone schedule for the design, procurement, and construction of the Stand Alone Network Upgrades, or any stand-alone task assumed by the Interconnection Customer. The milestone schedule will be required to support the Interconnection

Customer's Commercial Operation Date, and any Appendix B Milestones will be amended to include the milestone schedule for the Stand Alone Network Upgrades;

(2) the Interconnection Customer shall engineer, procure equipment, and construct the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades (or portions thereof) using Good Utility Practice and using standards and specifications provided in advance by the Participating TO;

(3) The Interconnection Customer's engineering, procurement and construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades shall comply with all requirements of law to which the Participating TO would be subject in the engineering, procurement or construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades;

(4) the Participating TO shall review, and the Interconnection Customer shall obtain the Participating TO's approval of, the engineering design, equipment acceptance tests, and the construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades, which approval shall not be unreasonably withheld, and the CAISO may, at its option, review the engineering design, equipment acceptance tests, and the construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades;

(5) prior to commencement of construction, the Interconnection Customer shall provide to the Participating TO, with a copy to the CAISO for informational purposes, a schedule for construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades, and shall promptly respond to requests for information from the Participating TO;

(6) at any time during construction, the Participating TO shall have the right to gain unrestricted access to the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades and to conduct inspections of the same;

(7) at any time during construction, should any phase of the engineering, equipment procurement, or construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades not meet the standards and specifications provided by the Participating TO, the Interconnection Customer shall be obligated to remedy deficiencies in that portion of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades;

(8) the Interconnection Customer shall indemnify the CAISO and Participating TO for claims arising from the Interconnection Customer's construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades under the terms and procedures applicable to Article 18.1 Indemnity;

(9) The Interconnection Customer shall transfer control of the Participating TO's Interconnection Facilities to the Participating TO and shall transfer Operational Control of Stand Alone Network Upgrades to the CAISO;

(10) Unless the Parties otherwise agree, the Interconnection Customer shall transfer ownership of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades to the Participating TO. As soon as reasonably practicable, but within twelve months after completion of the construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades, the Interconnection Customer shall provide an invoice of the final cost of the construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades to the Participating TO, which invoice shall set forth such costs in sufficient detail to enable the Participating TO to reflect the proper costs of such facilities in its transmission rate base and to identify the investment upon which refunds will be provided;

(11) the Participating TO shall accept for operation and maintenance the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades to the extent engineered, procured, and constructed in accordance with this Article 5.2; and

(12) The Interconnection Customer's engineering, procurement and construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades shall comply with all requirements of the "Option to Build" conditions set forth in Appendix C. Interconnection Customer shall deliver to the Participating TO "as-built" drawings, information, and any other documents that are reasonably required by the Participating TO to assure that the Interconnection Facilities and Stand-Alone Network Upgrades are built to the standards and specifications required by the Participating TO.

(13) If the Interconnection Customer exercises the Option to Build pursuant to Article 5.1.3, the Interconnection Customer shall pay the Participating TO the agreed upon amount of $ N/A for Participating TO to execute the responsibilities enumerated to it under Article 5.2. The Participating TO will invoice the Interconnection Customer for this total amount to be divided on a monthly basis pursuant to Article 12.

5.3 Liquidated Damages. The actual damages to the Interconnection Customer, in the event the Participating TO's Interconnection Facilities or Network Upgrades are not completed by the dates designated by the Interconnection Customer and accepted by the Participating TO pursuant to subparagraphs 5.1.2 or 5.1.4, above, may include Interconnection Customer's fixed operation and maintenance costs and lost opportunity costs. Such actual damages are uncertain and impossible to determine at this time. Because of such uncertainty, any liquidated damages paid by the Participating TO to the Interconnection Customer in the event that the Participating TO does not complete any portion of the Participating TO's Interconnection Facilities or Network Upgrades by the applicable dates, shall be an amount equal to ½ of 1 percent per day of the actual cost of the Participating TO's Interconnection Facilities and Network Upgrades, in the aggregate, for which the Participating TO has assumed responsibility to design, procure and construct.

However, in no event shall the total liquidated damages exceed 20 percent of the actual cost of the Participating TO's Interconnection Facilities and Network Upgrades for which the Participating TO has assumed responsibility to design, procure, and construct. The foregoing payments will be made by the Participating TO to the Interconnection Customer as just compensation for the damages caused to the Interconnection Customer, which actual damages are uncertain and impossible to determine at this time, and as reasonable liquidated damages, but not as a penalty or a method to secure performance of this LGIA. Liquidated damages, when the Parties agree to them, are the exclusive remedy for the Participating TO's failure to meet its schedule.

No liquidated damages shall be paid to the Interconnection Customer if: (1) the Interconnection Customer is not ready to commence use of the Participating TO's Interconnection Facilities or Network Upgrades to take the delivery of power for the Electric Generating Unit's Trial Operation or to export power from the Electric Generating Unit on the specified dates, unless the Interconnection Customer would have been able to commence use of the Participating TO's Interconnection Facilities or Network Upgrades to take the delivery of power for Electric Generating Unit's Trial Operation or to export power from the Electric Generating Unit, but for the Participating TO's delay; (2) the Participating TO's failure to meet the specified dates is the result of the action or inaction of the Interconnection Customer or any other interconnection customer who has entered into an interconnection agreement with the CAISO and/or Participating TO, action or inaction by the CAISO, or any cause beyond the Participating TO's reasonable control or reasonable ability to cure; (3) the Interconnection Customer has assumed responsibility for the design, procurement and construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades; or (4) the Parties have otherwise agreed.

In no event shall the CAISO have any responsibility or liability to the Interconnection Customer for liquidated damages pursuant to the provisions of this Article 5.3.

5.4 Power System Stabilizers. The Interconnection Customer shall procure, install, maintain and operate Power System Stabilizers in accordance with Applicable Reliability Standards, the guidelines and procedures established by the Applicable Reliability Council, and the provisions of Section 4.6.5.1 of the CAISO Tariff. The CAISO reserves the right to establish reasonable minimum acceptable settings for any installed Power System Stabilizers, subject to the design and operating limitations of the Large Generating Facility. If the Large Generating Facility's Power System Stabilizers are removed from service or not capable of automatic operation, the Interconnection Customer shall immediately notify the CAISO and the Participating TO and restore the Power System Stabilizers to operation as soon as possible. The CAISO shall have the right to order the reduction in output or disconnection of the Large Generating Facility if the reliability of the CAISO Controlled Grid would be adversely affected as a result of improperly tuned Power System Stabilizers. The requirements of this Article 5.4 shall apply to Asynchronous Generating Facilities in accordance with Appendix H.

5.5 Equipment Procurement. If responsibility for construction of the Participating TO's Interconnection Facilities or Network Upgrades is to be borne by the Participating TO, then the Participating TO shall notify the Interconnection Customer and the CAISO in writing within thirty (30) days and commence design of the Participating TO's Interconnection Facilities or Network Upgrades and procurement of necessary equipment after all of the following conditions are satisfied, unless the Parties otherwise agree in writing:

5.5.1 The CAISO, in coordination with the applicable Participating TO(s), has completed the Phase II Interconnection Study or Governing Independent Study Interconnection Study pursuant to the applicable Generator Interconnection Study Process Agreement or other applicable study process agreement;

5.5.2 The Participating TO has received written authorization to proceed with design and procurement from the Interconnection Customer by the date specified in Appendix B, Milestones; and

5.5.3 The Interconnection Customer has provided security to the Participating TO in accordance with Article 11.5 by the dates specified in Appendix B, Milestones.

5.6 Construction Commencement. The Participating TO shall notify the Interconnection Customer and the CAISO in writing and commence construction of the Participating TO's Interconnection Facilities and Network Upgrades for

which it is responsible within thirty (30) days after the following additional conditions are satisfied:

5.6.1 Approval of the appropriate Governmental Authority has been obtained for any facilities requiring regulatory approval;

5.6.2 Necessary real property rights and rights-of-way have been obtained, to the extent required for the construction of a discrete aspect of the Participating TO's Interconnection Facilities and Network Upgrades;

5.6.3 The Participating TO has received written authorization to proceed with construction from the Interconnection Customer by the date specified in Appendix B, Milestones; and

5.6.4 The Interconnection Customer has provided payment and security to the Participating TO in accordance with Article 11.5 by the dates specified in Appendix B, Milestones.

5.7 Work Progress. The Parties will keep each other advised periodically as to the progress of their respective design, procurement and construction efforts. Any Party may, at any time, request a progress report from another Party. If, at any time, the Interconnection Customer determines that the completion of the Participating TO's Interconnection Facilities will not be required until after the specified In-Service Date, the Interconnection Customer will provide written notice to the Participating TO and CAISO of such later date upon which the completion of the Participating TO's Interconnection Facilities will be required.

5.8 Information Exchange. As soon as reasonably practicable after the Effective Date, the Parties shall exchange information regarding the design and compatibility of the Interconnection Customer's Interconnection Facilities and Participating TO's Interconnection Facilities and compatibility of the Interconnection Facilities with the Participating TO's Transmission System, and shall work diligently and in good faith to make any necessary design changes.

5.9 Limited Operation. If any of the Participating TO's Interconnection Facilities or Network Upgrades are not reasonably expected to be completed prior to the Commercial Operation Date of the Electric Generating Unit, the Participating TO and/or CAISO, as applicable, shall, upon the request and at the expense of the Interconnection Customer, perform operating studies on a timely basis to determine the extent to which the Electric Generating Unit and the Interconnection Customer's Interconnection Facilities may operate prior to the completion of the Participating TO's Interconnection Facilities or Network Upgrades consistent with Applicable Laws and Regulations, Applicable Reliability Standards, Good Utility Practice, and this LGIA. The Participating TO and CAISO shall permit Interconnection Customer to operate the Electric Generating

Unit and the Interconnection Customer's Interconnection Facilities in accordance with the results of such studies.

5.10 Interconnection Customer's Interconnection Facilities. The Interconnection Customer shall, at its expense, design, procure, construct, own and install the Interconnection Customer's Interconnection Facilities, as set forth in Appendix A.

5.10.1 Large Generating Facility and Interconnection Customer's Interconnection Facilities Specifications. In addition to the Interconnection Customer's responsibility to submit technical data with its Interconnection Request as required by Section 3.5.1 of the GIDAP, the Interconnection Customer shall submit all remaining necessary specifications for the Interconnection Customer's Interconnection Facilities and Large Generating Facility, including System Protection Facilities, to the Participating TO and the CAISO at least one hundred eighty (180) Calendar Days prior to the Initial Synchronization Date; and final specifications for review and comment at least ninety (90) Calendar Days prior to the Initial Synchronization Date. The Participating TO and the CAISO shall review such specifications pursuant to this LGIA and the GIDAP to ensure that the Interconnection Customer's Interconnection Facilities and Large Generating Facility are compatible with the technical specifications, operational control, safety requirements, and any other applicable requirements of the Participating TO and the CAISO and comment on such specifications within thirty (30) Calendar Days of the Interconnection Customer's submission. All specifications provided hereunder shall be deemed confidential.

5.10.2 Participating TO's and CAISO's Review. The Participating TO's and the CAISO's review of the Interconnection Customer's final specifications shall not be construed as confirming, endorsing, or providing a warranty as to the design, fitness, safety, durability or reliability of the Large Generating Facility, or the Interconnection Customer's Interconnection Facilities. Interconnection Customer shall make such changes to the Interconnection Customer's Interconnection Facilities as may reasonably be required by the Participating TO or the CAISO, in accordance with Good Utility Practice, to ensure that the Interconnection Customer's Interconnection Facilities are compatible with the technical specifications, Operational Control, and safety requirements of the Participating TO or the CAISO.

5.10.3 Interconnection Customer's Interconnection Facilities Construction. The Interconnection Customer's Interconnection Facilities shall be designed and constructed in accordance with Good Utility Practice. Within one hundred twenty (120) Calendar Days after the Commercial Operation Date, unless the Participating TO and Interconnection Customer agree on another mutually acceptable deadline, the Interconnection Customer shall deliver to the Participating TO and CAISO "as-built" drawings, information

and documents for the Interconnection Customer's Interconnection Facilities and the Electric Generating Unit(s), such as: a one-line diagram, a site plan showing the Large Generating Facility and the Interconnection Customer's Interconnection Facilities, plan and elevation drawings showing the layout of the Interconnection Customer's Interconnection Facilities, a relay functional diagram, relaying AC and DC schematic wiring diagrams and relay settings for all facilities associated with the Interconnection Customer's step-up transformers, the facilities connecting the Large Generating Facility to the step-up transformers and the Interconnection Customer's Interconnection Facilities, and the impedances (determined by factory tests) for the associated step-up transformers and the Electric Generating Units. The Interconnection Customer shall provide the Participating TO and the CAISO specifications for the excitation system, automatic voltage regulator, Large Generating Facility control and protection settings, transformer tap settings, and communications, if applicable. Any deviations from the relay settings, machine specifications, and other specifications originally submitted by the Interconnection Customer shall be assessed by the Participating TO and the CAISO pursuant to the appropriate provisions of this LGIA and the GIDAP.

5.10.4 Interconnection Customer to Meet Requirements of the Participating TO's Interconnection Handbook. The Interconnection Customer shall comply with the Participating TO's Interconnection Handbook.

5.11 Participating TO's Interconnection Facilities Construction. The Participating TO's Interconnection Facilities shall be designed and constructed in accordance with Good Utility Practice. Upon request, within one hundred twenty (120) Calendar Days after the Commercial Operation Date, unless the Participating TO and Interconnection Customer agree on another mutually acceptable deadline, the Participating TO shall deliver to the Interconnection Customer and the CAISO the following "as-built" drawings, information and documents for the Participating TO's Interconnection Facilities [include appropriate drawings and relay diagrams].

The Participating TO will obtain control for operating and maintenance purposes of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades upon completion of such facilities. Pursuant to Article 5.2, the CAISO will obtain Operational Control of the Stand Alone Network Upgrades prior to the Commercial Operation Date.

5.12 Access Rights. Upon reasonable notice and supervision by a Party, and subject to any required or necessary regulatory approvals, a Party ("Granting Party") shall furnish at no cost to the other Party ("Access Party") any rights of use, licenses, rights of way and easements with respect to lands owned or controlled by the Granting Party, its agents (if allowed under the applicable

agency agreement), or any Affiliate, that are necessary to enable the Access Party to obtain ingress and egress to construct, operate, maintain, repair, test (or witness testing), inspect, replace or remove facilities and equipment to: (i) interconnect the Large Generating Facility with the Participating TO's Transmission System; (ii) operate and maintain the Large Generating Facility, the Interconnection Facilities and the Participating TO's Transmission System; and (iii) disconnect or remove the Access Party's facilities and equipment upon termination of this LGIA. In exercising such licenses, rights of way and easements, the Access Party shall not unreasonably disrupt or interfere with normal operation of the Granting Party's business and shall adhere to the safety rules and procedures established in advance, as may be changed from time to time, by the Granting Party and provided to the Access Party.

5.13 Lands of Other Property Owners. If any part of the Participating TO's Interconnection Facilities and/or Network Upgrades are to be installed on property owned by persons other than the Interconnection Customer or Participating TO, the Participating TO shall at the Interconnection Customer's expense use efforts, similar in nature and extent to those that it typically undertakes on its own behalf or on behalf of its Affiliates, including use of its eminent domain authority, and to the extent consistent with state law, to procure from such persons any rights of use, licenses, rights of way and easements that are necessary to construct, operate, maintain, test, inspect, replace or remove the Participating TO's Interconnection Facilities and/or Network Upgrades upon such property.

5.14 Permits. Participating TO and Interconnection Customer shall cooperate with each other in good faith in obtaining all permits, licenses and authorization that are necessary to accomplish the interconnection in compliance with Applicable Laws and Regulations. With respect to this paragraph, the Participating TO shall provide permitting assistance to the Interconnection Customer comparable to that provided to the Participating TO's own, or an Affiliate's generation.

5.15 Early Construction of Base Case Facilities. The Interconnection Customer may request the Participating TO to construct, and the Participating TO shall construct, using Reasonable Efforts to accommodate Interconnection Customer's In-Service Date, all or any portion of any Network Upgrades required for Interconnection Customer to be interconnected to the Participating TO's Transmission System which are included in the Base Case of the Interconnection Studies for the Interconnection Customer, and which also are required to be constructed for another interconnection customer, but where such construction is not scheduled to be completed in time to achieve Interconnection Customer's In-Service Date.

5.16 Suspension. The Interconnection Customer may request to suspend at any time all work associated with the construction and installation of the Participating TO's Interconnection Facilities, Network Upgrades, and/or Distribution Upgrades

required under this LGIA, other than Network Upgrades identified in the Phase II Interconnection Study as common to multiple generating facilities. Interconnection Customers seeking to suspend construction will provide the CAISO and Participating TO a request for assessment pursuant to Section 6.7.2 of the GIDAP, a modification assessment deposit, and an anticipated end date of the suspension. Interconnection Customers may request a suspension for the maximum amount of time in lieu of providing an anticipated end date. The CAISO and Participating TO will approve suspension requests where:

(a) the Participating TO's electrical system and the CAISO Controlled Grid can be left in a safe and reliable condition in accordance with Good Utility Practice, the Participating TO's safety and reliability criteria, and Applicable Reliability Standards; and

(b) the CAISO and Participating TO determine the suspension will not result in a Material Modification.

During suspension, the Interconnection Customer may request to extend or shorten their suspension period, consistent with the maximum period provided in this Article. The CAISO and Participating TO will approve such requests where they meet criteria (a) and (b), above. Requests to extend or shorten extensions will require a new modification assessment request and deposit. The Interconnection Customer shall be responsible for all reasonable and necessary costs for suspension for which the Participating TO (i) has incurred pursuant to this LGIA prior to the suspension and (ii) incurs in suspending such work, including any costs incurred to perform such work as may be necessary to ensure the safety of persons and property and the integrity of the Participating TO's electric system during such suspension and, if applicable, any costs incurred in connection with the cancellation or suspension of material, equipment and labor contracts which the Participating TO cannot reasonably avoid; provided, however, that prior to canceling or suspending any such material, equipment or labor contract, the Participating TO shall obtain Interconnection Customer's authorization to do so.

Network Upgrades common to multiple generating facilities, and to which the Interconnection Customer's right of suspension shall not extend, consist of Network Upgrades identified for:

(i) generating facilities which are the subject of all Interconnection Requests made prior to the Interconnection Customer's Interconnection Request;
(ii) generating facilities which are the subject of Interconnection Requests within the Interconnection Customer's queue cluster; and
(iii) generating facilities that are the subject of Interconnection Requests that were made after the Interconnection Customer's Interconnection Request but no later than the date on which the Interconnection

Customer's Phase II Interconnection Study Report is issued, and have been modeled in the Base Case at the time the Interconnection Customer seeks to exercise its suspension rights under this Article.

The Participating TO shall invoice the Interconnection Customer for such costs pursuant to Article 12 and shall use due diligence to minimize its costs. In the event Interconnection Customer suspends work required under this LGIA pursuant to this Article 5.16, and has not requested the Participating TO to recommence the work or has not itself recommenced work required under this LGIA in time to ensure that the new projected Commercial Operation Date for the full Generating Facility Capacity of the Large Generating Facility is no more than three (3) years from the Commercial Operation Date identified in Appendix B hereto, this LGIA shall be deemed terminated and the Interconnection Customer's responsibility for costs will be determined in accordance with Article 2.4 of this LGIA. The suspension period shall begin on the date the Interconnection Customer provides in its request, if approved. Ninety (90) days before the anticipated end date of the suspension, the Participating TO and the CAISO will tender an amended draft LGIA with new construction milestones. The Parties agree to negotiate the amended draft LGIA in good faith such that it can be executed by the end of the suspension.

Interconnection Customer subject to Section 8.9.2.2 of Appendix DD may not request suspension.

5.17 Taxes.

5.17.1 Interconnection Customer Payments Not Taxable. The Parties intend that all payments or property transfers made by the Interconnection Customer to the Participating TO for the installation of the Participating TO's Interconnection Facilities and the Network Upgrades shall be non-taxable, either as contributions to capital, or as a refundable advance, in accordance with the Internal Revenue Code and any applicable state income tax laws and shall not be taxable as contributions in aid of construction or otherwise under the Internal Revenue Code and any applicable state income tax laws.

5.17.2 Representations And Covenants. In accordance with IRS Notice 2001-82 and IRS Notice 88-129, the Interconnection Customer represents and covenants that (i) ownership of the electricity generated at the Large Generating Facility will pass to another party prior to the transmission of the electricity on the CAISO Controlled Grid, (ii) for income tax purposes, the amount of any payments and the cost of any property transferred to the Participating TO for the Participating TO's Interconnection Facilities will be capitalized by the Interconnection Customer as an intangible asset and recovered using the straight-line method over a useful life of twenty (20) years, and (iii) any portion of the Participating TO's Interconnection

Facilities that is a "dual-use intertie," within the meaning of IRS Notice 88-129, is reasonably expected to carry only a de minimis amount of electricity in the direction of the Large Generating Facility. For this purpose, "de minimis amount" means no more than 5 percent of the total power flows in both directions, calculated in accordance with the "5 percent test" set forth in IRS Notice 88-129. This is not intended to be an exclusive list of the relevant conditions that must be met to conform to IRS requirements for non-taxable treatment.

At the Participating TO's request, the Interconnection Customer shall provide the Participating TO with a report from an independent engineer confirming its representation in clause (iii), above. The Participating TO represents and covenants that the cost of the Participating TO's Interconnection Facilities paid for by the Interconnection Customer without the possibility of refund or credit will have no net effect on the base upon which rates are determined.

5.17.3 Indemnification for the Cost Consequence of Current Tax Liability Imposed Upon the Participating TO. Notwithstanding Article 5.17.1, the Interconnection Customer shall protect, indemnify and hold harmless the Participating TO from the cost consequences of any current tax liability imposed against the Participating TO as the result of payments or property transfers made by the Interconnection Customer to the Participating TO under this LGIA for Interconnection Facilities, as well as any interest and penalties, other than interest and penalties attributable to any delay caused by the Participating TO.

The Participating TO shall not include a gross-up for the cost consequences of any current tax liability in the amounts it charges the Interconnection Customer under this LGIA unless (i) the Participating TO has determined, in good faith, that the payments or property transfers made by the Interconnection Customer to the Participating TO should be reported as income subject to taxation or (ii) any Governmental Authority directs the Participating TO to report payments or property as income subject to taxation; provided, however, that the Participating TO may require the Interconnection Customer to provide security for Interconnection Facilities, in a form reasonably acceptable to the Participating TO (such as a parental guarantee or a letter of credit), in an amount equal to the cost consequences of any current tax liability under this Article 5.17. The Interconnection Customer shall reimburse the Participating TO for such costs on a fully grossed-up basis, in accordance with Article 5.17.4, within thirty (30) Calendar Days of receiving written notification from the Participating TO of the amount due, including detail about how the amount was calculated.

The indemnification obligation shall terminate at the earlier of (1) the expiration of the ten year testing period and the applicable statute of limitation, as it may be extended by the Participating TO upon request of the IRS, to keep these years open for audit or adjustment, or (2) the occurrence of a subsequent taxable event and the payment of any related indemnification obligations as contemplated by this Article 5.17.

5.17.4 Tax Gross-Up Amount. The Interconnection Customer's liability for the cost consequences of any current tax liability under this Article 5.17 shall be calculated on a fully grossed-up basis. Except as may otherwise be agreed to by the parties, this means that the Interconnection Customer will pay the Participating TO, in addition to the amount paid for the Interconnection Facilities and Network Upgrades, an amount equal to (1) the current taxes imposed on the Participating TO ("Current Taxes") on the excess of (a) the gross income realized by the Participating TO as a result of payments or property transfers made by the Interconnection Customer to the Participating TO under this LGIA (without regard to any payments under this Article 5.17) (the "Gross Income Amount") over (b) the present value of future tax deductions for depreciation that will be available as a result of such payments or property transfers (the "Present Value Depreciation Amount"), plus (2) an additional amount sufficient to permit the Participating TO to receive and retain, after the payment of all Current Taxes, an amount equal to the net amount described in clause (1).

For this purpose, (i) Current Taxes shall be computed based on the Participating TO's composite federal and state tax rates at the time the payments or property transfers are received and the Participating TO will be treated as being subject to tax at the highest marginal rates in effect at that time (the "Current Tax Rate"), and (ii) the Present Value Depreciation Amount shall be computed by discounting the Participating TO's anticipated tax depreciation deductions as a result of such payments or property transfers by the Participating TO's current weighted average cost of capital. Thus, the formula for calculating the Interconnection Customer's liability to the Participating TO pursuant to this Article 5.17.4 can be expressed as follows: (Current Tax Rate x (Gross Income Amount – Present Value of Tax Depreciation))/(1-Current Tax Rate). Interconnection Customer's estimated tax liability in the event taxes are imposed shall be stated in Appendix A, Interconnection Facilities, Network Upgrades and Distribution Upgrades.

5.17.5 Private Letter Ruling or Change or Clarification of Law. At the Interconnection Customer's request and expense, the Participating TO shall file with the IRS a request for a private letter ruling as to whether any property transferred or sums paid, or to be paid, by the Interconnection Customer to the Participating TO under this LGIA are subject to federal

income taxation. The Interconnection Customer will prepare the initial draft of the request for a private letter ruling, and will certify under penalties of perjury that all facts represented in such request are true and accurate to the best of the Interconnection Customer's knowledge. The Participating TO and Interconnection Customer shall cooperate in good faith with respect to the submission of such request, provided, however, the Interconnection Customer and the Participating TO explicitly acknowledge (and nothing herein is intended to alter) Participating TO's obligation under law to certify that the facts presented in the ruling request are true, correct and complete.

The Participating TO shall keep the Interconnection Customer fully informed of the status of such request for a private letter ruling and shall execute either a privacy act waiver or a limited power of attorney, in a form acceptable to the IRS, that authorizes the Interconnection Customer to participate in all discussions with the IRS regarding such request for a private letter ruling. The Participating TO shall allow the Interconnection Customer to attend all meetings with IRS officials about the request and shall permit the Interconnection Customer to prepare the initial drafts of any follow-up letters in connection with the request.

5.17.6 Subsequent Taxable Events. If, within 10 years from the date on which the relevant Participating TO's Interconnection Facilities are placed in service, (i) the Interconnection Customer Breaches the covenants contained in Article 5.17.2, (ii) a "disqualification event" occurs within the meaning of IRS Notice 88-129, or (iii) this LGIA terminates and the Participating TO retains ownership of the Interconnection Facilities and Network Upgrades, the Interconnection Customer shall pay a tax gross-up for the cost consequences of any current tax liability imposed on the Participating TO, calculated using the methodology described in Article 5.17.4 and in accordance with IRS Notice 90-60.

5.17.7 Contests. In the event any Governmental Authority determines that the Participating TO's receipt of payments or property constitutes income that is subject to taxation, the Participating TO shall notify the Interconnection Customer, in writing, within thirty (30) Calendar Days of receiving notification of such determination by a Governmental Authority. Upon the timely written request by the Interconnection Customer and at the Interconnection Customer's sole expense, the Participating TO may appeal, protest, seek abatement of, or otherwise oppose such determination. Upon the Interconnection Customer's written request and sole expense, the Participating TO may file a claim for refund with respect to any taxes paid under this Article 5.17, whether or not it has received such a determination. The Participating TO reserve the right to make all decisions with regard to the prosecution of such appeal, protest, abatement or other contest, including the selection of counsel and

compromise or settlement of the claim, but the Participating TO shall keep the Interconnection Customer informed, shall consider in good faith suggestions from the Interconnection Customer about the conduct of the contest, and shall reasonably permit the Interconnection Customer or an Interconnection Customer representative to attend contest proceedings.

The Interconnection Customer shall pay to the Participating TO on a periodic basis, as invoiced by the Participating TO, the Participating TO's documented reasonable costs of prosecuting such appeal, protest, abatement or other contest, including any costs associated with obtaining the opinion of independent tax counsel described in this Article 5.17.7. The Participating TO may abandon any contest if the Interconnection Customer fails to provide payment to the Participating TO within thirty (30) Calendar Days of receiving such invoice.

At any time during the contest, the Participating TO may agree to a settlement either with the Interconnection Customer's consent or, if such consent is refused, after obtaining written advice from independent nationally-recognized tax counsel, selected by the Participating TO, but reasonably acceptable to the Interconnection Customer, that the proposed settlement represents a reasonable settlement given the hazards of litigation. The Interconnection Customer's obligation shall be based on the amount of the settlement agreed to by the Interconnection Customer, or if a higher amount, so much of the settlement that is supported by the written advice from nationally-recognized tax counsel selected under the terms of the preceding paragraph. The settlement amount shall be calculated on a fully grossed-up basis to cover any related cost consequences of the current tax liability. The Participating TO may also settle any tax controversy without receiving the Interconnection Customer's consent or any such written advice; however, any such settlement will relieve the Interconnection Customer from any obligation to indemnify the Participating TO for the tax at issue in the contest (unless the failure to obtain written advice is attributable to the Interconnection Customer's unreasonable refusal to the appointment of independent tax counsel).

5.17.8 Refund. In the event that (a) a private letter ruling is issued to the Participating TO which holds that any amount paid or the value of any property transferred by the Interconnection Customer to the Participating TO under the terms of this LGIA is not subject to federal income taxation, (b) any legislative change or administrative announcement, notice, ruling or other determination makes it reasonably clear to the Participating TO in good faith that any amount paid or the value of any property transferred by the Interconnection Customer to the Participating TO under the terms of this LGIA is not taxable to the Participating TO, (c) any abatement, appeal, protest, or other contest results in a determination that any payments or

transfers made by the Interconnection Customer to the Participating TO are not subject to federal income tax, or (d) if the Participating TO receives a refund from any taxing authority for any overpayment of tax attributable to any payment or property transfer made by the Interconnection Customer to the Participating TO pursuant to this LGIA, the Participating TO shall promptly refund to the Interconnection Customer the following:

(i) any payment made by Interconnection Customer under this Article 5.17 for taxes that is attributable to the amount determined to be non-taxable, together with interest thereon,

(ii) interest on any amounts paid by the Interconnection Customer to the Participating TO for such taxes which the Participating TO did not submit to the taxing authority, calculated in accordance with the methodology set forth in FERC's regulations at 18 C.F.R. §35.19a(a)(2)(iii) from the date payment was made by the Interconnection Customer to the date the Participating TO refunds such payment to the Interconnection Customer, and

(iii) with respect to any such taxes paid by the Participating TO, any refund or credit the Participating TO receives or to which it may be entitled from any Governmental Authority, interest (or that portion thereof attributable to the payment described in clause (i), above) owed to the Participating TO for such overpayment of taxes (including any reduction in interest otherwise payable by the Participating TO to any Governmental Authority resulting from an offset or credit); provided, however, that the Participating TO will remit such amount promptly to the Interconnection Customer only after and to the extent that the Participating TO has received a tax refund, credit or offset from any Governmental Authority for any applicable overpayment of income tax related to the Participating TO's Interconnection Facilities.

The intent of this provision is to leave the Parties, to the extent practicable, in the event that no taxes are due with respect to any payment for Interconnection Facilities and Network Upgrades hereunder, in the same position they would have been in had no such tax payments been made.

5.17.9 Taxes Other Than Income Taxes. Upon the timely request by the Interconnection Customer, and at the Interconnection Customer's sole expense, the CAISO or Participating TO may appeal, protest, seek abatement of, or otherwise contest any tax (other than federal or state income tax) asserted or assessed against the CAISO or Participating TO for which the Interconnection Customer may be required to reimburse the CAISO or Participating TO under the terms of this LGIA. The Interconnection Customer shall pay to the Participating TO on a periodic

basis, as invoiced by the Participating TO, the Participating TO's documented reasonable costs of prosecuting such appeal, protest, abatement, or other contest. The Interconnection Customer, the CAISO, and the Participating TO shall cooperate in good faith with respect to any such contest. Unless the payment of such taxes is a prerequisite to an appeal or abatement or cannot be deferred, no amount shall be payable by the Interconnection Customer to the CAISO or Participating TO for such taxes until they are assessed by a final, non-appealable order by any court or agency of competent jurisdiction. In the event that a tax payment is withheld and ultimately due and payable after appeal, the Interconnection Customer will be responsible for all taxes, interest and penalties, other than penalties attributable to any delay caused by the Participating TO.

5.18 Tax Status. Each Party shall cooperate with the others to maintain the other Parties' tax status. Nothing in this LGIA is intended to adversely affect the CAISO's or any Participating TO's tax exempt status with respect to the issuance of bonds including, but not limited to, Local Furnishing Bonds.

5.19 Modification.

5.19.1 General. The Interconnection Customer or the Participating TO may undertake modifications to its facilities, subject to Section 25.1(c) and Section 25 of the CAISO Tariff if the Interconnection Customer has achieved its Commercial Operation Date, and subject to Section 6.7.2 of Appendix DD if it has not.

If a Party plans to undertake a modification that reasonably may be expected to affect the other Parties' facilities, that Party shall provide to the other Parties sufficient information regarding such modification so that the other Parties may evaluate the potential impact of such modification prior to commencement of the work. Such information shall be deemed to be confidential hereunder and shall include information concerning the timing of such modifications and whether such modifications are expected to interrupt the flow of electricity from the Large Generating Facility. The Party desiring to perform such work shall provide the relevant drawings, plans, and specifications to the other Parties at least ninety (90) Calendar Days in advance of the commencement of the work or such shorter period upon which the Parties may agree, which agreement shall not unreasonably be withheld, conditioned or delayed.

At any time after achieving its Commercial Operation Date, the Interconnection Customer may reduce the megawatt generating capacities of its Generating Facilities, subject to Section 25.1(c) of the CAISO Tariff. Section 6.7.2 of Appendix DD will still apply to such requests to reduce capacity.

5.19.2 Standards. Any additions, modifications, or replacements made to a Party's facilities shall be designed, constructed and operated in accordance with this LGIA and Good Utility Practice.

5.19.3 Modification Costs. The Interconnection Customer shall not be directly assigned the costs of any additions, modifications, or replacements that the Participating TO makes to the Participating TO's Interconnection Facilities or the Participating TO's Transmission System to facilitate the interconnection of a third party to the Participating TO's Interconnection Facilities or the Participating TO's Transmission System, or to provide transmission service to a third party under the CAISO Tariff. The Interconnection Customer shall be responsible for the costs of any additions, modifications, or replacements to the Interconnection Facilities that may be necessary to maintain or upgrade such Interconnection Facilities consistent with Applicable Laws and Regulations, Applicable Reliability Standards or Good Utility Practice.

5.20 Annual Reassessment Process. In accordance with Section 7.4 of the GIDAP, the CAISO will perform an annual reassessment, as part of a queue cluster interconnection study cycle, in which it will update certain base case data prior to beginning the GIDAP Phase II Interconnection Studies. As set forth in Section 7.4, the CAISO may determine through this assessment that Delivery Network Upgrades and Off-Peak Network Upgrades already identified and included in executed generator interconnection agreements should be modified in order to reflect the current circumstances of interconnection customers in the queue, including any withdrawals therefrom, and any additions and upgrades approved in the CAISO's most recent TPP cycle. To the extent that this determination modifies the scope or characteristics of, or the cost responsibility for, any Delivery Network Upgrades and Off-Peak Network Upgrades set forth in Appendix A to this LGIA, such modification(s) will be reflected through an amendment to this LGIA.

ARTICLE 6. TESTING AND INSPECTION

6.1 Pre-Commercial Operation Date Testing and Modifications. Prior to the Commercial Operation Date, the Participating TO shall test the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades and the Interconnection Customer shall test the Large Generating Facility and the Interconnection Customer's Interconnection Facilities to ensure their safe and reliable operation. Similar testing may be required after initial operation. Each Party shall make any modifications to its facilities that are found to be necessary as a result of such testing. The Interconnection Customer shall bear the cost of all such testing and modifications. The Interconnection Customer shall not commence initial parallel operation of an Electric Generating Unit with the

Participating TO's Transmission System until the Participating TO provides prior written approval, which approval shall not be unreasonably withheld, for operation of such Electric Generating Unit. The Interconnection Customer shall generate test energy at the Large Generating Facility only if it has arranged for the delivery of such test energy.

6.2 Post-Commercial Operation Date Testing and Modifications. Each Party shall at its own expense perform routine inspection and testing of its facilities and equipment in accordance with Good Utility Practice as may be necessary to ensure the continued interconnection of the Large Generating Facility with the Participating TO's Transmission System in a safe and reliable manner. Each Party shall have the right, upon advance written notice, to require reasonable additional testing of the other Party's facilities, at the requesting Party's expense, as may be in accordance with Good Utility Practice.

6.3 Right to Observe Testing. Each Party shall notify the other Parties at least fourteen (14) Calendar Days in advance of its performance of tests of its Interconnection Facilities or Generating Facility. The other Parties have the right, at their own expense, to observe such testing.

6.4 Right to Inspect. Each Party shall have the right, but shall have no obligation to: (i) observe another Party's tests and/or inspection of any of its System Protection Facilities and other protective equipment, including Power System Stabilizers; (ii) review the settings of another Party's System Protection Facilities and other protective equipment; and (iii) review another Party's maintenance records relative to the Interconnection Facilities, the System Protection Facilities and other protective equipment. A Party may exercise these rights from time to time as it deems necessary upon reasonable notice to the other Party. The exercise or non-exercise by a Party of any such rights shall not be construed as an endorsement or confirmation of any element or condition of the Interconnection Facilities or the System Protection Facilities or other protective equipment or the operation thereof, or as a warranty as to the fitness, safety, desirability, or reliability of same. Any information that a Party obtains through the exercise of any of its rights under this Article 6.4 shall be deemed to be Confidential Information and treated pursuant to Article 22 of this LGIA.

ARTICLE 7. METERING

7.1 General. Each Party shall comply with any Applicable Reliability Standards and the Applicable Reliability Council requirements. The Interconnection Customer and CAISO shall comply with the provisions of the CAISO Tariff regarding metering, including Section 10 of the CAISO Tariff. Unless otherwise agreed by the Participating TO and the Interconnection Customer, the Participating TO may install additional Metering Equipment at the Point of Interconnection prior to any operation of any Electric Generating Unit and shall own, operate, test and maintain such Metering Equipment. Power flows to and from the Large

Generating Facility shall be measured at or, at the CAISO's or Participating TO's option for its respective Metering Equipment, compensated to, the Point of Interconnection. The CAISO shall provide metering quantities to the Interconnection Customer upon request in accordance with the CAISO Tariff by directly polling the CAISO's meter data acquisition system. The Interconnection Customer shall bear all reasonable documented costs associated with the purchase, installation, operation, testing and maintenance of the Metering Equipment.

7.2 Check Meters. The Interconnection Customer, at its option and expense, may install and operate, on its premises and on its side of the Point of Interconnection, one or more check meters to check the CAISO-polled meters or the Participating TO's meters. Such check meters shall be for check purposes only and shall not be used for the measurement of power flows for purposes of this LGIA, except in the case that no other means are available on a temporary basis at the option of the CAISO or the Participating TO. The check meters shall be subject at all reasonable times to inspection and examination by the CAISO or Participating TO or their designees. The installation, operation and maintenance thereof shall be performed entirely by the Interconnection Customer in accordance with Good Utility Practice.

7.3 Participating TO Retail Metering. The Participating TO may install retail revenue quality meters and associated equipment, pursuant to the Participating TO's applicable retail tariffs.

ARTICLE 8. COMMUNICATIONS

8.1 Interconnection Customer Obligations. The Interconnection Customer shall maintain satisfactory operating communications with the CAISO in accordance with the provisions of the CAISO Tariff and with the Participating TO's dispatcher or representative designated by the Participating TO. The Interconnection Customer shall provide standard voice line, dedicated voice line and facsimile communications at its Large Generating Facility control room or central dispatch facility through use of either the public telephone system, or a voice communications system that does not rely on the public telephone system. The Interconnection Customer shall also provide the dedicated data circuit(s) necessary to provide Interconnection Customer data to the CAISO and Participating TO as set forth in Appendix D, Security Arrangements Details. The data circuit(s) shall extend from the Large Generating Facility to the location(s) specified by the CAISO and Participating TO. Any required maintenance of such communications equipment shall be performed by the Interconnection Customer. Operational communications shall be activated and maintained under, but not be limited to, the following events: system paralleling or separation, scheduled and unscheduled shutdowns, equipment clearances, and hourly and daily load data.

8.2 Remote Terminal Unit. Prior to the Initial Synchronization Date of each Electric Generating Unit, a Remote Terminal Unit, or equivalent data collection and transfer equipment acceptable to the Parties, shall be installed by the Interconnection Customer, or by the Participating TO at the Interconnection Customer's expense, to gather accumulated and instantaneous data to be telemetered to the location(s) designated by the CAISO and by the Participating TO through use of a dedicated point-to-point data circuit(s) as indicated in Article 8.1.

Telemetry to the CAISO shall be provided in accordance with the CAISO's technical standards for direct telemetry. For telemetry to the Participating TO, the communication protocol for the data circuit(s) shall be specified by the Participating TO. Instantaneous bi-directional real power and reactive power flow and any other required information must be telemetered directly to the location(s) specified by the Participating TO.

Each Party will promptly advise the other Parties if it detects or otherwise learns of any metering, telemetry or communications equipment errors or malfunctions that require the attention and/or correction by another Party. The Party owning such equipment shall correct such error or malfunction as soon as reasonably feasible.

8.3 No Annexation. Any and all equipment placed on the premises of a Party shall be and remain the property of the Party providing such equipment regardless of the mode and manner of annexation or attachment to real property, unless otherwise mutually agreed by the Parties.

8.4 Provision of Data from a Variable Energy Resource. The Interconnection Customer whose Generating Facility is a Variable Energy Resource shall provide meteorological and forced outage data to the CAISO to the extent necessary for the CAISO's development and deployment of power production forecasts for that class of Variable Energy Resources. The Interconnection Customer with a Variable Energy Resource having wind as the energy source, at a minimum, will be required to provide the CAISO with site-specific meteorological data including: temperature, wind speed, wind direction, and atmospheric pressure. The Interconnection Customer with a Variable Energy Resource having solar as the energy source, at a minimum, will be required to provide the CAISO with site-specific meteorological data including: temperature, atmospheric pressure, and irradiance. The CAISO and Interconnection Customer whose Generating Facility is a Variable Energy Resource shall mutually agree to any additional meteorological data that are required for the development and deployment of a power production forecast. The Interconnection Customer whose Generating Facility is a Variable Energy Resource also shall submit data to the CAISO regarding all forced outages to the extent necessary for the CAISO's development and deployment of power production forecasts for that class of Variable Energy Resources. The exact specifications of the meteorological and

forced outage data to be provided by the Interconnection Customer to the CAISO, including the frequency and timing of data submittals, shall be made taking into account the size and configuration of the Variable Energy Resource, its characteristics, location, and its importance in maintaining generation resource adequacy and transmission system reliability in its area. All requirements for meteorological and forced outage data must be commensurate with the power production forecasting employed by the CAISO. Such requirements for meteorological and forced outage data are set forth in Appendix C, Interconnection Details, of this LGIA, as they may change from time to time.

ARTICLE 9. OPERATIONS

9.1 General. Each Party shall comply with Applicable Reliability Standards and the Applicable Reliability Council requirements. Each Party shall provide to the other Party all information that may reasonably be required by the other Party to comply with Applicable Laws and Regulations and Applicable Reliability Standards.

9.2 Balancing Authority Area Notification. At least three months before Initial Synchronization Date, the Interconnection Customer shall notify the CAISO and Participating TO in writing of the Balancing Authority Area in which the Large Generating Facility intends to be located. If the Interconnection Customer intends to locate the Large Generating Facility in a Balancing Authority Area other than the Balancing Authority Area within whose electrically metered boundaries the Large Generating Facility is located, and if permitted to do so by the relevant transmission tariffs, all necessary arrangements, including but not limited to those set forth in Article 7 and Article 8 of this LGIA, and remote Balancing Authority Area generator interchange agreements, if applicable, and the appropriate measures under such agreements, shall be executed and implemented prior to the placement of the Large Generating Facility in the other Balancing Authority Area.

9.3 CAISO and Participating TO Obligations. The CAISO and Participating TO shall cause the Participating TO's Transmission System to be operated and controlled in a safe and reliable manner and in accordance with this LGIA. The Participating TO at the Interconnection Customer's expense shall cause the Participating TO's Interconnection Facilities to be operated, maintained and controlled in a safe and reliable manner and in accordance with this LGIA. The CAISO and Participating TO may provide operating instructions to the Interconnection Customer consistent with this LGIA and Participating TO and CAISO operating protocols and procedures as they may change from time to time. The Participating TO and CAISO will consider changes to their operating protocols and procedures proposed by the Interconnection Customer.

9.4 Interconnection Customer Obligations. The Interconnection Customer shall at its own expense operate, maintain and control the Large Generating Facility and the Interconnection Customer's Interconnection Facilities in a safe and reliable manner and in accordance with this LGIA. The Interconnection Customer shall operate the Large Generating Facility and the Interconnection Customer's Interconnection Facilities in accordance with all applicable requirements of the Balancing Authority Area of which it is part, including such requirements as set forth in Appendix C, Interconnection Details, of this LGIA. Appendix C, Interconnection Details, will be modified to reflect changes to the requirements as they may change from time to time. A Party may request that another Party provide copies of the requirements set forth in Appendix C, Interconnection Details, of this LGIA. The Interconnection Customer shall not commence Commercial Operation of an Electric Generating Unit with the Participating TO's Transmission System until the Participating TO provides prior written approval, which approval shall not be unreasonably withheld, for operation of such Electric Generating Unit.

9.5 Start-Up and Synchronization. Consistent with the Parties' mutually acceptable procedures, the Interconnection Customer is responsible for the proper synchronization of each Electric Generating Unit to the CAISO Controlled Grid.

9.6 Reactive Power and Primary Frequency Response.

9.6.1 Power Factor Design Criteria. For all Generating Facilities other than Asynchronous Generating Facilities, the Interconnection Customer shall design the Large Generating Facility to maintain a composite power delivery at continuous rated power output at the terminals of the Electric Generating Unit at a power factor within the range of 0.95 leading to 0.90 lagging, unless the CAISO has established different requirements that apply to all generators in the Balancing Authority Area on a comparable basis. For Asynchronous Generating Facilities, the Interconnection Customer shall design the Large Generating Facility to maintain power factor criteria in accordance with Appendix H of this LGIA except in the following cases: (a) an Interconnection Customer posts Interconnection Financial Security for an Asynchronous Generating Facility pursuant to Appendix DD of the CAISO Tariff Section 11.2.2 on or after September 21, 2016; or (b) an Interconnection Customer that submits an Interconnection Request for an Asynchronous Generating Facility under the Fast Track Process pursuant to Appendix DD of the CAISO Tariff on or after September 21, 2016.

When an Interconnection Customer posts Interconnection Financial Security for an Asynchronous Generating Facility pursuant to Appendix DD of the CAISO Tariff on or after September 21, 2016, the Interconnection Customer will design the Large Generator Facility to

maintain a composite power delivery at continuous rated power output at the high-side of the generator substation at a power factor within the range of 0.95 leading to 0.95 lagging, unless the CAISO has established a different power factor range that applies to all Asynchronous Generating Facilities on a comparable basis. This power factor range standard shall be dynamic and can be met using, for example, power electronics designed to supply this level of reactive capability (taking into account any limitations due to voltage level, real power output, etc.) or fixed and switched capacitors and reactors, or a combination of the two.

When an Interconnection Customer submits an Interconnection Request for an Asynchronous Generating Facility under the Fast Track Process pursuant to Appendix DD of the CAISO Tariff on or after September 21, 2016, the Interconnection Customer will design the Large Generating Facility to maintain a composite power delivery at continuous rated power output at the high-side of the generator substation at a power factor within the range of 0.95 leading to 0.95 lagging, unless the CAISO has established a different power factor range that applies to all Asynchronous Generating Facilities on a comparable basis. This power factor range standard shall be dynamic and can be met using, for example, power electronics designed to supply this level of reactive capability (taking into account any limitations due to voltage level, real power output, etc.) or fixed and switched capacitors and reactors, or a combination of the two.

9.6.2 Voltage Schedules. Once the Interconnection Customer has synchronized an Electric Generating Unit with the CAISO Controlled Grid, the CAISO or Participating TO shall require the Interconnection Customer to maintain a voltage schedule by operating the Electric Generating Unit to produce or absorb reactive power within the design limitations of the Electric Generating Unit set forth in Article 9.6.1 (Power Factor Design Criteria). CAISO's voltage schedules shall treat all sources of reactive power in the Balancing Authority Area in an equitable and not unduly discriminatory manner. The Participating TO shall exercise Reasonable Efforts to provide the Interconnection Customer with such schedules at least one (1) day in advance, and the CAISO or Participating TO may make changes to such schedules as necessary to maintain the reliability of the CAISO Controlled Grid or the Participating TO's electric system. The Interconnection Customer shall operate the Electric Generating Unit to maintain the specified output voltage or power factor within the design limitations of the Electric Generating Unit set forth in Article 9.6.1 (Power Factor Design Criteria), and as may be required by the CAISO to operate the Electric Generating Unit at a specific voltage schedule within the design limitations set forth in Article 9.6.1. If the Interconnection Customer is unable to maintain the specified voltage or power factor, it shall promptly notify the CAISO and the Participating TO.

9.6.2.1 Voltage Regulators. Whenever an Electric Generating Unit is operated in parallel with the CAISO Controlled Grid and voltage regulators are capable of operation, the Interconnection Customer shall operate the Electric Generating Unit with its voltage regulators in automatic operation. If the Electric Generating Unit's voltage regulators are not capable of such automatic operation, the Interconnection Customer shall immediately notify the CAISO and the Participating TO and ensure that the Electric Generating Unit operates as specified in Article 9.6.2 through manual operation and that such Electric Generating Unit's reactive power production or absorption (measured in MVARs) are within the design capability of the Electric Generating Unit(s) and steady state stability limits. The Interconnection Customer shall restore the speed governors and voltage regulators to automatic operation as soon as possible. If the Large Generating Facility's speed governors and voltage regulators are improperly tuned or malfunctioning, the CAISO shall have the right to order the reduction in output or disconnection of the Large Generating Facility if the reliability of the CAISO Controlled Grid would be adversely affected. The Interconnection Customer shall not cause its Large Generating Facility to disconnect automatically or instantaneously from the CAISO Controlled Grid or trip any Electric Generating Unit comprising the Large Generating Facility for an under or over frequency condition unless the abnormal frequency condition persists for a time period beyond the limits set forth in ANSI/IEEE Standard C37.106, or such other standard as applied to other generators in the Balancing Authority Area on a comparable basis.

9.6.3 Payment for Reactive Power. CAISO is required to pay the Interconnection Customer for reactive power that Interconnection Customer provides or absorbs from an Electric Generating Unit when the CAISO requests the Interconnection Customer to operate its Electric Generating Unit outside the range specified in Article 9.6.1, provided that if the CAISO pays other generators for reactive power service within the specified range, it must also pay the Interconnection Customer. Payments shall be pursuant to Article 11.6 or such other agreement to which the CAISO and Interconnection Customer have otherwise agreed.

9.6.4 Primary Frequency Response. Interconnection Customer shall ensure the primary frequency response capability of its Electric Generating Unit(s) by installing, maintaining, and operating a functioning governor or equivalent controls. The term "functioning governor or equivalent controls" as used herein shall mean the required hardware and/or software that provides frequency responsive real power control with the ability to sense changes in system frequency and autonomously adjust the Electric Generating Unit's real power output in accordance with the droop and

deadband parameters and in the direction needed to correct frequency deviations. Interconnection Customer is required to install a governor or equivalent controls with the capability of operating: (1) with a maximum 5 percent droop and ±0.036 Hz deadband; or (2) in accordance with the relevant droop, deadband, and timely and sustained response settings from Applicable Reliability Standards providing for equivalent or more stringent parameters. The droop characteristic shall be: (1) based on the nameplate capacity of the Electric Generating Unit(s), and shall be linear in the range of frequencies between 59 to 61 Hz that are outside of the deadband parameter; or (2) based on Applicable Reliability Standards providing for an equivalent or more stringent parameter. The deadband parameter shall be: the range of frequencies above and below nominal (60 Hz) in which the governor or equivalent controls is not expected to adjust the Electric Generating Units' real power output in response to frequency deviations. The deadband shall be implemented: (1) without a step to the droop curve, that is, once the frequency deviation exceeds the deadband parameter, the expected change in the Electric Generating Units' real power output in response to frequency deviations shall start from zero and then increase (for under-frequency deviations) or decrease (for over-frequency deviations) linearly in proportion to the magnitude of the frequency deviation; or (2) in accordance with Applicable Reliability Standards providing for an equivalent or more stringent parameter. Interconnection Customer shall notify the CAISO that the primary frequency response capability of the Electric Generating Unit(s) has been tested and confirmed during commissioning. Once Interconnection Customer has synchronized the Electric Generating Unit(s) with the CAISO Controlled Grid, Interconnection Customer shall operate the Electric Generating Unit(s) consistent with the provisions specified in Sections 9.6.4.1 and 9.6.4.2 of this LGIA. The primary frequency response requirements contained herein shall apply to both synchronous and non-synchronous Large Generating Facilities.

9.6.4.1 Governor or Equivalent Controls. Whenever the Electric Generating Unit(s) is operated in parallel with the CAISO Controlled Grid, Interconnection Customer shall operate the Electric Generating Unit(s) with its governor or equivalent controls in service and responsive to frequency. Interconnection Customer shall, in coordination with the CAISO, set the deadband parameter to: (1) a maximum of ±0.036 Hz and set the droop parameter to a maximum of 5 percent; or (2) implement the relevant droop and deadband settings from Applicable Reliability Standards that provides for equivalent or more stringent parameters. Interconnection Customer shall be required to provide the status and settings of the governor or equivalent controls to the CAISO upon request. If Interconnection Customer needs to operate the Electric Generating Unit(s) with its governor or equivalent controls

not in service, Interconnection Customer shall immediately notify the CAISO, and provide the following information: (1) the operating status of the governor or equivalent controls (i.e., whether it is currently out of service or when it will be taken out of service); (2) the reasons for removing the governor or equivalent controls from service; and (3) a reasonable estimate of when the governor or equivalent controls will be returned to service. Interconnection Customer shall make Reasonable Efforts to return its governor or equivalent controls into service as soon as practicable. Interconnection Customer shall make Reasonable Efforts to keep outages of the Electric Generating Units' governor or equivalent controls to a minimum whenever the Electric Generating Unit(s) is operated in parallel with the CAISO Controlled Grid.

9.6.4.2 Timely and Sustained Response. Interconnection Customer shall ensure that the Electric Generating Units' real power response to sustained frequency deviations outside of the deadband setting is automatically provided and shall begin immediately after frequency deviates outside of the deadband, and to the extent the Electric Generating Unit(s) has operating capability in the direction needed to correct the frequency deviation. Interconnection Customer shall not block or otherwise inhibit the ability of the governor or equivalent controls to respond and shall ensure that the response is not inhibited, except under certain operational constraints including, but not limited to, ambient temperature limitations, physical energy limitations, outages of mechanical equipment, or regulatory requirements. The Electric Generating Unit(s) shall sustain the real power response at least until system frequency returns to a value within the deadband setting of the governor or equivalent controls. A FERC-approved Applicable Reliability Standard with equivalent or more stringent requirements shall supersede the above requirements.

9.6.4.3 Exemptions. Large Generating Facilities that are regulated by the Nuclear Regulatory Commission shall be exempt from Sections 9.6.4, 9.6.4.1, and 9.6.4.2 of this LGIA. Large Generating Facilities that are behind-the-meter generation that is sized-to-load (i.e., the thermal load and the generation are near-balanced in real-time operation and the generation is primarily controlled to maintain the unique thermal, chemical, or mechanical output necessary for the operating requirements of its host facility) shall be required to install primary frequency response capability in accordance with the droop and deadband capability requirements specified in Section 9.6.4, but shall be otherwise exempt from the operating requirements in Sections 9.6.4, 9.6.4.1, 9.6.4.2, and 9.6.4.4 of this LGIA.

9.6.4.4 Electric Storage Resources. Interconnection Customer interconnecting an electric storage resource shall establish an operating range in Appendix C of this LGIA that specifies a minimum state of charge and a maximum state of charge between which the electric storage resource will be required to provide primary frequency response consistent with the conditions set forth in Sections 9.6.4, 9.6.4.1, 9.6.4.2, and 9.6.4.3 of this LGIA. Appendix C shall specify whether the operating range is static or dynamic, and shall consider (1) the expected magnitude of frequency deviations in the interconnection; (2) the expected duration that system frequency will remain outside of the deadband parameter in the interconnection; (3) the expected incidence of frequency deviations outside of the deadband parameter in the interconnection; (4) the physical capabilities of the electric storage resource; (5) operational limitations of the electric storage resource due to manufacturer specifications; and (6) any other relevant factors agreed to by the CAISO and Interconnection Customer, and in consultation with the relevant transmission owner or balancing authority as appropriate. If the operating range is dynamic, then Appendix C must establish how frequently the operating range will be reevaluated and the factors that may be considered during its reevaluation.

Interconnection Customer's electric storage resource is required to provide timely and sustained primary frequency response consistent with Section 9.6.4.2 of this LGIA when it is online and dispatched to inject electricity to the CAISO Controlled Grid and/or receive electricity from the Participating TO's Transmission System or the CAISO Controlled Grid. This excludes circumstances when the electric storage resource is not dispatched to inject electricity to the CAISO Controlled Grid and/or dispatched to receive electricity from the Participating TO's Transmission system or the CAISO Controlled Grid. If Interconnection Customer's electric storage resource is charging at the time of a frequency deviation outside of its deadband parameter, it is to increase (for over-frequency deviations) or decrease (for under-frequency deviations) the rate at which it is charging in accordance with its droop parameter. Interconnection Customer's electric storage resource is not required to change from charging to discharging, or vice versa, unless the response necessitated by the droop and deadband settings requires it to do so and it is technically capable of making such a transition.

9.7 Outages and Interruptions.

9.7.1 Outages.

9.7.1.1 Outage Authority and Coordination. Each Party may in accordance with Good Utility Practice in coordination with the other Parties remove from service any of its respective Interconnection Facilities or Network Upgrades that may impact another Party's facilities as necessary to perform maintenance or testing or to install or replace equipment. Absent an Emergency Condition, the Party scheduling a removal of such facility(ies) from service will use Reasonable Efforts to schedule such removal on a date and time mutually acceptable to all Parties. In all circumstances any Party planning to remove such facility(ies) from service shall use Reasonable Efforts to minimize the effect on the other Parties of such removal.

9.7.1.2 Outage Schedules. The CAISO shall post scheduled outages of CAISO Controlled Grid facilities in accordance with the provisions of the CAISO Tariff. The Interconnection Customer shall submit its planned maintenance schedules for the Large Generating Facility to the CAISO in accordance with the CAISO Tariff. The Interconnection Customer shall update its planned maintenance schedules in accordance with the CAISO Tariff. The CAISO may request the Interconnection Customer to reschedule its maintenance as necessary to maintain the reliability of the CAISO Controlled Grid in accordance with the CAISO Tariff. Such planned maintenance schedules and updates and changes to such schedules shall be provided by the Interconnection Customer to the Participating TO concurrently with their submittal to the CAISO. The CAISO shall compensate the Interconnection Customer for any additional direct costs that the Interconnection Customer incurs as a result of having to reschedule maintenance in accordance with the CAISO Tariff. The Interconnection Customer will not be eligible to receive compensation, if during the twelve (12) months prior to the date of the scheduled maintenance, the Interconnection Customer had modified its schedule of maintenance activities.

9.7.1.3 Outage Restoration. If an outage on a Party's Interconnection Facilities or Network Upgrades adversely affects another Party's operations or facilities, the Party that owns or controls the facility that is out of service shall use Reasonable Efforts to promptly restore such facility(ies) to a normal operating condition consistent with the nature of the outage. The Party that owns or controls the facility that is out of service shall provide the other Parties, to the extent such information is known, information

on the nature of the Emergency Condition, if the outage is caused by an Emergency Condition, an estimated time of restoration, and any corrective actions required. Initial verbal notice shall be followed up as soon as practicable with written notice explaining the nature of the outage, if requested by a Party, which may be provided by e-mail or facsimile.

9.7.2 Interruption of Service. If required by Good Utility Practice to do so, the CAISO or the Participating TO may require the Interconnection Customer to interrupt or reduce deliveries of electricity if such delivery of electricity could adversely affect the CAISO's or the Participating TO's ability to perform such activities as are necessary to safely and reliably operate and maintain the Participating TO's electric system or the CAISO Controlled Grid. The following provisions shall apply to any interruption or reduction permitted under this Article 9.7.2:

9.7.2.1 The interruption or reduction shall continue only for so long as reasonably necessary under Good Utility Practice;

9.7.2.2 Any such interruption or reduction shall be made on an equitable, non-discriminatory basis with respect to all generating facilities directly connected to the CAISO Controlled Grid, subject to any conditions specified in this LGIA;

9.7.2.3 When the interruption or reduction must be made under circumstances which do not allow for advance notice, the CAISO or Participating TO, as applicable, shall notify the Interconnection Customer by telephone as soon as practicable of the reasons for the curtailment, interruption, or reduction, and, if known, its expected duration. Telephone notification shall be followed by written notification, if requested by the Interconnection Customer, as soon as practicable;

9.7.2.4 Except during the existence of an Emergency Condition, the CAISO or Participating TO shall notify the Interconnection Customer in advance regarding the timing of such interruption or reduction and further notify the Interconnection Customer of the expected duration. The CAISO or Participating TO shall coordinate with the Interconnection Customer using Good Utility Practice to schedule the interruption or reduction during periods of least impact to the Interconnection Customer, the CAISO, and the Participating TO;

9.7.2.5 The Parties shall cooperate and coordinate with each other to the extent necessary in order to restore the Large Generating Facility, Interconnection Facilities, the Participating TO's

Transmission System, and the CAISO Controlled Grid to their normal operating state, consistent with system conditions and Good Utility Practice.

9.7.3 Under-Frequency and Over Frequency Conditions. The CAISO Controlled Grid is designed to automatically activate a load-shed program as required by Applicable Reliability Standards and the Applicable Reliability Council in the event of an under-frequency system disturbance. The Interconnection Customer shall implement under-frequency and over-frequency protection set points for the Large Generating Facility as required by Applicable Reliability Standards and the Applicable Reliability Council to ensure “ride through” capability. Large Generating Facility response to frequency deviations of pre-determined magnitudes, both under-frequency and over-frequency deviations, shall be studied and coordinated with the Participating TO and CAISO in accordance with Good Utility Practice. The term "ride through" as used herein shall mean the ability of a Generating Facility to stay connected to and synchronized with the CAISO Controlled Grid during system disturbances within a range of under-frequency and over-frequency conditions, in accordance with Good Utility Practice. Asynchronous Generating Facilities shall be subject to frequency ride through capability requirements in accordance with Appendix H to this LGIA.

9.7.4 System Protection and Other Control Requirements.

9.7.4.1 System Protection Facilities. The Interconnection Customer shall, at its expense, install, operate and maintain System Protection Facilities as a part of the Large Generating Facility or the Interconnection Customer’s Interconnection Facilities. The Participating TO shall install at the Interconnection Customer's expense any System Protection Facilities that may be required on the Participating TO’s Interconnection Facilities or the Participating TO’s Transmission System as a result of the interconnection of the Large Generating Facility and the Interconnection Customer’s Interconnection Facilities.

9.7.4.2 The Participating TO’s and Interconnection Customer’s protection facilities shall be designed and coordinated with other systems in accordance with Applicable Reliability Standards, Applicable Reliability Council criteria, and Good Utility Practice.

9.7.4.3 The Participating TO and Interconnection Customer shall each be responsible for protection of its facilities consistent with Good Utility Practice.

9.7.4.4 The Participating TO's and Interconnection Customer's protective relay design shall incorporate the necessary test switches to perform the tests required in Article 6. The required test switches will be placed such that they allow operation of lockout relays while preventing breaker failure schemes from operating and causing unnecessary breaker operations and/or the tripping of the Interconnection Customer's Electric Generating Units.

9.7.4.5 The Participating TO and Interconnection Customer will test, operate and maintain System Protection Facilities in accordance with Good Utility Practice and, if applicable, the requirements of the Participating TO's Interconnection Handbook.

9.7.4.6 Prior to the in-service date, and again prior to the Commercial Operation Date, the Participating TO and Interconnection Customer or their agents shall perform a complete calibration test and functional trip test of the System Protection Facilities. At intervals suggested by Good Utility Practice, the standards and procedures of the Participating TO, including, if applicable, the requirements of the Participating TO's Interconnection Handbook, and following any apparent malfunction of the System Protection Facilities, each Party shall perform both calibration and functional trip tests of its System Protection Facilities. These tests do not require the tripping of any in-service generation unit. These tests do, however, require that all protective relays and lockout contacts be activated.

9.7.5 Requirements for Protection. In compliance with Good Utility Practice and, if applicable, the requirements of the Participating TO's Interconnection Handbook, the Interconnection Customer shall provide, install, own, and maintain relays, circuit breakers and all other devices necessary to remove any fault contribution of the Large Generating Facility to any short circuit occurring on the Participating TO's Transmission System not otherwise isolated by the Participating TO's equipment, such that the removal of the fault contribution shall be coordinated with the protective requirements of the Participating TO's Transmission System. Such protective equipment shall include, without limitation, a disconnecting device with fault current-interrupting capability located between the Large Generating Facility and the Participating TO's Transmission System at a site selected upon mutual agreement (not to be unreasonably withheld, conditioned or delayed) of the Parties. The Interconnection Customer shall be responsible for protection of the Large Generating Facility and the Interconnection Customer's other equipment from such conditions as negative sequence currents, over- or under-frequency, sudden load rejection, over- or under-voltage, and generator

loss-of-field. The Interconnection Customer shall be solely responsible to disconnect the Large Generating Facility and the Interconnection Customer's other equipment if conditions on the CAISO Controlled Grid could adversely affect the Large Generating Facility.

9.7.6 Power Quality. Neither the Participating TO's nor the Interconnection Customer's facilities shall cause excessive voltage flicker nor introduce excessive distortion to the sinusoidal voltage or current waves as defined by ANSI Standard C84.1-1989, in accordance with IEEE Standard 519, any applicable superseding electric industry standard, or any alternative Applicable Reliability Standard or Applicable Reliability Council standard. In the event of a conflict among ANSI Standard C84.1-1989, any applicable superseding electric industry standard, or any alternative Applicable Reliability Standard or Applicable Reliability Council standard, the alternative Applicable Reliability Standard or Applicable Reliability Council standard shall control.

9.8 Switching and Tagging Rules. Each Party shall provide the other Parties a copy of its switching and tagging rules that are applicable to the other Parties' activities. Such switching and tagging rules shall be developed on a non-discriminatory basis. The Parties shall comply with applicable switching and tagging rules, as amended from time to time, in obtaining clearances for work or for switching operations on equipment.

9.9 Use of Interconnection Facilities by Third Parties.

9.9.1 Purpose of Interconnection Facilities. Except as may be required by Applicable Laws and Regulations, or as otherwise agreed to among the Parties, the Interconnection Facilities shall be constructed for the sole purpose of interconnecting the Large Generating Facility to the Participating TO's Transmission System and shall be used for no other purpose.

9.9.2 Third Party Users. If required by Applicable Laws and Regulations or if the Parties mutually agree, such agreement not to be unreasonably withheld, to allow one or more third parties to use the Participating TO's Interconnection Facilities, or any part thereof, the Interconnection Customer will be entitled to compensation for the capital expenses it incurred in connection with the Interconnection Facilities based upon the pro rata use of the Interconnection Facilities by the Participating TO, all third party users, and the Interconnection Customer, in accordance with Applicable Laws and Regulations or upon some other mutually-agreed upon methodology. In addition, cost responsibility for ongoing costs, including operation and maintenance costs associated with the Interconnection Facilities, will be allocated between the Interconnection Customer and any third party users based upon the pro rata use of the

Interconnection Facilities by the Participating TO, all third party users, and the Interconnection Customer, in accordance with Applicable Laws and Regulations or upon some other mutually agreed upon methodology. If the issue of such compensation or allocation cannot be resolved through such negotiations, it shall be submitted to FERC for resolution.

9.10 Disturbance Analysis Data Exchange. The Parties will cooperate with one another in the analysis of disturbances to either the Large Generating Facility or the CAISO Controlled Grid by gathering and providing access to any information relating to any disturbance, including information from oscillography, protective relay targets, breaker operations and sequence of events records, and any disturbance information required by Good Utility Practice.

ARTICLE 10. MAINTENANCE

10.1 Participating TO Obligations. The Participating TO shall maintain the Participating TO's Transmission System and the Participating TO's Interconnection Facilities in a safe and reliable manner and in accordance with this LGIA.

10.2 Interconnection Customer Obligations. The Interconnection Customer shall maintain the Large Generating Facility and the Interconnection Customer's Interconnection Facilities in a safe and reliable manner and in accordance with this LGIA.

10.3 Coordination. The Parties shall confer regularly to coordinate the planning, scheduling and performance of preventive and corrective maintenance on the Large Generating Facility and the Interconnection Facilities.

10.4 Secondary Systems. The Participating TO and Interconnection Customer shall cooperate with the other Parties in the inspection, maintenance, and testing of control or power circuits that operate below 600 volts, AC or DC, including, but not limited to, any hardware, control or protective devices, cables, conductors, electric raceways, secondary equipment panels, transducers, batteries, chargers, and voltage and current transformers that directly affect the operation of a Party's facilities and equipment which may reasonably be expected to impact the other Parties. Each Party shall provide advance notice to the other Parties before undertaking any work on such circuits, especially on electrical circuits involving circuit breaker trip and close contacts, current transformers, or potential transformers.

10.5 Operating and Maintenance Expenses. Subject to the provisions herein addressing the use of facilities by others, and except for operations and maintenance expenses associated with modifications made for providing interconnection or transmission service to a third party and such third party pays for such expenses, the Interconnection Customer shall be responsible for all

reasonable expenses including overheads, associated with: (1) owning, operating, maintaining, repairing, and replacing the Interconnection Customer's Interconnection Facilities; and (2) operation, maintenance, repair and replacement of the Participating TO's Interconnection Facilities.

ARTICLE 11. PERFORMANCE OBLIGATION

11.1 Interconnection Customer's Interconnection Facilities. The Interconnection Customer shall design, procure, construct, install, own and/or control the Interconnection Customer's Interconnection Facilities described in Appendix A at its sole expense.

11.2 Participating TO's Interconnection Facilities. The Participating TO shall design, procure, construct, install, own and/or control the Participating TO's Interconnection Facilities described in Appendix A at the sole expense of the Interconnection Customer. Unless the Participating TO elects to fund the capital for the Participating TO's Interconnection Facilities, they shall be solely funded by the Interconnection Customer.

11.3 Network Upgrades and Distribution Upgrades. The Participating TO shall design, procure, construct, install, and own the Network Upgrades and Distribution Upgrades described in Appendix A, except for Stand Alone Network Upgrades, which will be constructed, and if agreed to by the Parties owned by the Interconnection Customer, and Merchant Network Upgrades. The Interconnection Customer shall be responsible for all costs related to Distribution Upgrades. Network Upgrades shall be funded by the Interconnection Customer, which for Interconnection Customers processed under Section 6 of the GIDAP (in Queue Clusters) shall be in an amount determined pursuant to the methodology set forth in Section 6.3 of the GIDAP. This specific amount is set forth in Appendix G to this LGIA. For costs associated with Area Delivery Network Upgrades, any amounts set forth in Appendix G will be advisory estimates only, and will not operate to establishing any cap or Maximum Cost Exposure on the cost responsibility of the Interconnection Customer for Area Delivery Network Upgrades.

11.4 Transmission Credits. No later than thirty (30) Calendar Days prior to the Commercial Operation Date, the Interconnection Customer may make a one-time election by written notice to the CAISO and the Participating TO to (a) receive Congestion Revenue Rights as defined in and as available under the CAISO Tariff at the time of the election in accordance with the CAISO Tariff, in lieu of a repayment of the cost of Network Upgrades in accordance with Article 11.4.1, and/or (b) decline all or part of a refund of the cost of Network Upgrades entitled to the Interconnection Customer in accordance with Article 11.4.1.

11.4.1 Repayment of Amounts Advanced for Network Upgrades.

11.4.1.1 Repayment of Amounts Advanced Regarding Non-Phased Generating Facilities

An Interconnection Customer with a non-Phased Generating Facility in Queue Cluster 5 or earlier, or an Interconnection Customer in the Independent Study Process or the Fast Track Process that has been tendered a Generator Interconnection Agreement before December 19, 2014, shall be entitled to a repayment for the Interconnection Customer's contribution to the cost of Network Upgrades commencing upon the Commercial Operation Date of its Generating Facility.

An Interconnection Customer with a non-Phased Generating Facility in Queue Cluster 6 or later, or an Interconnection Customer in the Independent Study Process or the Fast Track Process that has not been tendered an Interconnection Agreement before December 19, 2014, shall be entitled to repayment for the Interconnection Customer's contribution to the cost of Network Upgrades placed in service on or before the Commercial Operation Date of its Generating Facility, commencing upon the Commercial Operation Date of the Generating Facility. Repayment for the Interconnection Customer's contribution to the cost of Network Upgrades placed into service after the Commercial Operation Date of its Generating Facility shall, for each of these Network Upgrades, commence no later than the later of: (i) the first month of the calendar year following the year in which the Network Upgrade is placed into service or (ii) 90 days after the Network Upgrade is placed into service.

An Interconnection Customer subject to this Article 11.4.1.1 shall be entitled to repayment for its contribution to the cost of Network Upgrades as follows:

(a) For Reliability Network Upgrades, the Interconnection Customer shall be entitled to a repayment of the amount paid by the Interconnection Customer for Reliability Network Upgrades as set forth in Appendix G, up to a maximum amount established in Section 14.3.2.1 of the GIDAP. For purposes of this determination, generating capacity will be based on the capacity of the Interconnection Customer's Generating Facility at the time it achieves Commercial Operation. To the extent that such repayment does not cover all of the costs of Interconnection Customer's Reliability Network Upgrades, the Interconnection Customer shall receive Merchant Transmission CRRs for that portion of its Reliability Network Upgrades that are not covered by cash repayment.

(b) For Local Delivery Network Upgrades:

i. If the Interconnection Customer is an Option (B) Interconnection Customer and has been allocated and continues to be eligible to receive TP Deliverability pursuant to the GIDAP, the Interconnection Customer shall be entitled to repayment of a portion of the total amount paid to the Participating TO for the costs of Local Delivery Network Upgrades for which it is responsible, as set forth in Appendix G. The repayment amount shall be determined by dividing the amount of TP Deliverability received by the amount of deliverability requested by the Interconnection Customer, and multiplying that percentage by the total amount paid to the Participating TO by the Interconnection Customer for Local Delivery Network Upgrades.

ii. If the Generating Facility is an Option (B) Generating Facility and has not been allocated any TP Deliverability, the Interconnection Customer shall not be entitled to repayment for the costs of Local Delivery Network Upgrades.

iii. If the Generating Facility is an Option (A) Generating Facility, the Interconnection Customer shall be entitled to a repayment equal to the total amount paid to the Participating TO for the costs of Local Delivery Network Upgrades for which it is responsible, as set forth in Appendix G.

(c) For Area Delivery Network Upgrades, the Interconnection Customer shall not be entitled to repayment for the costs of Area Delivery Network Upgrades.

(d) If an Interconnection Customer having a Option (B) Generating Facility, and is eligible, to construct and own Network Upgrades pursuant to the Merchant Option set forth in Article 5.15 of this LGIA, then the Interconnection Customer shall not be entitled to any repayment pursuant to this LGIA.

(e) For Local Off-Peak Network Upgrades, the Interconnection Customer will be entitled to a repayment equal to the total amount paid to the Participating TO for the costs of Local Delivery Network Upgrades for which it is responsible, as set forth in Appendix G.

Unless an Interconnection Customer has provided written notice to the CAISO that it is declining all or part of such repayment, such amounts shall include any tax gross-up or other tax-related payments associated with Network Upgrades not refunded to the Interconnection Customer pursuant to Article 5.17.8 or otherwise, and shall be paid to the Interconnection Customer by the Participating TO on a dollar-for-dollar

basis either through (1) direct payments made on a levelized basis over the five-year period commencing on the applicable date as provided for in this Article 11.4.1.1; or (2) any alternative payment schedule that is mutually agreeable to the Interconnection Customer and Participating TO, provided that such amount is paid within five (5) years of the applicable commencement date. Notwithstanding the foregoing, if this LGIA terminates within five (5) years of the applicable commencement date, the Participating TO's obligation to pay refunds to the Interconnection Customer shall cease as of the date of termination.

(f) Where the Interconnection Customer finances the construction of Network Upgrades for more than one Participating TO, the cost allocation, Interconnection Financial Security, and repayment will be conducted pursuant to Section 14.4.1 of the GIDAP, and set forth in Appendix G.

11.4.1.2 Repayment of Amounts Advanced Regarding Phased Generating Facilities

Upon the Commercial Operation Date of each phase of a Phased Generating Facility, the Interconnection Customer shall be entitled to a repayment equal to the Interconnection Customer's contribution to the cost of Network Upgrades for that completed phase for which the Interconnection Customer is responsible, as set forth in Appendix G, subject to the limitations specified in Article 11.4.1.1, if the following conditions are satisfied as described below:

(a) The Generating Facility is capable of being constructed in phases;

(b) The Generating Facility is specified in the LGIA as being constructed in phases;

(c) The completed phase corresponds to one of the phases specified in the LGIA;

(d) The phase has achieved Commercial Operation and the Interconnection Customer has tendered notice of the same pursuant to this LGIA;

(e) All Parties to the LGIA have confirmed that the completed phase meets the requirements set forth in this LGIA and any other operating, metering, and interconnection requirements to permit generation output of the entire capacity of the completed phase as specified in this LGIA;

(f) The Network Upgrades necessary for the completed phase to meet the desired level of deliverability are in service; and

(g) The Interconnection Customer has posted one hundred (100) percent of the Interconnection Financial Security required for the Network Upgrades for all the phases of the Generating Facility (or if less than one hundred (100) percent has been posted, then all required Financial Security Instruments to the date of commencement of repayment).

Following satisfaction of these conditions (a) through (g), an Interconnection Customer in a Queue Cluster earlier than Queue Cluster 5, or an Interconnection Customer in the Independent Study Process or the Fast Track Process that has been tendered a Generator Interconnection Agreement before December 19, 2014, shall be entitled to receive a partial repayment of its financed cost responsibility, to the extent that it is otherwise eligible for such repayment per Article 11.4.1.1, in an amount equal to the percentage of the Generating Facility declared to be in Commercial Operation multiplied by the cost of the Network Upgrades associated with the completed phase. The Interconnection Customer shall be entitled to repayment in this manner for each completed phase until the entire Generating Facility is completed.

Following satisfaction of these conditions (a) through (e) and (g), an Interconnection Customer in Queue Cluster 6 or a later Queue Cluster, or an Interconnection Customer in the Independent Study Process or the Fast Track Process that has not been tendered a Generator Interconnection Agreement before December 19, 2014, shall be entitled to receive a repayment of its financed cost responsibility for the Network Upgrades associated with the completed phase that have been placed in service. The Interconnection Customer shall be entitled to repayment in this manner for each completed phase until the entire Generating Facility is completed. With respect to any Network Upgrades necessary for a completed phase to meet its desired level of deliverability that are not in service by the time the phase achieves Commercial Operation, repayment for each such Network Upgrade will commence no later than the later of: (i) the first month of the calendar year following the year in which the Network Upgrade is placed into service or (ii) 90 days after the Network Upgrade is placed into service.

A reduction in the electrical output (MW capacity) of the Generating Facility pursuant to the CAISO Tariff shall not diminish the Interconnection Customer's right to repayment pursuant to this LGIA Article 11.4.1.2. If the LGIA includes a partial termination provision and the partial termination right has been exercised with regard to a phase that has not been built, then the Interconnection Customer's eligibility for repayment

under this Article 11.4.1.2 as to the remaining phases shall not be diminished. If the Interconnection Customer completes one or more phases and then breaches the LGIA, the Participating TO and the CAISO shall be entitled to offset any losses or damages resulting from the Breach against any repayments made for Network Upgrades related to the completed phases.

Any repayment amount provided pursuant to this Article 11.4.1.2 shall include any tax gross-up or other tax-related payments associated with Network Upgrades not refunded to the Interconnection Customer pursuant to Article 5.17.8 or otherwise, and shall be paid to the Interconnection Customer by the Participating TO on a dollar-for-dollar basis either through (1) direct payments made on a levelized basis over the five-year period commencing on the applicable as provided for in this Article 11.4.1.2; or (2) any alternative payment schedule that is mutually agreeable to the Interconnection Customer and Participating TO, provided that such amount is paid within five (5) years of the applicable commencement date. Notwithstanding the foregoing, if this LGIA terminates within five (5) years of the applicable commencement date, the Participating TO's obligation to pay refunds to the Interconnection Customer shall cease as of the date of termination.

11.4.1.3 Interest Payments and Assignment Rights

Any phased or non-phased repayment shall include interest calculated in accordance with the methodology set forth in FERC's regulations at 18 C.F.R. §35.19a(a)(2)(iii) from the date of any payment for Network Upgrades through the date on which the Interconnection Customer receives a repayment of such payment. Interest shall continue to accrue on the repayment obligation so long as this LGIA is in effect. The Interconnection Customer may assign such repayment rights to any entity.

11.4.1.4 Failure to Achieve Commercial Operation

If the Large Generating Facility fails to achieve Commercial Operation, but it or another generating facility is later constructed and makes use of the Network Upgrades, the Participating TO shall at that time reimburse Interconnection Customer for the amounts advanced for the Network Upgrades. Before any such reimbursement can occur, the Interconnection Customer, or the entity that ultimately constructs the generating facility, if different, is responsible for identifying and demonstrating to the Participating TO the appropriate entity to which reimbursement must be made in order to implement the intent of this reimbursement obligation.

11.4.2 Special Provisions for Affected Systems. The Interconnection Customer shall enter into an agreement with the owner of the Affected System and/or other affected owners of portions of the CAISO Controlled Grid, as applicable, in accordance with the GIDAP. Such agreement shall specify the terms governing payments to be made by the Interconnection Customer to the owner of the Affected System and/or other affected owners of portions of the CAISO Controlled Grid as well as the repayment by the owner of the Affected System and/or other affected owners of portions of the CAISO Controlled Grid. In no event shall the Participating TO be responsible for the repayment for any facilities that are not part of the Participating TO's Transmission System. In the event the Participating TO is a joint owner with an Affected System or with any other co-owner of a facility affected by the Large Generating Facility, the Participating TO's obligation to reimburse the Interconnection Customer for payments made to address the impacts of the Large Generating Facility on the system shall not exceed the proportionate amount of the cost of any upgrades attributable to the proportion of the jointly-owned facility owned by the Participating TO.

11.4.3 Notwithstanding any other provision of this LGIA, nothing herein shall be construed as relinquishing or foreclosing any rights, including but not limited to firm transmission rights, capacity rights, Congestion Revenue Rights, or transmission credits, that the Interconnection Customer shall be entitled to, now or in the future under any other agreement or tariff as a result of, or otherwise associated with, the transmission capacity, if any, created by the Network Upgrades, including the right to obtain cash reimbursements, merchant transmission Congestion Revenue Rights in accordance with Section 36.11 of the CAISO Tariff, or transmission credits for transmission service that is not associated with the Large Generating Facility.

11.5 Provision of Interconnection Financial Security. The Interconnection Customer is obligated to provide all necessary Interconnection Financial Security required under Section 11 of the GIDAP in a manner acceptable under Section 11 of the GIDAP. Failure by the Interconnection Customer to timely satisfy the GIDAP's requirements for the provision of Interconnection Financial Security shall be deemed a breach of this Agreement and a condition of Default of this Agreement.

11.5.1 Notwithstanding any other provision of this Agreement for notice of Default and opportunity to cure such Default, the CAISO or the Participating TO shall provide the Interconnection Customer with written notice of any Default due to timely failure to post Interconnection Financial Security, and the Interconnection Customer shall have five (5) Business Days from the date of such notice to cure such Default by posting the required

Interconnection Financial Security. If the Interconnection Customer fails to cure the Default, then this Agreement shall be deemed terminated.

11.6 Interconnection Customer Compensation. If the CAISO requests or directs the Interconnection Customer to provide a service pursuant to Articles 9.6.3 (Payment for Reactive Power) or 13.5.1 of this LGIA, the CAISO shall compensate the Interconnection Customer in accordance with the CAISO Tariff.

11.6.1 Interconnection Customer Compensation for Actions During Emergency Condition. The CAISO shall compensate the Interconnection Customer in accordance with the CAISO Tariff for its provision of real and reactive power and other Emergency Condition services that the Interconnection Customer provides to support the CAISO Controlled Grid during an Emergency Condition in accordance with Article 11.6.

ARTICLE 12. INVOICE

12.1 General. The Participating TO shall submit to the Interconnection Customer, on a monthly basis, invoices of amounts due pursuant to this LGIA for the preceding month. Each invoice shall state the month to which the invoice applies and fully describe the services and equipment provided. The Parties may discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all amounts a Party owes to the other Party under this LGIA, including interest payments or credits, shall be netted so that only the net amount remaining due shall be paid by the owing Party. Notwithstanding the foregoing, any invoices between the CAISO and another Party shall be submitted and paid in accordance with the CAISO Tariff.

12.2 Final Invoice. As soon as reasonably practicable, but within twelve months after completion of the construction of the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades, the Participating TO shall provide an invoice of the final cost of the construction of the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades, and shall set forth such costs in sufficient detail to enable the Interconnection Customer to compare the actual costs with the estimates and to ascertain deviations, if any, from the cost estimates. With respect to costs associated with the Participating TO's Interconnection Facilities and Distribution Upgrades, the Participating TO shall refund to the Interconnection Customer any amount by which the actual payment by the Interconnection Customer for estimated costs exceeds the actual costs of construction within thirty (30) Calendar Days of the issuance of such final construction invoice; or, in the event the actual costs of construction exceed the Interconnection Customer's actual payment for estimated costs, then the Interconnection Customer shall pay to the Participating TO any amount by which the actual costs of construction exceed the actual payment by the Interconnection Customer for estimated costs within thirty (30)

Calendar Days of the issuance of such final construction invoice. With respect to costs associated with Network Upgrades, the Participating TO shall refund to the Interconnection Customer any amount by which the actual payment by the Interconnection Customer for estimated costs exceeds the actual costs of construction multiplied by the Interconnection Customer's percentage share of those costs, as set forth in Appendix G to this LGIA within thirty (30) Calendar Days of the issuance of such final construction invoice. In the event the actual costs of construction multiplied by the Interconnection Customer's percentage share of those costs exceed the Interconnection Customer's actual payment for estimated costs, then the Participating TO shall recover such difference through its transmission service rates.

12.3 Payment. Invoices shall be rendered to the Interconnection Customer at the address specified in Appendix F. The Interconnection Customer shall pay, or Participating TO shall refund, the amounts due within thirty (30) Calendar Days of the Interconnection Customer's receipt of the invoice. All payments shall be made in immediately available funds payable to the Interconnection Customer or Participating TO, or by wire transfer to a bank named and account designated by the invoicing Interconnection Customer or Participating TO. Payment of invoices by any Party will not constitute a waiver of any rights or claims any Party may have under this LGIA.

12.4 Disputes. In the event of a billing dispute between the Interconnection Customer and the Participating TO, the Participating TO and the CAISO shall continue to provide Interconnection Service under this LGIA as long as the Interconnection Customer: (i) continues to make all payments not in dispute; and (ii) pays to the Participating TO or into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If the Interconnection Customer fails to meet these two requirements for continuation of service, then the Participating TO may provide notice to the Interconnection Customer of a Default pursuant to Article 17. Within thirty (30) Calendar Days after the resolution of the dispute, the Party that owes money to the other Party shall pay the amount due with interest calculated in accordance with the methodology set forth in FERC's Regulations at 18 C.F.R. § 35.19a(a)(2)(iii). Notwithstanding the foregoing, any billing dispute between the CAISO and another Party shall be resolved in accordance with the provisions of Article 27 of this LGIA.

ARTICLE 13. EMERGENCIES

13.1 [Reserved]

13.2 Obligations. Each Party shall comply with the Emergency Condition procedures of the CAISO, NERC, the Applicable Reliability Council, Applicable Reliability Standards, Applicable Laws and Regulations, and any emergency procedures set forth in this LGIA.

13.3 Notice. The Participating TO or the CAISO shall notify the Interconnection Customer promptly when it becomes aware of an Emergency Condition that affects the Participating TO's Interconnection Facilities or Distribution System or the CAISO Controlled Grid, respectively, that may reasonably be expected to affect the Interconnection Customer's operation of the Large Generating Facility or the Interconnection Customer's Interconnection Facilities. The Interconnection Customer shall notify the Participating TO and the CAISO promptly when it becomes aware of an Emergency Condition that affects the Large Generating Facility or the Interconnection Customer's Interconnection Facilities that may reasonably be expected to affect the CAISO Controlled Grid or the Participating TO's Interconnection Facilities. To the extent information is known, the notification shall describe the Emergency Condition, the extent of the damage or deficiency, the expected effect on the operation of the Interconnection Customer's or Participating TO's facilities and operations, its anticipated duration and the corrective action taken and/or to be taken. The initial notice shall be followed as soon as practicable with written notice, if requested by a Party, which may be provided by electronic mail or facsimile, or in the case of the CAISO may be publicly posted on the CAISO's internet web site.

13.4 Immediate Action. Unless, in the Interconnection Customer's reasonable judgment, immediate action is required, the Interconnection Customer shall obtain the consent of the CAISO and the Participating TO, such consent to not be unreasonably withheld, prior to performing any manual switching operations at the Large Generating Facility or the Interconnection Customer's Interconnection Facilities in response to an Emergency Condition declared by the Participating TO or CAISO or in response to any other emergency condition.

13.5 CAISO and Participating TO Authority.

13.5.1 General. The CAISO and Participating TO may take whatever actions or inactions, including issuance of dispatch instructions, with regard to the CAISO Controlled Grid or the Participating TO's Interconnection Facilities or Distribution System they deem necessary during an Emergency Condition in order to (i) preserve public health and safety, (ii) preserve the reliability of the CAISO Controlled Grid or the Participating TO's Interconnection Facilities or Distribution System, (iii) limit or prevent damage, and (iv) expedite restoration of service.

The Participating TO and the CAISO shall use Reasonable Efforts to minimize the effect of such actions or inactions on the Large Generating Facility or the Interconnection Customer's Interconnection Facilities. The Participating TO or the CAISO may, on the basis of technical considerations, require the Large Generating Facility to mitigate an Emergency Condition by taking actions necessary and limited in scope to remedy the Emergency Condition, including, but not limited to, directing the Interconnection Customer to shut-down, start-up, increase or decrease

the real or reactive power output of the Large Generating Facility; implementing a reduction or disconnection pursuant to Article 13.5.2; directing the Interconnection Customer to assist with black start (if available) or restoration efforts; or altering the outage schedules of the Large Generating Facility and the Interconnection Customer's Interconnection Facilities. Interconnection Customer shall comply with all of the CAISO's Dispatch Instructions and Operating Instructions and Participating TO's dispatch instructions or Operating Instructions concerning Large Generating Facility real power and reactive power output within the manufacturer's design limitations of the Large Generating Facility's equipment that is in service and physically available for operation at the time, in compliance with Applicable Laws and Regulations.

13.5.2 Reduction and Disconnection. The Participating TO or the CAISO may reduce Interconnection Service or disconnect the Large Generating Facility or the Interconnection Customer's Interconnection Facilities when such reduction or disconnection is necessary under Good Utility Practice due to Emergency Conditions. These rights are separate and distinct from any right of curtailment of the CAISO pursuant to the CAISO Tariff. When the CAISO or Participating TO can schedule the reduction or disconnection in advance, the CAISO or Participating TO shall notify the Interconnection Customer of the reasons, timing and expected duration of the reduction or disconnection. The CAISO or Participating TO shall coordinate with the Interconnection Customer using Good Utility Practice to schedule the reduction or disconnection during periods of least impact to the Interconnection Customer and the CAISO and Participating TO. Any reduction or disconnection shall continue only for so long as reasonably necessary under Good Utility Practice. The Parties shall cooperate with each other to restore the Large Generating Facility, the Interconnection Facilities, and the CAISO Controlled Grid to their normal operating state as soon as practicable consistent with Good Utility Practice.

13.6 Interconnection Customer Authority. Consistent with Good Utility Practice, this LGIA, and the CAISO Tariff, the Interconnection Customer may take actions or inactions with regard to the Large Generating Facility or the Interconnection Customer's Interconnection Facilities during an Emergency Condition in order to (i) preserve public health and safety, (ii) preserve the reliability of the Large Generating Facility or the Interconnection Customer's Interconnection Facilities, (iii) limit or prevent damage, and (iv) expedite restoration of service. Interconnection Customer shall use Reasonable Efforts to minimize the effect of such actions or inactions on the CAISO Controlled Grid and the Participating TO's Interconnection Facilities. The CAISO and Participating TO shall use Reasonable Efforts to assist Interconnection Customer in such actions.

13.7 Limited Liability. Except as otherwise provided in Article 11.6.1 of this LGIA, no Party shall be liable to any other Party for any action it takes in responding to an Emergency Condition so long as such action is made in good faith and is consistent with Good Utility Practice.

ARTICLE 14. REGULATORY REQUIREMENTS AND GOVERNING LAWS

14.1 Regulatory Requirements. Each Party's obligations under this LGIA shall be subject to its receipt of any required approval or certificate from one or more Governmental Authorities in the form and substance satisfactory to the applying Party, or the Party making any required filings with, or providing notice to, such Governmental Authorities, and the expiration of any time period associated therewith. Each Party shall in good faith seek and use its Reasonable Efforts to obtain such other approvals. Nothing in this LGIA shall require the Interconnection Customer to take any action that could result in its inability to obtain, or its loss of, status or exemption under the Federal Power Act or the Public Utility Holding Company Act of 1935, as amended, or the Public Utility Regulatory Policies Act of 1978, or the Energy Policy Act of 2005.

14.2 Governing Law.

14.2.1 The validity, interpretation and performance of this LGIA and each of its provisions shall be governed by the laws of the state where the Point of Interconnection is located, without regard to its conflicts of law principles.

14.2.2 This LGIA is subject to all Applicable Laws and Regulations.

14.2.3 Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, rules, or regulations of a Governmental Authority.

ARTICLE 15. NOTICES

15.1 General. Unless otherwise provided in this LGIA, any notice, demand or request required or permitted to be given by a Party to another and any instrument required or permitted to be tendered or delivered by a Party in writing to another shall be effective when delivered and may be so given, tendered or delivered, by recognized national courier, conveyed by e-mail, or by depositing the same with the United States Postal Service with postage prepaid, for delivery by certified or registered mail, addressed to the Party, or personally delivered to the Party, at the address set out in Appendix F, Addresses for Delivery of Notices and Billings. A Party must update the information in Appendix F as information changes. A Party may change the notice information in this LGIA by giving five (5) Business Days written notice prior to the effective date of the change. Such changes shall not constitute an amendment to this LGIA.

15.2 Billings and Payments. Billings and payments shall be sent to the addresses set out in Appendix F.

15.3 Alternative Forms of Notice. Any notice or request required or permitted to be given by a Party to another and not required by this LGIA to be given as provided in Article 15.1 may be so given by telephone, or e-mail to the telephone numbers and e-mail addresses set out in Appendix F.

15.4 Operations and Maintenance Notice. Each Party shall notify the other Parties in writing of the identity of the person(s) that it designates as the point(s) of contact with respect to the implementation of Articles 9 and 10.

ARTICLE 16. FORCE MAJEURE

16.1 Force Majeure.

16.1.1 Economic hardship is not considered a Force Majeure event.

16.1.2 No Party shall be considered to be in Default with respect to any obligation hereunder, (including obligations under Article 4), other than the obligation to pay money when due, if prevented from fulfilling such obligation by Force Majeure. A Party unable to fulfill any obligation hereunder (other than an obligation to pay money when due) by reason of Force Majeure shall give notice and the full particulars of such Force Majeure to the other Party in writing or by telephone as soon as reasonably possible after the occurrence of the cause relied upon. Telephone notices given pursuant to this Article shall be confirmed in writing as soon as reasonably possible and shall specifically state full particulars of the Force Majeure, the time and date when the Force Majeure occurred and when the Force Majeure is reasonably expected to cease. The Party affected shall exercise due diligence to remove such disability with reasonable dispatch, but shall not be required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance.

ARTICLE 17. DEFAULT

17.1 Default.

17.1.1 General. No Default shall exist where such failure to discharge an obligation (other than the payment of money) is the result of Force Majeure as defined in this LGIA or the result of an act or omission of the other Party. Upon a Breach, the affected non-Breaching Party(ies) shall give written notice of such Breach to the Breaching Party. Except as provided in Articles 11.5.1 and 17.1.2, the Breaching Party shall have thirty (30) Calendar Days from receipt of the Default notice within which to cure such Breach; provided however, if such Breach is not capable of cure within thirty (30) Calendar Days, the Breaching Party shall commence

such cure within thirty (30) Calendar Days after notice and continuously and diligently complete such cure within ninety (90) Calendar Days from receipt of the Default notice; and, if cured within such time, the Breach specified in such notice shall cease to exist.

17.1.2 Right to Terminate. If a Breach is not cured as provided in this Article, or if a Breach is not capable of being cured within the period provided for herein, the affected non-Breaching Party(ies) shall have the right to declare a Default and terminate this LGIA by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not such Party(ies) terminates this LGIA, to recover from the Breaching Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this Article will survive termination of this LGIA.

ARTICLE 18. INDEMNITY, CONSEQUENTIAL DAMAGES, AND INSURANCE

18.1 Indemnity. Each Party shall at all times indemnify, defend, and hold the other Parties harmless from, any and all Losses arising out of or resulting from another Party's action or inactions of its obligations under this LGIA on behalf of the indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the Indemnified Party.

18.1.1 Indemnified Party. If an Indemnified Party is entitled to indemnification under this Article 18 as a result of a claim by a third party, and the Indemnifying Party fails, after notice and reasonable opportunity to proceed under Article 18.1, to assume the defense of such claim, such Indemnified Party may at the expense of the Indemnifying Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

18.1.2 Indemnifying Party. If an Indemnifying Party is obligated to indemnify and hold any Indemnified Party harmless under this Article 18, the amount owing to the Indemnified Party shall be the amount of such Indemnified Party’s actual Loss, net of any insurance or other recovery.

18.1.3 Indemnity Procedures. Promptly after receipt by an Indemnified Party of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in Article 18.1 may apply, the Indemnified Party shall notify the Indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying Party.
The Indemnifying Party shall have the right to assume the defense thereof with counsel designated by such Indemnifying Party and reasonably satisfactory to the Indemnified Party. If the defendants in any such action

include one or more Indemnified Parties and the Indemnifying Party and if the Indemnified Party reasonably concludes that there may be legal defenses available to it and/or other Indemnified Parties which are different from or additional to those available to the Indemnifying Party, the Indemnified Party shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on its own behalf. In such instances, the Indemnifying Party shall only be required to pay the fees and expenses of one additional attorney to represent an Indemnified Party or Indemnified Parties having such differing or additional legal defenses.

The Indemnified Party shall be entitled, at its expense, to participate in any such action, suit or proceeding, the defense of which has been assumed by the Indemnifying Party. Notwithstanding the foregoing, the Indemnifying Party (i) shall not be entitled to assume and control the defense of any such action, suit or proceedings if and to the extent that, in the opinion of the Indemnified Party and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on the Indemnified Party, or there exists a conflict or adversity of interest between the Indemnified Party and the Indemnifying Party, in such event the Indemnifying Party shall pay the reasonable expenses of the Indemnified Party, and (ii) shall not settle or consent to the entry of any judgment in any action, suit or proceeding without the consent of the Indemnified Party, which shall not be unreasonably withheld, conditioned or delayed.

18.2 Consequential Damages. Other than the liquidated damages heretofore described in Article 5.3, in no event shall any Party be liable under any provision of this LGIA for any losses, damages, costs or expenses for any special, indirect, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to another Party under another agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder.

18.3 Insurance. As indicated below, the designated Party shall, at its own expense, maintain in force throughout the periods noted in this LGIA, and until released by the other Parties, the following minimum insurance coverages, with insurers rated no less than A- (with a minimum size rating of VII) by Bests' Insurance Guide and Key Ratings and authorized to do business in the state where the Point of Interconnection is located, except in the case of any insurance required to be carried by the CAISO, the State of California:

18.3.1 Workers' Compensation Insurance and Employers' Liability. The Participating TO and the Interconnection Customer shall maintain such coverage from the commencement of any Construction Activities providing statutory benefits for Workers Compensation coverage and coverage amounts of no less than One Million Dollars ($1,000,000) for employer's liability for each employee for bodily injury by accident and One Million Dollars ($1,000,000) for each employee for bodily injury by disease in accordance with the laws and regulations of the state in which the Point of Interconnection is located. The Participating TO shall provide the Interconnection Customer with evidence of such insurance coverage within thirty (30) Calendar Days of any request by the Interconnection Customer. The Interconnection Customer shall provide evidence of such insurance thirty (30) Calendar Days prior to entry by any employee or contractor or other person acting on the Interconnection Customer's behalf onto any construction site to perform any work related to the Interconnection Facilities or Generating Facility.

18.3.2 Commercial General Liability Insurance. The Participating TO and the Interconnection Customer shall maintain commercial general liability insurance coverage commencing within thirty (30) Calendar Days of the Effective Date of this LGIA, including coverage for premises and operations, bodily injury (including death), personal injury, property damage, products and completed operations coverage, coverage for explosion, collapse and underground hazards, independent contractors coverage, and (i) liability of Participating TO and the Interconnection Customer that would be imposed without the LGIA, or (ii) liability assumed by the Participating TO and the Interconnection Customer in a contract or agreement that is an "insured contract" under commercial general liability insurance policy. Such insurance shall include no cross liability exclusions or separation of insured clause endorsement exclusions, with minimum limits of One Million Dollars ($1,000,000) per occurrence/One Million Dollars ($1,000,000) aggregate. If the activities of the Interconnection Customer are being conducted through the actions of an Affiliate, then the Interconnection Customer may satisfy the insurance requirements of this Section 18.3.2 by providing evidence of insurance coverage carried by such Affiliate and showing the Participating TO and the CAISO as an additional insured only with respect to the LGIA, together with the Interconnection Customer's written representation to the Participating TO and the CAISO that the insured Affiliate is conducting all of the necessary pre-construction work. Within thirty (30) Calendar Days prior to the entry of any person on behalf of the Interconnection Customer onto any construction site to perform work related to the Interconnection Facilities or Generating Facility, the Interconnection Customer shall replace any evidence of Affiliate Insurance with evidence of such insurance carried by the

Interconnection Customer, naming the Participating TO and CAISO as additional insured only with respect to the LGIA.

18.3.3 Business Automobile Liability Insurance. Prior to the entry of any such vehicles on any construction site in connection with work done by or on behalf of the Interconnection Customer, the Interconnection Customer shall provide evidence of coverage of owned and non-owned and hired vehicles, trailers or semi-trailers designed for travel on public roads, with a minimum, combined single limit of One Million Dollars ($1,000,000) per occurrence for bodily injury, including death, and property damage. The Interconnection Customer shall include the Participating TO and the CAISO as additional insured with respect to the LGIA on any such policies.

18.3.4 Excess Liability Insurance. Commencing at the time of entry of any person on its behalf upon any construction site for the Network Upgrades, Interconnection Facilities, or Generating Facility, the Participating TO and the Interconnection Customer shall maintain Excess Liability insurance over and above the Employer's Liability Commercial General Liability and Business Automobile Liability Insurance coverage, with a minimum limit of Twenty Million Dollars ($20,000,000) per occurrence/Twenty Million Dollars ($20,000,000) aggregate. Such insurance carried by the Participating TO shall include the Interconnection Customer and CAISO as additional insured with respect to the LGIA, and such insurance carried by the Interconnection Customer shall include the Participating TO and CAISO as an additional insured with respect to the LGIA. The requirements of Section 18.3.2 and 18.3.4 may be met by any combination of general and excess liability insurance.

18.3.5 The Commercial General Liability Insurance, Business Automobile Insurance and Excess Liability Insurance policies shall include the other Parties identified in the sections above, their parents, their subsidiaries, respective directors, officers, agents, servants and employees ("Other Party Group") and the CAISO as additional insured. All policies shall contain provisions whereby the insurers waive all rights of subrogation in accordance with the provisions of this LGIA against the Other Party Group. If any Party can reasonably demonstrate that coverage policies containing provisions for insurer waiver of subrogation rights, or advance notice are not commercially available, then the Parties shall meet and confer and mutually determine to (i) establish replacement or equivalent terms in lieu of subrogation or notice or (ii) waive the requirements that coverage(s) include such subrogation provision or require advance written notice from such insurers.

18.3.6 The Commercial General Liability Insurance, Business Automobile Liability Insurance and Excess Liability Insurance policies shall contain provisions that specify that the policies are primary and non-contributory. Each Party shall be responsible for its respective deductibles or self-insured retentions.

18.3.7 The Commercial General Liability Insurance, Business Automobile Liability Insurance and Excess Liability Insurance policies, if written on a Claims First Made Basis, shall be maintained in full force and effect for two (2) years after termination of this LGIA, which coverage may be in the form of extended reporting period coverage if agreed by the Parties.

18.3.8 [Not Used.]

18.3.9 Thirty (30) Calendar Days prior to the start of any work at the construction site related to Interconnection Facilities or Generating Facility under this LGIA, and as soon as practicable after the end of each fiscal year or at the renewal of the insurance policy and in any event within ninety (90) Calendar Days thereafter, the Participating TO and the Interconnection Customer shall provide a certificate of insurance for all insurance required in this LGIA, executed by each insurer or by an authorized representative of each insurer.

18.3.10 Notwithstanding the foregoing, each Party may self-insure

a) to meet the minimum insurance requirements of Article 18.3.1, to the extent that it maintains a self-insurance program that is a qualified self-insurer within the state in which the Point of Interconnection is located, under the laws and regulations of such state; and

b) to meet the minimum insurance requirements of Articles 18.3.2 through 18.3.8 to the extent it maintains a self-insurance program; provided that, such Party's senior unsecured debt or issuer rating is BBB-, or better, as rated by Standard & Poor's and that its self-insurance program meets the minimum insurance requirements of Articles 18.3.2 through 18.3.8. For any period of time that a Party's senior unsecured debt rating and issuer rating are both unrated by Standard & Poor's or are both rated at less than BBB- by Standard & Poor's, such Party shall comply with the insurance requirements applicable to it under Articles 18.3.2 through 18.3.9.

c) in the event that a Party is permitted to self-insure pursuant to this Article 18.3.10, it shall notify the other Parties that it meets the requirements to self-insure and that its self-insurance program meets the minimum insurance requirements in a manner consistent with that specified in Article 18.3.9.

18.3.11 The Parties agree to report to each other in writing as soon as practical all accidents or occurrences resulting in injuries to any person, including death, and any property damage greater than $25,000, including within the scope of coverage of such insurance whether or not such coverage is sought.

ARTICLE 19. ASSIGNMENT

19.1 Assignment. This LGIA may be assigned by a Party only with the written consent of the other Parties; provided that a Party may assign this LGIA without the consent of the other Parties to any Affiliate of the assigning Party with an equal or greater credit rating and with the legal authority and operational ability to satisfy the obligations of the assigning Party under this LGIA; and provided further that the Interconnection Customer shall have the right to assign this LGIA, without the consent of the CAISO or Participating TO, for collateral security purposes to aid in providing financing for the Large Generating Facility, provided that the Interconnection Customer will promptly notify the CAISO and Participating TO of any such assignment. Any financing arrangement entered into by the Interconnection Customer pursuant to this Article will provide that prior to or upon the exercise of the secured party's, trustee's or mortgagee's assignment rights pursuant to said arrangement, the secured creditor, the trustee or mortgagee will notify the CAISO and Participating TO of the date and particulars of any such exercise of assignment right(s), including providing the CAISO and Participating TO with proof that it meets the requirements of Articles 11.5 and 18.3. Any attempted assignment that violates this Article is void and ineffective. Any assignment under this LGIA shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. Where required, consent to assignment will not be unreasonably withheld, conditioned or delayed.

The Interconnection Customer may assign Surplus Interconnection Service pursuant to Section 3.4 of the GIDAP. The CAISO, Participating TO, and original Interconnection Customer will work in good faith to amend this GIA to reflect the transfer of Surplus Interconnection Service before the execution of the assignee's GIA. The assignee must execute a separate GIA with the CAISO and Participating TO to memorialize its Interconnection Service.

ARTICLE 20. SEVERABILITY

20.1 Severability. If any provision in this LGIA is finally determined to be invalid, void or unenforceable by any court or other Governmental Authority having jurisdiction, such determination shall not invalidate, void or make unenforceable any other provision, agreement or covenant of this LGIA; provided that if the Interconnection Customer (or any third party, but only if such third party is not acting at the direction of the Participating TO or CAISO) seeks and obtains such a final determination with respect to any provision of the Alternate Option (Article

5.1.2), or the Negotiated Option (Article 5.1.4), then none of the provisions of Article 5.1.2 or 5.1.4 shall thereafter have any force or effect and the Parties' rights and obligations shall be governed solely by the Standard Option (Article 5.1.1).

ARTICLE 21. COMPARABILITY

21.1 Comparability. The Parties will comply with all applicable comparability and code of conduct laws, rules and regulations, as amended from time to time.

ARTICLE 22. CONFIDENTIALITY

22.1 Confidentiality. Confidential Information shall include, without limitation, all information relating to a Party's technology, research and development, business affairs, and pricing, and any information supplied by any of the Parties to the other Parties prior to the execution of this LGIA.

Information is Confidential Information only if it is clearly designated or marked in writing as confidential on the face of the document, or, if the information is conveyed orally or by inspection, if the Party providing the information orally informs the Parties receiving the information that the information is confidential.

If requested by any Party, the other Parties shall provide in writing, the basis for asserting that the information referred to in this Article 22 warrants confidential treatment, and the requesting Party may disclose such writing to the appropriate Governmental Authority. Each Party shall be responsible for the costs associated with affording confidential treatment to its information.

22.1.1 Term. During the term of this LGIA, and for a period of three (3) years after the expiration or termination of this LGIA, except as otherwise provided in this Article 22, each Party shall hold in confidence and shall not disclose to any person Confidential Information.

22.1.2 Scope. Confidential Information shall not include information that the receiving Party can demonstrate: (1) is generally available to the public other than as a result of a disclosure by the receiving Party; (2) was in the lawful possession of the receiving Party on a non-confidential basis before receiving it from the disclosing Party; (3) was supplied to the receiving Party without restriction by a third party, who, to the knowledge of the receiving Party after due inquiry, was under no obligation to the disclosing Party to keep such information confidential; (4) was independently developed by the receiving Party without reference to Confidential Information of the disclosing Party; (5) is, or becomes, publicly known, through no wrongful act or omission of the receiving Party or Breach of this LGIA; or (6) is required, in accordance with Article 22.1.7 of this LGIA, Order of Disclosure, to be disclosed by any Governmental Authority or is otherwise required to be disclosed by law or subpoena, or is necessary in

any legal proceeding establishing rights and obligations under this LGIA. Information designated as Confidential Information will no longer be deemed confidential if the Party that designated the information as confidential notifies the other Parties that it no longer is confidential.

22.1.3 Release of Confidential Information. No Party shall release or disclose Confidential Information to any other person, except to its employees, consultants, Affiliates (limited by the Standards of Conduct requirements set forth in Part 358 of FERC's Regulations, 18 C.F.R. 358), subcontractors, or to parties who may be or considering providing financing to or equity participation with the Interconnection Customer, or to potential purchasers or assignees of the Interconnection Customer, on a need-to-know basis in connection with this LGIA, unless such person has first been advised of the confidentiality provisions of this Article 22 and has agreed to comply with such provisions. Notwithstanding the foregoing, a Party providing Confidential Information to any person shall remain primarily responsible for any release of Confidential Information in contravention of this Article 22.

22.1.4 Rights. Each Party retains all rights, title, and interest in the Confidential Information that each Party discloses to the other Parties. The disclosure by each Party to the other Parties of Confidential Information shall not be deemed a waiver by a Party or any other person or entity of the right to protect the Confidential Information from public disclosure.

22.1.5 No Warranties. The mere fact that a Party has provided Confidential Information does not constitute a warranty or representation as to its accuracy or completeness. In addition, by supplying Confidential Information, no Party obligates itself to provide any particular information or Confidential Information to the other Parties nor to enter into any further agreements or proceed with any other relationship or joint venture.

22.1.6 Standard of Care. Each Party shall use at least the same standard of care to protect Confidential Information it receives as it uses to protect its own Confidential Information from unauthorized disclosure, publication or dissemination. Each Party may use Confidential Information solely to fulfill its obligations to the other Parties under this LGIA or its regulatory requirements.

22.1.7 Order of Disclosure. If a court or a Government Authority or entity with the right, power, and apparent authority to do so requests or requires any Party, by subpoena, oral
deposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose Confidential Information, that Party shall provide the other Parties with prompt notice of such request(s) or requirement(s) so that the other Parties may seek an

appropriate protective order or waive compliance with the terms of this LGIA. Notwithstanding the absence of a protective order or waiver, the Party may disclose such Confidential Information which, in the opinion of its counsel, the Party is legally compelled to disclose. Each Party will use Reasonable Efforts to obtain reliable assurance that confidential treatment will be accorded any Confidential Information so furnished.

22.1.8 Termination of Agreement. Upon termination of this LGIA for any reason, each Party shall, within ten (10) Calendar Days of receipt of a written request from another Party, use Reasonable Efforts to destroy, erase, or delete (with such destruction, erasure, and deletion certified in writing to the other Party) or return to the other Party, without retaining copies thereof, any and all written or electronic Confidential Information received from the other Party.

22.1.9 Remedies. The Parties agree that monetary damages would be inadequate to compensate a Party for another Party's Breach of its obligations under this Article 22. Each Party accordingly agrees that the other Parties shall be entitled to equitable relief, by way of injunction or otherwise, if the first Party Breaches or threatens to Breach its obligations under this Article 22, which equitable relief shall be granted without bond or proof of damages, and the receiving Party shall not plead in defense that there would be an adequate remedy at law. Such remedy shall not be deemed an exclusive remedy for the Breach of this Article 22, but shall be in addition to all other remedies available at law or in equity. The Parties further acknowledge and agree that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope. No Party, however, shall be liable for indirect, incidental, or consequential or punitive damages of any nature or kind resulting from or arising in connection with this Article 22.

22.1.10 Disclosure to FERC, its Staff, or a State. Notwithstanding anything in this Article 22 to the contrary, and pursuant to 18 C.F.R. section 1b.20, if FERC or its staff, during the course of an investigation or otherwise, requests information from one of the Parties that is otherwise required to be maintained in confidence pursuant to this LGIA, the Party shall provide the requested information to FERC or its staff, within the time provided for in the request for information. In providing the information to FERC or its staff, the Party must, consistent with 18 C.F.R. section 388.112, request that the information be treated as confidential and non-public by FERC and its staff and that the information be withheld from public disclosure. Parties are prohibited from notifying the other Parties to this LGIA prior to the release of the Confidential Information to FERC or its staff. The Party shall notify the other Parties to the LGIA when it is notified by FERC or its staff that a request to release Confidential Information has been received by FERC, at which time any of the Parties may respond before such

information would be made public, pursuant to 18 C.F.R. section 388.112. Requests from a state regulatory body conducting a confidential investigation shall be treated in a similar manner if consistent with the applicable state rules and regulations.

22.1.11 Subject to the exception in Article 22.1.10, Confidential Information shall not be disclosed by the other Parties to any person not employed or retained by the other Parties, except to the extent disclosure is (i) required by law; (ii) reasonably deemed by the disclosing Party to be required to be disclosed in connection with a dispute between or among the Parties, or the defense of litigation or dispute; (iii) otherwise permitted by consent of the other Parties, such consent not to be unreasonably withheld; or (iv) necessary to fulfill its obligations under this LGIA or as a transmission service provider or a Balancing Authority including disclosing the Confidential Information to an RTO or ISO or to a regional or national reliability organization. The Party asserting confidentiality shall notify the other Parties in writing of the information it claims is confidential. Prior to any disclosures of another Party's Confidential Information under this subparagraph, or if any third party or Governmental Authority makes any request or demand for any of the information described in this subparagraph, the disclosing Party agrees to promptly notify the other Party in writing and agrees to assert confidentiality and cooperate with the other Party in seeking to protect the Confidential Information from public disclosure by confidentiality agreement, protective order or other reasonable measures.

ARTICLE 23. ENVIRONMENTAL RELEASES

23.1 Each Party shall notify the other Parties, first orally and then in writing, of the release of any Hazardous Substances, any asbestos or lead abatement activities, or any type of remediation activities related to the Large Generating Facility or the Interconnection Facilities, each of which may reasonably be expected to affect the other Parties. The notifying Party shall: (i) provide the notice as soon as practicable, provided such Party makes a good faith effort to provide the notice no later than twenty-four hours after such Party becomes aware of the occurrence; and (ii) promptly furnish to the other Parties copies of any publicly available reports filed with any Governmental Authorities addressing such events.

ARTICLE 24. INFORMATION REQUIREMENTS

24.1 Information Acquisition. The Participating TO and the Interconnection Customer shall submit specific information regarding the electrical characteristics of their respective facilities to each other as described below and in accordance with Applicable Reliability Standards.

24.2 Information Submission by Participating TO. The initial information submission by the Participating TO shall occur no later than one hundred eighty (180) Calendar Days prior to Trial Operation and shall include the Participating TO's Transmission System information necessary to allow the Interconnection Customer to select equipment and meet any system protection and stability requirements, unless otherwise agreed to by the Participating TO and the Interconnection Customer. On a monthly basis the Participating TO shall provide the Interconnection Customer and the CAISO a status report on the construction and installation of the Participating TO's Interconnection Facilities and Network Upgrades, including, but not limited to, the following information: (1) progress to date; (2) a description of the activities since the last report; (3) a description of the action items for the next period; and (4) the delivery status of equipment ordered.

24.3 Updated Information Submission by Interconnection Customer. The updated information submission by the Interconnection Customer, including manufacturer information, shall occur no later than one hundred eighty (180) Calendar Days prior to the Trial Operation. The Interconnection Customer shall submit a completed copy of the Electric Generating Unit data requirements contained in Appendix 1 to the GIDAP. It shall also include any additional information provided to the Participating TO and the CAISO for the Interconnection Studies. Information in this submission shall be the most current Electric Generating Unit design or expected performance data. Information submitted for stability models shall be compatible with the Participating TO and CAISO standard models. If there is no compatible model, the Interconnection Customer will work with a consultant mutually agreed to by the Parties to develop and supply a standard model and associated information.

If the Interconnection Customer's data is materially different from what was originally provided to the Participating TO and the CAISO for the Interconnection Studies, then the Participating TO and the CAISO will conduct appropriate studies pursuant to the GIDAP to determine the impact on the Participating TO's Transmission System and affected portions of the CAISO Controlled Grid based on the actual data submitted pursuant to this Article 24.3. The Interconnection Customer shall not begin Trial Operation until such studies are completed and all other requirements of this LGIA are satisfied.

24.4 Information Supplementation. Prior to the Trial Operation date, the Parties shall supplement their information submissions described above in this Article 24 with any and all "as-built" Electric Generating Unit information or "as-tested" performance information that differs from the initial submissions or, alternatively, written confirmation that no such differences exist. The Interconnection Customer shall conduct tests on the Electric Generating Unit as required by Good Utility Practice such as an open circuit "step voltage" test on the Electric Generating Unit to verify proper operation of the Electric Generating Unit's automatic voltage regulator.

Unless otherwise agreed, the test conditions shall include: (1) Electric Generating Unit at synchronous speed; (2) automatic voltage regulator on and in voltage control mode; and (3) a five percent (5 percent) change in Electric Generating Unit terminal voltage initiated by a change in the voltage regulators reference voltage. The Interconnection Customer shall provide validated test recordings showing the responses of Electric Generating Unit terminal and field voltages. In the event that direct recordings of these voltages is impractical, recordings of other voltages or currents that mirror the response of the Electric Generating Unit's terminal or field voltage are acceptable if information necessary to translate these alternate quantities to actual Electric Generating Unit terminal or field voltages is provided. Electric Generating Unit testing shall be conducted and results provided to the Participating TO and the CAISO for each individual Electric Generating Unit in a station.

Subsequent to the Commercial Operation Date, the Interconnection Customer shall provide the Participating TO and the CAISO any information changes due to equipment replacement, repair, or adjustment. The Participating TO shall provide the Interconnection Customer any information changes due to equipment replacement, repair or adjustment in the directly connected substation or any adjacent Participating TO-owned substation that may affect the Interconnection Customer's Interconnection Facilities equipment ratings, protection or operating requirements. The Parties shall provide such information pursuant to Article 5.19.

ARTICLE 25. INFORMATION ACCESS AND AUDIT RIGHTS

25.1 Information Access. Each Party (the "disclosing Party") shall make available to the other Party information that is in the possession of the disclosing Party and is necessary in order for the other Party to: (i) verify the costs incurred by the disclosing Party for which the other Party is responsible under this LGIA; and (ii) carry out its obligations and responsibilities under this LGIA. The Parties shall not use such information for purposes other than those set forth in this Article 25.1 and to enforce their rights under this LGIA. Nothing in this Article 25 shall obligate the CAISO to make available to a Party any third party information in its possession or control if making such third party information available would violate a CAISO Tariff restriction on the use or disclosure of such third party information.

25.2 Reporting of Non-Force Majeure Events. Each Party (the "notifying Party") shall notify the other Parties when the notifying Party becomes aware of its inability to comply with the provisions of this LGIA for a reason other than a Force Majeure event. The Parties agree to cooperate with each other and provide necessary information regarding such inability to comply, including the date, duration, reason for the inability to comply, and corrective actions taken or planned to be taken with respect to such inability to comply. Notwithstanding the

foregoing, notification, cooperation or information provided under this Article shall not entitle the Party receiving such notification to allege a cause for anticipatory breach of this LGIA.

25.3 Audit Rights. Subject to the requirements of confidentiality under Article 22 of this LGIA, the Parties' audit rights shall include audits of a Party's costs pertaining to such Party's performance or satisfaction of obligations owed to the other Party under this LGIA, calculation of invoiced amounts, the CAISO's efforts to allocate responsibility for the provision of reactive support to the CAISO Controlled Grid, the CAISO's efforts to allocate responsibility for interruption or reduction of generation on the CAISO Controlled Grid, and each such Party's actions in an Emergency Condition.

25.3.1 The Interconnection Customer and the Participating TO shall each have the right, during normal business hours, and upon prior reasonable notice to the other Party, to audit at its own expense the other Party's accounts and records pertaining to either such Party's performance or either such Party's satisfaction of obligations owed to the other Party under this LGIA. Subject to Article 25.3.2, any audit authorized by this Article shall be performed at the offices where such accounts and records are maintained and shall be limited to those portions of such accounts and records that relate to each such Party's performance and satisfaction of obligations under this LGIA. Each such Party shall keep such accounts and records for a period equivalent to the audit rights periods described in Article 25.4.

25.3.2 Notwithstanding anything to the contrary in Article 25.3, each Party's rights to audit the CAISO's accounts and records shall be as set forth in Section 22.1 of the CAISO Tariff.

25.4 Audit Rights Periods.

25.4.1 Audit Rights Period for Construction-Related Accounts and Records. Accounts and records related to the design, engineering, procurement, and construction of Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades constructed by the Participating TO shall be subject to audit for a period of twenty-four months following the Participating TO's issuance of a final invoice in accordance with Article 12.2. Accounts and records related to the design, engineering, procurement, and construction of Participating TO's Interconnection Facilities and/or Stand Alone Network Upgrades constructed by the Interconnection Customer shall be subject to audit and verification by the Participating TO and the CAISO for a period of twenty-four months following the Interconnection Customer's issuance of a final invoice in accordance with Article 5.2(8).

25.4.2 Audit Rights Period for All Other Accounts and Records. Accounts and records related to a Party's performance or satisfaction of all obligations under this LGIA other than those described in Article 25.4.1 shall be subject to audit as follows: (i) for an audit relating to cost obligations, the applicable audit rights period shall be twenty-four months after the auditing Party's receipt of an invoice giving rise to such cost obligations; and (ii) for an audit relating to all other obligations, the applicable audit rights period shall be twenty-four months after the event for which the audit is sought; provided that each Party's rights to audit the CAISO's accounts and records shall be as set forth in Section 22.1 of the CAISO Tariff.

25.5 Audit Results. If an audit by the Interconnection Customer or the Participating TO determines that an overpayment or an underpayment has occurred with respect to the other Party, a notice of such overpayment or underpayment shall be given to the other Party together with those records from the audit which supports such determination. The Party that is owed payment shall render an invoice to the other Party and such invoice shall be paid pursuant to Article 12 hereof.

25.5.1 Notwithstanding anything to the contrary in Article 25.5, the Interconnection Customer's and Participating TO's rights to audit the CAISO's accounts and records shall be as set forth in Section 22.1 of the CAISO Tariff, and the CAISO's process for remedying an overpayment or underpayment shall be as set forth in the CAISO Tariff.

ARTICLE 26. SUBCONTRACTORS

26.1 General. Nothing in this LGIA shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this LGIA; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this LGIA in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.

26.2 Responsibility of Principal. The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this LGIA. The hiring Party shall be fully responsible to the other Parties for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall the CAISO or Participating TO be liable for the actions or inactions of the Interconnection Customer or its subcontractors with respect to obligations of the Interconnection Customer under Article 5 of this LGIA. Any applicable obligation imposed by this LGIA upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

26.3 No Limitation by Insurance. The obligations under this Article 26 will not be limited in any way by any limitation of subcontractor's insurance.

ARTICLE 27. DISPUTES

All disputes arising out of or in connection with this LGIA whereby relief is sought by or from the CAISO shall be settled in accordance with the provisions of Article 13 of the CAISO Tariff, except that references to the CAISO Tariff in such Article 13 of the CAISO Tariff shall be read as references to this LGIA. Disputes arising out of or in connection with this LGIA not subject to provisions of Article 13 of the CAISO Tariff shall be resolved as follows:

27.1 Submission. In the event either Party has a dispute, or asserts a claim, that arises out of or in connection with this LGIA or its performance, such Party (the "disputing Party") shall provide the other Party with written notice of the dispute or claim ("Notice of Dispute"). Such dispute or claim shall be referred to a designated senior representative of each Party for resolution on an informal basis as promptly as practicable after receipt of the Notice of Dispute by the other Party. In the event the designated representatives are unable to resolve the claim or dispute through unassisted or assisted negotiations within thirty (30) Calendar Days of the other Party's receipt of the Notice of Dispute, such claim or dispute may, upon mutual agreement of the Parties, be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below. In the event the Parties do not agree to submit such claim or dispute to arbitration, each Party may exercise whatever rights and remedies it may have in equity or at law consistent with the terms of this LGIA.

27.2 External Arbitration Procedures. Any arbitration initiated under this LGIA shall be conducted before a single neutral arbitrator appointed by the Parties. If the Parties fail to agree upon a single arbitrator within ten (10) Calendar Days of the submission of the dispute to arbitration, each Party shall choose one arbitrator who shall sit on a three-member arbitration panel. The two arbitrators so chosen shall within twenty (20) Calendar Days select a third arbitrator to chair the arbitration panel. In either case, the arbitrators shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past substantial business or financial relationships with any party to the arbitration (except prior arbitration). The arbitrator(s) shall provide each of the Parties an opportunity to be heard and, except as otherwise provided herein, shall conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("Arbitration Rules") and any applicable FERC regulations; provided, however, in the event of a conflict between the Arbitration Rules and the terms of this Article 27, the terms of this Article 27 shall prevail.

27.3 Arbitration Decisions. Unless otherwise agreed by the Parties, the arbitrator(s) shall render a decision within ninety (90) Calendar Days of appointment and shall

notify the Parties in writing of such decision and the reasons therefor. The arbitrator(s) shall be authorized only to interpret and apply the provisions of this LGIA and shall have no power to modify or change any provision of this Agreement in any manner. The decision of the arbitrator(s) shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator(s) may be appealed solely on the grounds that the conduct of the arbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Act or the Administrative Dispute Resolution Act. The final decision of the arbitrator(s) must also be filed with FERC if it affects jurisdictional rates, terms and conditions of service, Interconnection Facilities, or Network Upgrades.

27.4 Costs. Each Party shall be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable: (1) the cost of the arbitrator chosen by the Party to sit on the three member panel and one half of the cost of the third arbitrator chosen; or (2) one half the cost of the single arbitrator jointly chosen by the Parties.

ARTICLE 28. REPRESENTATIONS, WARRANTIES AND COVENANTS

28.1 General. Each Party makes the following representations, warranties and covenants:

28.1.1 Good Standing. Such Party is duly organized, validly existing and in good standing under the laws of the state in which it is organized, formed, or incorporated, as applicable; that it is qualified to do business in the state or states in which the Large Generating Facility, Interconnection Facilities and Network Upgrades owned by such Party, as applicable, are located; and that it has the corporate power and authority to own its properties, to carry on its business as now being conducted and to enter into this LGIA and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this LGIA.

28.1.2 Authority. Such Party has the right, power and authority to enter into this LGIA, to become a Party hereto and to perform its obligations hereunder. This LGIA is a legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting creditors' rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or at law).

28.1.3 No Conflict. The execution, delivery and performance of this LGIA does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, of such Party, or any judgment, license, permit, order, material agreement or instrument applicable to or binding upon such Party or any of its assets.

28.1.4 Consent and Approval. Such Party has sought or obtained, or, in accordance with this LGIA will seek or obtain, each consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery and performance of this LGIA, and it will provide to any Governmental Authority notice of any actions under this LGIA that are required by Applicable Laws and Regulations.

ARTICLE 29. [RESERVED]

ARTICLE 30. MISCELLANEOUS

30.1 Binding Effect. This LGIA and the rights and obligations hereof, shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties hereto.

30.2 Conflicts. In the event of a conflict between the body of this LGIA and any attachment, appendices or exhibits hereto, the terms and provisions of the body of this LGIA shall prevail and be deemed the final intent of the Parties.

30.3 Rules of Interpretation. This LGIA, unless a clear contrary intention appears, shall be construed and interpreted as follows: (1) the singular number includes the plural number and vice versa; (2) reference to any person includes such person's successors and assigns but, in the case of a Party, only if such successors and assigns are permitted by this LGIA, and reference to a person in a particular capacity excludes such person in any other capacity or individually; (3) reference to any agreement (including this LGIA), document, instrument or tariff means such agreement, document, instrument, or tariff as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (4) reference to any Applicable Laws and Regulations means such Applicable Laws and Regulations as amended, modified, codified, or reenacted, in whole or in part, and in effect from time to time, including, if applicable, rules and regulations promulgated thereunder; (5) unless expressly stated otherwise, reference to any Article, Section or Appendix means such Article of this LGIA or such Appendix to this LGIA, or such Section to the GIDAP or such Appendix to the GIDAP, as the case may be; (6) "hereunder", "hereof", "herein", "hereto" and words of similar import shall be deemed references to this LGIA as a whole and not to any particular Article or other provision hereof or thereof; (7) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; and (8) relative to the determination of any period of time,

"from" means "from and including", "to" means "to but excluding" and "through" means "through and including".

30.4 Entire Agreement. This LGIA, including all Appendices and Schedules attached hereto, constitutes the entire agreement among the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between or among the Parties with respect to the subject matter of this LGIA. There are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, any Party's compliance with its obligations under this LGIA.

30.5 No Third Party Beneficiaries. This LGIA is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and, where permitted, their assigns.

30.6 Waiver. The failure of a Party to this LGIA to insist, on any occasion, upon strict performance of any provision of this LGIA will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.

Any waiver at any time by either Party of its rights with respect to this LGIA shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this LGIA. Termination or Default of this LGIA for any reason by the Interconnection Customer shall not constitute a waiver of the Interconnection Customer's legal rights to obtain an interconnection from the Participating TO. Any waiver of this LGIA shall, if requested, be provided in writing.

30.7 Headings. The descriptive headings of the various Articles of this LGIA have been inserted for convenience of reference only and are of no significance in the interpretation or construction of this LGIA.

30.8 Multiple Counterparts. This LGIA may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

30.9 Amendment. The Parties may by mutual agreement amend this LGIA by a written instrument duly executed by all of the Parties. Such amendment shall become effective and a part of this LGIA upon satisfaction of all Applicable Laws and Regulations.

30.10 Modification by the Parties. The Parties may by mutual agreement amend the Appendices to this LGIA by a written instrument duly executed by all of the Parties. Such amendment shall become effective and a part of this LGIA upon satisfaction of all Applicable Laws and Regulations.

30.11 Reservation of Rights. The CAISO and Participating TO shall each have the right to make a unilateral filing with FERC to modify this LGIA pursuant to section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder with respect to the following Articles and Appendices of this LGIA and with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation covered by these Articles and Appendices:

Recitals, 1, 2.1, 2.2, 2.3, 2.4, 2.6, 3.1, 3.3, 4.1, 4.2, 4.3, 4.4, 5 preamble, 5.4, 5.7, 5.8, 5.9, 5.12, 5.13, 5.18, 5.19.1, 7.1, 7.2, 8, 9.1, 9.2, 9.3, 9.5, 9.6, 9.7, 9.8, 9.10, 10.3, 11.4, 12.1, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24.3, 24.4, 25.1, 25.2, 25.3 (excluding subparts), 25.4.2, 26, 28, 29, 30, Appendix D, Appendix F, Appendix G, and any other Article not reserved exclusively to the Participating TO or the CAISO below.

The Participating TO shall have the exclusive right to make a unilateral filing with FERC to modify this LGIA pursuant to section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder with respect to the following Articles and Appendices of this LGIA and with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation covered by these Articles and Appendices:

2.5, 5.1, 5.2, 5.3, 5.5, 5.6, 5.10, 5.11, 5.14, 5.15, 5.16, 5.17, 5.19 (excluding 5.19.1), 6, 7.3, 9.4, 9.9, 10.1, 10.2, 10.4, 10.5, 11.1, 11.2, 11.3, 11.5, 12.2, 12.3, 12.4, 24.1, 24.2, 25.3.1, 25.4.1, 25.5 (excluding 25.5.1), 27 (excluding preamble), Appendix A, Appendix B, Appendix C, and Appendix E.

The CAISO shall have the exclusive right to make a unilateral filing with FERC to modify this LGIA pursuant to section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder with respect to the following Articles of this LGIA and with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation covered by these Articles:

3.2, 4.5, 11.6, 25.3.2, 25.5.1, and 27 preamble.

The Interconnection Customer, the CAISO, and the Participating TO shall have the right to make a unilateral filing with FERC to modify this LGIA pursuant to section 206 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder; provided that each Party shall have the right to protest any such filing by another Party and to participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this LGIA shall limit the rights of the Parties or of FERC under sections 205 or 206 of the Federal Power Act and FERC's rules and regulations

thereunder, except to the extent that the Parties otherwise mutually agree as provided herein.

30.12 No Partnership. This LGIA shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership among the Parties or to impose any partnership obligation or partnership liability upon any Party. No Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, another Party.

30.13 Joint and Several Obligations. Except as otherwise provided in this LGIA, the obligations of the CAISO, the Participating TO, and the Interconnection Customer are several, and are neither joint nor joint and several.

IN WITNESS WHEREOF, the Parties have executed this LGIA in multiple originals, each of which shall constitute and be an original effective agreement among the Parties.

Solar Star 3, LLC

By: /s/ James Don Grafton

Name: James Don Grafton

Title: VP of Operations

Date: 10/11/2019

Southern California Edison Company

By: /s/ Jill P. Horswell

Name: Jill P. Horswell

Title: Director of Grid Contracts Origination and Operatrions

Date: 10/2/2019

California Independent System Operator Corporation

By: /s/ Keith Casey

Name: Keith Casey

Title: VP Market & Infrastructure Development

Date: 10/1/2019

APPENDICES TO LGIA

Appendix A Interconnection Facilities, Network Upgrades and Distribution Upgrades

Appendix B Milestones

Appendix C Interconnection Details

Appendix D Security Arrangements Details

Appendix E Commercial Operation Date

Appendix F Addresses for Delivery of Notices and Billings

Appendix G Interconnection Customer's Share of Costs of Network Upgrades for Applicable Project Group

Appendix H Interconnection Requirements for an Asynchronous Generating Facility

Appendix A

INTERCONNECTION FACILITIES, NETWORK UPGRADES AND DISTRIBUTION UPGRADES

Additional Definitions: For the purposes of the Appendices to the LGIA, the following terms, when used with initial capitalization, whether in the singular or the plural, shall have the meanings specified below:

(a) Annual Tax Security Reassessment: The annual reassessment of the current tax liability in accordance with the directives of FERC Orders 2003-A and 2003-B associated with Article 5.17.4 of the LGIA which will commence the first year after Interconnection Customer's in-service date.

(b) Area Delivery Network Upgrades Cost: The Interconnection Customer's allocated share of all costs, excluding One-Time Cost, determined by the Participating TO to be associated with the design, engineering, procurement, construction and installation of the Area Delivery Network Upgrades constructed and owned by the Participating TO. The Area Delivery Network Upgrades Cost is provided in Section 5 of this Appendix A.

(c) BES Cyber Asset: A programmable electronic device, including the hardware, software, and data in that device, that if rendered unavailable, degraded, or misused would, within 15 minutes of its required operation, misoperation, or non-operation, adversely impact one or more facilities, systems, or equipment, which, if destroyed, degraded, or otherwise rendered unavailable when needed, would affect the reliable operation of the Bulk Electric System, as that term is defined in NERC's Glossary of Terms.

(d) Charging Capacity: The capacity provided under this LGIA for the Storage Energy of a Large Generating Facility that includes storage, subject to available capacity on the CAISO Controlled Grid and the applicable congestion management procedures in the CAISO Tariff.

(e) Construction Activities: Actions by the Participating TO that result in irrevocable financial commitments for the purchase of major electrical equipment or land for Participating TO's Interconnection Facilities or Network Upgrades assigned to the Interconnection Customer that occur after receipt of all appropriate governmental approvals needed for the Participating TO's Interconnection Facilities or Network Upgrades.

(f) Customer-Financed Monthly Rate for Non-ISO-Controlled Facilities: As defined in Appendix X of the Transmission Owner Tariff. The currently effective Customer-Financed Monthly Rate for Non-ISO-Controlled Facilities is as

provided in Appendix X of the Transmission Owner Tariff.

(g) Distribution Upgrades Charge: The monthly charge to the Interconnection Customer to recover the revenue requirements for the Participating TO's Distribution Upgrades, calculated as the product of the Customer-Financed Monthly Rate for Non-ISO-Controlled Facilities and the Distribution Upgrades Cost. The Distribution Upgrades Charge is provided in Section 5 of this Appendix A.

(h) Distribution Upgrades Completion Date: The date upon which the construction of the Distribution Upgrades is complete and such facilities are successfully tested and ready for service.

(i) Distribution Upgrades Cost: The Interconnection Customer's allocated share of all costs, excluding One-Time Cost, determined by the Participating TO to be associated with the design, engineering, procurement, construction and installation of the Distribution Upgrades. The Distribution Upgrades Cost is provided in Section 5 of this Appendix A.

(j) Generation Tie-Line: The generation tie-line described in Section 1(a)(ii)1 of this Appendix A which is designated as the Kingbird-Whirlwind 220kV Transmission Line.

(k) Identified Affected System: As defined in Appendix A of the CAISO Tariff.

(l) Interconnection Customer's Dedicated Interconnection Facilities: The sole-use Interconnection Customer's Interconnection Facilities described in Section 1(a)(i) of this Appendix A that are required to interconnect and operate the Large Generating Facility.

(m) Interconnection Customer's Shared Interconnection Facilities: The Interconnection Customer's Interconnection Facilities described in Section 1(a)(ii) of this Appendix A that are utilized by among the Large Generating Facility, the TOT821 (Q1323) project, and the TOT341 (Q408) project. The Interconnection Customer's Shared Interconnection Facilities have been constructed under the TOT341 (Q408) LGIA.

(n) Interconnection Facilities Charge: The monthly charge to the Interconnection Customer to recover the revenue requirements for the Participating TO's Interconnection Facilities, calculated as the product of the Customer-Financed Monthly Rate for Non-ISO-Controlled Facilities and the Interconnection Facilities Cost. The Interconnection Facilities Charge is provided in Section 5 of this Appendix A.

(o) Interconnection Facilities Completion Date: The date upon which the construction of the Participating TO's Interconnection Facilities is complete and

such facilities are successfully tested and ready for service.

(p) Interconnection Facilities Cost: All costs, excluding One-Time Cost, determined by the Participating TO to be associated with the design, engineering, procurement, construction and installation of the Participating TO's Interconnection Facilities. The Interconnection Facilities Cost is provided in Section 5 of this Appendix A.

(q) Interconnection Facilities Payment: The sum of the Interconnection Facilities Cost and associated One-Time Cost excluding the cost of the Shared Facilities. The Interconnection Facilities Payment is provided in Section 5(b) of this Appendix A.

(r) ITCC (Income Tax Component of Contribution): As defined in Appendix X of the Transmission Owner Tariff.

(s) Local Delivery Network Upgrades Cost: The Interconnection Customer's allocated share of all costs, excluding One-Time Cost, determined by the Participating TO to be associated with the design, engineering, procurement, construction and installation of the Local Delivery Network Upgrades constructed and owned by the Participating TO. The Local Delivery Network Upgrades Cost is provided in Section 5 of this Appendix A.

(t) One-Time Cost: All costs determined by the Participating TO to be associated with the installation of the Participating TO's Interconnection Facilities, Distribution Upgrades, Participating TO's Reliability Network Upgrades, or Participating TO's Delivery Network Upgrades which are not capitalized. The One-Time Cost is provided in Section 5 of this Appendix A.

(u) Reliability Network Upgrades Cost: The Interconnection Customer's allocated share of all costs, excluding One-Time Cost, determined by the Participating TO to be associated with the design, engineering, procurement, construction and installation of the Participating TO's Reliability Network Upgrades. The Reliability Network Upgrades Cost is provided in Section 5 of this Appendix A.

(v) Remedial Action Scheme (RAS): As defined in Appendix A of the CAISO Tariff.

(w) Shared Facilities Parties: The Interconnection Customer, the interconnection customer of TOT341 (Q408) project, the interconnection customer of TOT821 (Q1323) project, and any future interconnection customer with an ownership interest in the Shared Facilities that is identified in a notice provided by the Interconnection Customer to the CAISO and the Participating TO; provided that, with respect to any future interconnection customers, one of the following applies; (i) the Participating TO and the CAISO have provided their consent to assignment of the Interconnection Customer's rights under this Interconnection Agreement pursuant to Article 19 of the LGIA, or (ii) the future interconnection

customer(s) have entered into a separate generator interconnection agreement with the Participating TO and the CAISO, or (iii) this LGIA has been amended to add the future interconnection customer and allow such future interconnection customer to interconnect with the Participating TO's Interconnection Facilities.

(x) Shared BES Cyber Asset Facility: A location containing BES Cyber Asset(s) for which both the Interconnection Customer and the Participating TO claim ownership of either the physical building, parcel of land, or devices inside the property line of the location.

(y) Storage Energy: The flow of wholesale electric energy from the CAISO Controlled Grid solely to charge the storage component of the Large Generating Facility from the CAISO Controlled Grid for later redelivery of such energy, net of Large Generating Facility losses, to the CAISO Controlled Grid. Storage Energy does not include the delivery of energy for purposes that are subject to the Participating TO's retail tariff.

(z) Shared Facilities: The Participating TO's Interconnection Facilities identified in Section 1(b)(ii) of Appendix A and the Participating TO's Reliability Network Upgrades identified in Section 2(b)(i)(2) of Appendix A as being shared among or with TOT341 (Q408) project, TOT821 (Q1323) project, and the Large Generating Facility.

(aa) Tax Security: The Interconnection Customer's provision of security with respect to the Interconnection Customer's tax indemnification obligations, provided in accordance with Article 5.17.3. The Tax Security is provided in Section 5 of this Appendix A.

(bb) TOT341 (Q408) LGIA: The large generator interconnection agreement entered into on November 22, 2011 among the interconnection customer for the TOT341 (Q408) project a/k/a Solar Star California XX, LLC, Participating TO, and CAISO, Service Agreement No. 111 under the Participating TO's Transmission Owner Tariff, as such service agreement may, from time to time, be amended.

(cc) TOT341 (Q408): The large generating facility and its interconnection facilities described in the TOT341 (Q408) LGIA.

(dd) TOT411 (Q506): The large generating facility and its interconnection facilities provided for in the large generator interconnection agreement among the CAISO, the Participating TO, Solar Star California XLI, LLC, Golden Fields Solar I, LLC, Golden Fields Solar II, LLC, Golden Fields Solar III, LLC, and Golden Fields Solar IV, LLC which is filed at FERC as the Participating TO's Service Agreement No. 166 and described by the Interconnection Request SCE TOT411 and CAISO Q506.

(ee) TOT753 (Q1211): The large generating facility and its interconnection facilities provided for in the large generator interconnection agreement among the CAISO, the Participating TO, and SunPower Corporation, Systems which is filed at FERC as the Participating TO's Service Agreement No. 200 and described by the Interconnection Request SCE TOT753 and CAISO Q1211.

(ff) TOT821 (Q1323): The large generating facility and its interconnection facilities provided for in the large generator interconnection agreement among the CAISO, the Participating TO, and Solar Star 4, LLC which is filed at FERC as the Participating TO's Service Agreement No. 236 and described by the Interconnection Request SCE TOT821 and CAISO Q1323.

(gg) Transmission Owner Tariff: The Participating TO's Tariff designated as FERC Electric Tariff, Volume No. 6, as such tariff may be amended or superseded.

The following definitions from Article 1 – Definitions of the LGIA, Appendix EE of the CAISO Tariff, that were approved as per FERC Docket No. ER19-2679 to be applicable for projects in CAISO Queue Cluster 11 and forward, do not apply to this LGIA as this project belongs to a prior CAISO Queue Cluster:

Assigned Network Upgrade (ANU), Conditionally Assigned Network Upgrade (CANU), Current Cost Responsibility (CCR), General Reliability Network Upgrade (GRNU), Interconnection Reliability Network Upgrades (IRNU), Maximum Cost Exposure (MCE), Maximum Cost Responsibility (MCR), Precursor Network Upgrades (PNU).

1. Interconnection Facilities:

(a) **Interconnection Customer's Interconnection Facilities:** The Interconnection Customer's Interconnection Facilities consist of the Interconnection Customer's Dedicated Interconnection Facilities and the Interconnection Customer's Shared Interconnection Facilities. The Interconnection Customer shall:

(i) **Interconnection Customer's Dedicated Interconnection Facilities.**

1. Install one (1) 230/34.5/13.2 kV wye grounded-wye grounded-delta main step-up transformer rated at 21/28/35 MVA with an H-X impedance of 9.5 percent impedance on a 21 MVA base at the existing Kingbird 230 kV Substation.
2. Install two (2) diversely routed fiber optic paths between Kingbird Substation and the Large Generating Facility. The fiber optic paths shall meet the Applicable Reliability Standards criteria for diversity. A minimum of eight (8) strands within the fiber optic cable shall be provided for the Participating TO's exclusive use.

3. Own, operate, and maintain both telecommunication paths (including appurtenant facilities and fiber optic cables between the Point of Change of Ownership and the Large Generating Facility) and the terminal equipment at both Kingbird Substation and at the Large Generating Facility.
4. Allow the Participating TO to review the Interconnection Customer's telecommunication equipment design and perform inspections to ensure compatibility with the Participating TO's terminal equipment and protection engineering requirements; allow the Participating TO to perform acceptance testing of the telecommunication equipment and the right to request and/or to perform correction of installation deficiencies.
5. Provide required data signals, make available adequate space, facilities, and associated dedicated electrical circuits within a secure building having suitable environmental controls for the installation of the Participating TO's RTU in accordance with the Interconnection Handbook. The Participating TO's RTU is a BES Cyber Asset and the Interconnection Customer shall cooperate with the Participating TO in implementing and adhering to required security protections in accordance with Applicable Reliability Standards. In accordance with Article 5.12 of this LGIA, the Interconnection Customer acknowledges that the access required under such section will include Participating TO's personnel ability to access twenty-four (24) hours a day the space provided for the Participating TO's RTU.
6. Make available adequate space, facilities, and associated dedicated electrical circuits within a secure building having suitable environmental controls for the installation of the Participating TO's telecommunications terminal equipment in accordance with the Interconnection Handbook. In accordance with Article 5.12 of this LGIA, the Interconnection Customer acknowledges that the access required under such section will include Participating TO's personnel ability to access twenty-four (24) hours a day the space provided for the Participating TO's telecommunications terminal equipment.
7. Extend the main and diverse single-mode fiber optic cables for the two telecommunication paths to Interconnection Customer provided and installed patch panels located adjacent to the Kingbird Substation's telecommunications terminal equipment.
8. Install all required CAISO-approved compliant metering equipment at the Large Generating Facility, in accordance with Section 10 of the CAISO Tariff.
9. Pursuant to Article 7.3 of this LGIA, install a metering cabinet and metering equipment (typically, potential and current transformers) at the Large Generating Facility to meter the Large Generating Facility retail load, as specified by the Participating TO. In accordance with Article 5.12 of this LGIA, the Interconnection Customer acknowledges that the access required under such section will include Participating

TO's personnel ability to access twenty-four (24) hours a day the metering cabinet provided for the Participating TO's metering equipment.

10. Pursuant to Article 7 of this LGIA, install a metering cabinet(s) and metering equipment (typically, potential and current transformers) at the Large Generating Facility to meter the Storage Energy, as specified by the Participating TO. In accordance with Article 5.12 of this LGIA, the Interconnection Customer acknowledges that the access required under such section will include Participating TO's personnel ability to access twenty-four (24) hours a day the metering cabinet(s) provided for the Participating TO's metering equipment.
11. Pursuant to Article 7.3 of this LGIA, allow the Participating TO to install, in the metering cabinet provided by the Interconnection Customer, meters required to meter the retail load at the Large Generating Facility.
12. Pursuant to Article 7 of this LGIA, allow the Participating TO to install, in the metering cabinet(s) provided by the Interconnection Customer, meters required to meter the Storage Energy at the Large Generating Facility.
13. Install necessary relays and satellite clock to support the centralized RAS (CRAS) requirements for the Large Generating Facility. The make and type of CRAS relays and satellite clock will be specified by the Participating TO during final engineering of the Participating TO's Interconnection Facilities.
14. Install all equipment necessary to comply with the power factor requirements of Article 9.6.1 of the LGIA, including the ability to regulate the power factor to maintain a voltage schedule (VAR schedule) in accordance with Article 9.6.2 of the LGIA. The power factor requirements specified in Article 9.6.1 shall be as measured at the high-side of the Interconnection Customer's 230/34.5/13.2 kV transformer.
15. Install disconnect facilities in accordance with the Participating TO's Interconnection Handbook to comply with the Participating TO's switching and tagging procedures.
16. Acquire the necessary rights-of-way for the Interconnection Customer's Interconnection Facilities.
17. Submit to the Participating TO, the updated PSLF models of the Large Generating Facility as part of the "as-built" drawings, information and documents required pursuant to Article 5.10.3 of the LGIA by the date specified in Appendix B. Submit to the Participating TO and the CAISO, the final PSLF and PSCAD models pursuant to Section 10 of the CAISO's Business Practice Manual for the Transmission Planning Process.

(ii) **Interconnection Customer's Shared Interconnection Facilities.**

1. Utilize the existing 1.4-mile Generation Tie-Line constructed for the TOT341 (Q408) project, which has a normal (continuous) rating of 1,069 A and an emergency (four-hour) rating of 1,184 A, extending from the Kingbird Substation to the structure outside of the Participating TO's Whirlwind Substation ("Last Structure").
2. Utilize the existing optical ground wire on the Generation Tie-Line for the TOT341 (Q408) project as the main telecommunication path required for the line protection scheme, the remote terminal units (RTUs) and CRAS.
3. Utilize the existing single-mode All-Dielectric Self-Supporting (ADSS) fiber optic cable for TOT341 (Q408) project providing the second telecommunication path required for the Generation Tie-Line protection scheme and the CRAS.
4. Utilize relay protection to be specified by the Participating TO to protect the Generation Tie-Line, as follows:
   a. Two (2) line current differential relays. The make and type of current differential relays will be specified by the Participating TO during final engineering of the Participating TO's Interconnection Facilities.

For the avoidance of doubt, the Parties agree that the Shared Facilities and the Interconnection Customer's Shared Interconnection Facilities are governed by the LGIA, including but not limited to, Article 18 of the LGIA.

(b) **Participating TO's Interconnection Facilities:** The Participating TO shall**:**

(i) **Dedicated Interconnection Facilities.**

1. **Substation.**
   Whirlwind Substation
   a. Perform relay coordination study.

2. **Telecommunications.**
   a. Install all required cross connects and associated equipment (including terminal equipment), supporting protection and RTU requirements at the Kingbird and Whirlwind Substations for the interconnection of the Large Generating Facility. Notwithstanding that certain telecommunication equipment, including the telecommunications terminal equipment, will be located on the Interconnection Customer's side of the Point of Change of Ownership, the Participating TO shall own, operate and maintain such telecommunication equipment as part of the Participating TO's Interconnection Facilities.
   b. Install additional channel banks, fiber optic cable, and associated equipment (including terminal equipment), supporting the CRAS requirements. Notwithstanding that certain telecommunication

equipment, including the telecommunications terminal equipment, will be located on the Interconnection Customer's side of the Point of Change of Ownership, the Participating TO shall own, operate and maintain such telecommunication equipment as part of the Participating TO's Interconnection Facilities.

3. **Metering.**
   a. Pursuant to Article 7.3 of this LGIA, install meters required to meter the retail load at the Large Generating Facility. Notwithstanding that the meters will be located on the Interconnection Customer's side of the Point of Change of Ownership, the Participating TO shall own, operate and maintain such facilities as part of the Participating TO's Interconnection Facilities.
   b. Pursuant to Article 7 of this LGIA, install meters required to meter the Storage Energy at the Large Generating Facility. Notwithstanding that the meters will be located on the Interconnection Customer's side of the Point of Change of Ownership, the Participating TO shall own, operate and maintain such facilities as part of the Participating TO's Interconnection Facilities.

4. **Power System Control.**
   a. Install one (1) RTU at the Large Generating Facility to monitor typical generation elements such as MW, MVAR, terminal voltage and circuit breaker status for the Large Generating Facility and plant auxiliary load, and transmit the information received thereby to the Participating TO's grid control center. Notwithstanding that the RTU will be located on the Interconnection Customer's side of the Point of Change of Ownership, the Participating TO shall own, operate and maintain the RTU as part of the Participating TO's Interconnection Facilities.
   b. Add points to existing RTU at Kingbird Substation to include points for new protection relay/status/alarm/controls and the RTU at the Large Generating Facility to support CRAS.

5. **Real Properties.**
   Obtain easements and/or acquire land for the installation of the Participating TO's Interconnection Facilities.

6. **Project management.**

Extend project management and support due to extended Commercial Operation Date.

(ii) **Shared Interconnection Facilities.**

The Participating TO's Interconnection Facilities described below will be jointly used by the Solar Star 3 project, TOT821 (Q1323) project, and TOT341 (Q408) project.

1. **Generation Tie-Line.**
   Utilize the existing Generation Tie-Line structures including insulator/hardware assemblies, and spans of conductor, as specified in the TOT341 (Q408) LGIA, between the Last Structure and the dead-end substation structure at Whirlwind Substation as follows.
   a. Five (5) spans of conductor and main fiber optic cable inside Whirlwind Substation.
   b. Four (4) structures supporting this 220 kV transmission line. **Such structures will also be shared with TOT411 (Q506) project and TOT753 (Q1211) project.**

2. **Whirlwind Substation.**
   a. Utilize facilities for the 220 kV switchrack position, as specified in the TOT341 (Q408) LGIA, used to terminate the Generation Tie-Line. This includes the following:
      i. One (1) 220 kV dead-end switchyard structure.
      ii. Three (3) 220 kV coupling capacitor voltage transformers (CCVTs) with steel pedestal support structures.
      iii. Three (3) 220 kV line drops.
   b. Utilize the following relays, as specified in the TOT341 (Q408) LGIA, to protect Generation Tie-Line:
      i. Two (2) line current differential relays.

3. **Telecommunications.**
   a. Utilize existing fiber optic cable, including conduit and vaults, from the point designated by the Participating TO near the Participating TO's Whirlwind Substation, as specified in the TOT341 (Q408) LGIA, to extend the Interconnection Customer's main fiber optic cable to the communication equipment at Whirlwind Substation.
   b. Utilize existing fiber optic cable, including conduit and vaults, as specified in the TOT341 (Q408) LGIA, to extend the Interconnection Customer's diverse telecommunications from the point designated by the Participating TO near the Participating TO's Whirlwind Substation to the communication equipment at Whirlwind Substation.

2. Network Upgrades:

(a) **Stand Alone Network Upgrades:** None identified as part of the final Phase II Interconnection Study.

(b) **Other Network Upgrades:**

(i) **Participating TO's Reliability Network Upgrades.** The Participating TO shall**:**

4. **Dedicated Reliability Network Upgrades.**

   a. **Whirlwind AA Bank Centralized RAS**
      i. **Power System Controls.**
         1. Add points to the RTUs at Whirlwind Substation.

   b. **Tehachapi CRAS**
      i. **Whirlwind Substation.**
      Install two (2) GE N60 logic processing relays or equivalent successor to send tripping signals to the Large Generating Facility.

      ii. **Telecommunications.**
      Install channel banks and associated equipment at Whirlwind (including terminal equipment), supporting the CRAS requirements.

      iii. **Power System Controls.**
         1. Add points to the RTUs at Whirlwind Substation.
         2. Modify the existing CRAS program to support the additional relays.

   c. **Short-Circuit Duty (SCD) Mitigation**
   None identified as part of the final Phase II Interconnection Study.

   d. **Real Properties.**
   Obtain easements and/or acquire land for the installation of the Participating TO's Reliability Network Upgrades.

   e. **Environmental Activities, Permits, and Licensing.**
   Perform all required environmental activities, and obtain required licensing and permits for the installation of the Participating TO's Reliability Network Upgrades.

   f. **Project management.**
   Extend project management and support due to extended Commercial Operation Date.

2. **Shared Reliability Network Upgrades.**
   The Participating TO's Reliability Network Upgrades described below will be jointly used by the Solar Star 3 project, TOT821 (Q1323) project, and TOT341 (Q408) project.

   a. **Whirlwind Substation.**

i. Utilize existing 220 kV transmission line, as specified in the TOT341 (Q408) LGIA, which includes the following equipment:
   1. Two (2) 220 kV circuit breakers.
   2. Four (4) sets 220 kV group operated disconnect switches.

ii. Utilize existing protection relays, as specified in the TOT341 (Q408) LGIA:
   1. Two (2) local breaker failure backup relays.

iii. Utilize two (2) existing GE N60 logic processing relays or equivalent successor to send tripping signals to the Large Generating Facility for the Whirlwind AA bank centralized RAS.

iv. Utilize channel banks and associated equipment (including terminal equipment) at Whirlwind Substation, identified under Section 2(b)(i)1.b.ii of this Appendix A, supporting the CRAS requirements.

(ii) **Participating TO's Delivery Network Upgrades.**

1. **Area Delivery Network Upgrades.**
   Because the Solar Star 3 project elected to proceed under Option A, none identified for the Solar Star 3 project in the Phase II Interconnection Study.

2. **Local Delivery Network Upgrades.**
   None identified in the final Phase II Interconnection Study.

3. Distribution Upgrades: None identified in the Phase II Interconnection Study.

4. Point of Change of Ownership, Point of Interconnection and One-Line Diagram of Interconnection:

(a) **Point of Change of Ownership.**

(i) Generation Tie-Line: The Point of Change of Ownership shall be the point where the conductors of the Generation Tie-Line are attached to the Last Structure, which will be connected on the side of the Last Structure facing Whirlwind Substation. The Shared Facilities Parties and the interconnection customers of TOT411 (Q506) project and TOT753 (Q1211) project will own and maintain the Last Structure, the conductors, insulators and jumper loops from such Last Structure to the Interconnection Customer's Large Generating Facility. The Participating TO will own and maintain the Whirlwind Substation, as well as all circuit breakers, disconnects, relay facilities and metering within the Whirlwind Substation, together with the line drop, in their entirety, from the Last Structure to Whirlwind Substation. The Participating TO will own the

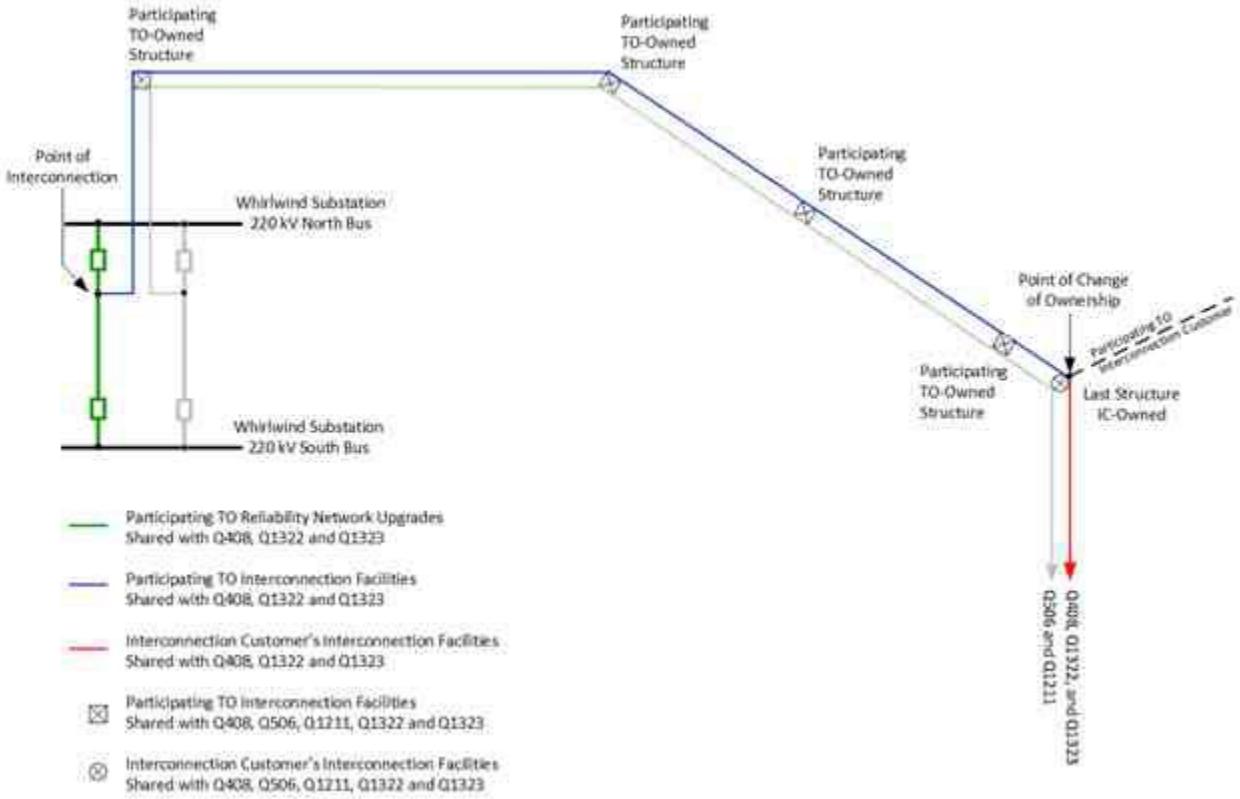
insulators that are used to attach the Participating TO-owned conductors to the Last Structure.

(ii) Telecommunication main fiber optic cable: The Point of Change of Ownership shall be the point where the TOT341 (Q408) interconnection customer's main fiber optic cable for the Generation Tie-Line protection is connected to the Participating TO's fiber optic cable in the Participating TO's vault.

(iii) Telecommunication diverse fiber optic cable: The Point of Change of Ownership shall be the point where the TOT341 (Q408) interconnection customer's diverse fiber optic cable for the Generation Tie-Line protection is connected to the Participating TO's fiber optic cable in the Participating TO's diverse vault. The Participating TO shall own and maintain all fiber optic cable from that point into the Whirlwind Substation communications room.

(b) **Point of Interconnection.** The Participating TO's Whirlwind Substation at the 220 kV switchrack.

(c) **One-Line Diagram of Interconnection.**



5. Cost of Interconnection Facilities, Distribution Upgrades and Network Upgrades, Payment Schedule, On-Going Monthly Charges and Financial

Security:

(a) **Estimated Cost.**

(i) Prior to the Commercial Operation Date, the Interconnection Customer shall provide written confirmation from an officer of the interconnection customer for the TOT341 (Q408) project that the interconnection customer for the TOT341 (Q408) project has agreed to pay the Participating TO the total cost and on-going monthly charges for the Shared Facilities and that the Interconnection Customer and the interconnection customer for the TOT341 (Q408) project have agreed upon an allocation of the cost and on-going monthly charges for the Shared Facilities. If Interconnection Customer fails to provide such written confirmation by the Commercial Operation Date, then this LGIA will be amended to adjust the charges due hereunder to appropriately reflect Interconnection Customer's pro rata usage of the Shared Facilities based on the Participating TO's cost allocation principles in effect at such time, subject to FERC approval.

Solar Star 3 project Estimated Cost for dedicated facilities

Element	Interconnection Facilities Cost	Distribution Upgrades Cost	Reliability Network Upgrades Cost	Area Delivery Network Upgrades Cost	Local Delivery Network Upgrades Cost	One-Time Cost	Total
Participating TO's Interconnection Facilities							
Substation: Relay coordination study						$93,643	$93,643
Power System Control: New RTU at the generating facility	$77,645						$77,645
Power System Control: Point addition at Kingbird Substation						$28,558	$28,558
Power System Control: Tehachapi CRAS - point addition generating facility						$28,558	$28,558
Power System Control: Whirlwind AA Bank RAS - Point addition at generating facility						$28,558	$28,558
Telecommunication: Install cross connects to support SCADA	$8,249						$8,249
Telecommunication: Tehachapi CRAS - Install telecom channel bank equipment at	$108,753						$108,753

generating facility to add generating facility to CRAS							
Telecommunication: Whirlwind AA Bank RAS - Install telecom channel bank equipment at generating facility to add generating facility to RAS	$108,753						$108,753
Retail metering at generating facility	$38,240						$38,240
Real properties support	$20,915						$20,915
Incremental project management & project support						$60,493	$60,493
Subtotal	**$362,555**					**$239,810**	**$602,365**
Distribution Upgrades							
None		$0				$0	$0
Subtotal		**$0**				**$0**	**$0**
Participating TO's Reliability Network Upgrades							
Substation: Tehachapi CRAS (f.k.a. Northern Area RAS) - generator addition			$489,508				$489,508
Substation: Whirlwind AA Bank RAS - generator addition			$489,508				$489,508
Power System Control: Point addition at SCE sub to support Tehachapi CRAS						$28,558	$28,558
Power System Control: Point addition at SCE sub to support Whirlwind CRAS						$28,558	$28,558
Incremental project management & project support						$60,493	$60,493
Subtotal			**$979,016**			**$117,609**	**$1,096,625**
Area Delivery Network Upgrades							
None				$0		$0	$0
Subtotal				**$0**		**$0**	**$0**
Local Delivery Network Upgrades							
None					$0	$0	$0
Subtotal					**$0**	**$0**	**$0**
Total	**$362,555**	**$0**	**$979,016**	**$0**	**$0**	**$357,419**	**$1,698,990**

All amounts shown above are in nominal dollars.

The costs associated with any mitigation measures required to third party transmission systems, which result from interconnection of the Large Generating Facility to the Participating TO's electrical system, are not reflected in this LGIA.

The Interconnection Customer's maximum cost responsibility for the Participating TO's Reliability Network Upgrades and Local Delivery Network Upgrades required to interconnect this project is $1,135,243, expressed

in 2024 constant dollars as established in accordance with the requirements of Appendix DD of the CAISO Tariff dated April 1, 2019. The maximum cost responsibility value is established in the Phase II Interconnection Study report for this project as amended through revisions and annual reassessments.

The table above excludes the costs associated with the Shared Facilities which are being paid for pursuant to Sections 5(a) and 5(c) of this Appendix A. The total estimated cost of the Participating TO's Interconnection Facilities of the Shared Facilities is shown below for informational purposes only.

Element	Estimated Cost	One-Time Cost	Total Estimated Cost
Participating TO's Interconnection Facilities of the Shared Facilities	$3,349,000	$0	$3,349,000

(b) **Payment Schedule.**

The payment amounts shown below are based on an estimate of the monthly incurred costs for the Participating TO's Interconnection Facilities, Distribution Upgrades, and Network Upgrades.

Payment No.	Payment Due Date	Interconnection Facilities Cost	Reliability Network Upgrades Cost	One-Time Cost	Project Payment
1	6/1/2022 (PAID)	$3,340	$9,016	$2,177	**$14,533**
2	7/1/2022 (PAID)	$4,267	$11,518	$2,782	**$18,567**
3	8/1/2022 (PAID)	$5,416	$14,626	$3,534	**$23,576**
4	9/1/2022 (PAID)	$6,825	$18,430	$4,453	**$29,708**
5	10/1/2022 (PAID)	$8,515	$22,996	$5,555	**$37,066**
6	11/1/2022 (PAID)	$10,498	$28,346	$6,846	**$45,690**
7	12/1/2022 (PAID)	$12,745	$34,420	$8,312	**$55,477**
8	1/1/2023 (PAID)	$15,565	$42,032	$10,150	**$67,747**
9	2/1/2023 (PAID)	$18,163	$49,044	$11,841	**$79,048**
10	3/1/2023 (PAID)	$20,666	$55,804	$13,478	**$89,948**
11	4/1/2023 (PAID)	$22,849	$61,702	$14,902	**$99,453**
12	5/1/2023 (PAID)	$24,479	$66,100	$15,962	**$106,541**
13	6/1/2023 (PAID)	$25,350	$68,456	$16,533	**$110,339**
14	7/1/2023 (PAID)	$25,350	$68,456	$16,533	**$110,339**
15	8/1/2023 (PAID)	$24,479	$66,100	$15,962	**$106,541**
16	9/1/2023 (PAID)	$22,849	$61,702	$14,902	**$99,453**
17	10/1/2023 (PAID)	$20,666	$55,804	$13,478	**$89,948**
18	11/1/2023 (PAID)	$18,163	$49,044	$11,841	**$79,048**
19	12/1/2023 (PAID)	$15,565	$42,032	$10,150	**$67,747**
20	1/1/2024 (PAID)	$13,359	$36,068	$8,710	**$58,137**
21	2/1/2024 (PAID)	$11,001	$29,704	$7,171	**$47,876**
22	3/1/2024 (PAID)	$8,924	$24,098	$5,820	**$38,842**
23	4/1/2024 (PAID)	$7,152	$19,312	$4,662	**$31,126**
24	5/1/2024 (PAID)	$5,677	$15,328	$3,701	**$24,706**
25	6/1/2024 (PAID)	$4,470	$12,070	$2,915	**$19,455**
26	7/1/2024 (PAID)	$3,498	$9,448	$2,284	**$15,230**
27	8/1/2024 (PAID)	$2,724	$7,360	$1,779	**$11,863**
28	4/1/2026	-	-	$120,986	**$120,986**
Total		**$362,555**	**$979,016**	**$357,419**	**$1,698,990**

All amounts shown above are in nominal dollars.

In accordance with Article 11.4 of the LGIA, transmission credits are available as follows:

a) Transmission credits for Participating TO's Reliability Network Upgrades = the lesser of the sum of the payments made for Reliability Network Upgrades or $60,000 per MW, as adjusted pursuant to Section 14.3.2.1 of the GIDAP, of the Large Generating Facility capacity at the time it achieves Commercial Operation.

b) Transmission credits for Local Deliverability Network Upgrades = sum of the payments made for the Local Deliverability Network Upgrades = $0

(c) **On-Going Monthly Charges.**

Commencing on or following the Interconnection Facilities Completion Date or Distribution Upgrades Completion Date, if applicable, each month the Participating TO will render bills to the Interconnection Customer for the Interconnection Facilities Charge and/or Distribution Upgrades Charge as set forth below. The Interconnection Facilities Charge and Distribution Upgrades Charge shall initially be based on the estimated Interconnection Facilities Cost and Distribution Upgrades Cost, and payments made for such Interconnection Facilities Charge and Distribution Upgrades Charge shall be subject to later adjustment to reflect actual costs.

In the event that any portion of the Participating TO's Interconnection Facilities or Distribution Upgrades is not complete but, at the request of the Interconnection Customer, the Participating TO commences interconnection service under this LGIA notwithstanding the incomplete facilities, the Participating TO shall commence billing, and the Interconnection Customer shall pay, the Interconnection Facilities Charge and the Distribution Upgrades Charge, as applicable, commencing on the date that such service commences.

The Shared Facilities Parties solely own discrete portions of projects that share the Shared Facilities. The Shared Facilities Parties have agreed to pay the Participating TO the total cost of all on-going monthly charges for the Participating TO – owned Shared Facilities and have agreed upon an allocation of cost and on-going monthly charges for the Shared Facilities using an allocation that has been mutually agreed upon by the Shared Facilities Parties.

The entire cost and charges of the Participating TO's Interconnection Facilities that are Shared Facilities as identified in Section 1(b)(ii) of this Appendix A are being paid by the interconnection customer for the TOT341 (Q408) project, except that the entire cost and charges of the shared structures described in Section 1(b)(ii)1.b of this Appendix A are being paid by the interconnection customers of TOT341 (Q408) project, TOT411 (Q506) project, and TOT753 (Q1211) project. However, the Interconnection Customer is jointly and severally liable for the costs and charges for such Shared Facilities. In the event any of the following occur during the term of this LGIA, the Interconnection Customer shall be jointly and severally responsible for up to one hundred (100) percent of all costs and charges of the applicable shared Participating TO's Interconnection Facilities, including any required financial security: (i) the interconnection customers of TOT341 (Q408) project, TOT411 (Q506) project, TOT753 (Q1211) project, and TOT821 (Q1323) project in combination stop paying the entire cost and charges associated with such shared Participating

TO's Interconnection Facilities, or (ii) the large generator interconnection agreement for TOT341 (Q408) project, TOT411 (Q506) project, TOT753 (Q1211) project, or TOT821 (Q1323) project is terminated during the term of this LGIA. Any change to the cost responsibility of the Participating TO's Interconnection Facilities portion of the Shared Facilities to the Interconnection Customer will be incorporated in an amendment to this LGIA, subject to FERC approval.

(i) Interconnection Facilities Charge.

		Estimated	
Effective	Customer-Financed Monthly Rate for Non-ISO-Controlled Facilities	Interconnection Facilities Cost	Interconnection Facilities Charge
As of the Interconnection Facilities Completion Date	See Section 4.1 of Appendix X to the Transmission Owner Tariff*	$362,555	Customer-Financed Monthly Rate for Non-ISO-Controlled Facilities x Interconnection Facilities Cost

* Appendix X to the Transmission Owner Tariff is available at the following link: https://www.sce.com/openaccess

(ii) Distribution Upgrades Charge.

		Estimated	
Effective	Customer-Financed Monthly Rate for Non-ISO-Controlled Facilities	Distribution Upgrades Cost	Distribution Upgrades Charge
As of the Distribution Upgrades Completion Date	See Section 4.1 of Appendix X to the Transmission Owner Tariff*	$0	Customer-Financed Monthly Rate for Non-ISO-Controlled Facilities x Distribution Upgrades Cost

* Appendix X to the Transmission Owner Tariff is available at the following link: https://www.sce.com/openaccess

(d) **Financial Security.**

(i) Interconnection Financial Security.

1. The Participating TO's Interconnection Facilities: Pursuant to Article 11.5 and Appendix B of the LGIA, the Interconnection Customer has provided Interconnection Financial Security in the total amount of $500,000 for the second posting and increased such amount to $541,872 for the third posting to cover the costs for constructing, procuring and installing the Participating TO's Interconnection Facilities.
2. Distribution Upgrades: Pursuant to Appendix B of the LGIA, the Interconnection Customer shall provide Interconnection Financial Security in the total amount of $0 to cover the costs for constructing, procuring and installing the Distribution Upgrades.

3. Network Upgrades: Pursuant to Article 11.5 and Appendix B of the LGIA, the Interconnection Customer has provided Interconnection Financial Security in the total amount of $500,000 for the second posting and increased such amount to $1,036,132 for the third posting to cover the costs for constructing, procuring and installing the Network Upgrades.
4. To the extent that any Interconnection Financial Security is not utilized by the Participating TO, the release of such Interconnection Financial Security shall be made in accordance with the Interconnection Customer's instructions.

(ii) Security Amount for Estimated Tax Liability.

Pursuant to Article 5.17.4 of the LGIA, the Interconnection Customer's estimated tax liability is as follows:

1. Estimated tax liability for Participating TO's Interconnection Facilities = The sum of the product of (i) the applicable ITCC rate for the year payments are to be received, and (ii) the total of the payments to be received for the Interconnection Facilities Cost for that year.

Year(s) payments to be received	Applicable ITCC rate	Total payments to be received for Interconnection Facilities Cost	ITCC for Participating TO's Interconnection Facilities
2019 & beyond	See Section 4.4 of Appendix X to the Transmission Owner Tariff*	$362,555	Applicable ITCC rate x Total payments to be received for Interconnection Facilities Cost

* The estimated tax liability is based on the applicable ITCC rate in Appendix X to the Transmission Owner Tariff and is available at the following link: https://www.sce.com/openaccess

2. Estimated tax liability for Distribution Upgrades = $0

Based upon the total estimated tax liability, the Interconnection Customer shall provide the Participating TO Tax Security in the total amount as calculated above in this Section 5(d)(ii) of Appendix A of the LGIA in the form of a cash deposit in an escrow account, a letter of credit, a parent guaranty, or other form reasonably acceptable to the Participating TO, pursuant to Article 5.17.3 and Appendix B of the LGIA. The letter of credit, cash deposit in an escrow account, or parent guaranty shall meet the requirements of Section 11.1 of the GIDAP.

Upon notification of the Annual Tax Security Reassessment, the Interconnection Customer shall modify its Tax Security accordingly. If the Annual Tax Security Reassessment results in a deficiency in the Tax Security amount, the Interconnection Customer will be required to increase its Tax Security amount within thirty (30) Calendar Days after receipt of the deficiency notification. If the Annual Tax Security Reassessment results in a reduction of the Tax Security amount, the

Interconnection Customer may choose to reduce its Tax Security amount or maintain the Tax Security in the current amount for the following year.

The Interconnection Customer's obligation to provide Tax Security shall terminate in accordance with Article 5.17.3 of this LGIA. Upon termination of the Interconnection Customer's obligation to provide Tax Security, and Participating TO's receipt of the Interconnection Customer's written instructions regarding the release of any unused Tax Security, any unused amount of the Tax Security shall be released to the Interconnection Customer.

Appendix B

Milestones

1. The Interconnection Customer's Selected Option: Pursuant to Article 5.1 of the LGIA, the Interconnection Customer has selected the Standard Option.

2. Milestone Dates:

Item	Milestone	Responsible Party	Due Date
(a)	Submit proof of insurance coverage in accordance with Article 18.3 of the LGIA	Interconnection Customer	Within thirty (30) Calendar Days after the Effective Date of the First Amendment to the LGIA
(b)	Submittal of written authorization to proceed with design and procurement of the Participating TO's Interconnection Facilities, Distribution Upgrades and Network Upgrades to the Participating TO and the CAISO, in accordance with Article 5.5.2 of the LGIA	Interconnection Customer	Completed
(c)	Submittal of second posting of Interconnection Financial Security for the Participating TO's Interconnection Facilities and Network Upgrades to the Participating TO, pursuant to Article 11.5 and Section 5(d)(i) of Appendix A of the LGIA	Interconnection Customer	Completed
(d)	Submittal of third posting of Interconnection Financial Security for the Participating TO's Interconnection Facilities and Network Upgrades to the Participating TO, pursuant to Article 11.5 and Section 5(d)(i) of Appendix A of the LGIA	Interconnection Customer	Completed

Item	Milestone	Responsible Party	Due Date
(e)	Submittal of security for the Distribution Upgrades to the Participating TO pursuant to Section 5(d)(i) of Appendix A of the LGIA	Interconnection Customer	Not Applicable
(f)	Submittal of written authorization to proceed with construction to the Participating TO and the CAISO, pursuant to Article 5.6.3 of the LGIA	Interconnection Customer	Completed
(g)	Submittal of Tax Security for the estimated tax liability to the Participating TO, pursuant to Article 5.17.3 and Section 5(d)(ii) of Appendix A of the LGIA	Interconnection Customer	Completed
(h)	Submittal of initial specifications for the Interconnection Customer's Interconnection Facilities and Large Generating Facility, including System Protection Facilities, to the Participating TO and the CAISO, pursuant to Article 5.10.1 of the LGIA	Interconnection Customer	Completed
(i)	Review of and comment on the Interconnection Customer's initial specifications, pursuant to Article 5.10.1 of the LGIA	Participating TO and CAISO	Completed
(j)	Submittal of initial information including the Participating TO's Transmission System information necessary to allow the Interconnection Customer to select equipment, in accordance with Article 24.2 of the LGIA	Participating TO	Completed
(k)	Submittal of final specifications for the	Interconnection Customer	Completed

Item	Milestone	Responsible Party	Due Date
	Interconnection Customer's Interconnection Facilities and Large Generating Facility, including System Protection Facilities, to the Participating TO and the CAISO, as specified in Article 5.10.1 of the LGIA		
(l)	Review of and comment on the Interconnection Customer's final specifications, pursuant to Article 5.10.1 of the LGIA	Participating TO and CAISO	Completed
(m)	Submittal of updated information by the Interconnection Customer, including manufacturer information, in accordance with Article 24.3 of the LGIA	Interconnection Customer	Completed
(n)	Notification of Balancing Authority Area to the Participating TO and the CAISO, pursuant to Article 9.2	Interconnection Customer	At least three (3) months prior to the Initial Synchronization Date
(o)	Completion of the Participating TO's Interconnection Facilities, Distribution Upgrades, and Network Upgrades	Participating TO	Within twenty seven (27) months following the completion of milestone Item (b) above*
(p)	Performance of a complete calibration test and functional trip test of the System Protection Facilities, pursuant to Article 9.7.4.6 of the LGIA	Interconnection Customer and Participating TO	Completed
(q)	In-Service Date	Interconnection Customer	May 30, 2025
(r)	Provide documentation to the Participating TO and CAISO which demonstrates the ability of the control limiting device	Interconnection Customer	At least thirty (30) Calendar Days prior to the Initial Synchronization Date

Item	Milestone	Responsible Party	Due Date
	or control system configuration to restrict the maximum output/charging of the Large Generating Facility in accordance with Appendix C Section 1 of this LGIA		
(s)	Testing of the Participating TO's Interconnection Facilities, Distribution Upgrades, Network Upgrades, and testing of the Interconnection Customer's Interconnection Facilities and Large Generating Facility, all in accordance with Article 6.1 of the LGIA	Interconnection Customer and Participating TO	At least ten (10) Calendar Days prior to the Initial Synchronization Date
(t)	Provide the Participating TO written notice of the Interconnection Customer's expected date of initial synchronization of the Electric Generating Unit(s) at the Large Generating Facility to the CAISO Controlled Grid	Interconnection Customer	At least fifteen (15) Calendar Days prior to the Initial Synchronization Date
(u)	Provide the Interconnection Customer written notice that the required Participating TO facilities have been installed and tested, and have been approved to allow initial synchronization of the Electric Generating Unit(s) at the Large Generating Facility to the CAISO Controlled Grid and the commencement of Trial Operation in accordance with Article 6.1 of the LGIA	Participating TO	At least ten (10) Calendar Days prior to the Initial Synchronization Date
(v)	Provide the CAISO written notice of the expected	Interconnection Customer	At least ten (10) Calendar Days prior

Item	Milestone	Responsible Party	Due Date
	Initial Synchronization Date and of the Participating TO's notice approving the readiness of the required Participating TO facilities for initial synchronization of the Electric Generating Unit(s) at the Large Generating Facility to the CAISO Controlled Grid and the commencement of Trial Operation		to the Initial Synchronization Date
(w)	Initial Synchronization Date/Trial Operation	Interconnection Customer	July 20, 2026
(x)	Provide the CAISO and Interconnection Customer written notice that the required Participating TO facilities have been installed and tested, and have been approved to allow the Large Generating Facility to operate in parallel with the CAISO Controlled Grid	Participating TO	Within five (5) Calendar Days after the Initial Synchronization Date and satisfaction of the testing requirements of Articles 6.1 and 9.7.4.6 of the LGIA
(y)	Provide written confirmation from an officer of the interconnection customer for the TOT341 (Q408) project pursuant to Section 5(a)(i) of the Appendix A of the LGIA	Interconnection Customer	Prior to the Commercial Operation Date
(z)	Commercial Operation Date	Interconnection Customer	August 12, 2026
(aa)	Submittal to the Participating TO of "as-built" drawings, information and documents for the Interconnection Customer's Interconnection Facilities and the Electric Generating Units including	Interconnection Customer	Within one hundred twenty (120) Calendar Days after the Commercial Operation Date

Item	Milestone	Responsible Party	Due Date
	the updated PSLF models of the Large Generating Facility, in accordance with Article 5.10.3 of the LGIA		

* Note: Pursuant to Article 5.1.1, Participating TO shall use Reasonable Efforts to complete Participating TO's Interconnection Facilities, Distribution Upgrades, and Network Upgrades by the dates set forth above. In the event Participating TO reasonably expects that it will not be able to complete Participating TO's Interconnection Facilities, Distribution Upgrades, and Network Upgrades by the specified dates, Participating TO shall promptly provide written notice to Interconnection Customer and shall undertake Reasonable Efforts to meet the earliest dates thereafter.

Appendix C

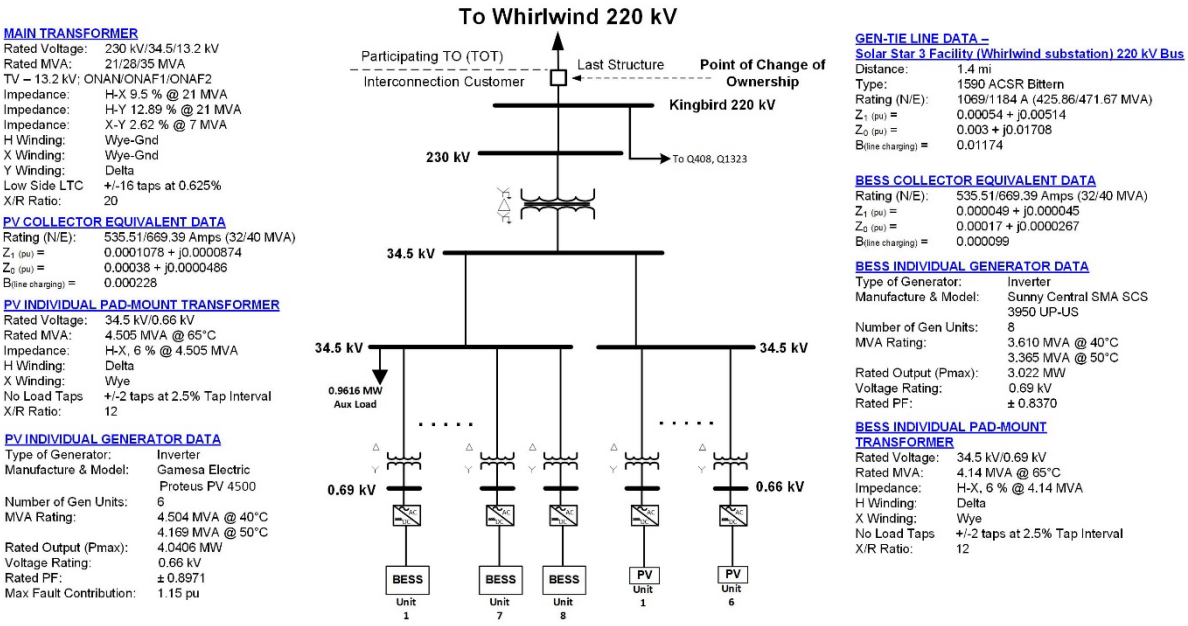
Interconnection Details

1. **Large Generating Facility:** All equipment and facilities comprising the Interconnection Customer's solar photovoltaic and energy storage Solar Star 3 generating facility in Rosamond, California, as disclosed by the Interconnection Customer in its Interconnection Request, as may have been amended during the Interconnection Study process, as summarized below:

CAISO Resource ID:		TBD
Description: (i) fourteen (14) inverters total – six (6) Gamesa Electric Proteus PV 4500 each rated at 4.0406 MW / 4.504 MVA at 40°C to be used for the solar photovoltaic (PV) portion of the project and eight (8) SMA SCS3950 UP-US each rated at 3.0217 MW / 3.610 MVA at 40°C to be used for the battery energy storage system (BESS) portion of the project, (ii) fourteen (14) individual step-up pad-mounted transformer banks – six (6) rated 34.5/0.66 kV / 4.505 MVA with an H-X impedance of 6% on a 4.505 MVA base and an X/R ratio of 12, eight (8) rated 34.5/0.69 kV / 4.14 MVA with an H-X impedance of 6% on a 4.14 MVA base and an X/R ratio of 12, (iii) one (1) main transformer rated at 230/34.5/13.2 kV / 21/28/35 MVA @ 65°C with an impedance of 9.5%/12.89%/2.62% on a 21/21/7 MVA base, (iv) associated infrastructure (v) meters and metering equipment, (vi) appropriate amount of dynamic and reactive resources to provide for the 0.95 power factor (PF) requirements pursuant to Article 9.6.1 of the LGIA and as outlined in FERC Order 827; these PF requirements must be satisfied under all ambient temperature conditions at the Large Generating Facility, (vii) appurtenant equipment, (viii) auxiliary BESS load total of 0.9616 MW (ix) control system to limit combined output of solar photovoltaic and energy storage to not exceed 24 MW at the Point of Interconnection.		
Generating Facility Output	Solar PV	BESS
Total rated (gross) capacity at generator/inverter terminals:	27.024 MW at 1.0 PF (Temp ≤ 45°C)	28.88 MW at 1.0 PF (Temp ≤ 40°C)
Total net capability at high side of main step-up transformer(s):	25.78 MW at 1.0 PF (Temp ≤ 45°C)	27.62 MW at 1.0 PF (Temp ≤ 40°C)
Total net capacity provided under the LGIA at high side of main step-up transformer(s):	Combined net capacity at high side of main step-up transformers limited to 24 MW for PV and 23 MW for BESS, respectively.	
Total net capacity provided under the LGIA at Point of Interconnection:	Combined net capacity at Point of Interconnection limited to not exceed 24 MW for PV and 23 MW for BESS, respectively.	
Generating Facility Charging		
Total rated Charging Capacity at inverter terminals:		-28.88 MW at 1.0 PF (Temp ≤ 40°C)

Total charging capability at high side of main step-up transformer(s):	-30.18 MW at 1.0 PF (Temp ≤ 40°C)
Total requested charging capacity at inverter terminals:	-24.174 MW
Total Charging Capacity, provided under the LGIA at high side of main step-up transformer:	-25.37 MW
Total Charging Capacity, provided under the LGIA at Point of Interconnection:	-25.37 MW

Solar Star 3 (TOT795/Q1322)
24 MW



The Interconnection Customer has requested, and this LGIA provides for, a total net output capacity of **24.0 MW** as measured at the high-side of the main step-up transformer(s) and **24.0 MW** at the Point of Interconnection. The Parties acknowledge that the Large Generating Facility has a total net capability that exceeds these values. Accordingly, the Interconnection Customer agrees to install, own, operate and maintain a control limiting device or, alternatively, by means of configuring the Large Generating Facility's control system to ensure the Large Generating Facility does not exceed the total net output capacity provided under the LGIA at the high-side of the main step-up transformer(s) and Point of Interconnection, subject to the following:

(a) The Interconnection Customer shall provide documentation to the Participating TO and CAISO prior to the Initial Synchronization Date which demonstrates the ability of the control limiting device or configuration of the control system to ensure the Large Generating Facility does not exceed the total net output

capacity provided under the LGIA at the high-side of the main step-up transformer(s) and Point of Interconnection.

(b) The Interconnection Customer's control limiting device or configuration of the control system for the Large Generating Facility shall be installed prior to the Initial Synchronization Date.

(c) The control limiting device or configuration of the control system must be tested and remain in-service and operable at all times during which the Large Generating Facility is producing electricity.

(d) The Interconnection Customer understands and acknowledges that if at any time the Participating TO or CAISO identifies that the Large Generating Facility has exceeded the total net output capacity provided under the LGIA at the high-side of the main step-up transformer(s) or Point of Interconnection, this shall be considered a Breach of the LGIA and the Participating TO shall issue a notice of such Breach pursuant to Article 17.1 of this LGIA. Such Breach shall not be considered cured until such time as the Interconnection Customer can demonstrate, to the satisfaction of the Participating TO and the CAISO, that the Large Generating Facility will be restricted to within the total net output capacity provided under the LGIA at the high-side of the main step-up transformer(s) and Point of Interconnection by the Interconnection Customer's control limiting device or control system.

The Interconnection Customer has requested, and this LGIA provides for a total gross MW Charging Capacity of **24.174 MW** at the inverter terminals which would result in a net **25.37 MW** as measured at the high-side of the main step-up transformer(s) and **25.37 MW** at the Point of Interconnection. The Parties acknowledge that the Large Generating Facility has a total charging capability that exceeds these values. Accordingly, the Interconnection Customer agrees to install, own, operate and maintain a control limiting device or, alternatively, by means of configuring the Large Generating Facility's control system to ensure the Large Generating Facility does not exceed the total Charging Capacity provided under the LGIA at the high-side of the main step-up transformer(s) and Point of Interconnection, subject to the following:

(a) The Interconnection Customer shall provide documentation to the Participating TO and CAISO prior to the Initial Synchronization Date which demonstrates the ability of the control limiting device or configuration of the control system to ensure the Large Generating Facility does not exceed the total Charging Capacity provided under the LGIA at the high-side of the main step-up transformer(s) and Point of Interconnection.

(b) The Interconnection Customer's control limiting device or configuration of the control system for the Large Generating Facility shall be installed prior to the Initial Synchronization Date.

(c) The control limiting device or configuration of the control system must be tested and remain in-service and operable at all times during which the Large Generating Facility is producing electricity.

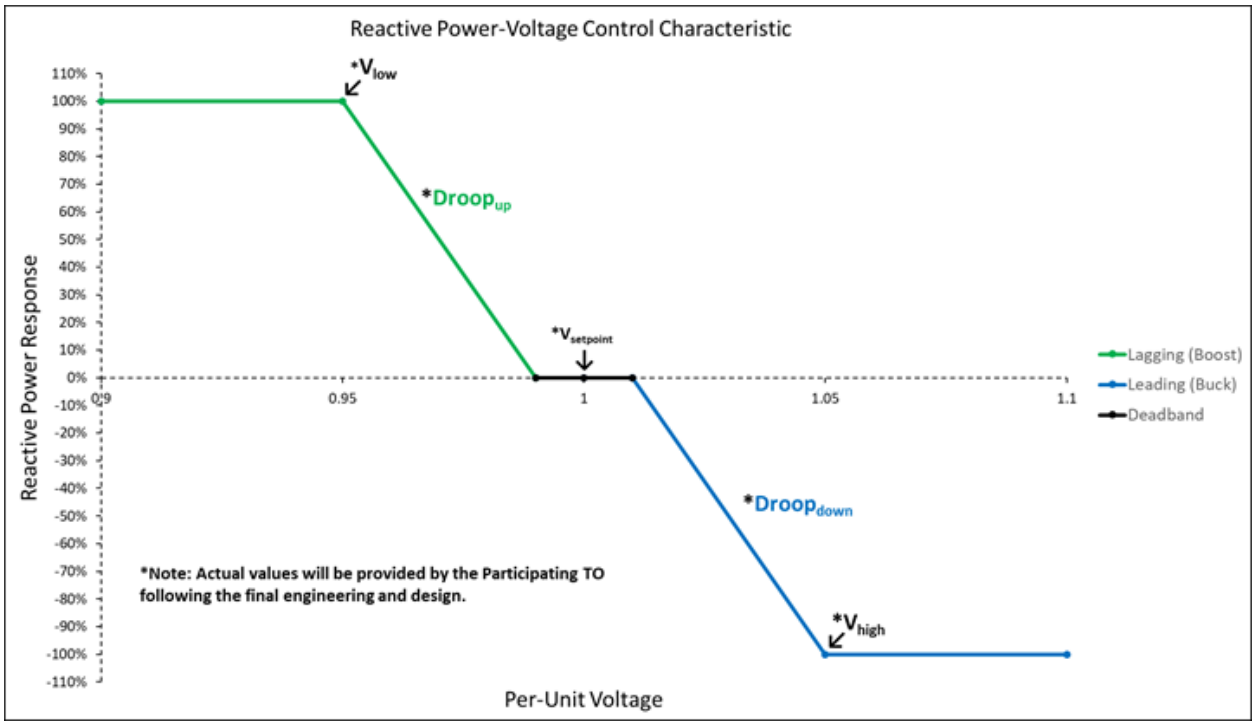
(d) The Interconnection Customer understands and acknowledges that if at any time the Participating TO or CAISO identifies that the Large Generating Facility has exceeded the total Charging Capacity provided under the LGIA at the high-side of the main step-up transformer(s) or Point of Interconnection, this shall be considered a Breach of the LGIA and the Participating TO shall issue a notice of such Breach pursuant to Article 17.1 of this LGIA. Such Breach shall not be considered cured until such time as the Interconnection Customer can demonstrate, to the satisfaction of the Participating TO and the CAISO, that the Large Generating Facility will be restricted to within the total Charging Capacity provided under the LGIA at the high-side of the main step-up transformer(s) and Point of Interconnection by the Interconnection Customer's control limiting device or control system.

The Interconnection Customer acknowledges that if the Interconnection Customer wishes to increase the amount of interconnection capacity provided pursuant to this LGIA, the Interconnection Customer shall be required to submit a new Interconnection Request in accordance with the terms and conditions of the CAISO Tariff.

2. Interconnection Customer Operational Requirements:

(a) The Large Generating Facility shall be operated so as to prevent or protect against the following adverse conditions on the Participating TO's electric system: inadvertent and unwanted re-energizing of a utility dead line or bus; interconnection while out of synchronization; overcurrent; voltage imbalance; ground faults; generated alternating current frequency outside permitted safe limits; power factor or reactive power outside permitted limits; and abnormal waveforms.

(b) The Large Generating Facility will be required to operate within a 0.95 leading (buck) to 0.95 lagging (boost) power factor in accordance with Article 9.6.1 of the LGIA. Under real-time operations the Large Generating Facility will be required to operate in automatic voltage control mode actively controlling voltage as shown in the figure below. The actual values of the reactive power droop, deadband, scheduled voltage setpoint, V_{low} and V_{high} will be provided by the Participating TO once final engineering and design is completed.



(c) The Interconnection Customer shall cause the Large Generating Facility to participate in any RAS required to prevent thermal overloads and unstable conditions resulting from outages. Such participation shall be in accordance with applicable FERC regulations, and CAISO Tariff provisions and protocols. In accordance with Good Utility Practice, the Participating TO will provide the Interconnection Customer advance notice of any required RAS beyond that which has already been identified in the Phase II Interconnection Study and this LGIA.

(d) Following outages of the Interconnection Facilities or the Large Generating Facility, the Interconnection Customer shall not energize the Large Generating Facility or Interconnection Customer's Interconnection Facilities for any reason without specific permission from the Participating TO's and the CAISO's operations personnel. Such permission shall not be unreasonably withheld.

(e) The Interconnection Customer shall maintain operating communications with the Participating TO's designated switching center. The operating communications shall include, but not be limited to, system parallel operation or separation, scheduled and unscheduled outages, equipment clearances, protective relay operations, and levels of operating voltage and reactive power.

(f) In accordance with Appendix D of the LGIA, the Interconnection Customer shall immediately notify the Participating TO and the CAISO of an occurrence of a physical or cyber breach, or any attempted breach, of the Participating TO's BES Cyber Asset(s) located at the Large Generating Facility or within a Shared BES Cyber Asset Facility. Such notification to the Participating TO and the

CAISO by the Interconnection Customer shall be made to the Participating TO's and the CAISO's respective operations representative as identified in Section (b) of Appendix F of the LGIA.

(g) The Interconnection Request for the Large Generating Facility was evaluated as part of CAISO's Queue Cluster 9 and the Interconnection Customer selected Option A as the deliverability option under GIDAP Section 7.2. In accordance with the TP Deliverability allocation procedures of GIDAP Section 8.9, following the CAISO's allocation of TP Deliverability, the Interconnection Customer has elected for the Large Generating Facility to have Full Capacity Deliverability Status, as such term is defined in the CAISO Tariff. The Interconnection Customer acknowledges and understands that until (i) all required Network Upgrades as stated in this LGIA and (ii) all required network upgrades identified for the Large Generating Facility as stated in the governing interconnection study report (i.e., Phase II Interconnection Study report as that report may have been amended or modified in subsequent studies or reassessments), including all required transmission upgrades triggered by earlier queued generation that were assumed in-service in the governing interconnection study, are constructed and placed in service, the Large Generating Facility will not achieve Full Capacity Deliverability Status.

(h) The Interconnection Customer whose Large Generating Facility is a Variable Energy Resource shall provide meteorological and forced outage data to the CAISO pursuant to Article 8.4 of the LGIA. Requirements for meteorological data shall be in accordance with Appendix Q of the CAISO Tariff, and for forced outage data in accordance with Sections 9.3.10.3(b) and 9.3.10.3.1(b) of the CAISO Tariff.

(i) Compliance with Applicable Reliability Standards: The Interconnection Customer shall comply with all Applicable Reliability Standards for the Interconnection Customer's Interconnection Facilities and the Large Generating Facility, which for purposes of clarity includes the Interconnection Customer's BES Cyber Asset(s). The Participating TO will not assume any responsibility for complying with mandatory reliability standards for such facilities and offers no opinion as to whether the Interconnection Customer must register with NERC. If required to register with NERC, the Interconnection Customer shall be responsible for complying with all Applicable Reliability Standards for the Interconnection Customer's Interconnection Facilities and the Large Generating Facility up to the Point of Change of Ownership, as described in Section 4 of Appendix A of this LGIA. Consistent with Article 5.12, the Interconnection Customer shall provide access to the Participating TO to enable the Participating TO to comply with all Applicable Reliability Standards for the Participating TO's BES Cyber Asset(s), including for BES Cyber Asset(s) located at a Shared BES Cyber Asset Facility. The Interconnection Customer acknowledges that the access required under this section may include both physical and electronic access, and may require the installation of physical

access controls by the Participating TO.

(j) The Interconnection Customer understands and acknowledges that a default by another generation project that is utilizing the Generation Tie-Line including, but not limited to, TOT821 (Q1323) project and TOT341 (Q408) project, may result in the removal from service of the generation project from the Participating TO's electrical system until such default has been cured. The Interconnection Customer understands and acknowledges that removal from service for the generation project will also result in the removal from service for the Large Generating Facility. The Interconnection Customer shall not be entitled to any compensation or damages from the Participating TO as a result of such removal from service.

(k) If the Participating TO and/or the CAISO issues a mandatory instruction, in a manner permitted or required by this LGIA or the applicable Tariff, to an interconnection customer for any generating facility sharing the Generation Tie-Line including, but not limited to, the Large Generating Facility, TOT821 (Q1323) project and TOT341 (Q408) project to modify the output of its generating facility and such interconnection customer does not comply, the Participating TO and/or the CAISO may disconnect the Generation Tie-Line from the Participating TO's electrical system in accordance with Article 9.7.2 or Article 13.5 of this LGIA. The Participating TO and the CAISO shall not be responsible for lost revenues or any other damages or costs incurred by the Interconnection Customer as a result of such disconnection.

(l) In the event the Interconnection Customer requests the Participating TO to open the breaker to disconnect the Large Generating Facility from the Participating TO's Interconnection Facilities, the Interconnection Customer shall provide, along with the request to the Participating TO and the CAISO, written documentation of having obtained concurrence for such disconnection from all other interconnection customers utilizing the Generation Tie-Line, including TOT821 (Q1323) project and TOT341 (Q408) project, to the Participating TO and CAISO and the duration of such disconnection.

(m) Primary Frequency Response Operating Range for Electric Storage Resources: In accordance with Article 9.6.4.4 of the LGIA, the storage component(s) of the Large Generating Facility as described in Section 1 of this Appendix C shall comply with the primary frequency response requirements of Articles 9.6.4, 9.6.4.1 and 9.6.4.2 of the LGIA whenever such storage component(s) is operating in parallel (in generation or charging mode) with the CAISO Controlled Grid and is at a state of charge within the range set forth below as provided by the Interconnection Customer:

Minimum state of charge: 0% of the upper charging limit of each storage component

Maximum state of charge: 100% of the upper charging limit of each storage

component

Upper charging limit: 96.6956 MWh for each storage component of the Large Generating Facility

The state of charge range specified above for the purpose of complying with the primary frequency response requirements of the LGIA shall be dynamic and is subject to initial evaluation as part of final engineering after the execution of the LGIA and periodic reevaluation once every three years (unless requested otherwise by the CAISO), and modification by the CAISO in consultation with the Interconnection Customer and Participating TO. Factors to be considered, but not limited to, in such reevaluation and potential modification may include the following: 1) the expected magnitude of frequency deviations in the interconnection, 2) the expected duration that system frequency will remain outside of the deadband parameter in the interconnection, 3) the expected incidence of frequency deviations outside of the deadband parameter in the interconnection, 4) the physical capabilities of the electric storage resource, 5) operational limitations of the electric storage resource due to manufacturer specifications, and 6) any other relevant factors agreed to by CAISO and Interconnection Customer, and in consultation with the Participating TO. Any change in the state of charge range specified above, or as previously determined pursuant to this Section 2(m) of Appendix C of the LGIA, as the result of such reevaluation shall be provided in writing by the CAISO to the Interconnection Customer and Participating TO in accordance with Article 15 of the LGIA.

(n) The Large Generating Facility is provided Charging Capacity as described in Section 1 of this Appendix C. The Interconnection Customer acknowledges and understands that the Storage Energy as well as the output of the Large Generating Facility are subject to CAISO dispatch instructions in accordance with the CAISO Tariff.

3. Affected Systems Coordination:

The CAISO cannot study comprehensively the impacts of the Large Generating Facility on the transmission systems of Affected System operators. The CAISO does not have detailed information about Affected Systems on a transmission-element level, nor does the CAISO know the details of the various reliability and operating criteria applicable to the Affected Systems. In addition, because the operation of transmission systems and NERC reliability standards change over time, the CAISO cannot presume to know all of the impacts of these changes on Affected Systems. As such, the CAISO contacted all potential Affected Systems to inquire whether they are impacted by the Large Generating Facility's interconnection to the CAISO Controlled Grid. The CAISO provided notice to the Interconnection Customer of the Identified Affected Systems for the Large Generating Facility. To ensure a safe and reliable interconnection to the CAISO Controlled Grid, six (6) months before the Initial Synchronization Date of the Large Generating Facility, the

Interconnection Customer shall provide documentation to the CAISO, in accordance with Article 11.4.2 of the LGIA and Section 3.7 of the GIDAP, confirming that the Identified Affected Systems have been contacted by the Interconnection Customer, and (i) that any system reliability impacts have been addressed (or that there are no system impacts), or (ii) that the Interconnection Customer has taken all reasonable steps to address potential reliability system impacts with the Identified Affected Systems but has been unsuccessful.

Appendix D

Security Arrangements Details

Infrastructure security of CAISO Controlled Grid equipment and operations and control hardware and software is essential to ensure day-to-day CAISO Controlled Grid reliability and operational security. FERC will expect the CAISO, all Participating TOs, market participants, and Interconnection Customers interconnected to the CAISO Controlled Grid to comply with Applicable Reliability Criteria. All public utilities will be expected to meet basic standards for system infrastructure and operational security, including physical, operational, and cyber-security practices.

The Interconnection Customer shall meet the requirements for security implemented pursuant to the CAISO Tariff, including the CAISO's standards for information security posted on the CAISO's internet web site at the following internet address: http://www.caiso.com/pubinfo/info-security/index.html.

Appendix E

Commercial Operation Date

[This Appendix E sets forth a form of letter to be provided by the Interconnection Customer to the CAISO and Participating TO to provide formal notice of the Commercial Operation of an Electric Generating Unit.]

[Date]

Manager, Model and Contract Implementation
California Independent System Operator Corporation
250 Outcropping Way
Folsom CA 95630

Manager, Grid Contract Management
Southern California Edison Company
P. O. Box 800
2244 Walnut Grove Avenue
Rosemead, California 91770

Re: _____ Electric Generating Unit

Dear _____:

On **[Date] Solar Star 3, LLC** has completed Trial Operation of Unit No. ___. This letter confirms that Solar Star 3, LLC commenced Commercial Operation of Unit No. ___ at the Electric Generating Unit, effective as of **[Date plus one day]** and that Solar Star 3, LLC provided the CAISO's operations personnel advance notice of its intended Commercial Operation Date no less than five Business Days prior to that date.

Thank you.

[Signature]

[Interconnection Customer Representative]

Appendix F

Addresses for Delivery of Notices and Billings

Notices:

(a) **General Notices:**

CAISO	Participating TO	Interconnection Customer
California Independent System Operator Corporation Attn: Regulatory Contracts	Southern California Edison Company Attn: Manager, Grid Contract Management	Solar Star 3, LLC Attn: Don Grafton
250 Outcropping Way Folsom, CA 95630	P. O. Box 800 Rosemead, CA 91770	17200 N. Perimeter Drive, Suite 202 Scottsdale, Arizona 85255
E-mail: regulatorycontracts@caiso.com	E-mail: GridContractManagement@sce.com	E-mail: jwgrafton@bherenewables.com

(b) **Operating Communications and Notifications:**

The CAISO, Participating TO and the Interconnection Customer shall provide for operating communications through their respective designated representatives as follows:

The Parties agree to exchange the following information prior to the Initial Synchronization Date:

CAISO	Participating TO	Interconnection Customer
CAISO Real Time Desk	Grid Control Center	Operator Name and/or Title:
24 Hour Telephone:	24 Hour Telephone:	Control Room Operator 24 Hour Telephone:
Alternate Phone:		Operation Center Fax. No.:
		E-mail:

Operational Matters, Force Majeure, Outage Notices, Requests for Physical Access to the Large Generating Facility and/or Shared BES Cyber Asset Facility, and Reports of Cyber or Physical Breaches or Attempted Breaches:

The Parties agree to exchange the following information prior to the Initial Synchronization Date:

CAISO	Participating TO	Interconnection Customer

Name:	Name/Title:	Name/Title:
Phone:	Phone:	Phone:

For Emergencies:

The Parties agree to exchange the following information prior to the Initial Synchronization Date:

CAISO	Participating TO	Interconnection Customer
Name:	Name/Title:	Name/Title:
Phone:	Phone:	Phone:

Billings and Payments:

CAISO	Participating TO	Interconnection Customer
California Independent System Operator Corporation Attn: Finance Dept. Mr. Dennis Estrada	Southern California Edison Company Attn: Accounts Receivable (GCM)	Solar Star 3, LLC Attn: Don Grafton
250 Outcropping Way Folsom, CA 95630	P. O. Box 800 Rosemead, CA 91771-0001	17200 N. Perimeter Drive, Suite 202 Scottsdale, Arizona 85255

Alternative Forms of Delivery of Notices (telephone, facsimile or e-mail):

CAISO	Participating TO	Interconnection Customer
California Independent System Operator Corporation Attn: Queue Management	Southern California Edison Company Attn: Manager, Grid Contract Management.	Solar Star 3, LLC Attn: Don Grafton
Phone: (916) 351-4400	Phone: (626) 302-9640	Phone: (712) 355-0932
E-mail: queuemanagement@caiso.com	E-mail: GridContractManagement@sce.com	E-mail: jwgrafton@bherenewables.com

Appendix G

Interconnection Customer's Share of Costs of Network Upgrades for Applicable Project Group

Type	Upgrades	Needed For	Cost factor	Cost Share
Reliability	Tehachapi CRAS (f.k.a. Northern Area RAS) - generator addition		100%	$518,066
Reliability	Whirlwind AA Bank RAS - generator addition		100%	$518,066
Reliability	Incremental project management & project support		100%	$60,493
			Total:	$1,096,625

Note: The amounts shown above are in nominal dollars.

Appendix H

Interconnection Requirements For An Asynchronous Generating Facility

Appendix H sets forth interconnection requirements specific to all Asynchronous Generating Facilities. Except as provided in Section 25.4.2 of the CAISO tariff, existing individual generating units of an Asynchronous Generating Facility that are, or have been, interconnected to the CAISO Controlled Grid at the same location are exempt from the requirements of this Appendix H for the remaining life of the existing generating unit.

A. Technical Requirements Applicable to Asynchronous Generating Facilities

i. Voltage Ride-Through Capability

An Asynchronous Generating Facility shall be able to remain online during voltage disturbances up to the time periods and associated voltage levels set forth in the requirements below.

1. An Asynchronous Generating Facility shall remain online for the voltage disturbance caused by any fault on the transmission grid, or within the Asynchronous Generating Facility between the Point of Interconnection and the high voltage terminals of the Asynchronous Generating Facility's step up transformer, having a duration equal to the lesser of the normal three-phase fault clearing time (4-9 cycles) or one-hundred fifty (150) milliseconds, plus any subsequent post-fault voltage recovery to the final steady-state post-fault voltage unless clearing the fault effectively disconnects the generator from the system. Clearing time shall be based on the maximum normal clearing time associated with any three-phase fault location that reduces the voltage at the Asynchronous Generating Facility's Point of Interconnection to 0.2 per-unit of nominal voltage or less, independent of any fault current contribution from the Asynchronous Generating Facility.

2. An Asynchronous Generating Facility shall remain online for any voltage disturbance caused by a single-phase fault on the transmission grid, or within the Asynchronous Generating Facility between the Point of Interconnection and the high voltage terminals of the Asynchronous Generating Facility's step up transformer, with delayed clearing, plus any subsequent post-fault voltage recovery to the final steady-state post-fault voltage unless clearing the fault effectively disconnects the generator from the system. Clearing time shall be based on the maximum backup clearing time associated with a single point of failure (protection or breaker failure) for any single-phase fault location that reduces any phase-to-ground or phase-to-phase voltage at the Asynchronous Generating Facility's Point of Interconnection to 0.2 per-unit of nominal voltage or less, independent of any fault current contribution from the Asynchronous Generating Facility.

3. Remaining on-line shall be defined as continuous connection between the Point of Interconnection and the Asynchronous Generating Facility's units, without any mechanical isolation. Momentary cessation (namely, ceasing to inject current during a fault without mechanical isolation) is prohibited unless transient high voltage conditions rise to 1.20 per unit or more. For transient low voltage conditions, the Asynchronous Generating Facility's inverters will inject reactive current. The level of this reactive current must be directionally proportional to the decrease in per unit voltage at the inverter AC terminals. The inverter must produce full reactive current capability when the AC voltage at the inverter terminals drops to a level of 0.50 per unit or below. The Asynchronous Generating Facility must continue to operate and absorb reactive current for transient voltage conditions between 1.10 and 1.20 per unit.

   Upon the cessation of transient voltage conditions and the return of the grid to normal operating voltage ($0.90 < V < 1.10$ per unit), the Asynchronous Generating Facility's inverters automatically must transition to normal active (real power) current injection. The Asynchronous Generating Facility's inverters must ramp up to inject active (real power) current with a minimum ramping rate of at least 100% per second (from no output to full available output). The total time to complete the transition from reactive current injection or absorption to normal active (real power) current injection must be one second or less. The total time to return from momentary cessation, if used, during transient high voltage conditions over 1.20 per unit or more must be one second or less.

4. The Asynchronous Generating Facility's inverter will be considered to have tripped where its AC circuit breaker is open or otherwise has electrically isolated the inverter from the grid. Following an inverter trip, the inverter must make at least one attempt to resynchronize and connect back to the grid unless the trip resulted from a fatal fault code, as defined by the inverter manufacturer. This attempt must take place within 2.5 minutes from the inverter trip. An attempt to resynchronize and connect back to the grid is not required if the trip was initiated due to a fatal fault code, as determined by the original equipment manufacturer.

5. The Asynchronous Generating Facility is not required to remain on line during multi-phased faults exceeding the duration described in Section A.i.1 of this Appendix H or single-phase faults exceeding the duration described in Section A.i.2 of this Appendix H.

6. The requirements of this Section A.i. of this Appendix H do not apply to faults that occur between the Asynchronous Generating Facility's terminals and the high side of the step-up transformer to the high-voltage transmission system.

7. Asynchronous Generating Facilities may be tripped after the fault period if this action is intended as part of a special protection system.

8. Asynchronous Generating Facilities may meet the requirements of this Section A.i of this Appendix H through the performance of the generating units or by installing additional equipment within the Asynchronous Generating Facility, or by a combination of generating unit performance and additional equipment.

9. The provisions of this Section A.i of this Appendix H apply only if the voltage at the Point of Interconnection has remained within the range of 0.9 and 1.10 per-unit of nominal voltage for the preceding two seconds, excluding any sub-cycle transient deviations.

10. Asynchronous Generating Facility inverters may not trip or cease to inject current for momentary loss of synchronism. As a minimum, the Asynchronous Generating Facility's inverter controls may lock the phase lock loop to the last synchronized point and continue to inject current into the grid at that last calculated phase prior to the loss of synchronism until the phase lock loop can regain synchronism. The current injection may be limited to protect the inverter. Any inverter may trip if the phase lock loop is unable to regain synchronism 150 milliseconds after loss of synchronism.

11. Inverter restoration following transient voltage conditions must not be impeded by plant level controllers. If the Asynchronous Generating Facility uses a plant level controller, it must be programmed to allow the inverters to automatically re-synchronize rapidly and ramp up to active current injection (without delayed ramping) following transient voltage recovery, before resuming overall control of the individual plant inverters.

ii. Frequency Disturbance Ride-Through Capability

An Asynchronous Generating Facility shall comply with the off nominal frequency requirements set forth in the NERC Reliability Standard for Generator Frequency and Voltage Protective Relay Settings, or successor requirements as they may be amended from time to time.

iii. Power Factor Design Criteria (Reactive Power)

An Asynchronous Generating Facility not studied under the Independent Study Process, as set forth in Section 4 of Appendix DD, shall operate within a power factor within the range of 0.95 leading to 0.95 lagging, measured at the high voltage side of the substation transformer, as defined in this LGIA in order to maintain a specified voltage schedule, if the Phase II Interconnection Study shows that such a requirement is necessary to ensure safety or reliability. An Asynchronous Generating Facility studied under the Independent Study Process, as set forth in Section 4 of Appendix DD, shall

operate within a power factor within the range of 0.95 leading to 0.95 lagging, measured at the high voltage side of the substation transformer, as defined in this LGIA in order to maintain a specified voltage schedule. The power factor range standards set forth in this section can be met by using, for example, power electronics designed to supply this level of reactive capability (taking into account any limitations due to voltage level, real power output, etc.) or fixed and switched capacitors, or a combination of the two, if agreed to by the Participating TO and CAISO. The Interconnection Customer shall not disable power factor equipment while the Asynchronous Generating Facility is in operation. Asynchronous Generating Facilities shall also be able to provide sufficient dynamic voltage support in lieu of the power system stabilizer and automatic voltage regulation at the generator excitation system if the Phase II Interconnection Study shows this to be required for system safety or reliability.

iv. Supervisory Control and Data Acquisition (SCADA) Capability

An Asynchronous Generating Facility shall provide SCADA capability to transmit data and receive instructions from the Participating TO and CAISO to protect system reliability. The Participating TO and CAISO and the Asynchronous Generating Facility Interconnection Customer shall determine what SCADA information is essential for the proposed Asynchronous Generating Facility, taking into account the size of the plant and its characteristics, location, and importance in maintaining generation resource adequacy and transmission system reliability.

v. Power System Stabilizers (PSS)

Power system stabilizers are not required for Asynchronous Generating Facilities.

vi. Transient Data Recording Equipment for Facilities

Asynchronous Generating Facilities with generating capacities of more than 20 MW must monitor and record data for all frequency ride-through events, transient low voltage disturbances that initiated reactive current injection, reactive current injection or momentary cessation for transient high voltage disturbances, and inverter trips. The data may be recorded and stored in a central plant control system. The following data must be recorded:

Plant Level:

(1) Plant three phase voltage and current
(2) Status of ancillary reactive devices
(3) Status of all plant circuit breakers
(4) Status of plant controller
(5) Plant control set points
(6) Position of main plant transformer no-load taps
(7) Position of main plant transformer tap changer (if extant)

(8) Protective relay trips or relay target data

Inverter Level:

(1) Frequency, current, and voltage during frequency ride-through events
(2) Voltage and current during momentary cessation for transient high voltage events (when used)
(3) Voltage and current during reactive current injection for transient low or high voltage events
(4) Inverter alarm and fault codes
(5) DC current
(6) DC voltage

The data must be time synchronized, using a GPS clock or similar device, to a one millisecond level of resolution. All data except phase angle measuring unit data must be sampled at least every 10 milliseconds. Data recording must be triggered upon detecting a frequency ride-through event, a transient low voltage disturbance that initiated reactive current injection, momentary cessation or reactive current injection for a transient high voltage disturbance, or an inverter trip. Each recording will include as a minimum 150 milliseconds of data prior to the triggering event, and 1000 milliseconds of data after the event trigger. The Asynchronous Generating Facility must store this data for a minimum of 30 days. The Asynchronous Generating Facility will provide all data within 10 calendar days of a request from the CAISO or the Participating TO.

The Asynchronous Generating Facility must install and maintain a phase angle measuring unit or functional equivalent at the entrance to the facility or at the Generating Facility's main substation transformer. The phase angle measuring unit must have a resolution of at least 16 samples per cycle. The Asynchronous Generating Facility will store this data for a minimum of 30 days. The Asynchronous Generating Facility will provide all phase angle measuring unit data within 10 calendar days of a request from the CAISO or the Participating TO.

EXHIBIT J

FORM OF CONSTRUCTION START DATE CERTIFICATE

This certification of Construction Start Date ("**Certification**") is delivered by Solar Star 3, LLC ("**Seller**") to Clean Power Alliance of Southern California, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Renewable Power Purchase Agreement dated June 10, 2024 ("**Agreement**") by and between Seller and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Seller hereby certifies and represents to Buyer the following:

(1) Construction Start (as defined in Exhibit B of the Agreement) has occurred, and a copy of the notice to proceed that Seller issued to its contractor as part of Construction Start is attached hereto.

(2) the Construction Start Date occurred on November 1, 2024 (the "**Construction Start Date**"); and

(3) the precise Site on which the Facility is located is, which must be within the boundaries of the previously identified Site: within the previously identified Site described in Exhibit A (such description shall amend the description of the Site in Exhibit A of the Agreement).

IN WITNESS WHEREOF, the undersigned has executed this Certification on behalf of Seller as of the 1st day of November 2024.

Solar Star 3, LLC

By: 

Its: Senior Vice President, Renewable Development, BHE Renewables

Date: October 31, 2024

RENEWABLE ENERGY + STORAGE PPA
May 31, 2024 (EXECUTION VERSION)

RENEWABLE POWER PURCHASE AGREEMENT

COVER SHEET

Seller: Solar Star 3, LLC

Buyer: Clean Power Alliance of Southern California, a California joint powers authority

Description of Facility: Solar Star 3 is comprised of co-located PV solar generation (Generating Facility) and Lithium-ion battery storage (Storage Facility). It is in Kern County, California and delivered to Southern California Edison's Whirlwind 230 kV Substation. The facilities are 24 MW of installed PV with an expected annual energy production of 74,544 MWh and 23 MW of installed battery storage. The Storage Facility is capable of charging from the Generating Facility or the interconnected grid.

Milestones:

Milestone	Expected Date for Completion
Evidence of Site Control	Complete
Documentation of Conditional Use Permit if required: **CEQA, Cat Ex, Neg Dec, Mitigated Neg Dec, EIR**	Complete
Seller's receipt of Phase I and Phase II Interconnection study results for Seller's Interconnection Facilities	Complete
Executed Interconnection Agreement	Complete
Financial Close	Not Applicable
Expected Construction Start Date	[redacted]
Initial Synchronization	April 17, 2025
Network Upgrades completed (evidenced by delivery of permission to parallel letter from the Transmission Provider)	Not Applicable
Expected Date of CAISO Commercial Operation	May 12, 2025
Expected Commercial Operation Date	July 1, 2025

Delivery Term: Twenty (20) Contract Years

Delivery Term Expected Energy:

Contract Year	Expected Energy (MWh)
1	74,544
2	74,464
3	74,337
4	74,209
5	74,080
6	73,949
7	73,817
8	73,684
9	73,548
10	73,411
11	73,272
12	73,131
13	72,987
14	72,841
15	72,693
16	72,542
17	72,389
18	72,233
19	72,076
20	71,915

Guaranteed Capacity: 47 MW of total Facility capacity

Guaranteed Storage Capacity: 23 MW of Installed Storage Capacity at four (4) hours of

continuous discharge; *provided*, Seller may, in its sole discretion, increase the Guaranteed Storage Capacity to 24 MW by providing Notice to Buyer on or before the Guaranteed Construction Start Date.

Guaranteed PV Capacity: 24 MW of Installed PV Capacity

Guaranteed Efficiency Rate:

Contract Year	Guaranteed Efficiency Rate
1	[redacted]
2	[redacted]
3	[redacted]
4	[redacted]
5	[redacted]
6	[redacted]
7	[redacted]
8	[redacted]
9	[redacted]
10	[redacted]
11	[redacted]
12	[redacted]
13	[redacted]
14	[redacted]
15	[redacted]
16	[redacted]
17	[redacted]
18	[redacted]
19	[redacted]

20	[redacted]

Guaranteed Construction Start Date: November 1, 2024

Guaranteed Commercial Operation Date: July 1, 2025

Contract Price

The Renewable Rate shall be:

Contract Year	Renewable Rate
1 – 20	$[redacted]/MWh (flat) with no escalation

The Storage Rate shall be:

Contract Year	Storage Rate
1 – 20	$[redacted]/kW-mo. (flat) with no escalation

Seller's Assumed Tax Credits: As of the Effective Date, Seller intends to finance the Facility using the ITC at forty percent (40%) and/or the PTC at $0.033kWh.

Product

- ☒ PV Energy
- ☒ Discharging Energy
- ☒ Green Attributes (if Renewable Energy Credit, please check the applicable box below):
  - ☒ Portfolio Content Category 1
  - ☐ Portfolio Content Category 2
  - ☐ Portfolio Content Category 3
- ☒ Installed Storage Capacity and Effective Storage Capacity
- ☒ Ancillary Services
- ☒ Capacity Attributes (select options below as applicable)
  - ☐ Energy Only Status
  - ☒ Full Capacity Deliverability Status

Anticipated Flexible Capacity: Amount: 23 MW

Scheduling Coordinator: Buyer

Security Amounts:

Development Security: $105/kW of Guaranteed PV Capacity plus $105/kW of Guaranteed Storage Capacity

Performance Security: $105/kW of Installed PV Capacity plus $105/kW of Installed Storage Capacity

Guarantor: (as of the Effective Date): [redacted]

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RENEWABLE POWER PURCHASE AGREEMENT

This Renewable Power Purchase Agreement ("**Agreement**") is entered into as of _____ (the "**Effective Date**"), between Buyer and Seller. Buyer and Seller are sometimes referred to herein individually as a "**Party**" and jointly as the "**Parties**." All capitalized terms used in this Agreement are used with the meanings ascribed to them in Article 1 to this Agreement.

RECITALS

WHEREAS, Seller intends to develop, design, construct, own, and operate the Facility; and

WHEREAS, Seller desires to sell, and Buyer desires to purchase, on the terms and conditions set forth in this Agreement, the Product;

WHEREAS, Buyer is entering into the Agreement with the intention that the Facility's NQC will be counted toward Buyer's clean energy mid-term reliability procurement obligations set forth in CPUC D.21-06-035 (as may be revised by further decisions).;

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, and for other good and valuable consideration, the sufficiency and adequacy of which are hereby acknowledged, the Parties agree to the following:

ARTICLE 1
DEFINITIONS

1.1 **Contract Definitions**. The following terms, when used herein with initial capitalization, shall have the meanings set forth below:

"**AC**" means alternating current.

"**Accepted Compliance Costs**" has the meaning set forth in Section 3.12(c).

"**Adjusted Energy Production**" has the meaning set forth in Exhibit G.

"**Affiliate**" means, with respect to any Person, each Person that directly or indirectly controls, is controlled by, or is under common control with such designated Person. For purposes of this definition and the definition of "Permitted Transferee", "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean (a) the direct or indirect right to cast at least fifty percent (50%) of the votes exercisable at an annual general meeting (or its equivalent) of such Person or, if there are no such rights, ownership of at least fifty percent (50%) of the equity or other ownership interest in such Person, or (b) the right to direct the policies or operations of such Person; *provided*, with respect to Seller, if (x) BHE Renewables, LLC is the Ultimate Parent and (y) there has not been a Change in Control of Seller, the term "Affiliate" is limited to BHE Renewables, LLC and its majority-owned (directly or indirectly) subsidiaries.

"**Agreement**" has the meaning set forth in the Preamble and includes the Cover Sheet and any Exhibits, schedules and any written supplements hereto.

"**Ancillary Services**" means spinning reserve, non-spinning reserve, regulation up, regulation down, voltage support and any other ancillary services that the Facility is capable of providing consistent with the Operating Restrictions, as each is defined in the CAISO Tariff.

"**Annual Storage Capacity Availability**" has the meaning set forth in Exhibit P.

"**Anticipated Flexible Capacity**" means the amount and category of Flexible Capacity identified on the Cover Sheet which Seller anticipates as of the Effective Date that the Facility will be qualified by the CAISO to provide to Buyer.

"**Approved Forecast Vendor**" means (a) any of the CAISO Variable Energy Resource (VER) forecast, (b) if the CAISO VER forecast is unavailable, Meteologica, or (c) any other vendor reasonably acceptable to both Buyer and Seller for the purposes of providing or verifying the forecasts under Section 4.3(d).

"**Assignment Agreement**" has the meaning set forth in Section 14.5.

"**Automated Dispatch System**" or "**ADS**" has the meaning set forth in the CAISO Tariff.

"**Automatic Generation Control**" or "**AGC**" has the meaning set forth in the CAISO Tariff.

"**Auxiliary Use**" means the Energy that is used (including Energy used during the charging or discharging of the Storage Facility) within the Storage Facility to power the motors, temperature control systems, control systems and other electrical loads that are integral to the operation of the Storage Facility.

"**Availability Notice**" means Seller's availability forecasts issued pursuant to Section 4.3 with respect to the Available Effective Storage Capacity and Available Storage Capability, which shall include any updates from Seller with respect to Facility outages or availability as reported to CAISO (including as reported in OMS).

"**Availability Standards**" has the meaning set forth in the CAISO Tariff or such other similar term as modified and approved by FERC hereafter to be incorporated in the CAISO Tariff.

"**Available Effective Storage Capacity**" has the meaning in Exhibit P.

"**Available Storage Capability**" has the meaning in Exhibit P.

"**Bankrupt**" or "**Bankruptcy**" means with respect to any entity, such entity that (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, (b) has any such petition filed or commenced against it which remains unstayed or undismissed for a period of ninety (90) days, (c) makes an assignment or any general arrangement for the benefit of creditors, (d) otherwise becomes bankrupt or insolvent (however evidenced), (e) 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 (f) is generally unable to pay its debts as they fall due.

"**Battery Charging Factor**" means the quotient (expressed as a decimal) of (a) the Charging Energy after the charging phase of the applicable Capacity Test ends, divided by (b) [the Installed Capacity x four (4) hours] MWh, not to exceed one (1).

"**Battery Discharging Factor**" means the quotient (expressed as a decimal) of (a) the Discharging Energy after the discharging phase of the applicable Capacity Test ends, divided by (b) [the Installed Capacity x four (4) hours] MWh, not to exceed one (1).

"**Business Day**" means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday in California. A Business Day begins at 8:00 a.m. and ends 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 on the Cover Sheet.

"**Buyer Assignee**" has the meaning set forth in Section 14.5.

"**Buyer Bid Curtailment**" means the occurrence of both of the following:

(a) the CAISO provides notice to a Party or the Scheduling Coordinator for the Generating Facility, requiring the Party to deliver less PV Energy from the Generating Facility than the full amount of Energy forecasted in accordance with Section 4.3 to be produced from the Generating Facility for a period of time; and

(b) for the same time period as referenced in (a), Buyer or the SC for the Generating Facility did not submit a Self-Schedule for the MWhs subject to the reduction.

If the Generating Facility is subject to a Planned Outage, Forced Facility Outage, Force Majeure Event and/or a Curtailment Period during the same time period as referenced in (a), then the calculation of Deemed Delivered Energy during such period shall not include any PV Energy that was not generated or stored due to such Planned Outage, Forced Facility Outage, Force Majeure Event or Curtailment Period.

[redacted]

"**Buyer Curtailment Order**" means the instruction from Buyer to Seller to reduce PV Energy from the Generating Facility by the amount, and for the period of time set forth in such instruction, for reasons unrelated to a Planned Outage, Forced Facility Outage, Force Majeure Event affecting the Facility and/or Curtailment Order.

"**Buyer Curtailment Period**" means the period of time, as measured using current Settlement Intervals, during which Seller reduces PV Energy from the Generating Facility pursuant to or as a result of (a) a Buyer Bid Curtailment, (b) a Buyer Curtailment Order, or (c) a Buyer Default hereunder which directly causes Seller to be unable to deliver PV Energy to the Delivery Point; *provided*, the duration of any Buyer Curtailment Period shall be inclusive of the time required for the Generating Facility to ramp down and ramp up.

"**Buyer Default**" means an Event of Default of Buyer.

"**Buyer Dispatched Test**" has the meaning in Section 4.9(c).

"**Buyer's Indemnified Parties**" has the meaning set forth in Section 18.2.

"**Buyer's WREGIS Account**" has the meaning set forth in Section 4.10(a).

"**CAISO**" means the California Independent System Operator Corporation or any successor entity performing similar functions.

"**CAISO-Penalized Shortfall**" has the meaning set forth in Section 3.8(b)(ii).

"**CAISO Certification**" means the certification and testing requirements for a storage unit set forth in the CAISO Tariff that are applicable to the Facility, including certification and testing for all Ancillary Services, PMAX, and PMIN associated with such storage units, that are applicable to the Facility.

"**CAISO Charges Invoice**" has the meaning set forth in Exhibit D.

"**CAISO Commercial Operation**" has the meaning of "Commercial Operation" set forth in the CAISO Tariff.

"**CAISO Dispatch**" means any Charging Notice or Discharging Notice given by the CAISO to the Facility, whether through ADS, AGC or any successor communication protocol, communicating an Ancillary Service Award (as defined in the CAISO Tariff) or directing the Storage Facility to charge or discharge at a specific MW rate for a specified period of time or amount of MWh.

"**CAISO Grid**" has the same meaning as "CAISO Controlled Grid" as defined in the CAISO Tariff.

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

"**Calculation Interval**" has the meaning set forth in Exhibit P.

"**California Renewables Portfolio Standard**" or "**RPS**" means the renewable energy program and policies established by California State Senate Bills 1038 (2002), 1078 (2002), 107

(2008), X-1 2 (2011), 350 (2015), and 100 (2018) as codified in, *inter alia*, California Public Utilities Code Sections 399.11 through 399.31 and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time.

"**Capacity Attribute**" means any current or future defined characteristic, certificate, tag, credit, or accounting construct associated with the amount of power that the Facility can generate and deliver to the Delivery Point at a particular moment and that can be purchased, sold or conveyed under CAISO or CPUC market rules, including Resource Adequacy Benefits.

"**Capacity Availability Factor**" has the meaning set forth in Exhibit C.

"**Capacity Damages**" means collectively Storage Capacity Damages and PV Capacity Damages.

"**Capacity Test**" or "**CT**" means the Commercial Operation Storage Capacity Test, Storage Capacity Test, or any other test conducted pursuant to Exhibit O.

"**CEC**" means the California Energy Commission or its successor agency.

"**CEC Certification and Verification**" means that the CEC has certified (or, with respect to periods before the date that is one hundred eighty (180) days following the Commercial Operation Date, that the CEC has pre-certified) that the Generating Facility is an Eligible Renewable Energy Resource for purposes of the California Renewables Portfolio Standard and that all PV Energy delivered to the Delivery Point qualifies as generation from an Eligible Renewable Energy Resource.

"**CEC Precertification**" means that the CEC has issued a precertification for the Facility indicating that the planned operations of the Facility would comply with applicable CEC requirements for CEC Certification and Verification.

"**Change of Control**" means, except in connection with public market transactions of equity interests or capital stock of Seller's Ultimate Parent, any circumstance in which Ultimate Parent ceases to own, directly or indirectly through one or more intermediate entities, more than fifty percent (50%) of the outstanding equity interests in Seller; *provided*, in calculating ownership percentages for all purposes of the foregoing:

(a) any ownership interest in Seller held by Ultimate Parent indirectly through one or more intermediate entities shall not be counted towards Ultimate Parent's ownership interest in Seller unless Ultimate Parent directly or indirectly owns more than fifty percent (50%) of the outstanding equity interests in each such intermediate entity; and

(b) ownership interests in Seller owned directly or indirectly by any Lender (including any tax equity provider) shall be excluded from the total outstanding equity interests in Seller.

"**Charging Energy**" means all Energy delivered to the Delivery Point pursuant to a Charging Notice, as measured by the Storage Facility Meter.

"**Charging Notice**" means the operating instruction, and any subsequent updates, given by Buyer's SC or the CAISO to Seller, directing the Storage Facility to charge at a specific MW rate for a specified period of time or amount of MWh; *provided*, any such operating instruction shall be in accordance with the Operating Restrictions. Any instruction to charge the Storage Facility pursuant to a Buyer Dispatched Test shall be considered a Charging Notice, and any Charging Notice shall not constitute a Buyer Bid Curtailment, Buyer Curtailment Order or Curtailment Order.

"**COD Certificate**" has the meaning set forth in Exhibit B.

"**Commercial Operation**" has the meaning set forth in Exhibit B.

"**Commercial Operation Date**" means the date Commercial Operation is achieved.

"**Commercial Operation Delay Damages**" means an amount equal to (a) the Development Security amount required hereunder, divided by (b) ninety (90).

"**Commercial Operation Storage Capacity Test**" means the Storage Capacity Test conducted in connection with Commercial Operation of the Storage Facility, including any additional Storage Capacity Test for additional Storage Facility capacity installed after the Commercial Operation Date pursuant to Section 5 of Exhibit B.

"**Communications Protocols**" means certain Operating Restrictions developed by the Parties pursuant to Exhibit Q that involve procedures and protocols regarding communication with respect to the operation of the Storage Facility pursuant to this Agreement.

"**Compliance Actions**" has the meaning set forth in Section 3.12(a).

"**Compliance Expenditure Cap**" has the meaning set forth in Section 3.12.

"**Confidential Information**" has the meaning set forth in Section 18.1.

"**Consent to Collateral Assignment**" has the meaning set forth in Section 14.2.

"**Construction Start**" has the meaning set forth in Exhibit B.

"**Construction Start Date**" has the meaning set forth in Exhibit B.

"**Contract Price**" has the meaning set forth on the Cover Sheet. For clarity, the Contract Price is each of the Renewable Rate, the DDE Rate and the Storage Rate.

"**Contract Term**" has the meaning set forth in Section 2.1.

"**Contract Year**" means a period of twelve (12) consecutive months. The first Contract Year shall commence on the Commercial Operation Date and each subsequent Contract Year shall commence on the anniversary of the Commercial Operation Date.

"**Costs**" means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third-party transaction costs and expenses reasonably incurred by such Party either

in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace the Agreement; and all reasonable attorneys' fees and expenses incurred by the Non-Defaulting Party in connection with terminating the Agreement.

"**Cover Sheet**" means the cover sheet to this Agreement, which is incorporated into this Agreement.

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

"**CPUC-Penalized Shortfall**" has the meaning set forth in Section 3.8(b)(i).

"**CPUC System RA Penalty**" means the penalties for "System Procurement Deficiency" adopted by the CPUC in its Decision 10-06-036, as may be updated or supplemented from time to time.

"**Credit Rating**" means, with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt obligations (not supported by third party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuer rating by S&P, Fitch or Moody's. If ratings by S&P, Fitch and Moody's are not equivalent, the lower rating shall apply.

"**Cure Plan**" has the meaning set forth in Section 11.1(b)(iii).

"**Curtailment Order**" means any of the following:

(a) CAISO orders, directs, alerts, or provides notice to a Party, to curtail deliveries of Facility Energy for the following reasons: (i) any System Emergency, (ii) any warning of an anticipated System Emergency, or warning of an imminent condition or situation, which jeopardizes CAISO's electric system integrity or the integrity of other systems to which CAISO is connected, or (iii) in response to an Energy oversupply or potential Energy oversupply, and Buyer or the SC for the Facility submitted a Self-Schedule for the MWhs curtailed corresponding to the MWhs in the VER forecast for the Generating Facility during the relevant time period;

(b) a 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, or (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) a curtailment ordered by CAISO or the Transmission Provider due to a Transmission System Outage; or

(d) a curtailment in accordance with Seller's obligations under its Interconnection Agreement with the Transmission Provider or distribution operator.

"**Curtailment Period**" means the period of time, as measured using current Settlement Intervals, during which Seller reduces generation from the Generating Facility pursuant to a

Curtailment Order; *provided*, the Curtailment Period shall be inclusive of the time required for the Facility to ramp down and ramp up.

"**Daily Delay Damages**" means an amount equal to (a) the Development Security amount required hereunder, divided by (b) one hundred twenty (120).

"**Damage Payment**" means the amount to be paid by the Defaulting Party to the Non-Defaulting Party after a Terminated Transaction occurring prior to the Commercial Operation Date, in a dollar amount as set forth in Section 11.3(a).

"**Day-Ahead Forecast**" has the meaning set forth in Section 4.3(c).

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

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

"**DDE Rate**" means the sum of (a) the Renewable Rate plus (b) the PTC Value if applicable.

"**Deemed Delivered Energy**" means the amount of PV Energy expressed in MWh that the Generating Facility would have produced and delivered to the Generating Facility Meter, but that is not produced by the Generating Facility during a Buyer Curtailment Period, which amount shall be equal to the Real-Time Forecast (of the hourly expected PV Energy produced by the Generating Facility) provided pursuant to Section 4.3(d) for the period of time during the Buyer Curtailment Period (or other relevant period), less the amount of PV Energy delivered to the Storage Facility, or to the Delivery Point directly from the Generating Facility, during the Buyer Curtailment Period (or other relevant period); *provided*, if the applicable difference is negative, the Deemed Delivered Energy shall be zero (0). If the LMP for the Facility's PNode during any Settlement Interval was less than zero (0), Deemed Delivered Energy shall be reduced in such Settlement Interval by the amount of any Charging Energy that was not able to be delivered to the Storage Facility during such Settlement Interval due to the unavailability of the Storage Facility due to a Forced Facility Outage.

"**Defaulting Party**" has the meaning set forth in Section 11.1(a).

"**Deficient Month**" has the meaning set forth in Section 4.10(e).

"**Delay Damages**" means Daily Delay Damages and Commercial Operation Delay Damages.

"**Delivery Point**" has the meaning set forth in Exhibit A.

"**Delivery Term**" shall mean the period of Contract Years set forth on the Cover Sheet beginning on the Commercial Operation Date, unless terminated earlier in accordance with the terms and conditions of this Agreement.

"**Development Cure Period**" has the meaning set forth in Exhibit B.

"**Development Security**" means (a) cash or (b) a Letter of Credit in the amount specified for the Development Security on the Cover Sheet.

"**Discharging Energy**" means all Energy delivered to the Delivery Point from the Storage Facility pursuant to a Discharging Notice, as measured by the Storage Facility Meter, net of Electrical Losses and Station Use. All Discharging Energy shall have originally been delivered to the Storage Facility as Charging Energy.

"**Discharging Notice**" means the operating instruction, and any subsequent updates, given by Buyer's SC or the CAISO to the Facility, directing the Storage Facility to discharge Discharging Energy at a specific MW rate for a specified period of time or to an amount of MWh; *provided*, (a) any such operating instruction or updates shall be in accordance with the Operating Restrictions and the CAISO Tariff, and (b) if, during a period when the Storage Facility is instructed by Buyer's SC or the CAISO to be discharging, the sum of PV Energy and Discharging Energy would exceed the Interconnection Capacity Limit, such "Discharging Notice" shall be deemed to be automatically adjusted to reduce the amount of Discharging Energy so that the sum of Discharging Energy and PV Energy does not exceed the Interconnection Capacity Limit, until such time as Buyer's SC or the CAISO issues a further modified Discharging Notice. Any instruction to discharge the Storage Facility pursuant to a Buyer Dispatched Test shall be considered a Discharging Notice, and any Discharging Notice shall not constitute a Buyer Bid Curtailment, Buyer Curtailment Order or Curtailment Order.

"**Disclosing Party**" has the meaning set forth in Section18.2.

"**Dispatch Notice**" means any Charging Notice, Discharging Notice and any subsequent updates thereto, given by the CAISO, Buyer or Buyer's SC, to Seller, directing the Storage Facility to charge or discharge Discharging Energy at a specific MWh rate to a specified Stored Energy Level; *provided*, any such operating instruction or updates shall be in accordance with the Operating Restrictions. Dispatch Notices may be communicated electronically (i.e. through ADS, AGC or e-mail), or telephonically, in accordance with the procedures set forth in Section 4.7. Telephonic or other verbal communications may be documented (either recorded by tape, electronically or in writing) without further notification to, or consent being required from, either Party with respect to such Party being recorded by the other, including by Buyer's designated Scheduling Coordinator.

"**Early Termination Date**" has the meaning set forth in Section 11.2(a).

"**Effective Date**" has the meaning set forth on the Preamble.

"**Effective Flexible Capacity**" or "**EFC**" means the effective flexible capacity (in MWs) of the Facility pursuant to the counting conventions set forth in the Resource Adequacy Rulings and the CAISO Tariff, which such flexible capacity may be used to satisfy Flexible RAR.

"**Effective Storage Capacity**" means the lesser of (a) PMAX, and (b) the maximum dependable operating capacity of the Storage Facility to discharge Energy for four (4) hours of continuous discharge, as measured in MW AC at the Delivery Point (i.e., measured at the Storage Facility Meter and adjusted for Electrical Losses to the Delivery Point) pursuant to the most recent Storage Capacity Test (including the Commercial Operation Storage Capacity Test), as evidenced

by a certificate substantially in the form attached as Exhibit I-2 hereto, in either case (a) or (b) up to but not in excess of (i) the Guaranteed Storage Capacity (with respect to a Commercial Operation Storage Capacity Test) or (ii) the Installed Storage Capacity (with respect to any other Storage Capacity Test).

"**Efficiency Rate**" means the rate calculated as the quotient of (a) the sum of (i) Discharging Energy plus (ii) Idle Period Auxiliary Use for which Seller is required to reimburse Buyer, divided by (b) Energy In, based on actual Storage Facility operations for each applicable month.

"**Efficiency Rate Factor**" has the meaning set forth in Exhibit C.

"**Electrical Losses**" means all transmission or transformation losses (a) between the Generating Facility and the Delivery Point associated with delivery of PV Energy, (b) between the Storage Facility and the Delivery Point associated with delivery of Discharging Energy, and (c) between the Delivery Point and the Storage Facility associated with delivery of Charging Energy to the Storage Facility, in each case as applicable.

"**Eligible Renewable Energy Resource**" has the meaning set forth in California Public Utilities Code Section 399.12(e) and California Public Resources Code Section 25741(a), as either code provision is amended or supplemented from time to time.

"**Energy**" means electrical energy, measured in kilowatt-hours, megawatt-hours, or multiple units thereof.

"**Energy In**" means the total energy (in MWh) delivered by Buyer to the Storage Facility pursuant to a Charging Notice as measured at the Storage Facility Meter (without adjusting for Electrical Losses or Station Use).

"**Energy Management System**" or "**EMS**" means the Storage Facility's energy management system.

"**Energy Replacement Damages**" has the meaning set forth in Section 4.7.

"**Event of Default**" has the meaning set forth in Section 11.1.

"**Excess MWh**" has the meaning set forth in Exhibit C.

"**Expected Commercial Operation Date**" has the meaning set forth on the Cover Sheet.

"**Expected Construction Start Date**" has the meaning set forth on the Cover Sheet.

"**Expected Energy**" means the quantity of PV Energy that Seller expects to be able to deliver to Buyer from the Generating Facility during each Contract Year, which for each Contract Year is the quantity specified on the Cover Sheet, which amount shall be adjusted proportionately to the reduction from Guaranteed PV Capacity to Installed PV Capacity pursuant to Section 5(a) of Exhibit B, if applicable.

"**Facility**" means the combined Generating Facility and the Storage Facility.

"**Facility Energy**" means PV Energy and/or Discharging Energy, as applicable, during any Settlement Interval or Settlement Period.

"**Facility Engineering Assessment**" has the meaning set forth in Section 2.2(l).

"**Facility RA Shortfall**" means, for a given Showing Month, collectively any PV RA Shortfall and Storage RA Shortfall.

"**FERC**" means the Federal Energy Regulatory Commission or any successor government agency.

"**Financial Close**" means Seller and/or one of its Affiliates has obtained debt and/or equity financing commitments from one or more Lenders sufficient to construct the Facility, including such financing commitments from Seller's owner(s).

"**Fitch**" means Fitch Ratings, Inc.

"**Flexible Capacity**" means, with respect to any particular Showing Month, the number of MWs of Product which are eligible to satisfy Flexible RAR.

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

"**Force Majeure Event**" has the meaning set forth in Section 10.1.

"**Force Majeure Unavailability**" has the meaning set forth in Exhibit C.

"**Forced Facility Outage**" means an unexpected failure of one or more components of the Facility that prevents Seller from generating Energy or making Facility Energy available at the Delivery Point and that is not the result of a Force Majeure Event.

"**Forecasted Product**" has the meaning set forth in Section 4.3(b).

"**Forecasting Penalty**" has the meaning set forth in Section 4.3(f).

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

"**Future Environmental Attributes**" means any and all Green Attributes that become recognized under applicable Law after the Effective Date (and not before the Effective Date), notwithstanding the last sentence of the definition of "Green Attributes" herein. Future Environmental Attributes do not include Renewable Energy Incentives, or other financial incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation.

"**Gains**" means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining the economic benefit to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., SP-15), all of which should be calculated for the remaining Contract Term, and include the value of Green Attributes and Capacity Attributes.

"**Generating Facility**" means the solar photovoltaic generating facility described on the Cover Sheet and in Exhibit A, located at the Site and including mechanical equipment and associated facilities and equipment required to deliver (i) PV Energy to the Delivery Point, and (ii) Charging Energy to the Storage Facility; *provided*, the "Generating Facility" does not include the Storage Facility or the Shared Facilities.

"**Generating Facility Meter**" means the CAISO approved revenue quality meter or meters (with a 0.3 accuracy class), along with a compatible data processing gateway or remote intelligence gateway, telemetering equipment and data acquisition services sufficient for monitoring, recording and reporting, in real time, the amount of PV Energy delivered to the Delivery Point for the purpose of invoicing in accordance with Section 8.1. For clarity, the Generating Facility may contain multiple measurement devices that will make up the Generating Facility Meter, and, unless otherwise indicated, references to the Generating Facility Meter shall mean all such measurement devices and the aggregated data of all such measurement devices, taken together.

"**Governmental Authority**" means any federal, state, provincial, local or municipal government, any political subdivision thereof or any other governmental, congressional or parliamentary, regulatory, or judicial instrumentality, authority, body, agency, department, bureau, or entity with authority to bind a Party at law, including CAISO and the CPUC; *provided*, "Governmental Authority" shall not in any event include any Party.

"**Green Attributes**" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled (including under the RPS regulations and/or under any and all other international, federal, regional, state or other law, rule, regulation, bylaw, treaty or other intergovernmental compact, decision, administrative decision, program (including any voluntary compliance or membership program), competitive market or business method (including all credits, certificates, benefits, and emission measurements, reductions, offsets and allowances related thereto)), attributable to the generation from the Facility and its displacement of conventional energy generation. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat

in the atmosphere; and (3) the reporting rights to such avoided emissions, such as Green Tag Reporting Rights. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Facility, (ii) Renewable Energy Incentives and other financial incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation, or (iii) emission reduction credits encumbered or used by the Facility for compliance with local, state, or federal operating and/or air quality permits. Green Attributes under the preceding definition are limited to Green Attributes that exist under applicable Law as of the Effective Date.

"**Green Tag Reporting Rights**" means the right of a purchaser of renewable energy to report ownership of accumulated Green Tags in compliance with and to the extent permitted by applicable Law and include, without limitation, rights under Section 1605(b) of the Energy Policy Act of 1992, and any present or future federal, state or local certification program or emissions trading program, including pursuant to the WREGIS Operating Rules.

"**Green Tags**" means a unit accumulated on a MWh basis where one (1) represents the Green Attributes associated with one (1) MWh of PV Energy.

"**Green-e Certified**" means the Green Attributes provided to Buyer pursuant to this Agreement are certified under the Green-e Energy National Standard.

"**Green-e Energy National Standard**" means the Green-e Renewable Energy Standard for Canada and the United States (formerly Green-e Energy National Standard) version 3.4, updated April 27, 2023, as may be further amended from time to time.

"**Guaranteed Capacity**" means the sum of (x) the Guaranteed PV Capacity and (y) the Guaranteed Storage Capacity.

"**Guaranteed Commercial Operation Date**" has the meaning set forth on the Cover Sheet, subject to extension pursuant to Exhibit B.

"**Guaranteed Construction Start Date**" has the meaning set forth on the Cover Sheet, subject to extension pursuant to Exhibit B.

"**Guaranteed Efficiency Rate**" means the minimum guaranteed Efficiency Rate of the Storage Facility throughout the Delivery Term, as set forth on the Cover Sheet.

"**Guaranteed Energy Production**" has the meaning set forth in Section 4.7.

"**Guaranteed PV Capacity**" means the generating capacity of the Generating Facility, as measured in MW AC at the Delivery Point (i.e., measured at the Generating Facility Meter and adjusted for Electrical Losses to the Delivery Point), that Seller commits to install pursuant to this Agreement as set forth on the Cover Sheet.

"**Guaranteed Storage Availability**" has the meaning set forth in Section 4.8.

"**Guaranteed Storage Capacity**" means the maximum dependable operating capability of the Storage Facility to discharge Energy, as measured in MW AC at the Delivery Point (i.e.,

measured at the Storage Facility Meter and adjusted for Electrical Losses to the Delivery Point) for four (4) hours of continuous discharge, that Seller commits to install pursuant to this Agreement as set forth on the Cover Sheet.

"**Guarantor**" means, with respect to Seller, any Person that (a) has an Investment Grade Credit Rating, (b) is incorporated or organized in a jurisdiction of the United States and is in good standing in such jurisdiction, and (c) executes and delivers a Guaranty for the benefit of Buyer.

"**Guaranty**" means a guaranty from a Guarantor provided for the benefit of Buyer substantially in the form attached as Exhibit T.

"**High Operating Limit**" or "**HOL**" means a real-time calculated number representing the instantaneous maximum power level at which the Storage Facility can discharge Energy to the Delivery Point, as communicated via the EMS.

"**Idle Period Auxiliary Use**" means Auxiliary Use consumed by the Storage Facility during periods in which the Storage Facility is not charging or discharging pursuant to a Charging Notice or Discharging Notice for which Seller does not pay retail rates to its retail electric utility provider.

"**Imbalance Energy**" means the amount of Energy in MWh, in any given Settlement Period or Settlement Interval, by which the amount of PV Energy, Charging Energy or Discharging Energy deviates from the amount of Scheduled Energy.

"**Indemnified Party**" has the meaning set forth in Section 16.1.

"**Indemnifying Party**" has the meaning set forth in Section 16.1.

"**Initial Synchronization**" means the commencement of Trial Operations (as defined in the CAISO Tariff).

"**Installed Capacity**" means the sum of (x) the Installed PV Capacity and (y) the Installed Storage Capacity.

"**Installed PV Capacity**" means the actual generating capacity of the Generating Facility, as measured in MW AC at the Delivery Point (i.e., measured at the Generating Facility Meter and adjusted for Electrical Losses to the Delivery Point), that achieves Commercial Operation, as evidenced by a certificate substantially in the form attached as Exhibit I-1 hereto.

"**Installed Storage Capacity**" means the lesser of (a) PMAX, and (b) maximum dependable operating capacity of the Storage Facility to discharge Energy for four (4) hours of continuous discharge, as measured in MW at the Delivery Point by the Storage Facility Meter and adjusted for Electrical Losses to the Delivery Point, that achieves Commercial Operation, as evidenced by a certificate substantially in the form attached as Exhibit I-1 hereto, as such capacity may be adjusted pursuant to Section 5 of Exhibit B.

"**Inter-SC Trade**" has the meaning set forth in the CAISO Tariff.

"**Interconnection Agreement**" means the interconnection agreement entered into by Seller or an Affiliate pursuant to which the Facility will be interconnected with the Transmission System, and pursuant to which Seller's Interconnection Facilities and any other Interconnection Facilities will be constructed, operated and maintained during the Contract Term.

"**Interconnection Capacity Limit**" means the maximum instantaneous amount of Energy that is permitted to be delivered to the Delivery Point under Seller's Interconnection Agreement, in the amount of twenty-four (24) MW.

"**Interconnection Facilities**" means the interconnection facilities, control and protective devices and metering facilities required to connect the Facility with the Transmission System in accordance with the Interconnection Agreement.

"**Interest Rate**" has the meaning set forth in Section 8.2.

"**Interim Deliverability Status**" has the meaning set forth in the CAISO Tariff.

"**Investment Grade Credit Rating**" means a Credit Rating of [redacted] or better from S&P or Fitch, or a Credit Rating of [redacted] or better from Moody's.

"**IP Indemnity Claim**" has the meaning set forth in Section 16.1(b).

"**ITC**" means the investment tax credit established pursuant to Sections 48 or 48E of the United States Internal Revenue Code of 1986.

"**Joint Powers Act**" means the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.).

"**Joint Powers Agreement**" means that certain Joint Powers Agreement dated June 27, 2017, as amended from time to time, under which Buyer is organized as a Joint Powers Authority in accordance with the Joint Powers Act.

"**kWh**" means a kilowatt-hour measured in alternating current, unless expressly stated in terms of direct current.

"**Law**" means any applicable law, statute, rule, regulation, decision, writ, order, decree or judgment, permit or any interpretation thereof, promulgated or issued by a Governmental Authority.

"**Lender**" means, collectively, any Person (a) providing senior or subordinated construction, interim, back leverage or long-term debt, equity or tax equity financing or refinancing for or in connection with the development, construction, purchase, installation or operation of the Facility, whether that financing or refinancing takes the form of private debt (including back-leverage debt), equity (including tax equity), public debt or any other form (including financing or refinancing provided to a member or other direct or indirect owner of Seller), including any equity or tax equity investor directly or indirectly providing financing or refinancing for the Facility or purchasing equity ownership interests of Seller and/or its Affiliates, and any trustee or agent or similar representative acting on their behalf, (b) providing interest rate

or commodity protection under an agreement hedging or otherwise mitigating the cost of any of the foregoing obligations and/or (c) participating in a lease financing (including a sale leaseback or leveraged leasing structure) with respect to the Facility.

"**Letter(s) of Credit**" means one or more irrevocable, standby letters of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a Credit Rating of at least A- with an outlook designation of "stable" from S&P or A3 with an outlook designation of "stable" from Moody's, in a form substantially similar to the letter of credit set forth in Exhibit K.

"**Licensed Professional Engineer**" means an independent, professional engineer selected by Seller and reasonably acceptable to Buyer, licensed in the State of California.

"**Local Capacity Area Resource**" has the meaning set forth in the CAISO Tariff.

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

"**Locational Marginal Price**" or "**LMP**" has the meaning set forth in the CAISO Tariff.

"**Losses**" means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining economic loss to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., SP-15), all of which should be calculated for the remaining Contract Term and must include the value of Green Attributes, Capacity Attributes, and Renewable Energy Incentives.

"**Lost Output**" has the meaning set forth in Section 4.7.

"**Low Operating Limit**" or "**LOL**" means a real-time calculated number representing the instantaneous maximum power level at which the Storage Facility can charge Energy to the Storage Facility, as communicated via the EMS.

"**Material Permits**" means all permits required for Seller to commence construction, as set forth on Exhibit V.

"**Max Hourly Capacity Value**" means, for any Showing Month, the highest hourly quantity of Resource Adequacy Benefits which the Generating Facility is available to provide in such Showing Month.

"**Milestones**" means the significant permitting, interconnection, financing and construction milestones set forth on the Cover Sheet.

"**Monthly Capacity Payment**" means the payment required to be made by Buyer to Seller each month commencing on CAISO Commercial Operation and throughout the Delivery Term as compensation for the Product, as calculated in accordance with Exhibit C.

"**Monthly Forecast**" has the meaning set forth in Section 4.3(b).

"**Moody's**" means Moody's Investors Service, Inc., or its successor.

"**MW**" means megawatts in alternating current, unless expressly stated in terms of direct current.

"**MWh**" means megawatt-hour measured in alternating current, unless expressly stated in terms of direct current.

"**Negative LMP**" means, in any Settlement Period or Settlement Interval, the LMP at the Facility's PNode is less than zero dollars ($0).

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

"**Net Qualifying Capacity**" or "**NQC**" has the meaning set forth in the CAISO Tariff.

"**Network Upgrades**" has the meaning set forth in the CAISO Tariff.

"**Non-Defaulting Party**" has the meaning set forth in Section 11.2.

"**Notice**" shall, unless otherwise specified in the Agreement, mean written communications by a Party to be delivered by hand delivery, United States mail, overnight courier service, or electronic messaging (e-mail).

"**Operating Restrictions**" means those restrictions, rules, requirements, and procedures set forth in Exhibit Q.

"**Outage Management System**" or "**OMS**" has the meaning set forth in the CAISO Tariff.

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

"**Performance Measurement Period**" means the prior 24-month period measured from the end of each Contract Year commencing in the second Contract Year.

"**Performance Security**" means (a) cash, (b) a Letter of Credit or (c) a parent guaranty from Guarantor in a form reasonably acceptable to Buyer in the amount specified for the Performance Security on the Cover Sheet.

"**Permitted Transferee**" means (i) any Affiliate of Seller or (ii) any entity that satisfies, or is controlled by another Person that satisfies the following requirements:

(a) A tangible net worth of not less than one hundred fifty million dollars ($150,000,000) or a Credit Rating of at least BBB- from S&P, BBB- from Fitch, or Baa3 from Moody's; and

(b) At least two (2) years of experience in the ownership and operations of power generation and energy storage facilities similar to the Facility, or has retained a third-party with such experience to operate the Facility.

"**Person**" means any individual, sole proprietorship, corporation, limited liability company, limited or general partnership, joint venture, association, joint-stock company, trust, incorporated organization, institution, public benefit corporation, unincorporated organization, government entity or other entity.

"**Planned Outage**" means a period during which the Facility is either in whole or in part not capable of providing service due to planned maintenance that has been scheduled in advance in accordance with Section 4.6.

"**PMAX**" means the applicable CAISO-certified maximum operating level of the Storage Facility.

"**PMIN**" means the applicable CAISO-certified minimum operating level of the Storage Facility.

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

"**Portfolio**" means the single portfolio of electrical energy generating, energy storage, or other assets and entities, including the Facility (or the interests of Seller or Seller's Affiliates or the interests of their respective direct or indirect parent companies), that is pledged as collateral security in connection with a Portfolio Financing.

"**Portfolio Content Category**" means PCC1, PCC2 or PCC3, as applicable.

"**Portfolio Content Category 1**" or "**PCC1**" means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(1), as may be amended from time to time or as further defined or supplemented by Law.

"**Portfolio Content Category 2**" or "**PCC2**" means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(2), as may be amended from time to time or as further defined or supplemented by Law.

"**Portfolio Content Category 3**" or "**PCC3**" means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(3), as may be amended from time to time or as further defined or supplemented by Law.

"**Portfolio Financing**" means any debt incurred by an Affiliate of Seller that is secured only by a Portfolio.

"**Portfolio Financing Entity**" means any Affiliate of Seller that incurs debt in connection with any Portfolio Financing.

"**Product**" has the meaning set forth on the Cover Sheet.

"**Production Tax Credits**" or "**PTCs**" means production tax credit under Sections 45 or 45Y of the Internal Revenue Code as in effect from time-to-time throughout the Contract Term or any successor or other provision providing for a federal tax credit determined by reference to storage of energy resources for which Seller, as the owner of the Facility, is eligible.

"**PTC Value**" means the amount, on a dollar per MWh basis, equal to the PTCs that Seller would have earned in respect of energy from the Facility at the time, grossed up on an after-tax basis at the then-highest marginal combined federal and California state corporate tax rate, [redacted]

"**Progress Report**" means a progress report including the items set forth in Exhibit E.

"**Prudent Operating Practice**" means (a) the applicable practices, methods and acts required by or consistent with applicable Laws and reliability criteria, and otherwise engaged in or approved by a significant portion of the electric industry during the relevant time period with respect to grid-interconnected, utility-scale generating facilities with integrated energy storage facilities in the Western United States, and (b) any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Prudent Operating Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to acceptable practices, methods or acts generally accepted in the industry with respect to grid-interconnected, utility-scale generating facilities with integrated energy storage facilities in the Western United States. Prudent Operating Practice shall include compliance with applicable Laws, applicable safety and reliability criteria, and the applicable criteria, rules and standards promulgated in the National Electric Safety Code and the National Electrical Code, as they may be amended or superseded from time to time, including the criteria, rules and standards of any successor organizations.

"**PV Capacity Damages**" has the meaning set forth in Section 5 of Exhibit B.

"**PV Energy**" means all Energy delivered from the Generating Facility to the Delivery Point and measured by the Generating Facility Meter, as such meter readings are adjusted pursuant to the CAISO Tariff for any applicable Electrical Losses; *provided*, Energy generated by the Generating Facility in excess of the Interconnection Capacity Limit shall not be deemed PV Energy.

"**PV RA Shortfall**" means, for a given Showing Month, the difference, expressed in kW, of (a) the Installed PV Capacity *minus* (b) the sum of (i) RA-Qualified PV Capacity *plus* (ii) the amount of solar PV capacity associated with any Replacement RA provided by Seller with respect

to an expected shortfall in Resource Adequacy Benefits of the Generating Facility for such Showing Month, if applicable.

"**Qualifying Capacity**" has the meaning set forth in the CAISO Tariff.

"**RA Compliance Showing**" means the (a) Local RAR compliance or advisory showings (or similar or successor showings), (b) RAR compliance or advisory showings (or similar or successor showings), and (c) Flexible RAR compliance or advisory showings (or similar successor showings), in each case, an entity is required to make to the CAISO pursuant to the CAISO Tariff, to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the Resource Adequacy Rulings, or to any Governmental Authority.

"**RA Deficiency Amount**" means the liquidated damages payment that Seller shall pay to Buyer for an applicable Facility RA Shortfall as calculated in accordance with Section 3.8(b).

"**RA-Qualified PV Capacity**" means, for a given Showing Month, the amount of Installed PV Capacity that Buyer is able to include in the applicable Supply Plan, calculated as the quotient of (a) the Max Hourly Capacity Value *divided by* (b) the Shape Factor for the applicable hour.

"**RA Guarantee Date**" means the Commercial Operation Date.

"**RA Plan**" has the meaning set forth for "Resource Adequacy Plan" in the CAISO Tariff with respect to Buyer's monthly or annual Resource Adequacy showings.

"**RA Shortfall Month**" means, for purposes of calculating an RA Deficiency Amount under Section 3.8(b), any month shown on an RA Plan, commencing with the RA Plan for the Showing Month that includes the RA Guarantee Date (including any month during the period between the RA Guarantee Date and the first day of the first Showing Month for Buyer which actually includes the Facility's Resource Adequacy Benefits or any Replacement RA, if applicable), for which there is a Facility RA Shortfall.

"**Real-Time Forecast**" has the meaning set forth in Section 4.3(d).

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

"**Real-Time Price**" means the Resource-Specific Settlement Interval LMP as defined in the CAISO Tariff. If there is more than one applicable Real-Time Price for the same period of time, Real-Time Price shall mean the price associated with the smallest time interval.

"**Receiving Party**" has the meaning set forth in Section 18.2.

"**Recurring Certificate Transfers**" has the meaning set forth in Section 4.10(a).

"**Reliability Network Upgrades**" has the meaning set forth in the CAISO Tariff.

"**Remedial Action Plan**" has the meaning set forth in Section 2.4.

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

"**Renewable Energy Incentives**" means: (a) all Tax Credits and any other federal, state, or local Tax credits or other Tax benefits associated with the construction, ownership, or production of electricity from the Facility (including credits under Sections 38, 45, 46 and 48 of the Internal Revenue Code of 1986, as amended); (b) any federal, state, or local grants, subsidies or other like benefits relating in any way to the Facility, including a cash grant available under Section 1603 of Division B of the American Recovery and Reinvestment Act of 2009, in lieu of federal Tax credits or any similar or substitute payment available under subsequently enacted federal legislation; and (c) any other form of incentive relating in any way to the Facility that is not a Green Attribute, Future Environmental Attribute, or Capacity Attribute.

"**Renewable Rate**" has the meaning set forth on the Cover Sheet; *provided*, if the officer's certificate provided by Seller pursuant to Section 2.2(k) states that Seller will claim a Tax Credit rate for the Generating Facility that is higher than Seller's assumed Tax Credit rate as set forth on the Cover Sheet, the Renewable Rate shall be reduced by (a) $[redacted]/MWh for each one (1) percentage point that the claimed ITC rate is above 30 percent (30%) or (b) $[redacted]/MWh for each $0.0005/kWh that the PTC rate is above $0.033/kWh.

"**Replacement Energy**" has the meaning set forth in Exhibit G.

"**Replacement Green Attributes**" has the meaning set forth in Exhibit G.

"**Replacement Product**" has the meaning set forth in Exhibit G.

"**Replacement RA**" means resource adequacy benefits equivalent to Resource Adequacy Benefits (including satisfying the same Slice-of-Day, generation profile and related characteristics) that would have been provided by the Generating Facility and/or Storage Facility, as applicable, with respect to the applicable month in which a RA Deficiency Amount is due to Buyer, and located within SP 15 TAC Area and, to the extent that the Facility would have qualified as a Local Capacity Area Resource for such month, described as a Local Capacity Area Resource.

"**Requested Confidential Information**" has the meaning set forth in Section 18.2.

"**Resource Adequacy Benefits**" means the rights and privileges attached to the Facility that satisfy any entity's resource adequacy obligations, as those obligations are set forth in any Resource Adequacy Rulings and shall include Flexible Capacity and any local, zonal or otherwise locational attributes associated with the Facility.

"**Resource Adequacy Requirements**" or "**RAR**" means the resource adequacy requirements applicable to an entity as established by the CAISO pursuant to the CAISO Tariff, by the CPUC pursuant to the Resource Adequacy Rulings, or by any other Governmental Authority.

"**Resource Adequacy Resource**" shall have the meaning used in Resource Adequacy Rulings.

"**Resource Adequacy Rulings**" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-06-063, 16-06-045, 17-06-027, 18-06-030, 18-06-031, 19-02-022, 19-06-026, 19-10-021, 20-01-004, 20-03-016, 20-06-002, 20-06-028, 20-06-031, 20-12-006, 21-06-029, 21-07-014, 22-03-034, 22-06-050, 22-12-028, 22-08-039, 23-04-010 and any other existing or subsequent ruling or decision, or any other resource adequacy laws, rules or regulations enacted, adopted or promulgated by any applicable Governmental Authority, however described, as such decisions, rulings, Laws, rules or regulations may be amended or modified from time-to-time throughout the Contract Term.

"**S&P**" means the Standard & Poor's Financial Services, LLC (a subsidiary of S&P Global Inc.) or its successor.

"**SCADA Systems**" means the standard supervisory control and data acquisition systems to be installed by Seller as part of the Facility, including those system components that enable Seller to receive ADS and AGC instructions from the CAISO or similar instructions from Buyer's SC.

"**Schedule**" has the meaning set forth in the CAISO Tariff, and "**Scheduled**" and "**Scheduling**" have a corollary meaning.

"**Scheduled Energy**" means the PV Energy, Charging Energy or Discharging Energy that clears under the applicable CAISO market based on the final Day-Ahead Schedule, FMM Schedule (as defined in the CAISO Tariff), and/or any other financially binding Schedule, market instruction or dispatch for the Facility for a given period of time implemented in accordance with the CAISO Tariff.

"**Scheduling Coordinator**" or "**SC**" means an entity certified by the CAISO as qualifying as a Scheduling Coordinator pursuant to the CAISO Tariff for the purposes of undertaking the functions specified in "Responsibilities of a Scheduling Coordinator," of the CAISO Tariff, as amended from time to time.

"**Security Interest**" has the meaning set forth in Section 8.9.

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

"**Seller**" has the meaning set forth on the Cover Sheet.

"**Seller Initiated Test**" has the meaning set forth in Section 4.9(c).

"**Seller's WREGIS Account**" has the meaning set forth in Section 4.10(a).

"**Settlement Amount**" means the Non-Defaulting Party's Costs and Losses, on the one hand, netted against its Gains, on the other. If the Non-Defaulting Party's Costs and Losses exceed its Gains, then the Settlement Amount shall be an amount owing to the Non-Defaulting Party. If the Non-Defaulting Party's Gains exceed its Costs and Losses, then the Settlement Amount shall be zero dollars ($0). The Settlement Amount does not include consequential, incidental, punitive, exemplary or indirect or business interruption damages.

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

"**Settlement Period**" has the meaning set forth in the CAISO Tariff.

"**Shape Factor**" means the applicable shape factor (expressed as a decimal) determined by the CPUC for the corresponding hour of a Max Hourly Capacity Value.

"**Shared Facilities**" means the gen-tie lines, transformers, substations, or other equipment, permits, contract rights, and other assets and property (real or personal), in each case, as necessary to enable delivery of Energy from the Facility (which is excluded from Shared Facilities) to the point of interconnection, including the Interconnection Agreement itself, that are used in common with third parties.

"**Showing Month**" shall be the calendar month of the Delivery Term that is the subject of the RA Compliance Showing, as set forth in the Resource Adequacy Rulings and outlined in the CAISO Tariff. For illustrative purposes only, pursuant to the CAISO Tariff and Resource Adequacy Rulings in effect as of the Effective Date, the monthly RA Compliance Showing made in June is for the Showing Month of August.

"**Site**" means the real property on which the Facility is or will be located, as further described in Exhibit A, and as shall be updated by Seller at the time Seller provides an executed Construction Start Date certificate in the form of Exhibit J to Buyer; *provided*, any such update to the Site that includes real property that was not originally contained within the Site boundaries described in Exhibit A (excluding Shared Facilities) shall be subject to Buyer's approval of such updates in its sole discretion.

"**Site Control**" means that, for the Contract Term, Seller (or, prior to the Delivery Term, its Affiliate): (a) owns or has the option to purchase the Site; (b) is the lessee or has the option to lease the Site; or (c) is the holder of an easement or an option for an easement, right-of-way grant, or similar instrument with respect to the Site.

"**SOC**" or "**State of Charge**" means (a) the Stored Energy Level relative to (b) the Effective Storage Capacity multiplied by four (4) hours, expressed as a percentage. The "SOC" shall represent the range of Stored Energy Level reserved exclusively for Buyer's use; *provided*, Seller may represent such range anywhere within the actual available capability of the Facility.

"**SOD**" or "**Slice-of-Day**" has the meaning set forth in the Resource Adequacy Rulings.

"**SP-15**" means the Existing Zone Generation Trading Hub for Existing Zone region SP15 as set forth in the CAISO Tariff.

"**Station Use**" means, in addition to all Auxiliary Use, the Energy (including Energy produced or discharged by the Facility) that is used within the Facility to power the lights, motors, temperature control systems, control systems and other electrical loads that are necessary for operation of the Facility.

"**Storage Capacity Availability Payment True-Up**" has the meaning set forth in Exhibit C.

"**Storage Capacity Availability Payment True-Up Amount**" has the meaning set forth in Exhibit C.

"**Storage Capacity Damages**" has the meaning set forth in Section 5 of Exhibit B.

"**Storage Capacity Test**" means any test or retest of the Storage Facility to establish the Installed Storage Capacity or Effective Storage Capacity, conducted in accordance with the testing procedures, requirements and protocols set forth in Section 4.9 and Exhibit O.

"**Storage Cure Plan**" has the meaning set forth in Section 11.1(b)(iv).

"**Storage Facility**" means the energy storage facility described on the Cover Sheet and in Exhibit A (including the operational requirements of the energy storage facility), located at the Site and including mechanical equipment and associated facilities and equipment required to deliver Storage Product (but excluding any Shared Facilities), and as such storage facility may be expanded or otherwise modified from time to time in accordance with the terms hereof.

"**Storage Facility Meter**" means the CAISO approved bi-directional revenue quality meter or meters (with a 0.3 accuracy class), along with a compatible data processing gateway or remote intelligence gateway, telemetering equipment and data acquisition services sufficient for monitoring, recording and reporting, in real time, the amount of Charging Energy delivered to the Storage Facility and the amount of Discharging Energy discharged from the Storage Facility at the Delivery Point to the Delivery Point for the purpose of invoicing in accordance with Section 8.1. For clarity, the Facility may contain multiple measurement devices that will make up the Storage Facility Meter, and, unless otherwise indicated, references to the Storage Facility Meter shall mean all such measurement devices and the aggregated data of all such measurement devices, taken together.

"**Storage Product**" means (a) Discharging Energy, (b) Capacity Attributes, if any, (c) Effective Storage Capacity, and (d) Ancillary Services, if any, in each case arising from or relating to the Storage Facility.

"**Storage RA Shortfall**" means, for a given Showing Month, the difference, expressed in kW, of (a) the Storage Facility's Qualifying Capacity *minus* (b) the sum of (i) the portion of the Net Qualifying Capacity of the Storage Facility for such month which is able to be shown on Buyer's monthly or annual RA Plan to the CAISO and CPUC *plus* (ii) Replacement RA provided by Seller with respect to an expected shortfall in Resource Adequacy Benefits of the Storage Facility for such Showing Month, if applicable.

"**Storage Rate**" has the meaning set forth on the Cover Sheet; *provided*, (a) if the officer's certificate provided by Seller pursuant to Section 2.2(k) states that the ITC rate for the Storage Facility is higher than Seller's assumed ITC rate as set forth on the Cover Sheet, the Storage Rate shall be reduced by $[redacted] per kW-mo. for each one (1) percentage point that the new ITC rate is above forty percent (40%), and (b) if, as a result of Buyer providing any Charging Notice for Charging Energy to be delivered from the CAISO Grid instead of the Generating Facility, Seller is informed by a Governmental Authority that it is no longer eligible for any portion of the "new construction" exemption for property tax purposes under California Revenue and Taxation Code Section 73 or a similar Law applicable to the Storage Facility, the Storage Rate shall be increased

by [redacted] dollars ($[redacted] per kW-mo for every one percent (1%) reduction in the amount of such property tax exemption for which the Storage Facility qualifies. In no event shall any price increase be applicable to any month of the Delivery Term dating back more than three (3) years prior to the date of Notice from Seller informing Buyer of the loss of the Property Tax Exclusion.

"**Stored Energy Level**" means, at a particular time, the amount of Energy in the Storage Facility available to be discharged to the Delivery Point as Discharging Energy, expressed in MWh.

"**Supplementary Capacity Test Protocol**" has the meaning set forth in Exhibit O.

"**Supply Chain Code**" has the meaning in Exhibit U.

"**System Emergency**" means any condition that requires, as determined and declared by CAISO or the Transmission Provider, automatic or immediate action to (i) prevent or limit harm to or loss of life or property, (ii) prevent loss of transmission facilities or generation supply in the immediate vicinity of the Facility, or (iii) to preserve Transmission System reliability.

"**Tax**" or "**Taxes**" means all U.S. federal, state and local and any foreign taxes, levies, assessments, surcharges, duties and other fees and charges of any nature imposed by a Governmental Authority, whether currently in effect or adopted during the Contract Term, including ad valorem, excise, franchise, gross receipts, import/export, license, property, sales and use, stamp, transfer, payroll, unemployment, income, and any and all items of withholding, deficiency, penalty, additions, interest or assessment related thereto.

"**Tax Credits**" means the PTC, ITC and any other state, local and/or federal production tax credit, depreciation benefit, tax deduction, income tax benefit and/or investment tax credit in each case related to or derived from the ownership, construction or operation of, or investment in, the Facility.

"**Terminated Transaction**" has the meaning set forth in Section 11.2(a).

"**Termination Payment**" has the meaning set forth in Section 11.3(b).

"**Test Energy**" means PV Energy delivered (a) commencing on the later of (i) the first date that the CAISO informs Seller in writing that Seller may deliver Energy to the CAISO and (ii) the first date that the Transmission Provider informs Seller in writing that Seller has conditional or temporary permission to operate in parallel with the CAISO Grid, and (b) ending upon the occurrence of the Commercial Operation Date.

"**Test Energy Rate**" has the meaning set forth in Section 3.6.

"**Total YTD Calculation Intervals**" has the meaning set forth in Exhibit P.

"**Transformer Failure**" means a failure of all or part of the main power transformer that results in the Storage Facility being unable receive Charging Energy or to deliver Discharging Energy during such failure, and such failure was not caused by Seller and could not have been

avoided through the exercise of Prudent Operating Practices, as demonstrated by the delivery from Seller of a certificate from a Licensed Professional Engineer attesting to the foregoing.

"**Transmission Provider**" means any entity that owns, operates and maintains transmission or distribution lines and associated facilities and/or has entitlements to use certain transmission or distribution lines and associated facilities for the purpose of transmitting or transporting the Facility Energy from the Delivery Point.

"**Transmission System**" means the transmission facilities operated by the CAISO, now or hereafter in existence, which provide energy transmission service downstream from the Delivery Point.

"**Transmission System Outage**" means an outage on the Transmission System, other than a System Emergency, that is not caused by Seller's actions or inactions and that prevents Buyer or the CAISO (as applicable) from receiving Facility Energy onto the Transmission System.

"**Ultimate Parent**" means BHE Renewables, LLC, a Delaware limited liability company.

"**Unavailable Calculation Interval**" has the meaning set forth in Exhibit P.

"**Variable Energy Resource**" or "**VER**" has the meaning set forth in the CAISO Tariff.

"**WREGIS**" means the Western Renewable Energy Generation Information System or any successor renewable energy tracking program.

"**WREGIS Certificate Deficit**" has the meaning set forth in Section 4.10(e).

"**WREGIS Certificates**" has the same meaning as "Certificate" as defined by WREGIS in the WREGIS Operating Rules and are designated as eligible for complying with the California Renewables Portfolio Standard.

"**WREGIS Operating Rules**" means those operating rules and requirements adopted by WREGIS as of October 2022, as subsequently amended, supplemented or replaced (in whole or in part) from time to time.

1.2 **Rules of Interpretation**. In this Agreement, except as expressly stated otherwise or unless the context otherwise requires:

(a) headings and the rendering of text in bold and italics are for convenience and reference purposes only and do not affect the meaning or interpretation of this Agreement;

(b) words importing the singular include the plural and vice versa and the masculine, feminine and neuter genders include all genders;

(c) the words "hereof", "herein", and "hereunder" and words of similar import shall refer to this Agreement as a whole and not to any particular provision of this Agreement;

(d) a reference to an Article, Section, paragraph, clause, Party, or Exhibit is a reference to that Article, Section, paragraph, clause of, or that Party or Exhibit to, this Agreement unless otherwise specified;

(e) a reference to a document or agreement, including this Agreement shall mean such document, agreement or this Agreement including any amendment or supplement to, or replacement, novation or modification of this Agreement, but disregarding any amendment, supplement, replacement, novation or modification made in breach of such document, agreement or this Agreement;

(f) a reference to a Person includes that Person's successors and permitted assigns;

(g) the terms "include" and "including" mean "include or including (as applicable) without limitation" and any list of examples following such term shall in no way restrict or limit the generality of the word or provision in respect of which such examples are provided;

(h) references to any statute, code or statutory provision are to be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or reenacted, and include references to all bylaws, instruments, orders and regulations for the time being made thereunder or deriving validity therefrom unless the context otherwise requires;

(i) in the event of a conflict, a mathematical formula or other precise description of a concept or a term shall prevail over words providing a more general description of a concept or a term;

(j) references to any amount of money shall mean a reference to the amount in United States Dollars;

(k) the expression "and/or" when used as a conjunction shall connote "any or all of";

(l) words, phrases or expressions not otherwise defined herein that (i) have a generally accepted meaning in Prudent Operating Practice shall have such meaning in this Agreement or (ii) do not have well known and generally accepted meaning in Prudent Operating Practice but that have well known and generally accepted technical or trade meanings, shall have such recognized meanings; and

(m) each Party acknowledges that it was represented by counsel in connection with this Agreement and that it or its counsel reviewed this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

ARTICLE 2
TERM; CONDITIONS PRECEDENT

2.1 **Contract Term**.

(a) The term of this Agreement shall commence on the Effective Date and shall remain in full force and effect until the conclusion of the Delivery Term, subject to any early termination provisions set forth herein ("**Contract Term**"); *provided*, subject to Buyer's obligations in Section 3.6, Buyer's obligations to pay for or accept any Product are subject to Seller's completion of the conditions precedent pursuant to Section 2.2.

(b) Applicable provisions of this Agreement shall continue in effect after termination, including early termination, to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to termination. The confidentiality obligations of the Parties under Article 18 shall remain in full force and effect for two (2) years following the termination of this Agreement, and all indemnity and audit rights shall remain in full force and effect for one (1) year following the termination of this Agreement.

2.2 **Conditions Precedent**.

The Delivery Term shall not commence until Seller completes to Buyer's reasonable satisfaction each of the following conditions, which Buyer shall, if submitted by Seller within five (5) Business Days of the expected Commercial Operation Date, review and either accept or provide Notice stating in reasonably detail the basis for Buyer's rejection thereof within five (5) Business Days of receipt thereof:

(a) Seller shall have delivered to Buyer (i) a completion certificate from a Licensed Professional Engineer substantially in the form of Exhibit H and (ii) a certificate from a Licensed Professional Engineer substantially in the form of Exhibit I-1 setting forth the Installed PV Capacity, the Installed Storage Capacity and the Installed Capacity on the Commercial Operation Date;

(b) A Participating Generator Agreement and a Meter Service Agreement between Seller and CAISO shall have been executed and delivered and be in full force and effect, and a copy of each such agreement delivered to Buyer;

(c) An Interconnection Agreement between Seller and the Transmission Provider shall have been executed and delivered and be in full force and effect and a copy of the Interconnection Agreement delivered to Buyer;

(d) All applicable regulatory authorizations, approvals and permits for the operation of the Facility have been obtained and all conditions thereof that are capable of being satisfied on the Commercial Operation Date have been satisfied and shall be in full force and effect;

(e) Seller has obtained CAISO Certification for the Facility;

(f) Seller has received CEC Precertification of the Facility (and reasonably expects to receive final CEC Certification and Verification for the Facility in no more than one hundred eighty (180) days from the Commercial Operation Date);

(g) Seller (with the reasonable participation of Buyer) shall have completed all applicable WREGIS registration requirements, including the completion and submittal of all

applicable registration forms and supporting documentation, which may include applicable interconnection agreements, informational surveys related to the Facility, QRE service agreements, and other appropriate documentation required to effect Facility registration with WREGIS and to enable Renewable Energy Credit transfers related to the Facility within the WREGIS system;

(h) The Facility is providing Resource Adequacy Benefits to Buyer for the month in which Delivery Term commences;

(i) Seller has delivered the Performance Security to Buyer in accordance with Section 8.8;

(j) Seller has taken all actions and executed all documents and instruments, required of Seller to authorize Buyer (or its designated agent) to act as Scheduling Coordinator under this Agreement and to fully enable the Facility to be Scheduled by Buyer, and Buyer (or its designated agent) is authorized to act as Scheduling Coordinator;

(k) Seller has delivered to Buyer an officer's certificate stating (i) that Seller has not utilized any equipment or resources in connection with the construction, commissioning or testing of the Facility in violation of Section 2.3(b), (ii) whether there has been a change in applicable Laws as set forth in subsection (b) of the definition of "Storage Rate", and (iii) the Tax Credit and applicable rate which Seller claims will apply for the Generating Facility, the Storage Facility and/or the Facility Energy;

(l) Seller shall have delivered to Buyer an engineering assessment from a Licensed Professional Engineer, using standard practices in renewable energy and energy storage project financing (for example, taking into account battery charging restrictions, round trip losses, and with the probabilistic assessment considering standard sources of uncertainty including interannual resource variability), demonstrating the Facility Energy, in MWh, that the Facility has a fifty percent (50%) probability ("P50") of delivering during each hour of Contract Year 1 for every one (1) MW of NQC of the Facility, subject to the Facility being Scheduled appropriately (the "**Facility Engineering Assessment**"); and

(m) Seller has paid Buyer for all amounts owing under this Agreement, if any, including Delay Damages.

2.3 **Development; Construction; Progress Reports**.

(a) Within fifteen (15) days after the close of (i) each calendar quarter from the first calendar quarter following the Effective Date until the Construction Start Date, and (ii) each calendar month from the first calendar month following the Construction Start Date until the Commercial Operation Date, Seller shall provide to Buyer a Progress Report and agree to regularly scheduled meetings between representatives of Buyer and Seller to review such reports and discuss Seller's construction progress. The form of the Progress Report is set forth in Exhibit E. Seller shall also provide Buyer with any reasonably requested documentation (subject to confidentiality restrictions) directly related to the achievement of Milestones within ten (10) Business Days of receipt of such request by Seller. Seller is solely responsible for the design and construction of the Facility, including the location of the Site, the Facility layout, and the selection and procurement

of the equipment comprising the Facility. Seller shall provide to Buyer a Facility Engineering Assessment upon the earlier of (i) the Commercial Operation Date or (ii) sixty (60) days following a written requested from Buyer.

(b) Seller shall use commercially reasonable efforts to cause all materials, products and components used in constructing, installing and operating the Facility throughout the Term shall be in compliance with the Supply Chain Code. Seller shall comprehensively implement due diligence procedures for its and its Affiliate's suppliers, subcontractors and other participants in its supply chains, to comply with the Supply Chain Code. Seller shall notify Buyer as soon as it becomes aware of any breach, or potential breach, of its obligations under this Section 2.3(b). Notwithstanding the foregoing, Buyer acknowledges that construction of the Facility commenced, and Seller had entered into its construction contracts, prior to execution of this Agreement, and therefore, it shall not be a breach of this Section 2.3(b) to the extent Seller does not comply with the Supply Chain Code due to Seller's agreements with respect to the Facility executed prior to this Agreement that do not comply with the Supply Chain Code provided such pre-existing agreements shall comply clause (d).

(c) Buyer shall have the right, at Buyer's sole expense, to retain an independent auditor to audit Seller's compliance with the requirements of Section 2.3(b).

(d) With respect to each of the contracts for the Facility entered into by Seller prior to the Effective Date of this Agreement, including the engineering, procurement and construction contract and the battery supply contract, Seller represents and warrants that each such contract (i) complies with the Seller's supply chain requirements, and (ii) requires the counterparty to (A) comply with all applicable laws, (B) conduct its business consistent with ethical business practices, and (C) utilize vendors approved by Seller.

2.4 **Remedial Action Plan**. If Seller misses a Milestone by more than thirty (30) days, except as the result of Force Majeure Event or Buyer Default, Seller shall submit to Buyer, within ten (10) Business Days after the end of such thirty (30)-day period following the Milestone completion date, a remedial action plan ("**Remedial Action Plan**"), which will describe in detail any delays (actual or anticipated) beyond the scheduled Milestone dates, including the cause of the delay (e.g., governmental approvals, financing, property acquisition, design activities, equipment procurement, project construction, interconnection, or any other factor), Seller's detailed description of its proposed course of action to achieve the missed Milestones and all subsequent Milestones by the Guaranteed Commercial Operation Date; *provided*, delivery of any Remedial Action Plan shall not relieve Seller of its obligation to provide Remedial Action Plans with respect to any subsequent Milestones and to achieve the Guaranteed Commercial Operation Date in accordance with the terms of this Agreement. Subject to the provisions of Exhibit B, so long as Seller complies with its obligations under this Section 2.4, Seller shall not be considered in default of its obligations under this Agreement solely as a result of missing any Milestone.

2.5 **Pre-Commercial Operations Actions**. The Parties agree that, in order for Buyer to dispatch the Storage Facility for its Commercial Operation Date, the Parties will have to perform certain of their Delivery Term obligations in advance of the Commercial Operation Date, including, without limitation, Seller's delivery of an Availability Notice for the Commercial Operation Date, and delivery of a Dispatch Notice and nominating and scheduling the Storage

Facility for the Commercial Operation Date, in advance of the Commercial Operation Date. The Parties shall cooperate with each other in order for Buyer to be able to dispatch the Storage Facility for the Commercial Operation Date. Seller shall give Buyer at least forty-five (45) days' Notice before the Commercial Operation Date.

ARTICLE 3
PURCHASE AND SALE

3.1 **Purchase and Sale of Product**. Subject to the terms and conditions of this Agreement, during the Delivery Term, Buyer shall purchase all the Product produced by or associated with the Facility at the Contract Price and in accordance with Exhibit C, and Seller shall supply and deliver to Buyer all the Product produced by or associated with the Facility. At its sole discretion, Buyer may during the Delivery Term re-sell or use for another purpose all or a portion of the Product; *provided*, no such re-sale or use shall relieve Buyer of any obligations hereunder; *provided further*, Seller shall only be liable to Buyer for the damages set forth in this Agreement if Seller fails to provide any of the Product that is resold by Buyer. During the Delivery Term, Buyer shall have exclusive rights to offer, bid, or otherwise submit the Product, and/or any component thereof, from the Facility after the Delivery Point for resale in the market, and retain and receive any and all related revenues.

3.2 **Sale of Green Attributes**. During the Delivery Term, Seller shall sell and deliver to Buyer, and Buyer shall purchase from Seller, all Green Attributes attributable to the PV Energy generated by the Facility. Upon request of Buyer, Seller shall use commercially reasonable efforts to (a) submit, and receive approval from the Center for Resource Solutions (or any successor that administers the Green-e Certification process), for the Green-e tracking attestations and (b) support Buyer's efforts to qualify the Green Attributes transferred by Seller as Green-e Certified.

3.3 **Imbalance Energy**. Buyer and Seller recognize that in any given Settlement Period the amount of PV Energy, Charging Energy, and/or Discharging Energy delivered from the Generating Facility and/or received or delivered by the Storage Facility may deviate from the amounts thereof scheduled with the CAISO. Following CAISO Commercial Operation, to the extent there are such deviations, any costs, liabilities or revenues from such imbalances shall be solely for the account of Buyer, except as expressly set forth in this Agreement.

3.4 **Ownership of Renewable Energy Incentives**. Seller shall have all right, title and interest in and to all Renewable Energy Incentives. Buyer acknowledges that any Renewable Energy Incentives belong to Seller. If any Renewable Energy Incentives, or values representing the same, are initially credited or paid to Buyer, Buyer shall cause such Renewable Energy Incentives or values relating to same to be assigned or transferred to Seller without delay. Buyer shall reasonably cooperate with Seller, at Seller's sole expense, in Seller's efforts to meet the requirements for any certification, registration, or reporting program relating to Renewable Energy Incentives.

3.5 **Future Environmental Attributes**.

(a) The Parties acknowledge and agree that as of the Effective Date, environmental attributes sold under this Agreement are restricted to Green Attributes; however,

Future Environmental Attributes may be created by a Governmental Authority through Laws enacted after the Effective Date. Subject to the final sentence of this Section 3.5(a) and to Section 3.5(b), in such event, Buyer shall bear all costs associated with the transfer, qualification, verification, registration and ongoing compliance for such Future Environmental Attributes, but there shall be no increase in the Contract Price. Upon Seller's receipt of Notice from Buyer of Buyer's intent to claim such Future Environmental Attributes, the Parties shall determine the necessary actions and additional costs associated with such Future Environmental Attributes. Seller shall have no obligation to alter the Facility or the operation of the Facility unless the Parties have agreed on all necessary terms and conditions relating to such alteration or change in operation and Buyer has agreed to reimburse Seller for all costs, losses, and liabilities associated with such alteration or change in operation.

(b) If Buyer elects to receive Future Environmental Attributes pursuant to Section 3.5(a), the Parties agree to negotiate in good faith with respect to the development of further agreements and documentation necessary to effectuate the transfer of such Future Environmental Attributes, including agreement with respect to (i) appropriate transfer, delivery and risk of loss mechanisms, and (ii) appropriate allocation of any additional costs to Buyer, as set forth above; *provided*, the Parties acknowledge and agree that such terms are not intended to alter the other material terms of this Agreement.

3.6 **Test Energy**. No less than fourteen (14) days prior to the first day on which Test Energy is expected to be available from the Facility, Seller shall notify Buyer of the availability of the Test Energy. If and to the extent the Facility generates Test Energy, Seller shall sell and Buyer shall purchase from Seller all Test Energy and any associated Products of the Generating Facility on an as-available basis for up to [redacted] days from the first delivery of Test Energy. As compensation for such Test Energy and associated Product, Buyer shall pay Seller an amount equal to (a) [redacted] of the Renewable Rate for any Showing Month in which the Generating Facility is not providing Resource Adequacy Benefits for such Showing Month, or (b) [redacted] of the Renewable Rate for any Showing Month in which the Generating Facility is providing Resource Adequacy Benefits for such Showing Month, and thereafter [redacted] per MWh (the "**Test Energy Rate**"). The conditions precedent in Section 2.2 are not applicable to the Parties' obligations under this Section 3.6.

3.7 **Capacity Attributes**. Seller shall diligently pursue Full Capacity Deliverability Status for the Guaranteed Capacity (not to exceed the Interconnection Capacity Limit) in the CAISO generator interconnection process. As between Buyer and Seller, Seller shall be responsible for the cost and installation of any Network Upgrades associated with obtaining such Full Capacity Deliverability Status.

(a) Throughout the Delivery Term and subject to Section 3.12, Seller grants, pledges, assigns and otherwise commits to Buyer all the Capacity Attributes from the Facility.

(b) Throughout the Delivery Term and subject to Section 3.12, Seller shall use commercially reasonable efforts to maintain eligibility for Full Capacity Deliverability Status or Interim Deliverability Status for the Facility from the CAISO and shall perform all actions necessary to ensure that the Facility qualifies to provide all Resource Adequacy Benefits, including

Flexible Capacity, to Buyer. Throughout the Delivery Term, and subject to Section 3.12, Seller hereby covenants and agrees to transfer all Resource Adequacy Benefits to Buyer.

(c) For the duration of the Delivery Term, and subject to Section 3.12, Seller shall take all commercially reasonable actions, including complying with all applicable registration and reporting requirements, and execute all documents or instruments necessary to enable Buyer to use all of the Capacity Attributes committed by Seller to Buyer pursuant to this Agreement.

(d) If Seller anticipates that it will have any RA Deficiency Amounts in a Showing Month, Seller may provide Replacement RA in the amount of the expected Facility RA Shortfall with respect to such Showing Month, provided that (a) the amount of Replacement RA in any Contract Year shall not to exceed twenty-five percent (25%) of the annual total amount of Resource Adequacy Benefits expected to be provided by the Generating Facility or Storage Facility, as applicable, and (b) any intended Replacement RA is communicated by Seller to Buyer in a Notice substantially in the form of Exhibit M at least fifty (50) Business Days before the applicable Showing Month for the purpose of including in Buyer's RA Compliance Showing for such Showing Month.

3.8 **Resource Adequacy Failure**.

(a) RA Deficiency Determination. For each RA Shortfall Month Seller shall pay to Buyer the RA Deficiency Amount as liquidated damages, as set forth in Section 3.8(b), as the sole remedy for the Capacity Attributes that Seller failed to convey to Buyer.

(b) RA Deficiency Amount Calculation. The "**RA Deficiency Amount**" shall equal the sum of:

(i) For any portion of the Facility RA Shortfall for which Buyer incurs a CPUC System RA Penalty ("**CPUC-Penalized Shortfall**"), Seller's pro rata share of the amount of such CPUC System RA Penalty for such month actually incurred by Buyer (which shall be zero (0) if Buyer does not incur any CPUC System RA Penalty), plus,

(ii) For any portion of the Facility RA Shortfall for which Buyer incurs CAISO costs, charges or penalties associated with such shortfall ("**CAISO-Penalized Shortfall**") Seller's pro rata share of the amount of such CAISO costs, charges or penalties associated with the Facility RA Shortfall for such month actually incurred by Buyer (which shall be zero (0) if Buyer does not incur any CAISO costs, charges or penalties associated with the Facility RA Shortfall), plus

(iii) For any portion of the Facility RA Shortfall which is not CPUC-Penalized Shortfall and/or CAISO-Penalized Shortfall, and for which Buyer purchased replacement Resource Adequacy Benefits, the amount of Buyer's cost of such replacement Resource Adequacy Benefits, plus

(iv) For any portion of the Facility RA Shortfall which is not CPUC-Penalized Shortfall and/or CAISO-Penalized Shortfall, and for which Buyer did not purchase replacement Resource Adequacy Benefits, the prevailing market value of such Facility RA Shortfall, as reasonably determined by Buyer.

3.9 **CEC Certification and Verification**. Subject to Section 3.12 and in accordance with the timing set forth in this Section 3.9, Seller shall take all necessary steps including, but not limited to, making or supporting timely filings with the CEC to obtain and maintain CEC Certification and Verification for the Facility throughout the Delivery Term, including compliance with all applicable requirements for certified facilities set forth in the current version of the *RPS Eligibility Guidebook* (or its successor). Seller shall obtain CEC Precertification by the Commercial Operation Date. Within thirty (30) days after the Commercial Operation Date, Seller shall apply with the CEC for final CEC Certification and Verification. Within one hundred eighty (180) days after the Commercial Operation Date, Seller shall obtain and maintain throughout the remainder of the Delivery Term the final CEC Certification and Verification. Seller must promptly notify Buyer and the CEC of any changes to the information included in Seller's application for CEC Certification and Verification for the Facility.

3.10 **Eligibility**. 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. [STC 6]

3.11 **California Renewables Portfolio Standard**. Subject to Section 3.12, Seller shall also take all other actions necessary to ensure that the PV Energy produced from the Generating Facility is tracked for purposes of satisfying the California Renewables Portfolio Standard requirements, as may be amended or supplemented by the CPUC or CEC from time to time.

3.12 **Compliance Expenditure Cap**. If a change in Law occurring after the Effective Date has increased Seller's cost to comply with Seller's obligations under this Agreement that are made subject to this Section 3.12, including with respect to obtaining, maintaining, conveying or effectuating Buyer's use of Green Attributes and Capacity Attributes (as applicable), then the Parties agree that the maximum aggregate amount of costs and expenses Seller shall be required to bear during the Delivery Term to comply with all of such obligations shall be capped at Twenty-Five Thousand Dollars ($25,000) per MW of Guaranteed Capacity (not to exceed the Interconnection Capacity Limit) ("**Compliance Expenditure Cap**").

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

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

(c) Buyer will have sixty (60) days to evaluate such Notice (during which time period Seller is not obligated to take any Compliance Actions described in the Notice) and shall, within such time, either (1) agree to reimburse Seller for all or some portion of the costs that exceed

the Compliance Expenditure Cap (such Buyer-agreed upon costs, the "**Accepted Compliance Costs**"), or (2) waive Seller's obligation to take such Compliance Actions, or any part thereof for which Buyer has not agreed to reimburse Seller. If Buyer does not respond to a Notice given by Seller under this Section 3.12 within sixty (60) days after Buyer's receipt of same, Buyer shall be deemed to have waived its rights to require Seller to take the Compliance Actions that are the subject of the Notice, and Seller shall have no further obligation to take, and no liability for any failure to take, such Compliance Actions until such time as Buyer agrees to pay such Accepted Compliance Costs.

(d) If Buyer agrees to reimburse Seller for the Accepted Compliance Costs, then Seller shall take such Compliance Actions covered by the Accepted Compliance Costs as agreed upon by the Parties and Buyer shall reimburse Seller for Seller's actual costs to effect the Compliance Actions, not to exceed the Accepted Compliance Costs, within sixty (60) days from the time that Buyer receives an invoice and documentation of such costs from Seller.

3.13 **Project Configuration**. In order to optimize the benefits of the Facility, Buyer and Seller each agree that if requested by the other Party, then Buyer and Seller shall discuss in good faith potential reconfiguration of the Facility or Interconnection Facilities; *provided*, neither Party shall be obligated to agree to any changes under this Agreement, or to incur any expense in connection with such changes, except under terms mutually acceptable to both Parties as set forth in a written agreement.

ARTICLE 4
OBLIGATIONS AND DELIVERIES

4.1 **Delivery**.

(a) Energy. Subject to the provisions of this Agreement, commencing on the Commercial Operation Date through the end of the Contract Term, Seller shall supply and deliver the Product to Buyer at the Delivery Point (except for PV Energy used as Charging Energy), and Buyer shall take delivery of the Product at the Delivery Point (except for PV Energy used as Charging Energy) in accordance with the terms of this Agreement. Seller shall be responsible for paying or satisfying when due any costs or charges imposed in connection with the delivery of Facility Energy to the Delivery Point, including any operation and maintenance charges imposed by the Transmission Provider directly relating to the Facility's operations. Except as otherwise set forth in this Agreement, Buyer shall be responsible for all costs, charges and penalties, if any, imposed in connection with: (a) the delivery of Charging Energy to the Delivery Point (including the cost of the Charging Energy itself) and (b) the acceptance and transmission of Facility Energy at and after the Delivery Point, including without limitation transmission costs and transmission line losses and imbalance charges. The PV Energy, Charging Energy and Discharging Energy will be scheduled with the CAISO by Buyer (or Buyer's designated Scheduling Coordinator) in accordance with Exhibit D.

(b) Green Attributes. All Green Attributes associated with Test Energy and the PV Energy during the Delivery Term are exclusively dedicated to and vested in Buyer. Seller represents and warrants that Seller holds the rights to all Green Attributes from the Facility, and

Seller agrees to convey and hereby conveys all such Green Attributes to Buyer as included in the delivery of the Product from the Facility.

(c) Energy Products. If, at any time during the Contract Term, Buyer requests Seller to provide any new or different Energy-related products or Ancillary Services that may become recognized from time to time in the CAISO market and that are not expressly listed in Exhibit Q (including, for example, reactive power), and Seller is able to provide any such product from the Facility without material adverse effect (including any obligation to incur more than *de minimis* costs or liabilities) on Seller or the Facility or Seller's obligations or liabilities under this Agreement, then Seller shall use commercially reasonable efforts to coordinate with Buyer to provide such product. If provision of any such new product would have a material adverse effect (including any obligation to incur more than *de minimis* costs or liabilities) on Seller or the Facility or Seller's obligations or liabilities under this Agreement, then Seller shall be obligated to provide such product only if the Parties first execute an amendment to this Agreement with respect to such product that is mutually acceptable to both Parties.

4.2 **Title and Risk of Loss**.

(a) Energy. Title to and risk of loss related to the Facility Energy, shall pass and transfer from Seller to Buyer at the Delivery Point. Seller warrants that all Product delivered to Buyer is free and clear of all liens, security interests, claims and encumbrances of any kind.

(b) Green Attributes. Title to and risk of loss related to the Green Attributes shall pass and transfer from Seller to Buyer upon the transfer of such Green Attributes in accordance with WREGIS.

4.3 **Forecasting**. Seller shall provide the forecasts described below. Seller shall use commercially reasonable efforts to forecast accurately and to transmit such information in a format reasonably acceptable to Buyer (or Buyer's designee).

(a) Annual Forecast of Energy. No less than forty-five (45) days before (i) the first day of the first Contract Year of the Delivery Term and (ii) the beginning of each calendar year for every subsequent Contract Year during the Delivery Term, Seller shall provide to Buyer and the SC (if applicable) a non-binding forecast of each month's average-day expected PV Energy, by hour, for the following calendar year in a form substantially similar to the table found in Exhibit F-1, or as reasonably requested by Buyer.

(b) Monthly Forecast of PV Energy and Available Capacity. No less than thirty (30) days before the beginning of Commercial Operation, and thereafter ten (10) Business Days before the beginning of each month during the Delivery Term, Seller shall provide to Buyer and the SC (if applicable) a non-binding forecast of the hourly expected (i) available capacity of the Generating Facility, (ii) PV Energy, (iii) Available Effective Storage Capacity, and (iv) Available Storage Capability (items (i)-(iv) collectively referred to as the "**Forecasted Product**"), for each day of the following month in a form substantially similar to Exhibits F-1, F-2, F-3 and F-4, as applicable ("**Monthly Forecast**").

(c) Day-Ahead Forecast. By 5:30 AM Pacific Prevailing Time on the Business Day immediately preceding the date of delivery, or as otherwise specified by Buyer consistent

with Prudent Operating Practice, Seller shall provide Buyer with a non-binding forecast of the hourly expected Forecasted Product, in each case, for each hour of the immediately succeeding day ("**Day-Ahead Forecast**"). A Day-Ahead Forecast provided in a day prior to any non-Business Day(s) shall include non-binding forecasts for the immediate day, each succeeding non-Business Day, and the next Business Day. Each Day-Ahead Forecast shall clearly identify, for each hour, Seller's best estimate of the hourly expected Forecasted Product. Such Day-Ahead Forecasts shall be sent to Buyer's on-duty Scheduling Coordinator. If Seller fails to provide Buyer with a Day-Ahead Forecast as required herein for any period, then for such unscheduled delivery period only, Buyer shall rely on any Real-Time Forecast or the Monthly Forecast or Buyer's best estimate based on information reasonably available to Buyer.

(d) Real-Time Forecasts. During the Delivery Term, Seller shall notify Buyer of any changes from the Day-Ahead Forecast of three (3) MW / three (3) MWh or more in the hourly expected Forecasted Product ("**Real-Time Forecast**"), in each case, whether due to a Forced Facility Outage, Force Majeure Event or other cause, as soon as reasonably possible, but no later than one (1) hour prior to the deadline for submitting schedules to the CAISO in accordance with the rules for participation in the Real-Time Market. If the Forecasted Product changes by at least three (3) MW as of a time that is less than one (1) hour prior to the Real-Time Market deadline, but before such deadline, then Seller must notify Buyer as soon as reasonably possible. Such Real-Time Forecasts of PV Energy shall be provided by an Approved Forecast Vendor and shall contain information regarding the beginning date and time of the event resulting in the change in any Forecasted Product, as applicable, the expected end date and time of such event, and any other information required by the CAISO or reasonably requested by Buyer. With respect to any Forced Facility Outage, Seller shall use commercially reasonable efforts to notify Buyer of such outage within ten (10) minutes of the commencement of the Forced Facility Outage. Seller shall inform Buyer of any developments that are reasonably likely to affect either the duration of such outage or the availability of the Facility during or after the end of such outage. Such Real-Time Forecasts shall be communicated in a method acceptable to Buyer, provided that Buyer specifies the method no later than sixty (60) days prior to the effective date of such requirement. In the event Buyer fails to provide Notice of an acceptable method for communications under this Section 4.3(d), then Seller shall send such communications by telephone and e-mail to Buyer.

(e) Forced Facility Outages. Notwithstanding anything to the contrary herein, Seller shall promptly notify Buyer's on-duty Scheduling Coordinator of Forced Facility Outages and Seller shall keep Buyer informed of any developments that will affect either the duration of the outage or the availability of the Facility during or after the end of the outage.

(f) Forecasting Penalties. In the event Seller does not in a given hour provide the forecast required in Section 4.3(d) and Buyer incurs a loss or penalty resulting from its scheduling activities with respect to Facility Energy during such hour, Seller shall be responsible for a "**Forecasting Penalty**" for each such hour equal to the product of (A) the absolute difference (if any) between (i) the expected PV Energy for such hour (which assumes no Charging Energy or Discharging Energy in such hour) set forth in the Monthly Forecast, and (ii) the actual PV Energy (absent any Charging Energy and Discharging Energy), multiplied by (B) the absolute value of the Real-Time Price in such hour. Settlement of Forecasting Penalties shall occur as set forth in Article 8 of this Agreement.

(g) CAISO Tariff Requirements. Seller shall comply with all applicable obligations for Variable Energy Resources under the CAISO Tariff and the Eligible Intermittent Resource Protocol, including providing appropriate operational data and meteorological data, and will fully cooperate with Buyer, Buyer's SC, and CAISO, in providing all data, information, and authorizations required thereunder.

4.4 **Dispatch Down/Curtailment**.

(a) General. Seller agrees to reduce the amount of PV Energy and/or Discharging Energy produced by the Facility, by the amount and for the period set forth in any Curtailment Order, Buyer Curtailment Order, or notice received from CAISO in respect of a Buyer Bid Curtailment; *provided*, Seller is not required to reduce such amount to the extent it is inconsistent with the limitations of the Facility set out in the Operating Restrictions.

(b) Buyer Curtailment. Buyer shall have the right to order Seller to curtail deliveries of PV Energy through Buyer Curtailment Orders; *provided*, Buyer shall pay Seller for all Deemed Delivered Energy associated with a Buyer Curtailment Period at the DDE Rate.

(c) Failure to Comply. If Seller fails to comply with a Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order other than as provided for in Section 4.4(a), then, for each MWh of PV Energy that is delivered by the Generating Facility to the Delivery Point that is in excess of the Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order, 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 excess MWh, (B) is the sum, for all Settlement Intervals with a Negative LMP during the Buyer Curtailment Period or Curtailment Period, of the absolute value of the product of such excess MWh in each Settlement Interval and the Negative LMP for such Settlement Interval, and (C) is any penalties assessed by the CAISO or other charges assessed by the CAISO resulting from Seller's failure to comply with the Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order.

(d) Seller Equipment Required for Operating Instruction Communications. Seller shall acquire, install, and maintain such facilities, communications links and other equipment, and implement such protocols and practices, as necessary to respond to and follow operating instructions from the CAISO and Buyer's SC, including an electronic signal conveying real time and intra-day instructions, to operate the Facility as directed by Buyer from time to time in accordance with this Agreement and/or a Governmental Authority, including to implement a Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order in accordance with the methodologies applicable to the Facility and used to transmit such instructions. If at any time during the Delivery Term, Seller's facilities, communications links or other equipment, protocols or practices are not in compliance with methodologies applicable to the Facility and directed by Buyer, Seller shall take the steps necessary to become compliant as soon as commercially reasonably possible. Seller shall be liable pursuant to Section 4.4(c) for failure to comply with a Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order, during the time that Seller's facilities, communications links or other equipment, protocols or practices are not in compliance with applicable methodologies. A Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order communication via such systems and facilities shall have the same force and effect on Seller as any other form of communication.

4.5 **Energy Management**.

(a) Charging Generally. Upon receipt of a valid Charging Notice, Seller shall take any and all action necessary to deliver the Charging Energy to the Storage Facility in order to deliver the Storage Product in accordance with the terms of this Agreement, including maintenance, repair or replacement of equipment in Seller's possession or control used to deliver the Charging Energy from the Generating Facility to the Storage Facility. Except as otherwise expressly set forth in this Agreement, including Section 4.5(c), Section 4.5(i), and Section 4.9(d)(i), Buyer shall be responsible for paying all CAISO costs and charges associated with Charging Energy.

(b) Charging Notices. Buyer will have the right to charge the Storage Facility seven (7) days per week and twenty-four (24) hours per day (including holidays), by causing Charging Notices to be issued, subject to the requirements and limitations set forth in this Agreement, including the Operating Restrictions. Each Charging Notice issued in accordance with this Agreement will be effective unless and until Buyer's SC or the CAISO modifies such Charging Notice by providing Seller with an updated Charging Notice.

(c) No Unauthorized Charging. Seller shall not charge the Storage Facility during the Delivery Term other than in accordance with a valid Charging Notice (it being understood that Seller may adjust a Charging Notice to the extent necessary to maintain compliance with the Operating Restrictions), or in connection with a Seller Initiated Test (including Facility maintenance or a Storage Capacity Test), or pursuant to a notice from the Transmission Provider or Governmental Authority.

(d) No Unauthorized Discharging. Seller shall not discharge the Storage Facility during the Delivery Term other than in accordance with a valid Discharging Notice (it being understood that Seller may adjust a Discharging Notice to the extent necessary to maintain compliance with the Operating Restrictions), or in connection with a Seller Initiated Test (including Facility maintenance or a Storage Capacity Test), or pursuant to a notice from the Transmission Provider or Governmental Authority. Buyer will have the right to discharge the Storage Facility seven (7) days per week and twenty-four (24) hours per day (including holidays), by causing Discharging Notices to be issued, subject to the requirements and limitations set forth in this Agreement. Each Discharging Notice issued in accordance with this Agreement will be effective unless and until Buyer's SC or the CAISO modifies such Discharging Notice by providing Seller with an updated Discharging Notice.

(e) Curtailments. Notwithstanding anything in this Agreement to the contrary, during any Settlement Interval, Curtailment Orders, Buyer Curtailment Orders, and Buyer Bid Curtailments applicable to such Settlement Interval shall have priority over any Dispatch Notices applicable to such Settlement Interval, and Seller shall have no liability for violation of this Section 4.5 or any Dispatch Notice if and to the extent such violation is caused by Seller's compliance with any Curtailment Order, Buyer Curtailment Order, Buyer Bid Curtailment or other instruction or direction from Buyer or its SC or a Governmental Authority or the Transmission Provider. Buyer shall have the right, but not the obligation, to provide Seller with updated Dispatch Notices during any Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order.

(f) Unauthorized Charges and Discharges. If Seller or any third party charges, discharges or otherwise uses the Storage Facility other than as permitted hereunder, or as is expressly addressed in Section 4.5(g), then (i) Seller shall hold Buyer harmless from, and indemnify Buyer against, all actual costs or losses associated therewith, and be responsible to Buyer for any damages arising therefrom, including any Imbalance Energy costs associated therewith, and, in the case of Seller charging the Storage Facility other than in compliance with a Charging Notice, (x) Seller shall pay Buyer the cost of such Energy associated with such charging of the Storage Facility, and (y) Buyer shall be entitled to discharge such Energy and entitled to all of the CAISO revenues and benefits (including Storage Product) associated with such discharge. Notwithstanding the foregoing, during any Curtailment Period, and (ii) it shall be a breach by Seller, and, if Seller fails to implement procedures reasonably acceptable to Buyer to prevent any further occurrences of the same, then the failure to implement such procedures shall be an Event of Default under Article 11.

(g) CAISO Dispatches. During the Delivery Term, CAISO Dispatches shall have priority over any Charging Notice or Discharging Notice issued by Buyer's SC, and Seller shall have no liability for violation of this Section 4.5 or any Charging Notice or Discharging Notice if and to the extent such violation is caused by Seller's compliance with any CAISO Dispatch. During any time interval during the Delivery Term in which the Storage Facility is capable of responding to a CAISO Dispatch, but the Storage Facility deviates from a CAISO Dispatch, Seller shall be responsible for all CAISO charges and penalties (including imbalance energy costs) resulting from such deviation (in addition to any Buyer remedy related to overcharging of the Storage Facility as set forth in Section 4.5(c)). To the extent the Storage Facility is unable to respond to ADS signals during any Calculation Interval, then as an exclusive remedy, such Calculation Interval shall be deemed an Unavailable Calculation Interval for purposes of calculating the YTD Annual Storage Capacity Availability.

(h) Pre-Commercial Operation Date Period. Prior to CAISO Commercial Operation, (i) Buyer shall have no rights to issue or cause to be issued Charging Notices or Discharging Notices, (ii) Seller shall have exclusive rights to charge and discharge the Storage Facility (provided, Seller shall only charge and discharge the Storage Facility in connection with installation, commissioning and testing of the Storage Facility), (iii) Buyer and Buyer's SC shall reasonably coordinate and cooperate with Seller with respect to Facility testing (including for Test Energy), and (iv) all CAISO costs, revenues, penalties and other amounts owing to or paid by CAISO in respect of the Storage Facility testing shall be for Seller's account. Upon CAISO Commercial Operation, Buyer or its designated SC shall be the Scheduling Coordinator for the Facility, and Buyer shall have exclusive rights to issue or cause to be issued Charging Notices or Discharging Notices and all CAISO costs, revenues, penalties and other amounts owing to or paid by CAISO in respect of the Storage Facility operations shall be for Buyer's account. For the period from CAISO Commercial Operation until the Commercial Operation Date, Buyer shall pay to Seller fifty percent (50%) of the Monthly Capacity Payment, pro-rated on a daily basis.

(i) Station Use. Notwithstanding anything to the contrary in this Agreement, the Parties acknowledge (i) during charging and discharging of the Storage Facility pursuant to a Charging Notice or Discharging Notice, Auxiliary Use may be served by Charging Energy or Discharging Energy, (ii) Seller is responsible for providing or obtaining all Energy to serve Station Use (including paying the cost of any Energy from the local utility to serve Station Use) except

for Auxiliary Use during periods of charging or discharging pursuant to a Charging Notice or Discharging Notice, (iii) the supply of Auxiliary Use shall not be deemed a violation of this Agreement, including Sections 4.5(c), (d), and (f), and (iv) Seller shall reimburse Buyer for all Idle Period Auxiliary Use in the manner contemplated by paragraph (d) of Exhibit C. If any Energy provided by Buyer (i.e. originally delivered as Charging Energy) is used by Seller for Station Use (including Idle Period Auxiliary Use) and such use violates any CAISO rules, other applicable Laws or any applicable utility tariff, Seller (i) shall be solely responsible for (and shall reimburse Buyer, as applicable) any and all costs, penalties and charges resulting therefrom and (ii) shall take such actions as may be necessary to comply with such CAISO rules, other applicable Laws or applicable utility tariff).

4.6 **Facility Maintenance**.

(a) Seller shall provide to Buyer written schedules for Planned Outages for each Contract Year no later than thirty (30) days prior to the first day of the applicable Contract Year. Buyer may provide comments no later than ten (10) days after receiving any such schedule, and Seller shall in good faith take into account any such comments. Seller shall deliver to Buyer the final updated schedule of Planned Outages no later than ten (10) days after receiving Buyer's comments. Seller shall be permitted to reduce deliveries of Product during any period of such Planned Outages.

(b) If reasonably required in accordance with Prudent Operating Practices, Seller may perform maintenance at a different time than maintenance scheduled pursuant to Section 4.6(a). Seller shall provide Notice to Buyer within the time period determined by the CAISO for the Facility, as a Resource Adequacy Resource that is subject to the Availability Standards, to qualify for an "Approved Maintenance Outage" under the CAISO Tariff (or such shorter period as may be reasonably acceptable to Buyer based on the likelihood of dispatch by Buyer), and Seller shall (A) reimburse Buyer for any cost Buyer incurs in connection therewith (including replacement Capacity Attributes as required by the CAISO), and (B) limit maintenance repairs performed pursuant to this Section 4.6(a) to periods when Buyer does not reasonably believe the Facility will be dispatched.

(c) Notwithstanding anything in this Agreement to the contrary, no Planned Outages of the Facility shall be scheduled or planned from each June 1 through October 31 during the Delivery Term, unless approved by Buyer in writing in its sole discretion. In the event that Seller has a previously Planned Outage that becomes coincident with a System Emergency, Seller shall make commercially reasonable efforts to reschedule such Planned Outage.

4.7 **Guaranteed Energy Production**. During each Performance Measurement Period, Seller shall deliver to Buyer an amount of PV Energy, not including any Excess MWh, equal to no less than the Guaranteed Energy Production (as defined below). "**Guaranteed Energy Production**" means an amount of PV Energy, as measured in MWh, equal to one hundred sixty percent (160%) of the average annual Expected Energy for the two (2) Contract Years constituting such Performance Measurement Period. Seller shall be excused from achieving the Guaranteed Energy Production during any Performance Measurement Period only to the extent of any Buyer Default or other Buyer failure to perform that directly prevents Seller from being able to deliver PV Energy to the Delivery Point. For purposes of determining whether Seller has achieved the

Guaranteed Energy Production, Seller shall be deemed to have delivered to Buyer the sum of (a) any delivered PV Energy, plus (b) Deemed Delivered Energy, plus (c) PV Energy in the amount it could reasonably have delivered to Buyer but was prevented from delivering to Buyer by reason of any Force Majeure Events, System Emergency, Transmission System Outage, or Curtailment Periods ("**Lost Output**"). If Seller fails to achieve the Guaranteed Energy Production amount in any Performance Measurement Period, Seller shall pay Buyer damages calculated in accordance with Exhibit G ("**Energy Replacement Damages**"); *provided*, Seller may, as an alternative, provide Replacement Product (as defined in Exhibit G) delivered to Buyer at SP 15 EZ Gen Hub under a Day-Ahead Schedule as an IST within ninety (90) days after the conclusion of the applicable Performance Measurement Period (i) upon a schedule reasonably acceptable to Buyer, (ii) provided that such deliveries do not impose additional costs upon Buyer for which Seller refuses to provide reimbursement, and (iii) not to exceed ten percent (10%) of the Expected Energy for the previous Contract Year.

4.8 **Storage Facility Availability; Ancillary Services**.

(a) During the period commencing upon CAISO Commercial Operation and continuing throughout the Delivery Term, the Storage Facility shall maintain an Annual Storage Capacity Availability during each Contract Year (and during the period from CAISO Commercial Operation through the Commercial Operation Date) of no less than [redacted] percent ([redacted]%) (the "**Guaranteed Storage Availability**"), which Annual Storage Capacity Availability shall be calculated in accordance with Exhibit P.

(b) During the Delivery Term, the Storage Facility shall maintain an Efficiency Rate of no less than the Guaranteed Efficiency Rate. Buyer's sole remedy for an Efficiency Rate that is less than the Guaranteed Efficiency Rate shall be an adjustment to the Monthly Capacity Payment by the Efficiency Rate Factor pursuant to Section (d) of Exhibit C.

(c) Buyer's exclusive remedies for Seller's failure to achieve the Guaranteed Storage Availability are (i) the adjustment of Seller's payment for the Product by application of the Capacity Availability Factor (as set forth in Exhibit C), and (ii) in the case of a Seller Event of Default as set forth in Section 11.1(b)(iv), the applicable remedies set forth in Article 11.

(d) Seller shall operate and maintain the Storage Facility throughout the Delivery Term so as to be able to provide the Ancillary Services in accordance with the specifications set forth in the Storage Facility's CAISO Certification associated with the Effective Storage Capacity. To the extent the Storage Facility fails or is unable to provide Ancillary Services for any reason not excused hereunder during any Calculation Interval that is not otherwise deemed an Unavailable Calculation Interval (including by reason of failing an Ancillary Services certification test), then as exclusive remedies the Available Storage Capability for such Calculation Interval shall be deemed reduced for purposes of calculating the YTD Annual Storage Capacity Availability to the extent of such inability or failure multiplied by fifty percent (50%), and Seller shall reimburse Buyer for any CAISO charges or penalties arising from the failure to provide such Ancillary Services.

(e) Upon Buyer's reasonable request, Seller shall submit the Facility for additional CAISO Certification so that the Facility may provide additional Ancillary Services that

the Facility is, at the relevant time, actually physically capable of providing consistent with the definition of Ancillary Services herein, provided that Buyer has agreed to reimburse Seller for all out-of-pocket costs Seller incurs in connection with conducting such additional CAISO Certification. If provision of any such new product would have an adverse effect (including any obligation to incur more than *de minimis* costs or liabilities) on Seller or the Facility or Seller's obligations or liabilities under this Agreement, then Seller shall be obligated to provide such product only if the Parties first execute an amendment to this Agreement with respect to such product that is mutually acceptable to both Parties.

4.9 **Storage Facility Testing**.

(a) Storage Capacity Tests. Prior to the Commercial Operation Date, Seller shall schedule and complete a Commercial Operation Storage Capacity Test in accordance with Exhibit O. Thereafter, Seller and Buyer shall have the right to run additional Storage Capacity Tests in accordance with Exhibit O.

(i) Buyer shall have the right to send one or more representative(s) to witness all Storage Capacity Tests.

(ii) Following each Storage Capacity Test, Seller shall submit a testing report in accordance with Exhibit O. If the actual capacity determined pursuant to a Storage Capacity Test varies from the then-current Effective Storage Capacity, then the actual capacity determined pursuant to such Storage Capacity Test shall become the new Effective Storage Capacity at the beginning of the first day of the month following the completion of the test for all purposes under this Agreement.

(iii) If Seller fails to conduct a Storage Capacity Test prior to the commencement of a Contract Year, Buyer shall have the right, in its sole discretion, to retroactively apply the results of the next Storage Capacity Test once completed back to the first day of the applicable Contract Year for all purposes of this Agreement.

(b) Additional Testing. Seller shall, at times and for durations reasonably agreed to by Buyer, conduct necessary testing to ensure the Storage Facility is functioning properly and the Storage Facility is able to respond to Dispatch Notices.

(c) Buyer or Seller Initiated Tests. Any testing of the Storage Facility requested by Buyer after the Commercial Operation Storage Capacity Tests and all required annual tests pursuant to Section B of Exhibit O shall be deemed Buyer-instructed dispatches of the Facility ("**Buyer Dispatched Test**"). Any test of the Storage Facility that is not a Buyer Dispatched Test (including all tests conducted prior to Commercial Operation, any Commercial Operation Storage Capacity Tests, any Storage Capacity Test conducted if the Effective Storage Capacity immediately prior to such Storage Capacity Test is below seventy percent (70%) of the Installed Storage Capacity, any test required by CAISO (including any test required to obtain or maintain CAISO Certification), and other Seller-requested discretionary tests, operating restrictions (including for cell rebalancing or similar operating limitations), or dispatches, at times and for durations reasonably agreed to by Buyer, that Seller deems necessary for purposes of reliably operating or maintaining the Storage Facility or for re-performing a required test within a

reasonable number of days of the initial required test (considering the circumstances that led to the need for a retest)) shall be deemed a "**Seller Initiated Test**".

(i) For any Seller Initiated Test, other than Storage Capacity Tests required by Exhibit O for which there is a stated notice requirement, Seller shall notify Buyer no later than twenty-four (24) hours prior thereto (or any shorter period reasonably acceptable to Buyer consistent with Prudent Operating Practices).

(ii) No Dispatch Notices shall be issued during any Seller Initiated Test or Buyer Dispatched Test except as reasonably requested by Seller or Buyer to implement the applicable test. Periods during which Buyer Dispatched Tests render the Storage Facility (or any portion thereof, as applicable) unavailable shall be excluded for purposes of calculating the Annual Storage Capacity Availability. The Storage Facility will be deemed unavailable during any Seller Initiated Test, and Buyer shall not dispatch or otherwise schedule the Storage Facility during such Seller Initiated Test.

(d) Testing Costs and Revenues.

(i) For all Buyer Dispatched Tests, Buyer shall direct only Charging Energy to be used to charge the Storage Facility and Buyer shall be entitled to all CAISO revenues associated with a Storage Facility dispatch during a Buyer Dispatched Test. For all Seller Initiated Tests, (1) Seller shall reimburse Buyer the amount of Buyer's payment of the Charging Energy for such Seller Initiated Test, and (2) Seller shall be entitled to all CAISO revenues associated with the discharge of such Energy, but all Green Attributes associated therewith shall be for Buyer's account at no additional cost to Buyer. Buyer shall pay to Seller, in the month following Buyer's receipt of such CAISO revenues and otherwise in accordance with Exhibit C, all applicable CAISO revenues received by Buyer and associated with the discharge Energy associated with such Seller Initiated Test.

(ii) Buyer shall be responsible for all costs, expenses and fees payable or reimbursable to its representative(s) witnessing any Facility test.

(iii) Except as set forth in Sections 4.9(d)(i) and (ii), all other costs of any testing of the Storage Facility shall be borne by Seller.

4.10 **WREGIS**. Seller shall, at its sole expense, but subject to Section 3.12, take all actions and execute all documents or instruments necessary to ensure that all WREGIS Certificates associated with all Renewable Energy Credits corresponding to all PV Energy are issued and tracked for purposes of satisfying the requirements of the California Renewables Portfolio Standard and transferred in a timely manner to Buyer for Buyer's sole benefit. Seller shall transfer the Renewable Energy Credits to Buyer. Seller shall comply with all Laws, including the WREGIS Operating Rules, regarding the certification and transfer of such WREGIS Certificates to Buyer and Buyer shall be given sole title to all such WREGIS Certificates. Seller shall be deemed to have satisfied the warranty in Section 4.10(g), provided that Seller fulfills its obligations under Sections 4.10(a) through (g) below. In addition:

(a) Prior to the Commercial Operation Date, Seller shall register the Facility with WREGIS and establish an account with WREGIS ("**Seller's WREGIS Account**"), which

Seller shall maintain until the end of the Delivery Term. Seller shall transfer the WREGIS Certificates using "**Recurring Certificate Transfers**" (as described in the WREGIS Operating Rules) from Seller's WREGIS Account to the WREGIS account(s) of Buyer or the account(s) of a designee that Buyer identifies by Notice to Seller ("**Buyer's WREGIS Account**"). Seller shall be responsible for all expenses associated with registering the Facility with WREGIS, establishing and maintaining Seller's WREGIS Account, paying WREGIS Certificate issuance and transfer fees, and transferring WREGIS Certificates from Seller's WREGIS Account to Buyer's WREGIS Account.

(b) Seller shall cause Recurring Certificate Transfers to occur on a monthly basis in accordance with the certification procedure established by the WREGIS Operating Rules. Since WREGIS Certificates will only be created for whole MWh amounts of PV Energy generated, any fractional MWh amounts (i.e., kWh) will be carried forward until sufficient generation is accumulated for the creation of a WREGIS Certificate.

(c) Seller shall, at its sole expense, ensure that the WREGIS Certificates for a given calendar month correspond with the PV Energy for such calendar month as evidenced by the Facility's metered data.

(d) Buyer shall make an invoice payment for a given month in accordance with Section 8.2 before the WREGIS Certificates for such month are formally transferred to Buyer in accordance with the WREGIS Operating Rules and this Section 4.10. Notwithstanding this delay, Buyer shall have all right and title to all such WREGIS Certificates upon payment to Seller in accordance with Section 8.2.

(e) A "**WREGIS Certificate Deficit**" means any deficit or shortfall in WREGIS Certificates delivered to Buyer for a calendar month as compared to the PV Energy for the same calendar month ("**Deficient Month**") caused by an error or omission of Seller. If any WREGIS Certificate Deficit is caused by, or is the result of any action or inaction of, Seller, then the amount of PV Energy in the Deficient Month shall be reduced by three (3) times the amount of the WREGIS Certificate Deficit for purposes of calculating Buyer's payment to Seller under Article 8 and the Guaranteed Energy Production for the applicable Contract Year; *provided*, such adjustment shall not apply to the extent that Seller either (x) resolves the WREGIS Certificate Deficit within ninety (90) days after the Deficient Month or (y) provides Replacement Green Attributes (as defined in Exhibit G) within ninety (90) days after the Deficient Month (i) upon a schedule reasonably acceptable to Buyer, and (ii) provided that such deliveries do not impose additional costs upon Buyer for which Seller has not reimbursed Buyer. Without limiting Seller's obligations under this Section 4.10, if a WREGIS Certificate Deficit is caused solely by an error or omission of WREGIS, the Parties shall cooperate in good faith to cause WREGIS to correct its error or omission.

(f) If WREGIS changes the WREGIS Operating Rules after the Effective Date or applies the WREGIS Operating Rules in a manner inconsistent with this Section 4.10 after the Effective Date, the Parties promptly shall modify this Section 4.10 as reasonably required to cause and enable Seller to transfer to Buyer's WREGIS Account a quantity of WREGIS Certificates for each given calendar month that corresponds to the PV Energy in the same calendar month.

(g) 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. [STC REC-1]

(h) 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. [STC REC-2]

(i) Seller's obligations under Sections 3.10, 4.10(g) and 4.10(h) shall be subject to Section 3.12, the term "Project" as used in Section 3.10 shall refer to the "Facility" and/or "Generating Facility" (as appropriate) as defined herein, the term "the contract" in Section 4.8(h) shall refer to "this Agreement" as defined herein, and the term "commercially reasonable efforts" as used in Section 3.10 and Section 4.10(g) means efforts consistent with and subject to Section 3.12.

4.11 **Dispatch Notices**. Buyer shall have the right to dispatch the Storage Facility seven days per week and 24 hours per day (including holidays), by providing Dispatch Notices, subject to the requirements and limitations set forth in this Agreement. Subject to the Operating Restrictions, each Dispatch Notice will be effective unless and until such Dispatch Notice is modified by the CAISO, Buyer or Buyer's SC. If an electronic submittal is not possible for reasons beyond Buyer's control, Dispatch Notices may be provided (in order of preference) telephonically or by electronic mail to Seller's personnel designated to receive such communications, as provided by Seller in writing. In addition to any other requirements set forth or referred to in this Agreement, all Dispatch Notices will be made in accordance with Market Notice Timelines as specified in the CAISO Tariff.

ARTICLE 5
TAXES

5.1 **Allocation of Taxes and Charges**. Seller shall pay or cause to be paid all Taxes on or with respect to the Facility or on or with respect to the sale and making available of Product to Buyer (other than withholding or other Taxes imposed on Buyer's income, revenue, receipts or employees), that are imposed on Product prior to its delivery to Buyer at the time and place contemplated under this Agreement. Buyer shall pay or cause to be paid all Taxes on or with respect to the delivery to and purchase by Buyer of Product that are imposed on Product at and after its delivery to Buyer at the time and place contemplated under this Agreement (other than withholding or other Taxes imposed on Seller's income, revenue, receipts or employees). If a Party is required to remit or pay Taxes that are the other Party's responsibility hereunder, such Party shall promptly pay the Taxes due and then seek and receive reimbursement from the other for such Taxes. In the event any sale of Product hereunder is exempt from or not subject to any particular Tax, Buyer shall provide Seller with all necessary documentation to evidence such exemption or

exclusion within thirty (30) days after the date Buyer makes such claim. Buyer shall indemnify, defend, and hold Seller harmless from any liability with respect to Taxes for which Buyer is responsible hereunder and from which Buyer claims it is exempt.

5.2 **Cooperation**. Each Party shall use reasonable efforts to implement the provisions of and administer this Agreement in accordance with the intent of the Parties to minimize all Taxes, so long as no Party is materially adversely affected by such efforts. The Parties shall cooperate to minimize Tax exposure; *provided*, neither Party shall be obligated to incur any financial or operational burden to reduce Taxes for which the other Party is responsible hereunder without receiving due compensation therefor from the other Party. All Product delivered by Seller to Buyer hereunder shall be a sale made at wholesale, with Buyer reselling such Product.

ARTICLE 6
MAINTENANCE OF THE FACILITY

6.1 **Maintenance of the Facility**. Seller shall, as between Seller and Buyer, be solely responsible for the operation and maintenance of the Facility and the delivery of the Product and shall comply with applicable Law and Prudent Operating Practices relating to the operation and maintenance of the Facility and the generation and sale of Product.

6.2 **Maintenance of Health and Safety**. Seller shall take reasonable safety precautions with respect to the operation, maintenance, repair and replacement of the Facility. If Seller becomes aware of any circumstances relating to the Facility that create an imminent risk of damage or injury to any Person or any Person's property, Seller shall take prompt, reasonable action to prevent such damage or injury and shall give Buyer's emergency contact identified in Exhibit N Notice of such condition. Such action may include disconnecting and removing all or a portion of the Facility, or suspending the supply of Facility Energy to the Delivery Point.

6.3 **Shared Facilities**. The Parties acknowledge and agree that certain of the Shared Facilities and Interconnection Facilities, and Seller's rights and obligations under the Interconnection Agreement, may be subject to certain shared facilities and/or co-tenancy agreements to be entered into among Seller, the Transmission Provider, Seller's Affiliates, and/or third parties pursuant to which certain Interconnection Facilities may be subject to joint ownership and shared maintenance and operation arrangements; *provided*, such agreements shall (i) permit Seller to perform or satisfy, and shall not purport to limit, its obligations hereunder, including maintaining Shared Facility capacity equal to the Interconnection Capacity Limit for Buyer's sole use, (ii) provide for separate metering of the Facility, (iii) provide that any other generating or energy storage facilities not included in the Facility but using Shared Facilities shall not be included within the Facility's CAISO Resource IDs, and (iv) provide that in the event of any curtailment that is not specific to one or more CAISO Resource IDs of output from generating or energy storage facilities using the Shared Facilities shall not be allocated to the Facility more than its pro rata portion of the total capacity of all generating or energy storage facilities using the Shared Facilities. Seller shall not, and shall not permit any affiliate to, allocate to other parties a share of the total interconnection capacity under the Interconnection Agreements in excess of an amount equal to the total interconnection capacity under the Interconnection Agreements minus the Interconnection Capacity Limit.

ARTICLE 7
METERING

7.1 **Metering**.

(a) Subject to Section 7.1(b) (with respect to the entirety of the following Section 7.1(a)), unless the Parties agree otherwise pursuant to Section 3.13, the Facility shall have a separate CAISO Resource ID for each of the Generating Facility and the Storage Facility. Seller shall measure the amount of PV Energy using the Generating Facility Meter. Seller shall measure the Charging Energy and the Discharging Energy using the Storage Facility Meters. Seller shall separately meter all Station Use and all Auxiliary Use. All meters shall be operated pursuant to applicable CAISO-approved calculation methodologies and maintained at Seller's cost. Subject to meeting any applicable CAISO requirements, the Storage Facility Meter and Generating Facility Meter shall be programmed to adjust for all Electrical Losses from such meters to the Delivery Point in a manner subject to Buyer's prior written approval, not to be unreasonably withheld. Metering shall be consistent with the Metering Diagram set forth as Exhibit R. Each Storage Facility Meter and Generating Facility Meter shall be kept under seal, such seals to be broken only when the meters are to be tested, adjusted, modified or relocated. In the event Seller breaks a seal, Seller shall notify Buyer as soon as practicable. In addition, Seller hereby agrees to provide all meter data to Buyer in a form reasonably acceptable to Buyer, and consents to Buyer obtaining from CAISO the CAISO meter data directly relating to the Facility and all inspection, testing and calibration data and reports. Seller and Buyer, or Buyer's Scheduling Coordinator, shall cooperate to allow both Parties to retrieve the meter reads from the CAISO Market Results Interface-Settlements (MRI-S) web and/or directly from the CAISO meter(s) at the Facility.

(b) Section 7.1(a) is based on the Parties' mutual understanding as of the Effective Date that (i) the CAISO requires the Generating Facility Meter and the Storage Facility Meter to be programmed for Electrical Losses as set forth in the definition of Electrical Losses in this Agreement and (ii) the automatic adjustments to Charging Notices and Discharging Notices as set forth in the definitions of Charging Notice and Discharging Notice in this Agreement will not result in Seller violating, or incurring any costs, penalties or charges under the CAISO Tariff. If any of the foregoing mutual understandings in (i) or (ii) between the Parties become incorrect during the Delivery Term, the Parties shall cooperate in good faith to make any amendments and modifications to the Facility and this Agreement as are reasonably necessary to conform this Agreement to the CAISO Tariff and avoid, to the maximum extent practicable, any CAISO charges, costs or penalties that may be imposed on either Party due to non-conformance with the CAISO Tariff, such agreement not to be unreasonably delayed, conditioned or withheld.

7.2 **Meter Verification**. Annually, if Seller has reason to believe there may be a Facility Meter malfunction, or upon Buyer's reasonable request, Seller shall test the Facility Meter. The tests shall be conducted by independent third parties qualified to conduct such tests. Buyer shall be notified seven (7) days in advance of such tests and have a right to be present during such tests. If a Facility Meter is inaccurate it shall be promptly repaired or replaced. If a meter is inaccurate by more than one percent (1%) and it is not known when the Facility Meter inaccuracy commenced (if such evidence exists, such date will be used to adjust prior invoices), then the invoices covering the period of time since the last Facility Meter test shall be adjusted for the amount of the inaccuracy on the assumption that the inaccuracy persisted during one-half of such

period if such adjustments are accepted by CAISO and WREGIS; *provided*, such period may not exceed twelve (12) months.

ARTICLE 8
INVOICING AND PAYMENT; CREDIT

8.1 **Invoicing**. Seller shall use commercially reasonable efforts to deliver an invoice to Buyer for Product no later than the tenth (10^{th}) day of each month for the previous calendar month. Each invoice shall (a) reflect records of metered data, including (i) CAISO metering and transaction data sufficient to document and verify the amount of Product delivered by the Facility for any Settlement Period during the preceding month, including the amount of PV Energy, Charging Energy, Discharging Energy, Station Use, Idle Period Auxiliary Use for which Seller owes reimbursement to Buyer, Replacement RA, and Replacement Product delivered to Buyer (if any), the cumulative percentage of Charging Energy charged from the CAISO Grid data pursuant to Section 4.5(j) and supporting charging data, the calculation of Deemed Delivered Energy and Adjusted Energy Production, the LMP prices at the Delivery Point for each Settlement Period, and the Contract Price applicable to such Product in accordance with Exhibit C, and (ii) data showing a calculation of the Monthly Capacity Payment and other relevant data for the prior month; and (b) be in a format reasonably specified by Buyer, covering the Product provided in the preceding month determined in accordance with the applicable provisions of this Agreement. Buyer shall, and shall cause its Scheduling Coordinator to, provide Seller with all reasonable access (including, in real time, to the maximum extent reasonably possible) to any records, including invoices or settlement data from the CAISO, forecast data and other information, all as may be necessary from time to time for Seller to prepare and verify the accuracy of all invoices.

8.2 **Payment**. Buyer shall make payment to Seller for Product (and any other amounts due) by wire transfer or ACH payment to the bank account provided on each monthly invoice. Buyer shall pay undisputed invoice amounts by the later of (a) ten (10) Business Days after Buyer's receipt of the invoice from Seller, and (b) the thirtieth (30^{th}) day of the month after the operational month for which such invoice was rendered; *provided*, if such due date falls on a weekend or legal holiday, such due date shall be the next Business Day. Payments made after the due date will be considered late and will bear interest on the unpaid balance. If the amount due is not paid on or before the due date or if any other payment that is due and owing from one Party to another is not paid on or before its applicable due date, a late payment charge shall be applied to the unpaid balance and shall be added to the next billing statement. Such late payment charge shall be calculated based on an annual interest rate equal to the prime rate published on the date of the invoice in The Wall Street Journal (or, if The Wall Street Journal is not published on that day, the next succeeding date of publication), plus two percent (2%) (the "**Interest Rate**"). If the due date occurs on a day that is not a Business Day, the late payment charge shall begin to accrue on the next succeeding Business Day.

8.3 **Books and Records**. To facilitate payment and verification, each Party shall maintain all books and records necessary for billing and payments, including copies of all invoices under this Agreement, for a period of at least two (2) years or as otherwise required by Law. Upon fifteen (15) days' Notice to the other Party, either Party shall be granted reasonable access to the accounting books and records within the possession or control of the other Party pertaining to all invoices generated pursuant to this Agreement. Seller acknowledges that in accordance with

California Government Code Section 8546.7, Seller may be subject to audit by the California State Auditor with regard to Seller's performance of this Agreement because the compensation under this Agreement exceeds $10,000.

8.4 **Payment Adjustments; Billing Errors**. Payment adjustments shall be made if Buyer or Seller discovers there have been good faith inaccuracies in invoicing that are not otherwise disputed under Section 8.5 or an adjustment to an amount previously invoiced or paid is required due to a correction of data by the CAISO, or there is determined to have been a meter inaccuracy sufficient to require a payment adjustment. If the required adjustment is in favor of Buyer, Buyer's next monthly payment shall be credited in an amount equal to the adjustment. If the required adjustment is in favor of Seller, Seller shall add the adjustment amount to Buyer's next monthly invoice. Adjustments in favor of either Buyer or Seller shall bear interest, until settled in full, in accordance with Section 8.2, accruing from the date on which the adjusted amount should have been due.

8.5 **Billing Disputes**. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within five (5) Business Days of such resolution along with interest accrued at the Interest Rate from and including the original due date to but excluding the date paid. Inadvertent overpayments shall be returned via adjustments in accordance with Section 8.4. Any dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section 8.5 within twelve (12) months after the invoice is rendered or subsequently adjusted, except to the extent any misinformation was from a third party not affiliated with any Party and such third party corrects its information after the twelve-month period. If an invoice is not rendered within twelve (12) months after the close of the month during which performance occurred, the right to payment for such performance is waived.

8.6 **Netting of Payments**. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Product during the monthly billing period under this Agreement or otherwise arising out of this Agreement, including any related damages calculated pursuant to Exhibits B, G, and P, interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

8.7 **Seller's Development Security**. To secure its obligations under this Agreement, Seller shall deliver the Development Security to Buyer within thirty (30) days after the Effective Date. Seller shall maintain the Development Security in full force and effect. Upon the earlier of (a) Seller's delivery of the Performance Security, or (b) sixty (60) days after termination of this Agreement, Buyer shall return the Development Security to Seller, less the amounts drawn in accordance with this Agreement.

8.8 **Seller's Performance Security**. To secure its obligations under this Agreement, Seller shall deliver Performance Security to Buyer on or before the Commercial Operation Date. If the Performance Security is not in the form of cash or Letter of Credit, it shall be substantially in the form of Guaranty set forth in Exhibit T. Seller shall maintain the Performance Security in full force and effect, until the following have occurred: (a) the Delivery Term has expired or terminated early, and (b) all payment obligations of Seller due and payable under this Agreement, including compensation for penalties, Termination Payment, indemnification payments or other damages are paid in full (whether directly or indirectly such as through set-off or netting). Following the occurrence of both events, Buyer shall promptly return to Seller the unused portion of the Performance Security.

8.9 **First Priority Security Interest in Cash or Cash Equivalent Collateral**.

To secure its obligations under this Agreement, and until released as provided herein, Seller hereby 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, Performance Security, any other cash collateral and cash equivalent collateral posted pursuant to Sections 8.7 and 8.8 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 all 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 an Event of Default caused by Seller, an Early Termination Date resulting from an Event of Default caused by Seller, or an occasion provided for in this Agreement where Buyer is authorized to retain all or a portion of the Development Security or Performance Security, Buyer may do any one or more of the following (in each case subject to the final sentence of this Section 8.9):

(a) Exercise any of its rights and remedies with respect to the Development Security and Performance Security, including any such rights and remedies under Law then in effect;

(b) Draw on any outstanding Letter of Credit issued for its benefit and retain any cash held by Buyer as Development Security or Performance Security; and

(c) Liquidate all Development Security or Performance Security (as applicable) 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 remains 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.

[redacted]

[redacted]

ARTICLE 9
NOTICES

9.1 **Addresses for the Delivery of Notices**.

Any Notice required, permitted, or contemplated hereunder shall be in writing, shall be addressed to the Party to be notified at the address set forth in Exhibit N or at such other address or addresses as a Party may designate for itself from time to time by Notice hereunder.

9.2 **Acceptable Means of Delivering Notice**.

Each Notice required, permitted, or contemplated hereunder shall be deemed to have been validly served, given or delivered as follows: (a) if sent by United States mail with proper first class postage prepaid, three (3) Business Days following the date of the postmark on the envelope in which such Notice was deposited in the United States mail; (b) if sent by a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement with such carrier made for the payment of such fees, the next Business Day after the same is delivered by the sending Party to such carrier; (c) if sent by electronic communication (including electronic mail or other electronic means) at the time indicated by the time stamp upon delivery and, if after 5 pm, on the next Business Day; or (d) if delivered in person, upon receipt by the receiving Party. Notwithstanding the foregoing, Notices of outages or other scheduling or dispatch information or requests, may be sent by electronic communication and shall be considered delivered upon successful completion of such transmission.

ARTICLE 10
FORCE MAJEURE

10.1 **Definition**.

(a) "**Force Majeure Event**" means any act or event that delays or prevents a Party from timely performing all or a portion of its obligations under this Agreement or from complying with all or a portion of the conditions under this Agreement if such act or event, despite the exercise of commercially reasonable efforts, cannot be avoided by and is beyond the reasonable control (whether direct or indirect) of the claiming Party; *provided*, a Force Majeure Event shall not excuse any such delay, nonperformance, or noncompliance to the extent the claiming Party's fault or negligence contributed thereto in scope or duration.

(b) Without limiting the generality of the foregoing, so long as the following events, despite the exercise of reasonable efforts, cannot be avoided by, and are beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance or noncompliance, a Force Majeure Event may include an act of God or the elements, such as flooding, lightning, hurricanes, tornadoes, or ice storms; explosion; fire; volcanic eruption; flood; epidemic or pandemic; landslide; mudslide; sabotage; terrorism; earthquake; or other cataclysmic events; an act of public enemy; war; blockade; civil insurrection; riot; civil disturbance; or strikes or other labor difficulties caused or suffered by a Party or any third party except as set forth below.

(c) Notwithstanding the foregoing, the term "**Force Majeure Event**" does not include (i) economic conditions or changes in Law that render a Party's performance of this Agreement at the Contract Price unprofitable or otherwise uneconomic (including an increase in component or compliance costs for any reason, including foreign or domestic tariffs, Buyer's ability to buy Product at a lower price, or Seller's ability to sell the Product, or any component thereof, at a higher price, than under this Agreement); (ii) Seller's inability to obtain permits or approvals of any type for the construction, operation, or maintenance of the Facility, except to the extent such inability is caused by a Force Majeure Event; (iii) the inability of a Party to make payments when due under this Agreement, unless the cause of such inability is an event that would otherwise constitute a Force Majeure Event as described above; (iv) a Curtailment Order; (v) Seller's inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Facility, including the lack of wind, sun or other fuel source of an inherently intermittent nature, except to the extent such inability is caused by a Force Majeure Event; (vi) a strike, work stoppage or labor dispute limited only to any one or more of Seller, Seller's Affiliates, Seller's contractors, their subcontractors thereof or any other third party employed by Seller to work on the Facility; (vii) any equipment failure except if such equipment failure is caused by a Force Majeure Event; (viii) the inability of Buyer to be able to utilize or re-sell the Product or any Ancillary Services, except to the extent due to a Force Majeure Event, or (ix) any action or inaction by any third party, including Transmission Provider, that delays or prevents the approval, construction or placement in service of any Interconnection Facilities or Network Upgrades, except to the extent caused by a Force Majeure Event.

10.2 **No Liability If a Force Majeure Event Occurs**. Except as provided in Section 4 of Exhibit B, neither Seller nor Buyer shall be liable to the other Party in the event it is prevented from performing its obligations hereunder in whole or in part due to a Force Majeure Event. The Party rendered unable to fulfill any obligation by reason of a Force Majeure Event shall take commercially reasonable actions necessary to remove such inability with due speed and diligence and to mitigate the impacts of the Force Majeure Event. Nothing herein shall be construed as permitting that Party to continue to fail to perform after said cause has been removed. The obligation to use due speed and diligence shall not be interpreted to require resolution of labor disputes by acceding to demands of the opposition when such course is inadvisable in the discretion of the Party having such difficulty. Neither Party shall be considered in breach or default of this Agreement if and to the extent that any failure or delay in the Party's performance of one or more of its obligations hereunder is caused by a Force Majeure Event. The occurrence and continuation of a Force Majeure Event shall not suspend or excuse the obligation of a Party to make any payments due hereunder.

10.3 **Notice**. In order to claim a Force Majeure Event, the claiming Party, within fourteen (14) days after the initial occurrence of the claimed Force Majeure Event, must give the other Party Notice describing the particulars of the occurrence in substantially the form set forth in Exhibit W, (b) provide timely evidence reasonably sufficient to establish that the occurrence constitutes Force Majeure as defined in this Agreement, and (c) notify the other Party in writing of the cessation or termination of such Force Majeure Event, all as known or estimated in good faith by the affected Party.

10.4 **Termination Following Force Majeure Event or Development Cure Period**.

(a) If the cumulative extensions granted under the Development Cure Period (other than the extensions granted pursuant to clause 4(d) in Exhibit B) plus the payment of Commercial Operation Delay Damages equal or exceed two hundred seventy (270) days, and Seller has demonstrated to Buyer's reasonable satisfaction that Seller's failure to achieve COD by the Guaranteed Commercial Operation Date (as extended) was the result of delays that would have otherwise entitled to Seller to two hundred seventy (270) days of Development Cure Period delays but for the one hundred eighty (180)-day limitation, then Seller may terminate this Agreement upon Notice to Buyer. Upon such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Sections 2.1(b) and 11.6, and Buyer shall promptly return to Seller any Development Security then held by Buyer plus the full amount of Commercial Operation Delay Damages paid by Seller, less any amounts drawn in accordance with this Agreement.

(b) If a Force Majeure Event has occurred after the Commercial Operation Date that has caused either Party to be wholly or partially unable to perform its obligations hereunder in any material respect, and the impacted Party has claimed and received relief from performance of its obligations for a consecutive twelve (12) month period, then the non-claiming Party may terminate this Agreement upon Notice to the other Party. Upon any such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Section 2.1(b), and Buyer shall promptly return to Seller any Performance Security then held by Buyer, less any amounts drawn in accordance with this Agreement.

ARTICLE 11
DEFAULTS; REMEDIES; TERMINATION

11.1 **Events of Default**. An "**Event of Default**" shall mean,

(a) with respect to a Party (the "**Defaulting Party**") that is subject to the Event of Default the occurrence of any of the following:

(i) the failure by such Party to make, when due, any payment required pursuant to this Agreement and such failure is not remedied within ten (10) Business Days after Notice thereof;

(ii) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated, and such default is not remedied within thirty (30) days after Notice thereof (or such longer additional period, not

to exceed an additional sixty (60) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30)-day period despite exercising commercially reasonable efforts);

(iii) the failure by such Party to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default set forth in this Section 11.1; and except for (A) failure to provide Capacity Attributes, the exclusive remedies for which are set forth in Section 3.8, (B) failures related to the Adjusted Energy Production that do not trigger the provisions of Section 11.1(b)(iii), the exclusive remedies for which are set forth in Section 4.7; and (C) failures related to the Annual Storage Capacity Availability that do not trigger the provisions of Section 11.1(b)(iv), the exclusive remedies for which are set forth in Section 4.8) and such failure is not remedied within thirty (30) days after Notice thereof (or such longer additional period, not to exceed an additional sixty (60) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30)-day period despite exercising commercially reasonable efforts);

(iv) such Party becomes Bankrupt;

(v) such Party assigns this Agreement or any of its rights hereunder other than in compliance with Article 14, if applicable; or

(vi) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party;

(b) with respect to Seller as the Defaulting Party, the occurrence of any of the following:

(i) if at any time, Seller delivers or attempts to deliver Energy to the Delivery Point for sale under this Agreement that was not generated or discharged by the Facility, except for Replacement Product;

(ii) the failure by Seller to (A) achieve Construction Start on or before the Guaranteed Construction Start Date, as such date may be extended by Seller's payment of Daily Delay Damages pursuant to Section 1(b) of Exhibit B and/or a Development Cure Period pursuant to Section 4 of Exhibit B, or (B) achieve Commercial Operation on or before the Guaranteed Commercial Operation Date, as such date may be extended by Seller's payment of Commercial Operation Delay Damages pursuant to Section 2 of Exhibit B and/or a Development Cure Period pursuant to Section 4 of Exhibit B;

(iii) if, in any consecutive six (6) month period, the Adjusted Energy Production amount (calculated in accordance with Exhibit G) for such period is not at least ten percent (10%) of the 6-month pro rata amount of Expected Energy for such period adjusted for seasonality proportionately to the monthly forecast provided annually by Seller under Section 4.3(a), and Seller fails to (x) deliver to Buyer within ten (10) Business Days after Notice from Buyer a plan or report developed by Seller that describes the cause of the failure to meet the ten percent (10%) threshold and the actions that Seller has taken, is taking, or proposes to take in an

effort to cure such condition along with the written confirmation of a Licensed Professional Engineer that such plan or report is in accordance with Prudent Operating Practices and capable of cure within a reasonable period of time, not to exceed one hundred eighty (180) days [redacted] ("**Cure Plan**") and (y) complete such Cure Plan in all material respects as set forth therein, including within the timeframe set forth therein;

(iv) if, in any Contract Year, the year-to-date Annual Storage Capacity Availability multiplied by the Effective Storage Capacity for the applicable period is not at least seventy percent (70%) multiplied by the Installed Storage Capacity, and Seller fails to (x) deliver to Buyer within ten (10) Business Days after Notice from Buyer a plan or report developed by Seller that describes the cause of the failure to meet such seventy percent (70%) multiplied by the Installed Storage Capacity threshold, and the actions that Seller has taken, is taking, or proposes to take in an effort to cure such condition along with the written confirmation of a Licensed Professional Engineer that such plan or report is in accordance with Prudent Operating Practices and capable of cure within a reasonable period of time, not to exceed one hundred eighty (180) days ("**Storage Cure Plan**") and (y) complete such Storage Cure Plan in all material respects as set forth therein, including within the timeframe set forth therein;

(v) failure by Seller to satisfy the collateral requirements pursuant to Sections 8.7 or 8.8 within five (5) Business Days after Notice from Buyer;

(vi) with respect to any outstanding Letter of Credit provided for the benefit of Buyer that is not then required under this Agreement to be canceled or returned, the failure by Seller to provide for the benefit of Buyer either (1) cash, or (2) a Letter of Credit from a different issuer meeting the criteria set forth in the definition of Letter of Credit, in each case, in the amount required hereunder within ten (10) Business Days after Seller receives Notice of the occurrence of any of the following events:

(A) the issuer of the outstanding Letter of Credit shall fail to maintain a Credit Rating of at least A- by S&P or A3 by Moody's;

(B) the issuer of such Letter of Credit becomes Bankrupt;

(C) the issuer of the outstanding Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit and such failure shall be continuing after the lapse of any applicable grace period permitted under such Letter of Credit;

(D) the issuer of the outstanding Letter of Credit shall fail to honor a properly documented request to draw on such Letter of Credit;

(E) the issuer of the outstanding Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit;

(F) such Letter of Credit fails or ceases to be in full force and effect at any time; or

(G) Seller shall fail to renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit and as provided in accordance with this Agreement, and in no event less than sixty (60) days prior to the expiration of the outstanding Letter of Credit.

(vii) with respect to any Guaranty provided for the benefit of Buyer, the failure by Seller to provide for the benefit of Buyer either (1) cash, or (2) a Letter of Credit from an issuer meeting the criteria set forth in the definition of Letter of Credit, in each case, in the amount required hereunder within ten (10) Business Days after Seller receives Notice of the occurrence of any of the following events which has not been cured as provided in the Guaranty:

(A) if any representation or warranty made by the Guarantor in connection with this Agreement is false or misleading in any material respect when made or when deemed made or repeated;

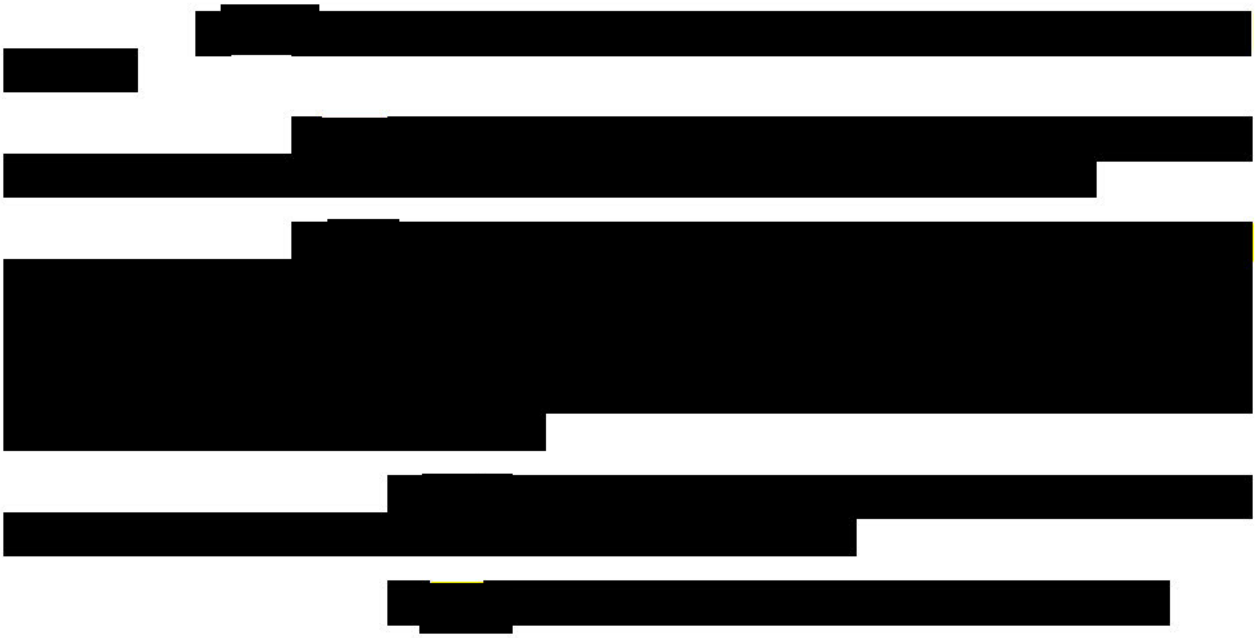
(B) the failure of the Guarantor to make any payment required or to perform any other material covenant or obligation in any Guaranty;

(C) the Guarantor becomes Bankrupt;

(D) the Guarantor shall fail to meet the criteria for an acceptable Guarantor as set forth in the definition of Guarantor;

(E) the failure of the Guaranty to be in full force and effect (other than in accordance with its terms) prior to the indefeasible satisfaction of all obligations of Seller hereunder; or

(F) the Guarantor shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of any Guaranty.





11.2 **Remedies; Declaration of Early Termination Date**. If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party ("**Non-Defaulting Party**") shall have the following rights:

(a) to send Notice, designating a day, no earlier than the day such Notice is deemed to be received and no later than twenty (20) days after such Notice is deemed to be received, as an early termination date of this Agreement ("**Early Termination Date**") that terminates this Agreement (the "**Terminated Transaction**") and ends the Delivery Term effective as of the Early Termination Date;

(b) to accelerate all amounts owing between the Parties, and to collect as liquidated damages (i) the Damage Payment, or (ii) the Termination Payment, as applicable, in each case calculated in accordance with Section 11.3 below;

(c) to withhold any payments due to the Defaulting Party under this Agreement;

(d) to suspend performance; and

(e) to exercise any other right or remedy available at law or in equity, including specific performance or injunctive relief, except to the extent such remedies are expressly limited under this Agreement; *provided*, payment by the Defaulting Party of the Damage Payment or Termination Payment, as applicable, shall constitute liquidated damages and the Non-Defaulting Party's sole and exclusive remedy for any Terminated Transaction and the Event of Default related thereto.

11.3 **Damage Payment; Termination Payment**. If an Early Termination Date has been declared, the Non-Defaulting Party shall calculate, in a commercially reasonable manner, the Damage Payment or Termination Payment, as applicable, in accordance with this Section 11.3.

(a) Damage Payment Prior to Commercial Operation Date. If the Early Termination Date occurs before the Commercial Operation Date, then the Damage Payment shall be calculated in accordance with this Section 11.3(a).

(i) If Seller is the Defaulting Party, then the Damage Payment shall be owed to Buyer and shall be a dollar amount that equals the amount of the Development Security plus, if the Development Security is posted as cash, any interest accrued thereon. Buyer shall be entitled to immediately retain for its own benefit those funds held as Development Security and any interest accrued thereon if the Development Security is posted as cash, and any amount of Development Security that Seller has not yet posted with Buyer shall be immediately due and payable by Seller to Buyer. There will be no amounts owed to Seller and Buyer shall have no further obligations to Seller (except with respect to those provisions that otherwise survive termination of this Agreement). The Parties agree that Buyer's damages in the event of an Early Termination Date prior to the Commercial Operation Date caused by Seller's default would be difficult or impossible to determine and that the damages set forth in this Section 11.3(a)(i) are a reasonable approximation of Buyer's harm or loss. Upon payment of the Damage Payment, Seller shall be released of all obligations to Buyer (except with respect to those provisions that otherwise survive termination of this Agreement).

(ii) If Buyer is the Defaulting Party, then in addition to the return of the Development Security to Seller, the Damage Payment shall be owed to Seller and shall equal the amount of Damage Payment calculated under Section 11.3(a)(i) had Seller been the Defaulting Party. There will be no amount owed to Buyer and Seller shall have no further obligations to Buyer (except with respect to those provisions that otherwise survive termination of this Agreement). The Parties agree that Seller's damages in the event of an Early Termination Date prior to the Commercial Operation Date caused by Buyer's default would be difficult or impossible to determine and that the damages set forth in this Section 11.3(a)(ii) are a reasonable approximation of Seller's harm or loss. Upon payment of the Damage Payment and return of the Development Security, Buyer shall be released of all obligations to Seller (except with respect to those provisions that otherwise survive termination of this Agreement).

(b) Termination Payment On or After the Commercial Operation Date. The payment owed by the Defaulting Party to the Non-Defaulting Party for a Terminated Transaction occurring after the Commercial Operation Date ("**Termination Payment**") shall be the aggregate of all Settlement Amounts plus any and all other amounts due to or from the Non-Defaulting Party (as of the Early Termination Date) netted into a single amount. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for the Terminated Transaction as of the Early Termination Date. Third parties supplying information for purposes of the calculation of Gains or Losses may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. The Settlement Amount shall not include consequential, incidental, punitive, exemplary, indirect or business interruption damages. Without prejudice to the Non-Defaulting Party's duty to mitigate, the Non-Defaulting Party shall not have to enter into replacement transactions to establish a Settlement Amount. Each Party agrees and acknowledges that (i) the actual damages that the Non-Defaulting Party would incur in connection with a Terminated Transaction would be difficult or impossible to predict with certainty, (ii) the Termination Payment described in this Section 11.3(b) is a reasonable and appropriate approximation of such damages, and (iii) the Termination

Payment described in this Section 11.3(b) is the exclusive remedy of the Non-Defaulting Party in connection with a Terminated Transaction but shall not otherwise act to limit any of the Non-Defaulting Party's rights or remedies if the Non-Defaulting Party does not elect a Terminated Transaction as its remedy for an Event of Default by the Defaulting Party.

11.4 **Notice of Payment of Termination Payment or Damage Payment**. As soon as practicable after a Terminated Transaction, but in no event later than sixty (60) days after the Early Termination Date, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Damage Payment or Termination Payment, as applicable, and whether the Termination Payment or Damage Payment, as applicable, is due to or from the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount and the sources for such calculation. The Termination Payment or Damage Payment, as applicable, shall be made to or from the Non-Defaulting Party, as applicable, within ten (10) Business Days after such Notice is effective.

11.5 **Disputes With Respect to Termination Payment or Damage Payment**. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment or Damage Payment, as applicable, in whole or in part, the Defaulting Party shall, within five (5) Business Days of receipt of the Non-Defaulting Party's calculation of the Termination Payment or Damage Payment, as applicable, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. Disputes regarding the Termination Payment or Damage Payment, as applicable, shall be determined in accordance with Article 15.

11.6 **Limitation on Seller's Ability to Make or Agree to Third-Party Sales from the Facility after Early Termination Date**. If the Agreement is terminated prior to the Commercial Operation Date for any reason except due to Buyer's Event of Default, neither Seller nor Seller's Affiliates may sell, market or deliver any Product associated with or attributable to the Facility to a party other than Buyer for a period of two (2) years following such early termination date, unless prior to selling, marketing or delivering such Product, or entering into the agreement to sell, market or deliver such Product to a party other than Buyer, Seller or Seller's Affiliates provide Buyer with a written offer to sell the Product on terms and conditions materially similar to the terms and conditions contained in this Agreement (including price) and Buyer fails to accept such offer within forty-five (45) days of Buyer's receipt thereof; [redacted]

Neither Seller nor Seller's Affiliates may sell or transfer the Facility, or any part thereof, or land rights or interests in the Site (including the interconnection queue position of the Facility) so long as the limitations contained in this Section 11.6 apply, unless the transferee agrees to be bound by the terms set forth in this Section 11.6 pursuant to a written agreement approved by Buyer.

Subject to Article 12, Seller shall indemnify and hold Buyer harmless from all benefits lost and other damages sustained by Buyer as a result of any breach by Seller of its covenants contained within this Section 11.6.

11.7 **Rights And Remedies Are Cumulative**. Except where liquidated damages or other remedy are explicitly provided as the exclusive remedy, the rights and remedies of a Party pursuant to this Article 11 shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

11.8 **Mitigation**. Any Non-Defaulting Party shall be obligated to use commercially reasonable efforts to mitigate its Costs, Losses and damages resulting from any Event of Default of the other Party under this Agreement.

ARTICLE 12
LIMITATION OF LIABILITY AND EXCLUSION OF WARRANTIES.

12.1 **No Consequential Damages**. EXCEPT TO THE EXTENT PART OF (A) AN EXPRESS REMEDY OR MEASURE OF DAMAGES HEREIN, (B) AN IP INDEMNITY CLAIM, (C) AN ARTICLE 16 INDEMNITY CLAIM, (D) INCLUDED IN A LIQUIDATED DAMAGES CALCULATION, OR (E) RESULTING FROM A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, OR LOSSES OR DAMAGES FOR LOST REVENUE OR LOST PROFITS, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT, BY STATUTE, IN TORT OR CONTRACT.

12.2 **Waiver and Exclusion of Other Damages**.

EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. ALL LIMITATIONS OF LIABILITY CONTAINED IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE PERTAINING TO SELLER'S LIMITATION OF LIABILITY AND THE PARTIES' WAIVER OF CONSEQUENTIAL DAMAGES, SHALL APPLY EVEN IF THE REMEDIES FOR BREACH OF WARRANTY PROVIDED IN THIS AGREEMENT ARE DEEMED TO "FAIL OF THEIR ESSENTIAL PURPOSE" OR ARE OTHERWISE HELD TO BE INVALID OR UNENFORCEABLE.

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS AND EXCLUSIVE REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES ONLY. THE VALUE OF ANY 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) AND AMOUNTS DUE IN CONNECTION WITH THE RECAPTURE OF ANY RENEWABLE ENERGY INCENTIVES, IF ANY, SHALL BE DEEMED TO BE DIRECT DAMAGES.

TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, INCLUDING UNDER SECTIONS 3.8, 4.7, 4.8, 11.2 AND 11.3, AND AS PROVIDED IN EXHIBIT B, EXHIBIT C, EXHIBIT G, AND EXHIBIT P, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT, AND THAT THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE ANTICIPATED HARM OR LOSS. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. THE PARTIES HEREBY WAIVE ANY RIGHT TO CONTEST SUCH PAYMENTS AS AN UNREASONABLE PENALTY.

THE PARTIES ACKNOWLEDGE AND AGREE THAT MONEY DAMAGES AND THE EXPRESS REMEDIES PROVIDED FOR HEREIN ARE AN ADEQUATE REMEDY FOR THE BREACH BY THE OTHER OF THE TERMS OF THIS AGREEMENT, AND EACH PARTY WAIVES ANY RIGHT IT MAY HAVE TO SPECIFIC PERFORMANCE WITH RESPECT TO ANY OBLIGATION OF THE OTHER PARTY UNDER THIS AGREEMENT.

ARTICLE 13
REPRESENTATIONS AND WARRANTIES; AUTHORITY

13.1 **Seller's Representations and Warranties**. As of the Effective Date, Seller represents and warrants as follows:

(a) Seller is a limited liability company, duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation, and is qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on the business or financial condition of Seller.

(b) Seller has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Seller's performance under this Agreement. The execution, delivery and performance of this Agreement by Seller has been duly authorized by all necessary limited liability company action on the part of Seller and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Seller or any other party to any other agreement with Seller.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Seller with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law

presently in effect having applicability to Seller, subject to any permits that have not yet been obtained by Seller, the documents of formation of Seller or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Seller is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Seller. This Agreement is a legal, valid and binding obligation of Seller enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) The Facility is located in the State of California.

13.2 **Buyer's Representations and Warranties**. As of the Effective Date, Buyer represents and warrants as follows:

(a) Buyer is a joint powers authority and a validly existing community choice aggregator, duly organized, validly existing and in good standing under the laws of the State of California and the rules, regulations and orders of the California Public Utilities Commission, and is qualified to conduct business in each jurisdiction of the Joint Powers Agreement members. All Persons making up the governing body of Buyer are the elected or appointed incumbents in their positions and hold their positions in good standing in accordance with the Joint Powers Agreement and other Law.

(b) Buyer has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Buyer's performance under this Agreement. The execution, delivery and performance of this Agreement by Buyer has been duly authorized by all necessary action on the part of Buyer and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Buyer or any other party to any other agreement with Buyer.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Buyer with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Buyer, including but not limited to community choice aggregation, the Joint Powers Act, competitive bidding, public notice, open meetings, election, referendum, or prior appropriation requirements, the documents of formation of Buyer or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Buyer is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Buyer. This Agreement is a legal, valid and binding obligation of Buyer enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

13.3 **Covenants**.

(a) Each Party covenants that commencing on the Effective Date and continuing throughout the Contract Term:

(i) It shall continue to be duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and to be qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on its business or financial condition;

(ii) It shall maintain (or obtain from time to time as required) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement; and

(iii) It shall perform its obligations under this Agreement in compliance with all terms and conditions in its governing documents and in material compliance with any Law.

(b) Buyer covenants that commencing on the Effective Date and continuing throughout the Contract Term:

(i) With respect to its contractual obligations under this Agreement, Buyer waives and will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (1) suit, (2) jurisdiction of court, (3) relief by way of injunction, order for specific performance or recovery of property, (4) attachment of assets, or (5) execution or enforcement of any judgment.

(ii) Buyer is a "local public entity" as defined in Section 900.4 of the Government Code of the State of California.

(iii) Buyer waives any right to and cannot assert sovereign immunity as a defense to the enforcement of its obligations under this Agreement.

13.4 **Workforce Development**. The Parties acknowledge that in connection with Buyer's renewable energy procurement efforts, including entering into this Agreement, Buyer is committed to creating community benefits, which includes engaging a skilled and trained workforce and targeted hires. In connection with construction of the Facility, Seller's primary contractor has entered into a project labor agreement, and has committed to comply with such agreement during construction.

ARTICLE 14
ASSIGNMENT

14.1 **General Prohibition on Assignments**. Except as provided below in this Article 14, neither Party may voluntarily assign this Agreement or its rights or obligations under this Agreement, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Any 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 shall not be unreasonably withheld, conditioned or delayed; *provided*, a Change of Control of Seller shall not require Buyer's consent if the assignee or

transferee is a Permitted Transferee. Any assignment made without the required written consent, or in violation of the conditions to assignment set out below, shall be null and void. Seller shall be responsible for Buyer's reasonable costs associated with the preparation, review, execution and delivery of documents in connection with any assignment of this Agreement by Seller, including without limitation reasonable attorneys' fees.

14.2 **Collateral Assignment**. Subject to the provisions of this Section 14.2, Seller has the right to assign this Agreement as collateral for any financing or refinancing of the Facility. In connection with any financing or refinancing of the Facility by Seller, Buyer shall in good faith work with Seller and Lender to execute a consent to collateral assignment of this Agreement substantially in the form attached hereto as Exhibit S, which shall incorporate changes reasonably requested by Lender ("**Consent to Collateral Assignment**").

14.3 **Permitted Assignment by Seller**. Seller may, without the prior written consent of Buyer, transfer or assign this Agreement to: (a) an Affiliate of Seller, or (b) any Person succeeding to all or substantially all of the assets of Seller (whether voluntary or by operation of law) if, and only if:

(a) the assignee is a Permitted Transferee;

(b) Seller has given Buyer Notice at least fifteen (15) Business Days before the date of such proposed assignment; and

(c) Seller has provided Buyer a written agreement signed by the Person to which Seller wishes to assign its interests that (x) provides that such Person will assume all of Seller's obligations and liabilities under this Agreement upon such transfer or assignment and (y) certifies that such Person meets the definition of a Permitted Transferee.

Notwithstanding the foregoing, any assignment by Seller, its successors or assigns under this Section 14.3 shall be of no force and effect unless and until such Notice and agreement by the assignee have been received and accepted by Buyer, which acceptance shall not be unreasonably delayed or withheld.

14.4 **Shared Facilities; Portfolio Financing**. Buyer agrees and acknowledges that Seller may elect to finance all or any portion of the Facility or the Interconnection Facilities or the Shared Facilities (1) utilizing tax equity or cash equity investment, and/or (2) through a Portfolio Financing, which may include cross-collateralization or similar arrangements. In connection with any financing or refinancing of the Facility, the Interconnection Facilities or the Shared Facilities by Seller or any Portfolio Financing, Buyer, Seller, Portfolio Financing Entity (if any) and Lender shall execute and deliver such further consents, approvals and acknowledgments as may be reasonable and necessary to facilitate such transactions; *provided*, Buyer shall not be required to agree to any terms or conditions which are reasonably expected to have a material adverse effect on Buyer and all reasonable third-party attorney's fees incurred by Buyer in connection therewith shall be borne by Seller.

14.5 **Buyer Financing Assignment**. Seller agrees that Buyer may assign a portion of its rights and obligations under this Agreement to a Person in connection with a municipal prepayment financing transaction ("**Buyer Assignee**") at any time upon not less than fifteen (15)

Business Days' notice by delivering Notice of such assignment, which notice must include a proposed assignment agreement substantially in the form attached hereto as Exhibit L ("**Assignment Agreement**"), *provided*, at the time of such assignment, (a) such Buyer Assignee has a Credit Rating equal to the higher of (i) Buyer's Credit Rating at the time of such assignment (if applicable), and (ii) Baa3 from Moody's and BBB- from S&P, (b) the portion of Buyer's rights and obligations assigned to Buyer Assignee [redacted] of the total Agreement, and (c) such assignment shall not release or novate Buyer from its obligations with respect to the Buyer Assignee Percentage assigned under any Assignment Agreement. As reasonably requested by Buyer Assignee, Seller shall (x) provide Buyer Assignee with information and documentation with respect to Seller, including but not limited to account opening information, information related to forecasted generation, Credit Rating, and compliance with anti-money laundering rules, the Dodd-Frank Act, the Commodity Exchange Act, the Patriot Act and similar rules, regulations, requirements and corresponding policies; and (y) promptly execute such Assignment Agreement and implement such assignment as contemplated thereby, subject only to the countersignature of Buyer Assignee and Buyer and the requirements of this Section 14.5; *provided*, nothing in this Section 14.5 shall require Seller to make any changes to this Agreement, or Seller's processes, procedures, corporate organization or the Facility to accommodate such Buyer Assignee other than administrative changes (e.g providing invoices and Notices to, and accepting payment from, the Buyer Assignee, etc.).

ARTICLE 15
DISPUTE RESOLUTION

15.1 **Governing Law**. This Agreement and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of Law. To the extent enforceable at such time, each Party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Agreement. [STC – 17]

15.2 **Dispute Resolution**. In the event of any dispute arising under this Agreement, within ten (10) Business Days following the receipt of a Notice from either Party identifying such dispute, the Parties shall meet, negotiate and attempt, in good faith, to resolve the dispute quickly, informally and inexpensively. If the Parties are unable to resolve a dispute arising hereunder within the earlier of either forty-five (45) days of initiating such discussions, or within sixty (60) days after Notice of the dispute, either Party may seek any and all remedies available to it at law or in equity, subject to the limitations set forth in this Agreement.

15.3 **Attorneys' Fees**. In any proceeding brought to enforce this Agreement or because of the breach by any Party of any covenant or condition herein contained, each Party shall bear its own respective costs, expenses and attorneys' fees in connection with said action.

15.4 **Venue.** In the event of any legal action to enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Los Angeles County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, and waive any claim or defense that such forum is not convenient or proper.

15.5 **Jury Trial Waiver.** TO THE FULLEST EXTENT PERMITTED BY LAW,

EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.

ARTICLE 16
INDEMNIFICATION

16.1 **Indemnification**.

(a) Each Party (the "**Indemnifying Party**") agrees to indemnify, defend and hold harmless the other Party and its Affiliates, directors, officers, employees and agents (collectively, the "**Indemnified Party**") from and against all claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees) (i) for personal injury or death to Persons and damage to the property of any third party to the extent arising out of, resulting from, or caused by the negligent acts or omissions or willful misconduct of the Indemnifying Party, its Affiliates, its directors, officers, employees, or agents, or (ii) for third-party claims resulting from the Indemnifying Party's breach (including inaccuracy of any representation of warranty made hereunder), performance or non-performance of its obligations under this Agreement.

(b) Seller shall indemnify, defend and hold harmless Buyer and its Affiliates, directors, officers, employees from and against all claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees) in connection with any claims of infringement upon or violation of any trade secret, trademark, trade name, copyright, patent, or other intellectual property rights of any third party by equipment, software, applications or programs (or any portion of same) used by Seller or any of Seller's contractors or service providers in connection with the Facility (an "**IP Indemnity Claim**").

(c) Nothing in this Section 16.1 shall enlarge or relieve Seller or Buyer of any liability to the other for any breach of this Agreement. Neither Party shall be indemnified for its damages resulting from the sole negligence, intentional acts or willful misconduct. These indemnity provisions shall not be construed to relieve any insurer of its obligation to pay claims consistent with the provisions of a valid insurance policy.

16.2 **Claims**. Promptly after receipt by a Party of any claim or Notice of the commencement of any action, administrative, or legal proceeding, or investigation as to which the indemnity provided for in this Article 16 may apply, the Indemnified Party shall notify the Indemnifying Party in writing of such fact. The Indemnifying Party shall assume the defense thereof with counsel designated by the Indemnifying Party and satisfactory to the Indemnified Party, *provided*, if the defendants in any such action include both the Indemnified Party and the Indemnifying Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, the Indemnified Party shall have the right to select and be represented by separate counsel, at the Indemnifying Party's expense, unless a liability insurer is willing to pay such costs. If the Indemnifying Party fails to assume the defense of a claim meriting

indemnification, the Indemnified Party may at the expense of the Indemnifying Party contest, settle, or pay such claim; *provided*, settlement or full payment of any such claim may be made only following consent of the Indemnifying Party or, absent such consent, written opinion of the Indemnified Party's counsel that such claim is meritorious or warrants settlement. Except as otherwise provided in this Article 16, in the event that a Party is obligated to indemnify and hold the other Party and its successors and assigns harmless under this Article 16, the amount owing to the Indemnified Party will be the amount of the Indemnified Party's damages net of any insurance proceeds received by the Indemnified Party following a reasonable effort by the Indemnified Party to obtain such insurance proceeds.

INSURANCE

17.1 **Insurance**.

(a) General Liability. Seller shall provide and maintain, at its sole expense, the following types and minimum limits of insurance with a carrier rated "A- VII" or higher by A.M. Best's Key Rating Guide: (i) commercial general liability insurance, including products and completed operations and personal injury insurance, in a minimum amount of One Million Dollars ($1,000,000) per occurrence, and an annual aggregate of not less than Two Million Dollars ($2,000,000), specifically covering Seller's obligations under this Agreement and including Buyer as an additional insured; and (ii) an umbrella/excess liability insurance policy in a minimum limit of liability of Five Million Dollars ($5,000,000). Defense costs shall be provided as an additional benefit and not included within the limits of liability. Such insurance shall contain standard cross-liability and severability of interest provisions.

(b) Employer's Liability Insurance. Employers' Liability insurance shall not be less than One Million Dollars ($1,000,000.00) for injury or death occurring as a result of each accident. With regard to bodily injury by disease, the One Million Dollar ($1,000,000) policy limit will apply to each employee.

(c) Workers Compensation Insurance. Seller, if it has employees, shall also maintain at all times during the Contract Term workers' compensation and employers' liability insurance coverage in accordance with applicable requirements of Law.

(d) Business Auto Insurance. Seller shall maintain at all times during the Contract Term business auto insurance for bodily injury and property damage with limits of One Million Dollars ($1,000,000) per occurrence. Such insurance shall cover liability arising out of Seller's use of all owned (if any), non-owned and hired vehicles, including trailers or semi-trailers in the performance of the Agreement.

(e) Construction All-Risk Insurance. Seller shall maintain or cause to be maintained during the construction of the Facility prior to the Commercial Operation Date, construction all-risk form property insurance covering the Facility during such construction periods, and naming Seller (and Lender if any) as the loss payee.

(f) Property Damage Insurance. Seller shall maintain or cause to be maintained during the Delivery Term, property damage insurance with a policy limit of not less than the full replacement cost of the Facility on a per occurrence basis.

(g) Pollution Liability Insurance. Seller shall maintain or cause to be maintained during the Contract Term, pollution liability insurance in an amount not less than Two Million Dollars ($2,000,000) each occurrence covering [redacted] losses involving hazardous material(s) and caused by pollution incidents or conditions that arise from any subcontractor's performance or lack of performance of work under this Agreement, or might be required by federal, state, regional, municipal, and local laws, including coverage for bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death, property damage including the resulting loss of use thereof, and the loss of use of tangible property that has not been physically damaged or destroyed, and defense costs. If such coverage is on a "claims made" policy form, any applicable "retroactive date" shall be no later than the Effective Date and shall be maintained for at least two (2) years beyond the termination of this Agreement, to allow for a reasonable extended reporting period.

(h) Subcontractor Insurance. Seller's subcontractor's shall maintain insurance in accordance with Seller's standard requirements, which shall, at a minimum, include requirements to carry: (i) comprehensive general liability insurance with a combined single limit of coverage not less than One Million Dollars ($1,000,000); (ii) workers' compensation insurance and employers' liability coverage in accordance with applicable requirements of Law; and (iii) business auto insurance for bodily injury and property damage with limits of one million dollars ($1,000,000) per occurrence. All subcontractors shall name Seller as an additional insured to insurance carried pursuant to clauses (h)(i) and (h)(iii). All subcontractors shall provide a primary endorsement and a waiver of subrogation to Seller for the required coverage pursuant to this Section 17.1(h).

(i) Evidence of Insurance. Within ten (10) days after execution of the Agreement and upon annual renewal thereafter, Seller shall deliver to Buyer certificates of insurance evidencing such coverage. Such certificates shall specify that Buyer shall be given at least thirty (30) days prior Notice by Seller in the event of any material modification, cancellation or termination of coverage. All insurance required herein shall be primary coverage without right of contribution from any insurance of Buyer, and to the extent permitted by applicable laws, such policies shall be endorsed with a waiver of subrogation in favor of Buyer for all work performed by Seller, its employees, agents and subcontractors and any subrogation rights which may pass to Seller's insurance carriers for the payment of any claims. Any other insurance maintained by Seller is for the exclusive benefit of Seller and shall not in any manner inure to the benefit of Buyer.

(j) Failure to Comply with Insurance Requirements. If Seller fails to comply with any of the provisions of this Article 17, Seller, among other things and without restricting Buyer's remedies under the Law or otherwise, shall, at its own cost and expense, act as an insurer and provide insurance in accordance with the terms and conditions above. With respect to the required 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. In addition, alleged violations of the provisions of this Article 17 means that Seller has the initial burden of proof regarding any legal justification for refusing or withholding coverage and Seller shall face

the same liability and damages as an insurer for wrongfully refusing or withholding coverage in accordance with the laws of California.

ARTICLE 18
CONFIDENTIAL INFORMATION

18.1 **Definition of Confidential Information**. The following constitutes "**Confidential Information**," whether oral or written which is delivered by Seller to Buyer or by Buyer to Seller including: (a) the terms and conditions of, and proposals and negotiations related to, this Agreement, and (b) information that either Seller or Buyer stamps or otherwise identifies as "confidential" or "proprietary" before disclosing it to the other and (c) information of one Party that a reasonable person would treat as confidential given the nature of such information, including business plans, drawings, third-party contracts, pricing information, technical information. Confidential Information does not include (i) information that was publicly available at the time of the disclosure, other than as a result of a disclosure in breach of this Agreement; (ii) information that becomes publicly available through no fault of the recipient after the time of the delivery; (iii) information that was rightfully in the possession of the recipient (without confidential or proprietary restriction) at the time of delivery or that becomes available to the recipient from a source not subject to any restriction against disclosing such information to the recipient; and (iv) information that the recipient independently developed without a violation of this Agreement or use of the Disclosing Party's information.

18.2 **Duty to Maintain Confidentiality**. The Party receiving Confidential Information (the "**Receiving Party**") from the other Party (the "**Disclosing Party**") shall not disclose Confidential Information to a third party (other than the Party's employees, lenders and potential lenders and their advisors, counsel, accountants, directors or advisors, or any such representatives of a Party's Affiliates, who have a need to know such information and have agreed or have an employment or professional obligation to keep such terms confidential) except in order to comply with any applicable Law, regulation, or any exchange, control area or independent system operator rule or in connection with any court or regulatory proceeding applicable to such Party or any of its Affiliates; *provided*, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation. The Parties agree and acknowledge that nothing in this Section 18.2 prohibits a Party from disclosing any one or more of the commercial terms of a transaction (other than the name or other identifying information of the other Party unless otherwise agreed to in writing by the Parties) to any industry price source for the purpose of aggregating and reporting such information in the form of a published energy price index.

The Parties acknowledge and agree that the Agreement and any transactions entered into in connection herewith are subject to the requirements of the California Public Records Act (Government Code Section 7920.000 et seq.). In order to designate information as confidential, the Disclosing Party must clearly stamp and identify the specific portion of the material designated with the word "Confidential." The Parties agree not to over-designate material as Confidential Information. Over-designation includes stamping whole agreements, entire pages or series of pages as "Confidential" that clearly contain information that is not Confidential Information.

Upon request or demand of any third person or entity not a Party hereto to Buyer pursuant to the California Public Records Act for production, inspection and/or copying of Confidential Information ("**Requested Confidential Information**"), Buyer shall as soon as practical notify Seller in writing via email that such request has been made. Seller shall be solely responsible for taking at its sole expense whatever legal steps are necessary to prevent release of the Requested Confidential Information to the third party by Buyer. If Seller takes no such action after receiving the foregoing notice from Buyer, Buyer shall, at its discretion, be permitted to comply with the third party's request or demand and is not required to defend against it. If Seller does take or attempt to take such action, Buyer shall provide timely and reasonable cooperation to Seller, if requested by Seller, including withholding any information Seller identifies as confidential pending a final order of a court or other body with jurisdiction requiring disclosure or further direction from Seller, and Seller agrees to indemnify and hold harmless Buyer, its officers, employees and agents ("**Buyer's Indemnified Parties**"), from any claims, liability, award of attorneys' fees, or damages, and to defend any action, claim or lawsuit brought against any of Buyer's Indemnified Parties for Buyer's refusal to disclose any Requested Confidential Information. Notwithstanding Section 18.1(c), if Buyer provides Seller an opportunity to opine as to whether or not certain Seller-provided information should be considered Requested Confidential Information and Seller does not identify some or all of such information as Confidential Information, then it shall be deemed to not be Confidential Information and Buyer shall have no liability to Seller for disclosing such information.

18.3 **Irreparable Injury; Remedies**. Receiving Party acknowledges that its obligations hereunder are necessary and reasonable in order to protect Disclosing Party and the business of Disclosing Party, and expressly acknowledges that monetary damages would be inadequate to compensate Disclosing Party for any breach or threatened breach by Receiving Party of any covenants and agreements set forth herein. Accordingly, Receiving Party acknowledges that, in addition to any other remedies that may be available, in law, in equity or otherwise, Disclosing Party will be entitled to seek injunctive relief against the threatened breach of this Agreement or the continuation of any such breach, and that for purposes of seeking injunctive relief any such breach or threatened breach will be deemed to cause irreparable injury to Disclosing Party without the necessity of proving actual damages.

18.4 **Further Permitted Disclosure**. Notwithstanding anything to the contrary in this Article 18, Confidential Information may be disclosed by the Receiving Party to any of its agents, consultants, contractors, trustees, or actual or potential financing parties (including, in the case of Seller, its Lender(s)), so long as such Person to whom Confidential Information is disclosed is required by employment or professional rules of conduct to maintain the information as confidential or agrees in writing to be bound by confidentiality provisions that are at least as restrictive as this Article 18 to the same extent as if it were a Party.

18.5 **Press Releases**. Neither Party shall issue (or cause its Affiliates to issue) a press release regarding the transactions contemplated by this Agreement unless both Parties have agreed upon the contents of any such public statement.

ARTICLE 19
MISCELLANEOUS

19.1 **Entire Agreement; Integration; Exhibits**. This Agreement, together with the Cover Sheet and Exhibits attached hereto constitutes the entire agreement and understanding between Seller and Buyer with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. The Exhibits attached hereto are integral parts hereof and are made a part of this Agreement by reference. The headings used herein are for convenience and reference purposes only. In the event of a conflict between the provisions of this Agreement and those of the Cover Sheet or any Exhibit, the provisions of first the Cover Sheet, and then this Agreement shall prevail, and such Exhibit shall be corrected accordingly. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.

19.2 **Amendments**. This Agreement may only be amended, modified or supplemented by an instrument in writing executed by duly authorized representatives of Seller and Buyer; *provided*, this Agreement may not be amended by electronic mail communications.

19.3 **No Waiver**. Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default.

19.4 **No Agency, Partnership, Joint Venture or Lease**. Seller and the agents and employees of Seller shall, in the performance of this Agreement, act in an independent capacity and not as officers or employees or agents of Buyer. Under this Agreement, Seller and Buyer intend to act as energy seller and energy purchaser, respectively, and do not intend to be treated as, and shall not act as, partners in, co-venturers in or lessor/lessee with respect to the Facility or any business related to the Facility. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement) and/or, to the extent set forth herein, any Lender and/or Indemnified Party.

19.5 **Severability**. In the event that any provision of this Agreement is unenforceable or held to be unenforceable, the Parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby. The Parties shall, however, use commercially reasonable efforts to agree on the replacement of the void, illegal or unenforceable provision(s) with legally acceptable clauses which correspond as closely as possible to the sense and purpose of the affected provision and this Agreement as a whole.

19.6 **Mobile-Sierra**. Notwithstanding any other provision of this Agreement, neither Party shall seek, nor shall they support any third party 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 written 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 shall be the "public interest" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service

Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956). Changes proposed by a non-Party or FERC acting *sua sponte* shall be subject to the most stringent standard permissible under applicable Law.

19.7 **Counterparts**. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument and each of which shall be deemed an original.

19.8 **Electronic Delivery**. This Agreement may be duly executed and delivered by a Party by electronic format (including portable document format (.pdf)) delivery of the signature page of a counterpart to the other Party.

19.9 **Binding Effect**. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

19.10 **No Recourse to Members of Buyer**. Buyer is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to its Joint Powers Agreement and is a public entity separate from its constituent members. Buyer shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Seller shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Buyer's constituent members, or the employees, directors, officers, consultants or advisors of Buyer or its constituent members, in connection with this Agreement. Buyer's members are not considered third-party beneficiaries of this Agreement and Buyer has not granted any rights to its members in this Agreement, and the Parties agree that they do not intend to, and this Agreement does not, confer any rights under this Agreement to Buyer's members, except to the extent one or more of Buyer's members are successors in interest to CPA's interest in the Agreement pursuant to that certain Joint Powers Agreement to which CPA and such members are parties.

19.11 **Forward Contract**. The Parties acknowledge and agree that this Agreement constitutes a "forward contract" within the meaning of the U.S. Bankruptcy Code, and Buyer and Seller are "forward contract merchants" within the meaning of the U.S. Bankruptcy Code. Each Party further agrees that, for all purposes of this Agreement, each Party waives and agrees not to assert the applicability of the provisions of 11 U.S.C. § 366 in any Bankruptcy proceeding wherein such Party is a debtor. In any such proceeding, each Party further waives the right to assert that the other Party is a provider of last resort to the extent such term relates to 11 U.S.C. §366 or another provision of 11 U.S.C. § 101-1532.

19.12 **Change in Electric Market Design**. If a change in the CAISO Tariff renders this Agreement or any provisions hereof incapable of being performed or administered, then any Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to make this Agreement capable of being performed and administered, while attempting to preserve to the maximum extent possible the benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, Buyer and Seller shall engage in such negotiations in good faith. If Buyer and Seller are unable, within sixty (60) days after delivery of such request, to agree upon changes to this Agreement or to resolve issues relating to changes to this Agreement, then any Party may submit issues pertaining to changes to

this Agreement to the dispute resolution process set forth in Article 15. Notwithstanding the foregoing, (i) a change in cost shall not in and of itself be deemed to render this Agreement or any of the provisions hereof incapable of being performed or administered, and (ii) all of the unaffected provisions of this Agreement shall remain in full force and effect during any period of such negotiation or dispute resolution.

19.13 **Further Assurances**. Each of the Parties hereto agrees to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the Effective Date.

SOLAR STAR 3, LLC

By: _____
Name: _____
Title: _____

CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority

By: _____
Name: _____
Title: _____

EXHIBIT A

FACILITY DESCRIPTION

Site Name: Solar Star 3

Site includes all or some of the following APNs:

APN	Project Footprint	Acres	S-T-R	Short Legal	Improvement
261-193-15	Solar Star 3	2.53	S27 T9N R15W	SW-SW-SW-SE	Panels
261-193-17	Solar Star 3	2.53	S27 T9N R15W	NE-SW-SW-SE	Panels
261-193-18	Solar Star 3	2.53	S27 T9N R15W	NW-SW-SW-SE	Panels
261-193-20	Solar Star 3	5	S27 T9N R15W	NH-NW-SW-SE	Panels
261-193-19	Solar Star 3	5	S27 T9N R15W	SH-NW-SW-SE	Panels
261-193-26	Solar Star 3	20	S27 T9N R15W	EH-SW-SE	Panels
261-193-22	Solar Star 3	19.55	S27 T9N R15W	WH-NW-SE	Panels
261-193-25	Solar Star 3	19.55	S27 T9N R15W	EH-NW-SE	Panels
261-193-24	Solar Star 3	39.09	S27 T9N R15W	NE-SE	Panels
261-193-23	Solar Star 3	40	S27 T9N R15W	SE-SE	Panels
261-194-45	Solar Star 3 and 4	19.34	S26 T9N R15W	NH-NW-SW	Panels
261-194-46	Solar Star 3 and 4	20.24	S26 T9N R15W	SH-NW-SW	Panels
261-194-47	Solar Star 3 and 4	20.24	S26 T9N R15W	NH-SW-SW	Panels
261-194-30	Solar Star 4	39.09	S26 T9N R15W	NE-SW	Panels
261-194-35	Solar Star 4	40	S26 T9N R15W	SE-SW	Panels
261-450-06	Solar Star 4	72.84	S26 T9N R15W	NH-SE	Panels
261-194-50	Solar Star 4	73.12	S26 T9N R15W	SH-NE	Panels - Corner driveway entrance
261-196-22	Shared	310.4	S25 T9N R15W	WH-NW	New Underground Transmission/ Substation
261-196-21	Shared	7.78	S25 T9N R15W	WH-NW	New Underground Transmission
261-194-50	Solar Star 4	73.12	S26 T9N R15W	SH-NE	BESS

City: Rosamond, California

County: Kern

Zip Code: 93560

Latitude and Longitude: 34°50'24.1"N 118°25'58.4"W

Facility Description: Solar Star 3 is comprised of co-located PV solar generation (Generating Facility) and Lithium-ion battery storage (Storage Facility). It is located in Kern County, California and delivered to Southern California Edison's Whirlwind 230 kV Substation. The facilities are 24 MW of installed PV with an expected annual energy production of 74,544 MWh

and 23 MW of installed battery storage. The Storage Facility is capable of charging from the Generating Facility or the interconnected grid.

Delivery Point: Whirlwind 230 kV Substation

P-node: SLSTR3_3_SOLAR3-APND (anticipated)

Transmission Provider: Southern California Edison

Additional Information: Not Applicable

Site Diagram:

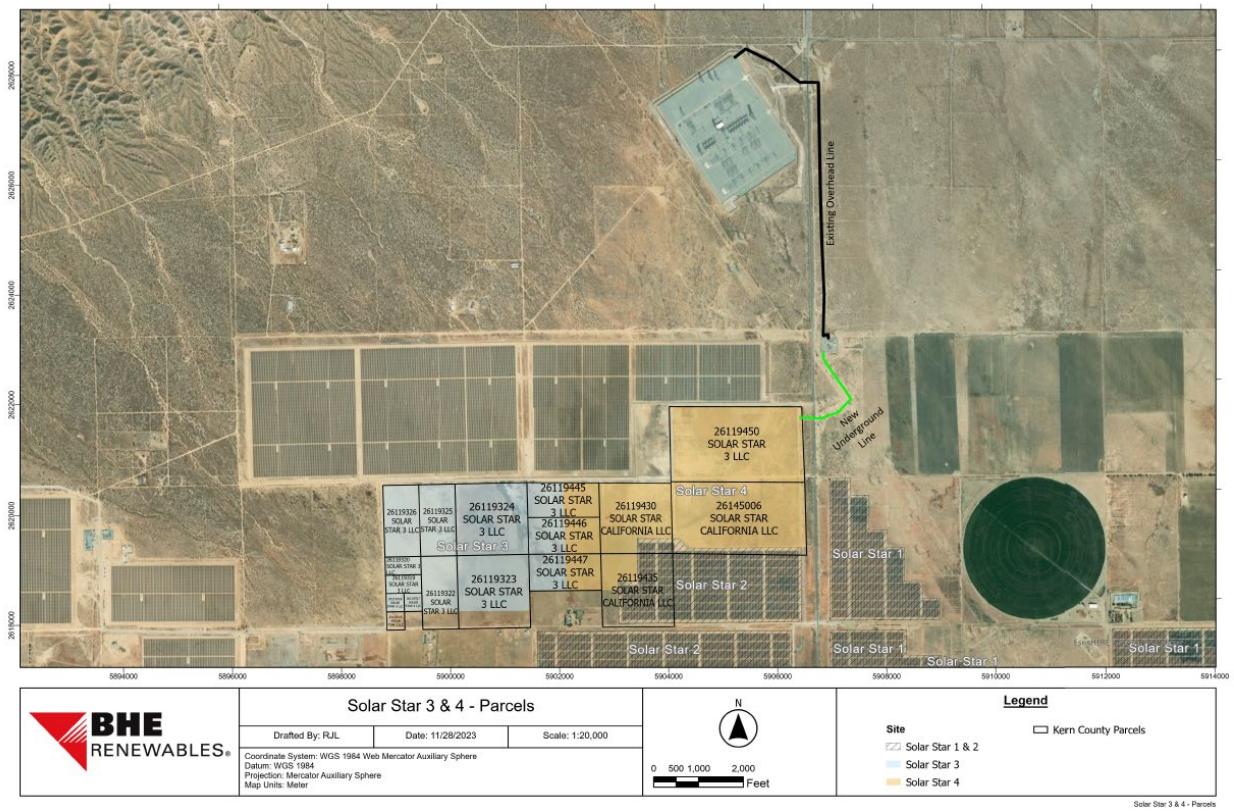


EXHIBIT B

FACILITY CONSTRUCTION AND COMMERCIAL OPERATION

1. **Construction of the Facility**.

   (a) "**Construction Start**" will occur upon Seller's acquisition of all applicable regulatory authorizations, approvals and permits for the construction of the Facility, and once Seller has engaged all contractors and ordered all essential equipment and supplies as, in each case, can reasonably be considered necessary so that physical construction of the Facility may begin and proceed to completion without foreseeable interruption of material duration, and has executed an engineering, procurement, and construction contract and issued thereunder a final notice to proceed that authorizes the contractor to mobilize to Site and begin physical construction (including, at a minimum, excavation for foundations or the installation or erection of improvements) at the Site. The date of Construction Start will be evidenced by and subject to Seller's delivery to Buyer of a certificate substantially in the form attached as Exhibit J hereto, and the date certified therein shall be the "**Construction Start Date**." Seller shall cause Construction Start to occur no later than the Guaranteed Construction Start Date.

   (b) Seller may extend the Guaranteed Construction Start Date by paying Daily Delay Damages to Buyer for each day Seller desires to extend the Guaranteed Construction Start Date, not to exceed a total of one hundred twenty (120) days of extensions by such payment of Daily Delay Damages. On or before the date that is ten (10) days prior to the then-current Guaranteed Construction Start Date, Seller shall provide notice and payment to Buyer of the Daily Delay Damages for the number of days of extension to the Guaranteed Construction Start Date. If Seller achieves Construction Start prior to the Guaranteed Construction Start Date, as extended by the payment of Daily Delay Damages, Buyer shall refund to Seller the Daily Delay Damages for each day Seller achieves Construction Start prior to the Guaranteed Construction Start Date times the Daily Delay Damages, not to exceed the total amount of Daily Delay Damages paid by Seller pursuant to this Section 1(b). Additionally, if Seller achieves Commercial Operation on or before the Guaranteed Commercial Operation Date (not including any extensions to such date resulting from Seller's payment of Commercial Operation Delay Damages, but as may be extended pursuant to a Development Cure Period), then Buyer shall refund to Seller all Daily Delay Damages paid by Seller and not previously refunded by Buyer.

2. **Commercial Operation of the Facility**. "**Commercial Operation**" means the condition existing when Seller has fulfilled all of the conditions precedent in Section 2.2 of the Agreement and provided Notice to Buyer substantially in the form of Exhibit H (the "**COD Certificate**").

   (a) Seller shall cause Commercial Operation for the Facility to occur by the Guaranteed Commercial Operation Date. Seller shall notify Buyer that it intends to achieve

Commercial Operation at least sixty (60) days before the anticipated Commercial Operation Date.

(b) Seller may extend the Guaranteed Commercial Operation Date by paying Commercial Operation Delay Damages to Buyer for each day Seller desires to extend the Guaranteed Commercial Operation Date, not to exceed a total of ninety (90) days of extensions by such payment of Commercial Operation Delay Damages. On or before the date that is ten (10) days prior to the then-current Guaranteed Commercial Operation Date, Seller shall provide Notice and payment to Buyer of the Commercial Operation Delay Damages for the number of days of extension to the Guaranteed Commercial Operation Date. If Seller achieves Commercial Operation prior to the Guaranteed Commercial Operation Date as extended by the payment of Commercial Operation Delay Damages, Buyer shall refund to Seller the Commercial Operation Delay Damages for each day Seller achieves Commercial Operation prior to the Guaranteed Commercial Operation Date times the Commercial Operation Delay Damages, not to exceed the total amount of Commercial Operation Delay Damages paid by Seller pursuant to this Section 2(b).

3. **Termination for Failure to Achieve Commercial Operation**. If the Facility has not achieved Commercial Operation on or before the Guaranteed Commercial Operation Date (as may be extended hereunder), Buyer may elect to terminate this Agreement in accordance with Sections 11.1(b)(ii) and 11.2.

4. **Extension of the Guaranteed Dates**. The Guaranteed Construction Start Date and the Guaranteed Commercial Operation Date shall, subject to notice and documentation requirements set forth below, be extended on a day-for-day basis (the "**Development Cure Period**") for the duration of any and all delays arising out of the following circumstances to the extent (i) the following circumstances are not the result of Seller's failure to take all commercially reasonable actions to meet its requirements and deadlines, (ii) such delays could not be mitigated by Seller using commercially reasonable efforts to overcome the delays, and (iii) such delays do not run concurrently:

   (a) Seller has not acquired the Material Permits by the Guaranteed Construction Start Date, despite the exercise of diligent and commercially reasonable efforts by Seller; or

   (b) a Force Majeure Event occurs; or

   (c) the Interconnection Facilities or Reliability Network Upgrades are not complete and ready for the Facility to connect and sell Product at the Delivery Point by the Guaranteed Commercial Operation Date, despite the exercise of diligent and commercially reasonable efforts by Seller; or

   (d) Buyer has not made all necessary arrangements to deliver Charging Energy to, and receive the Facility Energy at, the Delivery Point by the Guaranteed Commercial Operation Date.

Seller shall submit any claim for Development Cure Period delays within (x) three (3) Business Days of the applicable milestone in the case of (a), (c) or (d) above, and (y) fourteen (14) days after the initial occurrence of the claimed Force Majeure Event in the case of (b) above, in substantially the form set forth in Exhibit W. Notwithstanding anything in this Agreement to the contrary, the cumulative extensions granted under the Development Cure Period (other than the extensions granted pursuant to clause 4(d) above) shall not exceed one hundred eighty (180) days, for any reason, including a Force Majeure Event, and the cumulative extensions granted to the Guaranteed Commercial Operation Date by the payment of Commercial Operation Delay Damages and any Development Cure Period(s) (other than the extensions granted pursuant to clause 4(d) above) shall not exceed two hundred seventy (270) days. Upon request from Buyer, Seller shall provide documentation demonstrating to Buyer's reasonable satisfaction that the delays described above did not result from Seller's actions or failure to take commercially reasonable actions.

5. **Failure to Reach Guaranteed PV Capacity or Guaranteed Storage Capacity**.

   (a) *Guaranteed PV Capacity*. If, at Commercial Operation, the Installed PV Capacity is less than one hundred percent (100%) of the Guaranteed PV Capacity, Seller shall have ninety (90) days after the Commercial Operation Date to install additional capacity and/or Network Upgrades such that the Installed PV Capacity is equal to (but not greater than) the Guaranteed PV Capacity, and Seller shall provide to Buyer a new certificate substantially in the form attached as Exhibit I-1 hereto specifying the new Installed PV Capacity. If Seller fails to construct the Guaranteed PV Capacity by such date, Seller shall pay "**PV Capacity Damages**" to Buyer, in an amount equal to Three Hundred Fifty Thousand Dollars ($350,000) for each MW that the Guaranteed PV Capacity exceeds the Installed PV Capacity.

   (b) *Guaranteed Storage Capacity*. If, at Commercial Operation, the Installed Storage Capacity is less than one hundred percent (100%) of the Guaranteed Storage Capacity, Seller shall have ninety (90) days after the Commercial Operation Date to install additional capacity and/or Network Upgrades such that the Installed Storage Capacity is equal to (but not greater than) one hundred percent (100%) of the Guaranteed Storage Capacity, and Seller shall provide to Buyer a new certificate substantially in the form attached as Exhibit I-1 hereto specifying the new Installed Storage Capacity. If Seller fails to construct the Guaranteed Storage Capacity by such date, Seller shall pay "**Storage Capacity Damages**" to Buyer, in an amount equal to Five Hundred Thousand Dollars ($500,000) for each MW at four (4) hours of continuous discharge that the Guaranteed Storage Capacity exceeds the Installed Storage Capacity.

Capacity Damages shall not be limited by the payment of any other damages under this Agreement nor by the depletion or other use of the Development Security or Performance Security.

6. **Buyer's Right to Draw on Development Security**. If Seller fails to timely pay any Daily Delay Damages or Commercial Operation Delay Damages, Buyer may draw upon the Development Security to satisfy Seller's payment obligation thereof.

EXHIBIT C

COMPENSATION

Buyer shall compensate Seller for the Product in accordance with this Exhibit C.

(a) Renewable Rate. Buyer shall pay Seller (1) the Renewable Rate for each MWh of PV Energy plus (2) the DDE Rate for each MWh of Deemed Delivered Energy, if any, up to one hundred fifteen percent (115%) of the Expected Energy for such Contract Year.

(b) Excess Contract Year Deliveries Over 115%. Notwithstanding the foregoing, if at any point in any Contract Year, the amount of PV Energy plus Deemed Delivered Energy exceeds one hundred fifteen percent (115%) of the Expected Energy for such Contract Year, the price to be paid for additional PV Energy and/or Deemed Delivered Energy shall be $0.00/MWh.

(c) Excess Settlement Interval Deliveries. If during any Settlement Interval, Seller delivers PV Energy in excess of the product of the Guaranteed PV Capacity and the duration of the Settlement Interval, expressed in hours ("**Excess MWh**"), then the price applicable to all such Excess MWh in such Settlement Interval shall be zero dollars ($0), and if there is a Negative LMP during such Settlement Interval, Seller shall pay to Buyer an amount equal to the absolute value of the Negative LMP times such Excess MWh.

(d) Monthly Capacity Payment.

(i) Each month from the period commencing upon CAISO Commercial Operation and continuing throughout the Delivery Term (and pro-rated for the first and last month of the Delivery Term if the Delivery Term does not start on the first day of a calendar month), Buyer shall pay Seller a Monthly Capacity Payment equal to the Storage Rate x Effective Storage Capacity x Efficiency Rate Factor, *minus* an amount equal to the monthly average cost of Charging Energy times the total number of MWhs of Idle Period Auxiliary Use in such month *divided by* the Efficiency Rate. Such payment constitutes the entirety of the amount due to Seller from Buyer for the Storage Product. If the Effective Storage Capacity is adjusted pursuant to a Storage Capacity Test other than the first day of a calendar month, payment shall be calculated separately for each portion of the month in which the different Effective Storage Capacity is applicable.

"Efficiency Rate Factor" means:

(A) If the Efficiency Rate is greater than or equal to the Guaranteed Efficiency Rate, then:

Efficiency Rate Factor = 100%

(B) If the Efficiency Rate is less than the Guaranteed Efficiency Rate, but greater than or equal to 75%, then:

Efficiency Rate Factor = 100% - [(Guaranteed Efficiency Rate – Efficiency Rate) x .5]

(C) If the Efficiency Rate is less than 75%, then:

Efficiency Rate Factor = 0

(ii) Storage Capacity Availability Payment True-Up. Each month from the period commencing upon CAISO Commercial Operation and continuing throughout the Delivery Term, Buyer shall calculate the year-to-date (YTD) Annual Storage Capacity Availability for the applicable Contract Year (and during the period from CAISO Commercial Operation through the Commercial Operation Date) in accordance with Exhibit P. If (A) such YTD Annual Storage Capacity Availability is less than ninety percent (90%), or (B) the final Annual Storage Capacity Availability is less than the Guaranteed Storage Availability, Buyer shall (1) withhold the Storage Capacity Availability Payment True-Up Amount from the next Monthly Capacity Payment(s) (the "**Storage Capacity Availability Payment True-Up**"), and (2) provide Seller with a written statement of the calculation of the YTD Annual Storage Capacity Availability and the Storage Capacity Availability Payment True-Up Amount; *provided*, if the Storage Capacity Availability Payment True-Up Amount is a negative number for any month prior to the final year-end Storage Capacity Availability Payment True-Up calculation (and following the Commercial Operation Date for the period from CAISO Commercial Operation through the Commercial Operation Date), Buyer shall not be obligated to reimburse Seller any previously withheld Storage Capacity Availability Payment True-Up Amount, except as set forth in the following sentence. If Buyer withholds any Storage Capacity Availability Payment True-Up Amount pursuant to this subsection (d)(ii), and if the final year-end (and for the period from CAISO Commercial Operation through the Commercial Operation Date) Storage Capacity Availability Payment True-Up Amount is a negative number, Buyer shall pay to Seller the positive value of such amount together with the next Monthly Capacity Payment due to Seller.

"**Storage Capacity Availability Payment True-Up Amount**" means an amount equal to A x B - C, where:

A = The sum of the year-to-date Monthly Capacity Payments

B = The Capacity Availability Factor

C = The sum of any Storage Capacity Availability Payment True-Up Amounts previously withheld by Buyer in the applicable Contract Year (or for the period from CAISO Commercial Operation through the Commercial Operation Date).

"Capacity Availability Factor" means:

(A) If the YTD Annual Storage Capacity Availability times the Effective Storage Capacity is equal to or greater than the Guaranteed Storage Availability times the Effective Storage Capacity, then:

Capacity Availability Factor = 0

(B) If the YTD Annual Storage Capacity Availability times the Effective Storage Capacity is less than the Guaranteed Storage Availability times the Effective

Storage Capacity, but the product of (i) the sum of (a) the YTD Annual Storage Capacity Availability *plus* (b) Force Majeure Unavailability *times* (ii) the Effective Storage Capacity is greater than or equal to seventy percent (70%) of the Installed Storage Capacity, then:

Capacity Availability Factor = Guaranteed Storage Availability – YTD Annual Storage Capacity Availability

(C) If the product of (i) the sum of (a) the YTD Annual Storage Capacity Availability *plus* (b) Force Majeure Unavailability *times* (ii) the Effective Storage Capacity is less than seventy percent (70%) of the Installed Storage Capacity, then:

Capacity Availability Factor = (Guaranteed Storage Availability – YTD Annual Storage Capacity Availability) * 1.5 – (Force Majeure Unavailability * 0.5)

"**Force Majeure Unavailability**" means Total YTD Unavailable Calculation Intervals that resulted from a Force Majeure Event for which Seller is the claiming party divided by the Total YTD Calculation Intervals.

provided, if the result of any of the calculations in clauses (B) or (C) above is greater than 1.0, then the Capacity Availability Factor will be deemed to be equal to 1.0.

(e) Test Energy. Test Energy is compensated in accordance with Section 3.6.

(f) Tax Credits. The Parties agree that none of the Renewable Rate, the Storage Rate nor the Test Energy Rate are subject to adjustment or amendment if Seller fails to receive any Tax Credits, or if any Tax Credits expire, are repealed or otherwise cease to apply to Seller or the Facility in whole or in part, or Seller or its investors are unable to benefit from any Tax Credits, or if additional Tax Credits become available due to extension of Tax Credits or creation of new Tax Credits. Seller shall bear all risks, financial and otherwise, throughout the Contract Term, associated with Seller's or the Facility's eligibility to receive Tax Credits or to qualify for accelerated depreciation for Seller's accounting, reporting or Tax purposes. The obligations of the Parties hereunder, including those obligations set forth herein regarding the purchase and price for and Seller's obligation to deliver Facility Energy and Product, shall be effective regardless of whether construction of the Facility (or any portion thereof) or the sale of Facility Energy is eligible for, or receives Tax Credits during the Contract Term.

EXHIBIT D

SCHEDULING COORDINATOR RESPONSIBILITIES

(a) Buyer as Scheduling Coordinator for the Facility. Upon Initial Synchronization of the Facility to the CAISO Grid, Buyer shall be the Scheduling Coordinator or designate a qualified third party to provide Scheduling Coordinator services with the CAISO for the Facility for both the delivery and the receipt of Charging Energy Test Energy and the Product at the Delivery Point. At least thirty (30) days prior to the Initial Synchronization of the Facility to the CAISO Grid, (i) Seller shall take all actions and execute and deliver to Buyer and the CAISO all documents necessary to authorize or designate Buyer (or Buyer's designee) as the Scheduling Coordinator for the Facility effective as of the Initial Synchronization of the Facility to the CAISO Grid, and (ii) Buyer shall, and shall cause its designee to, take all actions and execute and deliver to Seller and the CAISO all documents necessary to authorize or designate Buyer or its designee as the Scheduling Coordinator for the Facility effective as of the Initial Synchronization of the Facility to the CAISO Grid. On and after Initial Synchronization of the Facility to the CAISO Grid, Seller shall not authorize or designate any other party to act as the Facility's Scheduling Coordinator, nor shall Seller perform for its own benefit the duties of Scheduling Coordinator, and Seller shall not revoke Buyer's authorization to act as the Facility's Scheduling Coordinator unless agreed to by Buyer. Buyer (as the Facility's SC) shall submit bids to the CAISO in accordance with this Agreement and the applicable CAISO Tariff, protocols and Scheduling practices for Product on a day-ahead, hour-ahead, fifteen-minute market, real-time or other market basis that may develop after the Effective Date, as determined by Buyer. Seller shall cooperate with Buyer to enable the grid-charging designation function with the CAISO for the Storage Facility. Buyer shall have the exclusive right to enable the grid-charging designation with respect to Scheduling the charging of the Storage Facility.

(b) Notices. Buyer (as the Facility's SC) shall provide Seller with access to a web-based system through which Seller shall submit to Buyer and the CAISO all notices and updates required under the CAISO Tariff regarding the Facility's status, including, but not limited to, all outage requests, forced outages, forced outage reports, clearance requests, or must offer waiver forms. Seller shall cooperate with Buyer to provide such notices and updates. If the web-based system is not available, Seller shall promptly submit such information to Buyer and the CAISO by (in order of preference) telephonically or electronic mail to the personnel designated to receive such information.

(c) CAISO Costs and Revenues. Except as otherwise set forth below and as set forth in Section 4.5(g), Buyer (as Scheduling Coordinator for the Facility) shall be responsible for CAISO costs (including penalties, Imbalance Energy costs (except as otherwise set forth in this Agreement), and other charges) and shall be entitled to all CAISO revenues (including credits, Imbalance Energy revenues, and other payments), including revenues associated with CAISO dispatches, bid cost recovery, Inter-SC Trade credits, or other credits in respect of the Product Scheduled or delivered from the Facility. Seller shall be responsible for all CAISO costs and penalties (including Imbalance Energy costs) and Buyer's lost opportunity to obtain a share of CAISO's allocation to non-violating Scheduling Coordinators of the penalties and/or sanctions collected from sanctioned or penalized market participants (not including Availability Incentive Payments or Non-Availability Charges (as such terms are defined in the CAISO Tariff)) resulting

from any deviations from Charging Notices or Discharging Notices or otherwise charging or discharging the Facility when not subject to a Charging Notice or Discharging Notice, or any failure by Seller to abide by the CAISO Tariff, the terms of this Agreement or the outage notification requirements set forth in this Agreement (except to the extent such non-compliance is caused by Buyer's failure to perform its duties as Scheduling Coordinator for the Facility). Buyer or its designated SC shall make commercially reasonable efforts to cooperate with Seller to allow Seller to make Resource Adequacy substitutions with respect to such outages as permitted by the CAISO Tariff. The Parties agree that any Availability Incentive Payments (as defined in the CAISO Tariff) are for the benefit of Seller and for Seller's account and that any Non-Availability Charges (as defined in the CAISO Tariff) are the responsibility of Seller and for Seller's account. In addition, if during the Delivery Term, 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 upon the Facility or to Buyer as Scheduling Coordinator due to failure by Seller to abide by the CAISO Tariff or the outage notification requirements set forth in this Agreement, the cost of the sanctions or penalties shall be Seller's responsibility.

(d) CAISO Settlements. Buyer (as the Facility's SC) shall be responsible for all settlement functions with the CAISO related to the Facility. Buyer shall render a separate invoice to Seller for any CAISO payments, charges or penalties ("**CAISO Charges Invoice**") for which Seller is responsible under this Agreement. CAISO Charges Invoices shall be rendered after settlement information becomes available from the CAISO that identifies any CAISO charges. Notwithstanding the foregoing, Seller acknowledges that the CAISO will issue additional invoices reflecting CAISO adjustments to such CAISO charges. Buyer shall review, validate, and if requested by Seller under paragraph (e) below, dispute any charges that are the responsibility of Seller in a timely manner and consistent with Buyer's existing settlement processes for charges that are Buyer's responsibilities. Subject to Seller's right to dispute and to have Buyer pursue the dispute of any such invoices, Seller shall pay the amount of CAISO Charges Invoices within ten (10) Business Days of Seller's receipt of the CAISO Charges Invoice. If Seller fails to pay such CAISO Charges Invoice within that period, Buyer may net or offset any amounts owing to it for such CAISO Charges Invoices against any future amounts it may owe to Seller under this Agreement. The obligations under this Section with respect to payment of CAISO Charges Invoices shall survive the expiration or termination of this Agreement.

(e) Dispute Costs. Buyer (as the Facility's SC) may be required by Seller to dispute CAISO settlements in respect of the Facility. Seller agrees to pay Buyer's costs and expenses (including reasonable attorneys' fees) associated with its involvement with such CAISO disputes to the extent they relate to CAISO charges payable by Seller with respect to the Facility that Seller has directed Buyer to dispute.

(f) Terminating Buyer's Designation as Scheduling Coordinator. At least thirty (30) days prior to expiration of this Agreement or as soon as reasonably practicable upon an earlier termination of this Agreement, the Parties will take all actions necessary to terminate the designation of Buyer as Scheduling Coordinator for the Facility as of 11:59 p.m. on such expiration date.

(g) Master Data File and Resource Data Template. The Parties will cooperate to comply with the applicable deadlines for filing and updating the information for the Facility in the

Master Resource Database and Master Data File. Seller shall provide the data to the CAISO (and to Buyer) that is required for the CAISO's Master Data File and Resource Data Template (or successor data systems) for the Facility consistent with this Agreement at least five (5) Business Days before the deadline for submission to CAISO and Buyer (as SC) shall promptly provide such data to CAISO. Seller shall provide the data that is required for the CPUC's Master Resource Database for the Facility consistent with this Agreement to Buyer for review and approval at least five (5) Business Days before the deadline for submission of such to the CPUC. Neither Party shall change such data without the other Party's prior written consent. At least once per Contract Year, Seller shall cooperate with Buyer to review and confirm that the data provided for the CAISO's Master Data File and Resource Data Template (or successor data systems) and CPUC's Master Resource Database for this Facility remains consistent with the actual operating characteristics of the Facility and provide such information and any additional supporting documentation to Buyer for review at least five (5) Business Days prior to submission to the CAISO or CPUC as applicable.

(h) NERC Reliability Standards. Buyer (as Scheduling Coordinator) shall cooperate reasonably with Seller to the extent necessary to enable Seller to comply, and for Seller to demonstrate Seller's compliance with, NERC reliability standards. This cooperation shall include the provision of information in Buyer's possession that Buyer (as Scheduling Coordinator) has provided to the CAISO related to the Facility or actions taken by Buyer (as Scheduling Coordinator) related to Seller's compliance with NERC reliability standards.

EXHIBIT E

PROGRESS REPORTING FORM

Each Progress Report must include the following items:

1. Executive Summary.

2. Facility description.

3. Site plan of the Facility.

4. Description of any material planned changes to the Facility or the Site.

5. Gantt chart schedule showing progress on achieving each of the Milestones.

6. Summary of activities during the previous calendar quarter or month, as applicable, including any OSHA labor hour reports.

7. Forecast of activities scheduled for the current calendar quarter or month, as applicable.

8. Written description about the progress relative to Seller's Milestones, including whether Seller has met or is on target to meet the Milestones.

9. List of issues that are reasonably likely to affect Seller's Milestones.

10. A status report of start-up activities including a forecast of activities ongoing and after start-up, a report on Facility performance including performance projections for the next twelve (12) months.

11. Progress and schedule of all material agreements, contracts, permits (including Material Permits), approvals, technical studies, financing agreements and major equipment purchase orders showing the start dates, completion dates, and completion percentages.

12. Pictures, in sufficient quantity and of appropriate detail, in order to document construction and startup progress of the Facility, the interconnection into the Transmission System and all other interconnection utility services.

13. Workforce Development or Supplier Diversity Reporting (if applicable). Format to be provided by Buyer.

14. Any other documentation reasonably requested by Buyer.

EXHIBIT F-1

MONTHLY EXPECTED AVAILABLE GENERATING FACILITY CAPACITY

[MW Per Hour] – [*Insert Month*]

	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00
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The foregoing table is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement.

EXHIBIT F-2

MONTHLY EXPECTED PV ENERGY

[MWh Per Hour] – [*Insert Month*]

	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00
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The foregoing table is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement.

EXHIBIT F-3

MONTHLY EXPECTED AVAILABLE EFFECTIVE STORAGE CAPACITY

[MW Per Hour] – [*Insert Month*]

	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00
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EXHIBIT F-4

MONTHLY EXPECTED AVAILABLE STORAGE CAPABILITY

[MWh Per Hour] – [*Insert Month*]

	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00
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Day 4																								
Day 5																								
[insert additional rows for each day in the month]																								
Day 29																								
Day 30																								
Day 31																								

The foregoing table is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement.

EXHIBIT G

GUARANTEED ENERGY PRODUCTION DAMAGES CALCULATION

In accordance with Section 4.7, if Seller fails to achieve the Guaranteed Energy Production during any Performance Measurement Period, a liquidated damages payment shall be due from Seller to Buyer, calculated as follows:

[(A – B) * (C – D)] – (E + F)

where:

A = the Guaranteed Energy Production amount for the Performance Measurement Period, in MWh

B = the Adjusted Energy Production amount for the Performance Measurement Period, in MWh

C = Replacement price for the Performance Measurement Period, in $/MWh, which is the sum of (a) the simple average of the Integrated Forward Market hourly price for all the hours in the Performance Measurement Period, as published by the CAISO, for the Existing Zone Generation Trading Hub (as defined in the CAISO Tariff) for the Delivery Point, plus (b) the market value of Replacement Green Attributes

D = the Renewable Rate, in $/MWh

E = The amount of Energy Replacement Damages paid by Seller with respect to the immediately preceding Performance Measurement Period

F = The product of (a) the amount of Replacement Product in MWhs delivered by Seller in the immediately preceding Contract Year and (b) the price which is (C – D)

"**Adjusted Energy Production**" shall mean the sum of the following: PV Energy + Deemed Delivered Energy + Lost Output + Replacement Product.

"**Replacement Energy**" means energy produced by a facility other than the Facility, that is provided by Seller to Buyer as Replacement Product, in an amount equal to the amount of Replacement Green Attributes provided by Seller as Replacement Product for the same Performance Measurement Period.

"**Replacement Green Attributes**" means Renewable Energy Credits of the same Portfolio Content Category (i.e., PCC1) as the Green Attributes portion of the Product and of the same year of production as the Renewable Energy Credits that would have been generated by the Facility.

"**Replacement Product**" means (a) Replacement Energy, and (b) Replacement Green Attributes in an amount not to exceed ten percent (10%) of the Expected Energy for the previous Contract Year.

No payment shall be due if the calculation of (a) (A - B), (b) (C - D), or (c) [(A – B) * (C – D)] – (E + F), yields a negative number. In no event will Buyer owe any payment to Seller pursuant to this Exhibit G.

Within sixty (60) days after each Contract Year, Buyer shall send Seller Notice of the amount of damages owing, if any, which shall be payable to Buyer before the later of (a) thirty (30) days of such Notice and (b) ninety (90) days after each Performance Measurement Period; *provided*, the amount of damages owing shall be adjusted to account for Replacement Product, if any, delivered after each applicable Performance Measurement Period.

EXHIBIT H

FORM OF COMMERCIAL OPERATION DATE CERTIFICATE

This certification ("**Certification**") of Commercial Operation is delivered by _____[*licensed professional engineer*] ("**Engineer**") to Clean Power Alliance of Southern California, a California joint powers authority **(**"**Buyer**") in accordance with the terms of that certain Renewable Power Purchase Agreement dated _____ ("**Agreement**") by and between [*Seller*] and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

As of _____[DATE]_____, Engineer hereby certifies and represents to Buyer the following:

1. The Facility is fully operational, reliable and interconnected, fully integrated and synchronized with the Transmission System.

2. Seller has installed equipment for the Generating Facility with an Installed PV Capacity of no less than ninety-five percent (95%) of the Guaranteed PV Capacity.

3. Seller has installed equipment for the Storage Facility with an Installed Storage Capacity of no less than ninety-five percent (95%) of the Guaranteed Storage Capacity and is capable of receiving Charging Energy from both CAISO Grid and the Generating Facility.

4. Authorization to parallel the Facility was obtained by the Transmission Provider, [Name of Transmission Provider as appropriate] on___[DATE]____.

5. The Transmission Provider has provided documentation supporting full unrestricted release of the Facility for Commercial Operation by [Name of Transmission Provider as appropriate] on _____[DATE]_____.

6. The CAISO has provided notification supporting Commercial Operation of the Facility, in accordance with the CAISO Tariff on _____[DATE]_____.

7. Seller has segregated and separately metered Station Use to the extent reasonably possible in accordance with Prudent Operating Practice, and any such meter(s) have the same or greater level of accuracy as is required for CAISO certified meters used for settlement purposes.

8. The Storage Facility and its meters have been designed and installed in a manner such that all Energy used for Auxiliary Use within the Storage Facility is metered, and there is no Station Use (other than Auxiliary Use) that is served by Energy from the Storage Facility.

9. The total rated power of the Storage Facility inverters associated with the Installed Storage Capacity as measured to the Delivery Point is at least [____] MW charging and [____] MW discharging at 45°C ambient air temperature.

EXECUTED by **[**LICENSED PROFESSIONAL ENGINEER**]**

this _____ day of _____, 20__.

[LICENSED PROFESSIONAL ENGINEER]

By:_____

Its:_____

Date:_____

EXHIBIT I-1

FORM OF INSTALLED CAPACITY CERTIFICATE

This certification ("**Certification**") of Installed Capacity and related characteristics of the Facility is delivered by [licensed professional engineer] ("**Engineer**") to Clean Power Alliance of Southern California, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Renewable Power Purchase Agreement dated _____ ("**Agreement**") by and between [*SELLER ENTITY*] and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

I hereby certify the following:

(a) The installed nameplate capacity of the Generating Facility is __ MW AC ("**Installed PV Capacity**");

(b) The Commercial Operation Storage Capacity Test conducted on [Date] demonstrated a maximum dependable operating capability to discharge electric energy of __ MW AC to the Delivery Point at four (4) hours of continuous discharge, in accordance with the testing procedures, requirements and protocols set forth in Section 4.9 and Exhibit O (the "**Installed Storage Capacity**");

(c) The sum of (a) and (b) is __ MW AC and shall be the "**Installed Capacity**"; and

(d) Such Commercial Operation Storage Capacity Test demonstrated (i) a Battery Charging Factor of __% and (ii) a Battery Discharging Factor of __%, each in accordance with the testing procedures, requirements and protocols set forth in Section 4.9 and Exhibit O.

EXECUTED by **[**LICENSED PROFESSIONAL ENGINEER**]**

this _____ day of _____, 20__.

[LICENSED PROFESSIONAL ENGINEER**]**

By:_____

Its:_____

Date:_____

EXHIBIT I-2

FORM OF EFFECTIVE STORAGE CAPACITY CERTIFICATE

This certification ("**Certification**") of Effective Storage Capacity and related characteristics of the Facility is delivered by [licensed professional engineer] ("**Engineer**") to Clean Power Alliance of Southern California, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Renewable Power Purchase Agreement dated _____ ("**Agreement**") by and between [*SELLER ENTITY*] and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

I hereby certify the following:

(a) The Storage Capacity Test conducted on [Date] demonstrated a maximum dependable operating capability to discharge electric energy of __ MW AC to the Delivery Point at four (4) hours of continuous discharge, in accordance with the testing procedures, requirements and protocols set forth in Section 4.9 and Exhibit O of the Agreement (the "**Effective Storage Capacity**"); and

(b) Such Storage Capacity Test demonstrated (i) a Battery Charging Factor of __% and (ii) a Battery Discharging Factor of __%, each in accordance with the testing procedures, requirements and protocols set forth in Section 4.9 and Exhibit O.

EXECUTED by **[**LICENSED PROFESSIONAL ENGINEER**]**

this _____ day of _____, 20__.

[LICENSED PROFESSIONAL ENGINEER**]**

By:_____

Its:_____

Date:_____

EXHIBIT J

FORM OF CONSTRUCTION START DATE CERTIFICATE

This certification of Construction Start Date ("**Certification**") is delivered by [SELLER ENTITY] ("**Seller**") to Clean Power Alliance of Southern California, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Renewable Power Purchase Agreement dated _____ ("**Agreement**") by and between Seller and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Seller hereby certifies and represents to Buyer the following:

(1) Construction Start (as defined in Exhibit B of the Agreement) has occurred, and a copy of the notice to proceed that Seller issued to its contractor as part of Construction Start is attached hereto.

(2) the Construction Start Date occurred on _____ (the "**Construction Start Date**"); and

(3) the precise Site on which the Facility is located is, which must be within the boundaries of the previously identified Site: _____ (such description shall amend the description of the Site in Exhibit A of the Agreement).

IN WITNESS WHEREOF, the undersigned has executed this Certification on behalf of Seller as of the ___ day of _____.

[SELLER ENTITY]

By:_____
Its:_____

Date:_____

EXHIBIT K

FORM OF LETTER OF CREDIT

[Issuing Bank Letterhead and Address]

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [XXXXXXX]
Date:
Bank Ref.:
Amount: US$[XXXXXXXX]

Beneficiary:

Clean Power Alliance of Southern California,
a California joint powers authority
801 S Grand, Suite 400
Los Angeles, CA 90017

Ladies and Gentlemen:

By the order of _____ ("Applicant"), we, [insert bank name and address] ("Issuer") hereby issue our Irrevocable Standby Letter of Credit No. [XXXXXXX] (the "Letter of Credit") in favor of Clean Power Alliance of Southern California, a California joint powers authority ("Beneficiary"), 801 S Grand, Suite 400, Los Angeles, CA 90017, for an amount not to exceed the aggregate sum of U.S. $[XXXXXX] (United States Dollars [XXXXX] and 00/100) (the "Available Amount"), pursuant to that certain Renewable Power Purchase Agreement dated as of _____ and as amended (the "Agreement") between Applicant and Beneficiary. This Letter of Credit shall become effective immediately and shall be of no further force or effect at 5:00 p.m., California time, on [Date] or, if such day is not a Business Day (as hereinafter defined), on the next Business Day (as may be extended pursuant to the terms of this Letter of Credit, the "Expiration Date").

For the purposes hereof, "Business Day" shall mean any day on which commercial banks are not authorized or required to close in Los Angeles, California.

Funds under this Letter of Credit are available to Beneficiary by valid presentation on or before 5:00 p.m. California time, on or before the Expiration Date of a copy of this Letter of Credit No. [XXXXXXX] and all amendments accompanied by Beneficiary's dated statement purportedly signed by Beneficiary's duly authorized representative, in the form attached hereto as Exhibit A, containing one of the two alternative paragraphs set forth in paragraph 2 therein.

Any full or partial drawing hereunder may be requested by transmitting copies of the requisite documents as described above to the Issuer by facsimile at [facsimile number for draws] or such other number as specified from time-to-time by the Issuer.

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.
Issuer hereby agrees that all drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented to the Issuer before the Expiration Date. All correspondence and any drawings (other than those made by facsimile) hereunder are to be directed to [Issuer address/contact]. Issuer undertakes to make payment to Beneficiary under this Standby Letter of Credit within three (3) business days of receipt by Issuer of a properly presented Drawing Certificate. The Beneficiary shall receive payment from Issuer by wire transfer to the bank account of the Beneficiary designated in the Drawing Certificate.

Partial draws are permitted under this Letter of Credit, and this Letter of Credit shall remain in full force and effect with respect to any continuing balance; provided, the Available Amount shall be reduced by the amount of each such drawing.

It is a condition of this Letter of Credit that it shall be deemed automatically extended without an amendment for a one year period (or, if such period ends on a day that is not a Business Day, until the next Business Day thereafter) beginning on the present Expiration Date hereof and upon each anniversary for such date (or, if such period ends on a day that is not a Business Day, until the next Business Day thereafter), unless at least one hundred twenty (120) days prior to any such Expiration Date Issuer has sent Beneficiary written notice by overnight courier service at the address provided below that Issuer elects not to extend this Letter of Credit, in which case it will expire on its then-current Expiration Date. No presentation made under this Letter of Credit after such Expiration Date will be honored.

Notwithstanding any reference in this Letter of Credit to any other documents, instruments or agreements, this Letter of Credit contains the entire agreement between Beneficiary and Issuer relating to the obligations of Issuer hereunder.

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.

Please address all correspondence regarding this Letter of Credit to the attention of the Letter of Credit Department at [insert bank address information], referring specifically to Issuer's Letter of Credit No. [XXXXXXX]. For telephone assistance, please contact Issuer's Standby Letter of Credit Department at [XXX-XXX-XXXX] and have this Letter of Credit available.

All notices to Beneficiary shall be in writing and are required to be sent by certified letter, overnight courier, or delivered in person to: Clean Power Alliance of Southern California, a California joint powers authority, Chief Financial Officer, 801 S Grand, Suite 400, Los Angeles, CA 90017. Only notices to Beneficiary meeting the requirements of this paragraph shall be

considered valid. Any notice to Beneficiary which is not in accordance with this paragraph shall be void and of no force or effect.

[Bank Name]

_____
[Insert officer name]
[Insert officer title]

EXHIBIT A

(DRAW REQUEST SHOULD BE ON BENEFICIARY'S LETTERHEAD)

Drawing Certificate

[Insert Bank Name and Address]

Ladies and Gentlemen:

The undersigned, a duly authorized representative of [ ], [ADDRESS], as beneficiary (the "Beneficiary") of the Irrevocable Letter of Credit No. [XXXXXXX] (the "Letter of Credit") issued by [insert bank name] (the "Bank") by order of _____ (the "Applicant"), hereby certifies to the Bank as follows:

1. Applicant and Beneficiary are party to that certain Renewable Power Purchase Agreement dated as of _____, 20__ (the "Agreement").

2. Beneficiary is making a drawing under this Letter of Credit in the amount of U.S. $_____ because a Seller Event of Default (as such term is defined in the Agreement) has occurred.

or

Beneficiary is making a drawing under this Letter of Credit in the amount of U.S. $_____, which equals the full available amount under the Letter of Credit, because Applicant is required to maintain the Letter of Credit in force and effect beyond the expiration date of the Letter of Credit but has failed to provide Beneficiary with a replacement Letter of Credit or other acceptable instrument within thirty (30) days prior to such expiration date.

3. The undersigned is a duly authorized representative of [ ] and is authorized to execute and deliver this Drawing Certificate on behalf of Beneficiary.

You are hereby directed to make payment of the requested amount to [ ] by wire transfer in immediately available funds to the following account:

[Specify account information]

[ ]

_____
Name and Title of Authorized Representative

Date_____

EXHIBIT L

FORM OF LIMITED ASSIGNMENT AGREEMENT

FORM OF ASSIGNMENT SCHEDULE
[SELLER ENTITY]

Assigned Product: Energy and Green Attributes (PCC1)

Assigned Delivery Point: [__]

Assigned Prepay Quantity: As set forth in Appendix 2; provided that (i) all Assigned Products shall be delivered pursuant to the Limited Assignment Agreement during the Assignment Period as provided in Appendix 1 and (ii) the Assigned Prepay Quantity is defined for the convenience of PPA Buyer and [Financing Party] and shall have no impact on the obligations of the Parties under the Limited Assignment Agreement.

APC Contract Price: $[__]/MWh

Assignment Period: [__]

ANNEX I – FORM OF LIMITED ASSIGNMENT AGREEMENT

This Limited Assignment Agreement (this "**Assignment Agreement**" or "**Agreement**") is entered into as of [_____] by and among [PPA Seller], a [_____] ("**PPA Seller**"), Clean Power Alliance, a California joint powers authority ("**PPA Buyer**"), and [Financing Party], a [_____] ("**Financing Party**"), and relates to that certain power purchase agreement (the "**PPA**") between PPA Buyer and PPA Seller as defined in Appendix 1 hereto. Unless the context otherwise specifies or requires, capitalized terms used but not defined in this Agreement have the meanings set forth in the PPA.

In consideration of the premises above and the mutual covenants and agreements herein set forth, PPA Seller, PPA Buyer and Financing Party (the "**Parties**" hereto; each is a "**Party**") agree as follows:

1. Limited Assignment and Delegation.

(a) PPA Buyer hereby assigns, transfers, and conveys to Financing Party all right, title and interest in and to the rights of PPA Buyer under the PPA to receive delivery of, or have made available to it, the products described in Appendix 1 (collectively, the "**Assigned Product**") during the Assignment Period (as defined in Appendix 1), as such rights may be limited or further described in the "Further Information" section on Appendix 1 (the "**Assigned Product Rights**"). All Assigned Product shall be delivered pursuant to the terms and conditions of this Agreement during the Assignment Period as provided in Appendix 1. All other rights of PPA Buyer under the PPA are expressly reserved for PPA Buyer.

(b) PPA Buyer hereby delegates to Financing Party the obligation to pay for all Assigned Product that is actually delivered to Financing Party pursuant to the Assigned Product Rights during the Assignment Period (the "**Delivered Product Payment Obligation**" and together with the Assigned Product Rights, collectively the "**Assigned Rights and Obligations**"); provided that (i) all other obligations of PPA Buyer under the PPA are expressly retained by PPA Buyer and PPA Buyer shall be solely responsible for any amounts due to PPA Seller that are not directly related to Assigned Product; and (ii) the Parties acknowledge and agree that PPA Seller will only be obligated to deliver a single consolidated invoice during the Assignment Period (with a copy to Financing Party consistent with Section 1(d) hereof). To the extent Financing Party fails to pay the Delivered Product Payment Obligation by the due date for payment set forth in the PPA, notwithstanding anything in this Agreement to the contrary, PPA Buyer agrees that it shall have the obligation to make such payment and that it will be an Event of Default pursuant to Section 11.1 if PPA Buyer does not make such payment within five (5) Business Days of receiving Notice of such non-payment from PPA Seller.

(c) Financing Party hereby accepts and PPA Seller hereby consents and agrees to the assignment, transfer, conveyance, and delegation described in clauses (a) and (b) above. PPA Seller does not waive or novate any obligations of PPA Buyer hereby and breach of any obligations by Financing Party shall be a breach of the PPA by PPA Buyer.

(d) All scheduling of Assigned Product and other communications related to the PPA shall take place pursuant to the terms of the PPA with PPA Buyer acting on behalf of Financing Party; provided that during the Assignment Period (i) title to Assigned Product will pass from PPA Seller to Financing Party upon delivery or making available by PPA Seller of Assigned Product in accordance with the PPA; (ii) PPA Buyer will

provide copies to Financing Party of any Notice of a Force Majeure Event or Event of Default or default, breach or other occurrence that, if not cured within the applicable grace period, could result in an Event of Default contemporaneously upon delivery thereof to PPA Seller and promptly after receipt thereof from PPA Seller; (iii) PPA Seller will provide copies to Financing Party of annual forecasts of Energy and monthly forecasts of available capacity and Energy provided pursuant to Section 4.3 of the PPA; (iv) PPA Seller will provide copies to Financing Party of all invoices and supporting data provided to PPA Buyer pursuant to Section 8.1, provided that any payment adjustments or subsequent reconciliations occurring after the date that is 10 days prior to the payment due date for a monthly invoice, including pursuant to Section 8.4, will be resolved solely between PPA Buyer and PPA Seller and therefore PPA Seller will not be obligated to deliver copies of any communications relating thereto to Financing Party; and (v) PPA Buyer and PPA Seller, as applicable, will provide copies to Financing Party of any other information reasonably requested by Financing Party relating to Assigned Product.

(e) PPA Seller acknowledges that (i) Financing Party intends to immediately transfer title to any Assigned Product received from PPA Seller through one or more intermediaries such that all Assigned Product will be re-delivered to PPA Buyer; and (ii) in the event that PPA Buyer fails to pay the relevant intermediary entity for any such Assigned Products, the receivables owed by PPA Buyer for such Assigned Products ("PPA Buyer Receivables") may be transferred to Financing Party. To the extent any such PPA Buyer Receivables are transferred to Financing Party, Financing Party may transfer such PPA Buyer Receivables to PPA Seller and apply the face amount thereof as a reduction to any Delivered Product Payment Obligation. Thereafter, PPA Seller shall be entitled to pursue collection on such PPA Buyer Receivables directly against PPA Buyer.

(f) On or before the commencement of the Assignment Period, [_____] ("Guarantor") will issue, in favor of PPA Seller, a guaranty of Financing Party's payment obligations under this Assignment Agreement substantially in the form of Appendix 3 attached hereto ("**Guaranty**"). PPA Seller may draw upon, apply, or make demand under the Guaranty to recover any unpaid amounts due from Financing Party and not timely paid as set forth herein; provided, however, that PPA Seller's rights under the Guaranty and this subsection (f) shall not reduce or affect PPA Buyer's obligation to render payments when due under the PPA or extend any deadlines in the PPA.

(g) All payments due to PPA Seller in respect of Sections 3.3 of the PPA will be paid (subject to Section 1(e) above) by Financing Party into the custodial account listed in Appendix 1, and all payments due to PPA Buyer in respect of Section 3.3 of the PPA will be paid by PPA Seller into the custodial account listed in Appendix 1, which custodial account is established under that certain Custodial Agreement of even date herewith that Financing Party, PPA Buyer and [Custodian] have entered into for the administration of payments due hereunder.

(h) The Assigned Prepay Quantity set forth in Appendix 2 relates to obligations by and between Financing Party and PPA Buyer and has no impact on PPA Seller's rights and obligations under the PPA.

(i) Except as expressly set forth in Section 1(a) of this Assignment Agreement with respect to the product delivery obligations, nothing in this Agreement modifies or amends any rights or obligations of PPA Buyer and PPA Seller under the PPA.

2. Assignment Early Termination.

(a) The Assignment Period may be terminated early upon the occurrence of any of the following:

(1) delivery of a written notice of termination specifying a termination date by either Financing Party or PPA Buyer to each of the other Parties;

(2) delivery of a written notice of termination specifying a termination date by PPA Seller to each of Financing Party and PPA Buyer following Financing Party's failure to pay when due any amounts owed to PPA Seller in respect of any Delivered Product Payment Obligation and such payment is not made by Financing Party within five (5) business days following receipt by Financing Party and PPA Buyer of written notice;

(3) delivery of a written notice by PPA Seller if any of the events described in the definition of Bankrupt in the PPA occurs with respect to Financing Party;

(4) delivery of a written notice by Financing Party if any of the events described in the definition of Bankrupt in the PPA occurs with respect to PPA Seller; or

(5) failure of the Guaranty provided by the Guarantor to PPA Seller hereunder to be in full force and effect (other than in accordance with its terms) prior to the indefeasible satisfaction of all obligations of Financing Party hereunder or if the Guarantor provides notice of termination of the Guaranty or otherwise repudiates, disaffirms, disclaims, or rejects, in whole or in part, or challenges the validity of the Guaranty.

(b) The Assignment Period will end at the end of last delivery hour on the date specified in the termination notice provided pursuant to Section 2(a), which date shall not be earlier than the end of the last day of the calendar month in which such notice is delivered if termination is pursuant to clause (a)(1) or (a)(2) above. All Assigned Rights and Obligations shall revert from Financing Party to PPA Buyer upon the expiration or early termination of the Assignment Period, provided that (i) Financing Party shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered or made available to Financing Party prior to the end of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the expiration or early termination of the Assignment Period.

(c) The Assignment Period will automatically terminate upon the expiration or early termination of the PPA. All Assigned Rights and Obligations shall revert from Financing Party to PPA Buyer upon the expiration of or early termination of the PPA, provided that (i) Financing Party shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered to Financing Party prior to the end of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the expiration or early termination of the Assignment Period.

3. Representations and Warranties. The PPA Seller and the PPA Buyer represent and warrant to Financing Party that (a) the PPA is in full force and effect; and (b) no event or

circumstance exists (or would exist with the passage of time or the giving of notice) that would give either of them the right to terminate the PPA or suspend performance thereunder.

4. Notices. Any notice, demand, or request required or authorized by this Assignment Agreement to be given by one Party to another Party shall be delivered in accordance with Article 9 of the PPA and to the addresses of each of PPA Seller and PPA Buyer specified in the PPA. PPA Buyer agrees to notify Financing Party of any updates to such notice information, including any updates provided by PPA Seller to PPA Buyer. Notices to Financing Party shall be provided to the following address, as such address may be updated by Financing Party from time to time by notice to the other Parties:

Financing Party

_____

_____

Email: _____

5. Miscellaneous. Section 13.2 (Buyer's Representations and Warranties), Article 18 (Confidential Information), Sections 19.5 (Severability), 19.7 (Counterparts), 19.2 (Amendments), 19.4 (No Agency, Partnership, Joint Venture or Lease), 19.6 (Mobile-Sierra), 19.8 (Electronic Delivery), 19.9 (Binding Effect) and 19.10 (No Recourse to Members of Buyer) of the PPA are incorporated by reference into this Agreement, *mutatis mutandis*, as if fully set forth herein.

6. U.S. Resolution Stay Provisions. The Parties hereby confirm that they are adherents to the ISDA 2018 U.S. Resolution Stay Protocol ("ISDA U.S. Stay Protocol"), the terms of the ISDA U.S. Stay Protocol are incorporated into and form a part of this Agreement, and for the purposes of such incorporation, (i) Financing Party shall be deemed to be a Regulated Entity, (ii) each of PPA Buyer and PPA Seller shall be deemed to be an Adhering Party, and (iii) this Agreement shall be deemed a Protocol Covered Agreement. In the event of any inconsistencies between this Agreement and the ISDA U.S. Stay Protocol, the ISDA U.S. Stay Protocol will prevail.

7. Governing Law, Jurisdiction, Waiver of Jury Trial.

(a) **Governing Law.** This Assignment Agreement and the rights and duties of the parties under this Assignment Agreement will be governed by and construed, enforced and performed in accordance with the laws of the State of California, without reference to any conflicts of law provisions that would direct the application of another jurisdiction's laws; provided, however, that the authority of PPA Buyer to enter into and perform its obligations under this Assignment Agreement shall be determined in accordance with the laws of the State of California.

(b) **Jurisdiction.** Each party submits to the exclusive jurisdiction of the federal courts of the United States of America for the Southern District of California sitting in the city and county of Los Angeles.

(c) **Waiver of Right to Trial by Jury.** Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to this assignment agreement.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the Parties have executed this Assignment Agreement effective as of the date first set forth above.

[PPA SELLER]

By: _____

Name: _____

Title: _____

CLEAN POWER ALLIANCE

By: _____

Name: _____

Title: _____

[FINANCING PARTY]

By: _____

Name:
Title:

Execution and delivery of the foregoing Assignment Agreement is hereby approved.

CALIFORNIA COMMUNITY CHOICE FINANCING AUTHORITY

By: _____

Name:
Title:

Appendix 1

Assigned Rights and Obligations

PPA: "**PPA**" means that certain Power Purchase and Sale Agreement dated [____], by and between Clean Power Alliance and [____], a [____] limited liability company, as amended from time to time.

"**Assignment Period**" means the period beginning on [_____] and extending until [_____], provided that in no event shall the Assignment Period extend past the earlier of (i) the termination of the Assignment Period pursuant to Section 2 of the Assignment Agreement and (ii) the end of the Delivery Term under the PPA; provided that applicable provisions of this Agreement shall continue in effect after termination of the Assignment Period to the extent necessary to enforce or complete, duties, obligations or responsibilities of the Parties arising prior to the termination.

Assigned Product: "**Assigned Product**" includes (i) Energy and (ii) Green Attributes (including PCC1 RECs); and (iii) all rights and products and attributes associated with the maximum dependable operating capability of the Storage Facility to be charged with, store and discharge electric energy; provided, however, that the following are expressly excluded from the Assigned Product and any and all rights and obligations with respect to the following shall remain with Buyer: Ancillary Services; Capacity Attributes; Resource Adequacy Benefits; Discharging Energy; the right to provide Charging Notices and Discharging Notices or otherwise to charge, discharge or schedule the Storage Facility or the Storage Product; and obligations to supply Charging Energy in accordance with the PPA

Further Information: PPA Seller shall continue to transfer the WREGIS Certificates associated with all Renewable Energy Credits corresponding to all Metered Energy under the PPA pursuant to Section 4.7 of the PPA, provided that the transferee of such WREGIS Certificates may be changed from time to time in accordance with the written instructions of both Financing Party and PPA Buyer upon twenty (20) Business Days' notice, which change shall be effective as of the first day of the next calendar month, unless otherwise agreed, provided that the entity to which such WREGIS Certificates are to be transferred has taken all steps at it or PPA Buyer's sole cost to be entitled to and capable of receiving such WREGIS Certificates. All Assigned Product delivered by PPA Seller to Financing Party shall be a sale made at wholesale, with Financing Party reselling all such Assigned Product.

Appendix 2

Assigned Prepay Quantity

[NOTE: To be set forth in a monthly volume schedule.]

Appendix 3

Form of Financing Party Parent Guaranty

EXHIBIT M

FORM OF REPLACEMENT RA NOTICE

This Replacement RA Notice (this "**Notice**") is delivered by [SELLER ENTITY] ("**Seller**") to Clean Power Alliance of Southern California, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Renewable Power Purchase Agreement dated _____ ("**Agreement**") by and between Seller and Buyer. All capitalized terms used in this Notice but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Pursuant to Section 3.7(d) of the Agreement, Seller hereby provides the below Replacement RA product information:

Unit Information[1]

Name	
Location	
CAISO Resource ID	
Unit SCID	
Prorated Percentage of Unit Factor	
Resource Type	
Point of Interconnection with the CAISO Controlled Grid ("substation or transmission line")	
Path 26 (North or South)	
LCR Area (if any)	
Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment	
Run Hour Restrictions	
Delivery Period	

Month	Unit CAISO NQC (MW)	Unit Contract Quantity (MW)
January		
February		
March		
April		
May		
June		
July		
August		
September		
October		
November		
December		

[1] To be repeated for each unit if more than one.

[SELLER ENTITY]

By:_____
Its:_____

Date:_____

EXHIBIT N

NOTICES

SOLAR STAR 3, LLC ("Seller")	**CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority** ("Buyer")
All Notices: Street: City: Attn: Phone: Email:	**All Notices:** Street: 801 S Grand, Suite 400 City: Los Angeles, CA 90017 Attn: Chief Executive Officer Phone: (213) 269-5870 E-mail: tbardacke@cleanpoweralliance.org
Reference Numbers: Duns: Federal Tax ID Number:	**Reference Numbers:** Duns: Federal Tax ID Number:
Invoices: Attn: Phone: E-mail:	**Invoices:** Attn: CPA Settlements Phone: (213) 269-5870 E-mail: settlements@cleanpoweralliance.org
Scheduling: Attn: Phone: Email:	**Scheduling:** Attn: Day Ahead Scheduling Phone: (817) 303-1104 Email: TenaskaComm@tnsk.com
Confirmations: Attn: Phone: Email:	**Confirmations:** Attn: Phone: Email:
Payments: Attn: Phone: E-mail:	**Payments:** Attn: Vice President, Power Supply E-mail: settlements@cleanpoweralliance.org
Wire Transfer: BNK: ABA: ACCT:	**Wire Transfer:** BNK: River City Bank [redacted]

EXHIBIT O

STORAGE CAPACITY TESTS

Storage Capacity Test Notice and Frequency

A. Commercial Operation Storage Capacity Test(s). Upon no less than ten (10) Business Days prior Notice to Buyer, Seller shall schedule and complete a Commercial Operation Storage Capacity Test prior to the Commercial Operation Date. Such initial Commercial Operation Storage Capacity Test (and any subsequent Commercial Operation Storage Capacity Test permitted in accordance with Exhibit B) shall be performed in accordance with this Exhibit O and shall establish the Installed Storage Capacity hereunder based on the actual capacity and capabilities of the Storage Facility determined by such Commercial Operation Storage Capacity Test(s).

B. Subsequent Storage Capacity Tests. Following the Commercial Operation Storage Capacity Test(s), at least fifteen (15) days in advance of the start of each Contract Year, upon no less than ten (10) Business Days prior Notice to Buyer, Seller shall schedule and complete a Storage Capacity Test. In addition, Buyer shall have the right to require a retest of the Storage Capacity Test at any time upon no less than five (5) Business Days prior Notice to Seller if Buyer provides data with such Notice reasonably indicating that the then-current Effective Storage Capacity have varied materially from the results of the most recent prior Storage Capacity Test. Seller shall have the right to run a retest of any Storage Capacity Test at any time upon five (5) Business Days' prior Notice to Buyer (or any shorter period reasonably acceptable to Buyer consistent with Prudent Operating Practice).

C. Test Results and Re-Setting of Effective Storage Capacity. No later than five (5) days following any Capacity Test, Seller shall submit a testing report detailing results and findings of the test. The report shall include Storage Facility Meter readings and plant log sheets verifying the operating conditions and output of the Storage Facility. In accordance with Section 4.9(a)(ii) of the Agreement and Part II(I) below, after the Commercial Operation Storage Capacity Test(s), the Effective Storage Capacity (up to, but not in excess of, the Installed Storage Capacity) determined pursuant to such Storage Capacity Test shall become the new Effective Storage Capacity at the beginning of the first day of the month following the completion of the test for calculating the Monthly Capacity Payment and all other purposes under this Agreement.

Capacity Test Procedures

PART I. GENERAL.

(1) Each Capacity Test shall be conducted in accordance with Prudent Operating Practices, the Operating Restrictions, and the provisions of this Exhibit O. For ease of reference, a Capacity Test is sometimes referred to in this Exhibit O as a "**CT**". Buyer or its representative may be present for the CT and may, for informational purposes only, use its own metering equipment (at Buyer's sole cost).

(2) Conditions Prior to Testing.

(1) EMS Functionality. The EMS shall be successfully configured to receive data from the Battery Management System (BMS), exchange DNP3 data with the Buyer SCADA device, and transfer data to the database server for the calculation, recording and archiving of data points.

(2) Communications. The Remote Terminal Unit (RTU) testing should be successfully completed prior to any testing. The interface between Buyer's RTU and the Facility SCADA System should be fully tested and functional prior to starting any testing, including verification of the data transmission pathway between Buyer's RTU and Seller's EMS interface and the ability to record SCADA System data.

(3) Commissioning Checklist. Commissioning shall be successfully completed per manufacturer guidance on all applicable installed Facility equipment, including verification that all controls, set points, and instruments of the EMS are configured.

(4) Generating Facility Conditions. Any CTs requiring the availability of Charging Energy shall be conducted when the Generating Facility is producing at a rate equal to or above the Effective Storage Capacity continuously for a five (5)-hour period; *provided*, Seller may waive such conditions at its sole discretion. Any CTs that are required or allowed to occur under this Exhibit O that take place in the absence of the above condition being satisfied shall be subject to a mutually agreed upon adjustment (such agreement not to be unreasonably withheld) between Seller and Buyer with respect to the allowed charging time for such CT and/or the Battery Charging Factor definition, which adjustment(s) shall be commensurate with then-existing irradiance limitations.

PART II. REQUIREMENTS APPLICABLE TO ALL CAPACITY TESTS.

A. Test Elements. Each CT shall include at least the following individual test elements, which must be conducted in the order prescribed in Part III of this Exhibit O, unless the Parties mutually agree to deviations therefrom. The Parties acknowledge and agree that should Seller fall short of demonstrating one or more of the Test Elements as specified below, the Test will still be deemed "complete," and any adjustments necessary to the Effective Storage Capacity resulting from such Test, if applicable, will be made in accordance with this Exhibit O.

(1) Electrical output at the lesser of maximum discharging level (MW) and Guaranteed Storage Capacity for four (4) continuous hours; and

(2) Electrical input at maximum charging level at the Storage Facility Meter (MW), as sustained until the SOC reaches at least 90%, continued by the electrical input at a rate up to the maximum charging level at the Storage Facility Meter (MW), as sustained until the charging phase of the CT ends, not to exceed five (5) hours of total charging time.

B. Parameters. During each CT, the following parameters shall be measured and recorded simultaneously for the Storage Facility, at four (4) second intervals:

(1) Time;

(2) The amount of Discharging Energy;

(3) The amount of Charging Energy;

(4) The amount of Station Use;

(5) Stored Energy Level (MWh).

C. Site Conditions. During each CT, the following conditions at the Site shall be measured and recorded simultaneously at thirty (30) minute intervals:

(1) Relative humidity (%);

(2) Barometric pressure (inches Hg) near the horizontal centerline of the Storage Facility; and

(3) Ambient air temperature (°F).

D. Test Showing. Each CT shall record and report the following datapoints:

(1) That the CT successfully started;

(2) The maximum sustained discharging level for four (4) consecutive hours pursuant to A(1) above;

(3) The maximum sustained charging level for four (4) consecutive hours pursuant to A(2) above;

(4) Amount of time between the Storage Facility's electrical output going from 0 to the maximum sustained discharging level registered during the CT (for purposes of calculating the ramp rate);

(5) Amount of time between the Storage Facility's electrical input going from 0 to the maximum sustained charging level registered during the CT (for purposes of calculating the ramp rate);

(6) Amount of Charging Energy to go from 0% SOC to the SOC at which the charging phase of the CT ends;

(7) Amount of Discharging Energy to go from 100% SOC to the SOC at which the discharging phase of the CT ends.

E. Test Conditions.

(1) General. At all times during a CT, the Storage Facility shall be operated in compliance with Prudent Operating Practices, the Operating Restrictions, and all operating protocols recommended, required or established by the manufacturer for the Storage Facility.

(2) Abnormal Conditions. If abnormal operating conditions that prevent the testing or recordation of any required parameter occur during a CT, Seller may postpone or reschedule all or part of such CT in accordance with Part II.F below.

(3) Instrumentation and Metering. Seller shall provide all instrumentation, metering and data collection equipment required to perform the CT. The instrumentation, metering and data collection equipment electrical meters shall be calibrated in accordance with Prudent Operating Practice and, as applicable, the CAISO Tariff.

F. Incomplete Test. If any CT is not completed in accordance herewith, Buyer may in its sole discretion: (i) accept the results up to the time the CT stopped without any modification to the Effective Storage Capacity pursuant to Section I below; (ii) require that the portion of the CT not completed, be completed within a reasonable specified time period; or (iii) require that the CT be entirely repeated within a reasonable specified time period. Notwithstanding the above, if Seller is unable to complete a CT due to a Force Majeure Event or the actions or inactions of Buyer or the CAISO or the Transmission Provider, Seller shall be permitted to reconduct such CT on dates and at times reasonably acceptable to the Parties.

G. Test Report. Within five (5) Business Days after the completion of any CT, Seller shall prepare and submit to Buyer the completed Installed Capacity Certicate or Effective Storage Capacity Certificate, as applicble, together with a written report of the results of the CT, which report shall include:

(1) A record of the personnel present during the CT that served in an operating, testing, monitoring or other such participatory role;

(2) The measured and calculated data for each parameter set forth in Part II.A through D, including copies of the raw data taken during the test; and

(3) Seller's statement of either Seller's acceptance of the CT or Seller's rejection of the CT results and reason(s) therefor.

Seller's CT report and any submitted capacity certificate shall be deemed invalid if not delivered to Buyer within (5) Business Days after the completion of any CT. Within five (5) Business Days after receipt of such report, Buyer shall notify Seller in writing of either Buyer's acceptance of the CT results or Buyer's rejection of the CT and reason(s) therefor.

If either Party rejects the results of any CT, such CT shall be repeated in accordance with Part II.F.

H. Supplementary Capacity Test Protocol. No later than sixty (60) days prior to CAISO Commercial Operation, Seller shall deliver to Buyer for its review and approval (such approval not to be unreasonably delayed or withheld; *provided*, any additional cost to Buyer or restrictions on use of the Storage Facility as a result of such proposed changes shall be a reasonable basis for Buyer's rejection unless Seller agrees to make Buyer whole for such adverse impacts) a supplement to this Exhibit O with additional and supplementary details, procedures and requirements applicable to Capacity Tests based on the then-current design of the Storage Facility ("**Supplementary Capacity Test Protocol**"). Thereafter, from time to time, Seller may deliver to Buyer for its review and approval (such approval not to be unreasonably delayed or withheld; *provided*, any additional cost to Buyer or restrictions on use of the Storage Facility as a result of such proposed changes shall be a reasonable basis for Buyer's rejection unless Seller agrees to make Buyer whole for such adverse impacts) any Seller recommended updates to the then-current Supplementary Capacity Test Protocol. The initial Supplementary Capacity Test Protocol (and each update thereto), once approved by Buyer, shall be deemed an amendment to this Exhibit O.

I. Adjustment to Effective Storage Capacity. The Effective Storage Capacity shall equal the quotiant of (a) the total amount of Discharging Energy delivered to the Delivery Point (expressed in MWh AC) during the first four (4) hours of discharge (up to, but not in excess of, the product of (i) (A) the Guaranteed Storage Capacity (in the case of a Commercial Operation Storage Capacity Test, including under Section 5 of Exhibit B) or (B) the Installed Storage Capacity (in the case of any other Storage Capacity Test), multiplied by (ii) four (4) hours) divided by (b) four (4) hours, expressed in MW AC.

PART III. INITIAL SUPPLEMENTARY CAPACITY TEST PROTOCOL.

A. **Effective Storage Capacity**

- Procedure:

(1) System Starting State: The Storage Facility will be in the on-line state at 0% SOC.

(2) Record the initial value of the Storage Facility SOC.

(3) Command a real power charge that results in an AC power of Storage Facility's maximum charging level, and continue charging until the earlier of (a) the Storage Facility has reached 100% SOC, (b) the sustained charging level is at least 2% less than the lesser of (i) the maximum charging level and (ii) the Guaranteed Storage Capacity, or (c) five (5) hours have elapsed since the Storage Facility commenced charging.

(4) Record and store the Storage Facility SOC after the earlier of (a) the Storage Facility has reached 100% SOC, (b) the sustained charging level is at least

2% less than the lesser of (i) the maximum charging level and (ii) the Guaranteed Storage Capacity, or (c) five (5) hours of continuous charging. Such data point shall be used for purposes of calculation of the Battery Charging Factor.

(5) Record and store the Charging Energy.

(6) Following an agreed-upon rest period, command a real power discharge that results in an AC power output of the lesser of (i) the Storage Facility's maximum discharging level and (ii) the Guaranteed Storage Capacity, and maintain the discharging state until the earlier of (a) the Facility has discharged at the maximum discharging level for four (4) consecutive hours, (b) the Storage Facility has reached 0% SOC, or (c) the sustained discharging level is at least 2% less than the lesser of (i) the maximum discharging level and (ii) the Guaranteed Storage Capacity.

(7) Record and store the Storage Facility SOC after four (4) hours of continuous discharging. Such data point shall be used for purposes of calculation of the Battery Discharging Factor. If the Storage Facility SOC remains above 0% SOC after discharging at a rate at or above the Guaranteed Storage Capacity (or at or above the Installed Storage Capacity after a Commercial Operation Storage Capacity Test) for four (4) consecutive hours pursuant to Part III.A.6(a), the SOC will be deemed 0% for the purposes of calculating the Battery Discharging Factor.

(8) Record and store the Discharging Energy as measured at the Storage Facility Meter. Such data point shall be used for purposes of calculation the Effective Storage Capacity.

(9) If the Storage Facility has not reached 0% SOC pursuant to Section III.A.6, continue discharging the Storage Facility until it reaches 0% SOC. Record and store the additional Discharging Energy, if applicable.

- Test Results

(1) The resulting Effective Storage Capacity measurement is the sum of the total Discharging Energy at the Storage Facility Meter divided by four (4) hours.

B. **AGC Discharge Test**

- Purpose: This test will demonstrate the AGC discharge capability to achieve the Storage Facility's maximum discharging level within 4 seconds.

- System starting state: The Storage Facility will be in the on-line state at 50% SOC and at an initial active power level of 0 MW and reactive power level of 0 MVAR. The EMS will be configured to follow a predefined agreed-upon active power profile.

- Procedure:

    (1) Record the Storage Facility active power level at the Storage Facility Meter.

    (2) Command the Storage Facility to follow a simulated CAISO RIG signal of Pmax at .95 power factor for ten (10) minutes.

    (3) Record and store the Storage Facility active power response (in seconds).

- System end state: The Storage Facility will be in the on-line state and at a commanded active power level of 0 MW.

C. **AGC Charge Test**

- Purpose: This test will demonstrate the AGC charge capability to achieve the Storage Facility's full charging level within 4 seconds.

- System starting state: The Storage Facility will be in the on-line state at 50% SOC and at an initial active power level of 0 MW and reactive power level of 0 MVAR. The Storage Facility control system will be configured to follow a predefined agreed-upon active power profile.

- Procedure:

    (1) Record the Storage Facility active power level at the Storage Facility Meter.

    (2) Command the Storage Facility to follow a simulated CAISO RIG signal of -Pmax at .95 power factor for ten (10) minutes.

    (3) Record and store the Storage Facility active power response (in seconds).

- System end state: The Storage Facility will be in the on-line state and at a commanded active power level of 0 MW.

D. **Reactive Power Production Test**

- Purpose: This test will demonstrate the reactive power production capability of the Storage Facility.

- System starting state: The Storage Facility will be in the on-line state at 50% SOC and at an initial active power level of 0 MW and reactive power level of 0 MVAR. The EMS will be configured to follow an agreed-upon predefined reactive power profile.

- Procedure:

    (1) Record the Storage Facility reactive power level at the Facility Meter.

    (2) Command the Storage Facility to follow 11.5 MVAR for ten (10) minutes.

(3) Record and store the Storage Facility reactive power response.

- System end state: The Storage Facility will be in the on-line state and at a commanded reactive power level of 0 MVAR.

E. **Reactive Power Consumption Test**

- Purpose: This test will demonstrate the reactive power consumption capability of the Storage Facility.

- System starting state: The Storage Facility will be in the on-line state at 50% SOC and at an initial active power level of 0 MW and reactive power level of 0 MVAR. The Storage Facility control system will be configured to follow an agreed-upon predefined reactive power profile.

- Procedure:

  (1) Record the Storage Facility reactive power level at the Facility Meter.

  (2) Command the Storage Facility to follow 11.5 MVAR for ten (10) minutes.

  (3) Record and store the Storage Facility reactive power response.

- System end state: The Storage Facility will be in the on-line state and at a commanded reactive power level of 0 MVAR.

EXHIBIT P

ANNUAL STORAGE CAPACITY AVAILABILITY CALCULATION

(a) Following the end of each calendar month during the period commencing upon CAISO Commercial Operation and continuing throughout the Delivery Term, Buyer shall calculate the year-to-date (YTD) "**Annual Storage Capacity Availability**" for the current (and for the period from CAISO Commercial Operation through the Commercial Operation Date) Contract Year using the formula set forth below:

$$\text{Annual Storage Capacity Availability (\%)} = 1 - \frac{\text{Unavailable Calculation Intervals}}{\text{Total YTD Calculation Intervals}}$$

"**Calculation Interval**" or "**C.I.**" means each successive five-minute interval, but excluding all such intervals which by the express terms of the Agreement are disregarded or excluded.

"**Unavailable Calculation Intervals**" means the sum of year-to-date unavailable Calculation Intervals for the applicable Contract Year (and for the period from CAISO Commercial Operation through the Commercial Operation Date), where for each Calculation Interval:

$$\text{Unavailable Calculation Interval} = 1 \text{ C.I. x } \left(1 - \text{the lesser of: } \frac{A}{\text{Effective Storage Capacity}} \text{ or } \frac{B}{\text{Effective Storage Capacity x 4 hrs}} \right)$$

where:

"A" is the "**Available Effective Storage Capacity**", which is the available capacity expressed in MW expected from all Storage Facility inverters, calculated as the greater of the HOL and the absolute value of the LOL. The determination of Available Effective Storage Capacity in a Calculation Interval shall consider the conditions of the Facility in total to receive Charging Energy from the Generating Facility or CAISO Grid, as applicable, and to deliver Discharging Energy to the Delivery Point based on normal operating conditions pursuant to the manufacturer's guidelines. For purposes of the determination of Available Effective Storage Capacity in a Calculation Interval, it will be assumed that no PV Energy is being concurrently delivered to the Delivery Point in such Calculation Interval. "A" shall never exceed the Effective Storage Capacity. If Seller fails to provide the HOL or LOL for any Calculation Interval, the Available Effective Storage Capacity in such Calculation Interval shall be deemed to be zero (0) MW.

"B" is the "**Available Storage Capability**", which shall be calculated as the sum of the following (taking into account the SOC at the time of calculation): (i) the energy throughput capability in MWhs in the applicable Calculation Interval that the Storage Facility is available to be charged from the Generating Facility or CAISO Grid, as applicable, (calculated as the available battery charging capability (in MWh) to receive Charging Energy from the Generating Facility or CAISO Grid, as applicable, in the applicable Calculation Interval x the Battery Charging Factor) and (ii) the energy throughput capability in MWhs in the applicable Calculation Interval that the Storage Facility is available to be discharged to the Delivery Point (calculated as the available battery discharging capability (in MWh) to delivery Discharging Energy to the Delivery Point in the applicable Calculation Interval x the Battery Discharging Factor). In calculating Available Storage Capability, the "available battery charging capability" and "available battery discharging capability" are calculated as the product of (1) the count of available system strings in such Calculation Interval, *multiplied by* (2) the capability, in MWh, expected from each such system string (based on normal operating conditions pursuant to the manufacturer's guidelines), that are able (considering the conditions of the Facility in total) to receive Charging Energy from the Generating Facility or CAISO Grid, as applicable, and deliver Discharging Energy to the Delivery Point; *provided*, the Available Storage Capability shall never exceed the Effective Storage Capacity x four (4) hours.

"**Total YTD Calculation Intervals**" means, for each applicable Contract Year (and for the period from CAISO Commercial Operation through the Commercial Operation Date), the total number of Calculation Intervals year-to-date up through and including the month for which the Annual Storage Capacity Availability is being calculated.

(b) The Available Effective Storage Capacity and Available Storage Capability in the above calculations shall be the lower of (i) such amounts reported by Seller's real-time EMS data feed to Buyer for the Storage Facility for such Calculation Interval, such that available Effective Storage Capacity is calculated as the product of (A) the count of available system inverters, multiplied by (B) the capacity, in MW AC, expected from each system inverter under normal operating conditions pursuant to the manufacturer's guidelines, and available Storage Capability is likewise calculated as the product of (C) the count of available system strings, multiplied by (D) the capability, in MWh, expected from each system string under normal operating conditions pursuant to the manufacturer's guidelines, and (ii) Seller's most recent Availability Notice (as updated pursuant to Section 4.3), which, with respect to the Available Effective Storage Capacity, shall be calculated as the average of the "Gen Max" and "Load Max" (or equivalent successor terms which may be used by the SC or CAISO from time to time) amounts reported in Seller's Availability Notice and recorded in OMS for such Calculation Interval, and with respect to the Available Storage Capability, shall be calculated as "Max Energy" minus "Min Energy" (or equivalent successor terms which may be used by the SC or CAISO from time to time) amounts reported in Seller's Availability Notice and recorded in OMS for such Calculation Interval and for which calculation the Battery Charging Factor and Battery Discharging Factor shall not be applied, provided that any such revised Availability Notice indicating an increase in the Storage Facility's availability for the applicable Calculation Interval is submitted by Seller at least sixty (60) minutes prior to the time the Buyer is required to schedule or bid the Storage Facility in the Real-Time Market. Except as otherwise expressly provided in this Agreement, the calculations of Available

Effective Storage Capacity and Available Storage Capability in the foregoing sentence shall be based solely on the availability of the Storage Facility to charge or discharge Energy between the Storage Facility and the Delivery Point, as applicable (excluding for reasons at the high-voltage side of the Delivery Point or beyond). Any Calculation Interval in which the Storage Facility fails to maintain connectivity to the CAISO such that it cannot receive ADS or AGC signals shall be deemed an Unavailable Calculation Interval.

(c) If the total rated power of the Storage Facility inverters associated with the Installed Storage Capacity as measured to the Delivery Point is less than 23 MW charging and 23 MW discharging at 45°C, then Buyer shall have the right, in its reasonable discretion, to apply an ambient air temperature availability derate to the applicable Calculation Interval.

EXHIBIT Q

OPERATING RESTRICTIONS

The Parties will develop and finalize the Operating Restrictions prior to the Commercial Operation Date; *provided*, the Operating Restrictions (i) may not be materially more restrictive of the operation of the Storage Facility than as set forth below, unless agreed to by Buyer in writing, (ii) will, at a minimum, include the rules, requirements and procedures set forth in this Exhibit Q, (iii) will include protocols and parameters for Seller's operation of the Storage Facility in the absence of Charging Notices, Discharging Notices or other similar instructions from Buyer relating to the use of the Storage Facility, and (iv) may include facility scheduling, operating restrictions and Communications Protocols.

I. STORAGE FACILITY OPERATING RESTRICTIONS

File Update Date:	04/19/2024	
Technology:	Powin Centipede Stack750	
Storage Unit Name:	Solar Star 3, LLC	
A. Contract Capacity		
Guaranteed Storage Capacity (MW):	23	
Effective Storage Capacity (MW):	TBD	
B. Total Unit Dispatchable Range Information		
Interconnect Voltage (kV)	230kV	
Maximum Storage Level (MWh):	92	
Minimum Storage Level (MWh):	0	
Stored energy capability (MWh):	92	
Maximum Discharge (MW):	23	
Maximum Charge (MW):	23	
Guaranteed Efficiency Rate:	[redacted]	
Maximum energy throughput (BET) (Discharged MWh/year)*: *Any Idle Period Auxiliary Use does not count towards maximum energy throughput.	[redacted]	
C. Charge and Discharge Rates		
Mode	**Maximum (MW)**	**Ramp Rate (MW/s) Description**
Energy (Charge)	23	500 kW in 500 ms
Energy (Discharge)	23	500 kW in 500 ms
D. Ancillary Services		
Regulation (up and down) is included:	Yes	
Spinning and Non-Spinning Reserve is included:	Yes	

EXHIBIT R

METERING DIAGRAM

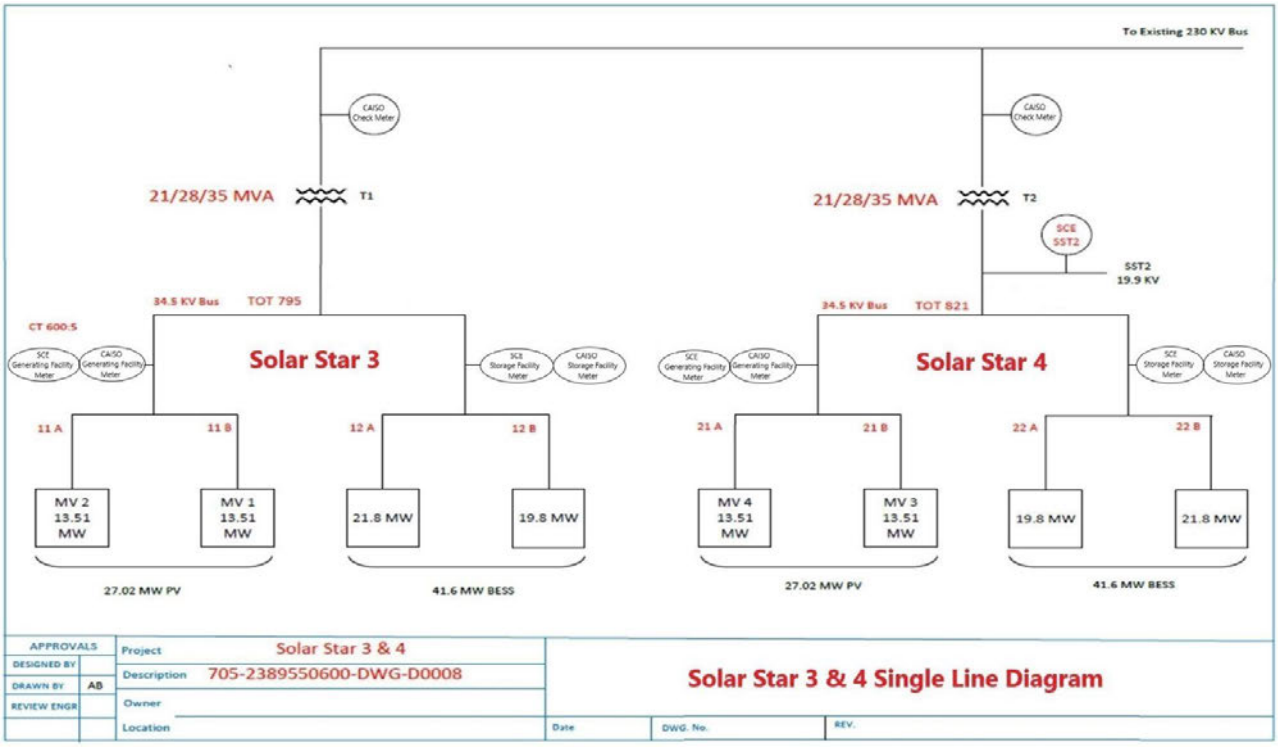


EXHIBIT S

FORM OF CONSENT TO COLLATERAL ASSIGNMENT

This Consent to Collateral Assignment (this "Consent") is entered into among (i) Clean Power Alliance of Southern California, a California joint powersauthority ("CPA"), (ii) *[Name of Seller]*, a *[Legal Status of Seller]* (the "Project Company"), and (iii) *[Name of* Collateral Agent*]*, a *[Legal Status of Collateral Agent]*, as Collateral Agent for the secured parties under the Financing Documents referred to below (such secured parties together with their successors permitted under this Consent in such capacity, the "Secured Parties", and, such agent, together with its successors in such capacity, the "Collateral Agent"). CPA, Project Company and Collateral Agent are hereinafter sometimes referred to individually as a "Party" and jointly as the "Parties". Capitalized terms used but not otherwise defined in this Consent shall have the meanings ascribed to them in the PPA (as defined below).

RECITALS

The Parties enter into this Consent with reference to the following facts:

A. Project Company and CPA have entered into that certain Renewable Power Purchase Agreement, dated as of *[Date] [List all amendments* as *contemplated by Section 3.4]* ("PPA"), pursuant to which Project Company will develop, construct, commission, test and operate the Facility and sell the Product to CPA, and CPA will purchase the Product from Project Company;

B. As collateral for Project Company's obligations under the PPA, Project Company has agreed to provide to CPA certain collateral, which may include Performance Security and Development Security and other collateral described in the PPA (collectively, the "PPA Collateral");

C. Project Company has entered into that certain *[Insert description of financing arrangements with Lender]*, dated as of *[Date]*, among Project Company, the Lenders party thereto and the Collateral Agent (the "Financing Agreement"), pursuant to which, among otherthings, the Lenders have extended commitments to make loans to Project Company;

D. As collateral security for Project Company's obligations under the Financing Agreement and related agreements (collectively, the "Financing Documents"), Project Company has, among other things, assigned all of its right, title and interest in, to and under the PPA and Project's Company's owners have pledged their ownership interest in Project Company (collectively, the "Assigned Interest") to the Collateral Agent pursuant to the Financing Documents; and

E. It is a requirement under the Financing Agreement and the PPA that CPA and the other Parties hereto shall have executed and delivered this Consent.

AGREEMENT

In consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties hereto hereby agree as follows:

SECTION 1. CONSENT TO ASSIGNMENT, ETC.

1.1 Consent and Agreement.

CPA hereby acknowledges:

(a) Notice of and consents to the assignment as collateral security to Collateral Agent, for the benefit of the Secured Parties, of the Assigned Interest; and

(b) The right (but not the obligation) of Collateral Agent in the exercise of its rights and remedies under the Financing Documents, to make all demands, give all notices, take all actions and exercise all rightsof Project Company permitted under the PPA (subject to CPA's rights and defenses under the PPA and the terms of this Consent) and accepts any such exercise; *provided*, insofar as the Collateral Agent exercises any such rights under the PPA or makes any claims with respect to payments or other obligations under the PPA, the terms and conditions of the PPA applicable to such exercise of rights or claims shall apply to Collateral Agent to the same extent as to Project Company.

1.2 Project Company's Acknowledgement.

Each of Project Company and Collateral Agent hereby acknowledges and agrees that CPA is authorized to act in accordance with Collateral Agent's instructions, and that CPA shall bear no liability to Project Company or Collateral Agent in connection therewith, including any liability for failing to act in accordance with Project Company's instructions.

1.3 Right to Cure.

If Project Company defaults in the performance of any of its obligations under the PPA, or upon the occurrence or non-occurrence of any event or condition under the PPA which would immediately or with the passage of any applicable grace period or the giving of notice, or both, enable CPA to terminate or suspend its performance under the PPA (a "PPA Default"), CPA will not terminate or suspend its performance under the PPA until it first gives written notice of such PPA Default to Collateral Agent and affords Collateral Agent the right to cure such PPA Default within the applicable cure period under the PPA, which cure period shall run concurrently with that afforded Project Company under the PPA. In addition, if Collateral Agent gives CPA written notice prior to the expiration of the applicable cure period under the PPA of Collateral Agent's intention to cure such PPA Default (which notice shall include a reasonable description of the time during which it anticipates to cure such PPA Default) and is diligently proceeding to cure such PPA Default, notwithstanding the applicable cure period under the PPA, Collateral Agent shall have a period of sixty (60) days (or, if such PPA Default is for failure by the Project Company to pay an amount to CPA which is due and payable under the PPA other than to provide PPA Collateral, thirty (30) days, or, if such PPA Default is for failure by Project Company to provide PPA Collateral, ten (10) Business Days) from the Collateral Agent's receipt of the notice of such PPA Default from CPA to cure such PPA Default; *provided*, (a) if possession of the Facility is necessary to cure any such non-monetary PPA Default and Collateral Agent has commenced foreclosure proceedings within sixty (60) days after notice of the PPA Default and is diligently pursuing such foreclosure proceedings, Collateral Agent will be allowed a reasonable time, not to exceed one hundred eighty (180) days after the notice of the PPA Default, to complete such

proceedings and cure such PPA Default, and (b) if Collateral Agent is prohibited from curing any such PPA Default by any process, stay or injunction issued by any Governmental Authority or pursuant to any bankruptcy or insolvency proceeding or other similar proceeding involving Project Company, then the time periods specified herein for curing a PPA Default shall be extended for theperiod of such prohibition, so long as Collateral Agent has diligently pursued removal of such process, stay or injunction. Collateral Agent shall provide CPA with reports concerning the status of efforts to cure a PPA Default upon CPA's reasonable request.

1.4 Substitute Owner.

Subject to Section 1.7, the Parties agree that if Collateral Agent notifies (such notice, a "Financing Document Default Notice") CPA that an event of default has occurred and is continuing under the Financing Documents (a "Financing Document Event of Default") then, upon a judicial foreclosure sale, non-judicial foreclosure sale, deed in lieu of foreclosure or other transfer following a Financing Document Event of Default, Collateral Agent (or its designee) shall be substituted for Project Company (the "Substitute Owner") under the PPA, and, subject to Sections 1.7(b) and 1.7(c) below, CPA and Substitute Owner will recognize each other as counterparties under the PPA and will continue to perform their respective obligations (including those obligations accruing to CPA and the Project Company prior to the existence of the Substitute Owner) under the PPA in favor of each other in accordance with the terms thereof; *provided*, before CPA is required to recognize the Substitute Owner, the Substitute Owner must have demonstrated to CPA's reasonable satisfaction that the Substitute Owner has financial qualifications and operating experience *[TBD]* (a "Permitted Transferee"). For purposes of the foregoing, CPA shall be entitled to assume that any such purported exercise of rights by Collateral Agent that results in substitution of a Substitute Owner under the PPA is in accordance with the Financing Documents without independent investigation thereof but shall have the right to require that the Collateral Agent and its designee (if applicable) provide reasonable evidence demonstrating the same.

1.5 Replacement Agreements.

Subject to Section 1.7, if the PPA is terminated, rejected or otherwise invalidated as a result of any bankruptcy, insolvency, reorganization or similar proceeding affecting Project Company, its owner(s) or guarantor(s), and if Collateral Agent or its designee directly or indirectly takes possession of, or title to, the Facility (including possession by a receiver or title by foreclosure or deed in lieu of foreclosure) ("Replacement Owner"), CPA shall, and Collateral Agent shall cause Replacement Owner to, enter into a new agreement with one another for the balance of the obligations under the PPA remaining to be performed having terms substantially the same as the terms of the PPA with respect to the remaining Contract Term ("Replacement PPA"); *provided*, before CPA is required to enter into a Replacement PPA, the Replacement Owner must have demonstrated to CPA's reasonable satisfaction that the Replacement Owner satisfies the requirements of a Permitted Transferee. For purposes of the foregoing, CPA is entitled to assume that any such purported exercise of rights by Collateral Agent that results in a Replacement Owner is in accordance with the Financing Documents without independent investigation thereof but shall have the right to require that the Collateral Agent and its designee (if applicable) provide reasonable evidence demonstrating the same. Notwithstanding the execution and delivery of a Replacement PPA, to the extent CPA is, or was otherwise prior to its termination as described in this Section 1.5, entitled under the PPA, CPA may suspend performance of its obligations under

such Replacement PPA, unless and until all PPA Defaults of Project Company under the PPA or Replacement PPA have been cured.

1.6 Transfer.

Subject to Section 1.7, a Substitute Owner or a Replacement Owner may assign all of its interest in the Facility and the PPA and a Replacement PPA to a natural person, corporation, trust, business trust, joint venture, joint stock company, association, company, limited liability company, partnership, Governmental Authority or other entity (a "Person") to which the Facility is transferred; *provided*, the proposed transferee shall have demonstrated to CPA's reasonable satisfaction that such proposed transferee satisfies the requirements of a Permitted Transferee.

1.7 Assumption of Obligations.

(a) Transferee.

Any transferee under Section 1.6 shall expressly assume in a writing reasonably satisfactory to CPA all of the obligations of Project Company, Substitute Owner or Replacement Owner under the PPA or Replacement PPA, as applicable, including posting and collateral assignment of the PPA Collateral. Upon such assignment and the cure of any outstanding PPA Default, and payment of all other amounts due and payable to CPA in respect of the PPA or such Replacement PPA, the transferor shall be released from any further liability under the PPA or Replacement PPA, as applicable.

(b) Substitute Owner.

Subject to Section 1.7(c), any Substitute Owner pursuant to Section 1.4 shall be required to perform Project Company's obligations under the PPA, including posting and collateral assignment of the PPA Collateral; *provided*, the obligations of such Substitute Owner shall be no more than those of Project Company under the PPA.

(c) No Liability.

CPA acknowledges and agrees that neither Collateral Agent nor any Secured Party shall have any liability or obligation under the PPAas a result of this Consent (except to the extentCollateral Agent or a Secured Party is a Substitute Owner or Replacement Owner) nor shall Collateral Agent or any other Secured Party be obligated or required to (i) perform any of Project Company's obligations under the PPA, except as provided in Sections 1.7(a) and 1.7(b) and to the extent Collateral Agent or a Secured Party is a Substitute Owner or Replacement Owner, or (ii) take any action to collect or enforce any claim for payment assigned under the Financing Documents. If Collateral Agent becomes a Substitute Owner pursuant to Section 1.4 or enters into a Replacement PPA, Collateral Agent shall not have any personal liability to CPA under the PPA or Replacement PPA and the sole recourse of CPA in seeking enforcement of such obligations against Collateral Agent shall be to the aggregate interest of the Secured Parties in the Facility; *provided*, such limited recourse shall not limit CPA's right to seek equitable or injunctive relief against Collateral Agent, or CPA's rights with respect to any offset rights expressly allowed under the PPA, a Replacement PPA or the PPA Collateral.

1.8 Delivery of Notices.

CPA shall deliver to Collateral Agent, concurrently with the delivery thereof to Project Company, a copy of each notice, request or demand given by CPA to Project Company pursuant to the PPA relating to (a) a PPA Default by Project Company under the PPA, (b) any claim regarding a Force Majeure Event by CPA under the PPA, (c) any notice of dispute under the PPA, (d) any notice of intent to terminate or any termination notice, and (e) any matter that would require the consent of Collateral Agent pursuant to Section 1.11 or any other provision of this Consent. Collateral Agent acknowledges that delivery of such notice, request and demand shall satisfy CPA's obligation to give Collateral Agent a notice of PPA Default under Section 1.3. Collateral Agent shall deliver to CPA, concurrently with delivery thereof to Project Company, a copy of each notice, request or demand given by Collateral Agent to Project Company pursuant to the Financing Documents relating to a default by Project Company under the Financing Documents.

1.9 Confirmations.

CPA will, as and when reasonably requested by Collateral Agent from time to time, confirm in writing matters relating to the PPA (including the performance of same by Project Company); *provided*, such confirmation may be limited to matters of which CPA is aware as of the time the confirmation is given and such confirmations shall be without prejudice to any rights of CPA under the PPA as between CPA and Project Company.

1.10 Exclusivity of Dealings.

Except as provided in Sections 1.3, 1.4, 1.8, 1.9 and 2.1, unless and until CPA receives a Financing Document Default Notice, CPA shall deal exclusively with Project Company in connection with the performance of CPA's obligations under the PPA. From and after such time as CPA receives a Financing Document Default Notice and until a Substitute Owner is substituted for Project Company pursuant to Section 1.4, a Replacement PPA is entered into or the PPA is transferred to a Person to whom the Facility is transferred pursuant to Section 1.6, CPA shall, until Collateral Agent confirms to CPA in writing that all obligations under the Financing Documents are no longer outstanding, deal exclusively with Collateral Agent in connection with the performance of CPA's obligations under the PPA, and CPA may irrevocably rely on instructions provided by Collateral Agent in accordance therewith to the exclusion of those provided by any other Person.

1.11 No Amendments.

To the extent permitted by Laws, CPA agrees that it will not, without the prior written consent of Collateral Agent (not to be unreasonably withheld, delayed or conditioned) (a) enter into any material supplement, restatement, novation, extension, amendment or modification of the PPA (b) terminate or suspend its performance under the PPA (except in accordance with Section 1.3) or (c) consent to or accept any termination or cancellation of the PPA by Project Company.

SECTION 2. PAYMENTS UNDER THE PPA

2.1 Payments.

Unless and until CPA receives written notice to the contrary from Collateral Agent, CPA will make all payments to be made by it to Project Company under or by reason of the PPA directly to Project Company. CPA, Project Company, and Collateral Agent acknowledge that CPA will be deemed to be in compliance with the payment terms of the PPA to the extent that CPA makes payments in accordance with Collateral Agent's instructions.

2.2 No Offset, Etc.

All payments required to be made by CPA under the PPA shall be made without any offset, recoupment, abatement, withholding, reduction or defense whatsoever, other than that expressly allowed by the terms of the PPA.

SECTION 3. REPRESENTATIONS AND WARRANTIES OF CPA

CPA makes the following representations and warranties as of the date hereof in favor of Collateral Agent:

3.1 Organization.

CPA is a joint powers authority and community choice aggregator duly organized and validly existing under the laws of the state of California, and the rules, regulations and orders of the California Public Utilities Commission, and is qualified to conduct business in each jurisdiction of the Joint Powers Agreement members. CPA has all requisite power and authority, corporate and otherwise, to enter into and to perform its obligations hereunder and underthe PPA, and to carry out the terms hereof and thereof and the transactions contemplated hereby and thereby.

3.2 Authorization.

The execution, delivery and performance by CPA of this Consent and the PPA have been duly authorized by all necessary corporate or other action on the part of CPA and do not require any approval or consent of any holder (or any trustee for any holder) of any indebtedness or other obligation of CPA which, if not obtained, will prevent CPA from performing its obligations hereunder or under the PPA except approvals or consents which have previously been obtained and which are in full force and effect.

3.3 Execution and Delivery; Binding Agreements.

Each of this Consent and the PPA is in full force and effect, has been duly executed and delivered on behalf of CPA by the appropriate officers of CPA, and constitutes the legal, valid and binding obligation of CPA, enforceable against CPA in accordance with its terms, except as the enforceability thereof may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application affecting the enforcement of creditors' rights generally and (b) general equitable principles (whether considered in a proceeding in equity or at law).

3.4 No Default or Amendment.

Except as set forth in Schedule A attached hereto: (a) Neither CPA nor, to CPA's actual knowledge, Project Company, is in default of any of its obligations under the PPA; (b) CPA and, to CPA's actual knowledge, Project Company, has complied with all conditions precedent to the effectiveness of its obligations under the PPA; (c) to CPA's actual knowledge, no event or condition exists which would either immediately or with the passage of any applicable grace period or giving of notice, or both,enable either CPA or Project Company to terminate or suspend its obligations under the PPA; and (d) the PPA has not been amended, modified or supplemented in any manner except as set forth herein and in the recitals hereto.

3.5 No Previous Assignments.

CPA has no notice of, and has not consented to, any previous assignment by Project Company of all or any part of its rights under the PPA, except as previously disclosed in writing and consented to by CPA.

SECTION 4. REPRESENTATIONS AND WARRANTIES OF PROJECT COMPANY

Project Company makes the following representations and warranties as of the date hereof in favor of the Collateral Agent and CPA:

4.1 Organization.

Project Company is a *[Legal Status of Seller]* duly organized and validly existing under the laws of the state of its organization, and is duly qualified, authorized to do business and in good standing in every jurisdiction in which it owns or leases real property or in which the nature of its business requires it to be so qualified, except where the failure to so qualify would not have a material adverse effect on its financial condition, its ability to own its properties or its ability to transact its business. Project Company has all requisite power and authority, corporate and otherwise, to enter into and to perform its obligations hereunder and under the PPA, and to carry out the terms hereof and thereof and the transactions contemplated hereby and thereby.

4.2 Authorization.

The execution, delivery and performance of this Consent by Project Company, and Project Company's assignment of its right, title and interest in, to and under the PPA to the Collateral Agent pursuant to the Financing Documents, have been duly authorized by all necessary corporate or other action on the part of Project Company.

4.3 Execution and Delivery; Binding Agreement.

This Consent is in full force and effect, has been duly executed and delivered on behalf of Project Company by the appropriate officers of Project Company, and constitutes the legal, valid and binding obligation of Project Company, enforceable against Project Company in accordance with its terms, except as the enforceability thereof may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application affecting the enforcement of creditors' rights generally and (b) general equitable principles (whether considered in a proceeding in equity or at law).

4.4 No Default or Amendment.

Except as set forth in Schedule B attached hereto: (a) neither Project Company nor, to Project Company's actual knowledge, CPA, is in default of any of its obligations under the PPA; (b) Project Company and, to Project Company's actual knowledge, CPA, has complied with all conditions precedent to the effectiveness of its obligations under the PPA; (c) to Project Company's actual knowledge, no event or condition exists which would either immediately or with the passage of any applicable grace period or giving of notice, or both, enable either CPA or Project Company to terminate or suspend its obligations under the PPA; and (d) the PPA has not been amended, modified or supplemented in any manner except as set forth herein and in the recitals hereto.

4.5 No Previous Assignments.

Project Company has not previously assigned all or any part of its rights under the PPA.

SECTION 5. REPRESENTATIONS AND WARRANTIES OF COLLATERAL AGENT

Collateral Agent makes the following representations and warranties as of the date hereof in favor of CPA and Project Company:

5.1 Authorization.

The execution, delivery and performance of this Consent by Collateral Agent have been duly authorized by all necessary corporate or other action on the part of Collateral Agent and Secured Parties.

5.2 Execution and Delivery; Binding Agreement.

This Consent is in full force and effect, has been duly executed and delivered on behalf of Collateral Agent by the appropriate officers of Collateral Agent, and constitutes the legal, valid and binding obligation of Collateral Agent as Collateral Agent for the Secured Parties, enforceable against Collateral Agent (and the Secured Parties to the extent applicable) in accordance with its terms, except as the enforceability thereof may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application affecting the enforcement of creditors' rights generally and (b) general equitable principles (whether considered in a proceeding in equity or at law).

SECTION 6. MISCELLANEOUS

6.1 Notices.

All notices and other communications hereunder shall be in writing, shall be deemed given upon receipt thereof by the Party or Parties to whom such notice is addressed, shall refer on their face to the PPA (although failure to so refer shall not render any such notice or communication ineffective), shall be sent by first class mail, by personal delivery or by a nationally recognized courier service, and shall be directed (a) if to CPA or Project Company, in accordance with *[Notice Section of the PPA]* of the PPA, (b) if to Collateral Agent, to *[Collateral Agent Name]*, *[Collateral*

Agent Address], Attn: *[Collateral Agent Contact Information]*, Telephone: *[___]*, Fax: *[___]*, and (c) to such other address or addressee as any such Party may designate by notice given pursuant hereto.

6.2 Governing Law; Submission to Jurisdiction.

(a) THIS CONSENT SHALL BE CONSTRUED IN ACCORDANCE WITH, AND THIS CONSENT AND ALL MATTERS ARISING OUT OF THIS CONSENT AND THE TRANSACTIONS CONTEMPLATED HEREBY SHALL BE GOVERNED BY, THE LAW OF THE STATE OF CALIFORNIA WITHOUT REGARD TO ANY CONFLICTS OF LAWS PROVISIONS THEREOF THAT WOULD RESULT IN THE APPLICATION OF THE LAW OF ANOTHER JURISDICTION.

(b) All disputes, claims or controversies arising out of, relating to, concerning or pertaining to the terms of this Consent shall be governed by the dispute resolution provisions of the PPA. Subject to the foregoing, any legal action or proceeding with respect to this Consent and any action for enforcement of any judgment in respect thereof may be brought in the courts of the State of California or of the United States of America for the Central District of California, and, by execution and delivery of this Consent, each Party hereby accepts for itself and in respect of its property, generally and unconditionally, the non-exclusive jurisdiction of the aforesaid courts and appellate courts from any appeal thereof. Each Party further irrevocably consents to the service of process out of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to its notice address provided pursuant to Section 6.1 hereof. Each Party hereby irrevocably waives any objection which it may now or hereafter have to the laying of venue of any of the aforesaid actions or proceedings arising out of or in connection with this Consent brought in the courts referred to above and hereby further irrevocably waives and agrees not to plead or claim in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum. Nothing herein shall affect the right of any Party to serve process in any other manner permitted by law.

6.3 Headings Descriptive.

The headings of the several sections and subsections of this Consent are insertedfor convenience only and shall not in any way affect the meaning or construction of any provisionof this Consent.

6.4 Severability.

In case any provision in or obligation under this Consent shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

6.5 Amendment, Waiver.

Neither this Consent nor any of the terms hereof may (a) be terminated, amended, supplemented or modified, except by an instrument in writing signed by CPA, Project Company and Collateral Agent or (b) waived, except by an instrument in writing signed by the waiving Party.

6.6 Termination.

Each Party's obligations hereunder are absolute and unconditional, and no Party has any right, and shall have no right, to terminate this Consent or to be released, relieved or discharged from any obligation or liability hereunder until CPA has been notified by Collateral Agent that all of the obligations under the Financing Documents shall have been satisfied in full (other than contingent indemnification obligations) or, with respect to the PPA or any Replacement PPA, its obligations under such PPA or Replacement PPA have been fully performed.

6.7 Successors and Assigns.

This Consent shall be binding upon each Party and its successors and assigns permitted under and in accordance with this Consent, and shall inure to the benefit of the other Parties and their respective successors and assignee permitted under and in accordance with this Consent. Each reference to a Person herein shall include such Person's successors and assigns permitted under and in accordance with this Consent.

6.8 Further Assurances.

CPA hereby agrees to execute and deliver all such instruments and take all such action as may be necessary to effectuate fully the purposes of this Consent.

6.9 Waiver of Trial by Jury.

TO THE EXTENT PERMITTED BY APPLICABLE LAWS, THE PARTIES HEREBY IRREVOCABLY WAIVE ALL RIGHT OF TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR IN CONNECTION WITH THIS CONSENT OR ANY MATTER ARISING HEREUNDER. EACH PARTY FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

6.10 Entire Agreement.

This Consent and any agreement, document or instrument attached hereto or referred to herein integrate all the terms and conditions mentioned herein or incidental hereto and supersede all oral negotiations and prior writings in respect to the subject matter hereof. In the event of any conflict between the terms, conditions and provisionsof this Consent and any such agreement, document or instrument, the terms, conditions and provisions of this Consent shall prevail.

6.11 Effective Date.

This Consent shall be deemed effective as of the date upon which the last Party executes this Consent.

6.12 Counterparts; Electronic Signatures.

This Consent may be executed in one or more counterparts, each of which will be deemed to be an original of this Consent and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Consent and of signature pages by

facsimile transmission, Portable Document Format (i.e., PDF), or by other electronic means shall constitute effective execution and delivery of this Consent as to the Parties and may be used in lieu of the original Consent for all purposes.

[Remainder of Page Left Intentionally Blank.]

IN WITNESS WHEREOF, the Parties hereto have caused this Consent to be duly executed and delivered by their duly authorized officers on the dates indicated below their respective signatures.

[NAME OF PROJECT COMPANY], *[Legal Status of Project Company]*.		CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority.
By: _____ *[Name]* *[Title]* Date: _____		**By:** _____ *[Name]* *[Title]* Date: _____
[NAME OF COLLATERAL AGENT], *[Legal Status of Collateral Agent]*. By: _____ *[Name]* *[Title]* Date: _____		

SCHEDULE A

[Describe any disclosures relevant to representations and warranties made in Section 3.4]

EXHIBIT T

FORM OF GUARANTY

This Guaranty (this "**Guaranty**") is entered into as of [_____] (the "**Effective Date**") by and between [___], a [jurisdiction and form of entity] ("**Guarantor**"), and Clean Power Alliance of Southern California, a California joint powers authority (together with its successors and permitted assigns, "**Buyer**").

Recitals

A. Buyer and [*SELLER* ENTITY], a Delaware limited liability company ("**Seller**"), entered into that certain Renewable Power Purchase Agreement (as amended, restated or otherwise modified from time to time, the "**PPA**") dated as of [_____], 2024.

B. Guarantor is entering into this Guaranty as Performance Security to secure Seller's obligations under the PPA, as required by Section [__] of the PPA.

C. It is in the best interest of Guarantor to execute this Guaranty inasmuch as Guarantor will derive substantial direct and indirect benefits from the execution and delivery of the PPA.

D. Initially capitalized terms used but not defined herein have the meaning set forth in the PPA.

Agreement

1. **Guaranty**. For value received, and subject to the terms and conditions hereof, Guarantor does hereby unconditionally, absolutely and irrevocably guarantee, as primary obligor and not as a surety, to Buyer the prompt payment by Seller of any and all amounts and payment obligations now or hereafter owing from Seller to Buyer under the PPA, including, without limitation, compensation for penalties, the Termination Payment, indemnification payments or other damages, as and when required pursuant to the terms of the PPA, provided, that Guarantor's aggregate liability under or arising out of this Guaranty shall not exceed _____ Dollars ($_____)[insert Development Security / Performance Security Amount](the "**Guaranteed Amount**"). The Parties understand and agree that any payment by Guarantor or Seller of any portion of the Guaranteed Amount shall thereafter reduce Guarantor's maximum aggregate liability hereunder on a dollar-for-dollar basis. This Guaranty is an irrevocable, absolute, unconditional and continuing guarantee of the full and punctual payment, and not of collection, of the Guaranteed Amount and, except as otherwise expressly addressed herein, is in no way conditioned upon any requirement that Buyer first attempt to collect the payment of the Guaranteed Amount from Seller, any other guarantor of the Guaranteed Amount or any other Person or entity or resort to any other means of obtaining payment of the Guaranteed Amount. In the event Seller shall fail to duly, completely or punctually pay any Guaranteed Amount as required pursuant to the PPA, Guarantor shall promptly pay such amount as required herein.

2. **Demand Notice**. For avoidance of doubt, a payment shall be due for purposes of this Guaranty only when and if a payment is due and payable by Seller to Buyer under the terms and conditions

of the Agreement. If Seller fails to pay any Guaranteed Amount as required pursuant to the PPA for five (5) Business Days following Seller's receipt of Buyer's written notice of such failure (the "**Demand Notice**"), then Buyer may elect to exercise its rights under this Guaranty and may make a demand upon Guarantor (a "**Payment Demand**") for such unpaid Guaranteed Amount. A Payment Demand shall be in writing and shall reasonably specify in what manner and what amount Seller has failed to pay and an explanation of why such payment is due and owing, with a specific statement that Buyer is requesting that Guarantor pay under this Guaranty. Guarantor shall, within five (5) Business Days following its receipt of the Payment Demand, pay the Guaranteed Amount to Buyer.

3. **Scope and Duration of Guaranty**. This Guaranty applies only to the Guaranteed Amount. This Guaranty shall continue in full force and effect from the Effective Date until the earlier of the following: (x) all Guaranteed Amounts have been paid in full (whether directly or indirectly through set-off or netting of amounts owed by Buyer to Seller), (y) the date that is twelve (12) months after the last day of the Delivery Term, and (z) replacement Performance Security is provided in an amount and form required by the terms of the PPA. Further, this Guaranty (a) shall remain in full force and effect without regard to, and shall not be affected or impaired by any invalidity, irregularity or unenforceability in whole or in part of this Guaranty, and (b) subject to the preceding sentence, shall be discharged only by complete performance of the undertakings herein. Without limiting the generality of the foregoing, the obligations of the Guarantor hereunder shall not be released, discharged, or otherwise affected and this Guaranty shall not be invalidated or impaired or otherwise affected for the following reasons:

   (i) the extension of time for the payment of any Guaranteed Amount, or

   (ii) any amendment, modification or other alteration of the PPA, or

   (iii) any indemnity agreement Seller may have from any party, or

   (iv) any insurance that may be available to cover any loss, except to the extent insurance proceeds are used to satisfy the Guaranteed Amount, or

   (v) any voluntary or involuntary liquidation, dissolution, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of, or other similar proceeding affecting, Seller or any of its assets, including but not limited to any rejection or other discharge of Seller's obligations under the PPA imposed by any court, trustee or custodian or any similar official or imposed by any law, statue or regulation, in each such event in any such proceeding, or

   (vi) the release, modification, waiver or failure to pursue or seek relief with respect to any other guaranty, pledge or security device whatsoever, or

   (vii) any payment to Buyer by Seller that Buyer subsequently returns to Seller pursuant to court order in any bankruptcy or other debtor-relief proceeding, or

   (viii) those defenses based upon (A) the legal incapacity or lack of power or

authority of any Person, including Seller and any representative of Seller to enter into the PPA or perform its obligations thereunder, (B) lack of due execution, delivery, validity or enforceability, including of the PPA, or (C) Seller's inability to pay any Guaranteed Amount or perform its obligations under the PPA, or

(ix) any other event or circumstance that may now or hereafter constitute a defense to payment of the Guaranteed Amount, including, without limitation, statute of frauds and accord and satisfaction;

provided that Guarantor reserves the right to assert for itself any defenses, setoffs or counterclaims that Seller is or may be entitled to assert against Buyer (except for such defenses, setoffs or counterclaims that are expressly waived under any provision of this Guaranty) in a subsequent action for recoupment, restitution, or reimbursement.

4. **Waivers by Guarantor**. Guarantor hereby unconditionally waives as a condition precedent to the performance of its obligations hereunder, with the exception of the requirements in Paragraph 2, (a) notice of acceptance, presentment or protest with respect to the Guaranteed Amounts and this Guaranty, (b) notice of any action taken or omitted to be taken by Buyer in reliance hereon, (c) any requirement that Buyer exhaust any right, power or remedy or proceed against Seller under the ESA, and (d) any event, occurrence or other circumstance which might otherwise constitute a legal or equitable discharge of a surety. Without limiting the generality of the foregoing waiver of surety defenses, it is agreed that the occurrence of any one or more of the following shall not affect the liability of Guarantor hereunder:

(i) at any time or from time to time, without notice to Guarantor, the time for payment of any Guaranteed Amount shall be extended, or such performance or compliance shall be waived;

(ii) the obligation to pay any Guaranteed Amount shall be modified, supplemented or amended in any respect in accordance with the terms of the ESA;

(iii) subject to Section 10, any (a) sale, transfer or consolidation of Seller into or with any other entity, (b) sale of substantial assets by, or restructuring of the corporate existence of, Seller or (c) change in ownership of any membership interests of, or other ownership interests in, Seller; or

(iv) the failure by Buyer or any other Person to create, preserve, validate, perfect or protect any security interest granted to, or in favor of, Buyer or any Person.

5. **Subrogation**. Notwithstanding any payments that may be made hereunder by the Guarantor, Guarantor hereby agrees that until the earlier of payment in full of all Guaranteed Amounts or expiration of the Guaranty in accordance with Section 3, it shall not be entitled to, nor shall it seek to, exercise any right or remedy arising by reason of its payment of any Guaranteed Amount under this Guaranty, whether by subrogation or otherwise, against Seller or seek contribution or reimbursement of such payments from Seller.

6. **Representations and Warranties**. Guarantor hereby represents and warrants that (a) it has all necessary and appropriate corporate or limited liability company powers and authority and the legal right to execute and deliver, and perform its obligations under, this Guaranty, (b) this Guaranty constitutes its legal, valid and binding obligations enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium and other similar laws affecting enforcement of creditors' rights or general principles of equity, (c) the execution, delivery and performance of this Guaranty does not and will not contravene Guarantor's organizational documents, any applicable Law or any contractual provisions binding on or affecting Guarantor, which would invalidate or materially impair Guarantor's ability to perform its obligations under this Guaranty, (d) except as disclosed in reports filed with the Securities and Exchange Commission by Guarantor's parent, [___], there are no actions, suits or proceedings pending before any court, governmental agency or arbitrator, or, to the knowledge of the Guarantor, threatened, against or affecting Guarantor or any of its properties or revenues which may, in any one case or in the aggregate, adversely affect the ability of Guarantor to enter into or perform its obligations under this Guaranty, and (e) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or Governmental Authority, and no consent of any other Person (including, any stockholder or creditor of the Guarantor), that has not heretofore been obtained is required in connection with the execution, delivery, performance, validity or enforceability of this Guaranty by Guarantor.

7. **Notices**. Notices under this Guaranty shall be deemed received if sent to the address specified below: (i) on the day received if served by overnight express delivery, and (ii) four Business Days after mailing if sent by certified, first class mail, return receipt requested. Any party may change its address to which notice is given hereunder by providing notice of the same in accordance with this Paragraph 8.

If delivered to Buyer, to it at [____]
Attn: [____]

If delivered to Guarantor, to it at [____]
Attn: [____]

8. **Governing Law and Forum Selection**. This Guaranty shall be governed by, and interpreted and construed in accordance with, the laws of the United States and the State of New York, excluding choice of law rules (other than Section 5-1401 and 5-1402 of the New York General Obligations Law), provided that, notwithstanding the foregoing, in no event shall such governing law prevent Buyer from complying with any obligations or from exercising any joint powers authority arising under the laws of the State of California. The Parties agree that any suit, action or other legal proceeding by or against any party (or its affiliates or designees) with respect to or arising out of this Guaranty shall be brought in the federal courts of the United States or the courts of the State of California sitting in the City and County of Los Angeles, California.

9. **Miscellaneous**. This Guaranty shall be binding upon Guarantor and its successors and assigns and shall inure to the benefit of Buyer and its successors and permitted assigns pursuant to the PPA. No

provision of this Guaranty may be amended or waived except by a written instrument executed by Guarantor and Buyer. This Guaranty is not assignable by Guarantor without the prior written consent of Buyer, which consent shall not be unreasonably withheld. This Guaranty is not assignable by Buyer without the prior written consent of Guarantor, which consent shall not be unreasonably withheld, except to the extent that the PPA is assigned in accordance with the terms thereof. No provision of this Guaranty confers, nor is any provision intended to confer, upon any third party (other than Buyer's successors and permitted assigns) any benefit or right enforceable at the option of that third party. This Guaranty embodies the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings of the parties hereto, verbal or written, relating to the subject matter hereof. If any provision of this Guaranty is determined to be illegal or unenforceable (i) such provision shall be deemed restated in accordance with applicable Laws to reflect, as nearly as possible, the original intention of the parties hereto and (ii) such determination shall not affect any other provision of this Guaranty and all other provisions shall remain in full force and effect. This Guaranty may be executed in any number of separate counterparts, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. This Guaranty may be executed and delivered by electronic means with the same force and effect as if the same was a fully executed and delivered original manual counterpart.

10. WAIVER OF JURY TRIAL; JUDICIAL REFERENCE.

(a) JURY WAIVER. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTY HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

(b) JUDICIAL REFERENCE. IN THE EVENT ANY LEGAL PROCEEDING IS FILED IN A FEDERAL COURT OF THE STATE OF CALIFORNIA, OR, TO THE EXTENT SUCH FEDERAL COURT LACKS SUBJECT MATTER JURISDICTION, IN A STATE COURT OF THE STATE OF CALIFORNIA (THE "COURT") BY OR AGAINST ANY PARTY HERETO IN CONNECTION WITH ANY CONTROVERSY, DISPUTE OR CLAIM DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY) (EACH, A "CLAIM") AND THE

WAIVER SET FORTH IN THE PRECEDING PARAGRAPH IS NOT ENFORCEABLE IN SUCH ACTION OR PROCEEDING, THE PARTIES HERETO AGREE AS FOLLOWS:

(i) ANY CLAIM (INCLUDING BUT NOT LIMITED TO ALL DISCOVERY AND LAW AND MOTION MATTERS, PRETRIAL MOTIONS, TRIAL MATTERS AND POST-TRIAL MOTIONS) WILL BE DETERMINED BY A GENERAL REFERENCE PROCEEDING IN ACCORDANCE WITH THE PROVISIONS OF CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 638 THROUGH 645.1. THE PARTIES INTEND THIS GENERAL REFERENCE AGREEMENT TO BE SPECIFICALLY ENFORCEABLE IN ACCORDANCE WITH CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638.

(ii) UPON THE WRITTEN REQUEST OF ANY PARTY, THE PARTIES SHALL SELECT A SINGLE REFEREE, WHO SHALL BE A RETIRED JUDGE OR JUSTICE. IF THE PARTIES DO NOT AGREE UPON A REFEREE WITHIN TEN (10) DAYS OF SUCH WRITTEN REQUEST, THEN, ANY PARTY MAY REQUEST THE COURT TO APPOINT A REFEREE PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 640(B).

(iii) THE PARTIES RECOGNIZE AND AGREE THAT ALL CLAIMS RESOLVED IN A GENERAL REFERENCE PROCEEDING PURSUANT HERETO WILL BE DECIDED BY A REFEREE AND NOT BY A JURY.

[*Signature on next page*]

IN WITNESS WHEREOF, the undersigned has caused this Guaranty to be duly executed and delivered by its duly authorized representative on the date first above written.

GUARANTOR:

[_____]

By:_____

Printed Name:_____

Title:_____

BUYER:

[_____]

By:_____

Printed Name:_____

Title:_____

EXHIBIT U

Supply Chain Code of Conduct

Buyer is committed to ensuring that the fundamental human rights of workers are protected, including addressing the potential risks of forced labor, child labor, servitude, human trafficking and slavery across our portfolio.

Our requirements and expectations for Seller's supply chain are detailed below in our Supply Chain Code of Conduct ("**Supply Chain Code**"). Seller must comply with all applicable Laws and this Supply Chain Code solely as set forth in this Exhibit U, even when this Supply Chain Code exceeds the requirements of applicable Law.

These standards are derived from the United Nations Guiding Principles on Business and Human Rights, the Core Conventions of the International Labour Organization ("ILO"), including the ILO Declaration on Fundamental Principles and Rights at Work, the Solar Energy Industries Association Solar Industry Commitment to Environmental & Social Responsibility, and the Responsible Business Alliance Code of Conduct.

1. **Freely Chosen Employment**
   Forced, bonded (including debt bondage) or indentured labor, involuntary or exploitative prison labor, slavery or trafficking of persons is not permitted. This includes transporting, harboring, recruiting, transferring, or receiving persons by means of threat, force, coercion, abduction or fraud for labor or services. There shall be no unreasonable restrictions on workers' freedom of movement in the facility in addition to unreasonable restrictions on entering or exiting company provided facilities including, if applicable, workers' dormitories or living quarters. All work must be voluntary, and workers shall be free to leave work at any time or terminate their employment without penalty if reasonable notice is given as per worker's contract, if any. Employers, agents, and sub-agents' may not hold or otherwise destroy, conceal, or confiscate identity or immigration documents, such as government-issued identification, passports, or work permits. Employers can only hold documentation if such holdings are required by law. In this case, at no time should workers be denied access to their documents. Workers shall not be required to pay employers' agents or sub-agents' recruitment fees or other related fees for their employment. If any such fees are found to have been paid by workers, such fees shall be repaid to the worker.

2. **Young Workers**
   Child labor is not to be used in any stage of manufacturing. The term "child" refers to any person under the age of 15, or under the age for completing compulsory education, or under the minimum age for employment in the country, whichever is greatest. Suppliers shall implement an appropriate mechanism to verify the age of workers. The use of legitimate workplace learning programs, which comply with all laws and regulations, is supported. Workers under the age of 18 shall not perform work that is likely to jeopardize their health or safety, including night shifts and overtime. Suppliers shall ensure proper management of student workers through proper maintenance of student records, rigorous due diligence of educational partners, and protection of students' rights in accordance with applicable laws and regulations. Suppliers shall provide appropriate support and training to all student

workers. In the absence of local law, the wage rate for student workers, interns, and apprentices shall be at least the same wage rate as other entry-level workers performing equal or similar tasks. If child labor is identified, assistance/remediation is provided.

3. **Working Hours**
   Studies of business practices clearly link worker strain to reduced productivity, increased turnover, and increased injury and illness. Working hours are not to exceed the maximum set by local law. Further, a workweek should not be more than 60 hours per week, including overtime, except in emergency or unusual situations. All overtime must be voluntary. Workers shall be allowed at least one day off every seven days.

4. **Wages and Benefits**
   Compensation paid to workers shall comply with all applicable wage laws, including those relating to minimum wages, overtime hours and legally mandated benefits. In compliance with local laws, workers shall be compensated for overtime at pay rates greater than regular hourly rates. Deductions from wages as a disciplinary measure shall not be permitted. For each pay period, workers shall be provided with a timely and understandable wage statement that includes sufficient information to verify accurate compensation for work performed. All use of temporary, dispatch and outsourced labor will be within the limits of the local law.

5. **Humane Treatment**
   There is to be no harsh or inhumane treatment including violence, gender-based violence, sexual harassment, sexual abuse, corporal punishment, mental or physical coercion, bullying, public shaming, or verbal abuse of workers; nor is there to be the threat of any such treatment. Disciplinary policies and procedures in support of these requirements shall be clearly defined and communicated to workers.

6. **Non-Discrimination/Non-Harassment**
   Suppliers should be committed to a workplace free of harassment and unlawful discrimination. Companies shall not engage in discrimination or harassment based on race, color, age, gender, sexual orientation, gender identity and expression, ethnicity or national origin, disability, pregnancy, religion, political affiliation, union membership, covered veteran status, protected genetic information or marital status in hiring and employment practices such as wages, promotions, rewards, and access to training. Workers shall be provided with reasonable accommodation for religious practices. In addition, workers or potential workers should not be subjected to medical tests that could be used in a discriminatory way or otherwise in violation of applicable law. This was drafted in consideration of ILO Discrimination (Employment and Occupation) Convention (No.111).

7. **Freedom of Association**
   In conformance with local law, Suppliers shall respect the right of all workers to form and join trade unions of their own choosing, to bargain collectively, and to engage in peaceful assembly as well as respect the right of workers to refrain from such activities. Workers and/or their representatives shall be able to openly communicate and share ideas and concerns with management regarding working conditions and management practices without fear of discrimination, reprisal, intimidation, or harassment.

8. Restricted Jurisdictions

Supplier shall not manufacture or produce products in the Xinjiang Uyghur Autonomous Region of China, or knowingly procure goods and services mined, produced or manufactured in the same.

EXHIBIT V

MATERIAL PERMITS

No.	*Permits*
1	Conditional Use Permit No. 8 (Map 233) Resolution 2012-037 – approval of mitigation measure compliance binders

EXHIBIT W

Force Majeure and/or Development Cure Period Claim Form

Instructions

A. Please review Article 10 and Exhibit B (if applicable) of the Power Purchase Agreement prior to filling out the form.

B. Fill out the form completely and return to your assigned Contract Manager at CPA.

Seller: [Name] Project: [Name]

Current Guaranteed Construction Start Date: [Date]

New Guaranteed Construction Start Date (if Seller's claims are validated in full): [Date]

Guaranteed Commercial Operation Date: [Date]

New Guaranteed Commercial Operation Date (if Seller's claims are validated in full): [Date]

---

1. Please describe the claimed Force Majeure Event or other event giving rise to the claimed Development Cure Period delay(s) (the "Claimed Event"), including its cause, date of commencement and date it ended or is anticipated to end.

2. Please specify the extent of the delay or prevented performance caused by the Claimed Event, including the relief claimed thereby. Describe how the claimed relief was calculated/determined, accounting for individual developments causing such delay or prevented performance.

3. With respect to a Claimed Event other than a Force Majeure Event, please describe the commercially reasonable efforts taken by Seller to prevent such event.

4. Please describe the commercially reasonable efforts taken to mitigate the delays or nonperformance caused by the Claimed Event and specify how such efforts reduced the delay days or nonperformance that would otherwise have occurred absent such mitigation.

5. Please attach supporting documentation, including without limitation:

- Force Majeure notices or other correspondence received from suppliers and/or contractors that describe the basis for and extentof the Claimed Event.
- Documentation, contracts, and/or correspondence with suppliers and/or contractors evidencing the claiming Party's mitigation efforts.
- Project schedule and/or GANTT charts that demonstrate the effect of the Claimed Event on the Guaranteed commercial Operation Date.

By signing this Claim form, I attest and affirm that I am authorized to sign this form on behalf of the Seller, that I have reviewed this Claim, including any attached documentation, and that the facts and statements made in this Claim are true and correct to the best of my knowledge.

Signed: _____

Name: _____

Title: _____

Date: _____

AMENDMENT NO. 1

to the

RENEWABLE POWER PURCHASE AGREEMENT

between

CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA

and

SOLAR STAR 4, LLC

This Amendment No. 1 ("Amendment") to the Agreement (as that term is defined below), dated as of Septebmer 5, 2025 (the "Amendment 1 Effective Date"), is entered between **CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA**, a California joint powers authority ("Buyer")), and **SOLAR STAR 4, LLC** a Delaware limited liability company ("Seller"). CPA and Seller are sometimes referred to herein individually as a "Party" and jointly as the "Parties". Capitalized terms used and not otherwise defined in this Amendment shall have the meanings ascribed to such terms in the Agreement.

RECITALS

The Parties enter into this Amendment with reference to the following facts:

A. The Parties entered into that certain Renewable Power Purchase Agreement, entered into as of June 10, 2024 (as amended from time to time, the "Agreement"), under which, among other things, Seller agreed to sell to Buyer, and Buyer agreed to purchase from Seller, Product under the terms and conditions set forth in the Agreement.

B. Seller has informed Buyer that Seller will not be able to achieve Commercial Operation on or before the Guaranteed Commercial Operation Date, even as such date may be extended due to Development Cure Period delays and/or the payment of Commercial Operation Delay Damages (the "COD Delay").

C. The Parties desire to amend the Agreement on the terms and subject to the provisions set forth herein.

AGREEMENT

In consideration of the promises, mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows.

1. Amendments to the Agreement. The Agreement is amended as follows:

(a) On the Cover Sheet, in the table titled "**Milestones**", the Expected Dates for Completion of the following Milestones are replaced with the following:

Milestone	Expected Date for Completion
Initial Synchronization	July 20, 2026
Expected Date of CAISO Commercial Operation	August 12, 2026
Expected Commercial Operation Date	October 1, 2026

(b) On the Cover Sheet, in the section titled "**Guaranteed Commercial Operation Date**", the date of August 1, 2025 is replaced with October 1, 2026.

(c) In Section 1.1, new defined terms are added as follows:

"**Additional Commercial Operation Delay Damages**" has the meaning set forth in Section 2 of PPA Amendment 1.

"**Amendment 1 Effective Date**" has the meaning set forth in the Preamble of PPA Amendment 1.

"**Delay Damages Payment**" has the meaning set forth in Section 2 of PPA Amendment 1.

"**PPA Amendment 1**" means that certain Amendment No. 1 to the Agreement dated as of September 5, 2025.

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

(d) A new Section 3.7(e) is added as follows:

Seller shall provide RA Substitute Capacity in accordance with applicable CAISO requirements in connection with Facility outages. Seller acknowledges and agrees that any failure by Seller to provide such RA Substitute Capacity may result in CAISO rejecting or cancelling Seller's request for CAISO to approve such Facility outage. If Seller fails to provide RA Substitute Capacity, then Buyer may elect to not include the Facility (or, if applicable, the portion of the Facility) in its RA Plan and such failure shall be deemed an "Facility RA Shortfall" and Seller's sole liability to Buyer for such failure to provide the RA Substitute Capacity will be payment of the RA Deficiency Amount for such RA Shortfall pursuant to Section 3.8.

(e) In Section 4.6(b)(A), the phrase "(including replacement Capacity Attributes as required by the CAISO)" is replaced by the phrase "(including RA Substitute Capacity pursuant to Section 3.7(e))".

(f) Section 10.4(a) is replaced in its entirety with the following:

If Seller is delayed in achieving Commercial Operation by the Guaranteed Commercial Operation Date due to one or more Force Majeure Events occurring after the Amendment 1 Effective Date for a cumulative two hundred seventy (270) days, and Seller has paid to Buyer Additional Commercial Operation Delay Damages for such two hundred seventy (270)-day period, then Seller may terminate this Agreement upon Notice to Buyer. Upon such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Sections 2.1(b) and 11.6, and Buyer shall promptly return to Seller any Development Security then held by Buyer plus the full amount of Additional Commercial Operation Delay Damages paid by Seller (but excluding the Delay Damage Payment), less any amounts drawn in accordance with this Agreement.

(g) In Section 11.6, each occurrence of the phrase "Error! Reference source not found." is replaced with "11.6".

(h) In Section 14.5, the phrase "Error! Reference source not found." is replaced with "14.5".

(i) In Section 1(b) of Annex I of Exhibit L, the phrase "Section 1Error! Reference source not found." is replaced with "Section 1(d)".

2. Delay Damages Payment. As consideration for Buyer's agreement to the terms of this Amendment, and as compensation for its damages due to the COD Delay, Seller has paid to Buyer a total of four million nine hundred thirty-five thousand dollars ($4,935,000) ("Delay Damages Payment"). No further Delay Damages shall be owed by Seller if Commercial Operation is achieved by the Guaranteed Commercial Operation Date set forth in this Amendment. Seller is deemed to have exhausted its right to pay Commercial Operation Delay Damages to extend the Guaranteed Commercial Operation Date as set forth in Section 2 of Exhibit B; *provided*, the Parties may, in their respective sole discretion, agree in writing to allow Seller an opportunity to pay additional Commercial Operation Delay Damages (as agreed, "**Additional Commercial Operation Delay Damages**") to further extend the Guaranteed Commercial Operation Date.

3. No Further Development Cure Period. Notwithstanding anything in the Agreement to the contrary, Seller shall not be entitled to any further Development Cure Period delays under the Agreement for any reason.

4. Miscellaneous.

(a) Reservation of Rights. Each of the Parties expressly reserves all of its respective rights and remedies under the Agreement.

(b) Legal Effect. Except as expressly modified as set forth herein, the Agreement remains unchanged and, as so modified, the Agreement shall remain in full force and effect. Seller hereby represents and warrants that the representations contained in Section 13.1 of the Agreement are true on and as of the Amendment 1 Effective Date as if made by Seller on and as of the Amendment 1 Effective Date with respect to this Amendment. CPA hereby represents and warrants that the representations

contained in Section 13.2 of the Agreement are true on and as of the Amendment 1 Effective Date as if made by Seller on and as of the Amendment 1 Effective Date with respect to this Amendment.

(c) Governing Law. This amendment and the rights and duties of the parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law. To the extent enforceable at such time, each party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this amendment.

(d) Successors and Assigns. This Amendment shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

(e) Authorized Signatures; Notices. Each Party represents and warrants that the person who signs below on behalf of that Party has authority to execute this Amendment on behalf of such Party and to bind such Party to this Amendment. Any written notice required to be given under the terms of this Amendment shall be given in accordance with the terms of the Agreement.

(f) Effective Date. This Amendment shall be deemed effective as of the Amendment 1 Effective Date.

(g) Further Agreements. This Amendment may only be amended, modified or supplemented by an instrument in writing executed by duly authorized representatives of Seller and CPA; provided, this Amendment may not be amended by electronic mail communications.

(h) Counterparts. This Amendment may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument and each of which shall be deemed an original.

(i) Electronic Delivery. This Amendment may be duly executed and delivered by a Party by electronic format (including portable document format (.pdf)) delivery of the signature page of a counterpart to the other Party.

[*Remainder of this page intentionally left blank*]

IN WITNESS WHEREOF, the Parties have read this Agreement, understand it, and agree to be bound by its terms as of the Effective Date.

SOLAR STAR 4, LLC,	**CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA,**
a Delaware limited liability company.	a California joint powers authority.
By:	By:
Name: Steve Rowley	Name: Theodore Bardacke
Title: Vice President	Title: Chief Executive Officer
Date: September 5, 2025	Date: 08/09/2025

BHER - CPA Renewable PPA - Amendment No 1 Solar Star 4

Final Audit Report 2025-09-08

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By:	Emily Andrews (eandrews@cleanpoweralliance.org)
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LARGE GENERATOR INTERCONNECTION AGREEMENT AMONG

SOLAR STAR 4, LLC AND

SOUTHERN CALIFORNIA EDISON COMPANY AND

CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION

PROJECT: SOLAR STAR 4 TOT821 (Q1323)

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LARGE GENERATOR INTERCONNECTION AGREEMENT

SOLAR STAR 4, LLC

SOUTHERN CALIFORNIA EDISON COMPANY

CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION

THIS LARGE GENERATOR INTERCONNECTION AGREEMENT ("LGIA") is made and entered into this _11th_ day of ___October___ 2019, by and among Solar Star 4, LLC, a limited liability company organized and existing under the laws of the State/Commonwealth of Delaware ("Interconnection Customer" with a Large Generating Facility), Southern California Edison Company, a corporation organized and existing under the laws of the State of California ("Participating TO"), and California Independent System Operator Corporation, a California nonprofit public benefit corporation organized and existing under the laws of the State of California ("CAISO"). Interconnection Customer, Participating TO, and CAISO each may be referred to as a "Party" or collectively as the "Parties."

RECITALS

WHEREAS, CAISO exercises Operational Control over the CAISO Controlled Grid; and

WHEREAS, the Participating TO owns, operates, and maintains the Participating TO's Transmission System; and

WHEREAS, Interconnection Customer intends to own, lease and/or control and operate the Generating Facility identified as a Large Generating Facility in Appendix C to this LGIA; and

WHEREAS, Interconnection Customer, Participating TO, and CAISO have agreed to enter into this LGIA for the purpose of interconnecting the Large Generating Facility with the Participating TO's Transmission System;

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein, it is agreed:

When used in this LGIA, terms with initial capitalization that are not defined in Article 1 shall have the meanings specified in the Article in which they are used.

ARTICLE 1. DEFINITIONS

ADNU shall mean Area Delivery Network Upgrade.

Adverse System Impact shall mean the negative effects due to technical or operational limits on conductors or equipment being exceeded that may compromise the safety and reliability of the electric system.

Affected System shall mean an electric system other than the CAISO Controlled Grid that may be affected by the proposed interconnection, including the Participating TO's electric system that is not part of the CAISO Controlled Grid.

Affiliate shall mean, with respect to a corporation, partnership or other entity, each such other corporation, partnership or other entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such corporation, partnership or other entity.

Applicable Laws and Regulations shall mean all duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority.

Applicable Reliability Council shall mean the Western Electricity Coordinating Council or its successor.

Applicable Reliability Standards shall mean the requirements and guidelines of NERC, the Applicable Reliability Council, and the Balancing Authority Area of the Participating TO's Transmission System to which the Generating Facility is directly connected, including requirements adopted pursuant to Section 215 of the Federal Power Act.

Area Deliverability Constraint shall mean a previously identified transmission system operating limit, based on a CAISO interconnection study or transmission planning study and listed on the CAISO website, that would constrain the deliverability of a substantial number of generators if the CAISO were to assign full capacity or partial capacity deliverability status to additional generating facilities in one or more specified geographic or electrical areas of the CAISO Controlled Grid in a total amount that is greater than the TP Deliverability for those areas. May also be a transmission system operating limit that constrains all or most of the same generation already constrained by a previously identified Area Deliverability Constraint.

Area Delivery Network Upgrade shall mean a transmission upgrade or addition identified by the CAISO to relieve an Area Deliverability Constraint.

Area Off-Peak Constraints shall mean a transmission system operating limit that would cause excessive curtailment to a substantial number of Generating Facilities

during Off-Peak Load conditions, as described in Section 6.3.2.2 of Appendix DD and the CAISO Off-Peak Deliverability Assessment posted on the CAISO Website.

Area Off-Peak Network Upgrades (AOPNUs) shall mean a transmission upgrade or addition the CAISO identifies in the Transmission Planning Process to relieve an Area Off-Peak Constraint.

Assigned Network Upgrade (ANU) shall mean Reliability Network Upgrades, Local Off-Peak Network Upgrades, and Local Delivery Network Upgrades currently assigned to the Interconnection Customer. Assigned Network Upgrades exclude Conditionally Assigned Network Upgrades unless they become Assigned Network Upgrades.

Asynchronous Generating Facility shall mean an induction, doubly-fed, or electronic power generating unit(s) that produces 60 Hz (nominal) alternating current.

Balancing Authority shall mean the responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a Balancing Authority Area, and supports Interconnection frequency in real time.

Balancing Authority Area shall mean the collection of generation, transmission, and loads within the metered boundaries of the Balancing Authority. The Balancing Authority maintains load-resource balance within this area.

Base Case shall mean the base case power flow, short circuit, and stability databases used for the Interconnection Studies.

Breach shall mean the failure of a Party to perform or observe any material term or condition of this LGIA.

Breaching Party shall mean a Party that is in Breach of this LGIA.

Business Day shall mean Monday through Friday, excluding federal holidays and the day after Thanksgiving Day.

CAISO Controlled Grid shall mean the system of transmission lines and associated facilities of the parties to the Transmission Control Agreement that have been placed under the CAISO's Operational Control.

CAISO Tariff shall mean the CAISO's tariff, as filed with FERC, and as amended or supplemented from time to time, or any successor tariff.

Calendar Day shall mean any day including Saturday, Sunday or a federal holiday.

Commercial Operation shall mean the status of an Electric Generating Unit or project phase at a Generating Facility that has commenced generating electricity for sale, excluding electricity generated during Trial Operation.

Commercial Operation Date of an Electric Generating Unit or project phase shall mean the date on which the Electric Generating Unit or project phase at the Generating Facility commences Commercial Operation as agreed to by the applicable Participating TO, the CAISO, and the Interconnection Customer pursuant to Appendix E to this LGIA, and in accordance with the implementation plan agreed to by the Participating TO and the CAISO for multiple individual Electric Generating Units or project phases at a Generating Facility where an Interconnection Customer intends to establish separate Commercial Operation Dates for those Electric Generating Units or project phases.

Conditionally Assigned Network Upgrade (CANU) shall mean Reliability Network Upgrades, Local Off-Peak Network Upgrades, and Local Delivery Network Upgrades currently assigned to an earlier Interconnection Customer, but which may be assigned to the Interconnection Customer.

Confidential Information shall mean any confidential, proprietary or trade secret information of a plan, specification, pattern, procedure, design, device, list, concept, policy or compilation relating to the present or planned business of a Party, which is designated as confidential by the Party supplying the information, whether conveyed orally, electronically, in writing, through inspection, or otherwise, subject to Article 22.1.2.

Current Cost Responsibility (CCR) shall mean the Interconnection Customer's current allocated costs for Assigned Network Upgrades, not to exceed the Maximum Cost Responsibility. This cost is used to calculate the Interconnection Customer's Interconnection Financial Security requirement.

Deliverability shall mean (1) The annual Net Qualifying Capacity of a Generating Facility, as verified through a Deliverability Assessment and measured in MW, which specifies the amount of resource adequacy capacity the Generating Facility is eligible to provide. (2) The annual Maximum Import Capability of an Intertie which specifies the amount of resource adequacy capacity measured in MW, that load-serving entities collectively can procure from imports at that Intertie to meet their resource adequacy requirements.

Default shall mean the failure of a Breaching Party to cure its Breach in accordance with Article 17 of this LGIA.

Distribution System shall mean those non-CAISO-controlled transmission and distribution facilities owned by the Participating TO.

Distribution Upgrades shall mean the additions, modifications, and upgrades to the Participating TO's Distribution System. Distribution Upgrades do not include Interconnection Facilities.

Effective Date shall mean the date on which this LGIA becomes effective upon execution by all Parties subject to acceptance by FERC, or if filed unexecuted, upon the date specified by FERC.

Electric Generating Unit shall mean an individual electric generator and its associated plant and apparatus whose electrical output is capable of being separately identified and metered.

Emergency Condition shall mean a condition or situation: (1) that in the judgment of the Party making the claim is imminently likely to endanger life or property; or (2) that, in the case of the CAISO, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the CAISO Controlled Grid or the electric systems of others to which the CAISO Controlled Grid is directly connected; (3) that, in the case of the Participating TO, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Participating TO's Transmission System, Participating TO's Interconnection Facilities, Distribution System, or the electric systems of others to which the Participating TO's electric system is directly connected; or (4) that, in the case of the Interconnection Customer, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Generating Facility or Interconnection Customer's Interconnection Facilities. System restoration and black start shall be considered Emergency Conditions; provided, that Interconnection Customer is not obligated by this LGIA to possess black start capability.

Environmental Law shall mean Applicable Laws or Regulations relating to pollution or protection of the environment or natural resources.

Federal Power Act shall mean the Federal Power Act, as amended, 16 U.S.C. §§ 791a et seq.

FERC shall mean the Federal Energy Regulatory Commission or its successor.

Force Majeure shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A Force Majeure event does not include acts of negligence or intentional wrongdoing by the Party claiming Force Majeure.

General Reliability Network Upgrade (GRNU) shall mean Reliability Network Upgrades that are not Interconnection Reliability Network Upgrades.

Generating Facility shall mean the Interconnection Customer's Electric Generating Unit(s) used for the production and/or storage for later injection of electricity identified in the Interconnection Customer's Interconnection Request, but shall not include the Interconnection Customer's Interconnection Facilities.

Generating Facility Capacity shall mean the net capacity of the Generating Facility and the aggregate net capacity of the Generating Facility where it includes multiple energy production devices.

Generator Interconnection and Deliverability Allocation Procedures (GIDAP) shall mean the CAISO protocol that sets forth the interconnection and allocation procedures applicable to an Interconnection Request pertaining to a Large Generating Facility that is included in CAISO Tariff Appendix DD.

Generator Interconnection Study Process Agreement shall mean the agreement between the Interconnection Customer and the CAISO for the conduct of the Interconnection Studies.

Good Utility Practice shall mean any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be any one of a number of the optimum practices, methods, or acts to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

Governmental Authority shall mean any federal, state, local or other governmental, regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that such term does not include the Interconnection Customer, CAISO, Participating TO, or any Affiliate thereof.

Governing Independent Study Process Interconnection Studies shall mean the engineering study(ies) conducted or caused to be performed by the CAISO, in coordination with the applicable Participating TO(s), that evaluates the impact of the proposed interconnection on the safety and reliability of the Participating TO's Transmission System and, if applicable, an Affected System, which shall consist primarily of a Facilities Study as described in Section 4.5 of the Generation Interconnection Procedures, a System Impact Study as described in Section 4.4 of the

Generation Interconnection Procedures, or a system impact and facilities study as described in Section 4.4 of the GIDAP.

Hazardous Substances shall mean any chemicals, materials or substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "hazardous constituents," "restricted hazardous materials," "extremely hazardous substances," "toxic substances," "radioactive substances," "contaminants," "pollutants," "toxic pollutants" or words of similar meaning and regulatory effect under any applicable Environmental Law, or any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any applicable Environmental Law.

Initial Synchronization Date shall mean the date upon which an Electric Generating Unit is initially synchronized and upon which Trial Operation begins.

In-Service Date shall mean the date upon which the Interconnection Customer reasonably expects it will be ready to begin use of the Participating TO's Interconnection Facilities to obtain back feed power.

Interconnection Customer's Interconnection Facilities shall mean all facilities and equipment, as identified in Appendix A of this LGIA, that are located between the Generating Facility and the Point of Change of Ownership, including any modification, addition, or upgrades to such facilities and equipment necessary to physically and electrically interconnect the Generating Facility to the Participating TO's Transmission System. Interconnection Customer's Interconnection Facilities are sole use facilities.

Interconnection Facilities shall mean the Participating TO's Interconnection Facilities and the Interconnection Customer's Interconnection Facilities. Collectively, Interconnection Facilities include all facilities and equipment between the Generating Facility and the Point of Interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Generating Facility to the Participating TO's Transmission System. Interconnection Facilities are sole use facilities and shall not include Distribution Upgrades, Stand Alone Network Upgrades or Network Upgrades.

Interconnection Financial Security (IFS) shall mean any of the financial instruments listed in Section 11.1 of the GIDAP that are posted by an Interconnection Customer to finance the construction of facilities or Network Upgrades.

Interconnection Handbook shall mean a handbook, developed by the Participating TO and posted on the Participating TO's web site or otherwise made available by the Participating TO, describing technical and operational requirements for wholesale generators and loads connected to the Participating TO's portion of the CAISO Controlled Grid, as such handbook may be modified or superseded from time to time. Participating TO's standards contained in the Interconnection Handbook shall be deemed consistent with Good Utility Practice and Applicable Reliability Standards. In

the event of a conflict between the terms of this LGIA and the terms of the Participating TO's Interconnection Handbook, the terms in this LGIA shall apply.

Interconnection Reliability Network Upgrades (IRNU) shall mean Reliability Network Upgrades at the Point of Interconnection to accomplish the physical interconnection of the Generating Facility to the CAISO Controlled Grid. IRNUs are treated as Reliability Network Upgrades unless otherwise noted.

Interconnection Request shall mean a request, in the form of Appendix 1 to the GIDAP, in accordance with the CAISO Tariff.

Interconnection Service shall mean the service provided by the Participating TO and CAISO associated with interconnecting the Interconnection Customer's Generating Facility to the Participating TO's Transmission System and enabling the CAISO Controlled Grid to receive electric energy and capacity from the Generating Facility at the Point of Interconnection, pursuant to the terms of this LGIA, the Participating TO's Transmission Owner Tariff, and the CAISO Tariff.

Interconnection Study shall mean

(i) For Interconnection Requests processed under the cluster study process described in the GIDAP, any of the following: the Phase I Interconnection Study conducted or caused to be performed by the CAISO, the reassessment of the Phase I Interconnection Study Base Case conducted or caused to be performed by the CAISO prior to the commencement of the Phase II Interconnection Study, or the Phase II Interconnection Study conducted or caused to be performed by the CAISO, pursuant to the GIDAP.

(ii) For Interconnection Requests processed under the Independent Study Process described in the GIDAP, the governing study(ies) conducted or caused to be performed by the CAISO, in coordination with the applicable Participating TO(s), pursuant to the GIDAP, which shall consist primarily of a system impact and facilities study as described in Section 4.4 of the GIDAP.

IRS shall mean the Internal Revenue Service.

Large Generating Facility shall mean a Generating Facility having a Generating Facility Capacity of more than 20 MW.

LDNU shall mean Local Delivery Network Upgrades.

Local Deliverability Constraint shall mean a transmission system operating limit modeled in the GIDAP study process that would be exceeded if the CAISO were to assign full capacity or partial capacity deliverability status to one or more additional generating facilities interconnecting to the CAISO Controlled Grid in a specific local area, and that is not an Area Deliverability Constraint.

Local Delivery Network Upgrade shall mean a transmission upgrade or addition identified by the CAISO in the GIDAP study process to relieve a Local Deliverability Constraint.

Local Off-Peak Constraints shall mean a transmission system operating limit modeled in the generator interconnection study process that would be exceeded or lead to excessive curtailment, as described in the Off-Peak Deliverability Assessment methodology, if the CAISO were to assign Off-Peak Deliverability Status to one or more Generating Facilities interconnecting to the CAISO Controlled Grid in a specific local area, and that is not an Area Off-Peak Constraint.

Local Off-Peak Network Upgrades (LOPNUs) shall mean a transmission upgrade or addition the CAISO identifies in the generator interconnection study process to relieve a Local Off-Peak Constraint.

Loss shall mean any and all damages, losses, and claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties.

Material Modification shall mean those modifications that have a material impact on the cost or timing of any Interconnection Request or any other valid interconnection request with a later queue priority date.

Maximum Cost Exposure (MCE) shall mean, pursuant to Appendix DD, the sum of (1) the Interconnection Customer's Maximum Cost Responsibility and (2) the Conditionally Assigned Network Upgrades from its Phase I or Phase II Interconnection Study.

Maximum Cost Responsibility (MCR) shall mean, pursuant to Appendix DD, the lower sum of the Interconnection Customer's (1) full cost of assigned Interconnection Reliability Network Upgrades and (2) allocated costs for all other Assigned Network Upgrades, from its Phase I or Phase II Interconnection Studies, not to exceed the Maximum Cost Exposure.

Merchant Network Upgrades – Network Upgrades constructed and owned by an Interconnection Customer or a third party pursuant to Article 5.1.5 of this LGIA, Section 14.3 of the GIDAP, and Sections 24.4.6.1 and 36.11 of the CAISO Tariff.

Metering Equipment shall mean all metering equipment installed or to be installed for measuring the output of the Generating Facility pursuant to this LGIA at the metering points, including but not limited to instrument transformers, MWh-meters, data acquisition equipment, transducers, remote terminal unit, communications equipment, phone lines, and fiber optics.

NERC shall mean the North American Electric Reliability Corporation or its successor organization.

Net Scheduled Generating Unit shall mean an Electric Generating Unit identified in a Net Scheduled PGA operated as a single unit such that the energy bid or self-schedule with the CAISO is the net value of the aggregate electrical net output of the Electric Generating Unit and the self-provided load.

Net Scheduled PGA shall mean a Net Scheduled Participating Generator Agreement specifying the special provisions for the operating relationship between a Net Scheduled Generating Unit and the CAISO, a pro forma version of which is set forth in Appendix B.3 of the CAISO Tariff.

Network Upgrades shall be Participating TO's Delivery Network Upgrades and Participating TO's Reliability Network Upgrades.

Off-Peak Deliverability Constraints shall mean a transmission system operating limit that constrains Generating Facilities in an area, leading to the excessive curtailment of expected Energy.

Off-Peak Network Upgrades shall mean Network Upgrades needed to relieve Off-Peak Deliverability Constraints. Area Off-Peak Network Upgrades address Area Off-Peak Constraints. Local Off-Peak Network Upgrades address Local Off-Peak Constraints.

Operational Control shall mean the rights of the CAISO under the Transmission Control Agreement and the CAISO Tariff to direct the parties to the Transmission Control Agreement how to operate their transmission lines and facilities and other electric plant affecting the reliability of those lines and facilities for the purpose of affording comparable non-discriminatory transmission access and meeting applicable reliability criteria.

Option (A) Generating Facilities shall mean a Generating Facility for which the Interconnection Customer has selected Option (A) as the Deliverability option under Section 7.2 of the GIDAP.

Option (B) Generating Facilities shall mean a Generating Facility for which the Interconnection Customer has selected Option (B) as the Deliverability option under Section 7.2 of the GIDAP.

Participating TO's Delivery Network Upgrades shall mean the additions, modifications, and upgrades to the Participating TO's Transmission System at or beyond the Point of Interconnection, other than Reliability Network Upgrades, identified in the Interconnection Studies, as identified in Appendix A, to relieve constraints on the CAISO Controlled Grid. Participating TO Delivery Network Upgrades can be either ADNU or LDNU.

Participating TO's Interconnection Facilities shall mean all facilities and equipment owned, controlled or operated by the Participating TO from the Point of Change of Ownership to the Point of Interconnection as identified in Appendix A to this LGIA, including any modifications, additions or upgrades to such facilities and equipment. Participating TO's Interconnection Facilities are sole use facilities and shall not include Distribution Upgrades, Stand Alone Network Upgrades or Network Upgrades.

Participating TO's Reliability Network Upgrades shall mean the additions, modifications, and upgrades to the Participating TO's Transmission System at or beyond the Point of Interconnection, identified in the Interconnection Studies, as identified in Appendix A, necessary to interconnect the Large Generating Facility safely and reliably to the Participating TO's Transmission System, which would not have been necessary but for the interconnection of the Large Generating Facility, including additions, modifications, and upgrades necessary to remedy short circuit or stability problems resulting from the interconnection of the Large Generating Facility to the Participating TO's Transmission System. Participating TO's Reliability Network Upgrades also include, consistent with Applicable Reliability Standards and Applicable Reliability Council practice, the Participating TO's facilities necessary to mitigate any adverse impact the Large Generating Facility's interconnection may have on a path's Applicable Reliability Council rating. Participating TO's Reliability Network Upgrades do not include any Participating TO's Delivery Network Upgrades.

Participating TO's Transmission System shall mean the facilities owned and operated by the Participating TO and that have been placed under the CAISO's Operational Control, which facilities form part of the CAISO Controlled Grid.

Party or Parties shall mean the Participating TO, CAISO, Interconnection Customer or the applicable combination of the above.

Phase I Interconnection Study shall mean the engineering study conducted or caused to be performed by the CAISO, in coordination with the applicable Participating TO(s), that evaluates the impact of the proposed interconnection on the safety and reliability of the Participating TO's Transmission System and, if applicable, an Affected System. The study shall identify and detail the system impacts that would result if the Generating Facility(ies) were interconnected without identified project modifications or system modifications, as provided in the On-Peak Deliverability Assessment (as defined in the CAISO Tariff), and other potential impacts, including but not limited to those identified in the Scoping Meeting as described in the GIDAP. The study will also identify the approximate total costs, based on per unit costs, of mitigating these impacts, along with an equitable allocation of those costs to Interconnection Customers for their individual Generating Facilities.

Phase II Interconnection Study shall mean an engineering and operational study conducted or caused to be performed by the CAISO in coordination with the

applicable Participating TO(s), to determine the Point of Interconnection and a list of facilities (including the Participating TO's Interconnection Facilities, Network Upgrades, Distribution Upgrades, and Stand Alone Network Upgrades), the cost of those facilities, and the time required to interconnect the Generating Facility(ies) with the Participating TO's Transmission System.

Phased Generating Facility shall mean a Generating Facility that is structured to be completed and to achieve Commercial Operation in two or more successive sequences that are specified in this LGIA, such that each sequence comprises a portion of the total megawatt generation capacity of the entire Generating Facility.

Point of Change of Ownership shall mean the point, as set forth in Appendix A to this LGIA, where the Interconnection Customer's Interconnection Facilities connect to the Participating TO's Interconnection Facilities.

Point of Interconnection shall mean the point, as set forth in Appendix A to this LGIA, where the Interconnection Facilities connect to the Participating TO's Transmission System.

Precursor Network Upgrades (PNU) shall mean Network Upgrades required for the Interconnection Customer consisting of (1) Network Upgrades assigned to an earlier Interconnection Customer in an earlier Queue Cluster, Independent Study Process, or Fast Track Process, that has executed its GIA pursuant to Section 14.2.2 of the GIDAP; and (2) Network Upgrades in the approved CAISO Transmission Plan.

Reasonable Efforts shall mean, with respect to an action required to be attempted or taken by a Party under this LGIA, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

RNU shall mean Reliability Network Upgrades.

Reliability Network Upgrades (RNU) shall mean the transmission facilities at or beyond the Point of Interconnection identified in the Interconnection Studies as necessary to interconnect one or more Generating Facility(ies) safely and reliably to the CAISO Controlled Grid, which would not have been necessary but for the interconnection of one or more Generating Facility(ies), including Network Upgrades necessary to remedy short circuit or stability problems, or thermal overloads. Reliability Network Upgrades shall only be deemed necessary for system operating limits, occurring under any system condition, which cannot be adequately mitigated through Congestion Management or Operating Procedures based on the characteristics of the Generating Facilities included in the Interconnection Studies, limitations on market models, systems, or information, or other factors specifically identified in the Interconnection Studies. Reliability Network Upgrades also include, consistent with WECC practice, the facilities necessary to mitigate any adverse impact the Generating Facility's interconnection may have on a path's WECC rating. Reliability Network

Upgrades include Interconnection Reliability Network Upgrades and General Reliability Network Upgrades.

Scoping Meeting shall mean the meeting among representatives of the Interconnection Customer, the Participating TO(s), other Affected Systems, and the CAISO conducted for the purpose of discussing alternative interconnection options, to exchange information including any transmission data and earlier study evaluations that would be reasonably expected to impact such interconnection options, to analyze such information, and to determine the potential feasible Points of Interconnection.

Stand Alone Network Upgrades shall mean Network Upgrades that are not part of an Affected System that the Interconnection Customer may construct without affecting day-to-day operations of the CAISO Controlled Grid or Affected Systems during their construction. The Participating TO, the CAISO, and the Interconnection Customer must agree as to what constitutes Stand Alone Network Upgrades and identify them in Appendix A to this LGIA. If the CAISO, the Participating TO, and the Interconnection Customer disagree about whether a particular Network Upgrade is a Stand Alone Network Upgrade, the CAISO or Participating TO must provide the Interconnection Customer a written technical explanation outlining why it does not consider the Network Upgrade to be a Stand Alone Network Upgrade within 15 days of its determination.

Surplus Interconnection Service shall mean any unneeded portion of Interconnection Service Capacity established herein, such that if Surplus Interconnection Service is utilized the total amount of Interconnection Service Capacity at the Point of Interconnection would remain the same.

System Protection Facilities shall mean the equipment, including necessary protection signal communications equipment, that protects (1) the Participating TO's Transmission System, Participating TO's Interconnection Facilities, CAISO Controlled Grid, and Affected Systems from faults or other electrical disturbances occurring at the Generating Facility and (2) the Generating Facility from faults or other electrical system disturbances occurring on the CAISO Controlled Grid, Participating TO's Interconnection Facilities, and Affected Systems or on other delivery systems or other generating systems to which the CAISO Controlled Grid is directly connected.

TP Deliverability shall mean the capability, measured in MW, of the CAISO Controlled Grid as modified by transmission upgrades and additions identified in the annual Transmission Plan to support the interconnection with Full Capacity Deliverability Status or Partial Capacity Deliverability Status of additional Generating Facilities in a specified geographic or electrical area of the CAISO Controlled Grid.

Transmission Control Agreement shall mean CAISO FERC Electric Tariff No. 7.

Trial Operation shall mean the period during which the Interconnection Customer is engaged in on-site test operations and commissioning of an Electric Generating Unit prior to Commercial Operation.

Variable Energy Resource shall mean a device for the production of electricity that is characterized by an Energy source that: (1) is renewable; (2) cannot be stored by the facility owner or operator; and (3) has variability that is beyond the control of the facility owner or operator.

ARTICLE 2. EFFECTIVE DATE, TERM AND TERMINATION

2.1 Effective Date. This LGIA shall become effective upon execution by all Parties subject to acceptance by FERC (if applicable), or if filed unexecuted, upon the date specified by FERC. The CAISO and Participating TO shall promptly file this LGIA with FERC upon execution in accordance with Article 3.1, if required.

2.2 Term of Agreement. Subject to the provisions of Article 2.3, this LGIA shall remain in effect for a period of thirty (30) years from the Effective Date (Term Specified in Individual Agreements to be ten (10) years or such other longer period as the Interconnection Customer may request) and shall be automatically renewed for each successive one-year period thereafter.

2.3 Termination Procedures.

2.3.1 Written Notice. This LGIA may be terminated by the Interconnection Customer after giving the CAISO and the Participating TO ninety (90) Calendar Days advance written notice, or by the CAISO and the Participating TO notifying FERC after the Generating Facility permanently ceases Commercial Operation.

2.3.2 Default. A Party may terminate this LGIA in accordance with Article 17.

2.3.3 Suspension of Work. This LGIA may be deemed terminated in accordance with Article 5.16, if applicable.

2.3.4 Notwithstanding Articles 2.3.1, 2.3.2, and 2.3.3, no termination shall become effective until the Parties have complied with all Applicable Laws and Regulations applicable to such termination, including the filing with FERC of a notice of termination of this LGIA (if applicable), which notice has been accepted for filing by FERC, and the Interconnection Customer has fulfilled its termination cost obligations under Article 2.4.

2.4 Termination Costs. Immediately upon the other Parties' receipt of a notice of the termination of this LGIA pursuant to Article 2.3 above, the CAISO and the Participating TO will determine the total cost responsibility of the Interconnection Customer. If, as of the date of the other Parties' receipt of the notice of termination, the Interconnection Customer has not already paid its share of

Network Upgrade costs, as set forth in Appendix G to this LGIA, the Participating TO will liquidate the Interconnection Customer's Interconnection Financial Security associated with its cost responsibility for Network Upgrades, in accordance with Section 11.4 of the GIDAP.

The Interconnection Customer will also be responsible for all costs incurred or irrevocably committed to be incurred in association with the construction of the Participating TO's Interconnection Facilities (including any cancellation costs relating to orders or contracts for Interconnection Facilities and equipment) and other such expenses, including any Distribution Upgrades for which the Participating TO or CAISO has incurred expenses or has irrevocably committed to incur expenses and has not been reimbursed by the Interconnection Customer, as of the date of the other Parties' receipt of the notice of termination, subject to the limitations set forth in this Article 2.4. Nothing in this Article 2.4 shall limit the Parties' rights under Article 17. If, as of the date of the other Parties' receipt of the notice of termination, the Interconnection Customer has not already reimbursed the Participating TO and the CAISO for costs incurred to construct the Participating TO's Interconnection Facilities, the Participating TO will liquidate the Interconnection Customer's Interconnection Financial Security associated with the construction of the Participating TO's Interconnection Facilities, in accordance with Section 11.4 of the GIDAP. If the amount of the Interconnection Financial Security liquidated by the Participating TO under this Article 2.4 is insufficient to compensate the CAISO and the Participating TO for actual costs associated with the construction of the Participating TO's Interconnection Facilities contemplated in this Article, any additional amounts will be the responsibility of the Interconnection Customer, subject to the provisions of Section 11.4 of the GIDAP. Any such additional amounts due from the Interconnection Customer beyond the amounts covered by its Interconnection Financial Security will be due to the Participating TO immediately upon termination of this LGIA in accordance with Section 11.4 of the GIDAP.

If the amount of the Interconnection Financial Security exceeds the Interconnection Customer's cost responsibility under Section 11.4 of the GIDAP, any excess amount will be released to the Interconnection Customer in accordance with Section 11.4 of the GIDAP.

2.4.1 Notwithstanding the foregoing, in the event of termination by a Party, all Parties shall use commercially Reasonable Efforts to mitigate the costs, damages and charges arising as a consequence of termination. With respect to any portion of the Participating TO's Interconnection Facilities that have not yet been constructed or installed, the Participating TO shall to the extent possible and with the Interconnection Customer's authorization cancel any pending orders of, or return, any materials or equipment for, or contracts for construction of, such facilities; provided that in the event the Interconnection Customer elects not to authorize such cancellation, the Interconnection Customer shall assume all payment

obligations with respect to such materials, equipment, and contracts, and the Participating TO shall deliver such material and equipment, and, if necessary, assign such contracts, to the Interconnection Customer as soon as practicable, at the Interconnection Customer's expense. To the extent that the Interconnection Customer has already paid the Participating TO for any or all such costs of materials or equipment not taken by the Interconnection Customer, the Participating TO shall promptly refund such amounts to the Interconnection Customer, less any costs, including penalties, incurred by the Participating TO to cancel any pending orders of or return such materials, equipment, or contracts.

2.4.2 The Participating TO may, at its option, retain any portion of such materials, equipment, or facilities that the Interconnection Customer chooses not to accept delivery of, in which case the Participating TO shall be responsible for all costs associated with procuring such materials, equipment, or facilities.

2.4.3 With respect to any portion of the Interconnection Facilities, and any other facilities already installed or constructed pursuant to the terms of this LGIA, Interconnection Customer shall be responsible for all costs associated with the removal, relocation or other disposition or retirement of such materials, equipment, or facilities.

2.5 Disconnection. Upon termination of this LGIA, the Parties will take all appropriate steps to disconnect the Large Generating Facility from the Participating TO's Transmission System. All costs required to effectuate such disconnection shall be borne by the terminating Party, unless such termination resulted from the non-terminating Party's Default of this LGIA or such non-terminating Party otherwise is responsible for these costs under this LGIA.

2.6 Survival. This LGIA shall continue in effect after termination to the extent necessary to provide for final billings and payments and for costs incurred hereunder, including billings and payments pursuant to this LGIA; to permit the determination and enforcement of liability and indemnification obligations arising from acts or events that occurred while this LGIA was in effect; and to permit each Party to have access to the lands of the other Parties pursuant to this LGIA or other applicable agreements, to disconnect, remove or salvage its own facilities and equipment.

ARTICLE 3. REGULATORY FILINGS AND CAISO TARIFF COMPLIANCE

3.1 Filing. The Participating TO and the CAISO shall file this LGIA (and any amendment hereto) with the appropriate Governmental Authority(ies), if required. The Interconnection Customer may request that any information so provided be subject to the confidentiality provisions of Article 22. If the Interconnection Customer has executed this LGIA, or any amendment thereto, the

Interconnection Customer shall reasonably cooperate with the Participating TO and CAISO with respect to such filing and to provide any information reasonably requested by the Participating TO or CAISO needed to comply with applicable regulatory requirements.

3.2 Agreement Subject to CAISO Tariff. The Interconnection Customer will comply with all applicable provisions of the CAISO Tariff, including the GIDAP.

3.3 Relationship Between this LGIA and the CAISO Tariff. With regard to rights and obligations between the Participating TO and the Interconnection Customer, if and to the extent a matter is specifically addressed by a provision of this LGIA (including any appendices, schedules or other attachments to this LGIA), the provisions of this LGIA shall govern. If and to the extent a provision of this LGIA is inconsistent with the CAISO Tariff and dictates rights and obligations between the CAISO and the Participating TO or the CAISO and the Interconnection Customer, the CAISO Tariff shall govern.

3.4 Relationship Between this LGIA and the Net Scheduled PGA. With regard to the rights and obligations of a Net Scheduled Generating Unit that has entered into a Net Scheduled PGA with the CAISO and has entered into this LGIA, if and to the extent a matter is specifically addressed by a provision of the Net Scheduled PGA that is inconsistent with this LGIA, the terms of the Net Scheduled PGA shall govern.

ARTICLE 4. SCOPE OF SERVICE

4.1 Interconnection Service. Interconnection Service allows the Interconnection Customer to connect the Large Generating Facility to the Participating TO's Transmission System and be eligible to deliver the Large Generating Facility's output using the available capacity of the CAISO Controlled Grid. To the extent the Interconnection Customer wants to receive Interconnection Service, the Participating TO shall construct facilities identified in Appendices A and C that the Participating TO is responsible to construct.

Interconnection Service does not necessarily provide the Interconnection Customer with the capability to physically deliver the output of its Large Generating Facility to any particular load on the CAISO Controlled Grid without incurring congestion costs. In the event of transmission constraints on the CAISO Controlled Grid, the Interconnection Customer's Large Generating Facility shall be subject to the applicable congestion management procedures in the CAISO Tariff in the same manner as all other resources. Full Capacity Deliverability Status, Partial Capacity Deliverability Status, and Off-Peak Deliverability Status do not confer any priority over other Generating Facilities to deliver Energy; nor provide any warranty or guarantee to deliver any amount of Energy or avoid curtailment at any time.

4.2 Provision of Service. The Participating TO and the CAISO shall provide Interconnection Service for the Large Generating Facility.

4.3 Performance Standards. Each Party shall perform all of its obligations under this LGIA in accordance with Applicable Laws and Regulations, Applicable Reliability Standards, and Good Utility Practice, and to the extent a Party is required or prevented or limited in taking any action by such regulations and standards, such Party shall not be deemed to be in Breach of this LGIA for its compliance therewith. If such Party is the CAISO or Participating TO, then that Party shall amend the LGIA and submit the amendment to FERC for approval.

4.4 No Transmission Service. The execution of this LGIA does not constitute a request for, nor the provision of, any transmission service under the CAISO Tariff, and does not convey any right to deliver electricity to any specific customer or point of delivery.

4.5 Interconnection Customer Provided Services. The services provided by Interconnection Customer under this LGIA are set forth in Article 9.6 and Article 13.5.1. Interconnection Customer shall be paid for such services in accordance with Article 11.6.

4.6 TP Deliverability. To the extent that an Interconnection Customer is eligible for and has been allocated TP Deliverability pursuant to Section 8.9 of the GIDAP, the Interconnection Customer's retention of such allocated TP Deliverability shall be contingent upon satisfying the obligations set forth in Section 8.9.3 of the GIDAP. In the event that the Interconnection does not retain allocated TP Deliverability with regard to any portion of the Generating Facility, such portion of the Generating Facility shall be deemed to receive Interconnection Service under this LGIA as Energy Only Deliverability Status.

ARTICLE 5. INTERCONNECTION FACILITIES ENGINEERING, PROCUREMENT, AND CONSTRUCTION

Interconnection Facilities, Network Upgrades, and Distribution Upgrades shall be studied, designed, and constructed pursuant to Good Utility Practice. Such studies, design and construction shall be based on the assumed accuracy and completeness of all technical information received by the Participating TO and the CAISO from the Interconnection Customer associated with interconnecting the Large Generating Facility.

5.1 Options. Unless otherwise mutually agreed among the Parties, the Interconnection Customer shall select the In-Service Date, Initial Synchronization Date, and Commercial Operation Date; and either the Standard Option, Alternate Option, or, if eligible, Merchant Option, set forth below, Interconnection Facilities, Network Upgrades, and Distribution Upgrades, and such dates and selected option shall be set forth in Appendix B, Milestones. At the same time, the

Interconnection Customer shall indicate whether it elects the Option to Build set forth in Article 5.1.3 below. If the dates designated by the Interconnection Customer are not acceptable to the CAISO and Participating TO, they shall so notify the Interconnection Customer within thirty (30) calendar days. Upon receipt of the notification that the Interconnection Customer's designated dates are not acceptable to the CAISO and Participating TO, the Interconnection Customer shall notify the CAISO and Participating TO within thirty (30) calendar days whether it elects to exercise the Option to Build if it has not already elected to exercise the Option to Build.

5.1.1 Standard Option. The Participating TO shall design, procure, and construct the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades, using Reasonable Efforts to complete the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades by the dates set forth in Appendix B, Milestones. The Participating TO shall not be required to undertake any action which is inconsistent with its standard safety practices, its material and equipment specifications, its design criteria and construction procedures, its labor agreements, and Applicable Laws and Regulations. In the event the Participating TO reasonably expects that it will not be able to complete the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades by the specified dates, the Participating TO shall promptly provide written notice to the Interconnection Customer and the CAISO and shall undertake Reasonable Efforts to meet the earliest dates thereafter.

5.1.2 Alternate Option. If the dates designated by the Interconnection Customer are acceptable to the Participating TO, the Participating TO shall so notify the Interconnection Customer within thirty (30) Calendar Days, and shall assume responsibility for the design, procurement and construction of the Participating TO's Interconnection Facilities by the designated dates.

If the Participating TO subsequently fails to complete the Participating TO's Interconnection Facilities by the In-Service Date, to the extent necessary to provide back feed power; or fails to complete Network Upgrades by the Initial Synchronization Date to the extent necessary to allow for Trial Operation at full power output, unless other arrangements are made by the Parties for such Trial Operation; or fails to complete the Network Upgrades by the Commercial Operation Date, as such dates are reflected in Appendix B, Milestones; the Participating TO shall pay the Interconnection Customer liquidated damages in accordance with Article 5.3, Liquidated Damages, provided, however, the dates designated by the Interconnection Customer shall be extended day for day for each day that the CAISO refuses to grant clearances to install equipment.

5.1.3 Option to Build. The Interconnection Customer shall have the option to assume responsibility for the design, procurement and construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades. The Participating TO, CAISO, and Interconnection Customer must agree as to what constitutes Stand Alone Network Upgrades and identify such Stand Alone Network Upgrades in Appendix A to this LGIA. Except for Stand Alone Network Upgrades, the Interconnection Customer shall have no right to construct Network Upgrades under this option.

5.1.4 Negotiated Option. If the dates designated by the Interconnection Customer are not acceptable to the CAISO and Participating TO, the Parties shall in good faith attempt to negotiate terms and conditions, including revision of the specified dates and liquidated damages, the provision of incentives, or the procurement and construction of all facilities other than the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades if the Interconnection Customer elects to exercise the Option to Build under Article 5.1.3. If the Parties are unable to reach agreement on such terms and conditions, then, pursuant to Article 5.1.1 (Standard Option), the Participating TO shall assume responsibility for the design, procurement and construction of all facilities other than the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades if the Interconnection Customer elects to exercise the Option to Build.

5.1.5 Merchant Option. In addition to any Option to Build set forth in Article 5.1.3 of this LGIA, an Interconnection Customer having an Option (B) Generating Facility may elect to have a party other than the applicable Participating TO construct some or all of the LDNU and ADNU for which the Interconnection Customer has the obligation to fund and which are not subject to reimbursement. Such LDNU and ADNU will be constructed and incorporated into the CAISO Controlled Grid pursuant to the provisions for Merchant Transmission Facilities in CAISO Tariff Sections 24.4.6.1 and 36.11.

5.2 General Conditions Applicable to Option to Build. If the Interconnection Customer assumes responsibility for the design, procurement and construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades, or assumes responsibility for any stand-alone task, such as telecommunications, environmental, or real-estate related work:

(1) within six (6) months of the execution of this LGIA, or at a later date agreed to by the Parties, the Interconnection Customer will submit to the CAISO and the Participating TO a milestone schedule for the design, procurement, and construction of the Stand Alone Network Upgrades, or any stand-alone task assumed by the Interconnection Customer. The milestone schedule will be required to support the Interconnection

Customer's Commercial Operation Date, and any Appendix B Milestones will be amended to include the milestone schedule for the Stand Alone Network Upgrades;

(2) the Interconnection Customer shall engineer, procure equipment, and construct the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades (or portions thereof) using Good Utility Practice and using standards and specifications provided in advance by the Participating TO;

(3) The Interconnection Customer's engineering, procurement and construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades shall comply with all requirements of law to which the Participating TO would be subject in the engineering, procurement or construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades;

(4) the Participating TO shall review, and the Interconnection Customer shall obtain the Participating TO's approval of, the engineering design, equipment acceptance tests, and the construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades, which approval shall not be unreasonably withheld, and the CAISO may, at its option, review the engineering design, equipment acceptance tests, and the construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades;

(5) prior to commencement of construction, the Interconnection Customer shall provide to the Participating TO, with a copy to the CAISO for informational purposes, a schedule for construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades, and shall promptly respond to requests for information from the Participating TO;

(6) at any time during construction, the Participating TO shall have the right to gain unrestricted access to the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades and to conduct inspections of the same;

(7) at any time during construction, should any phase of the engineering, equipment procurement, or construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades not meet the standards and specifications provided by the Participating TO, the Interconnection Customer shall be obligated to remedy deficiencies in that portion of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades;

(8) the Interconnection Customer shall indemnify the CAISO and Participating TO for claims arising from the Interconnection Customer's construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades under the terms and procedures applicable to Article 18.1 Indemnity;

(9) The Interconnection Customer shall transfer control of the Participating TO's Interconnection Facilities to the Participating TO and shall transfer Operational Control of Stand Alone Network Upgrades to the CAISO;

(10) Unless the Parties otherwise agree, the Interconnection Customer shall transfer ownership of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades to the Participating TO. As soon as reasonably practicable, but within twelve months after completion of the construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades, the Interconnection Customer shall provide an invoice of the final cost of the construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades to the Participating TO, which invoice shall set forth such costs in sufficient detail to enable the Participating TO to reflect the proper costs of such facilities in its transmission rate base and to identify the investment upon which refunds will be provided;

(11) the Participating TO shall accept for operation and maintenance the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades to the extent engineered, procured, and constructed in accordance with this Article 5.2; and

(12) The Interconnection Customer's engineering, procurement and construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades shall comply with all requirements of the "Option to Build" conditions set forth in Appendix C. Interconnection Customer shall deliver to the Participating TO "as-built" drawings, information, and any other documents that are reasonably required by the Participating TO to assure that the Interconnection Facilities and Stand-Alone Network Upgrades are built to the standards and specifications required by the Participating TO.

(13) If the Interconnection Customer exercises the Option to Build pursuant to Article 5.1.3, the Interconnection Customer shall pay the Participating TO the agreed upon amount of $ N/A for Participating TO to execute the responsibilities enumerated to it under Article 5.2. The Participating TO will invoice the Interconnection Customer for this total amount to be divided on a monthly basis pursuant to Article 12.

5.3 Liquidated Damages. The actual damages to the Interconnection Customer, in the event the Participating TO's Interconnection Facilities or Network Upgrades are not completed by the dates designated by the Interconnection Customer and accepted by the Participating TO pursuant to subparagraphs 5.1.2 or 5.1.4, above, may include Interconnection Customer's fixed operation and maintenance costs and lost opportunity costs. Such actual damages are uncertain and impossible to determine at this time. Because of such uncertainty, any liquidated damages paid by the Participating TO to the Interconnection Customer in the event that the Participating TO does not complete any portion of the Participating TO's Interconnection Facilities or Network Upgrades by the applicable dates, shall be an amount equal to ½ of 1 percent per day of the actual cost of the Participating TO's Interconnection Facilities and Network Upgrades, in the aggregate, for which the Participating TO has assumed responsibility to design, procure and construct.

However, in no event shall the total liquidated damages exceed 20 percent of the actual cost of the Participating TO's Interconnection Facilities and Network Upgrades for which the Participating TO has assumed responsibility to design, procure, and construct. The foregoing payments will be made by the Participating TO to the Interconnection Customer as just compensation for the damages caused to the Interconnection Customer, which actual damages are uncertain and impossible to determine at this time, and as reasonable liquidated damages, but not as a penalty or a method to secure performance of this LGIA. Liquidated damages, when the Parties agree to them, are the exclusive remedy for the Participating TO's failure to meet its schedule.

No liquidated damages shall be paid to the Interconnection Customer if: (1) the Interconnection Customer is not ready to commence use of the Participating TO's Interconnection Facilities or Network Upgrades to take the delivery of power for the Electric Generating Unit's Trial Operation or to export power from the Electric Generating Unit on the specified dates, unless the Interconnection Customer would have been able to commence use of the Participating TO's Interconnection Facilities or Network Upgrades to take the delivery of power for Electric Generating Unit's Trial Operation or to export power from the Electric Generating Unit, but for the Participating TO's delay; (2) the Participating TO's failure to meet the specified dates is the result of the action or inaction of the Interconnection Customer or any other interconnection customer who has entered into an interconnection agreement with the CAISO and/or Participating TO, action or inaction by the CAISO, or any cause beyond the Participating TO's reasonable control or reasonable ability to cure; (3) the Interconnection Customer has assumed responsibility for the design, procurement and construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades; or (4) the Parties have otherwise agreed.

In no event shall the CAISO have any responsibility or liability to the Interconnection Customer for liquidated damages pursuant to the provisions of this Article 5.3.

5.4 Power System Stabilizers. The Interconnection Customer shall procure, install, maintain and operate Power System Stabilizers in accordance with Applicable Reliability Standards, the guidelines and procedures established by the Applicable Reliability Council, and the provisions of Section 4.6.5.1 of the CAISO Tariff. The CAISO reserves the right to establish reasonable minimum acceptable settings for any installed Power System Stabilizers, subject to the design and operating limitations of the Large Generating Facility. If the Large Generating Facility's Power System Stabilizers are removed from service or not capable of automatic operation, the Interconnection Customer shall immediately notify the CAISO and the Participating TO and restore the Power System Stabilizers to operation as soon as possible. The CAISO shall have the right to order the reduction in output or disconnection of the Large Generating Facility if the reliability of the CAISO Controlled Grid would be adversely affected as a result of improperly tuned Power System Stabilizers. The requirements of this Article 5.4 shall apply to Asynchronous Generating Facilities in accordance with Appendix H.

5.5 Equipment Procurement. If responsibility for construction of the Participating TO's Interconnection Facilities or Network Upgrades is to be borne by the Participating TO, then the Participating TO shall notify the Interconnection Customer and the CAISO in writing within thirty (30) days and commence design of the Participating TO's Interconnection Facilities or Network Upgrades and procurement of necessary equipment after all of the following conditions are satisfied, unless the Parties otherwise agree in writing:

5.5.1 The CAISO, in coordination with the applicable Participating TO(s), has completed the Phase II Interconnection Study or Governing Independent Study Interconnection Study pursuant to the applicable Generator Interconnection Study Process Agreement or other applicable study process agreement;

5.5.2 The Participating TO has received written authorization to proceed with design and procurement from the Interconnection Customer by the date specified in Appendix B, Milestones; and

5.5.3 The Interconnection Customer has provided security to the Participating TO in accordance with Article 11.5 by the dates specified in Appendix B, Milestones.

5.6 Construction Commencement. The Participating TO shall notify the Interconnection Customer and the CAISO in writing and commence construction of the Participating TO's Interconnection Facilities and Network Upgrades for

which it is responsible within thirty (30) days after the following additional conditions are satisfied:

5.6.1 Approval of the appropriate Governmental Authority has been obtained for any facilities requiring regulatory approval;

5.6.2 Necessary real property rights and rights-of-way have been obtained, to the extent required for the construction of a discrete aspect of the Participating TO's Interconnection Facilities and Network Upgrades;

5.6.3 The Participating TO has received written authorization to proceed with construction from the Interconnection Customer by the date specified in Appendix B, Milestones; and

5.6.4 The Interconnection Customer has provided payment and security to the Participating TO in accordance with Article 11.5 by the dates specified in Appendix B, Milestones.

5.7 Work Progress. The Parties will keep each other advised periodically as to the progress of their respective design, procurement and construction efforts. Any Party may, at any time, request a progress report from another Party. If, at any time, the Interconnection Customer determines that the completion of the Participating TO's Interconnection Facilities will not be required until after the specified In-Service Date, the Interconnection Customer will provide written notice to the Participating TO and CAISO of such later date upon which the completion of the Participating TO's Interconnection Facilities will be required.

5.8 Information Exchange. As soon as reasonably practicable after the Effective Date, the Parties shall exchange information regarding the design and compatibility of the Interconnection Customer's Interconnection Facilities and Participating TO's Interconnection Facilities and compatibility of the Interconnection Facilities with the Participating TO's Transmission System, and shall work diligently and in good faith to make any necessary design changes.

5.9 Limited Operation. If any of the Participating TO's Interconnection Facilities or Network Upgrades are not reasonably expected to be completed prior to the Commercial Operation Date of the Electric Generating Unit, the Participating TO and/or CAISO, as applicable, shall, upon the request and at the expense of the Interconnection Customer, perform operating studies on a timely basis to determine the extent to which the Electric Generating Unit and the Interconnection Customer's Interconnection Facilities may operate prior to the completion of the Participating TO's Interconnection Facilities or Network Upgrades consistent with Applicable Laws and Regulations, Applicable Reliability Standards, Good Utility Practice, and this LGIA. The Participating TO and CAISO shall permit Interconnection Customer to operate the Electric Generating

Unit and the Interconnection Customer's Interconnection Facilities in accordance with the results of such studies.

5.10 Interconnection Customer's Interconnection Facilities. The Interconnection Customer shall, at its expense, design, procure, construct, own and install the Interconnection Customer's Interconnection Facilities, as set forth in Appendix A.

5.10.1 Large Generating Facility and Interconnection Customer's Interconnection Facilities Specifications. In addition to the Interconnection Customer's responsibility to submit technical data with its Interconnection Request as required by Section 3.5.1 of the GIDAP, the Interconnection Customer shall submit all remaining necessary specifications for the Interconnection Customer's Interconnection Facilities and Large Generating Facility, including System Protection Facilities, to the Participating TO and the CAISO at least one hundred eighty (180) Calendar Days prior to the Initial Synchronization Date; and final specifications for review and comment at least ninety (90) Calendar Days prior to the Initial Synchronization Date. The Participating TO and the CAISO shall review such specifications pursuant to this LGIA and the GIDAP to ensure that the Interconnection Customer's Interconnection Facilities and Large Generating Facility are compatible with the technical specifications, operational control, safety requirements, and any other applicable requirements of the Participating TO and the CAISO and comment on such specifications within thirty (30) Calendar Days of the Interconnection Customer's submission. All specifications provided hereunder shall be deemed confidential.

5.10.2 Participating TO's and CAISO's Review. The Participating TO's and the CAISO's review of the Interconnection Customer's final specifications shall not be construed as confirming, endorsing, or providing a warranty as to the design, fitness, safety, durability or reliability of the Large Generating Facility, or the Interconnection Customer's Interconnection Facilities. Interconnection Customer shall make such changes to the Interconnection Customer's Interconnection Facilities as may reasonably be required by the Participating TO or the CAISO, in accordance with Good Utility Practice, to ensure that the Interconnection Customer's Interconnection Facilities are compatible with the technical specifications, Operational Control, and safety requirements of the Participating TO or the CAISO.

5.10.3 Interconnection Customer's Interconnection Facilities Construction. The Interconnection Customer's Interconnection Facilities shall be designed and constructed in accordance with Good Utility Practice. Within one hundred twenty (120) Calendar Days after the Commercial Operation Date, unless the Participating TO and Interconnection Customer agree on another mutually acceptable deadline, the Interconnection Customer shall deliver to the Participating TO and CAISO "as-built" drawings, information

and documents for the Interconnection Customer's Interconnection Facilities and the Electric Generating Unit(s), such as: a one-line diagram, a site plan showing the Large Generating Facility and the Interconnection Customer's Interconnection Facilities, plan and elevation drawings showing the layout of the Interconnection Customer's Interconnection Facilities, a relay functional diagram, relaying AC and DC schematic wiring diagrams and relay settings for all facilities associated with the Interconnection Customer's step-up transformers, the facilities connecting the Large Generating Facility to the step-up transformers and the Interconnection Customer's Interconnection Facilities, and the impedances (determined by factory tests) for the associated step-up transformers and the Electric Generating Units. The Interconnection Customer shall provide the Participating TO and the CAISO specifications for the excitation system, automatic voltage regulator, Large Generating Facility control and protection settings, transformer tap settings, and communications, if applicable. Any deviations from the relay settings, machine specifications, and other specifications originally submitted by the Interconnection Customer shall be assessed by the Participating TO and the CAISO pursuant to the appropriate provisions of this LGIA and the GIDAP.

5.10.4 Interconnection Customer to Meet Requirements of the Participating TO's Interconnection Handbook. The Interconnection Customer shall comply with the Participating TO's Interconnection Handbook.

5.11 Participating TO's Interconnection Facilities Construction. The Participating TO's Interconnection Facilities shall be designed and constructed in accordance with Good Utility Practice. Upon request, within one hundred twenty (120) Calendar Days after the Commercial Operation Date, unless the Participating TO and Interconnection Customer agree on another mutually acceptable deadline, the Participating TO shall deliver to the Interconnection Customer and the CAISO the following "as-built" drawings, information and documents for the Participating TO's Interconnection Facilities [include appropriate drawings and relay diagrams].

The Participating TO will obtain control for operating and maintenance purposes of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades upon completion of such facilities. Pursuant to Article 5.2, the CAISO will obtain Operational Control of the Stand Alone Network Upgrades prior to the Commercial Operation Date.

5.12 Access Rights. Upon reasonable notice and supervision by a Party, and subject to any required or necessary regulatory approvals, a Party ("Granting Party") shall furnish at no cost to the other Party ("Access Party") any rights of use, licenses, rights of way and easements with respect to lands owned or controlled by the Granting Party, its agents (if allowed under the applicable

agency agreement), or any Affiliate, that are necessary to enable the Access Party to obtain ingress and egress to construct, operate, maintain, repair, test (or witness testing), inspect, replace or remove facilities and equipment to: (i) interconnect the Large Generating Facility with the Participating TO's Transmission System; (ii) operate and maintain the Large Generating Facility, the Interconnection Facilities and the Participating TO's Transmission System; and (iii) disconnect or remove the Access Party's facilities and equipment upon termination of this LGIA. In exercising such licenses, rights of way and easements, the Access Party shall not unreasonably disrupt or interfere with normal operation of the Granting Party's business and shall adhere to the safety rules and procedures established in advance, as may be changed from time to time, by the Granting Party and provided to the Access Party.

5.13 Lands of Other Property Owners. If any part of the Participating TO's Interconnection Facilities and/or Network Upgrades are to be installed on property owned by persons other than the Interconnection Customer or Participating TO, the Participating TO shall at the Interconnection Customer's expense use efforts, similar in nature and extent to those that it typically undertakes on its own behalf or on behalf of its Affiliates, including use of its eminent domain authority, and to the extent consistent with state law, to procure from such persons any rights of use, licenses, rights of way and easements that are necessary to construct, operate, maintain, test, inspect, replace or remove the Participating TO's Interconnection Facilities and/or Network Upgrades upon such property.

5.14 Permits. Participating TO and Interconnection Customer shall cooperate with each other in good faith in obtaining all permits, licenses and authorization that are necessary to accomplish the interconnection in compliance with Applicable Laws and Regulations. With respect to this paragraph, the Participating TO shall provide permitting assistance to the Interconnection Customer comparable to that provided to the Participating TO's own, or an Affiliate's generation.

5.15 Early Construction of Base Case Facilities. The Interconnection Customer may request the Participating TO to construct, and the Participating TO shall construct, using Reasonable Efforts to accommodate Interconnection Customer's In-Service Date, all or any portion of any Network Upgrades required for Interconnection Customer to be interconnected to the Participating TO's Transmission System which are included in the Base Case of the Interconnection Studies for the Interconnection Customer, and which also are required to be constructed for another interconnection customer, but where such construction is not scheduled to be completed in time to achieve Interconnection Customer's In-Service Date.

5.16 Suspension. The Interconnection Customer may request to suspend at any time all work associated with the construction and installation of the Participating TO's Interconnection Facilities, Network Upgrades, and/or Distribution Upgrades

required under this LGIA, other than Network Upgrades identified in the Phase II Interconnection Study as common to multiple generating facilities. Interconnection Customers seeking to suspend construction will provide the CAISO and Participating TO a request for assessment pursuant to Section 6.7.2 of the GIDAP, a modification assessment deposit, and an anticipated end date of the suspension. Interconnection Customers may request a suspension for the maximum amount of time in lieu of providing an anticipated end date. The CAISO and Participating TO will approve suspension requests where:

(a) the Participating TO's electrical system and the CAISO Controlled Grid can be left in a safe and reliable condition in accordance with Good Utility Practice, the Participating TO's safety and reliability criteria, and Applicable Reliability Standards; and

(b) the CAISO and Participating TO determine the suspension will not result in a Material Modification.

During suspension, the Interconnection Customer may request to extend or shorten their suspension period, consistent with the maximum period provided in this Article. The CAISO and Participating TO will approve such requests where they meet criteria (a) and (b), above. Requests to extend or shorten extensions will require a new modification assessment request and deposit. The Interconnection Customer shall be responsible for all reasonable and necessary costs for suspension for which the Participating TO (i) has incurred pursuant to this LGIA prior to the suspension and (ii) incurs in suspending such work, including any costs incurred to perform such work as may be necessary to ensure the safety of persons and property and the integrity of the Participating TO's electric system during such suspension and, if applicable, any costs incurred in connection with the cancellation or suspension of material, equipment and labor contracts which the Participating TO cannot reasonably avoid; provided, however, that prior to canceling or suspending any such material, equipment or labor contract, the Participating TO shall obtain Interconnection Customer's authorization to do so.

Network Upgrades common to multiple generating facilities, and to which the Interconnection Customer's right of suspension shall not extend, consist of Network Upgrades identified for:

(i) generating facilities which are the subject of all Interconnection Requests made prior to the Interconnection Customer's Interconnection Request;
(ii) generating facilities which are the subject of Interconnection Requests within the Interconnection Customer's queue cluster; and
(iii) generating facilities that are the subject of Interconnection Requests that were made after the Interconnection Customer's Interconnection Request but no later than the date on which the Interconnection

Customer's Phase II Interconnection Study Report is issued, and have been modeled in the Base Case at the time the Interconnection Customer seeks to exercise its suspension rights under this Article.

The Participating TO shall invoice the Interconnection Customer for such costs pursuant to Article 12 and shall use due diligence to minimize its costs. In the event Interconnection Customer suspends work required under this LGIA pursuant to this Article 5.16, and has not requested the Participating TO to recommence the work or has not itself recommenced work required under this LGIA in time to ensure that the new projected Commercial Operation Date for the full Generating Facility Capacity of the Large Generating Facility is no more than three (3) years from the Commercial Operation Date identified in Appendix B hereto, this LGIA shall be deemed terminated and the Interconnection Customer's responsibility for costs will be determined in accordance with Article 2.4 of this LGIA. The suspension period shall begin on the date the Interconnection Customer provides in its request, if approved. Ninety (90) days before the anticipated end date of the suspension, the Participating TO and the CAISO will tender an amended draft LGIA with new construction milestones. The Parties agree to negotiate the amended draft LGIA in good faith such that it can be executed by the end of the suspension.

Interconnection Customer subject to Section 8.9.2.2 of Appendix DD may not request suspension.

5.17 Taxes.

5.17.1 Interconnection Customer Payments Not Taxable. The Parties intend that all payments or property transfers made by the Interconnection Customer to the Participating TO for the installation of the Participating TO's Interconnection Facilities and the Network Upgrades shall be non-taxable, either as contributions to capital, or as a refundable advance, in accordance with the Internal Revenue Code and any applicable state income tax laws and shall not be taxable as contributions in aid of construction or otherwise under the Internal Revenue Code and any applicable state income tax laws.

5.17.2 Representations And Covenants. In accordance with IRS Notice 2001-82 and IRS Notice 88-129, the Interconnection Customer represents and covenants that (i) ownership of the electricity generated at the Large Generating Facility will pass to another party prior to the transmission of the electricity on the CAISO Controlled Grid, (ii) for income tax purposes, the amount of any payments and the cost of any property transferred to the Participating TO for the Participating TO's Interconnection Facilities will be capitalized by the Interconnection Customer as an intangible asset and recovered using the straight-line method over a useful life of twenty (20) years, and (iii) any portion of the Participating TO's Interconnection

Facilities that is a "dual-use intertie," within the meaning of IRS Notice 88-129, is reasonably expected to carry only a de minimis amount of electricity in the direction of the Large Generating Facility. For this purpose, "de minimis amount" means no more than 5 percent of the total power flows in both directions, calculated in accordance with the "5 percent test" set forth in IRS Notice 88-129. This is not intended to be an exclusive list of the relevant conditions that must be met to conform to IRS requirements for non-taxable treatment.

At the Participating TO's request, the Interconnection Customer shall provide the Participating TO with a report from an independent engineer confirming its representation in clause (iii), above. The Participating TO represents and covenants that the cost of the Participating TO's Interconnection Facilities paid for by the Interconnection Customer without the possibility of refund or credit will have no net effect on the base upon which rates are determined.

5.17.3 Indemnification for the Cost Consequence of Current Tax Liability Imposed Upon the Participating TO. Notwithstanding Article 5.17.1, the Interconnection Customer shall protect, indemnify and hold harmless the Participating TO from the cost consequences of any current tax liability imposed against the Participating TO as the result of payments or property transfers made by the Interconnection Customer to the Participating TO under this LGIA for Interconnection Facilities, as well as any interest and penalties, other than interest and penalties attributable to any delay caused by the Participating TO.

The Participating TO shall not include a gross-up for the cost consequences of any current tax liability in the amounts it charges the Interconnection Customer under this LGIA unless (i) the Participating TO has determined, in good faith, that the payments or property transfers made by the Interconnection Customer to the Participating TO should be reported as income subject to taxation or (ii) any Governmental Authority directs the Participating TO to report payments or property as income subject to taxation; provided, however, that the Participating TO may require the Interconnection Customer to provide security for Interconnection Facilities, in a form reasonably acceptable to the Participating TO (such as a parental guarantee or a letter of credit), in an amount equal to the cost consequences of any current tax liability under this Article 5.17. The Interconnection Customer shall reimburse the Participating TO for such costs on a fully grossed-up basis, in accordance with Article 5.17.4, within thirty (30) Calendar Days of receiving written notification from the Participating TO of the amount due, including detail about how the amount was calculated.

The indemnification obligation shall terminate at the earlier of (1) the expiration of the ten year testing period and the applicable statute of limitation, as it may be extended by the Participating TO upon request of the IRS, to keep these years open for audit or adjustment, or (2) the occurrence of a subsequent taxable event and the payment of any related indemnification obligations as contemplated by this Article 5.17.

5.17.4 Tax Gross-Up Amount. The Interconnection Customer's liability for the cost consequences of any current tax liability under this Article 5.17 shall be calculated on a fully grossed-up basis. Except as may otherwise be agreed to by the parties, this means that the Interconnection Customer will pay the Participating TO, in addition to the amount paid for the Interconnection Facilities and Network Upgrades, an amount equal to (1) the current taxes imposed on the Participating TO ("Current Taxes") on the excess of (a) the gross income realized by the Participating TO as a result of payments or property transfers made by the Interconnection Customer to the Participating TO under this LGIA (without regard to any payments under this Article 5.17) (the "Gross Income Amount") over (b) the present value of future tax deductions for depreciation that will be available as a result of such payments or property transfers (the "Present Value Depreciation Amount"), plus (2) an additional amount sufficient to permit the Participating TO to receive and retain, after the payment of all Current Taxes, an amount equal to the net amount described in clause (1).

For this purpose, (i) Current Taxes shall be computed based on the Participating TO's composite federal and state tax rates at the time the payments or property transfers are received and the Participating TO will be treated as being subject to tax at the highest marginal rates in effect at that time (the "Current Tax Rate"), and (ii) the Present Value Depreciation Amount shall be computed by discounting the Participating TO's anticipated tax depreciation deductions as a result of such payments or property transfers by the Participating TO's current weighted average cost of capital. Thus, the formula for calculating the Interconnection Customer's liability to the Participating TO pursuant to this Article 5.17.4 can be expressed as follows: (Current Tax Rate x (Gross Income Amount – Present Value of Tax Depreciation))/(1-Current Tax Rate). Interconnection Customer's estimated tax liability in the event taxes are imposed shall be stated in Appendix A, Interconnection Facilities, Network Upgrades and Distribution Upgrades.

5.17.5 Private Letter Ruling or Change or Clarification of Law. At the Interconnection Customer's request and expense, the Participating TO shall file with the IRS a request for a private letter ruling as to whether any property transferred or sums paid, or to be paid, by the Interconnection Customer to the Participating TO under this LGIA are subject to federal

income taxation. The Interconnection Customer will prepare the initial draft of the request for a private letter ruling, and will certify under penalties of perjury that all facts represented in such request are true and accurate to the best of the Interconnection Customer's knowledge. The Participating TO and Interconnection Customer shall cooperate in good faith with respect to the submission of such request, provided, however, the Interconnection Customer and the Participating TO explicitly acknowledge (and nothing herein is intended to alter) Participating TO's obligation under law to certify that the facts presented in the ruling request are true, correct and complete.

The Participating TO shall keep the Interconnection Customer fully informed of the status of such request for a private letter ruling and shall execute either a privacy act waiver or a limited power of attorney, in a form acceptable to the IRS, that authorizes the Interconnection Customer to participate in all discussions with the IRS regarding such request for a private letter ruling. The Participating TO shall allow the Interconnection Customer to attend all meetings with IRS officials about the request and shall permit the Interconnection Customer to prepare the initial drafts of any follow-up letters in connection with the request.

5.17.6 Subsequent Taxable Events. If, within 10 years from the date on which the relevant Participating TO's Interconnection Facilities are placed in service, (i) the Interconnection Customer Breaches the covenants contained in Article 5.17.2, (ii) a "disqualification event" occurs within the meaning of IRS Notice 88-129, or (iii) this LGIA terminates and the Participating TO retains ownership of the Interconnection Facilities and Network Upgrades, the Interconnection Customer shall pay a tax gross-up for the cost consequences of any current tax liability imposed on the Participating TO, calculated using the methodology described in Article 5.17.4 and in accordance with IRS Notice 90-60.

5.17.7 Contests. In the event any Governmental Authority determines that the Participating TO's receipt of payments or property constitutes income that is subject to taxation, the Participating TO shall notify the Interconnection Customer, in writing, within thirty (30) Calendar Days of receiving notification of such determination by a Governmental Authority. Upon the timely written request by the Interconnection Customer and at the Interconnection Customer's sole expense, the Participating TO may appeal, protest, seek abatement of, or otherwise oppose such determination. Upon the Interconnection Customer's written request and sole expense, the Participating TO may file a claim for refund with respect to any taxes paid under this Article 5.17, whether or not it has received such a determination. The Participating TO reserve the right to make all decisions with regard to the prosecution of such appeal, protest, abatement or other contest, including the selection of counsel and

compromise or settlement of the claim, but the Participating TO shall keep the Interconnection Customer informed, shall consider in good faith suggestions from the Interconnection Customer about the conduct of the contest, and shall reasonably permit the Interconnection Customer or an Interconnection Customer representative to attend contest proceedings.

The Interconnection Customer shall pay to the Participating TO on a periodic basis, as invoiced by the Participating TO, the Participating TO's documented reasonable costs of prosecuting such appeal, protest, abatement or other contest, including any costs associated with obtaining the opinion of independent tax counsel described in this Article 5.17.7. The Participating TO may abandon any contest if the Interconnection Customer fails to provide payment to the Participating TO within thirty (30) Calendar Days of receiving such invoice.

At any time during the contest, the Participating TO may agree to a settlement either with the Interconnection Customer's consent or, if such consent is refused, after obtaining written advice from independent nationally-recognized tax counsel, selected by the Participating TO, but reasonably acceptable to the Interconnection Customer, that the proposed settlement represents a reasonable settlement given the hazards of litigation. The Interconnection Customer's obligation shall be based on the amount of the settlement agreed to by the Interconnection Customer, or if a higher amount, so much of the settlement that is supported by the written advice from nationally-recognized tax counsel selected under the terms of the preceding paragraph. The settlement amount shall be calculated on a fully grossed-up basis to cover any related cost consequences of the current tax liability. The Participating TO may also settle any tax controversy without receiving the Interconnection Customer's consent or any such written advice; however, any such settlement will relieve the Interconnection Customer from any obligation to indemnify the Participating TO for the tax at issue in the contest (unless the failure to obtain written advice is attributable to the Interconnection Customer's unreasonable refusal to the appointment of independent tax counsel).

5.17.8 Refund. In the event that (a) a private letter ruling is issued to the Participating TO which holds that any amount paid or the value of any property transferred by the Interconnection Customer to the Participating TO under the terms of this LGIA is not subject to federal income taxation, (b) any legislative change or administrative announcement, notice, ruling or other determination makes it reasonably clear to the Participating TO in good faith that any amount paid or the value of any property transferred by the Interconnection Customer to the Participating TO under the terms of this LGIA is not taxable to the Participating TO, (c) any abatement, appeal, protest, or other contest results in a determination that any payments or

transfers made by the Interconnection Customer to the Participating TO are not subject to federal income tax, or (d) if the Participating TO receives a refund from any taxing authority for any overpayment of tax attributable to any payment or property transfer made by the Interconnection Customer to the Participating TO pursuant to this LGIA, the Participating TO shall promptly refund to the Interconnection Customer the following:

(i) any payment made by Interconnection Customer under this Article 5.17 for taxes that is attributable to the amount determined to be non-taxable, together with interest thereon,

(ii) interest on any amounts paid by the Interconnection Customer to the Participating TO for such taxes which the Participating TO did not submit to the taxing authority, calculated in accordance with the methodology set forth in FERC's regulations at 18 C.F.R. §35.19a(a)(2)(iii) from the date payment was made by the Interconnection Customer to the date the Participating TO refunds such payment to the Interconnection Customer, and

(iii) with respect to any such taxes paid by the Participating TO, any refund or credit the Participating TO receives or to which it may be entitled from any Governmental Authority, interest (or that portion thereof attributable to the payment described in clause (i), above) owed to the Participating TO for such overpayment of taxes (including any reduction in interest otherwise payable by the Participating TO to any Governmental Authority resulting from an offset or credit); provided, however, that the Participating TO will remit such amount promptly to the Interconnection Customer only after and to the extent that the Participating TO has received a tax refund, credit or offset from any Governmental Authority for any applicable overpayment of income tax related to the Participating TO's Interconnection Facilities.

The intent of this provision is to leave the Parties, to the extent practicable, in the event that no taxes are due with respect to any payment for Interconnection Facilities and Network Upgrades hereunder, in the same position they would have been in had no such tax payments been made.

5.17.9 Taxes Other Than Income Taxes. Upon the timely request by the Interconnection Customer, and at the Interconnection Customer's sole expense, the CAISO or Participating TO may appeal, protest, seek abatement of, or otherwise contest any tax (other than federal or state income tax) asserted or assessed against the CAISO or Participating TO for which the Interconnection Customer may be required to reimburse the CAISO or Participating TO under the terms of this LGIA. The Interconnection Customer shall pay to the Participating TO on a periodic

basis, as invoiced by the Participating TO, the Participating TO's documented reasonable costs of prosecuting such appeal, protest, abatement, or other contest. The Interconnection Customer, the CAISO, and the Participating TO shall cooperate in good faith with respect to any such contest. Unless the payment of such taxes is a prerequisite to an appeal or abatement or cannot be deferred, no amount shall be payable by the Interconnection Customer to the CAISO or Participating TO for such taxes until they are assessed by a final, non-appealable order by any court or agency of competent jurisdiction. In the event that a tax payment is withheld and ultimately due and payable after appeal, the Interconnection Customer will be responsible for all taxes, interest and penalties, other than penalties attributable to any delay caused by the Participating TO.

5.18 Tax Status. Each Party shall cooperate with the others to maintain the other Parties' tax status. Nothing in this LGIA is intended to adversely affect the CAISO's or any Participating TO's tax exempt status with respect to the issuance of bonds including, but not limited to, Local Furnishing Bonds.

5.19 Modification.

5.19.1 General. The Interconnection Customer or the Participating TO may undertake modifications to its facilities, subject to Section 25.1(c) and Section 25 of the CAISO Tariff if the Interconnection Customer has achieved its Commercial Operation Date, and subject to Section 6.7.2 of Appendix DD if it has not.

If a Party plans to undertake a modification that reasonably may be expected to affect the other Parties' facilities, that Party shall provide to the other Parties sufficient information regarding such modification so that the other Parties may evaluate the potential impact of such modification prior to commencement of the work. Such information shall be deemed to be confidential hereunder and shall include information concerning the timing of such modifications and whether such modifications are expected to interrupt the flow of electricity from the Large Generating Facility. The Party desiring to perform such work shall provide the relevant drawings, plans, and specifications to the other Parties at least ninety (90) Calendar Days in advance of the commencement of the work or such shorter period upon which the Parties may agree, which agreement shall not unreasonably be withheld, conditioned or delayed.

At any time after achieving its Commercial Operation Date, the Interconnection Customer may reduce the megawatt generating capacities of its Generating Facilities, subject to Section 25.1(c) of the CAISO Tariff. Section 6.7.2 of Appendix DD will still apply to such requests to reduce capacity.

5.19.2 Standards. Any additions, modifications, or replacements made to a Party's facilities shall be designed, constructed and operated in accordance with this LGIA and Good Utility Practice.

5.19.3 Modification Costs. The Interconnection Customer shall not be directly assigned the costs of any additions, modifications, or replacements that the Participating TO makes to the Participating TO's Interconnection Facilities or the Participating TO's Transmission System to facilitate the interconnection of a third party to the Participating TO's Interconnection Facilities or the Participating TO's Transmission System, or to provide transmission service to a third party under the CAISO Tariff. The Interconnection Customer shall be responsible for the costs of any additions, modifications, or replacements to the Interconnection Facilities that may be necessary to maintain or upgrade such Interconnection Facilities consistent with Applicable Laws and Regulations, Applicable Reliability Standards or Good Utility Practice.

5.20 Annual Reassessment Process. In accordance with Section 7.4 of the GIDAP, the CAISO will perform an annual reassessment, as part of a queue cluster interconnection study cycle, in which it will update certain base case data prior to beginning the GIDAP Phase II Interconnection Studies. As set forth in Section 7.4, the CAISO may determine through this assessment that Delivery Network Upgrades and Off-Peak Network Upgrades already identified and included in executed generator interconnection agreements should be modified in order to reflect the current circumstances of interconnection customers in the queue, including any withdrawals therefrom, and any additions and upgrades approved in the CAISO's most recent TPP cycle. To the extent that this determination modifies the scope or characteristics of, or the cost responsibility for, any Delivery Network Upgrades and Off-Peak Network Upgrades set forth in Appendix A to this LGIA, such modification(s) will be reflected through an amendment to this LGIA.

ARTICLE 6. TESTING AND INSPECTION

6.1 Pre-Commercial Operation Date Testing and Modifications. Prior to the Commercial Operation Date, the Participating TO shall test the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades and the Interconnection Customer shall test the Large Generating Facility and the Interconnection Customer's Interconnection Facilities to ensure their safe and reliable operation. Similar testing may be required after initial operation. Each Party shall make any modifications to its facilities that are found to be necessary as a result of such testing. The Interconnection Customer shall bear the cost of all such testing and modifications. The Interconnection Customer shall not commence initial parallel operation of an Electric Generating Unit with the

Participating TO's Transmission System until the Participating TO provides prior written approval, which approval shall not be unreasonably withheld, for operation of such Electric Generating Unit. The Interconnection Customer shall generate test energy at the Large Generating Facility only if it has arranged for the delivery of such test energy.

6.2 Post-Commercial Operation Date Testing and Modifications. Each Party shall at its own expense perform routine inspection and testing of its facilities and equipment in accordance with Good Utility Practice as may be necessary to ensure the continued interconnection of the Large Generating Facility with the Participating TO's Transmission System in a safe and reliable manner. Each Party shall have the right, upon advance written notice, to require reasonable additional testing of the other Party's facilities, at the requesting Party's expense, as may be in accordance with Good Utility Practice.

6.3 Right to Observe Testing. Each Party shall notify the other Parties at least fourteen (14) Calendar Days in advance of its performance of tests of its Interconnection Facilities or Generating Facility. The other Parties have the right, at their own expense, to observe such testing.

6.4 Right to Inspect. Each Party shall have the right, but shall have no obligation to: (i) observe another Party's tests and/or inspection of any of its System Protection Facilities and other protective equipment, including Power System Stabilizers; (ii) review the settings of another Party's System Protection Facilities and other protective equipment; and (iii) review another Party's maintenance records relative to the Interconnection Facilities, the System Protection Facilities and other protective equipment. A Party may exercise these rights from time to time as it deems necessary upon reasonable notice to the other Party. The exercise or non-exercise by a Party of any such rights shall not be construed as an endorsement or confirmation of any element or condition of the Interconnection Facilities or the System Protection Facilities or other protective equipment or the operation thereof, or as a warranty as to the fitness, safety, desirability, or reliability of same. Any information that a Party obtains through the exercise of any of its rights under this Article 6.4 shall be deemed to be Confidential Information and treated pursuant to Article 22 of this LGIA.

ARTICLE 7. METERING

7.1 General. Each Party shall comply with any Applicable Reliability Standards and the Applicable Reliability Council requirements. The Interconnection Customer and CAISO shall comply with the provisions of the CAISO Tariff regarding metering, including Section 10 of the CAISO Tariff. Unless otherwise agreed by the Participating TO and the Interconnection Customer, the Participating TO may install additional Metering Equipment at the Point of Interconnection prior to any operation of any Electric Generating Unit and shall own, operate, test and maintain such Metering Equipment. Power flows to and from the Large

Generating Facility shall be measured at or, at the CAISO's or Participating TO's option for its respective Metering Equipment, compensated to, the Point of Interconnection. The CAISO shall provide metering quantities to the Interconnection Customer upon request in accordance with the CAISO Tariff by directly polling the CAISO's meter data acquisition system. The Interconnection Customer shall bear all reasonable documented costs associated with the purchase, installation, operation, testing and maintenance of the Metering Equipment.

7.2 Check Meters. The Interconnection Customer, at its option and expense, may install and operate, on its premises and on its side of the Point of Interconnection, one or more check meters to check the CAISO-polled meters or the Participating TO's meters. Such check meters shall be for check purposes only and shall not be used for the measurement of power flows for purposes of this LGIA, except in the case that no other means are available on a temporary basis at the option of the CAISO or the Participating TO. The check meters shall be subject at all reasonable times to inspection and examination by the CAISO or Participating TO or their designees. The installation, operation and maintenance thereof shall be performed entirely by the Interconnection Customer in accordance with Good Utility Practice.

7.3 Participating TO Retail Metering. The Participating TO may install retail revenue quality meters and associated equipment, pursuant to the Participating TO's applicable retail tariffs.

ARTICLE 8. COMMUNICATIONS

8.1 Interconnection Customer Obligations. The Interconnection Customer shall maintain satisfactory operating communications with the CAISO in accordance with the provisions of the CAISO Tariff and with the Participating TO's dispatcher or representative designated by the Participating TO. The Interconnection Customer shall provide standard voice line, dedicated voice line and facsimile communications at its Large Generating Facility control room or central dispatch facility through use of either the public telephone system, or a voice communications system that does not rely on the public telephone system. The Interconnection Customer shall also provide the dedicated data circuit(s) necessary to provide Interconnection Customer data to the CAISO and Participating TO as set forth in Appendix D, Security Arrangements Details. The data circuit(s) shall extend from the Large Generating Facility to the location(s) specified by the CAISO and Participating TO. Any required maintenance of such communications equipment shall be performed by the Interconnection Customer. Operational communications shall be activated and maintained under, but not be limited to, the following events: system paralleling or separation, scheduled and unscheduled shutdowns, equipment clearances, and hourly and daily load data.

8.2 Remote Terminal Unit. Prior to the Initial Synchronization Date of each Electric Generating Unit, a Remote Terminal Unit, or equivalent data collection and transfer equipment acceptable to the Parties, shall be installed by the Interconnection Customer, or by the Participating TO at the Interconnection Customer's expense, to gather accumulated and instantaneous data to be telemetered to the location(s) designated by the CAISO and by the Participating TO through use of a dedicated point-to-point data circuit(s) as indicated in Article 8.1.

Telemetry to the CAISO shall be provided in accordance with the CAISO's technical standards for direct telemetry. For telemetry to the Participating TO, the communication protocol for the data circuit(s) shall be specified by the Participating TO. Instantaneous bi-directional real power and reactive power flow and any other required information must be telemetered directly to the location(s) specified by the Participating TO.

Each Party will promptly advise the other Parties if it detects or otherwise learns of any metering, telemetry or communications equipment errors or malfunctions that require the attention and/or correction by another Party. The Party owning such equipment shall correct such error or malfunction as soon as reasonably feasible.

8.3 No Annexation. Any and all equipment placed on the premises of a Party shall be and remain the property of the Party providing such equipment regardless of the mode and manner of annexation or attachment to real property, unless otherwise mutually agreed by the Parties.

8.4 Provision of Data from a Variable Energy Resource. The Interconnection Customer whose Generating Facility is a Variable Energy Resource shall provide meteorological and forced outage data to the CAISO to the extent necessary for the CAISO's development and deployment of power production forecasts for that class of Variable Energy Resources. The Interconnection Customer with a Variable Energy Resource having wind as the energy source, at a minimum, will be required to provide the CAISO with site-specific meteorological data including: temperature, wind speed, wind direction, and atmospheric pressure. The Interconnection Customer with a Variable Energy Resource having solar as the energy source, at a minimum, will be required to provide the CAISO with site-specific meteorological data including: temperature, atmospheric pressure, and irradiance. The CAISO and Interconnection Customer whose Generating Facility is a Variable Energy Resource shall mutually agree to any additional meteorological data that are required for the development and deployment of a power production forecast. The Interconnection Customer whose Generating Facility is a Variable Energy Resource also shall submit data to the CAISO regarding all forced outages to the extent necessary for the CAISO's development and deployment of power production forecasts for that class of Variable Energy Resources. The exact specifications of the meteorological and

forced outage data to be provided by the Interconnection Customer to the CAISO, including the frequency and timing of data submittals, shall be made taking into account the size and configuration of the Variable Energy Resource, its characteristics, location, and its importance in maintaining generation resource adequacy and transmission system reliability in its area. All requirements for meteorological and forced outage data must be commensurate with the power production forecasting employed by the CAISO. Such requirements for meteorological and forced outage data are set forth in Appendix C, Interconnection Details, of this LGIA, as they may change from time to time.

ARTICLE 9. OPERATIONS

9.1 General. Each Party shall comply with Applicable Reliability Standards and the Applicable Reliability Council requirements. Each Party shall provide to the other Party all information that may reasonably be required by the other Party to comply with Applicable Laws and Regulations and Applicable Reliability Standards.

9.2 Balancing Authority Area Notification. At least three months before Initial Synchronization Date, the Interconnection Customer shall notify the CAISO and Participating TO in writing of the Balancing Authority Area in which the Large Generating Facility intends to be located. If the Interconnection Customer intends to locate the Large Generating Facility in a Balancing Authority Area other than the Balancing Authority Area within whose electrically metered boundaries the Large Generating Facility is located, and if permitted to do so by the relevant transmission tariffs, all necessary arrangements, including but not limited to those set forth in Article 7 and Article 8 of this LGIA, and remote Balancing Authority Area generator interchange agreements, if applicable, and the appropriate measures under such agreements, shall be executed and implemented prior to the placement of the Large Generating Facility in the other Balancing Authority Area.

9.3 CAISO and Participating TO Obligations. The CAISO and Participating TO shall cause the Participating TO's Transmission System to be operated and controlled in a safe and reliable manner and in accordance with this LGIA. The Participating TO at the Interconnection Customer's expense shall cause the Participating TO's Interconnection Facilities to be operated, maintained and controlled in a safe and reliable manner and in accordance with this LGIA. The CAISO and Participating TO may provide operating instructions to the Interconnection Customer consistent with this LGIA and Participating TO and CAISO operating protocols and procedures as they may change from time to time. The Participating TO and CAISO will consider changes to their operating protocols and procedures proposed by the Interconnection Customer.

9.4 Interconnection Customer Obligations. The Interconnection Customer shall at its own expense operate, maintain and control the Large Generating Facility and the Interconnection Customer's Interconnection Facilities in a safe and reliable manner and in accordance with this LGIA. The Interconnection Customer shall operate the Large Generating Facility and the Interconnection Customer's Interconnection Facilities in accordance with all applicable requirements of the Balancing Authority Area of which it is part, including such requirements as set forth in Appendix C, Interconnection Details, of this LGIA. Appendix C, Interconnection Details, will be modified to reflect changes to the requirements as they may change from time to time. A Party may request that another Party provide copies of the requirements set forth in Appendix C, Interconnection Details, of this LGIA. The Interconnection Customer shall not commence Commercial Operation of an Electric Generating Unit with the Participating TO's Transmission System until the Participating TO provides prior written approval, which approval shall not be unreasonably withheld, for operation of such Electric Generating Unit.

9.5 Start-Up and Synchronization. Consistent with the Parties' mutually acceptable procedures, the Interconnection Customer is responsible for the proper synchronization of each Electric Generating Unit to the CAISO Controlled Grid.

9.6 Reactive Power and Primary Frequency Response.

9.6.1 Power Factor Design Criteria. For all Generating Facilities other than Asynchronous Generating Facilities, the Interconnection Customer shall design the Large Generating Facility to maintain a composite power delivery at continuous rated power output at the terminals of the Electric Generating Unit at a power factor within the range of 0.95 leading to 0.90 lagging, unless the CAISO has established different requirements that apply to all generators in the Balancing Authority Area on a comparable basis. For Asynchronous Generating Facilities, the Interconnection Customer shall design the Large Generating Facility to maintain power factor criteria in accordance with Appendix H of this LGIA except in the following cases: (a) an Interconnection Customer posts Interconnection Financial Security for an Asynchronous Generating Facility pursuant to Appendix DD of the CAISO Tariff Section 11.2.2 on or after September 21, 2016; or (b) an Interconnection Customer that submits an Interconnection Request for an Asynchronous Generating Facility under the Fast Track Process pursuant to Appendix DD of the CAISO Tariff on or after September 21, 2016.

When an Interconnection Customer posts Interconnection Financial Security for an Asynchronous Generating Facility pursuant to Appendix DD of the CAISO Tariff on or after September 21, 2016, the Interconnection Customer will design the Large Generator Facility to

maintain a composite power delivery at continuous rated power output at the high-side of the generator substation at a power factor within the range of 0.95 leading to 0.95 lagging, unless the CAISO has established a different power factor range that applies to all Asynchronous Generating Facilities on a comparable basis. This power factor range standard shall be dynamic and can be met using, for example, power electronics designed to supply this level of reactive capability (taking into account any limitations due to voltage level, real power output, etc.) or fixed and switched capacitors and reactors, or a combination of the two.

When an Interconnection Customer submits an Interconnection Request for an Asynchronous Generating Facility under the Fast Track Process pursuant to Appendix DD of the CAISO Tariff on or after September 21, 2016, the Interconnection Customer will design the Large Generating Facility to maintain a composite power delivery at continuous rated power output at the high-side of the generator substation at a power factor within the range of 0.95 leading to 0.95 lagging, unless the CAISO has established a different power factor range that applies to all Asynchronous Generating Facilities on a comparable basis. This power factor range standard shall be dynamic and can be met using, for example, power electronics designed to supply this level of reactive capability (taking into account any limitations due to voltage level, real power output, etc.) or fixed and switched capacitors and reactors, or a combination of the two.

9.6.2 Voltage Schedules. Once the Interconnection Customer has synchronized an Electric Generating Unit with the CAISO Controlled Grid, the CAISO or Participating TO shall require the Interconnection Customer to maintain a voltage schedule by operating the Electric Generating Unit to produce or absorb reactive power within the design limitations of the Electric Generating Unit set forth in Article 9.6.1 (Power Factor Design Criteria). CAISO's voltage schedules shall treat all sources of reactive power in the Balancing Authority Area in an equitable and not unduly discriminatory manner. The Participating TO shall exercise Reasonable Efforts to provide the Interconnection Customer with such schedules at least one (1) day in advance, and the CAISO or Participating TO may make changes to such schedules as necessary to maintain the reliability of the CAISO Controlled Grid or the Participating TO's electric system. The Interconnection Customer shall operate the Electric Generating Unit to maintain the specified output voltage or power factor within the design limitations of the Electric Generating Unit set forth in Article 9.6.1 (Power Factor Design Criteria), and as may be required by the CAISO to operate the Electric Generating Unit at a specific voltage schedule within the design limitations set forth in Article 9.6.1. If the Interconnection Customer is unable to maintain the specified voltage or power factor, it shall promptly notify the CAISO and the Participating TO.

9.6.2.1 Voltage Regulators. Whenever an Electric Generating Unit is operated in parallel with the CAISO Controlled Grid and voltage regulators are capable of operation, the Interconnection Customer shall operate the Electric Generating Unit with its voltage regulators in automatic operation. If the Electric Generating Unit's voltage regulators are not capable of such automatic operation, the Interconnection Customer shall immediately notify the CAISO and the Participating TO and ensure that the Electric Generating Unit operates as specified in Article 9.6.2 through manual operation and that such Electric Generating Unit's reactive power production or absorption (measured in MVARs) are within the design capability of the Electric Generating Unit(s) and steady state stability limits. The Interconnection Customer shall restore the speed governors and voltage regulators to automatic operation as soon as possible. If the Large Generating Facility's speed governors and voltage regulators are improperly tuned or malfunctioning, the CAISO shall have the right to order the reduction in output or disconnection of the Large Generating Facility if the reliability of the CAISO Controlled Grid would be adversely affected. The Interconnection Customer shall not cause its Large Generating Facility to disconnect automatically or instantaneously from the CAISO Controlled Grid or trip any Electric Generating Unit comprising the Large Generating Facility for an under or over frequency condition unless the abnormal frequency condition persists for a time period beyond the limits set forth in ANSI/IEEE Standard C37.106, or such other standard as applied to other generators in the Balancing Authority Area on a comparable basis.

9.6.3 Payment for Reactive Power. CAISO is required to pay the Interconnection Customer for reactive power that Interconnection Customer provides or absorbs from an Electric Generating Unit when the CAISO requests the Interconnection Customer to operate its Electric Generating Unit outside the range specified in Article 9.6.1, provided that if the CAISO pays other generators for reactive power service within the specified range, it must also pay the Interconnection Customer. Payments shall be pursuant to Article 11.6 or such other agreement to which the CAISO and Interconnection Customer have otherwise agreed.

9.6.4 Primary Frequency Response. Interconnection Customer shall ensure the primary frequency response capability of its Electric Generating Unit(s) by installing, maintaining, and operating a functioning governor or equivalent controls. The term "functioning governor or equivalent controls" as used herein shall mean the required hardware and/or software that provides frequency responsive real power control with the ability to sense changes in system frequency and autonomously adjust the Electric Generating Unit's real power output in accordance with the droop and

deadband parameters and in the direction needed to correct frequency deviations. Interconnection Customer is required to install a governor or equivalent controls with the capability of operating: (1) with a maximum 5 percent droop and ±0.036 Hz deadband; or (2) in accordance with the relevant droop, deadband, and timely and sustained response settings from Applicable Reliability Standards providing for equivalent or more stringent parameters. The droop characteristic shall be: (1) based on the nameplate capacity of the Electric Generating Unit(s), and shall be linear in the range of frequencies between 59 to 61 Hz that are outside of the deadband parameter; or (2) based on Applicable Reliability Standards providing for an equivalent or more stringent parameter. The deadband parameter shall be: the range of frequencies above and below nominal (60 Hz) in which the governor or equivalent controls is not expected to adjust the Electric Generating Units' real power output in response to frequency deviations. The deadband shall be implemented: (1) without a step to the droop curve, that is, once the frequency deviation exceeds the deadband parameter, the expected change in the Electric Generating Units' real power output in response to frequency deviations shall start from zero and then increase (for under-frequency deviations) or decrease (for over-frequency deviations) linearly in proportion to the magnitude of the frequency deviation; or (2) in accordance with Applicable Reliability Standards providing for an equivalent or more stringent parameter. Interconnection Customer shall notify the CAISO that the primary frequency response capability of the Electric Generating Unit(s) has been tested and confirmed during commissioning. Once Interconnection Customer has synchronized the Electric Generating Unit(s) with the CAISO Controlled Grid, Interconnection Customer shall operate the Electric Generating Unit(s) consistent with the provisions specified in Sections 9.6.4.1 and 9.6.4.2 of this LGIA. The primary frequency response requirements contained herein shall apply to both synchronous and non-synchronous Large Generating Facilities.

9.6.4.1 Governor or Equivalent Controls. Whenever the Electric Generating Unit(s) is operated in parallel with the CAISO Controlled Grid, Interconnection Customer shall operate the Electric Generating Unit(s) with its governor or equivalent controls in service and responsive to frequency. Interconnection Customer shall, in coordination with the CAISO, set the deadband parameter to: (1) a maximum of ±0.036 Hz and set the droop parameter to a maximum of 5 percent; or (2) implement the relevant droop and deadband settings from Applicable Reliability Standards that provides for equivalent or more stringent parameters. Interconnection Customer shall be required to provide the status and settings of the governor or equivalent controls to the CAISO upon request. If Interconnection Customer needs to operate the Electric Generating Unit(s) with its governor or equivalent controls

not in service, Interconnection Customer shall immediately notify the CAISO, and provide the following information: (1) the operating status of the governor or equivalent controls (i.e., whether it is currently out of service or when it will be taken out of service); (2) the reasons for removing the governor or equivalent controls from service; and (3) a reasonable estimate of when the governor or equivalent controls will be returned to service. Interconnection Customer shall make Reasonable Efforts to return its governor or equivalent controls into service as soon as practicable. Interconnection Customer shall make Reasonable Efforts to keep outages of the Electric Generating Units' governor or equivalent controls to a minimum whenever the Electric Generating Unit(s) is operated in parallel with the CAISO Controlled Grid.

9.6.4.2 Timely and Sustained Response. Interconnection Customer shall ensure that the Electric Generating Units' real power response to sustained frequency deviations outside of the deadband setting is automatically provided and shall begin immediately after frequency deviates outside of the deadband, and to the extent the Electric Generating Unit(s) has operating capability in the direction needed to correct the frequency deviation. Interconnection Customer shall not block or otherwise inhibit the ability of the governor or equivalent controls to respond and shall ensure that the response is not inhibited, except under certain operational constraints including, but not limited to, ambient temperature limitations, physical energy limitations, outages of mechanical equipment, or regulatory requirements. The Electric Generating Unit(s) shall sustain the real power response at least until system frequency returns to a value within the deadband setting of the governor or equivalent controls. A FERC-approved Applicable Reliability Standard with equivalent or more stringent requirements shall supersede the above requirements.

9.6.4.3 Exemptions. Large Generating Facilities that are regulated by the Nuclear Regulatory Commission shall be exempt from Sections 9.6.4, 9.6.4.1, and 9.6.4.2 of this LGIA. Large Generating Facilities that are behind-the-meter generation that is sized-to-load (i.e., the thermal load and the generation are near-balanced in real-time operation and the generation is primarily controlled to maintain the unique thermal, chemical, or mechanical output necessary for the operating requirements of its host facility) shall be required to install primary frequency response capability in accordance with the droop and deadband capability requirements specified in Section 9.6.4, but shall be otherwise exempt from the operating requirements in Sections 9.6.4, 9.6.4.1, 9.6.4.2, and 9.6.4.4 of this LGIA.

9.6.4.4 Electric Storage Resources. Interconnection Customer interconnecting an electric storage resource shall establish an operating range in Appendix C of this LGIA that specifies a minimum state of charge and a maximum state of charge between which the electric storage resource will be required to provide primary frequency response consistent with the conditions set forth in Sections 9.6.4, 9.6.4.1, 9.6.4.2, and 9.6.4.3 of this LGIA. Appendix C shall specify whether the operating range is static or dynamic, and shall consider (1) the expected magnitude of frequency deviations in the interconnection; (2) the expected duration that system frequency will remain outside of the deadband parameter in the interconnection; (3) the expected incidence of frequency deviations outside of the deadband parameter in the interconnection; (4) the physical capabilities of the electric storage resource; (5) operational limitations of the electric storage resource due to manufacturer specifications; and (6) any other relevant factors agreed to by the CAISO and Interconnection Customer, and in consultation with the relevant transmission owner or balancing authority as appropriate. If the operating range is dynamic, then Appendix C must establish how frequently the operating range will be reevaluated and the factors that may be considered during its reevaluation.

Interconnection Customer's electric storage resource is required to provide timely and sustained primary frequency response consistent with Section 9.6.4.2 of this LGIA when it is online and dispatched to inject electricity to the CAISO Controlled Grid and/or receive electricity from the Participating TO's Transmission System or the CAISO Controlled Grid. This excludes circumstances when the electric storage resource is not dispatched to inject electricity to the CAISO Controlled Grid and/or dispatched to receive electricity from the Participating TO's Transmission system or the CAISO Controlled Grid. If Interconnection Customer's electric storage resource is charging at the time of a frequency deviation outside of its deadband parameter, it is to increase (for over-frequency deviations) or decrease (for under-frequency deviations) the rate at which it is charging in accordance with its droop parameter. Interconnection Customer's electric storage resource is not required to change from charging to discharging, or vice versa, unless the response necessitated by the droop and deadband settings requires it to do so and it is technically capable of making such a transition.

9.7 Outages and Interruptions.

9.7.1 Outages.

9.7.1.1 Outage Authority and Coordination. Each Party may in accordance with Good Utility Practice in coordination with the other Parties remove from service any of its respective Interconnection Facilities or Network Upgrades that may impact another Party's facilities as necessary to perform maintenance or testing or to install or replace equipment. Absent an Emergency Condition, the Party scheduling a removal of such facility(ies) from service will use Reasonable Efforts to schedule such removal on a date and time mutually acceptable to all Parties. In all circumstances any Party planning to remove such facility(ies) from service shall use Reasonable Efforts to minimize the effect on the other Parties of such removal.

9.7.1.2 Outage Schedules. The CAISO shall post scheduled outages of CAISO Controlled Grid facilities in accordance with the provisions of the CAISO Tariff. The Interconnection Customer shall submit its planned maintenance schedules for the Large Generating Facility to the CAISO in accordance with the CAISO Tariff. The Interconnection Customer shall update its planned maintenance schedules in accordance with the CAISO Tariff. The CAISO may request the Interconnection Customer to reschedule its maintenance as necessary to maintain the reliability of the CAISO Controlled Grid in accordance with the CAISO Tariff. Such planned maintenance schedules and updates and changes to such schedules shall be provided by the Interconnection Customer to the Participating TO concurrently with their submittal to the CAISO. The CAISO shall compensate the Interconnection Customer for any additional direct costs that the Interconnection Customer incurs as a result of having to reschedule maintenance in accordance with the CAISO Tariff. The Interconnection Customer will not be eligible to receive compensation, if during the twelve (12) months prior to the date of the scheduled maintenance, the Interconnection Customer had modified its schedule of maintenance activities.

9.7.1.3 Outage Restoration. If an outage on a Party's Interconnection Facilities or Network Upgrades adversely affects another Party's operations or facilities, the Party that owns or controls the facility that is out of service shall use Reasonable Efforts to promptly restore such facility(ies) to a normal operating condition consistent with the nature of the outage. The Party that owns or controls the facility that is out of service shall provide the other Parties, to the extent such information is known, information

on the nature of the Emergency Condition, if the outage is caused by an Emergency Condition, an estimated time of restoration, and any corrective actions required. Initial verbal notice shall be followed up as soon as practicable with written notice explaining the nature of the outage, if requested by a Party, which may be provided by e-mail or facsimile.

9.7.2 Interruption of Service. If required by Good Utility Practice to do so, the CAISO or the Participating TO may require the Interconnection Customer to interrupt or reduce deliveries of electricity if such delivery of electricity could adversely affect the CAISO's or the Participating TO's ability to perform such activities as are necessary to safely and reliably operate and maintain the Participating TO's electric system or the CAISO Controlled Grid. The following provisions shall apply to any interruption or reduction permitted under this Article 9.7.2:

9.7.2.1 The interruption or reduction shall continue only for so long as reasonably necessary under Good Utility Practice;

9.7.2.2 Any such interruption or reduction shall be made on an equitable, non-discriminatory basis with respect to all generating facilities directly connected to the CAISO Controlled Grid, subject to any conditions specified in this LGIA;

9.7.2.3 When the interruption or reduction must be made under circumstances which do not allow for advance notice, the CAISO or Participating TO, as applicable, shall notify the Interconnection Customer by telephone as soon as practicable of the reasons for the curtailment, interruption, or reduction, and, if known, its expected duration. Telephone notification shall be followed by written notification, if requested by the Interconnection Customer, as soon as practicable;

9.7.2.4 Except during the existence of an Emergency Condition, the CAISO or Participating TO shall notify the Interconnection Customer in advance regarding the timing of such interruption or reduction and further notify the Interconnection Customer of the expected duration. The CAISO or Participating TO shall coordinate with the Interconnection Customer using Good Utility Practice to schedule the interruption or reduction during periods of least impact to the Interconnection Customer, the CAISO, and the Participating TO;

9.7.2.5 The Parties shall cooperate and coordinate with each other to the extent necessary in order to restore the Large Generating Facility, Interconnection Facilities, the Participating TO's

Transmission System, and the CAISO Controlled Grid to their normal operating state, consistent with system conditions and Good Utility Practice.

9.7.3 Under-Frequency and Over Frequency Conditions. The CAISO Controlled Grid is designed to automatically activate a load-shed program as required by Applicable Reliability Standards and the Applicable Reliability Council in the event of an under-frequency system disturbance. The Interconnection Customer shall implement under-frequency and over-frequency protection set points for the Large Generating Facility as required by Applicable Reliability Standards and the Applicable Reliability Council to ensure “ride through” capability. Large Generating Facility response to frequency deviations of pre-determined magnitudes, both under-frequency and over-frequency deviations, shall be studied and coordinated with the Participating TO and CAISO in accordance with Good Utility Practice. The term "ride through" as used herein shall mean the ability of a Generating Facility to stay connected to and synchronized with the CAISO Controlled Grid during system disturbances within a range of under-frequency and over-frequency conditions, in accordance with Good Utility Practice. Asynchronous Generating Facilities shall be subject to frequency ride through capability requirements in accordance with Appendix H to this LGIA.

9.7.4 System Protection and Other Control Requirements.

9.7.4.1 System Protection Facilities. The Interconnection Customer shall, at its expense, install, operate and maintain System Protection Facilities as a part of the Large Generating Facility or the Interconnection Customer’s Interconnection Facilities. The Participating TO shall install at the Interconnection Customer's expense any System Protection Facilities that may be required on the Participating TO’s Interconnection Facilities or the Participating TO’s Transmission System as a result of the interconnection of the Large Generating Facility and the Interconnection Customer’s Interconnection Facilities.

9.7.4.2 The Participating TO’s and Interconnection Customer’s protection facilities shall be designed and coordinated with other systems in accordance with Applicable Reliability Standards, Applicable Reliability Council criteria, and Good Utility Practice.

9.7.4.3 The Participating TO and Interconnection Customer shall each be responsible for protection of its facilities consistent with Good Utility Practice.

9.7.4.4 The Participating TO's and Interconnection Customer's protective relay design shall incorporate the necessary test switches to perform the tests required in Article 6. The required test switches will be placed such that they allow operation of lockout relays while preventing breaker failure schemes from operating and causing unnecessary breaker operations and/or the tripping of the Interconnection Customer's Electric Generating Units.

9.7.4.5 The Participating TO and Interconnection Customer will test, operate and maintain System Protection Facilities in accordance with Good Utility Practice and, if applicable, the requirements of the Participating TO's Interconnection Handbook.

9.7.4.6 Prior to the in-service date, and again prior to the Commercial Operation Date, the Participating TO and Interconnection Customer or their agents shall perform a complete calibration test and functional trip test of the System Protection Facilities. At intervals suggested by Good Utility Practice, the standards and procedures of the Participating TO, including, if applicable, the requirements of the Participating TO's Interconnection Handbook, and following any apparent malfunction of the System Protection Facilities, each Party shall perform both calibration and functional trip tests of its System Protection Facilities. These tests do not require the tripping of any in-service generation unit. These tests do, however, require that all protective relays and lockout contacts be activated.

9.7.5 Requirements for Protection. In compliance with Good Utility Practice and, if applicable, the requirements of the Participating TO's Interconnection Handbook, the Interconnection Customer shall provide, install, own, and maintain relays, circuit breakers and all other devices necessary to remove any fault contribution of the Large Generating Facility to any short circuit occurring on the Participating TO's Transmission System not otherwise isolated by the Participating TO's equipment, such that the removal of the fault contribution shall be coordinated with the protective requirements of the Participating TO's Transmission System. Such protective equipment shall include, without limitation, a disconnecting device with fault current-interrupting capability located between the Large Generating Facility and the Participating TO's Transmission System at a site selected upon mutual agreement (not to be unreasonably withheld, conditioned or delayed) of the Parties. The Interconnection Customer shall be responsible for protection of the Large Generating Facility and the Interconnection Customer's other equipment from such conditions as negative sequence currents, over- or under-frequency, sudden load rejection, over- or under-voltage, and generator

loss-of-field. The Interconnection Customer shall be solely responsible to disconnect the Large Generating Facility and the Interconnection Customer's other equipment if conditions on the CAISO Controlled Grid could adversely affect the Large Generating Facility.

9.7.6 Power Quality. Neither the Participating TO's nor the Interconnection Customer's facilities shall cause excessive voltage flicker nor introduce excessive distortion to the sinusoidal voltage or current waves as defined by ANSI Standard C84.1-1989, in accordance with IEEE Standard 519, any applicable superseding electric industry standard, or any alternative Applicable Reliability Standard or Applicable Reliability Council standard. In the event of a conflict among ANSI Standard C84.1-1989, any applicable superseding electric industry standard, or any alternative Applicable Reliability Standard or Applicable Reliability Council standard, the alternative Applicable Reliability Standard or Applicable Reliability Council standard shall control.

9.8 Switching and Tagging Rules. Each Party shall provide the other Parties a copy of its switching and tagging rules that are applicable to the other Parties' activities. Such switching and tagging rules shall be developed on a non-discriminatory basis. The Parties shall comply with applicable switching and tagging rules, as amended from time to time, in obtaining clearances for work or for switching operations on equipment.

9.9 Use of Interconnection Facilities by Third Parties.

9.9.1 Purpose of Interconnection Facilities. Except as may be required by Applicable Laws and Regulations, or as otherwise agreed to among the Parties, the Interconnection Facilities shall be constructed for the sole purpose of interconnecting the Large Generating Facility to the Participating TO's Transmission System and shall be used for no other purpose.

9.9.2 Third Party Users. If required by Applicable Laws and Regulations or if the Parties mutually agree, such agreement not to be unreasonably withheld, to allow one or more third parties to use the Participating TO's Interconnection Facilities, or any part thereof, the Interconnection Customer will be entitled to compensation for the capital expenses it incurred in connection with the Interconnection Facilities based upon the pro rata use of the Interconnection Facilities by the Participating TO, all third party users, and the Interconnection Customer, in accordance with Applicable Laws and Regulations or upon some other mutually-agreed upon methodology. In addition, cost responsibility for ongoing costs, including operation and maintenance costs associated with the Interconnection Facilities, will be allocated between the Interconnection Customer and any third party users based upon the pro rata use of the

Interconnection Facilities by the Participating TO, all third party users, and the Interconnection Customer, in accordance with Applicable Laws and Regulations or upon some other mutually agreed upon methodology. If the issue of such compensation or allocation cannot be resolved through such negotiations, it shall be submitted to FERC for resolution.

9.10 Disturbance Analysis Data Exchange. The Parties will cooperate with one another in the analysis of disturbances to either the Large Generating Facility or the CAISO Controlled Grid by gathering and providing access to any information relating to any disturbance, including information from oscillography, protective relay targets, breaker operations and sequence of events records, and any disturbance information required by Good Utility Practice.

ARTICLE 10. MAINTENANCE

10.1 Participating TO Obligations. The Participating TO shall maintain the Participating TO's Transmission System and the Participating TO's Interconnection Facilities in a safe and reliable manner and in accordance with this LGIA.

10.2 Interconnection Customer Obligations. The Interconnection Customer shall maintain the Large Generating Facility and the Interconnection Customer's Interconnection Facilities in a safe and reliable manner and in accordance with this LGIA.

10.3 Coordination. The Parties shall confer regularly to coordinate the planning, scheduling and performance of preventive and corrective maintenance on the Large Generating Facility and the Interconnection Facilities.

10.4 Secondary Systems. The Participating TO and Interconnection Customer shall cooperate with the other Parties in the inspection, maintenance, and testing of control or power circuits that operate below 600 volts, AC or DC, including, but not limited to, any hardware, control or protective devices, cables, conductors, electric raceways, secondary equipment panels, transducers, batteries, chargers, and voltage and current transformers that directly affect the operation of a Party's facilities and equipment which may reasonably be expected to impact the other Parties. Each Party shall provide advance notice to the other Parties before undertaking any work on such circuits, especially on electrical circuits involving circuit breaker trip and close contacts, current transformers, or potential transformers.

10.5 Operating and Maintenance Expenses. Subject to the provisions herein addressing the use of facilities by others, and except for operations and maintenance expenses associated with modifications made for providing interconnection or transmission service to a third party and such third party pays for such expenses, the Interconnection Customer shall be responsible for all

reasonable expenses including overheads, associated with: (1) owning, operating, maintaining, repairing, and replacing the Interconnection Customer's Interconnection Facilities; and (2) operation, maintenance, repair and replacement of the Participating TO's Interconnection Facilities.

ARTICLE 11. PERFORMANCE OBLIGATION

11.1 Interconnection Customer's Interconnection Facilities. The Interconnection Customer shall design, procure, construct, install, own and/or control the Interconnection Customer's Interconnection Facilities described in Appendix A at its sole expense.

11.2 Participating TO's Interconnection Facilities. The Participating TO shall design, procure, construct, install, own and/or control the Participating TO's Interconnection Facilities described in Appendix A at the sole expense of the Interconnection Customer. Unless the Participating TO elects to fund the capital for the Participating TO's Interconnection Facilities, they shall be solely funded by the Interconnection Customer.

11.3 Network Upgrades and Distribution Upgrades. The Participating TO shall design, procure, construct, install, and own the Network Upgrades and Distribution Upgrades described in Appendix A, except for Stand Alone Network Upgrades, which will be constructed, and if agreed to by the Parties owned by the Interconnection Customer, and Merchant Network Upgrades. The Interconnection Customer shall be responsible for all costs related to Distribution Upgrades. Network Upgrades shall be funded by the Interconnection Customer, which for Interconnection Customers processed under Section 6 of the GIDAP (in Queue Clusters) shall be in an amount determined pursuant to the methodology set forth in Section 6.3 of the GIDAP. This specific amount is set forth in Appendix G to this LGIA. For costs associated with Area Delivery Network Upgrades, any amounts set forth in Appendix G will be advisory estimates only, and will not operate to establishing any cap or Maximum Cost Exposure on the cost responsibility of the Interconnection Customer for Area Delivery Network Upgrades.

11.4 Transmission Credits. No later than thirty (30) Calendar Days prior to the Commercial Operation Date, the Interconnection Customer may make a one-time election by written notice to the CAISO and the Participating TO to (a) receive Congestion Revenue Rights as defined in and as available under the CAISO Tariff at the time of the election in accordance with the CAISO Tariff, in lieu of a repayment of the cost of Network Upgrades in accordance with Article 11.4.1, and/or (b) decline all or part of a refund of the cost of Network Upgrades entitled to the Interconnection Customer in accordance with Article 11.4.1.

11.4.1 Repayment of Amounts Advanced for Network Upgrades.

11.4.1.1 Repayment of Amounts Advanced Regarding Non-Phased Generating Facilities

An Interconnection Customer with a non-Phased Generating Facility in Queue Cluster 5 or earlier, or an Interconnection Customer in the Independent Study Process or the Fast Track Process that has been tendered a Generator Interconnection Agreement before December 19, 2014, shall be entitled to a repayment for the Interconnection Customer's contribution to the cost of Network Upgrades commencing upon the Commercial Operation Date of its Generating Facility.

An Interconnection Customer with a non-Phased Generating Facility in Queue Cluster 6 or later, or an Interconnection Customer in the Independent Study Process or the Fast Track Process that has not been tendered an Interconnection Agreement before December 19, 2014, shall be entitled to repayment for the Interconnection Customer's contribution to the cost of Network Upgrades placed in service on or before the Commercial Operation Date of its Generating Facility, commencing upon the Commercial Operation Date of the Generating Facility. Repayment for the Interconnection Customer's contribution to the cost of Network Upgrades placed into service after the Commercial Operation Date of its Generating Facility shall, for each of these Network Upgrades, commence no later than the later of: (i) the first month of the calendar year following the year in which the Network Upgrade is placed into service or (ii) 90 days after the Network Upgrade is placed into service.

An Interconnection Customer subject to this Article 11.4.1.1 shall be entitled to repayment for its contribution to the cost of Network Upgrades as follows:

(a) For Reliability Network Upgrades, the Interconnection Customer shall be entitled to a repayment of the amount paid by the Interconnection Customer for Reliability Network Upgrades as set forth in Appendix G, up to a maximum amount established in Section 14.3.2.1 of the GIDAP. For purposes of this determination, generating capacity will be based on the capacity of the Interconnection Customer's Generating Facility at the time it achieves Commercial Operation. To the extent that such repayment does not cover all of the costs of Interconnection Customer's Reliability Network Upgrades, the Interconnection Customer shall receive Merchant Transmission CRRs for that portion of its Reliability Network Upgrades that are not covered by cash repayment.

(b) For Local Delivery Network Upgrades:

i. If the Interconnection Customer is an Option (B) Interconnection Customer and has been allocated and continues to be eligible to receive TP Deliverability pursuant to the GIDAP, the Interconnection Customer shall be entitled to repayment of a portion of the total amount paid to the Participating TO for the costs of Local Delivery Network Upgrades for which it is responsible, as set forth in Appendix G. The repayment amount shall be determined by dividing the amount of TP Deliverability received by the amount of deliverability requested by the Interconnection Customer, and multiplying that percentage by the total amount paid to the Participating TO by the Interconnection Customer for Local Delivery Network Upgrades.

ii. If the Generating Facility is an Option (B) Generating Facility and has not been allocated any TP Deliverability, the Interconnection Customer shall not be entitled to repayment for the costs of Local Delivery Network Upgrades.

iii. If the Generating Facility is an Option (A) Generating Facility, the Interconnection Customer shall be entitled to a repayment equal to the total amount paid to the Participating TO for the costs of Local Delivery Network Upgrades for which it is responsible, as set forth in Appendix G.

(c) For Area Delivery Network Upgrades, the Interconnection Customer shall not be entitled to repayment for the costs of Area Delivery Network Upgrades.

(d) If an Interconnection Customer having a Option (B) Generating Facility, and is eligible, to construct and own Network Upgrades pursuant to the Merchant Option set forth in Article 5.15 of this LGIA, then the Interconnection Customer shall not be entitled to any repayment pursuant to this LGIA.

(e) For Local Off-Peak Network Upgrades, the Interconnection Customer will be entitled to a repayment equal to the total amount paid to the Participating TO for the costs of Local Delivery Network Upgrades for which it is responsible, as set forth in Appendix G.

Unless an Interconnection Customer has provided written notice to the CAISO that it is declining all or part of such repayment, such amounts shall include any tax gross-up or other tax-related payments associated with Network Upgrades not refunded to the Interconnection Customer pursuant to Article 5.17.8 or otherwise, and shall be paid to the Interconnection Customer by the Participating TO on a dollar-for-dollar

basis either through (1) direct payments made on a levelized basis over the five-year period commencing on the applicable date as provided for in this Article 11.4.1.1; or (2) any alternative payment schedule that is mutually agreeable to the Interconnection Customer and Participating TO, provided that such amount is paid within five (5) years of the applicable commencement date. Notwithstanding the foregoing, if this LGIA terminates within five (5) years of the applicable commencement date, the Participating TO's obligation to pay refunds to the Interconnection Customer shall cease as of the date of termination.

(f) Where the Interconnection Customer finances the construction of Network Upgrades for more than one Participating TO, the cost allocation, Interconnection Financial Security, and repayment will be conducted pursuant to Section 14.4.1 of the GIDAP, and set forth in Appendix G.

11.4.1.2 Repayment of Amounts Advanced Regarding Phased Generating Facilities

Upon the Commercial Operation Date of each phase of a Phased Generating Facility, the Interconnection Customer shall be entitled to a repayment equal to the Interconnection Customer's contribution to the cost of Network Upgrades for that completed phase for which the Interconnection Customer is responsible, as set forth in Appendix G, subject to the limitations specified in Article 11.4.1.1, if the following conditions are satisfied as described below:

(a) The Generating Facility is capable of being constructed in phases;

(b) The Generating Facility is specified in the LGIA as being constructed in phases;

(c) The completed phase corresponds to one of the phases specified in the LGIA;

(d) The phase has achieved Commercial Operation and the Interconnection Customer has tendered notice of the same pursuant to this LGIA;

(e) All Parties to the LGIA have confirmed that the completed phase meets the requirements set forth in this LGIA and any other operating, metering, and interconnection requirements to permit generation output of the entire capacity of the completed phase as specified in this LGIA;

(f) The Network Upgrades necessary for the completed phase to meet the desired level of deliverability are in service; and

(g) The Interconnection Customer has posted one hundred (100) percent of the Interconnection Financial Security required for the Network Upgrades for all the phases of the Generating Facility (or if less than one hundred (100) percent has been posted, then all required Financial Security Instruments to the date of commencement of repayment).

Following satisfaction of these conditions (a) through (g), an Interconnection Customer in a Queue Cluster earlier than Queue Cluster 5, or an Interconnection Customer in the Independent Study Process or the Fast Track Process that has been tendered a Generator Interconnection Agreement before December 19, 2014, shall be entitled to receive a partial repayment of its financed cost responsibility, to the extent that it is otherwise eligible for such repayment per Article 11.4.1.1, in an amount equal to the percentage of the Generating Facility declared to be in Commercial Operation multiplied by the cost of the Network Upgrades associated with the completed phase. The Interconnection Customer shall be entitled to repayment in this manner for each completed phase until the entire Generating Facility is completed.

Following satisfaction of these conditions (a) through (e) and (g), an Interconnection Customer in Queue Cluster 6 or a later Queue Cluster, or an Interconnection Customer in the Independent Study Process or the Fast Track Process that has not been tendered a Generator Interconnection Agreement before December 19, 2014, shall be entitled to receive a repayment of its financed cost responsibility for the Network Upgrades associated with the completed phase that have been placed in service. The Interconnection Customer shall be entitled to repayment in this manner for each completed phase until the entire Generating Facility is completed. With respect to any Network Upgrades necessary for a completed phase to meet its desired level of deliverability that are not in service by the time the phase achieves Commercial Operation, repayment for each such Network Upgrade will commence no later than the later of: (i) the first month of the calendar year following the year in which the Network Upgrade is placed into service or (ii) 90 days after the Network Upgrade is placed into service.

A reduction in the electrical output (MW capacity) of the Generating Facility pursuant to the CAISO Tariff shall not diminish the Interconnection Customer's right to repayment pursuant to this LGIA Article 11.4.1.2. If the LGIA includes a partial termination provision and the partial termination right has been exercised with regard to a phase that has not been built, then the Interconnection Customer's eligibility for repayment

under this Article 11.4.1.2 as to the remaining phases shall not be diminished. If the Interconnection Customer completes one or more phases and then breaches the LGIA, the Participating TO and the CAISO shall be entitled to offset any losses or damages resulting from the Breach against any repayments made for Network Upgrades related to the completed phases.

Any repayment amount provided pursuant to this Article 11.4.1.2 shall include any tax gross-up or other tax-related payments associated with Network Upgrades not refunded to the Interconnection Customer pursuant to Article 5.17.8 or otherwise, and shall be paid to the Interconnection Customer by the Participating TO on a dollar-for-dollar basis either through (1) direct payments made on a levelized basis over the five-year period commencing on the applicable as provided for in this Article 11.4.1.2; or (2) any alternative payment schedule that is mutually agreeable to the Interconnection Customer and Participating TO, provided that such amount is paid within five (5) years of the applicable commencement date. Notwithstanding the foregoing, if this LGIA terminates within five (5) years of the applicable commencement date, the Participating TO's obligation to pay refunds to the Interconnection Customer shall cease as of the date of termination.

11.4.1.3 Interest Payments and Assignment Rights

Any phased or non-phased repayment shall include interest calculated in accordance with the methodology set forth in FERC's regulations at 18 C.F.R. §35.19a(a)(2)(iii) from the date of any payment for Network Upgrades through the date on which the Interconnection Customer receives a repayment of such payment. Interest shall continue to accrue on the repayment obligation so long as this LGIA is in effect. The Interconnection Customer may assign such repayment rights to any entity.

11.4.1.4 Failure to Achieve Commercial Operation

If the Large Generating Facility fails to achieve Commercial Operation, but it or another generating facility is later constructed and makes use of the Network Upgrades, the Participating TO shall at that time reimburse Interconnection Customer for the amounts advanced for the Network Upgrades. Before any such reimbursement can occur, the Interconnection Customer, or the entity that ultimately constructs the generating facility, if different, is responsible for identifying and demonstrating to the Participating TO the appropriate entity to which reimbursement must be made in order to implement the intent of this reimbursement obligation.

11.4.2 Special Provisions for Affected Systems. The Interconnection Customer shall enter into an agreement with the owner of the Affected System and/or other affected owners of portions of the CAISO Controlled Grid, as applicable, in accordance with the GIDAP. Such agreement shall specify the terms governing payments to be made by the Interconnection Customer to the owner of the Affected System and/or other affected owners of portions of the CAISO Controlled Grid as well as the repayment by the owner of the Affected System and/or other affected owners of portions of the CAISO Controlled Grid. In no event shall the Participating TO be responsible for the repayment for any facilities that are not part of the Participating TO's Transmission System. In the event the Participating TO is a joint owner with an Affected System or with any other co-owner of a facility affected by the Large Generating Facility, the Participating TO's obligation to reimburse the Interconnection Customer for payments made to address the impacts of the Large Generating Facility on the system shall not exceed the proportionate amount of the cost of any upgrades attributable to the proportion of the jointly-owned facility owned by the Participating TO.

11.4.3 Notwithstanding any other provision of this LGIA, nothing herein shall be construed as relinquishing or foreclosing any rights, including but not limited to firm transmission rights, capacity rights, Congestion Revenue Rights, or transmission credits, that the Interconnection Customer shall be entitled to, now or in the future under any other agreement or tariff as a result of, or otherwise associated with, the transmission capacity, if any, created by the Network Upgrades, including the right to obtain cash reimbursements, merchant transmission Congestion Revenue Rights in accordance with Section 36.11 of the CAISO Tariff, or transmission credits for transmission service that is not associated with the Large Generating Facility.

11.5 Provision of Interconnection Financial Security. The Interconnection Customer is obligated to provide all necessary Interconnection Financial Security required under Section 11 of the GIDAP in a manner acceptable under Section 11 of the GIDAP. Failure by the Interconnection Customer to timely satisfy the GIDAP's requirements for the provision of Interconnection Financial Security shall be deemed a breach of this Agreement and a condition of Default of this Agreement.

11.5.1 Notwithstanding any other provision of this Agreement for notice of Default and opportunity to cure such Default, the CAISO or the Participating TO shall provide the Interconnection Customer with written notice of any Default due to timely failure to post Interconnection Financial Security, and the Interconnection Customer shall have five (5) Business Days from the date of such notice to cure such Default by posting the required

Interconnection Financial Security. If the Interconnection Customer fails to cure the Default, then this Agreement shall be deemed terminated.

11.6 Interconnection Customer Compensation. If the CAISO requests or directs the Interconnection Customer to provide a service pursuant to Articles 9.6.3 (Payment for Reactive Power) or 13.5.1 of this LGIA, the CAISO shall compensate the Interconnection Customer in accordance with the CAISO Tariff.

11.6.1 Interconnection Customer Compensation for Actions During Emergency Condition. The CAISO shall compensate the Interconnection Customer in accordance with the CAISO Tariff for its provision of real and reactive power and other Emergency Condition services that the Interconnection Customer provides to support the CAISO Controlled Grid during an Emergency Condition in accordance with Article 11.6.

ARTICLE 12. INVOICE

12.1 General. The Participating TO shall submit to the Interconnection Customer, on a monthly basis, invoices of amounts due pursuant to this LGIA for the preceding month. Each invoice shall state the month to which the invoice applies and fully describe the services and equipment provided. The Parties may discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all amounts a Party owes to the other Party under this LGIA, including interest payments or credits, shall be netted so that only the net amount remaining due shall be paid by the owing Party. Notwithstanding the foregoing, any invoices between the CAISO and another Party shall be submitted and paid in accordance with the CAISO Tariff.

12.2 Final Invoice. As soon as reasonably practicable, but within twelve months after completion of the construction of the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades, the Participating TO shall provide an invoice of the final cost of the construction of the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades, and shall set forth such costs in sufficient detail to enable the Interconnection Customer to compare the actual costs with the estimates and to ascertain deviations, if any, from the cost estimates. With respect to costs associated with the Participating TO's Interconnection Facilities and Distribution Upgrades, the Participating TO shall refund to the Interconnection Customer any amount by which the actual payment by the Interconnection Customer for estimated costs exceeds the actual costs of construction within thirty (30) Calendar Days of the issuance of such final construction invoice; or, in the event the actual costs of construction exceed the Interconnection Customer's actual payment for estimated costs, then the Interconnection Customer shall pay to the Participating TO any amount by which the actual costs of construction exceed the actual payment by the Interconnection Customer for estimated costs within thirty (30)

Calendar Days of the issuance of such final construction invoice. With respect to costs associated with Network Upgrades, the Participating TO shall refund to the Interconnection Customer any amount by which the actual payment by the Interconnection Customer for estimated costs exceeds the actual costs of construction multiplied by the Interconnection Customer's percentage share of those costs, as set forth in Appendix G to this LGIA within thirty (30) Calendar Days of the issuance of such final construction invoice. In the event the actual costs of construction multiplied by the Interconnection Customer's percentage share of those costs exceed the Interconnection Customer's actual payment for estimated costs, then the Participating TO shall recover such difference through its transmission service rates.

12.3 Payment. Invoices shall be rendered to the Interconnection Customer at the address specified in Appendix F. The Interconnection Customer shall pay, or Participating TO shall refund, the amounts due within thirty (30) Calendar Days of the Interconnection Customer's receipt of the invoice. All payments shall be made in immediately available funds payable to the Interconnection Customer or Participating TO, or by wire transfer to a bank named and account designated by the invoicing Interconnection Customer or Participating TO. Payment of invoices by any Party will not constitute a waiver of any rights or claims any Party may have under this LGIA.

12.4 Disputes. In the event of a billing dispute between the Interconnection Customer and the Participating TO, the Participating TO and the CAISO shall continue to provide Interconnection Service under this LGIA as long as the Interconnection Customer: (i) continues to make all payments not in dispute; and (ii) pays to the Participating TO or into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If the Interconnection Customer fails to meet these two requirements for continuation of service, then the Participating TO may provide notice to the Interconnection Customer of a Default pursuant to Article 17. Within thirty (30) Calendar Days after the resolution of the dispute, the Party that owes money to the other Party shall pay the amount due with interest calculated in accordance with the methodology set forth in FERC's Regulations at 18 C.F.R. § 35.19a(a)(2)(iii). Notwithstanding the foregoing, any billing dispute between the CAISO and another Party shall be resolved in accordance with the provisions of Article 27 of this LGIA.

ARTICLE 13. EMERGENCIES

13.1 [Reserved]

13.2 Obligations. Each Party shall comply with the Emergency Condition procedures of the CAISO, NERC, the Applicable Reliability Council, Applicable Reliability Standards, Applicable Laws and Regulations, and any emergency procedures set forth in this LGIA.

13.3 Notice. The Participating TO or the CAISO shall notify the Interconnection Customer promptly when it becomes aware of an Emergency Condition that affects the Participating TO's Interconnection Facilities or Distribution System or the CAISO Controlled Grid, respectively, that may reasonably be expected to affect the Interconnection Customer's operation of the Large Generating Facility or the Interconnection Customer's Interconnection Facilities. The Interconnection Customer shall notify the Participating TO and the CAISO promptly when it becomes aware of an Emergency Condition that affects the Large Generating Facility or the Interconnection Customer's Interconnection Facilities that may reasonably be expected to affect the CAISO Controlled Grid or the Participating TO's Interconnection Facilities. To the extent information is known, the notification shall describe the Emergency Condition, the extent of the damage or deficiency, the expected effect on the operation of the Interconnection Customer's or Participating TO's facilities and operations, its anticipated duration and the corrective action taken and/or to be taken. The initial notice shall be followed as soon as practicable with written notice, if requested by a Party, which may be provided by electronic mail or facsimile, or in the case of the CAISO may be publicly posted on the CAISO's internet web site.

13.4 Immediate Action. Unless, in the Interconnection Customer's reasonable judgment, immediate action is required, the Interconnection Customer shall obtain the consent of the CAISO and the Participating TO, such consent to not be unreasonably withheld, prior to performing any manual switching operations at the Large Generating Facility or the Interconnection Customer's Interconnection Facilities in response to an Emergency Condition declared by the Participating TO or CAISO or in response to any other emergency condition.

13.5 CAISO and Participating TO Authority.

13.5.1 General. The CAISO and Participating TO may take whatever actions or inactions, including issuance of dispatch instructions, with regard to the CAISO Controlled Grid or the Participating TO's Interconnection Facilities or Distribution System they deem necessary during an Emergency Condition in order to (i) preserve public health and safety, (ii) preserve the reliability of the CAISO Controlled Grid or the Participating TO's Interconnection Facilities or Distribution System, (iii) limit or prevent damage, and (iv) expedite restoration of service.

The Participating TO and the CAISO shall use Reasonable Efforts to minimize the effect of such actions or inactions on the Large Generating Facility or the Interconnection Customer's Interconnection Facilities. The Participating TO or the CAISO may, on the basis of technical considerations, require the Large Generating Facility to mitigate an Emergency Condition by taking actions necessary and limited in scope to remedy the Emergency Condition, including, but not limited to, directing the Interconnection Customer to shut-down, start-up, increase or decrease

the real or reactive power output of the Large Generating Facility; implementing a reduction or disconnection pursuant to Article 13.5.2; directing the Interconnection Customer to assist with black start (if available) or restoration efforts; or altering the outage schedules of the Large Generating Facility and the Interconnection Customer's Interconnection Facilities. Interconnection Customer shall comply with all of the CAISO's Dispatch Instructions and Operating Instructions and Participating TO's dispatch instructions or Operating Instructions concerning Large Generating Facility real power and reactive power output within the manufacturer's design limitations of the Large Generating Facility's equipment that is in service and physically available for operation at the time, in compliance with Applicable Laws and Regulations.

13.5.2 Reduction and Disconnection. The Participating TO or the CAISO may reduce Interconnection Service or disconnect the Large Generating Facility or the Interconnection Customer's Interconnection Facilities when such reduction or disconnection is necessary under Good Utility Practice due to Emergency Conditions. These rights are separate and distinct from any right of curtailment of the CAISO pursuant to the CAISO Tariff. When the CAISO or Participating TO can schedule the reduction or disconnection in advance, the CAISO or Participating TO shall notify the Interconnection Customer of the reasons, timing and expected duration of the reduction or disconnection. The CAISO or Participating TO shall coordinate with the Interconnection Customer using Good Utility Practice to schedule the reduction or disconnection during periods of least impact to the Interconnection Customer and the CAISO and Participating TO. Any reduction or disconnection shall continue only for so long as reasonably necessary under Good Utility Practice. The Parties shall cooperate with each other to restore the Large Generating Facility, the Interconnection Facilities, and the CAISO Controlled Grid to their normal operating state as soon as practicable consistent with Good Utility Practice.

13.6 Interconnection Customer Authority. Consistent with Good Utility Practice, this LGIA, and the CAISO Tariff, the Interconnection Customer may take actions or inactions with regard to the Large Generating Facility or the Interconnection Customer's Interconnection Facilities during an Emergency Condition in order to (i) preserve public health and safety, (ii) preserve the reliability of the Large Generating Facility or the Interconnection Customer's Interconnection Facilities, (iii) limit or prevent damage, and (iv) expedite restoration of service. Interconnection Customer shall use Reasonable Efforts to minimize the effect of such actions or inactions on the CAISO Controlled Grid and the Participating TO's Interconnection Facilities. The CAISO and Participating TO shall use Reasonable Efforts to assist Interconnection Customer in such actions.

13.7 Limited Liability. Except as otherwise provided in Article 11.6.1 of this LGIA, no Party shall be liable to any other Party for any action it takes in responding to an Emergency Condition so long as such action is made in good faith and is consistent with Good Utility Practice.

ARTICLE 14. REGULATORY REQUIREMENTS AND GOVERNING LAWS

14.1 Regulatory Requirements. Each Party's obligations under this LGIA shall be subject to its receipt of any required approval or certificate from one or more Governmental Authorities in the form and substance satisfactory to the applying Party, or the Party making any required filings with, or providing notice to, such Governmental Authorities, and the expiration of any time period associated therewith. Each Party shall in good faith seek and use its Reasonable Efforts to obtain such other approvals. Nothing in this LGIA shall require the Interconnection Customer to take any action that could result in its inability to obtain, or its loss of, status or exemption under the Federal Power Act or the Public Utility Holding Company Act of 1935, as amended, or the Public Utility Regulatory Policies Act of 1978, or the Energy Policy Act of 2005.

14.2 Governing Law.

14.2.1 The validity, interpretation and performance of this LGIA and each of its provisions shall be governed by the laws of the state where the Point of Interconnection is located, without regard to its conflicts of law principles.

14.2.2 This LGIA is subject to all Applicable Laws and Regulations.

14.2.3 Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, rules, or regulations of a Governmental Authority.

ARTICLE 15. NOTICES

15.1 General. Unless otherwise provided in this LGIA, any notice, demand or request required or permitted to be given by a Party to another and any instrument required or permitted to be tendered or delivered by a Party in writing to another shall be effective when delivered and may be so given, tendered or delivered, by recognized national courier, conveyed by e-mail, or by depositing the same with the United States Postal Service with postage prepaid, for delivery by certified or registered mail, addressed to the Party, or personally delivered to the Party, at the address set out in Appendix F, Addresses for Delivery of Notices and Billings. A Party must update the information in Appendix F as information changes. A Party may change the notice information in this LGIA by giving five (5) Business Days written notice prior to the effective date of the change. Such changes shall not constitute an amendment to this LGIA.

15.2 Billings and Payments. Billings and payments shall be sent to the addresses set out in Appendix F.

15.3 Alternative Forms of Notice. Any notice or request required or permitted to be given by a Party to another and not required by this LGIA to be given as provided in Article 15.1 may be so given by telephone, or e-mail to the telephone numbers and e-mail addresses set out in Appendix F.

15.4 Operations and Maintenance Notice. Each Party shall notify the other Parties in writing of the identity of the person(s) that it designates as the point(s) of contact with respect to the implementation of Articles 9 and 10.

ARTICLE 16. FORCE MAJEURE

16.1 Force Majeure.

16.1.1 Economic hardship is not considered a Force Majeure event.

16.1.2 No Party shall be considered to be in Default with respect to any obligation hereunder, (including obligations under Article 4), other than the obligation to pay money when due, if prevented from fulfilling such obligation by Force Majeure. A Party unable to fulfill any obligation hereunder (other than an obligation to pay money when due) by reason of Force Majeure shall give notice and the full particulars of such Force Majeure to the other Party in writing or by telephone as soon as reasonably possible after the occurrence of the cause relied upon. Telephone notices given pursuant to this Article shall be confirmed in writing as soon as reasonably possible and shall specifically state full particulars of the Force Majeure, the time and date when the Force Majeure occurred and when the Force Majeure is reasonably expected to cease. The Party affected shall exercise due diligence to remove such disability with reasonable dispatch, but shall not be required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance.

ARTICLE 17. DEFAULT

17.1 Default.

17.1.1 General. No Default shall exist where such failure to discharge an obligation (other than the payment of money) is the result of Force Majeure as defined in this LGIA or the result of an act or omission of the other Party. Upon a Breach, the affected non-Breaching Party(ies) shall give written notice of such Breach to the Breaching Party. Except as provided in Articles 11.5.1 and 17.1.2, the Breaching Party shall have thirty (30) Calendar Days from receipt of the Default notice within which to cure such Breach; provided however, if such Breach is not capable of cure within thirty (30) Calendar Days, the Breaching Party shall commence

such cure within thirty (30) Calendar Days after notice and continuously and diligently complete such cure within ninety (90) Calendar Days from receipt of the Default notice; and, if cured within such time, the Breach specified in such notice shall cease to exist.

17.1.2 Right to Terminate. If a Breach is not cured as provided in this Article, or if a Breach is not capable of being cured within the period provided for herein, the affected non-Breaching Party(ies) shall have the right to declare a Default and terminate this LGIA by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not such Party(ies) terminates this LGIA, to recover from the Breaching Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this Article will survive termination of this LGIA.

ARTICLE 18. INDEMNITY, CONSEQUENTIAL DAMAGES, AND INSURANCE

18.1 Indemnity. Each Party shall at all times indemnify, defend, and hold the other Parties harmless from, any and all Losses arising out of or resulting from another Party's action or inactions of its obligations under this LGIA on behalf of the indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the Indemnified Party.

18.1.1 Indemnified Party. If an Indemnified Party is entitled to indemnification under this Article 18 as a result of a claim by a third party, and the Indemnifying Party fails, after notice and reasonable opportunity to proceed under Article 18.1, to assume the defense of such claim, such Indemnified Party may at the expense of the Indemnifying Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

18.1.2 Indemnifying Party. If an Indemnifying Party is obligated to indemnify and hold any Indemnified Party harmless under this Article 18, the amount owing to the Indemnified Party shall be the amount of such Indemnified Party’s actual Loss, net of any insurance or other recovery.

18.1.3 Indemnity Procedures. Promptly after receipt by an Indemnified Party of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in Article 18.1 may apply, the Indemnified Party shall notify the Indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying Party.
The Indemnifying Party shall have the right to assume the defense thereof with counsel designated by such Indemnifying Party and reasonably satisfactory to the Indemnified Party. If the defendants in any such action

include one or more Indemnified Parties and the Indemnifying Party and if the Indemnified Party reasonably concludes that there may be legal defenses available to it and/or other Indemnified Parties which are different from or additional to those available to the Indemnifying Party, the Indemnified Party shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on its own behalf. In such instances, the Indemnifying Party shall only be required to pay the fees and expenses of one additional attorney to represent an Indemnified Party or Indemnified Parties having such differing or additional legal defenses.

The Indemnified Party shall be entitled, at its expense, to participate in any such action, suit or proceeding, the defense of which has been assumed by the Indemnifying Party. Notwithstanding the foregoing, the Indemnifying Party (i) shall not be entitled to assume and control the defense of any such action, suit or proceedings if and to the extent that, in the opinion of the Indemnified Party and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on the Indemnified Party, or there exists a conflict or adversity of interest between the Indemnified Party and the Indemnifying Party, in such event the Indemnifying Party shall pay the reasonable expenses of the Indemnified Party, and (ii) shall not settle or consent to the entry of any judgment in any action, suit or proceeding without the consent of the Indemnified Party, which shall not be unreasonably withheld, conditioned or delayed.

18.2 Consequential Damages. Other than the liquidated damages heretofore described in Article 5.3, in no event shall any Party be liable under any provision of this LGIA for any losses, damages, costs or expenses for any special, indirect, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to another Party under another agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder.

18.3 Insurance. As indicated below, the designated Party shall, at its own expense, maintain in force throughout the periods noted in this LGIA, and until released by the other Parties, the following minimum insurance coverages, with insurers rated no less than A- (with a minimum size rating of VII) by Bests' Insurance Guide and Key Ratings and authorized to do business in the state where the Point of Interconnection is located, except in the case of any insurance required to be carried by the CAISO, the State of California:

18.3.1 Workers' Compensation Insurance and Employers' Liability. The Participating TO and the Interconnection Customer shall maintain such coverage from the commencement of any Construction Activities providing statutory benefits for Workers Compensation coverage and coverage amounts of no less than One Million Dollars ($1,000,000) for employer's liability for each employee for bodily injury by accident and One Million Dollars ($1,000,000) for each employee for bodily injury by disease in accordance with the laws and regulations of the state in which the Point of Interconnection is located. The Participating TO shall provide the Interconnection Customer with evidence of such insurance coverage within thirty (30) Calendar Days of any request by the Interconnection Customer. The Interconnection Customer shall provide evidence of such insurance thirty (30) Calendar Days prior to entry by any employee or contractor or other person acting on the Interconnection Customer's behalf onto any construction site to perform any work related to the Interconnection Facilities or Generating Facility.

18.3.2 Commercial General Liability Insurance. The Participating TO and the Interconnection Customer shall maintain commercial general liability insurance coverage commencing within thirty (30) Calendar Days of the Effective Date of this LGIA, including coverage for premises and operations, bodily injury (including death), personal injury, property damage, products and completed operations coverage, coverage for explosion, collapse and underground hazards, independent contractors coverage, and (i) liability of Participating TO and the Interconnection Customer that would be imposed without the LGIA, or (ii) liability assumed by the Participating TO and the Interconnection Customer in a contract or agreement that is an "insured contract" under commercial general liability insurance policy. Such insurance shall include no cross liability exclusions or separation of insured clause endorsement exclusions, with minimum limits of One Million Dollars ($1,000,000) per occurrence/One Million Dollars ($1,000,000) aggregate. If the activities of the Interconnection Customer are being conducted through the actions of an Affiliate, then the Interconnection Customer may satisfy the insurance requirements of this Section 18.3.2 by providing evidence of insurance coverage carried by such Affiliate and showing the Participating TO and the CAISO as an additional insured only with respect to the LGIA, together with the Interconnection Customer's written representation to the Participating TO and the CAISO that the insured Affiliate is conducting all of the necessary pre-construction work. Within thirty (30) Calendar Days prior to the entry of any person on behalf of the Interconnection Customer onto any construction site to perform work related to the Interconnection Facilities or Generating Facility, the Interconnection Customer shall replace any evidence of Affiliate Insurance with evidence of such insurance carried by the

Interconnection Customer, naming the Participating TO and CAISO as additional insured only with respect to the LGIA.

18.3.3 Business Automobile Liability Insurance. Prior to the entry of any such vehicles on any construction site in connection with work done by or on behalf of the Interconnection Customer, the Interconnection Customer shall provide evidence of coverage of owned and non-owned and hired vehicles, trailers or semi-trailers designed for travel on public roads, with a minimum, combined single limit of One Million Dollars ($1,000,000) per occurrence for bodily injury, including death, and property damage. The Interconnection Customer shall include the Participating TO and the CAISO as additional insured with respect to the LGIA on any such policies.

18.3.4 Excess Liability Insurance. Commencing at the time of entry of any person on its behalf upon any construction site for the Network Upgrades, Interconnection Facilities, or Generating Facility, the Participating TO and the Interconnection Customer shall maintain Excess Liability insurance over and above the Employer's Liability Commercial General Liability and Business Automobile Liability Insurance coverage, with a minimum limit of Twenty Million Dollars ($20,000,000) per occurrence/Twenty Million Dollars ($20,000,000) aggregate. Such insurance carried by the Participating TO shall include the Interconnection Customer and CAISO as additional insured with respect to the LGIA, and such insurance carried by the Interconnection Customer shall include the Participating TO and CAISO as an additional insured with respect to the LGIA. The requirements of Section 18.3.2 and 18.3.4 may be met by any combination of general and excess liability insurance.

18.3.5 The Commercial General Liability Insurance, Business Automobile Insurance and Excess Liability Insurance policies shall include the other Parties identified in the sections above, their parents, their subsidiaries, respective directors, officers, agents, servants and employees ("Other Party Group") and the CAISO as additional insured. All policies shall contain provisions whereby the insurers waive all rights of subrogation in accordance with the provisions of this LGIA against the Other Party Group. If any Party can reasonably demonstrate that coverage policies containing provisions for insurer waiver of subrogation rights, or advance notice are not commercially available, then the Parties shall meet and confer and mutually determine to (i) establish replacement or equivalent terms in lieu of subrogation or notice or (ii) waive the requirements that coverage(s) include such subrogation provision or require advance written notice from such insurers.

18.3.6 The Commercial General Liability Insurance, Business Automobile Liability Insurance and Excess Liability Insurance policies shall contain provisions that specify that the policies are primary and non-contributory. Each Party shall be responsible for its respective deductibles or self-insured retentions.

18.3.7 The Commercial General Liability Insurance, Business Automobile Liability Insurance and Excess Liability Insurance policies, if written on a Claims First Made Basis, shall be maintained in full force and effect for two (2) years after termination of this LGIA, which coverage may be in the form of extended reporting period coverage if agreed by the Parties.

18.3.8 [Not Used.]

18.3.9 Thirty (30) Calendar Days prior to the start of any work at the construction site related to Interconnection Facilities or Generating Facility under this LGIA, and as soon as practicable after the end of each fiscal year or at the renewal of the insurance policy and in any event within ninety (90) Calendar Days thereafter, the Participating TO and the Interconnection Customer shall provide a certificate of insurance for all insurance required in this LGIA, executed by each insurer or by an authorized representative of each insurer.

18.3.10 Notwithstanding the foregoing, each Party may self-insure

a) to meet the minimum insurance requirements of Article 18.3.1, to the extent that it maintains a self-insurance program that is a qualified self-insurer within the state in which the Point of Interconnection is located, under the laws and regulations of such state; and

b) to meet the minimum insurance requirements of Articles 18.3.2 through 18.3.8 to the extent it maintains a self-insurance program; provided that, such Party's senior unsecured debt or issuer rating is BBB-, or better, as rated by Standard & Poor's and that its self-insurance program meets the minimum insurance requirements of Articles 18.3.2 through 18.3.8. For any period of time that a Party's senior unsecured debt rating and issuer rating are both unrated by Standard & Poor's or are both rated at less than BBB- by Standard & Poor's, such Party shall comply with the insurance requirements applicable to it under Articles 18.3.2 through 18.3.9.

c) in the event that a Party is permitted to self-insure pursuant to this Article 18.3.10, it shall notify the other Parties that it meets the requirements to self-insure and that its self-insurance program meets the minimum insurance requirements in a manner consistent with that specified in Article 18.3.9.

18.3.11 The Parties agree to report to each other in writing as soon as practical all accidents or occurrences resulting in injuries to any person, including death, and any property damage greater than $25,000, including within the scope of coverage of such insurance whether or not such coverage is sought.

ARTICLE 19. ASSIGNMENT

19.1 Assignment. This LGIA may be assigned by a Party only with the written consent of the other Parties; provided that a Party may assign this LGIA without the consent of the other Parties to any Affiliate of the assigning Party with an equal or greater credit rating and with the legal authority and operational ability to satisfy the obligations of the assigning Party under this LGIA; and provided further that the Interconnection Customer shall have the right to assign this LGIA, without the consent of the CAISO or Participating TO, for collateral security purposes to aid in providing financing for the Large Generating Facility, provided that the Interconnection Customer will promptly notify the CAISO and Participating TO of any such assignment. Any financing arrangement entered into by the Interconnection Customer pursuant to this Article will provide that prior to or upon the exercise of the secured party's, trustee's or mortgagee's assignment rights pursuant to said arrangement, the secured creditor, the trustee or mortgagee will notify the CAISO and Participating TO of the date and particulars of any such exercise of assignment right(s), including providing the CAISO and Participating TO with proof that it meets the requirements of Articles 11.5 and 18.3. Any attempted assignment that violates this Article is void and ineffective. Any assignment under this LGIA shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. Where required, consent to assignment will not be unreasonably withheld, conditioned or delayed.

The Interconnection Customer may assign Surplus Interconnection Service pursuant to Section 3.4 of the GIDAP. The CAISO, Participating TO, and original Interconnection Customer will work in good faith to amend this GIA to reflect the transfer of Surplus Interconnection Service before the execution of the assignee's GIA. The assignee must execute a separate GIA with the CAISO and Participating TO to memorialize its Interconnection Service.

ARTICLE 20. SEVERABILITY

20.1 Severability. If any provision in this LGIA is finally determined to be invalid, void or unenforceable by any court or other Governmental Authority having jurisdiction, such determination shall not invalidate, void or make unenforceable any other provision, agreement or covenant of this LGIA; provided that if the Interconnection Customer (or any third party, but only if such third party is not acting at the direction of the Participating TO or CAISO) seeks and obtains such a final determination with respect to any provision of the Alternate Option (Article

5.1.2), or the Negotiated Option (Article 5.1.4), then none of the provisions of Article 5.1.2 or 5.1.4 shall thereafter have any force or effect and the Parties' rights and obligations shall be governed solely by the Standard Option (Article 5.1.1).

ARTICLE 21. COMPARABILITY

21.1 Comparability. The Parties will comply with all applicable comparability and code of conduct laws, rules and regulations, as amended from time to time.

ARTICLE 22. CONFIDENTIALITY

22.1 Confidentiality. Confidential Information shall include, without limitation, all information relating to a Party's technology, research and development, business affairs, and pricing, and any information supplied by any of the Parties to the other Parties prior to the execution of this LGIA.

Information is Confidential Information only if it is clearly designated or marked in writing as confidential on the face of the document, or, if the information is conveyed orally or by inspection, if the Party providing the information orally informs the Parties receiving the information that the information is confidential.

If requested by any Party, the other Parties shall provide in writing, the basis for asserting that the information referred to in this Article 22 warrants confidential treatment, and the requesting Party may disclose such writing to the appropriate Governmental Authority. Each Party shall be responsible for the costs associated with affording confidential treatment to its information.

22.1.1 Term. During the term of this LGIA, and for a period of three (3) years after the expiration or termination of this LGIA, except as otherwise provided in this Article 22, each Party shall hold in confidence and shall not disclose to any person Confidential Information.

22.1.2 Scope. Confidential Information shall not include information that the receiving Party can demonstrate: (1) is generally available to the public other than as a result of a disclosure by the receiving Party; (2) was in the lawful possession of the receiving Party on a non-confidential basis before receiving it from the disclosing Party; (3) was supplied to the receiving Party without restriction by a third party, who, to the knowledge of the receiving Party after due inquiry, was under no obligation to the disclosing Party to keep such information confidential; (4) was independently developed by the receiving Party without reference to Confidential Information of the disclosing Party; (5) is, or becomes, publicly known, through no wrongful act or omission of the receiving Party or Breach of this LGIA; or (6) is required, in accordance with Article 22.1.7 of this LGIA, Order of Disclosure, to be disclosed by any Governmental Authority or is otherwise required to be disclosed by law or subpoena, or is necessary in

any legal proceeding establishing rights and obligations under this LGIA. Information designated as Confidential Information will no longer be deemed confidential if the Party that designated the information as confidential notifies the other Parties that it no longer is confidential.

22.1.3 Release of Confidential Information. No Party shall release or disclose Confidential Information to any other person, except to its employees, consultants, Affiliates (limited by the Standards of Conduct requirements set forth in Part 358 of FERC's Regulations, 18 C.F.R. 358), subcontractors, or to parties who may be or considering providing financing to or equity participation with the Interconnection Customer, or to potential purchasers or assignees of the Interconnection Customer, on a need-to-know basis in connection with this LGIA, unless such person has first been advised of the confidentiality provisions of this Article 22 and has agreed to comply with such provisions. Notwithstanding the foregoing, a Party providing Confidential Information to any person shall remain primarily responsible for any release of Confidential Information in contravention of this Article 22.

22.1.4 Rights. Each Party retains all rights, title, and interest in the Confidential Information that each Party discloses to the other Parties. The disclosure by each Party to the other Parties of Confidential Information shall not be deemed a waiver by a Party or any other person or entity of the right to protect the Confidential Information from public disclosure.

22.1.5 No Warranties. The mere fact that a Party has provided Confidential Information does not constitute a warranty or representation as to its accuracy or completeness. In addition, by supplying Confidential Information, no Party obligates itself to provide any particular information or Confidential Information to the other Parties nor to enter into any further agreements or proceed with any other relationship or joint venture.

22.1.6 Standard of Care. Each Party shall use at least the same standard of care to protect Confidential Information it receives as it uses to protect its own Confidential Information from unauthorized disclosure, publication or dissemination. Each Party may use Confidential Information solely to fulfill its obligations to the other Parties under this LGIA or its regulatory requirements.

22.1.7 Order of Disclosure. If a court or a Government Authority or entity with the right, power, and apparent authority to do so requests or requires any Party, by subpoena, oral
deposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose Confidential Information, that Party shall provide the other Parties with prompt notice of such request(s) or requirement(s) so that the other Parties may seek an

appropriate protective order or waive compliance with the terms of this LGIA. Notwithstanding the absence of a protective order or waiver, the Party may disclose such Confidential Information which, in the opinion of its counsel, the Party is legally compelled to disclose. Each Party will use Reasonable Efforts to obtain reliable assurance that confidential treatment will be accorded any Confidential Information so furnished.

22.1.8 Termination of Agreement. Upon termination of this LGIA for any reason, each Party shall, within ten (10) Calendar Days of receipt of a written request from another Party, use Reasonable Efforts to destroy, erase, or delete (with such destruction, erasure, and deletion certified in writing to the other Party) or return to the other Party, without retaining copies thereof, any and all written or electronic Confidential Information received from the other Party.

22.1.9 Remedies. The Parties agree that monetary damages would be inadequate to compensate a Party for another Party's Breach of its obligations under this Article 22. Each Party accordingly agrees that the other Parties shall be entitled to equitable relief, by way of injunction or otherwise, if the first Party Breaches or threatens to Breach its obligations under this Article 22, which equitable relief shall be granted without bond or proof of damages, and the receiving Party shall not plead in defense that there would be an adequate remedy at law. Such remedy shall not be deemed an exclusive remedy for the Breach of this Article 22, but shall be in addition to all other remedies available at law or in equity. The Parties further acknowledge and agree that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope. No Party, however, shall be liable for indirect, incidental, or consequential or punitive damages of any nature or kind resulting from or arising in connection with this Article 22.

22.1.10 Disclosure to FERC, its Staff, or a State. Notwithstanding anything in this Article 22 to the contrary, and pursuant to 18 C.F.R. section 1b.20, if FERC or its staff, during the course of an investigation or otherwise, requests information from one of the Parties that is otherwise required to be maintained in confidence pursuant to this LGIA, the Party shall provide the requested information to FERC or its staff, within the time provided for in the request for information. In providing the information to FERC or its staff, the Party must, consistent with 18 C.F.R. section 388.112, request that the information be treated as confidential and non-public by FERC and its staff and that the information be withheld from public disclosure. Parties are prohibited from notifying the other Parties to this LGIA prior to the release of the Confidential Information to FERC or its staff. The Party shall notify the other Parties to the LGIA when it is notified by FERC or its staff that a request to release Confidential Information has been received by FERC, at which time any of the Parties may respond before such

information would be made public, pursuant to 18 C.F.R. section 388.112. Requests from a state regulatory body conducting a confidential investigation shall be treated in a similar manner if consistent with the applicable state rules and regulations.

22.1.11 Subject to the exception in Article 22.1.10, Confidential Information shall not be disclosed by the other Parties to any person not employed or retained by the other Parties, except to the extent disclosure is (i) required by law; (ii) reasonably deemed by the disclosing Party to be required to be disclosed in connection with a dispute between or among the Parties, or the defense of litigation or dispute; (iii) otherwise permitted by consent of the other Parties, such consent not to be unreasonably withheld; or (iv) necessary to fulfill its obligations under this LGIA or as a transmission service provider or a Balancing Authority including disclosing the Confidential Information to an RTO or ISO or to a regional or national reliability organization. The Party asserting confidentiality shall notify the other Parties in writing of the information it claims is confidential. Prior to any disclosures of another Party's Confidential Information under this subparagraph, or if any third party or Governmental Authority makes any request or demand for any of the information described in this subparagraph, the disclosing Party agrees to promptly notify the other Party in writing and agrees to assert confidentiality and cooperate with the other Party in seeking to protect the Confidential Information from public disclosure by confidentiality agreement, protective order or other reasonable measures.

ARTICLE 23. ENVIRONMENTAL RELEASES

23.1 Each Party shall notify the other Parties, first orally and then in writing, of the release of any Hazardous Substances, any asbestos or lead abatement activities, or any type of remediation activities related to the Large Generating Facility or the Interconnection Facilities, each of which may reasonably be expected to affect the other Parties. The notifying Party shall: (i) provide the notice as soon as practicable, provided such Party makes a good faith effort to provide the notice no later than twenty-four hours after such Party becomes aware of the occurrence; and (ii) promptly furnish to the other Parties copies of any publicly available reports filed with any Governmental Authorities addressing such events.

ARTICLE 24. INFORMATION REQUIREMENTS

24.1 Information Acquisition. The Participating TO and the Interconnection Customer shall submit specific information regarding the electrical characteristics of their respective facilities to each other as described below and in accordance with Applicable Reliability Standards.

24.2 Information Submission by Participating TO. The initial information submission by the Participating TO shall occur no later than one hundred eighty (180) Calendar Days prior to Trial Operation and shall include the Participating TO's Transmission System information necessary to allow the Interconnection Customer to select equipment and meet any system protection and stability requirements, unless otherwise agreed to by the Participating TO and the Interconnection Customer. On a monthly basis the Participating TO shall provide the Interconnection Customer and the CAISO a status report on the construction and installation of the Participating TO's Interconnection Facilities and Network Upgrades, including, but not limited to, the following information: (1) progress to date; (2) a description of the activities since the last report; (3) a description of the action items for the next period; and (4) the delivery status of equipment ordered.

24.3 Updated Information Submission by Interconnection Customer. The updated information submission by the Interconnection Customer, including manufacturer information, shall occur no later than one hundred eighty (180) Calendar Days prior to the Trial Operation. The Interconnection Customer shall submit a completed copy of the Electric Generating Unit data requirements contained in Appendix 1 to the GIDAP. It shall also include any additional information provided to the Participating TO and the CAISO for the Interconnection Studies. Information in this submission shall be the most current Electric Generating Unit design or expected performance data. Information submitted for stability models shall be compatible with the Participating TO and CAISO standard models. If there is no compatible model, the Interconnection Customer will work with a consultant mutually agreed to by the Parties to develop and supply a standard model and associated information.

If the Interconnection Customer's data is materially different from what was originally provided to the Participating TO and the CAISO for the Interconnection Studies, then the Participating TO and the CAISO will conduct appropriate studies pursuant to the GIDAP to determine the impact on the Participating TO's Transmission System and affected portions of the CAISO Controlled Grid based on the actual data submitted pursuant to this Article 24.3. The Interconnection Customer shall not begin Trial Operation until such studies are completed and all other requirements of this LGIA are satisfied.

24.4 Information Supplementation. Prior to the Trial Operation date, the Parties shall supplement their information submissions described above in this Article 24 with any and all "as-built" Electric Generating Unit information or "as-tested" performance information that differs from the initial submissions or, alternatively, written confirmation that no such differences exist. The Interconnection Customer shall conduct tests on the Electric Generating Unit as required by Good Utility Practice such as an open circuit "step voltage" test on the Electric Generating Unit to verify proper operation of the Electric Generating Unit's automatic voltage regulator.

Unless otherwise agreed, the test conditions shall include: (1) Electric Generating Unit at synchronous speed; (2) automatic voltage regulator on and in voltage control mode; and (3) a five percent (5 percent) change in Electric Generating Unit terminal voltage initiated by a change in the voltage regulators reference voltage. The Interconnection Customer shall provide validated test recordings showing the responses of Electric Generating Unit terminal and field voltages. In the event that direct recordings of these voltages is impractical, recordings of other voltages or currents that mirror the response of the Electric Generating Unit's terminal or field voltage are acceptable if information necessary to translate these alternate quantities to actual Electric Generating Unit terminal or field voltages is provided. Electric Generating Unit testing shall be conducted and results provided to the Participating TO and the CAISO for each individual Electric Generating Unit in a station.

Subsequent to the Commercial Operation Date, the Interconnection Customer shall provide the Participating TO and the CAISO any information changes due to equipment replacement, repair, or adjustment. The Participating TO shall provide the Interconnection Customer any information changes due to equipment replacement, repair or adjustment in the directly connected substation or any adjacent Participating TO-owned substation that may affect the Interconnection Customer's Interconnection Facilities equipment ratings, protection or operating requirements. The Parties shall provide such information pursuant to Article 5.19.

ARTICLE 25. INFORMATION ACCESS AND AUDIT RIGHTS

25.1 Information Access. Each Party (the "disclosing Party") shall make available to the other Party information that is in the possession of the disclosing Party and is necessary in order for the other Party to: (i) verify the costs incurred by the disclosing Party for which the other Party is responsible under this LGIA; and (ii) carry out its obligations and responsibilities under this LGIA. The Parties shall not use such information for purposes other than those set forth in this Article 25.1 and to enforce their rights under this LGIA. Nothing in this Article 25 shall obligate the CAISO to make available to a Party any third party information in its possession or control if making such third party information available would violate a CAISO Tariff restriction on the use or disclosure of such third party information.

25.2 Reporting of Non-Force Majeure Events. Each Party (the "notifying Party") shall notify the other Parties when the notifying Party becomes aware of its inability to comply with the provisions of this LGIA for a reason other than a Force Majeure event. The Parties agree to cooperate with each other and provide necessary information regarding such inability to comply, including the date, duration, reason for the inability to comply, and corrective actions taken or planned to be taken with respect to such inability to comply. Notwithstanding the

foregoing, notification, cooperation or information provided under this Article shall not entitle the Party receiving such notification to allege a cause for anticipatory breach of this LGIA.

25.3 Audit Rights. Subject to the requirements of confidentiality under Article 22 of this LGIA, the Parties' audit rights shall include audits of a Party's costs pertaining to such Party's performance or satisfaction of obligations owed to the other Party under this LGIA, calculation of invoiced amounts, the CAISO's efforts to allocate responsibility for the provision of reactive support to the CAISO Controlled Grid, the CAISO's efforts to allocate responsibility for interruption or reduction of generation on the CAISO Controlled Grid, and each such Party's actions in an Emergency Condition.

25.3.1 The Interconnection Customer and the Participating TO shall each have the right, during normal business hours, and upon prior reasonable notice to the other Party, to audit at its own expense the other Party's accounts and records pertaining to either such Party's performance or either such Party's satisfaction of obligations owed to the other Party under this LGIA. Subject to Article 25.3.2, any audit authorized by this Article shall be performed at the offices where such accounts and records are maintained and shall be limited to those portions of such accounts and records that relate to each such Party's performance and satisfaction of obligations under this LGIA. Each such Party shall keep such accounts and records for a period equivalent to the audit rights periods described in Article 25.4.

25.3.2 Notwithstanding anything to the contrary in Article 25.3, each Party's rights to audit the CAISO's accounts and records shall be as set forth in Section 22.1 of the CAISO Tariff.

25.4 Audit Rights Periods.

25.4.1 Audit Rights Period for Construction-Related Accounts and Records. Accounts and records related to the design, engineering, procurement, and construction of Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades constructed by the Participating TO shall be subject to audit for a period of twenty-four months following the Participating TO's issuance of a final invoice in accordance with Article 12.2. Accounts and records related to the design, engineering, procurement, and construction of Participating TO's Interconnection Facilities and/or Stand Alone Network Upgrades constructed by the Interconnection Customer shall be subject to audit and verification by the Participating TO and the CAISO for a period of twenty-four months following the Interconnection Customer's issuance of a final invoice in accordance with Article 5.2(8).

25.4.2 Audit Rights Period for All Other Accounts and Records. Accounts and records related to a Party's performance or satisfaction of all obligations under this LGIA other than those described in Article 25.4.1 shall be subject to audit as follows: (i) for an audit relating to cost obligations, the applicable audit rights period shall be twenty-four months after the auditing Party's receipt of an invoice giving rise to such cost obligations; and (ii) for an audit relating to all other obligations, the applicable audit rights period shall be twenty-four months after the event for which the audit is sought; provided that each Party's rights to audit the CAISO's accounts and records shall be as set forth in Section 22.1 of the CAISO Tariff.

25.5 Audit Results. If an audit by the Interconnection Customer or the Participating TO determines that an overpayment or an underpayment has occurred with respect to the other Party, a notice of such overpayment or underpayment shall be given to the other Party together with those records from the audit which supports such determination. The Party that is owed payment shall render an invoice to the other Party and such invoice shall be paid pursuant to Article 12 hereof.

25.5.1 Notwithstanding anything to the contrary in Article 25.5, the Interconnection Customer's and Participating TO's rights to audit the CAISO's accounts and records shall be as set forth in Section 22.1 of the CAISO Tariff, and the CAISO's process for remedying an overpayment or underpayment shall be as set forth in the CAISO Tariff.

ARTICLE 26. SUBCONTRACTORS

26.1 General. Nothing in this LGIA shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this LGIA; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this LGIA in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.

26.2 Responsibility of Principal. The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this LGIA. The hiring Party shall be fully responsible to the other Parties for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall the CAISO or Participating TO be liable for the actions or inactions of the Interconnection Customer or its subcontractors with respect to obligations of the Interconnection Customer under Article 5 of this LGIA. Any applicable obligation imposed by this LGIA upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

26.3 No Limitation by Insurance. The obligations under this Article 26 will not be limited in any way by any limitation of subcontractor's insurance.

ARTICLE 27. DISPUTES

All disputes arising out of or in connection with this LGIA whereby relief is sought by or from the CAISO shall be settled in accordance with the provisions of Article 13 of the CAISO Tariff, except that references to the CAISO Tariff in such Article 13 of the CAISO Tariff shall be read as references to this LGIA. Disputes arising out of or in connection with this LGIA not subject to provisions of Article 13 of the CAISO Tariff shall be resolved as follows:

27.1 Submission. In the event either Party has a dispute, or asserts a claim, that arises out of or in connection with this LGIA or its performance, such Party (the "disputing Party") shall provide the other Party with written notice of the dispute or claim ("Notice of Dispute"). Such dispute or claim shall be referred to a designated senior representative of each Party for resolution on an informal basis as promptly as practicable after receipt of the Notice of Dispute by the other Party. In the event the designated representatives are unable to resolve the claim or dispute through unassisted or assisted negotiations within thirty (30) Calendar Days of the other Party's receipt of the Notice of Dispute, such claim or dispute may, upon mutual agreement of the Parties, be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below. In the event the Parties do not agree to submit such claim or dispute to arbitration, each Party may exercise whatever rights and remedies it may have in equity or at law consistent with the terms of this LGIA.

27.2 External Arbitration Procedures. Any arbitration initiated under this LGIA shall be conducted before a single neutral arbitrator appointed by the Parties. If the Parties fail to agree upon a single arbitrator within ten (10) Calendar Days of the submission of the dispute to arbitration, each Party shall choose one arbitrator who shall sit on a three-member arbitration panel. The two arbitrators so chosen shall within twenty (20) Calendar Days select a third arbitrator to chair the arbitration panel. In either case, the arbitrators shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past substantial business or financial relationships with any party to the arbitration (except prior arbitration). The arbitrator(s) shall provide each of the Parties an opportunity to be heard and, except as otherwise provided herein, shall conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("Arbitration Rules") and any applicable FERC regulations; provided, however, in the event of a conflict between the Arbitration Rules and the terms of this Article 27, the terms of this Article 27 shall prevail.

27.3 Arbitration Decisions. Unless otherwise agreed by the Parties, the arbitrator(s) shall render a decision within ninety (90) Calendar Days of appointment and shall

notify the Parties in writing of such decision and the reasons therefor. The arbitrator(s) shall be authorized only to interpret and apply the provisions of this LGIA and shall have no power to modify or change any provision of this Agreement in any manner. The decision of the arbitrator(s) shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator(s) may be appealed solely on the grounds that the conduct of the arbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Act or the Administrative Dispute Resolution Act. The final decision of the arbitrator(s) must also be filed with FERC if it affects jurisdictional rates, terms and conditions of service, Interconnection Facilities, or Network Upgrades.

27.4 Costs. Each Party shall be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable: (1) the cost of the arbitrator chosen by the Party to sit on the three member panel and one half of the cost of the third arbitrator chosen; or (2) one half the cost of the single arbitrator jointly chosen by the Parties.

ARTICLE 28. REPRESENTATIONS, WARRANTIES AND COVENANTS

28.1 General. Each Party makes the following representations, warranties and covenants:

28.1.1 Good Standing. Such Party is duly organized, validly existing and in good standing under the laws of the state in which it is organized, formed, or incorporated, as applicable; that it is qualified to do business in the state or states in which the Large Generating Facility, Interconnection Facilities and Network Upgrades owned by such Party, as applicable, are located; and that it has the corporate power and authority to own its properties, to carry on its business as now being conducted and to enter into this LGIA and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this LGIA.

28.1.2 Authority. Such Party has the right, power and authority to enter into this LGIA, to become a Party hereto and to perform its obligations hereunder. This LGIA is a legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting creditors' rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or at law).

28.1.3 No Conflict. The execution, delivery and performance of this LGIA does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, of such Party, or any judgment, license, permit, order, material agreement or instrument applicable to or binding upon such Party or any of its assets.

28.1.4 Consent and Approval. Such Party has sought or obtained, or, in accordance with this LGIA will seek or obtain, each consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery and performance of this LGIA, and it will provide to any Governmental Authority notice of any actions under this LGIA that are required by Applicable Laws and Regulations.

ARTICLE 29. [RESERVED]

ARTICLE 30. MISCELLANEOUS

30.1 Binding Effect. This LGIA and the rights and obligations hereof, shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties hereto.

30.2 Conflicts. In the event of a conflict between the body of this LGIA and any attachment, appendices or exhibits hereto, the terms and provisions of the body of this LGIA shall prevail and be deemed the final intent of the Parties.

30.3 Rules of Interpretation. This LGIA, unless a clear contrary intention appears, shall be construed and interpreted as follows: (1) the singular number includes the plural number and vice versa; (2) reference to any person includes such person's successors and assigns but, in the case of a Party, only if such successors and assigns are permitted by this LGIA, and reference to a person in a particular capacity excludes such person in any other capacity or individually; (3) reference to any agreement (including this LGIA), document, instrument or tariff means such agreement, document, instrument, or tariff as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (4) reference to any Applicable Laws and Regulations means such Applicable Laws and Regulations as amended, modified, codified, or reenacted, in whole or in part, and in effect from time to time, including, if applicable, rules and regulations promulgated thereunder; (5) unless expressly stated otherwise, reference to any Article, Section or Appendix means such Article of this LGIA or such Appendix to this LGIA, or such Section to the GIDAP or such Appendix to the GIDAP, as the case may be; (6) "hereunder", "hereof", "herein", "hereto" and words of similar import shall be deemed references to this LGIA as a whole and not to any particular Article or other provision hereof or thereof; (7) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; and (8) relative to the determination of any period of time,

"from" means "from and including", "to" means "to but excluding" and "through" means "through and including".

30.4 Entire Agreement. This LGIA, including all Appendices and Schedules attached hereto, constitutes the entire agreement among the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between or among the Parties with respect to the subject matter of this LGIA. There are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, any Party's compliance with its obligations under this LGIA.

30.5 No Third Party Beneficiaries. This LGIA is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and, where permitted, their assigns.

30.6 Waiver. The failure of a Party to this LGIA to insist, on any occasion, upon strict performance of any provision of this LGIA will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.

Any waiver at any time by either Party of its rights with respect to this LGIA shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this LGIA. Termination or Default of this LGIA for any reason by the Interconnection Customer shall not constitute a waiver of the Interconnection Customer's legal rights to obtain an interconnection from the Participating TO. Any waiver of this LGIA shall, if requested, be provided in writing.

30.7 Headings. The descriptive headings of the various Articles of this LGIA have been inserted for convenience of reference only and are of no significance in the interpretation or construction of this LGIA.

30.8 Multiple Counterparts. This LGIA may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

30.9 Amendment. The Parties may by mutual agreement amend this LGIA by a written instrument duly executed by all of the Parties. Such amendment shall become effective and a part of this LGIA upon satisfaction of all Applicable Laws and Regulations.

30.10 Modification by the Parties. The Parties may by mutual agreement amend the Appendices to this LGIA by a written instrument duly executed by all of the Parties. Such amendment shall become effective and a part of this LGIA upon satisfaction of all Applicable Laws and Regulations.

30.11 Reservation of Rights. The CAISO and Participating TO shall each have the right to make a unilateral filing with FERC to modify this LGIA pursuant to section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder with respect to the following Articles and Appendices of this LGIA and with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation covered by these Articles and Appendices:

Recitals, 1, 2.1, 2.2, 2.3, 2.4, 2.6, 3.1, 3.3, 4.1, 4.2, 4.3, 4.4, 5 preamble, 5.4, 5.7, 5.8, 5.9, 5.12, 5.13, 5.18, 5.19.1, 7.1, 7.2, 8, 9.1, 9.2, 9.3, 9.5, 9.6, 9.7, 9.8, 9.10, 10.3, 11.4, 12.1, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24.3, 24.4, 25.1, 25.2, 25.3 (excluding subparts), 25.4.2, 26, 28, 29, 30, Appendix D, Appendix F, Appendix G, and any other Article not reserved exclusively to the Participating TO or the CAISO below.

The Participating TO shall have the exclusive right to make a unilateral filing with FERC to modify this LGIA pursuant to section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder with respect to the following Articles and Appendices of this LGIA and with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation covered by these Articles and Appendices:

2.5, 5.1, 5.2, 5.3, 5.5, 5.6, 5.10, 5.11, 5.14, 5.15, 5.16, 5.17, 5.19 (excluding 5.19.1), 6, 7.3, 9.4, 9.9, 10.1, 10.2, 10.4, 10.5, 11.1, 11.2, 11.3, 11.5, 12.2, 12.3, 12.4, 24.1, 24.2, 25.3.1, 25.4.1, 25.5 (excluding 25.5.1), 27 (excluding preamble), Appendix A, Appendix B, Appendix C, and Appendix E.

The CAISO shall have the exclusive right to make a unilateral filing with FERC to modify this LGIA pursuant to section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder with respect to the following Articles of this LGIA and with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation covered by these Articles:

3.2, 4.5, 11.6, 25.3.2, 25.5.1, and 27 preamble.

The Interconnection Customer, the CAISO, and the Participating TO shall have the right to make a unilateral filing with FERC to modify this LGIA pursuant to section 206 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder; provided that each Party shall have the right to protest any such filing by another Party and to participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this LGIA shall limit the rights of the Parties or of FERC under sections 205 or 206 of the Federal Power Act and FERC's rules and regulations

thereunder, except to the extent that the Parties otherwise mutually agree as provided herein.

30.12 No Partnership. This LGIA shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership among the Parties or to impose any partnership obligation or partnership liability upon any Party. No Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, another Party.

30.13 Joint and Several Obligations. Except as otherwise provided in this LGIA, the obligations of the CAISO, the Participating TO, and the Interconnection Customer are several, and are neither joint nor joint and several.

IN WITNESS WHEREOF, the Parties have executed this LGIA in multiple originals, each of which shall constitute and be an original effective agreement among the Parties.

Solar Star 4, LLC

By: _____/s/ James Don Grafton_____

Name:_____James Don Grafton_____

Title: _____VP of Operations_____

Date: _____10/11/2019_____

Southern California Edison Company

By: _____/s/ Jill P. Horswell_____

Name:_____Jill P. Horswell_____

Title: _Director of Grid Contracts Origination and Operatrions_

Date: _____10/2/2019_____

California Independent System Operator Corporation

By: _____/s/ Keith Casey_____

Name:_____Keith Casey_____

Title: __VP Market & Infrastructure Development_____

Date: _____10/6/2019_____

APPENDICES TO LGIA

Appendix A Interconnection Facilities, Network Upgrades and Distribution Upgrades

Appendix B Milestones

Appendix C Interconnection Details

Appendix D Security Arrangements Details

Appendix E Commercial Operation Date

Appendix F Addresses for Delivery of Notices and Billings

Appendix G Interconnection Customer's Share of Costs of Network Upgrades for Applicable Project Group

Appendix H Interconnection Requirements for an Asynchronous Generating Facility

Appendix A

Interconnection Facilities, Network Upgrades and Distribution Upgrades

Additional Definitions: For the purposes of the Appendices to the LGIA, the following terms, when used with initial capitalization, whether in the singular or the plural, shall have the meanings specified below:

(a) Annual Tax Security Reassessment: The annual reassessment of the current tax liability in accordance with the directives of FERC Orders 2003-A and 2003-B associated with Article 5.17.4 of the LGIA which will commence the first year after Interconnection Customer's in-service date.

(b) Area Delivery Network Upgrades Cost: The Interconnection Customer's allocated share of all costs, excluding One-Time Cost, determined by the Participating TO to be associated with the design, engineering, procurement, construction and installation of the Area Delivery Network Upgrades constructed and owned by the Participating TO. The Area Delivery Network Upgrades Cost is provided in Section 5 of this Appendix A.

(c) BES Cyber Asset: A programmable electronic device, including the hardware, software, and data in that device, that if rendered unavailable, degraded, or misused would, within 15 minutes of its required operation, misoperation, or non-operation, adversely impact one or more facilities, systems, or equipment, which, if destroyed, degraded, or otherwise rendered unavailable when needed, would affect the reliable operation of the Bulk Electric System, as that term is defined in NERC's Glossary of Terms.

(d) Charging Capacity: The capacity provided under this LGIA for the Storage Energy of a Large Generating Facility that includes storage, subject to available capacity on the CAISO Controlled Grid and the applicable congestion management procedures in the CAISO Tariff.

(e) Construction Activities: Actions by the Participating TO that result in irrevocable financial commitments for the purchase of major electrical equipment or land for Participating TO's Interconnection Facilities or Network Upgrades assigned to the Interconnection Customer that occur after receipt of all appropriate governmental approvals needed for the Participating TO's Interconnection Facilities or Network Upgrades.

(f) Customer-Financed Monthly Rate for Non-ISO-Controlled Facilities: As defined in Appendix X of the Transmission Owner Tariff. The currently effective Customer-Financed Monthly Rate for Non-ISO-Controlled Facilities is as provided in Appendix X of the Transmission Owner Tariff.

(g) Distribution Upgrades Charge: The monthly charge to the Interconnection Customer to recover the revenue requirements for the Participating TO's Distribution Upgrades, calculated as the product of the Customer-Financed Monthly Rate for Non-ISO-Controlled Facilities and the Distribution Upgrades Cost. The Distribution Upgrades Charge is provided in Section 5 of this Appendix A.

(h) Distribution Upgrades Completion Date: The date upon which the construction of the Distribution Upgrades is complete and such facilities are successfully tested and ready for service.

(i) Distribution Upgrades Cost: The Interconnection Customer's allocated share of all costs, excluding One-Time Cost, determined by the Participating TO to be associated with the design, engineering, procurement, construction and installation of the Distribution Upgrades. The Distribution Upgrades Cost is provided in Section 5 of this Appendix A.

(j) Generation Tie-Line: The generation tie-line described in Section 1(a)(ii)1 of this Appendix A which is designated as the Kingbird-Whirlwind 220kV Transmission Line.

(k) Identified Affected System: As defined in Appendix A of the CAISO Tariff.

(l) Interconnection Customer's Dedicated Interconnection Facilities: The sole-use Interconnection Customer's Interconnection Facilities described in Section 1(a)(i) of this Appendix A that are required to interconnect and operate the Large Generating Facility.

(m) Interconnection Customer's Shared Interconnection Facilities: The Interconnection Customer's Interconnection Facilities described in Section 1(a)(ii) of this Appendix A that are utilized by among the Large Generating Facility, the TOT795 (Q1322) project, and the TOT341 (Q408) project. The Interconnection Customer's Shared Interconnection Facilities have been constructed under the TOT341 (Q408) LGIA.

(n) Interconnection Facilities Charge: The monthly charge to the Interconnection Customer to recover the revenue requirements for the Participating TO's Interconnection Facilities, calculated as the product of the Customer-Financed Monthly Rate for Non-ISO-Controlled Facilities and the Interconnection Facilities Cost. The Interconnection Facilities Charge is provided in Section 5 of this Appendix A.

(o) Interconnection Facilities Completion Date: The date upon which the construction of the Participating TO's Interconnection Facilities is complete and such facilities are successfully tested and ready for service.

(p) Interconnection Facilities Cost: All costs, excluding One-Time Cost, determined by the Participating TO to be associated with the design, engineering, procurement, construction and installation of the Participating TO's Interconnection Facilities. The Interconnection Facilities Cost is provided in Section 5 of this Appendix A.

(q) Interconnection Facilities Payment: The sum of the Interconnection Facilities Cost and associated One-Time Cost excluding the cost of the Shared Facilities. The Interconnection Facilities Payment is provided in Section 5(b) of this Appendix A.

(r) ITCC (Income Tax Component of Contribution): As defined in Appendix X of the Transmission Owner Tariff.

(s) Local Delivery Network Upgrades Cost: The Interconnection Customer's allocated share of all costs, excluding One-Time Cost, determined by the Participating TO to be associated with the design, engineering, procurement, construction and installation of the Local Delivery Network Upgrades constructed and owned by the Participating TO. The Local Delivery Network Upgrades Cost is provided in Section 5 of this Appendix A.

(t) One-Time Cost: All costs determined by the Participating TO to be associated with the installation of the Participating TO's Interconnection Facilities, Distribution Upgrades, Participating TO's Reliability Network Upgrades, or Participating TO's Delivery Network Upgrades which are not capitalized. The One-Time Cost is provided in Section 5 of this Appendix A.

(u) Reliability Network Upgrades Cost: The Interconnection Customer's allocated share of all costs, excluding One-Time Cost, determined by the Participating TO to be associated with the design, engineering, procurement, construction and installation of the Participating TO's Reliability Network Upgrades. The Reliability Network Upgrades Cost is provided in Section 5 of this Appendix A.

(v) Remedial Action Scheme (RAS): As defined in Appendix A of the CAISO Tariff.

(w) Shared Facilities Parties: The Interconnection Customer, the interconnection customer of TOT341 (Q408) project, the interconnection customer of TOT795 (Q1322) project, and any future interconnection customer with an ownership interest in the Shared Facilities that is identified in a notice provided by the Interconnection Customer to the CAISO and the Participating TO; provided that, with respect to any future interconnection customers, one of the following applies; (i) the Participating TO and the CAISO have provided their consent to assignment of the Interconnection Customer's rights under this Interconnection Agreement pursuant to Article 19 of the LGIA, or (ii) the future interconnection customer(s) have entered into a separate generator interconnection agreement with the Participating TO and the CAISO, or (iii) this LGIA has been amended

to add the future interconnection customer and allow such future interconnection customer to interconnect with the Participating TO's Interconnection Facilities.

(x) Shared BES Cyber Asset Facility: A location containing BES Cyber Asset(s) for which both the Interconnection Customer and the Participating TO claim ownership of either the physical building, parcel of land, or devices inside the property line of the location.

(y) Storage Energy: The flow of wholesale electric energy from the CAISO Controlled Grid solely to charge the storage component of the Large Generating Facility from the CAISO Controlled Grid for later redelivery of such energy, net of Large Generating Facility losses, to the CAISO Controlled Grid. Storage Energy does not include the delivery of energy for purposes that are subject to the Participating TO's retail tariff.

(z) Shared Facilities: The Participating TO's Interconnection Facilities identified in Section 1(b)(ii) of Appendix A and the Participating TO's Reliability Network Upgrades identified in Section 2(b)(i)(2) of Appendix A as being shared among or with TOT341 (Q408) project, TOT795 (Q1322) project, and the Large Generating Facility.

(aa) Tax Security: The Interconnection Customer's provision of security with respect to the Interconnection Customer's tax indemnification obligations, provided in accordance with Article 5.17.3. The Tax Security is provided in Section 5 of this Appendix A.

(bb) TOT341 (Q408) LGIA: The large generator interconnection agreement entered into on November 22, 2011 among the interconnection customer for the TOT341 (Q408) project a/k/a Solar Star California XX, LLC, Participating TO, and CAISO, Service Agreement No. 111 under the Participating TO's Transmission Owner Tariff, as such service agreement may, from time to time, be amended.

(cc) TOT341 (Q408): The large generating facility and its interconnection facilities described in the TOT341 (Q408) LGIA.

(dd) TOT411 (Q506): The large generating facility and its interconnection facilities provided for in the large generator interconnection agreement among the CAISO, the Participating TO, Solar Star California XLI, LLC, Golden Fields Solar I, LLC, Golden Fields Solar II, LLC, Golden Fields Solar III, LLC, and Golden Fields Solar IV, LLC which is filed at FERC as the Participating TO's Service Agreement No. 166 and described by the Interconnection Request SCE TOT411 and CAISO Q506.

(ee) TOT753 (Q1211): The large generating facility and its interconnection facilities provided for in the large generator interconnection agreement among the CAISO, the Participating TO, and SunPower Corporation, Systems which is filed at FERC as the Participating TO's Service Agreement No. 200 and described by the Interconnection Request SCE TOT753 and CAISO Q1211.

(ff) TOT795 (Q1322): The large generating facility and its interconnection facilities provided for in the large generator interconnection agreement among the CAISO, the Participating TO, and Solar Star 3, LLC which is filed at FERC as the Participating TO's Service Agreement No. 235 and described by the Interconnection Request SCE TOT795 and CAISO Q1322.

(gg) Transmission Owner Tariff: The Participating TO's Tariff designated as FERC Electric Tariff, Volume No. 6, as such tariff may be amended or superseded.

The following definitions from Article 1 – Definitions of the LGIA, Appendix EE of the CAISO Tariff, that were approved as per FERC Docket No. ER19-2679 to be applicable for projects in CAISO Queue Cluster 11 and forward, do not apply to this LGIA as this project belongs to a prior CAISO Queue Cluster:

Assigned Network Upgrade (ANU), Conditionally Assigned Network Upgrade (CANU), Current Cost Responsibility (CCR), General Reliability Network Upgrade (GRNU), Interconnection Reliability Network Upgrades (IRNU), Maximum Cost Exposure (MCE), Maximum Cost Responsibility (MCR), Precursor Network Upgrades (PNU).

1. Interconnection Facilities:

(a) **Interconnection Customer's Interconnection Facilities:** The Interconnection Customer's Interconnection Facilities consist of the Interconnection Customer's Dedicated Interconnection Facilities and the Interconnection Customer's Shared Interconnection Facilities. The Interconnection Customer shall:

(i) **Interconnection Customer's Dedicated Interconnection Facilities.**

1. Install one (1) 230/34.5/13.2 kV wye grounded-wye grounded-delta main step-up transformer rated at 21/28/35 MVA with an H-X impedance of 9.5 percent impedance on a 21 MVA base at the existing Kingbird 230 kV Substation.
2. Install two (2) diversely routed fiber optic paths between Kingbird Substation and the Large Generating Facility. The fiber optic paths shall meet the Applicable Reliability Standards criteria for diversity. A minimum of eight (8) strands within the fiber optic cable shall be provided for the Participating TO's exclusive use.
3. Own, operate, and maintain both telecommunication paths (including appurtenant facilities and fiber optic cables between the Point of

Change of Ownership and the Large Generating Facility) and the terminal equipment at both Kingbird Substation and at the Large Generating Facility.

4. Allow the Participating TO to review the Interconnection Customer's telecommunication equipment design and perform inspections to ensure compatibility with the Participating TO's terminal equipment and protection engineering requirements; allow the Participating TO to perform acceptance testing of the telecommunication equipment and the right to request and/or to perform correction of installation deficiencies.
5. Provide required data signals, make available adequate space, facilities, and associated dedicated electrical circuits within a secure building having suitable environmental controls for the installation of the Participating TO's RTU in accordance with the Interconnection Handbook. The Participating TO's RTU is a BES Cyber Asset and the Interconnection Customer shall cooperate with the Participating TO in implementing and adhering to required security protections in accordance with Applicable Reliability Standards. In accordance with Article 5.12 of this LGIA, the Interconnection Customer acknowledges that the access required under such section will include Participating TO's personnel ability to access twenty-four (24) hours a day the space provided for the Participating TO's RTU.
6. Make available adequate space, facilities, and associated dedicated electrical circuits within a secure building having suitable environmental controls for the installation of the Participating TO's telecommunications terminal equipment in accordance with the Interconnection Handbook. In accordance with Article 5.12 of this LGIA, the Interconnection Customer acknowledges that the access required under such section will include Participating TO's personnel ability to access twenty-four (24) hours a day the space provided for the Participating TO's telecommunications terminal equipment.
7. Extend the main and diverse single-mode fiber optic cables for the two telecommunication paths to Interconnection Customer provided and installed patch panels located adjacent to the Kingbird Substation's telecommunications terminal equipment.
8. Install all required CAISO-approved compliant metering equipment at the Large Generating Facility, in accordance with Section 10 of the CAISO Tariff.
9. Pursuant to Article 7.3 of this LGIA, install a metering cabinet and metering equipment (typically, potential and current transformers) at the Large Generating Facility to meter the Large Generating Facility retail load, as specified by the Participating TO. In accordance with Article 5.12 of this LGIA, the Interconnection Customer acknowledges that the access required under such section will include Participating TO's personnel ability to access twenty-four (24) hours a day the

metering cabinet provided for the Participating TO's metering equipment.

10. Pursuant to Article 7 of this LGIA, install a metering cabinet(s) and metering equipment (typically, potential and current transformers) at the Large Generating Facility to meter the Storage Energy, as specified by the Participating TO. In accordance with Article 5.12 of this LGIA, the Interconnection Customer acknowledges that the access required under such section will include Participating TO's personnel ability to access twenty-four (24) hours a day the metering cabinet(s) provided for the Participating TO's metering equipment.
11. Pursuant to Article 7.3 of this LGIA, allow the Participating TO to install, in the metering cabinet provided by the Interconnection Customer, meters required to meter the retail load at the Large Generating Facility.
12. Pursuant to Article 7 of this LGIA, allow the Participating TO to install, in the metering cabinet(s) provided by the Interconnection Customer, meters required to meter the Storage Energy at the Large Generating Facility.
13. Install necessary relays and satellite clock to support the centralized RAS (CRAS) requirements for the Large Generating Facility. The make and type of CRAS relays and satellite clock will be specified by the Participating TO during final engineering of the Participating TO's Interconnection Facilities.
14. Install all equipment necessary to comply with the power factor requirements of Article 9.6.1 of the LGIA, including the ability to regulate the power factor to maintain a voltage schedule (VAR schedule) in accordance with Article 9.6.2 of the LGIA. The power factor requirements specified in Article 9.6.1 shall be as measured at the high-side of the Interconnection Customer's 230/34.5/13.8 kV transformer.
15. Install disconnect facilities in accordance with the Participating TO's Interconnection Handbook to comply with the Participating TO's switching and tagging procedures.
16. Acquire the necessary rights-of-way for the Interconnection Customer's Interconnection Facilities.
17. Submit to the Participating TO, the updated PSLF models of the Large Generating Facility as part of the "as-built" drawings, information and documents required pursuant to Article 5.10.3 of the LGIA by the date specified in Appendix B. Submit to the Participating TO and the CAISO, the final PSLF and PSCAD models pursuant to Section 10 of the CAISO's Business Practice Manual for the Transmission Planning Process.

(ii) **Interconnection Customer's Shared Interconnection Facilities.**

1. Utilize the existing 1.4-mile Generation Tie-Line constructed for the TOT341 (Q408) project, which has a normal (continuous) rating of

1,069 A and an emergency (four-hour) rating of 1,184 A, extending from the Kingbird Substation to the structure outside of the Participating TO's Whirlwind Substation ("Last Structure").
2. Utilize the existing optical ground wire on the Generation Tie-Line for the TOT341 (Q408) project as the main telecommunication path required for the line protection scheme, the remote terminal units (RTUs) and CRAS.
3. Utilize the existing single-mode All-Dielectric Self-Supporting (ADSS) fiber optic cable for TOT341 (Q408) project providing the second telecommunication path required for the Generation Tie-Line protection scheme and the CRAS.
4. Utilize relay protection to be specified by the Participating TO to protect the Generation Tie-Line, as follows:
   a. Two (2) line current differential relays. The make and type of current differential relays will be specified by the Participating TO during final engineering of the Participating TO's Interconnection Facilities.

For the avoidance of doubt, the Parties agree that the Shared Facilities and the Interconnection Customer's Shared Interconnection Facilities are governed by the LGIA, including but not limited to, Article 18 of the LGIA.

(b) **Participating TO's Interconnection Facilities:** The Participating TO shall**:**

(i) **Dedicated Interconnection Facilities.**

1. **Substation.**
   Whirlwind Substation
   a. Perform relay coordination study.

2. **Telecommunications.**
   a. Install all required cross connects and associated equipment (including terminal equipment), supporting protection and RTU requirements at the Kingbird and Whirlwind Substations for the interconnection of the Large Generating Facility. Notwithstanding that certain telecommunication equipment, including the telecommunications terminal equipment, will be located on the Interconnection Customer's side of the Point of Change of Ownership, the Participating TO shall own, operate and maintain such telecommunication equipment as part of the Participating TO's Interconnection Facilities.
   b. Install additional channel banks, fiber optic cable, and associated equipment (including terminal equipment), supporting the CRAS requirements. Notwithstanding that certain telecommunication equipment, including the telecommunications terminal equipment, will be located on the Interconnection Customer's side of the Point

of Change of Ownership, the Participating TO shall own, operate and maintain such telecommunication equipment as part of the Participating TO's Interconnection Facilities.

3. **Metering.**
   a. Pursuant to Article 7.3 of this LGIA, install meters required to meter the retail load at the Large Generating Facility. Notwithstanding that the meters will be located on the Interconnection Customer's side of the Point of Change of Ownership, the Participating TO shall own, operate and maintain such facilities as part of the Participating TO's Interconnection Facilities.
   b. Pursuant to Article 7 of this LGIA, install meters required to meter the Storage Energy at the Large Generating Facility. Notwithstanding that the meters will be located on the Interconnection Customer's side of the Point of Change of Ownership, the Participating TO shall own, operate and maintain such facilities as part of the Participating TO's Interconnection Facilities.

4. **Power System Control.**
   a. Install one (1) RTU at the Large Generating Facility to monitor typical generation elements such as MW, MVAR, terminal voltage and circuit breaker status for the Large Generating Facility and plant auxiliary load, and transmit the information received thereby to the Participating TO's grid control center. Notwithstanding that the RTU will be located on the Interconnection Customer's side of the Point of Change of Ownership, the Participating TO shall own, operate and maintain the RTU as part of the Participating TO's Interconnection Facilities.
   b. Add points to existing RTU at Kingbird Substation to include points for new protection relay/status/alarm/controls and the RTU at the Large Generating Facility to support CRAS.

5. **Real Properties.**
   Obtain easements and/or acquire land for the installation of the Participating TO's Interconnection Facilities.

6. **Project management.**
   Extend project management and support due to extended Commercial Operation Date.

(ii) **Shared Interconnection Facilities.**
The Participating TO's Interconnection Facilities described below will be jointly used by the Solar Star 4 project, TOT795 (Q1322) project, and TOT341 (Q408) project.

1. **Generation Tie-Line.**
   Utilize the existing Generation Tie-Line structures including insulator/hardware assemblies, and spans of conductor, as specified in the TOT341 (Q408) LGIA, between the Last Structure and the dead-end substation structure at Whirlwind Substation as follows.
   a. Five (5) spans of conductor and main fiber optic cable inside Whirlwind Substation.
   b. Four (4) structures supporting this 220 kV transmission line. **Such structures will also be shared with TOT411 (Q506) project and TOT753 (Q1211) project.**

2. **Whirlwind Substation.**
   a. Utilize facilities for the 220 kV switchrack position, as specified in the TOT341 (Q408) LGIA, used to terminate the Generation Tie-Line. This includes the following:
      i. One (1) 220 kV dead-end switchyard structure.
      ii. Three (3) 220 kV coupling capacitor voltage transformers (CCVTs) with steel pedestal support structures.
      iii. Three (3) 220 kV line drops.
   b. Utilize the following relays, as specified in the TOT341 (Q408) LGIA, to protect Generation Tie-Line:
      i. Two (2) line current differential relays.

3. **Telecommunications.**
   a. Utilize existing fiber optic cable, including conduit and vaults, from the point designated by the Participating TO near the Participating TO's Whirlwind Substation, as specified in the TOT341 (Q408) LGIA, to extend the Interconnection Customer's main fiber optic cable to the communication equipment at Whirlwind Substation.
   b. Utilize existing fiber optic cable, including conduit and vaults, as specified in the TOT341 (Q408) LGIA, to extend the Interconnection Customer's diverse telecommunications from the point designated by the Participating TO near the Participating TO's Whirlwind Substation to the communication equipment at Whirlwind Substation.

2. Network Upgrades:

(a) **Stand Alone Network Upgrades:** None identified as part of the final Phase II Interconnection Study.

(b) **Other Network Upgrades:**

(i) **Participating TO's Reliability Network Upgrades.** The Participating TO shall**:**

4. **Dedicated Reliability Network Upgrades.**

   a. **Whirlwind AA Bank Centralized RAS**
      i. **Power System Controls.**
         1. Add points to the RTUs at Whirlwind Substation.

   b. **Tehachapi CRAS**
      i. **Whirlwind Substation.**
         Install two (2) GE N60 logic processing relays or equivalent successor to send tripping signals to the Large Generating Facility.

      ii. **Telecommunications.**
         Install channel banks and associated equipment at Whirlwind (including terminal equipment), supporting the CRAS requirements.

      iii. **Power System Controls.**
         1. Add points to the RTUs at Whirlwind Substation.
         2. Modify the existing CRAS program to support the additional relays.

   c. **Short-Circuit Duty (SCD) Mitigation**
      None identified as part of the final Phase II Interconnection Study.

   d. **Real Properties.**
      Obtain easements and/or acquire land for the installation of the Participating TO's Reliability Network Upgrades.

   e. **Environmental Activities, Permits, and Licensing.**
      Perform all required environmental activities, and obtain required licensing and permits for the installation of the Participating TO's Reliability Network Upgrades.

   f. **Project management.**
      Extend project management and support due to extended Commercial Operation Date.

2. **Shared Reliability Network Upgrades.**
   The Participating TO's Reliability Network Upgrades described below will be jointly used by the Solar Star 4 project, TOT795 (Q1322) project, and TOT341 (Q408) project.

   a. **Whirlwind Substation.**
      i. Utilize existing 220 kV transmission line, as specified in the TOT341 (Q408) LGIA, which includes the following equipment:

1. Two (2) 220 kV circuit breakers.
2. Four (4) sets 220 kV group operated disconnect switches.

ii. Utilize existing protection relays, as specified in the TOT341 (Q408) LGIA:
1. Two (2) local breaker failure backup relays.

iii. Utilize two (2) existing GE N60 logic processing relays or equivalent successor to send tripping signals to the Large Generating Facility for the Whirlwind AA bank centralized RAS.

iv. Utilize channel banks and associated equipment (including terminal equipment) at Whirlwind Substation, identified under Section 2(b)(i)1.b.ii of this Appendix A, supporting the CRAS requirements.

(ii) **Participating TO's Delivery Network Upgrades.**

1. **Area Delivery Network Upgrades.**
Because the Solar Star 4 project elected to proceed under Option A, none identified for the Solar Star 4 project in the Phase II Interconnection Study.

2. **Local Delivery Network Upgrades.**
None identified in the final Phase II Interconnection Study.

3. Distribution Upgrades: None identified in the Phase II Interconnection Study.

4. Point of Change of Ownership, Point of Interconnection and One-Line Diagram of Interconnection:

(a) **Point of Change of Ownership.**

(i) Generation Tie-Line: The Point of Change of Ownership shall be the point where the conductors of the Generation Tie-Line are attached to the Last Structure, which will be connected on the side of the Last Structure facing Whirlwind Substation. The Shared Facilities Parties and the interconnection customers of TOT411 (Q506) project and TOT753 (Q1211) project will own and maintain the Last Structure, the conductors, insulators and jumper loops from such Last Structure to the Interconnection Customer's Large Generating Facility. The Participating TO will own and maintain the Whirlwind Substation, as well as all circuit breakers, disconnects, relay facilities and metering within the Whirlwind Substation, together with the line drop, in their entirety, from the Last Structure to Whirlwind Substation. The Participating TO will own the

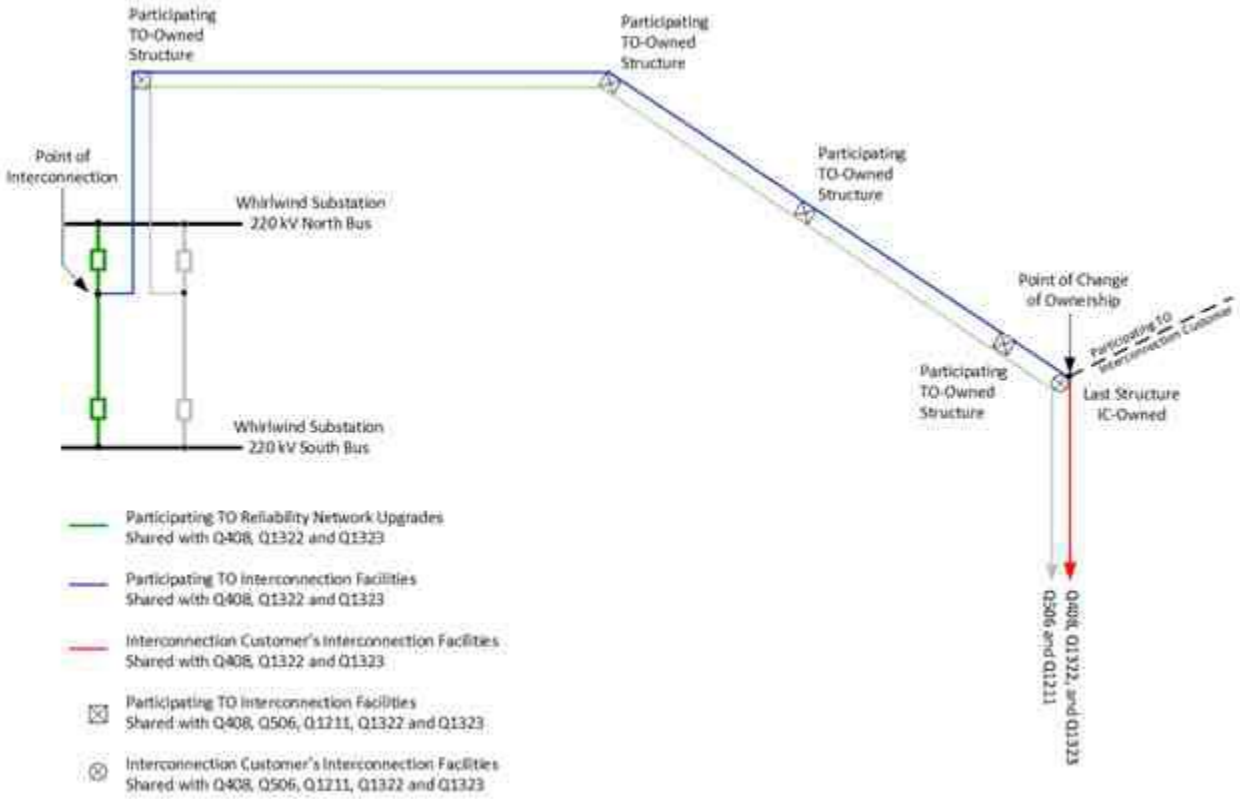
insulators that are used to attach the Participating TO-owned conductors to the Last Structure.

(ii) Telecommunication main fiber optic cable: The Point of Change of Ownership shall be the point where the TOT341 (Q408) interconnection customer's main fiber optic cable for the Generation Tie-Line protection is connected to the Participating TO's fiber optic cable in the Participating TO's vault.

(iii) Telecommunication diverse fiber optic cable: The Point of Change of Ownership shall be the point where the TOT341 (Q408) interconnection customer's diverse fiber optic cable for the Generation Tie-Line protection is connected to the Participating TO's fiber optic cable in the Participating TO's diverse vault. The Participating TO shall own and maintain all fiber optic cable from that point into the Whirlwind Substation communications room.

(b) **Point of Interconnection.** The Participating TO's Whirlwind Substation at the 220 kV switchrack.

(c) **One-Line Diagram of Interconnection.**



5. Cost of Interconnection Facilities, Distribution Upgrades and Network Upgrades, Payment Schedule, On-Going Monthly Charges and Financial

Security:

(a) **Estimated Cost.**

(i) Prior to the Commercial Operation Date, the Interconnection Customer shall provide written confirmation from an officer of the interconnection customer for the TOT341 (Q408) project that the interconnection customer for the TOT341 (Q408) project has agreed to pay the Participating TO the total cost and on-going monthly charges for the Shared Facilities and that the Interconnection Customer and the interconnection customer for the TOT341 (Q408) project have agreed upon an allocation of the cost and on-going monthly charges for the Shared Facilities. If Interconnection Customer fails to provide such written confirmation by the Commercial Operation Date, then this LGIA will be amended to adjust the charges due hereunder to appropriately reflect Interconnection Customer's pro rata usage of the Shared Facilities based on the Participating TO's cost allocation principles in effect at such time, subject to FERC approval.

Solar Star 4 project Estimated Cost for dedicated facilities

Element	Interconnection Facilities Cost	Distribution Upgrades Cost	Reliability Network Upgrades Cost	Area Delivery Network Upgrades Cost	Local Delivery Network Upgrades Cost	One-Time Cost	Total
Participating TO's Interconnection Facilities							
Substation: Relay coordination study						$93,643	$93,643
Power System Control: New RTU at the generating facility	$77,645						$77,645
Power System Control: Point addition at Kingbird Substation						$28,558	$28,558
Power System Control: Tehachapi CRAS - point addition generating facility						$28,558	$28,558
Power System Control: Whirlwind AA Bank RAS - Point addition at generating facility						$28,558	$28,558
Telecommunication: Install cross connects to support SCADA	$8,249						$8,249
Telecommunication: Tehachapi CRAS - Install telecom channel bank equipment at	$108,753						$108,753

generating facility to add generating facility to CRAS							
Telecommunication: Whirlwind AA Bank RAS - Install telecom channel bank equipment at generating facility to add generating facility to RAS	$108,753						$108,753
Retail metering at generating facility	$38,240						$38,240
Real properties support	$20,915						$20,915
Incremental project management & project support						$60,493	$60,493
Subtotal	**$362,555**					**$239,810**	**$602,365**
Distribution Upgrades							
None		$0				$0	$0
Subtotal		**$0**				**$0**	**$0**
Participating TO's Reliability Network Upgrades							
Substation: Tehachapi CRAS (f.k.a. Northern Area RAS) - generator addition			$489,508				$489,508
Substation: Whirlwind AA Bank RAS - generator addition			$489,508				$489,508
Power System Control: Point addition at SCE sub to support Tehachapi CRAS						$28,558	$28,558
Power System Control: Point addition at SCE sub to support Whirlwind CRAS						$28,558	$28,558
Incremental project management & project support						$60,493	$60,493
Subtotal			**$979,016**			**$117,609**	**$1,096,625**
Area Delivery Network Upgrades							
None				$0		$0	$0
Subtotal				**$0**		**$0**	**$0**
Local Delivery Network Upgrades							
None					$0	$0	$0
Subtotal					**$0**	**$0**	**$0**
Total	**$362,555**	**$0**	**$979,016**	**$0**	**$0**	**$357,419**	**$1,698,990**

All amounts shown above are in nominal dollars.

The costs associated with any mitigation measures required to third party transmission systems, which result from interconnection of the Large Generating Facility to the Participating TO's electrical system, are not reflected in this LGIA.

The Interconnection Customer's maximum cost responsibility for the Participating TO's Reliability Network Upgrades and Local Delivery Network Upgrades required to interconnect this project is $1,135,243, expressed

in 2024 constant dollars as established in accordance with the requirements of Appendix DD of the CAISO Tariff dated April 1, 2019. The maximum cost responsibility value is established in the Phase II Interconnection Study report for this project as amended through revisions and annual reassessments.

The table above excludes the costs associated with the Shared Facilities which are being paid for pursuant to Sections 5(a) and 5(c) of this Appendix A. The total estimated cost of the Participating TO's Interconnection Facilities of the Shared Facilities is shown below for informational purposes only.

Element	Estimated Cost	One-Time Cost	Total Estimated Cost
Participating TO's Interconnection Facilities of the Shared Facilities	$3,349,000	$0	$3,349,000

(b) **Payment Schedule.**

The payment amounts shown below are based on an estimate of the monthly incurred costs for the Participating TO's Interconnection Facilities, Distribution Upgrades, and Network Upgrades.

Payment No.	Payment Due Date	Interconnection Facilities Cost	Reliability Network Upgrades Cost	One-Time Cost	Project Payment
1	6/1/2022 (PAID)	$3,340	$9,016	$2,177	**$14,533**
2	7/1/2022 (PAID)	$4,267	$11,518	$2,782	**$18,567**
3	8/1/2022 (PAID)	$5,416	$14,626	$3,534	**$23,576**
4	9/1/2022 (PAID)	$6,825	$18,430	$4,453	**$29,708**
5	10/1/2022 (PAID)	$8,515	$22,996	$5,555	**$37,066**
6	11/1/2022 (PAID)	$10,498	$28,346	$6,846	**$45,690**
7	12/1/2022 (PAID)	$12,745	$34,420	$8,312	**$55,477**
8	1/1/2023 (PAID)	$15,565	$42,032	$10,150	**$67,747**
9	2/1/2023 (PAID)	$18,163	$49,044	$11,841	**$79,048**
10	3/1/2023 (PAID)	$20,666	$55,804	$13,478	**$89,948**
11	4/1/2023 (PAID)	$22,849	$61,702	$14,902	**$99,453**
12	5/1/2023 (PAID)	$24,479	$66,100	$15,962	**$106,541**
13	6/1/2023 (PAID)	$25,350	$68,456	$16,533	**$110,339**
14	7/1/2023 (PAID)	$25,350	$68,456	$16,533	**$110,339**
15	8/1/2023 (PAID)	$24,479	$66,100	$15,962	**$106,541**
16	9/1/2023 (PAID)	$22,849	$61,702	$14,902	**$99,453**
17	10/1/2023 (PAID)	$20,666	$55,804	$13,478	**$89,948**
18	11/1/2023 (PAID)	$18,163	$49,044	$11,841	**$79,048**
19	12/1/2023 (PAID)	$15,565	$42,032	$10,150	**$67,747**
20	1/1/2024 (PAID)	$13,359	$36,068	$8,710	**$58,137**
21	2/1/2024 (PAID)	$11,001	$29,704	$7,171	**$47,876**
22	3/1/2024 (PAID)	$8,924	$24,098	$5,820	**$38,842**
23	4/1/2024 (PAID)	$7,152	$19,312	$4,662	**$31,126**
24	5/1/2024 (PAID)	$5,677	$15,328	$3,701	**$24,706**
25	6/1/2024 (PAID)	$4,470	$12,070	$2,915	**$19,455**
26	7/1/2024 (PAID)	$3,498	$9,448	$2,284	**$15,230**
27	8/1/2024 (PAID)	$2,724	$7,360	$1,779	**$11,863**
28	4/1/2026	-	-	$120,986	**$120,986**
Total		**$362,555**	**$979,016**	**$357,419**	**$1,698,990**

All amounts shown above are in nominal dollars.

In accordance with Article 11.4 of the LGIA, transmission credits are available as follows:

a) Transmission credits for Participating TO's Reliability Network Upgrades = the lesser of the sum of the payments made for Reliability Network Upgrades or $60,000 per MW, as adjusted pursuant to Section 14.3.2.1 of the GIDAP, of the Large Generating Facility capacity at the time it achieves Commercial Operation

b) Transmission credits for Local Deliverability Network Upgrades = sum of the payments made for the Local Deliverability Network Upgrades = $0

(c) **On-Going Monthly Charges.**

Commencing on or following the Interconnection Facilities Completion Date or Distribution Upgrades Completion Date, if applicable, each month the Participating TO will render bills to the Interconnection Customer for the Interconnection Facilities Charge and/or Distribution Upgrades Charge as set forth below. The Interconnection Facilities Charge and Distribution Upgrades Charge shall initially be based on the estimated Interconnection Facilities Cost and Distribution Upgrades Cost, and payments made for such Interconnection Facilities Charge and Distribution Upgrades Charge shall be subject to later adjustment to reflect actual costs.

In the event that any portion of the Participating TO's Interconnection Facilities or Distribution Upgrades is not complete but, at the request of the Interconnection Customer, the Participating TO commences interconnection service under this LGIA notwithstanding the incomplete facilities, the Participating TO shall commence billing, and the Interconnection Customer shall pay, the Interconnection Facilities Charge and the Distribution Upgrades Charge, as applicable, commencing on the date that such service commences.

The Shared Facilities Parties solely own discrete portions of projects that share the Shared Facilities. The Shared Facilities Parties have agreed to pay the Participating TO the total cost of all on-going monthly charges for the Participating TO – owned Shared Facilities and have agreed upon an allocation of cost and on-going monthly charges for the Shared Facilities using an allocation that has been mutually agreed upon by the Shared Facilities Parties.

The entire cost and charges of the Participating TO's Interconnection Facilities that are Shared Facilities as identified in Section 1(b)(ii) of this Appendix A are being paid by the interconnection customer for the TOT341 (Q408) project, except that the entire cost and charges of the shared structures described in Section 1(b)(ii)1.b of this Appendix A are being paid by the interconnection customers of TOT341 (Q408) project, TOT411 (Q506) project, and TOT753 (Q1211) project. However, the Interconnection Customer is jointly and severally liable for the costs and charges for such Shared Facilities. In the event any of the following occur during the term of this LGIA, the Interconnection Customer shall be jointly and severally responsible for up to one hundred (100) percent of all costs and charges of the applicable shared Participating TO's Interconnection Facilities, including any required financial security: (i) the interconnection customers of TOT341 (Q408) project, TOT411 (Q506) project, TOT753 (Q1211) project, and TOT795 (Q1322) project in combination stop paying the entire cost and charges associated with such shared Participating

TO's Interconnection Facilities, or (ii) the large generator interconnection agreement for TOT341 (Q408) project, TOT411 (Q506) project, TOT753 (Q1211) project, or TOT795 (Q1322) project is terminated during the term of this LGIA. Any change to the cost responsibility of the Participating TO's Interconnection Facilities portion of the Shared Facilities to the Interconnection Customer will be incorporated in an amendment to this LGIA, subject to FERC approval.

(i) Interconnection Facilities Charge.

		Estimated	
Effective	Customer-Financed Monthly Rate for Non-ISO-Controlled Facilities	Interconnection Facilities Cost	Interconnection Facilities Charge
As of the Interconnection Facilities Completion Date	See Section 4.1 of Appendix X to the Transmission Owner Tariff*	$362,555	Customer-Financed Monthly Rate for Non-ISO-Controlled Facilities x Interconnection Facilities Cost

* Appendix X to the Transmission Owner Tariff is available at the following link: https://www.sce.com/openaccess

(ii) Distribution Upgrades Charge.

		Estimated	
Effective	Customer-Financed Monthly Rate for Non-ISO-Controlled Facilities	Distribution Upgrades Cost	Distribution Upgrades Charge
As of the Distribution Upgrades Completion Date	See Section 4.1 of Appendix X to the Transmission Owner Tariff*	$0	Customer-Financed Monthly Rate for Non-ISO-Controlled Facilities x Distribution Upgrades Cost

* Appendix X to the Transmission Owner Tariff is available at the following link: https://www.sce.com/openaccess

(d) **Financial Security.**

(i) Interconnection Financial Security.

1. The Participating TO's Interconnection Facilities: Pursuant to Article 11.5 and Appendix B of the LGIA, the Interconnection Customer has provided Interconnection Financial Security in the total amount of $500,000 for the second posting and increased such amount to $541,872 for the third posting to cover the costs for constructing, procuring and installing the Participating TO's Interconnection Facilities.
2. Distribution Upgrades: Pursuant to Appendix B of the LGIA, the Interconnection Customer shall provide Interconnection Financial Security in the total amount of $0 to cover the costs for constructing, procuring and installing the Distribution Upgrades.

3. Network Upgrades: Pursuant to Article 11.5 and Appendix B of the LGIA, the Interconnection Customer has provided Interconnection Financial Security in the total amount of $500,000 for the second posting and increased such amount to $1,036,132 for the third posting to cover the costs for constructing, procuring and installing the Network Upgrades.
4. To the extent that any Interconnection Financial Security is not utilized by the Participating TO, the release of such Interconnection Financial Security shall be made in accordance with the Interconnection Customer's instructions.

(ii) Security Amount for Estimated Tax Liability.

Pursuant to Article 5.17.4 of the LGIA, the Interconnection Customer's estimated tax liability is as follows:

1. Estimated tax liability for Participating TO's Interconnection Facilities = The sum of the product of (i) the applicable ITCC rate for the year payments are to be received, and (ii) the total of the payments to be received for the Interconnection Facilities Cost for that year.

Year(s) payments to be received	Applicable ITCC rate	Total payments to be received for Interconnection Facilities Cost	ITCC for Participating TO's Interconnection Facilities
2019 & beyond	See Section 4.4 of Appendix X to the Transmission Owner Tariff*	$362,555	Applicable ITCC rate x Total payments to be received for Interconnection Facilities Cost

* The estimated tax liability is based on the applicable ITCC rate in Appendix X to the Transmission Owner Tariff and is available at the following link: https://www.sce.com/openaccess

2. Estimated tax liability for Distribution Upgrades = $0

Based upon the total estimated tax liability, the Interconnection Customer shall provide the Participating TO Tax Security in the total amount as calculated above in this Section 5(d)(ii) of Appendix A of the LGIA in the form of a cash deposit in an escrow account, a letter of credit, a parent guaranty, or other form reasonably acceptable to the Participating TO, pursuant to Article 5.17.3 and Appendix B of the LGIA. The letter of credit, cash deposit in an escrow account, or parent guaranty shall meet the requirements of Section 11.1 of the GIDAP.

Upon notification of the Annual Tax Security Reassessment, the Interconnection Customer shall modify its Tax Security accordingly. If the Annual Tax Security Reassessment results in a deficiency in the Tax Security amount, the Interconnection Customer will be required to increase its Tax Security amount within thirty (30) Calendar Days after receipt of the deficiency notification. If the Annual Tax Security Reassessment results in a reduction of the Tax Security amount, the

Interconnection Customer may choose to reduce its Tax Security amount or maintain the Tax Security in the current amount for the following year.

The Interconnection Customer's obligation to provide Tax Security shall terminate in accordance with Article 5.17.3 of this LGIA. Upon termination of the Interconnection Customer's obligation to provide Tax Security, and Participating TO's receipt of the Interconnection Customer's written instructions regarding the release of any unused Tax Security, any unused amount of the Tax Security shall be released to the Interconnection Customer.

Appendix B

Milestones

1. **The Interconnection Customer's Selected Option:** Pursuant to Article 5.1 of the LGIA, the Interconnection Customer has selected the Standard Option.

2. **Milestone Dates:**

Item	Milestone	Responsible Party	Due Date
(a)	Submit proof of insurance coverage in accordance with Article 18.3 of the LGIA	Interconnection Customer	Within thirty (30) Calendar Days after the Effective Date of the First Amendment to the LGIA
(b)	Submittal of written authorization to proceed with design and procurement of the Participating TO's Interconnection Facilities, Distribution Upgrades and Network Upgrades to the Participating TO and the CAISO, in accordance with Article 5.5.2 of the LGIA	Interconnection Customer	Completed
(c)	Submittal of second posting of Interconnection Financial Security for the Participating TO's Interconnection Facilities and Network Upgrades to the Participating TO, pursuant to Article 11.5 and Section 5(d)(i) of Appendix A of the LGIA	Interconnection Customer	Completed
(d)	Submittal of third posting of Interconnection Financial Security for the Participating TO's Interconnection Facilities and Network Upgrades to the Participating TO, pursuant to Article 11.5 and Section 5(d)(i) of Appendix A of the LGIA	Interconnection Customer	Completed

Item	Milestone	Responsible Party	Due Date
(e)	Submittal of security for the Distribution Upgrades to the Participating TO pursuant to Section 5(d)(i) of Appendix A of the LGIA	Interconnection Customer	Not Applicable
(f)	Submittal of written authorization to proceed with construction to the Participating TO and the CAISO, pursuant to Article 5.6.3 of the LGIA	Interconnection Customer	Completed
(g)	Submittal of Tax Security for the estimated tax liability to the Participating TO, pursuant to Article 5.17.3 and Section 5(d)(ii) of Appendix A of the LGIA	Interconnection Customer	Completed
(h)	Submittal of initial specifications for the Interconnection Customer's Interconnection Facilities and Large Generating Facility, including System Protection Facilities, to the Participating TO and the CAISO, pursuant to Article 5.10.1 of the LGIA	Interconnection Customer	Completed
(i)	Review of and comment on the Interconnection Customer's initial specifications, pursuant to Article 5.10.1 of the LGIA	Participating TO and CAISO	Completed
(j)	Submittal of initial information including the Participating TO's Transmission System information necessary to allow the Interconnection Customer to select equipment, in accordance with Article 24.2 of the LGIA	Participating TO	Completed
(k)	Submittal of final specifications for the	Interconnection Customer	Completed

Item	Milestone	Responsible Party	Due Date
	Interconnection Customer's Interconnection Facilities and Large Generating Facility, including System Protection Facilities, to the Participating TO and the CAISO, as specified in Article 5.10.1 of the LGIA		
(l)	Review of and comment on the Interconnection Customer's final specifications, pursuant to Article 5.10.1 of the LGIA	Participating TO and CAISO	Completed
(m)	Submittal of updated information by the Interconnection Customer, including manufacturer information, in accordance with Article 24.3 of the LGIA	Interconnection Customer	Completed
(n)	Notification of Balancing Authority Area to the Participating TO and the CAISO, pursuant to Article 9.2	Interconnection Customer	At least three (3) months prior to the Initial Synchronization Date
(o)	Completion of the Participating TO's Interconnection Facilities, Distribution Upgrades, and Network Upgrades	Participating TO	Within twenty seven (27) months following the completion of milestone Item (b) above*
(p)	Performance of a complete calibration test and functional trip test of the System Protection Facilities, pursuant to Article 9.7.4.6 of the LGIA	Interconnection Customer and Participating TO	Completed
(q)	In-Service Date	Interconnection Customer	May 30, 2025
(r)	Provide documentation to the Participating TO and CAISO which demonstrates the ability of the control limiting device	Interconnection Customer	At least thirty (30) Calendar Days prior to the Initial Synchronization Date

Item	Milestone	Responsible Party	Due Date
	or control system configuration to restrict the maximum output/charging of the Large Generating Facility in accordance with Appendix C Section 1 of this LGIA		
(s)	Testing of the Participating TO's Interconnection Facilities, Distribution Upgrades, Network Upgrades, and testing of the Interconnection Customer's Interconnection Facilities and Large Generating Facility, all in accordance with Article 6.1 of the LGIA	Interconnection Customer and Participating TO	At least ten (10) Calendar Days prior to the Initial Synchronization Date
(t)	Provide the Participating TO written notice of the Interconnection Customer's expected date of initial synchronization of the Electric Generating Unit(s) at the Large Generating Facility to the CAISO Controlled Grid	Interconnection Customer	At least fifteen (15) Calendar Days prior to the Initial Synchronization Date
(u)	Provide the Interconnection Customer written notice that the required Participating TO facilities have been installed and tested, and have been approved to allow initial synchronization of the Electric Generating Unit(s) at the Large Generating Facility to the CAISO Controlled Grid and the commencement of Trial Operation in accordance with Article 6.1 of the LGIA	Participating TO	At least ten (10) Calendar Days prior to the Initial Synchronization Date
(v)	Provide the CAISO written notice of the expected	Interconnection Customer	At least ten (10) Calendar Days prior

Item	Milestone	Responsible Party	Due Date
	Initial Synchronization Date and of the Participating TO's notice approving the readiness of the required Participating TO facilities for initial synchronization of the Electric Generating Unit(s) at the Large Generating Facility to the CAISO Controlled Grid and the commencement of Trial Operation		to the Initial Synchronization Date
(w)	Initial Synchronization Date/Trial Operation	Interconnection Customer	July 20, 2026
(x)	Provide the CAISO and Interconnection Customer written notice that the required Participating TO facilities have been installed and tested, and have been approved to allow the Large Generating Facility to operate in parallel with the CAISO Controlled Grid	Participating TO	Within five (5) Calendar Days after the Initial Synchronization Date and satisfaction of the testing requirements of Articles 6.1 and 9.7.4.6 of the LGIA
(y)	Provide written confirmation from an officer of the interconnection customer for the TOT341 (Q408) project pursuant to Section 5(a)(i) of the Appendix A of the LGIA	Interconnection Customer	Prior to the Commercial Operation Date
(z)	Commercial Operation Date	Interconnection Customer	August 12, 2026
(aa)	Submittal to the Participating TO of "as-built" drawings, information and documents for the Interconnection Customer's Interconnection Facilities and the Electric Generating Units including	Interconnection Customer	Within one hundred twenty (120) Calendar Days after the Commercial Operation Date

Item	Milestone	Responsible Party	Due Date
	the updated PSLF models of the Large Generating Facility, in accordance with Article 5.10.3 of the LGIA		

* Note: Pursuant to Article 5.1.1, Participating TO shall use Reasonable Efforts to complete Participating TO's Interconnection Facilities, Distribution Upgrades, and Network Upgrades by the dates set forth above. In the event Participating TO reasonably expects that it will not be able to complete Participating TO's Interconnection Facilities, Distribution Upgrades, and Network Upgrades by the specified dates, Participating TO shall promptly provide written notice to Interconnection Customer and shall undertake Reasonable Efforts to meet the earliest dates thereafter.

Appendix C

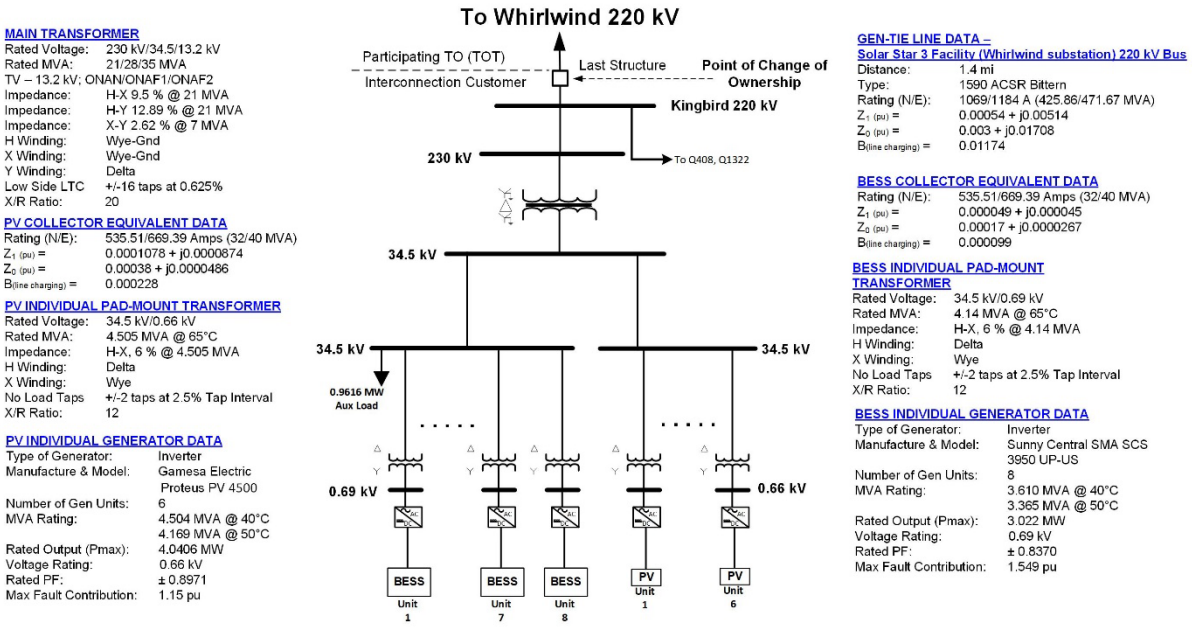
Interconnection Details

1. **Large Generating Facility:** All equipment and facilities comprising the Interconnection Customer's solar photovoltaic and energy storage Solar Star 4 generating facility in Rosamond, California, as disclosed by the Interconnection Customer in its Interconnection Request, as may have been amended during the Interconnection Study process, as summarized below:

CAISO Resource ID:		
Description: (i) fourteen (14) inverters total – six (6) Gamesa Electric Proteus PV 4500 each rated 4.0406 MW / 4.504 MVA at 40°C to be used for the solar photovoltaic (PV) portion of the project and eight (8) SMA SCS3950 UP-US each rated 3.0217 MW / 3.610 MVA at 40°C to be used for the battery energy storage system (BESS) portion of the project, (ii) fourteen (14) individual step-up pad-mounted transformer banks – six (6) rated 34.5/0.66 kV / 4.505 MVA with an H-X impedance of 6% on a 4.505 MVA base and an X/R ratio of 12, eight (8) rated 34.5/0.69 kV / 4.14 MVA with an H-X impedance of 6% on a 4.14 MVA base and an X/R ratio of 12, (iii) one (1) main transformer rated 230/34.5/13.2kV / 35/35/10.5 MVA @ 65°C with an impedance of 9.5%/12.89%/2.62% on a 21/21/7 MVA base, (iv) associated infrastructure (v) meters and metering equipment, (vi) appropriate amount of dynamic and reactive resources to provide for the 0.95 power factor (PF) requirements pursuant to Article 9.6.1 of the LGIA and as outlined in FERC Order 827; these PF requirements must be satisfied under all ambient temperature conditions at the Large Generating Facility, (vii) appurtenant equipment, (viii) auxiliary BESS load total of 0.9616 MW (ix) control system to limit combined output of solar photovoltaic and energy storage to not exceed 24 MW at the Point of Interconnection.		
Generating Facility Output	Solar PV	BESS
Total rated (gross) capacity at generator/inverter terminals:	27.024 MW at 1.0 PF (Temp ≤ 45°C)	28.88 MW at 1.0 PF (Temp ≤ 40°C)
Total net capability at high side of main step-up transformer(s):	25.78 MW at 1.0 PF (Temp ≤ 45°C)	27.62 MW at 1.0 PF (Temp ≤ 40°C)
Total net capacity provided under the LGIA at high side of main step-up transformer(s):	Combined net capacity at high side of main step-up transformers limited to 24 MW for PV and 23 MW for BESS, respectively.	
Total net capacity provided under the LGIA at POI:	Combined net capacity at POI limited to not exceed 24 MW for PV and 23 MW for BESS, respectively.	
Generating Facility Charging		
Total rated Charging Capacity at inverter terminals:		-28.88 MW at 1.0 PF (Temp ≤ 40°C)

Total charging capability at high side of main step-up transformer(s):	-30.18 MW at 1.0 PF (Temp ≤ 40°C)
Total requested charging capacity at inverter terminals:	-24.174 MW
Total Charging Capacity, provided under the LGIA at high side of main step-up transformer:	-25.37 MW
Total Charging Capacity, provided under the LGIA at Point of Interconnection:	-25.37 MW

Solar Star 4 (TOT821/Q1323)
24 MW



The Interconnection Customer has requested, and this LGIA provides for, a total net output capacity of **24.0 MW** as measured at the high-side of the main step-up transformer(s) and **24.0 MW** at the Point of Interconnection. The Parties acknowledge that the Large Generating Facility has a total net capability that exceeds these values. Accordingly, the Interconnection Customer agrees to install, own, operate and maintain a control limiting device or, alternatively, by means of configuring the Large Generating Facility's control system to ensure the Large Generating Facility does not exceed the total net output capacity provided under the LGIA at the high-side of the main step-up transformer(s) and Point of Interconnection, subject to the following:

(a) The Interconnection Customer shall provide documentation to the Participating TO and CAISO prior to the Initial Synchronization Date which demonstrates the ability of the control limiting device or configuration of the control system to ensure the Large Generating Facility does not exceed the total net output

capacity provided under the LGIA at the high-side of the main step-up transformer(s) and Point of Interconnection.

(b) The Interconnection Customer's control limiting device or configuration of the control system for the Large Generating Facility shall be installed prior to the Initial Synchronization Date.

(c) The control limiting device or configuration of the control system must be tested and remain in-service and operable at all times during which the Large Generating Facility is producing electricity.

(d) The Interconnection Customer understands and acknowledges that if at any time the Participating TO or CAISO identifies that the Large Generating Facility has exceeded the total net output capacity provided under the LGIA at the high-side of the main step-up transformer(s) or Point of Interconnection, this shall be considered a Breach of the LGIA and the Participating TO shall issue a notice of such Breach pursuant to Article 17.1 of this LGIA. Such Breach shall not be considered cured until such time as the Interconnection Customer can demonstrate, to the satisfaction of the Participating TO and the CAISO, that the Large Generating Facility will be restricted to within the total net output capacity provided under the LGIA at the high-side of the main step-up transformer(s) and Point of Interconnection by the Interconnection Customer's control limiting device or control system.

The Interconnection Customer has requested, and this LGIA provides for a total gross MW Charging Capacity of **-24.174 MW** at the inverter terminals which would result in a net **-25.37 MW** as measured at the high-side of the main step-up transformer(s) and **-25.37 MW** at the Point of Interconnection. The Parties acknowledge that the Large Generating Facility has a total charging capability that exceeds these values. Accordingly, the Interconnection Customer agrees to install, own, operate and maintain a control limiting device or, alternatively, by means of configuring the Large Generating Facility's control system to ensure the Large Generating Facility does not exceed the total Charging Capacity provided under the LGIA at the high-side of the main step-up transformer(s) and Point of Interconnection, subject to the following:

(a) The Interconnection Customer shall provide documentation to the Participating TO and CAISO prior to the Initial Synchronization Date which demonstrates the ability of the control limiting device or configuration of the control system to ensure the Large Generating Facility does not exceed the total Charging Capacity provided under the LGIA at the high-side of the main step-up transformer(s) and Point of Interconnection.

(b) The Interconnection Customer's control limiting device or configuration of the control system for the Large Generating Facility shall be installed prior to the Initial Synchronization Date.

(c) The control limiting device or configuration of the control system must be tested and remain in-service and operable at all times during which the Large Generating Facility is producing electricity.

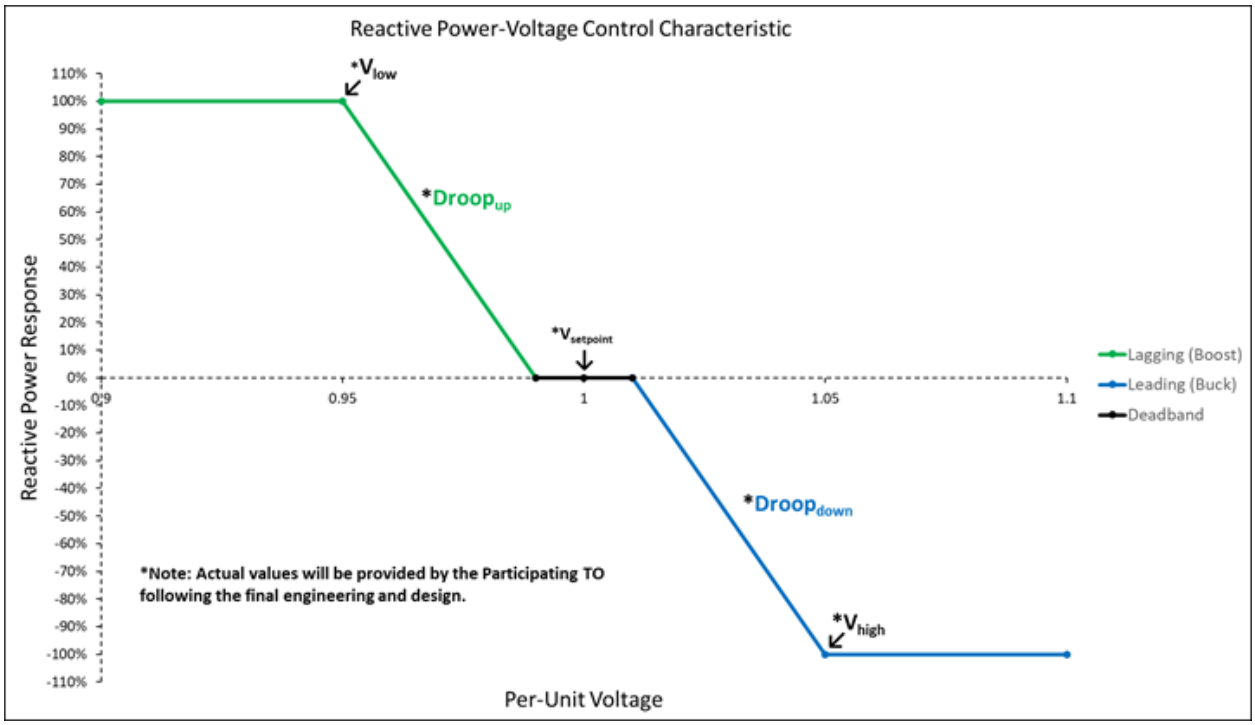
(d) The Interconnection Customer understands and acknowledges that if at any time the Participating TO or CAISO identifies that the Large Generating Facility has exceeded the total Charging Capacity provided under the LGIA at the high-side of the main step-up transformer(s) or Point of Interconnection, this shall be considered a Breach of the LGIA and the Participating TO shall issue a notice of such Breach pursuant to Article 17.1 of this LGIA. Such Breach shall not be considered cured until such time as the Interconnection Customer can demonstrate, to the satisfaction of the Participating TO and the CAISO, that the Large Generating Facility will be restricted to within the total Charging Capacity provided under the LGIA at the high-side of the main step-up transformer(s) and Point of Interconnection by the Interconnection Customer's control limiting device or control system.

The Interconnection Customer acknowledges that if the Interconnection Customer wishes to increase the amount of interconnection capacity provided pursuant to this LGIA, the Interconnection Customer shall be required to submit a new Interconnection Request in accordance with the terms and conditions of the CAISO Tariff.

2. Interconnection Customer Operational Requirements:

(a) The Large Generating Facility shall be operated so as to prevent or protect against the following adverse conditions on the Participating TO's electric system: inadvertent and unwanted re-energizing of a utility dead line or bus; interconnection while out of synchronization; overcurrent; voltage imbalance; ground faults; generated alternating current frequency outside permitted safe limits; power factor or reactive power outside permitted limits; and abnormal waveforms.

(b) The Large Generating Facility will be required to operate within a 0.95 leading (buck) to 0.95 lagging (boost) power factor in accordance with Article 9.6.1 of the LGIA. Under real-time operations the Large Generating Facility will be required to operate in automatic voltage control mode actively controlling voltage as shown in the figure below. The actual values of the reactive power droop, deadband, scheduled voltage setpoint, V_{low} and V_{high} will be provided by the Participating TO once final engineering and design is completed.



(c) The Interconnection Customer shall cause the Large Generating Facility to participate in any RAS required to prevent thermal overloads and unstable conditions resulting from outages. Such participation shall be in accordance with applicable FERC regulations, and CAISO Tariff provisions and protocols. In accordance with Good Utility Practice, the Participating TO will provide the Interconnection Customer advance notice of any required RAS beyond that which has already been identified in the Phase II Interconnection Study and this LGIA.

(d) Following outages of the Interconnection Facilities or the Large Generating Facility, the Interconnection Customer shall not energize the Large Generating Facility or Interconnection Customer's Interconnection Facilities for any reason without specific permission from the Participating TO's and the CAISO's operations personnel. Such permission shall not be unreasonably withheld.

(e) The Interconnection Customer shall maintain operating communications with the Participating TO's designated switching center. The operating communications shall include, but not be limited to, system parallel operation or separation, scheduled and unscheduled outages, equipment clearances, protective relay operations, and levels of operating voltage and reactive power.

(f) In accordance with Appendix D of the LGIA, the Interconnection Customer shall immediately notify the Participating TO and the CAISO of an occurrence of a physical or cyber breach, or any attempted breach, of the Participating TO's BES Cyber Asset(s) located at the Large Generating Facility or within a Shared BES Cyber Asset Facility. Such notification to the Participating TO and the

CAISO by the Interconnection Customer shall be made to the Participating TO's and the CAISO's respective operations representative as identified in Section (b) of Appendix F of the LGIA.

(g) The Interconnection Request for the Large Generating Facility was evaluated as part of CAISO's Queue Cluster 9 and the Interconnection Customer selected Option A as the deliverability option under GIDAP Section 7.2. In accordance with the TP Deliverability allocation procedures of GIDAP Section 8.9, following the CAISO's allocation of TP Deliverability, the Interconnection Customer has elected for the Large Generating Facility to have Full Capacity Deliverability Status, as such term is defined in the CAISO Tariff. The Interconnection Customer acknowledges and understands that until (i) all required Network Upgrades as stated in this LGIA and (ii) all required network upgrades identified for the Large Generating Facility as stated in the governing interconnection study report (i.e., Phase II Interconnection Study report as that report may have been amended or modified in subsequent studies or reassessments), including all required transmission upgrades triggered by earlier queued generation that were assumed in-service in the governing interconnection study, are constructed and placed in service, the Large Generating Facility will not achieve Full Capacity Deliverability Status.

(h) The Interconnection Customer whose Large Generating Facility is a Variable Energy Resource shall provide meteorological and forced outage data to the CAISO pursuant to Article 8.4 of the LGIA. Requirements for meteorological data shall be in accordance with Appendix Q of the CAISO Tariff, and for forced outage data in accordance with Sections 9.3.10.3(b) and 9.3.10.3.1(b) of the CAISO Tariff.

(i) Compliance with Applicable Reliability Standards: The Interconnection Customer shall comply with all Applicable Reliability Standards for the Interconnection Customer's Interconnection Facilities and the Large Generating Facility, which for purposes of clarity includes the Interconnection Customer's BES Cyber Asset(s). The Participating TO will not assume any responsibility for complying with mandatory reliability standards for such facilities and offers no opinion as to whether the Interconnection Customer must register with NERC. If required to register with NERC, the Interconnection Customer shall be responsible for complying with all Applicable Reliability Standards for the Interconnection Customer's Interconnection Facilities and the Large Generating Facility up to the Point of Change of Ownership, as described in Section 4 of Appendix A of this LGIA. Consistent with Article 5.12, the Interconnection Customer shall provide access to the Participating TO to enable the Participating TO to comply with all Applicable Reliability Standards for the Participating TO's BES Cyber Asset(s), including for BES Cyber Asset(s) located at a Shared BES Cyber Asset Facility. The Interconnection Customer acknowledges that the access required under this section may include both physical and electronic access, and may require the installation of physical

access controls by the Participating TO.

(j) The Interconnection Customer understands and acknowledges that a default by another generation project that is utilizing the Generation Tie-Line including, but not limited to, TOT795 (Q1322) project and TOT341 (Q408) project, may result in the removal from service of the generation project from the Participating TO's electrical system until such default has been cured. The Interconnection Customer understands and acknowledges that removal from service for the generation project will also result in the removal from service for the Large Generating Facility. The Interconnection Customer shall not be entitled to any compensation or damages from the Participating TO as a result of such removal from service.

(k) If the Participating TO and/or the CAISO issues a mandatory instruction, in a manner permitted or required by this LGIA or the applicable Tariff, to an interconnection customer for any generating facility sharing the Generation Tie-Line including, but not limited to, the Large Generating Facility, TOT795 (Q1322) project and TOT341 (Q408) project to modify the output of its generating facility and such interconnection customer does not comply, the Participating TO and/or the CAISO may disconnect the Generation Tie-Line from the Participating TO's electrical system in accordance with Article 9.7.2 or Article 13.5 of this LGIA. The Participating TO and the CAISO shall not be responsible for lost revenues or any other damages or costs incurred by the Interconnection Customer as a result of such disconnection.

(l) In the event the Interconnection Customer requests the Participating TO to open the breaker to disconnect the Large Generating Facility from the Participating TO's Interconnection Facilities, the Interconnection Customer shall provide, along with the request to the Participating TO and the CAISO, written documentation of having obtained concurrence for such disconnection from all other interconnection customers utilizing the Generation Tie-Line, including TOT795 (Q1322) project and TOT341 (Q408) project, to the Participating TO and CAISO and the duration of such disconnection.

(m) Primary Frequency Response Operating Range for Electric Storage Resources: In accordance with Article 9.6.4.4 of the LGIA, the storage component(s) of the Large Generating Facility as described in Section 1 of this Appendix C shall comply with the primary frequency response requirements of Articles 9.6.4, 9.6.4.1 and 9.6.4.2 of the LGIA whenever such storage component(s) is operating in parallel (in generation or charging mode) with the CAISO Controlled Grid and is at a state of charge within the range set forth below as provided by the Interconnection Customer:

Minimum state of charge: 0% of the upper charging limit of each storage component

Maximum state of charge: 100% of the upper charging limit of each storage

component

Upper charging limit: 96.6956 MWh for each storage component of the Large Generating Facility

The state of charge range specified above for the purpose of complying with the primary frequency response requirements of the LGIA shall be dynamic and is subject to initial evaluation as part of final engineering after the execution of the LGIA and periodic reevaluation once every three years (unless requested otherwise by the CAISO), and modification by the CAISO in consultation with the Interconnection Customer and Participating TO. Factors to be considered, but not limited to, in such reevaluation and potential modification may include the following: 1) the expected magnitude of frequency deviations in the interconnection, 2) the expected duration that system frequency will remain outside of the deadband parameter in the interconnection, 3) the expected incidence of frequency deviations outside of the deadband parameter in the interconnection, 4) the physical capabilities of the electric storage resource, 5) operational limitations of the electric storage resource due to manufacturer specifications, and 6) any other relevant factors agreed to by CAISO and Interconnection Customer, and in consultation with the Participating TO. Any change in the state of charge range specified above, or as previously determined pursuant to this Section 2(m) of Appendix C of the LGIA, as the result of such reevaluation shall be provided in writing by the CAISO to the Interconnection Customer and Participating TO in accordance with Article 15 of the LGIA.

(n) The Large Generating Facility is provided Charging Capacity as described in Section 1 of this Appendix C. The Interconnection Customer acknowledges and understands that the Storage Energy as well as the output of the Large Generating Facility are subject to CAISO dispatch instructions in accordance with the CAISO Tariff.

3. Affected Systems Coordination:

The CAISO cannot study comprehensively the impacts of the Large Generating Facility on the transmission systems of Affected System operators. The CAISO does not have detailed information about Affected Systems on a transmission-element level, nor does the CAISO know the details of the various reliability and operating criteria applicable to the Affected Systems. In addition, because the operation of transmission systems and NERC reliability standards change over time, the CAISO cannot presume to know all of the impacts of these changes on Affected Systems. As such, the CAISO contacted all potential Affected Systems to inquire whether they are impacted by the Large Generating Facility's interconnection to the CAISO Controlled Grid. The CAISO provided notice to the Interconnection Customer of the Identified Affected Systems for the Large Generating Facility. To ensure a safe and reliable interconnection to the CAISO Controlled Grid, six (6) months before the Initial Synchronization Date of the Large Generating Facility, the

Interconnection Customer shall provide documentation to the CAISO, in accordance with Article 11.4.2 of the LGIA and Section 3.7 of the GIDAP, confirming that the Identified Affected Systems have been contacted by the Interconnection Customer, and (i) that any system reliability impacts have been addressed (or that there are no system impacts), or (ii) that the Interconnection Customer has taken all reasonable steps to address potential reliability system impacts with the Identified Affected Systems but has been unsuccessful.

Appendix D

Security Arrangements Details

Infrastructure security of CAISO Controlled Grid equipment and operations and control hardware and software is essential to ensure day-to-day CAISO Controlled Grid reliability and operational security. FERC will expect the CAISO, all Participating TOs, market participants, and Interconnection Customers interconnected to the CAISO Controlled Grid to comply with Applicable Reliability Criteria. All public utilities will be expected to meet basic standards for system infrastructure and operational security, including physical, operational, and cyber-security practices.

The Interconnection Customer shall meet the requirements for security implemented pursuant to the CAISO Tariff, including the CAISO's standards for information security posted on the CAISO's internet web site at the following internet address: http://www.caiso.com/pubinfo/info-security/index.html.

Appendix E

Commercial Operation Date

[This Appendix E sets forth a form of letter to be provided by the Interconnection Customer to the CAISO and Participating TO to provide formal notice of the Commercial Operation of an Electric Generating Unit.]

[Date]

Manager, Model and Contract Implementation
California Independent System Operator Corporation
250 Outcropping Way
Folsom CA 95630

Manager, Grid Contract Management
Southern California Edison Company
P. O. Box 800
2244 Walnut Grove Avenue
Rosemead, California 91770

Re: _____ Electric Generating Unit

Dear _____:

On **[Date] Solar Star 4, LLC** has completed Trial Operation of Unit No. ___. This letter confirms that Solar Star 4, LLC commenced Commercial Operation of Unit No. ___ at the Electric Generating Unit, effective as of **[Date plus one day]** and that Solar Star 4, LLC provided the CAISO's operations personnel advance notice of its intended Commercial Operation Date no less than five Business Days prior to that date.

Thank you.

[Signature]

[Interconnection Customer Representative]

Appendix F

Addresses for Delivery of Notices and Billings

Notices:

(a) **General Notices:**

CAISO	Participating TO	Interconnection Customer
California Independent System Operator Corporation Attn: Regulatory Contracts	Southern California Edison Company Attn: Manager, Grid Contract Management	Solar Star 4, LLC Attn: Don Grafton
250 Outcropping Way Folsom, CA 95630	P. O. Box 800 Rosemead, CA 91770	17200 N. Perimeter Drive, Suite 202 Scottsdale, Arizona 85255
E-mail: regulatorycontracts@caiso.com	E-mail: GridContractManagement@sce.com	E-mail: jwgrafton@bherenewables.com

(b) **Operating Communications and Notifications:**

The CAISO, Participating TO and the Interconnection Customer shall provide for operating communications through their respective designated representatives as follows:

The Parties agree to exchange the following information prior to the Initial Synchronization Date:

CAISO	Participating TO	Interconnection Customer
CAISO Real Time Desk	Grid Control Center	Operator Name and/or Title:
24 Hour Telephone:	24 Hour Telephone:	Control Room Operator 24 Hour Telephone:
Alternate Phone:		Operation Center Fax. No.:
		E-mail:

Operational Matters, Force Majeure, Outage Notices, Requests for Physical Access to the Large Generating Facility and/or Shared BES Cyber Asset Facility, and Reports of Cyber or Physical Breaches or Attempted Breaches:

The Parties agree to exchange the following information prior to the Initial Synchronization Date:

CAISO	Participating TO	Interconnection Customer

Name:	Name/Title:	Name/Title:
Phone:	Phone:	Phone:

For Emergencies:

The Parties agree to exchange the following information prior to the Initial Synchronization Date:

CAISO	Participating TO	Interconnection Customer
Name:	Name/Title:	Name/Title:
Phone:	Phone:	Phone:

Billings and Payments:

CAISO	Participating TO	Interconnection Customer
California Independent System Operator Corporation Attn: Finance Dept. Mr. Dennis Estrada	Southern California Edison Company Attn: Accounts Receivable (GCM)	Solar Star 4, LLC Attn: Don Grafton
250 Outcropping Way Folsom, CA 95630	P. O. Box 800 Rosemead, CA 91771-0001	17200 N. Perimeter Drive, Suite 202 Scottsdale, Arizona 85255

Alternative Forms of Delivery of Notices (telephone, facsimile or e-mail):

CAISO	Participating TO	Interconnection Customer
California Independent System Operator Corporation Attn: Queue Management	Southern California Edison Company Attn: Manager, Grid Contract Management.	Solar Star 4, LLC Attn: Don Grafton
Phone: (916) 351-4400	Phone: (626) 302-9640	Phone: (712) 355-0932
E-mail: queuemanagement@caiso.com	E-mail: GridContractManagement@sce.com	E-mail: jwgrafton@bherenewables.com

Appendix G

Interconnection Customer's Share of Costs of Network Upgrades for Applicable Project Group

Type	Upgrades	Needed For	Cost factor	Cost Share
Reliability	Tehachapi CRAS (f.k.a. Northern Area RAS) - generator addition		100%	$518,066
Reliability	Whirlwind AA Bank RAS - generator addition		100%	$518,066
Reliability	Incremental project management & project support		100%	$60,493
			Total:	$1,096,625

Note: The amounts shown above are in nominal dollars.

Appendix H

Interconnection Requirements For An Asynchronous Generating Facility

Appendix H sets forth interconnection requirements specific to all Asynchronous Generating Facilities. Except as provided in Section 25.4.2 of the CAISO tariff, existing individual generating units of an Asynchronous Generating Facility that are, or have been, interconnected to the CAISO Controlled Grid at the same location are exempt from the requirements of this Appendix H for the remaining life of the existing generating unit.

A. Technical Requirements Applicable to Asynchronous Generating Facilities

i. Voltage Ride-Through Capability

An Asynchronous Generating Facility shall be able to remain online during voltage disturbances up to the time periods and associated voltage levels set forth in the requirements below.

1. An Asynchronous Generating Facility shall remain online for the voltage disturbance caused by any fault on the transmission grid, or within the Asynchronous Generating Facility between the Point of Interconnection and the high voltage terminals of the Asynchronous Generating Facility's step up transformer, having a duration equal to the lesser of the normal three-phase fault clearing time (4-9 cycles) or one-hundred fifty (150) milliseconds, plus any subsequent post-fault voltage recovery to the final steady-state post-fault voltage unless clearing the fault effectively disconnects the generator from the system. Clearing time shall be based on the maximum normal clearing time associated with any three-phase fault location that reduces the voltage at the Asynchronous Generating Facility's Point of Interconnection to 0.2 per-unit of nominal voltage or less, independent of any fault current contribution from the Asynchronous Generating Facility.

2. An Asynchronous Generating Facility shall remain online for any voltage disturbance caused by a single-phase fault on the transmission grid, or within the Asynchronous Generating Facility between the Point of Interconnection and the high voltage terminals of the Asynchronous Generating Facility's step up transformer, with delayed clearing, plus any subsequent post-fault voltage recovery to the final steady-state post-fault voltage unless clearing the fault effectively disconnects the generator from the system. Clearing time shall be based on the maximum backup clearing time associated with a single point of failure (protection or breaker failure) for any single-phase fault location that reduces any phase-to-ground or phase-to-phase voltage at the Asynchronous Generating Facility's Point of Interconnection to 0.2 per-unit of nominal voltage or less, independent of any fault current contribution from the Asynchronous Generating Facility.

3. Remaining on-line shall be defined as continuous connection between the Point of Interconnection and the Asynchronous Generating Facility's units, without any mechanical isolation. Momentary cessation (namely, ceasing to inject current during a fault without mechanical isolation) is prohibited unless transient high voltage conditions rise to 1.20 per unit or more. For transient low voltage conditions, the Asynchronous Generating Facility's inverters will inject reactive current. The level of this reactive current must be directionally proportional to the decrease in per unit voltage at the inverter AC terminals. The inverter must produce full reactive current capability when the AC voltage at the inverter terminals drops to a level of 0.50 per unit or below. The Asynchronous Generating Facility must continue to operate and absorb reactive current for transient voltage conditions between 1.10 and 1.20 per unit.

   Upon the cessation of transient voltage conditions and the return of the grid to normal operating voltage ($0.90 < V < 1.10$ per unit), the Asynchronous Generating Facility's inverters automatically must transition to normal active (real power) current injection. The Asynchronous Generating Facility's inverters must ramp up to inject active (real power) current with a minimum ramping rate of at least 100% per second (from no output to full available output). The total time to complete the transition from reactive current injection or absorption to normal active (real power) current injection must be one second or less. The total time to return from momentary cessation, if used, during transient high voltage conditions over 1.20 per unit or more must be one second or less.

4. The Asynchronous Generating Facility's inverter will be considered to have tripped where its AC circuit breaker is open or otherwise has electrically isolated the inverter from the grid. Following an inverter trip, the inverter must make at least one attempt to resynchronize and connect back to the grid unless the trip resulted from a fatal fault code, as defined by the inverter manufacturer. This attempt must take place within 2.5 minutes from the inverter trip. An attempt to resynchronize and connect back to the grid is not required if the trip was initiated due to a fatal fault code, as determined by the original equipment manufacturer.

5. The Asynchronous Generating Facility is not required to remain on line during multi-phased faults exceeding the duration described in Section A.i.1 of this Appendix H or single-phase faults exceeding the duration described in Section A.i.2 of this Appendix H.

6. The requirements of this Section A.i. of this Appendix H do not apply to faults that occur between the Asynchronous Generating Facility's terminals and the high side of the step-up transformer to the high-voltage transmission system.

7. Asynchronous Generating Facilities may be tripped after the fault period if this action is intended as part of a special protection system.

8. Asynchronous Generating Facilities may meet the requirements of this Section A.i of this Appendix H through the performance of the generating units or by installing additional equipment within the Asynchronous Generating Facility, or by a combination of generating unit performance and additional equipment.

9. The provisions of this Section A.i of this Appendix H apply only if the voltage at the Point of Interconnection has remained within the range of 0.9 and 1.10 per-unit of nominal voltage for the preceding two seconds, excluding any sub-cycle transient deviations.

10. Asynchronous Generating Facility inverters may not trip or cease to inject current for momentary loss of synchronism. As a minimum, the Asynchronous Generating Facility's inverter controls may lock the phase lock loop to the last synchronized point and continue to inject current into the grid at that last calculated phase prior to the loss of synchronism until the phase lock loop can regain synchronism. The current injection may be limited to protect the inverter. Any inverter may trip if the phase lock loop is unable to regain synchronism 150 milliseconds after loss of synchronism.

11. Inverter restoration following transient voltage conditions must not be impeded by plant level controllers. If the Asynchronous Generating Facility uses a plant level controller, it must be programmed to allow the inverters to automatically re-synchronize rapidly and ramp up to active current injection (without delayed ramping) following transient voltage recovery, before resuming overall control of the individual plant inverters.

ii. Frequency Disturbance Ride-Through Capability

An Asynchronous Generating Facility shall comply with the off nominal frequency requirements set forth in the NERC Reliability Standard for Generator Frequency and Voltage Protective Relay Settings, or successor requirements as they may be amended from time to time.

iii. Power Factor Design Criteria (Reactive Power)

An Asynchronous Generating Facility not studied under the Independent Study Process, as set forth in Section 4 of Appendix DD, shall operate within a power factor within the range of 0.95 leading to 0.95 lagging, measured at the high voltage side of the substation transformer, as defined in this LGIA in order to maintain a specified voltage schedule, if the Phase II Interconnection Study shows that such a requirement is necessary to ensure safety or reliability. An Asynchronous Generating Facility studied under the Independent Study Process, as set forth in Section 4 of Appendix DD, shall

operate within a power factor within the range of 0.95 leading to 0.95 lagging, measured at the high voltage side of the substation transformer, as defined in this LGIA in order to maintain a specified voltage schedule. The power factor range standards set forth in this section can be met by using, for example, power electronics designed to supply this level of reactive capability (taking into account any limitations due to voltage level, real power output, etc.) or fixed and switched capacitors, or a combination of the two, if agreed to by the Participating TO and CAISO. The Interconnection Customer shall not disable power factor equipment while the Asynchronous Generating Facility is in operation. Asynchronous Generating Facilities shall also be able to provide sufficient dynamic voltage support in lieu of the power system stabilizer and automatic voltage regulation at the generator excitation system if the Phase II Interconnection Study shows this to be required for system safety or reliability.

iv. Supervisory Control and Data Acquisition (SCADA) Capability

An Asynchronous Generating Facility shall provide SCADA capability to transmit data and receive instructions from the Participating TO and CAISO to protect system reliability. The Participating TO and CAISO and the Asynchronous Generating Facility Interconnection Customer shall determine what SCADA information is essential for the proposed Asynchronous Generating Facility, taking into account the size of the plant and its characteristics, location, and importance in maintaining generation resource adequacy and transmission system reliability.

v. Power System Stabilizers (PSS)

Power system stabilizers are not required for Asynchronous Generating Facilities.

vi. Transient Data Recording Equipment for Facilities

Asynchronous Generating Facilities with generating capacities of more than 20 MW must monitor and record data for all frequency ride-through events, transient low voltage disturbances that initiated reactive current injection, reactive current injection or momentary cessation for transient high voltage disturbances, and inverter trips. The data may be recorded and stored in a central plant control system. The following data must be recorded:

Plant Level:

(1) Plant three phase voltage and current
(2) Status of ancillary reactive devices
(3) Status of all plant circuit breakers
(4) Status of plant controller
(5) Plant control set points
(6) Position of main plant transformer no-load taps
(7) Position of main plant transformer tap changer (if extant)

(8) Protective relay trips or relay target data

Inverter Level:

(1) Frequency, current, and voltage during frequency ride-through events
(2) Voltage and current during momentary cessation for transient high voltage events (when used)
(3) Voltage and current during reactive current injection for transient low or high voltage events
(4) Inverter alarm and fault codes
(5) DC current
(6) DC voltage

The data must be time synchronized, using a GPS clock or similar device, to a one millisecond level of resolution. All data except phase angle measuring unit data must be sampled at least every 10 milliseconds. Data recording must be triggered upon detecting a frequency ride-through event, a transient low voltage disturbance that initiated reactive current injection, momentary cessation or reactive current injection for a transient high voltage disturbance, or an inverter trip. Each recording will include as a minimum 150 milliseconds of data prior to the triggering event, and 1000 milliseconds of data after the event trigger. The Asynchronous Generating Facility must store this data for a minimum of 30 days. The Asynchronous Generating Facility will provide all data within 10 calendar days of a request from the CAISO or the Participating TO.

The Asynchronous Generating Facility must install and maintain a phase angle measuring unit or functional equivalent at the entrance to the facility or at the Generating Facility's main substation transformer. The phase angle measuring unit must have a resolution of at least 16 samples per cycle. The Asynchronous Generating Facility will store this data for a minimum of 30 days. The Asynchronous Generating Facility will provide all phase angle measuring unit data within 10 calendar days of a request from the CAISO or the Participating TO.

EXHIBIT J

FORM OF CONSTRUCTION START DATE CERTIFICATE

This certification of Construction Start Date ("**Certification**") is delivered by Solar Star 4, LLC ("**Seller**") to Clean Power Alliance of Southern California, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Renewable Power Purchase Agreement dated June 10, 2024 ("**Agreement**") by and between Seller and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Seller hereby certifies and represents to Buyer the following:

(1) Construction Start (as defined in Exhibit B of the Agreement) has occurred, and a copy of the notice to proceed that Seller issued to its contractor as part of Construction Start is attached hereto.

(2) the Construction Start Date occurred on November 1, 2024 (the "**Construction Start Date**"); and

(3) the precise Site on which the Facility is located is, which must be within the boundaries of the previously identified Site: within the previously identified Site described in Exhibit A (such description shall amend the description of the Site in Exhibit A of the Agreement).

IN WITNESS WHEREOF, the undersigned has executed this Certification on behalf of Seller as of the 1st day of November 2024.

Solar Star 4, LLC

By: 

Its: Senior Vice President, Renewable Development, BHE Renewables

Date: October 31, 2024

RENEWABLE ENERGY + STORAGE PPA
May 31, 2024 (EXECUTION VERSION)

RENEWABLE POWER PURCHASE AGREEMENT

COVER SHEET

Seller: Solar Star 4, LLC

Buyer: Clean Power Alliance of Southern California, a California joint powers authority

Description of Facility: Solar Star 4 is comprised of co-located PV solar generation (Generating Facility) and Lithium-ion battery storage (Storage Facility). It is in Kern County, California and delivered to Southern California Edison's Whirlwind 230 kV Substation. The facilities are 24 MW of installed PV with an expected annual energy production of 74,544 MWh and 23 MW of installed battery storage. The Storage Facility is capable of charging from the Generating Facility or the interconnected grid.

Milestones:

Milestone	Expected Date for Completion
Evidence of Site Control	Complete
Documentation of Conditional Use Permit if required: **CEQA, Cat Ex, Neg Dec, Mitigated Neg Dec, EIR**	Complete
Seller's receipt of Phase I and Phase II Interconnection study results for Seller's Interconnection Facilities	Complete
Executed Interconnection Agreement	Complete
Financial Close	Not Applicable
Expected Construction Start Date	[redacted]
Initial Synchronization	May 20, 2025
Network Upgrades completed (evidenced by delivery of permission to parallel letter from the Transmission Provider)	Not Applicable
Expected Date of CAISO Commercial Operation	June 12, 2025
Expected Commercial Operation Date	August 1, 2025

Delivery Term: Twenty (20) Contract Years

Delivery Term Expected Energy:

Contract Year	Expected Energy (MWh)
1	74,544
2	74,464
3	74,337
4	74,209
5	74,080
6	73,949
7	73,817
8	73,684
9	73,548
10	73,411
11	73,272
12	73,131
13	72,987
14	72,841
15	72,693
16	72,542
17	72,389
18	72,233
19	72,076
20	71,915

Guaranteed Capacity: 47 MW of total Facility capacity

Guaranteed Storage Capacity: 23 MW of Installed Storage Capacity at four (4) hours of

continuous discharge; *provided*, Seller may, in its sole discretion, increase the Guaranteed Storage Capacity to 24 MW by providing Notice to Buyer on or before the Guaranteed Construction Start Date.

Guaranteed PV Capacity: 24 MW of Installed PV Capacity

Guaranteed Efficiency Rate:

Contract Year	Guaranteed Efficiency Rate
1	[redacted]
2	[redacted]
3	[redacted]
4	[redacted]
5	[redacted]
6	[redacted]
7	[redacted]
8	[redacted]
9	[redacted]
10	[redacted]
11	[redacted]
12	[redacted]
13	[redacted]
14	[redacted]
15	[redacted]
16	[redacted]
17	[redacted]
18	[redacted]
19	[redacted]

20	[redacted]

Guaranteed Construction Start Date: November 1, 2024

Guaranteed Commercial Operation Date: August 1, 2025

Contract Price

The Renewable Rate shall be:

Contract Year	Renewable Rate
1 – 20	$[redacted]/MWh (flat) with no escalation

The Storage Rate shall be:

Contract Year	Storage Rate
1 – 20	$[redacted]/kW-mo. (flat) with no escalation

Seller's Assumed Tax Credits: As of the Effective Date, Seller intends to finance the Facility using the ITC at forty percent (40%) and/or the PTC at $0.033kWh.

Product

- ☒ PV Energy
- ☒ Discharging Energy
- ☒ Green Attributes (if Renewable Energy Credit, please check the applicable box below):
  - ☒ Portfolio Content Category 1
  - ☐ Portfolio Content Category 2
  - ☐ Portfolio Content Category 3
- ☒ Installed Storage Capacity and Effective Storage Capacity
- ☒ Ancillary Services
- ☒ Capacity Attributes (select options below as applicable)
  - ☐ Energy Only Status
  - ☒ Full Capacity Deliverability Status

Anticipated Flexible Capacity: Amount: 23 MW

Scheduling Coordinator: Buyer

Security Amounts:

Development Security: $105/kW of Guaranteed PV Capacity plus $105/kW of Guaranteed Storage Capacity

Performance Security: $105/kW of Installed PV Capacity plus $105/kW of Installed Storage Capacity

Guarantor: (as of the Effective Date): [redacted]

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RENEWABLE POWER PURCHASE AGREEMENT

This Renewable Power Purchase Agreement ("**Agreement**") is entered into as of _____ (the "**Effective Date**"), between Buyer and Seller. Buyer and Seller are sometimes referred to herein individually as a "**Party**" and jointly as the "**Parties**." All capitalized terms used in this Agreement are used with the meanings ascribed to them in Article 1 to this Agreement.

RECITALS

WHEREAS, Seller intends to develop, design, construct, own, and operate the Facility; and

WHEREAS, Seller desires to sell, and Buyer desires to purchase, on the terms and conditions set forth in this Agreement, the Product;

WHEREAS, Buyer is entering into the Agreement with the intention that the Facility's NQC will be counted toward Buyer's clean energy mid-term reliability procurement obligations set forth in CPUC D.21-06-035 (as may be revised by further decisions).;

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, and for other good and valuable consideration, the sufficiency and adequacy of which are hereby acknowledged, the Parties agree to the following:

ARTICLE 1
DEFINITIONS

1.1 **Contract Definitions**. The following terms, when used herein with initial capitalization, shall have the meanings set forth below:

"**AC**" means alternating current.

"**Accepted Compliance Costs**" has the meaning set forth in Section 3.12(c).

"**Adjusted Energy Production**" has the meaning set forth in Exhibit G.

"**Affiliate**" means, with respect to any Person, each Person that directly or indirectly controls, is controlled by, or is under common control with such designated Person. For purposes of this definition and the definition of "Permitted Transferee", "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean (a) the direct or indirect right to cast at least fifty percent (50%) of the votes exercisable at an annual general meeting (or its equivalent) of such Person or, if there are no such rights, ownership of at least fifty percent (50%) of the equity or other ownership interest in such Person, or (b) the right to direct the policies or operations of such Person; *provided*, with respect to Seller, if (x) BHE Renewables, LLC is the Ultimate Parent and (y) there has not been a Change in Control of Seller, the term "Affiliate" is limited to BHE Renewables, LLC and its majority-owned (directly or indirectly) subsidiaries.

"**Agreement**" has the meaning set forth in the Preamble and includes the Cover Sheet and any Exhibits, schedules and any written supplements hereto.

"**Ancillary Services**" means spinning reserve, non-spinning reserve, regulation up, regulation down, voltage support and any other ancillary services that the Facility is capable of providing consistent with the Operating Restrictions, as each is defined in the CAISO Tariff.

"**Annual Storage Capacity Availability**" has the meaning set forth in Exhibit P.

"**Anticipated Flexible Capacity**" means the amount and category of Flexible Capacity identified on the Cover Sheet which Seller anticipates as of the Effective Date that the Facility will be qualified by the CAISO to provide to Buyer.

"**Approved Forecast Vendor**" means (a) any of the CAISO Variable Energy Resource (VER) forecast, (b) if the CAISO VER forecast is unavailable, Meteologica, or (c) any other vendor reasonably acceptable to both Buyer and Seller for the purposes of providing or verifying the forecasts under Section 4.3(d).

"**Assignment Agreement**" has the meaning set forth in Section 14.5.

"**Automated Dispatch System**" or "**ADS**" has the meaning set forth in the CAISO Tariff.

"**Automatic Generation Control**" or "**AGC**" has the meaning set forth in the CAISO Tariff.

"**Auxiliary Use**" means the Energy that is used (including Energy used during the charging or discharging of the Storage Facility) within the Storage Facility to power the motors, temperature control systems, control systems and other electrical loads that are integral to the operation of the Storage Facility.

"**Availability Notice**" means Seller's availability forecasts issued pursuant to Section 4.3 with respect to the Available Effective Storage Capacity and Available Storage Capability, which shall include any updates from Seller with respect to Facility outages or availability as reported to CAISO (including as reported in OMS).

"**Availability Standards**" has the meaning set forth in the CAISO Tariff or such other similar term as modified and approved by FERC hereafter to be incorporated in the CAISO Tariff.

"**Available Effective Storage Capacity**" has the meaning in Exhibit P.

"**Available Storage Capability**" has the meaning in Exhibit P.

"**Bankrupt**" or "**Bankruptcy**" means with respect to any entity, such entity that (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, (b) has any such petition filed or commenced against it which remains unstayed or undismissed for a period of ninety (90) days, (c) makes an assignment or any general arrangement for the benefit of creditors, (d) otherwise becomes bankrupt or insolvent (however evidenced), (e) 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 (f) is generally unable to pay its debts as they fall due.

"**Battery Charging Factor**" means the quotient (expressed as a decimal) of (a) the Charging Energy after the charging phase of the applicable Capacity Test ends, divided by (b) [the Installed Capacity x four (4) hours] MWh, not to exceed one (1).

"**Battery Discharging Factor**" means the quotient (expressed as a decimal) of (a) the Discharging Energy after the discharging phase of the applicable Capacity Test ends, divided by (b) [the Installed Capacity x four (4) hours] MWh, not to exceed one (1).

"**Business Day**" means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday in California. A Business Day begins at 8:00 a.m. and ends 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 on the Cover Sheet.

"**Buyer Assignee**" has the meaning set forth in Section 14.5.

"**Buyer Bid Curtailment**" means the occurrence of both of the following:

(a) the CAISO provides notice to a Party or the Scheduling Coordinator for the Generating Facility, requiring the Party to deliver less PV Energy from the Generating Facility than the full amount of Energy forecasted in accordance with Section 4.3 to be produced from the Generating Facility for a period of time; and

(b) for the same time period as referenced in (a), Buyer or the SC for the Generating Facility did not submit a Self-Schedule for the MWhs subject to the reduction.

If the Generating Facility is subject to a Planned Outage, Forced Facility Outage, Force Majeure Event and/or a Curtailment Period during the same time period as referenced in (a), then the calculation of Deemed Delivered Energy during such period shall not include any PV Energy that was not generated or stored due to such Planned Outage, Forced Facility Outage, Force Majeure Event or Curtailment Period.

[redacted]

"**Buyer Curtailment Order**" means the instruction from Buyer to Seller to reduce PV Energy from the Generating Facility by the amount, and for the period of time set forth in such instruction, for reasons unrelated to a Planned Outage, Forced Facility Outage, Force Majeure Event affecting the Facility and/or Curtailment Order.

"**Buyer Curtailment Period**" means the period of time, as measured using current Settlement Intervals, during which Seller reduces PV Energy from the Generating Facility pursuant to or as a result of (a) a Buyer Bid Curtailment, (b) a Buyer Curtailment Order, or (c) a Buyer Default hereunder which directly causes Seller to be unable to deliver PV Energy to the Delivery Point; *provided*, the duration of any Buyer Curtailment Period shall be inclusive of the time required for the Generating Facility to ramp down and ramp up.

"**Buyer Default**" means an Event of Default of Buyer.

"**Buyer Dispatched Test**" has the meaning in Section 4.9(c).

"**Buyer's Indemnified Parties**" has the meaning set forth in Section 18.2.

"**Buyer's WREGIS Account**" has the meaning set forth in Section 4.10(a).

"**CAISO**" means the California Independent System Operator Corporation or any successor entity performing similar functions.

"**CAISO-Penalized Shortfall**" has the meaning set forth in Section 3.8(b)(ii).

"**CAISO Certification**" means the certification and testing requirements for a storage unit set forth in the CAISO Tariff that are applicable to the Facility, including certification and testing for all Ancillary Services, PMAX, and PMIN associated with such storage units, that are applicable to the Facility.

"**CAISO Charges Invoice**" has the meaning set forth in Exhibit D.

"**CAISO Commercial Operation**" has the meaning of "Commercial Operation" set forth in the CAISO Tariff.

"**CAISO Dispatch**" means any Charging Notice or Discharging Notice given by the CAISO to the Facility, whether through ADS, AGC or any successor communication protocol, communicating an Ancillary Service Award (as defined in the CAISO Tariff) or directing the Storage Facility to charge or discharge at a specific MW rate for a specified period of time or amount of MWh.

"**CAISO Grid**" has the same meaning as "CAISO Controlled Grid" as defined in the CAISO Tariff.

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

"**Calculation Interval**" has the meaning set forth in Exhibit P.

"**California Renewables Portfolio Standard**" or "**RPS**" means the renewable energy program and policies established by California State Senate Bills 1038 (2002), 1078 (2002), 107

(2008), X-1 2 (2011), 350 (2015), and 100 (2018) as codified in, *inter alia*, California Public Utilities Code Sections 399.11 through 399.31 and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time.

"**Capacity Attribute**" means any current or future defined characteristic, certificate, tag, credit, or accounting construct associated with the amount of power that the Facility can generate and deliver to the Delivery Point at a particular moment and that can be purchased, sold or conveyed under CAISO or CPUC market rules, including Resource Adequacy Benefits.

"**Capacity Availability Factor**" has the meaning set forth in Exhibit C.

"**Capacity Damages**" means collectively Storage Capacity Damages and PV Capacity Damages.

"**Capacity Test**" or "**CT**" means the Commercial Operation Storage Capacity Test, Storage Capacity Test, or any other test conducted pursuant to Exhibit O.

"**CEC**" means the California Energy Commission or its successor agency.

"**CEC Certification and Verification**" means that the CEC has certified (or, with respect to periods before the date that is one hundred eighty (180) days following the Commercial Operation Date, that the CEC has pre-certified) that the Generating Facility is an Eligible Renewable Energy Resource for purposes of the California Renewables Portfolio Standard and that all PV Energy delivered to the Delivery Point qualifies as generation from an Eligible Renewable Energy Resource.

"**CEC Precertification**" means that the CEC has issued a precertification for the Facility indicating that the planned operations of the Facility would comply with applicable CEC requirements for CEC Certification and Verification.

"**Change of Control**" means, except in connection with public market transactions of equity interests or capital stock of Seller's Ultimate Parent, any circumstance in which Ultimate Parent ceases to own, directly or indirectly through one or more intermediate entities, more than fifty percent (50%) of the outstanding equity interests in Seller; *provided*, in calculating ownership percentages for all purposes of the foregoing:

(a) any ownership interest in Seller held by Ultimate Parent indirectly through one or more intermediate entities shall not be counted towards Ultimate Parent's ownership interest in Seller unless Ultimate Parent directly or indirectly owns more than fifty percent (50%) of the outstanding equity interests in each such intermediate entity; and

(b) ownership interests in Seller owned directly or indirectly by any Lender (including any tax equity provider) shall be excluded from the total outstanding equity interests in Seller.

"**Charging Energy**" means all Energy delivered to the Delivery Point pursuant to a Charging Notice, as measured by the Storage Facility Meter.

"**Charging Notice**" means the operating instruction, and any subsequent updates, given by Buyer's SC or the CAISO to Seller, directing the Storage Facility to charge at a specific MW rate for a specified period of time or amount of MWh; *provided*, any such operating instruction shall be in accordance with the Operating Restrictions. Any instruction to charge the Storage Facility pursuant to a Buyer Dispatched Test shall be considered a Charging Notice, and any Charging Notice shall not constitute a Buyer Bid Curtailment, Buyer Curtailment Order or Curtailment Order.

"**COD Certificate**" has the meaning set forth in Exhibit B.

"**Commercial Operation**" has the meaning set forth in Exhibit B.

"**Commercial Operation Date**" means the date Commercial Operation is achieved.

"**Commercial Operation Delay Damages**" means an amount equal to (a) the Development Security amount required hereunder, divided by (b) ninety (90).

"**Commercial Operation Storage Capacity Test**" means the Storage Capacity Test conducted in connection with Commercial Operation of the Storage Facility, including any additional Storage Capacity Test for additional Storage Facility capacity installed after the Commercial Operation Date pursuant to Section 5 of Exhibit B.

"**Communications Protocols**" means certain Operating Restrictions developed by the Parties pursuant to Exhibit Q that involve procedures and protocols regarding communication with respect to the operation of the Storage Facility pursuant to this Agreement.

"**Compliance Actions**" has the meaning set forth in Section 3.12(a).

"**Compliance Expenditure Cap**" has the meaning set forth in Section 3.12.

"**Confidential Information**" has the meaning set forth in Section 18.1.

"**Consent to Collateral Assignment**" has the meaning set forth in Section 14.2.

"**Construction Start**" has the meaning set forth in Exhibit B.

"**Construction Start Date**" has the meaning set forth in Exhibit B.

"**Contract Price**" has the meaning set forth on the Cover Sheet. For clarity, the Contract Price is each of the Renewable Rate, the DDE Rate and the Storage Rate.

"**Contract Term**" has the meaning set forth in Section 2.1.

"**Contract Year**" means a period of twelve (12) consecutive months. The first Contract Year shall commence on the Commercial Operation Date and each subsequent Contract Year shall commence on the anniversary of the Commercial Operation Date.

"**Costs**" means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third-party transaction costs and expenses reasonably incurred by such Party either

in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace the Agreement; and all reasonable attorneys' fees and expenses incurred by the Non-Defaulting Party in connection with terminating the Agreement.

"**Cover Sheet**" means the cover sheet to this Agreement, which is incorporated into this Agreement.

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

"**CPUC-Penalized Shortfall**" has the meaning set forth in Section 3.8(b)(i).

"**CPUC System RA Penalty**" means the penalties for "System Procurement Deficiency" adopted by the CPUC in its Decision 10-06-036, as may be updated or supplemented from time to time.

"**Credit Rating**" means, with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt obligations (not supported by third party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuer rating by S&P, Fitch or Moody's. If ratings by S&P, Fitch and Moody's are not equivalent, the lower rating shall apply.

"**Cure Plan**" has the meaning set forth in Section 11.1(b)(iii).

"**Curtailment Order**" means any of the following:

(a) CAISO orders, directs, alerts, or provides notice to a Party, to curtail deliveries of Facility Energy for the following reasons: (i) any System Emergency, (ii) any warning of an anticipated System Emergency, or warning of an imminent condition or situation, which jeopardizes CAISO's electric system integrity or the integrity of other systems to which CAISO is connected, or (iii) in response to an Energy oversupply or potential Energy oversupply, and Buyer or the SC for the Facility submitted a Self-Schedule for the MWhs curtailed corresponding to the MWhs in the VER forecast for the Generating Facility during the relevant time period;

(b) a 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, or (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) a curtailment ordered by CAISO or the Transmission Provider due to a Transmission System Outage; or

(d) a curtailment in accordance with Seller's obligations under its Interconnection Agreement with the Transmission Provider or distribution operator.

"**Curtailment Period**" means the period of time, as measured using current Settlement Intervals, during which Seller reduces generation from the Generating Facility pursuant to a

Curtailment Order; *provided*, the Curtailment Period shall be inclusive of the time required for the Facility to ramp down and ramp up.

"**Daily Delay Damages**" means an amount equal to (a) the Development Security amount required hereunder, divided by (b) one hundred twenty (120).

"**Damage Payment**" means the amount to be paid by the Defaulting Party to the Non-Defaulting Party after a Terminated Transaction occurring prior to the Commercial Operation Date, in a dollar amount as set forth in Section 11.3(a).

"**Day-Ahead Forecast**" has the meaning set forth in Section 4.3(c).

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

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

"**DDE Rate**" means the sum of (a) the Renewable Rate plus (b) the PTC Value if applicable.

"**Deemed Delivered Energy**" means the amount of PV Energy expressed in MWh that the Generating Facility would have produced and delivered to the Generating Facility Meter, but that is not produced by the Generating Facility during a Buyer Curtailment Period, which amount shall be equal to the Real-Time Forecast (of the hourly expected PV Energy produced by the Generating Facility) provided pursuant to Section 4.3(d) for the period of time during the Buyer Curtailment Period (or other relevant period), less the amount of PV Energy delivered to the Storage Facility, or to the Delivery Point directly from the Generating Facility, during the Buyer Curtailment Period (or other relevant period); *provided*, if the applicable difference is negative, the Deemed Delivered Energy shall be zero (0). If the LMP for the Facility's PNode during any Settlement Interval was less than zero (0), Deemed Delivered Energy shall be reduced in such Settlement Interval by the amount of any Charging Energy that was not able to be delivered to the Storage Facility during such Settlement Interval due to the unavailability of the Storage Facility due to a Forced Facility Outage.

"**Defaulting Party**" has the meaning set forth in Section 11.1(a).

"**Deficient Month**" has the meaning set forth in Section 4.10(e).

"**Delay Damages**" means Daily Delay Damages and Commercial Operation Delay Damages.

"**Delivery Point**" has the meaning set forth in Exhibit A.

"**Delivery Term**" shall mean the period of Contract Years set forth on the Cover Sheet beginning on the Commercial Operation Date, unless terminated earlier in accordance with the terms and conditions of this Agreement.

"**Development Cure Period**" has the meaning set forth in Exhibit B.

"**Development Security**" means (a) cash or (b) a Letter of Credit in the amount specified for the Development Security on the Cover Sheet.

"**Discharging Energy**" means all Energy delivered to the Delivery Point from the Storage Facility pursuant to a Discharging Notice, as measured by the Storage Facility Meter, net of Electrical Losses and Station Use. All Discharging Energy shall have originally been delivered to the Storage Facility as Charging Energy.

"**Discharging Notice**" means the operating instruction, and any subsequent updates, given by Buyer's SC or the CAISO to the Facility, directing the Storage Facility to discharge Discharging Energy at a specific MW rate for a specified period of time or to an amount of MWh; *provided*, (a) any such operating instruction or updates shall be in accordance with the Operating Restrictions and the CAISO Tariff, and (b) if, during a period when the Storage Facility is instructed by Buyer's SC or the CAISO to be discharging, the sum of PV Energy and Discharging Energy would exceed the Interconnection Capacity Limit, such "Discharging Notice" shall be deemed to be automatically adjusted to reduce the amount of Discharging Energy so that the sum of Discharging Energy and PV Energy does not exceed the Interconnection Capacity Limit, until such time as Buyer's SC or the CAISO issues a further modified Discharging Notice. Any instruction to discharge the Storage Facility pursuant to a Buyer Dispatched Test shall be considered a Discharging Notice, and any Discharging Notice shall not constitute a Buyer Bid Curtailment, Buyer Curtailment Order or Curtailment Order.

"**Disclosing Party**" has the meaning set forth in Section18.2.

"**Dispatch Notice**" means any Charging Notice, Discharging Notice and any subsequent updates thereto, given by the CAISO, Buyer or Buyer's SC, to Seller, directing the Storage Facility to charge or discharge Discharging Energy at a specific MWh rate to a specified Stored Energy Level; *provided*, any such operating instruction or updates shall be in accordance with the Operating Restrictions. Dispatch Notices may be communicated electronically (i.e. through ADS, AGC or e-mail), or telephonically, in accordance with the procedures set forth in Section 4.7. Telephonic or other verbal communications may be documented (either recorded by tape, electronically or in writing) without further notification to, or consent being required from, either Party with respect to such Party being recorded by the other, including by Buyer's designated Scheduling Coordinator.

"**Early Termination Date**" has the meaning set forth in Section 11.2(a).

"**Effective Date**" has the meaning set forth on the Preamble.

"**Effective Flexible Capacity**" or "**EFC**" means the effective flexible capacity (in MWs) of the Facility pursuant to the counting conventions set forth in the Resource Adequacy Rulings and the CAISO Tariff, which such flexible capacity may be used to satisfy Flexible RAR.

"**Effective Storage Capacity**" means the lesser of (a) PMAX, and (b) the maximum dependable operating capacity of the Storage Facility to discharge Energy for four (4) hours of continuous discharge, as measured in MW AC at the Delivery Point (i.e., measured at the Storage Facility Meter and adjusted for Electrical Losses to the Delivery Point) pursuant to the most recent Storage Capacity Test (including the Commercial Operation Storage Capacity Test), as evidenced

by a certificate substantially in the form attached as Exhibit I-2 hereto, in either case (a) or (b) up to but not in excess of (i) the Guaranteed Storage Capacity (with respect to a Commercial Operation Storage Capacity Test) or (ii) the Installed Storage Capacity (with respect to any other Storage Capacity Test).

"**Efficiency Rate**" means the rate calculated as the quotient of (a) the sum of (i) Discharging Energy plus (ii) Idle Period Auxiliary Use for which Seller is required to reimburse Buyer, divided by (b) Energy In, based on actual Storage Facility operations for each applicable month.

"**Efficiency Rate Factor**" has the meaning set forth in Exhibit C.

"**Electrical Losses**" means all transmission or transformation losses (a) between the Generating Facility and the Delivery Point associated with delivery of PV Energy, (b) between the Storage Facility and the Delivery Point associated with delivery of Discharging Energy, and (c) between the Delivery Point and the Storage Facility associated with delivery of Charging Energy to the Storage Facility, in each case as applicable.

"**Eligible Renewable Energy Resource**" has the meaning set forth in California Public Utilities Code Section 399.12(e) and California Public Resources Code Section 25741(a), as either code provision is amended or supplemented from time to time.

"**Energy**" means electrical energy, measured in kilowatt-hours, megawatt-hours, or multiple units thereof.

"**Energy In**" means the total energy (in MWh) delivered by Buyer to the Storage Facility pursuant to a Charging Notice as measured at the Storage Facility Meter (without adjusting for Electrical Losses or Station Use).

"**Energy Management System**" or "**EMS**" means the Storage Facility's energy management system.

"**Energy Replacement Damages**" has the meaning set forth in Section 4.7.

"**Event of Default**" has the meaning set forth in Section 11.1.

"**Excess MWh**" has the meaning set forth in Exhibit C.

"**Expected Commercial Operation Date**" has the meaning set forth on the Cover Sheet.

"**Expected Construction Start Date**" has the meaning set forth on the Cover Sheet.

"**Expected Energy**" means the quantity of PV Energy that Seller expects to be able to deliver to Buyer from the Generating Facility during each Contract Year, which for each Contract Year is the quantity specified on the Cover Sheet, which amount shall be adjusted proportionately to the reduction from Guaranteed PV Capacity to Installed PV Capacity pursuant to Section 5(a) of Exhibit B, if applicable.

"**Facility**" means the combined Generating Facility and the Storage Facility.

"**Facility Energy**" means PV Energy and/or Discharging Energy, as applicable, during any Settlement Interval or Settlement Period.

"**Facility Engineering Assessment**" has the meaning set forth in Section 2.2(l).

"**Facility RA Shortfall**" means, for a given Showing Month, collectively any PV RA Shortfall and Storage RA Shortfall.

"**FERC**" means the Federal Energy Regulatory Commission or any successor government agency.

"**Financial Close**" means Seller and/or one of its Affiliates has obtained debt and/or equity financing commitments from one or more Lenders sufficient to construct the Facility, including such financing commitments from Seller's owner(s).

"**Fitch**" means Fitch Ratings, Inc.

"**Flexible Capacity**" means, with respect to any particular Showing Month, the number of MWs of Product which are eligible to satisfy Flexible RAR.

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

"**Force Majeure Event**" has the meaning set forth in Section 10.1.

"**Force Majeure Unavailability**" has the meaning set forth in Exhibit C.

"**Forced Facility Outage**" means an unexpected failure of one or more components of the Facility that prevents Seller from generating Energy or making Facility Energy available at the Delivery Point and that is not the result of a Force Majeure Event.

"**Forecasted Product**" has the meaning set forth in Section 4.3(b).

"**Forecasting Penalty**" has the meaning set forth in Section 4.3(f).

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

"**Future Environmental Attributes**" means any and all Green Attributes that become recognized under applicable Law after the Effective Date (and not before the Effective Date), notwithstanding the last sentence of the definition of "Green Attributes" herein. Future Environmental Attributes do not include Renewable Energy Incentives, or other financial incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation.

"**Gains**" means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining the economic benefit to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., SP-15), all of which should be calculated for the remaining Contract Term, and include the value of Green Attributes and Capacity Attributes.

"**Generating Facility**" means the solar photovoltaic generating facility described on the Cover Sheet and in Exhibit A, located at the Site and including mechanical equipment and associated facilities and equipment required to deliver (i) PV Energy to the Delivery Point, and (ii) Charging Energy to the Storage Facility; *provided*, the "Generating Facility" does not include the Storage Facility or the Shared Facilities.

"**Generating Facility Meter**" means the CAISO approved revenue quality meter or meters (with a 0.3 accuracy class), along with a compatible data processing gateway or remote intelligence gateway, telemetering equipment and data acquisition services sufficient for monitoring, recording and reporting, in real time, the amount of PV Energy delivered to the Delivery Point for the purpose of invoicing in accordance with Section 8.1. For clarity, the Generating Facility may contain multiple measurement devices that will make up the Generating Facility Meter, and, unless otherwise indicated, references to the Generating Facility Meter shall mean all such measurement devices and the aggregated data of all such measurement devices, taken together.

"**Governmental Authority**" means any federal, state, provincial, local or municipal government, any political subdivision thereof or any other governmental, congressional or parliamentary, regulatory, or judicial instrumentality, authority, body, agency, department, bureau, or entity with authority to bind a Party at law, including CAISO and the CPUC; *provided*, "Governmental Authority" shall not in any event include any Party.

"**Green Attributes**" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled (including under the RPS regulations and/or under any and all other international, federal, regional, state or other law, rule, regulation, bylaw, treaty or other intergovernmental compact, decision, administrative decision, program (including any voluntary compliance or membership program), competitive market or business method (including all credits, certificates, benefits, and emission measurements, reductions, offsets and allowances related thereto)), attributable to the generation from the Facility and its displacement of conventional energy generation. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat

in the atmosphere; and (3) the reporting rights to such avoided emissions, such as Green Tag Reporting Rights. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Facility, (ii) Renewable Energy Incentives and other financial incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation, or (iii) emission reduction credits encumbered or used by the Facility for compliance with local, state, or federal operating and/or air quality permits. Green Attributes under the preceding definition are limited to Green Attributes that exist under applicable Law as of the Effective Date.

"**Green Tag Reporting Rights**" means the right of a purchaser of renewable energy to report ownership of accumulated Green Tags in compliance with and to the extent permitted by applicable Law and include, without limitation, rights under Section 1605(b) of the Energy Policy Act of 1992, and any present or future federal, state or local certification program or emissions trading program, including pursuant to the WREGIS Operating Rules.

"**Green Tags**" means a unit accumulated on a MWh basis where one (1) represents the Green Attributes associated with one (1) MWh of PV Energy.

"**Green-e Certified**" means the Green Attributes provided to Buyer pursuant to this Agreement are certified under the Green-e Energy National Standard.

"**Green-e Energy National Standard**" means the Green-e Renewable Energy Standard for Canada and the United States (formerly Green-e Energy National Standard) version 3.4, updated April 27, 2023, as may be further amended from time to time.

"**Guaranteed Capacity**" means the sum of (x) the Guaranteed PV Capacity and (y) the Guaranteed Storage Capacity.

"**Guaranteed Commercial Operation Date**" has the meaning set forth on the Cover Sheet, subject to extension pursuant to Exhibit B.

"**Guaranteed Construction Start Date**" has the meaning set forth on the Cover Sheet, subject to extension pursuant to Exhibit B.

"**Guaranteed Efficiency Rate**" means the minimum guaranteed Efficiency Rate of the Storage Facility throughout the Delivery Term, as set forth on the Cover Sheet.

"**Guaranteed Energy Production**" has the meaning set forth in Section 4.7.

"**Guaranteed PV Capacity**" means the generating capacity of the Generating Facility, as measured in MW AC at the Delivery Point (i.e., measured at the Generating Facility Meter and adjusted for Electrical Losses to the Delivery Point), that Seller commits to install pursuant to this Agreement as set forth on the Cover Sheet.

"**Guaranteed Storage Availability**" has the meaning set forth in Section 4.8.

"**Guaranteed Storage Capacity**" means the maximum dependable operating capability of the Storage Facility to discharge Energy, as measured in MW AC at the Delivery Point (i.e.,

measured at the Storage Facility Meter and adjusted for Electrical Losses to the Delivery Point) for four (4) hours of continuous discharge, that Seller commits to install pursuant to this Agreement as set forth on the Cover Sheet.

"**Guarantor**" means, with respect to Seller, any Person that (a) has an Investment Grade Credit Rating, (b) is incorporated or organized in a jurisdiction of the United States and is in good standing in such jurisdiction, and (c) executes and delivers a Guaranty for the benefit of Buyer.

"**Guaranty**" means a guaranty from a Guarantor provided for the benefit of Buyer substantially in the form attached as Exhibit T.

"**High Operating Limit**" or "**HOL**" means a real-time calculated number representing the instantaneous maximum power level at which the Storage Facility can discharge Energy to the Delivery Point, as communicated via the EMS.

"**Idle Period Auxiliary Use**" means Auxiliary Use consumed by the Storage Facility during periods in which the Storage Facility is not charging or discharging pursuant to a Charging Notice or Discharging Notice for which Seller does not pay retail rates to its retail electric utility provider.

"**Imbalance Energy**" means the amount of Energy in MWh, in any given Settlement Period or Settlement Interval, by which the amount of PV Energy, Charging Energy or Discharging Energy deviates from the amount of Scheduled Energy.

"**Indemnified Party**" has the meaning set forth in Section 16.1.

"**Indemnifying Party**" has the meaning set forth in Section 16.1.

"**Initial Synchronization**" means the commencement of Trial Operations (as defined in the CAISO Tariff).

"**Installed Capacity**" means the sum of (x) the Installed PV Capacity and (y) the Installed Storage Capacity.

"**Installed PV Capacity**" means the actual generating capacity of the Generating Facility, as measured in MW AC at the Delivery Point (i.e., measured at the Generating Facility Meter and adjusted for Electrical Losses to the Delivery Point), that achieves Commercial Operation, as evidenced by a certificate substantially in the form attached as Exhibit I-1 hereto.

"**Installed Storage Capacity**" means the lesser of (a) PMAX, and (b) maximum dependable operating capacity of the Storage Facility to discharge Energy for four (4) hours of continuous discharge, as measured in MW at the Delivery Point by the Storage Facility Meter and adjusted for Electrical Losses to the Delivery Point, that achieves Commercial Operation, as evidenced by a certificate substantially in the form attached as Exhibit I-1 hereto, as such capacity may be adjusted pursuant to Section 5 of Exhibit B.

"**Inter-SC Trade**" has the meaning set forth in the CAISO Tariff.

"**Interconnection Agreement**" means the interconnection agreement entered into by Seller or an Affiliate pursuant to which the Facility will be interconnected with the Transmission System, and pursuant to which Seller's Interconnection Facilities and any other Interconnection Facilities will be constructed, operated and maintained during the Contract Term.

"**Interconnection Capacity Limit**" means the maximum instantaneous amount of Energy that is permitted to be delivered to the Delivery Point under Seller's Interconnection Agreement, in the amount of twenty-four (24) MW.

"**Interconnection Facilities**" means the interconnection facilities, control and protective devices and metering facilities required to connect the Facility with the Transmission System in accordance with the Interconnection Agreement.

"**Interest Rate**" has the meaning set forth in Section 8.2.

"**Interim Deliverability Status**" has the meaning set forth in the CAISO Tariff.

"**Investment Grade Credit Rating**" means a Credit Rating of [redacted] or better from S&P or Fitch, or a Credit Rating of [redacted] or better from Moody's.

"**IP Indemnity Claim**" has the meaning set forth in Section 16.1(b).

"**ITC**" means the investment tax credit established pursuant to Sections 48 or 48E of the United States Internal Revenue Code of 1986.

"**Joint Powers Act**" means the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.).

"**Joint Powers Agreement**" means that certain Joint Powers Agreement dated June 27, 2017, as amended from time to time, under which Buyer is organized as a Joint Powers Authority in accordance with the Joint Powers Act.

"**kWh**" means a kilowatt-hour measured in alternating current, unless expressly stated in terms of direct current.

"**Law**" means any applicable law, statute, rule, regulation, decision, writ, order, decree or judgment, permit or any interpretation thereof, promulgated or issued by a Governmental Authority.

"**Lender**" means, collectively, any Person (a) providing senior or subordinated construction, interim, back leverage or long-term debt, equity or tax equity financing or refinancing for or in connection with the development, construction, purchase, installation or operation of the Facility, whether that financing or refinancing takes the form of private debt (including back-leverage debt), equity (including tax equity), public debt or any other form (including financing or refinancing provided to a member or other direct or indirect owner of Seller), including any equity or tax equity investor directly or indirectly providing financing or refinancing for the Facility or purchasing equity ownership interests of Seller and/or its Affiliates, and any trustee or agent or similar representative acting on their behalf, (b) providing interest rate

or commodity protection under an agreement hedging or otherwise mitigating the cost of any of the foregoing obligations and/or (c) participating in a lease financing (including a sale leaseback or leveraged leasing structure) with respect to the Facility.

"**Letter(s) of Credit**" means one or more irrevocable, standby letters of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a Credit Rating of at least A- with an outlook designation of "stable" from S&P or A3 with an outlook designation of "stable" from Moody's, in a form substantially similar to the letter of credit set forth in Exhibit K.

"**Licensed Professional Engineer**" means an independent, professional engineer selected by Seller and reasonably acceptable to Buyer, licensed in the State of California.

"**Local Capacity Area Resource**" has the meaning set forth in the CAISO Tariff.

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

"**Locational Marginal Price**" or "**LMP**" has the meaning set forth in the CAISO Tariff.

"**Losses**" means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining economic loss to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., SP-15), all of which should be calculated for the remaining Contract Term and must include the value of Green Attributes, Capacity Attributes, and Renewable Energy Incentives.

"**Lost Output**" has the meaning set forth in Section 4.7.

"**Low Operating Limit**" or "**LOL**" means a real-time calculated number representing the instantaneous maximum power level at which the Storage Facility can charge Energy to the Storage Facility, as communicated via the EMS.

"**Material Permits**" means all permits required for Seller to commence construction, as set forth on Exhibit V.

"**Max Hourly Capacity Value**" means, for any Showing Month, the highest hourly quantity of Resource Adequacy Benefits which the Generating Facility is available to provide in such Showing Month.

"**Milestones**" means the significant permitting, interconnection, financing and construction milestones set forth on the Cover Sheet.

"**Monthly Capacity Payment**" means the payment required to be made by Buyer to Seller each month commencing on CAISO Commercial Operation and throughout the Delivery Term as compensation for the Product, as calculated in accordance with Exhibit C.

"**Monthly Forecast**" has the meaning set forth in Section 4.3(b).

"**Moody's**" means Moody's Investors Service, Inc., or its successor.

"**MW**" means megawatts in alternating current, unless expressly stated in terms of direct current.

"**MWh**" means megawatt-hour measured in alternating current, unless expressly stated in terms of direct current.

"**Negative LMP**" means, in any Settlement Period or Settlement Interval, the LMP at the Facility's PNode is less than zero dollars ($0).

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

"**Net Qualifying Capacity**" or "**NQC**" has the meaning set forth in the CAISO Tariff.

"**Network Upgrades**" has the meaning set forth in the CAISO Tariff.

"**Non-Defaulting Party**" has the meaning set forth in Section 11.2.

"**Notice**" shall, unless otherwise specified in the Agreement, mean written communications by a Party to be delivered by hand delivery, United States mail, overnight courier service, or electronic messaging (e-mail).

"**Operating Restrictions**" means those restrictions, rules, requirements, and procedures set forth in Exhibit Q.

"**Outage Management System**" or "**OMS**" has the meaning set forth in the CAISO Tariff.

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

"**Performance Measurement Period**" means the prior 24-month period measured from the end of each Contract Year commencing in the second Contract Year.

"**Performance Security**" means (a) cash, (b) a Letter of Credit or (c) a parent guaranty from Guarantor in a form reasonably acceptable to Buyer in the amount specified for the Performance Security on the Cover Sheet.

"**Permitted Transferee**" means (i) any Affiliate of Seller or (ii) any entity that satisfies, or is controlled by another Person that satisfies the following requirements:

(a) A tangible net worth of not less than one hundred fifty million dollars ($150,000,000) or a Credit Rating of at least BBB- from S&P, BBB- from Fitch, or Baa3 from Moody's; and

(b) At least two (2) years of experience in the ownership and operations of power generation and energy storage facilities similar to the Facility, or has retained a third-party with such experience to operate the Facility.

"**Person**" means any individual, sole proprietorship, corporation, limited liability company, limited or general partnership, joint venture, association, joint-stock company, trust, incorporated organization, institution, public benefit corporation, unincorporated organization, government entity or other entity.

"**Planned Outage**" means a period during which the Facility is either in whole or in part not capable of providing service due to planned maintenance that has been scheduled in advance in accordance with Section 4.6.

"**PMAX**" means the applicable CAISO-certified maximum operating level of the Storage Facility.

"**PMIN**" means the applicable CAISO-certified minimum operating level of the Storage Facility.

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

"**Portfolio**" means the single portfolio of electrical energy generating, energy storage, or other assets and entities, including the Facility (or the interests of Seller or Seller's Affiliates or the interests of their respective direct or indirect parent companies), that is pledged as collateral security in connection with a Portfolio Financing.

"**Portfolio Content Category**" means PCC1, PCC2 or PCC3, as applicable.

"**Portfolio Content Category 1**" or "**PCC1**" means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(1), as may be amended from time to time or as further defined or supplemented by Law.

"**Portfolio Content Category 2**" or "**PCC2**" means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(2), as may be amended from time to time or as further defined or supplemented by Law.

"**Portfolio Content Category 3**" or "**PCC3**" means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(3), as may be amended from time to time or as further defined or supplemented by Law.

"**Portfolio Financing**" means any debt incurred by an Affiliate of Seller that is secured only by a Portfolio.

"**Portfolio Financing Entity**" means any Affiliate of Seller that incurs debt in connection with any Portfolio Financing.

"**Product**" has the meaning set forth on the Cover Sheet.

"**Production Tax Credits**" or "**PTCs**" means production tax credit under Sections 45 or 45Y of the Internal Revenue Code as in effect from time-to-time throughout the Contract Term or any successor or other provision providing for a federal tax credit determined by reference to storage of energy resources for which Seller, as the owner of the Facility, is eligible.

"**PTC Value**" means the amount, on a dollar per MWh basis, equal to the PTCs that Seller would have earned in respect of energy from the Facility at the time, grossed up on an after-tax basis at the then-highest marginal combined federal and California state corporate tax rate, [redacted]

"**Progress Report**" means a progress report including the items set forth in Exhibit E.

"**Prudent Operating Practice**" means (a) the applicable practices, methods and acts required by or consistent with applicable Laws and reliability criteria, and otherwise engaged in or approved by a significant portion of the electric industry during the relevant time period with respect to grid-interconnected, utility-scale generating facilities with integrated energy storage facilities in the Western United States, and (b) any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Prudent Operating Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to acceptable practices, methods or acts generally accepted in the industry with respect to grid-interconnected, utility-scale generating facilities with integrated energy storage facilities in the Western United States. Prudent Operating Practice shall include compliance with applicable Laws, applicable safety and reliability criteria, and the applicable criteria, rules and standards promulgated in the National Electric Safety Code and the National Electrical Code, as they may be amended or superseded from time to time, including the criteria, rules and standards of any successor organizations.

"**PV Capacity Damages**" has the meaning set forth in Section 5 of Exhibit B.

"**PV Energy**" means all Energy delivered from the Generating Facility to the Delivery Point and measured by the Generating Facility Meter, as such meter readings are adjusted pursuant to the CAISO Tariff for any applicable Electrical Losses; *provided*, Energy generated by the Generating Facility in excess of the Interconnection Capacity Limit shall not be deemed PV Energy.

"**PV RA Shortfall**" means, for a given Showing Month, the difference, expressed in kW, of (a) the Installed PV Capacity *minus* (b) the sum of (i) RA-Qualified PV Capacity *plus* (ii) the amount of solar PV capacity associated with any Replacement RA provided by Seller with respect

to an expected shortfall in Resource Adequacy Benefits of the Generating Facility for such Showing Month, if applicable.

"**Qualifying Capacity**" has the meaning set forth in the CAISO Tariff.

"**RA Compliance Showing**" means the (a) Local RAR compliance or advisory showings (or similar or successor showings), (b) RAR compliance or advisory showings (or similar or successor showings), and (c) Flexible RAR compliance or advisory showings (or similar successor showings), in each case, an entity is required to make to the CAISO pursuant to the CAISO Tariff, to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the Resource Adequacy Rulings, or to any Governmental Authority.

"**RA Deficiency Amount**" means the liquidated damages payment that Seller shall pay to Buyer for an applicable Facility RA Shortfall as calculated in accordance with Section 3.8(b).

"**RA-Qualified PV Capacity**" means, for a given Showing Month, the amount of Installed PV Capacity that Buyer is able to include in the applicable Supply Plan, calculated as the quotient of (a) the Max Hourly Capacity Value *divided by* (b) the Shape Factor for the applicable hour.

"**RA Guarantee Date**" means the Commercial Operation Date.

"**RA Plan**" has the meaning set forth for "Resource Adequacy Plan" in the CAISO Tariff with respect to Buyer's monthly or annual Resource Adequacy showings.

"**RA Shortfall Month**" means, for purposes of calculating an RA Deficiency Amount under Section 3.8(b), any month shown on an RA Plan, commencing with the RA Plan for the Showing Month that includes the RA Guarantee Date (including any month during the period between the RA Guarantee Date and the first day of the first Showing Month for Buyer which actually includes the Facility's Resource Adequacy Benefits or any Replacement RA, if applicable), for which there is a Facility RA Shortfall.

"**Real-Time Forecast**" has the meaning set forth in Section 4.3(d).

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

"**Real-Time Price**" means the Resource-Specific Settlement Interval LMP as defined in the CAISO Tariff. If there is more than one applicable Real-Time Price for the same period of time, Real-Time Price shall mean the price associated with the smallest time interval.

"**Receiving Party**" has the meaning set forth in Section 18.2.

"**Recurring Certificate Transfers**" has the meaning set forth in Section 4.10(a).

"**Reliability Network Upgrades**" has the meaning set forth in the CAISO Tariff.

"**Remedial Action Plan**" has the meaning set forth in Section 2.4.

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

"**Renewable Energy Incentives**" means: (a) all Tax Credits and any other federal, state, or local Tax credits or other Tax benefits associated with the construction, ownership, or production of electricity from the Facility (including credits under Sections 38, 45, 46 and 48 of the Internal Revenue Code of 1986, as amended); (b) any federal, state, or local grants, subsidies or other like benefits relating in any way to the Facility, including a cash grant available under Section 1603 of Division B of the American Recovery and Reinvestment Act of 2009, in lieu of federal Tax credits or any similar or substitute payment available under subsequently enacted federal legislation; and (c) any other form of incentive relating in any way to the Facility that is not a Green Attribute, Future Environmental Attribute, or Capacity Attribute.

"**Renewable Rate**" has the meaning set forth on the Cover Sheet; *provided*, if the officer's certificate provided by Seller pursuant to Section 2.2(k) states that Seller will claim a Tax Credit rate for the Generating Facility that is higher than Seller's assumed Tax Credit rate as set forth on the Cover Sheet, the Renewable Rate shall be reduced by (a) $[redacted]/MWh for each one (1) percentage point that the claimed ITC rate is above 30 percent (30%) or (b) $[redacted]/MWh for each $0.0005/kWh that the PTC rate is above $0.033/kWh.

"**Replacement Energy**" has the meaning set forth in Exhibit G.

"**Replacement Green Attributes**" has the meaning set forth in Exhibit G.

"**Replacement Product**" has the meaning set forth in Exhibit G.

"**Replacement RA**" means resource adequacy benefits equivalent to Resource Adequacy Benefits (including satisfying the same Slice-of-Day, generation profile and related characteristics) that would have been provided by the Generating Facility and/or Storage Facility, as applicable, with respect to the applicable month in which a RA Deficiency Amount is due to Buyer, and located within SP 15 TAC Area and, to the extent that the Facility would have qualified as a Local Capacity Area Resource for such month, described as a Local Capacity Area Resource.

"**Requested Confidential Information**" has the meaning set forth in Section 18.2.

"**Resource Adequacy Benefits**" means the rights and privileges attached to the Facility that satisfy any entity's resource adequacy obligations, as those obligations are set forth in any Resource Adequacy Rulings and shall include Flexible Capacity and any local, zonal or otherwise locational attributes associated with the Facility.

"**Resource Adequacy Requirements**" or "**RAR**" means the resource adequacy requirements applicable to an entity as established by the CAISO pursuant to the CAISO Tariff, by the CPUC pursuant to the Resource Adequacy Rulings, or by any other Governmental Authority.

"**Resource Adequacy Resource**" shall have the meaning used in Resource Adequacy Rulings.

"**Resource Adequacy Rulings**" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-06-063, 16-06-045, 17-06-027, 18-06-030, 18-06-031, 19-02-022, 19-06-026, 19-10-021, 20-01-004, 20-03-016, 20-06-002, 20-06-028, 20-06-031, 20-12-006, 21-06-029, 21-07-014, 22-03-034, 22-06-050, 22-12-028, 22-08-039, 23-04-010 and any other existing or subsequent ruling or decision, or any other resource adequacy laws, rules or regulations enacted, adopted or promulgated by any applicable Governmental Authority, however described, as such decisions, rulings, Laws, rules or regulations may be amended or modified from time-to-time throughout the Contract Term.

"**S&P**" means the Standard & Poor's Financial Services, LLC (a subsidiary of S&P Global Inc.) or its successor.

"**SCADA Systems**" means the standard supervisory control and data acquisition systems to be installed by Seller as part of the Facility, including those system components that enable Seller to receive ADS and AGC instructions from the CAISO or similar instructions from Buyer's SC.

"**Schedule**" has the meaning set forth in the CAISO Tariff, and "**Scheduled**" and "**Scheduling**" have a corollary meaning.

"**Scheduled Energy**" means the PV Energy, Charging Energy or Discharging Energy that clears under the applicable CAISO market based on the final Day-Ahead Schedule, FMM Schedule (as defined in the CAISO Tariff), and/or any other financially binding Schedule, market instruction or dispatch for the Facility for a given period of time implemented in accordance with the CAISO Tariff.

"**Scheduling Coordinator**" or "**SC**" means an entity certified by the CAISO as qualifying as a Scheduling Coordinator pursuant to the CAISO Tariff for the purposes of undertaking the functions specified in "Responsibilities of a Scheduling Coordinator," of the CAISO Tariff, as amended from time to time.

"**Security Interest**" has the meaning set forth in Section 8.9.

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

"**Seller**" has the meaning set forth on the Cover Sheet.

"**Seller Initiated Test**" has the meaning set forth in Section 4.9(c).

"**Seller's WREGIS Account**" has the meaning set forth in Section 4.10(a).

"**Settlement Amount**" means the Non-Defaulting Party's Costs and Losses, on the one hand, netted against its Gains, on the other. If the Non-Defaulting Party's Costs and Losses exceed its Gains, then the Settlement Amount shall be an amount owing to the Non-Defaulting Party. If the Non-Defaulting Party's Gains exceed its Costs and Losses, then the Settlement Amount shall be zero dollars ($0). The Settlement Amount does not include consequential, incidental, punitive, exemplary or indirect or business interruption damages.

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

"**Settlement Period**" has the meaning set forth in the CAISO Tariff.

"**Shape Factor**" means the applicable shape factor (expressed as a decimal) determined by the CPUC for the corresponding hour of a Max Hourly Capacity Value.

"**Shared Facilities**" means the gen-tie lines, transformers, substations, or other equipment, permits, contract rights, and other assets and property (real or personal), in each case, as necessary to enable delivery of Energy from the Facility (which is excluded from Shared Facilities) to the point of interconnection, including the Interconnection Agreement itself, that are used in common with third parties.

"**Showing Month**" shall be the calendar month of the Delivery Term that is the subject of the RA Compliance Showing, as set forth in the Resource Adequacy Rulings and outlined in the CAISO Tariff. For illustrative purposes only, pursuant to the CAISO Tariff and Resource Adequacy Rulings in effect as of the Effective Date, the monthly RA Compliance Showing made in June is for the Showing Month of August.

"**Site**" means the real property on which the Facility is or will be located, as further described in Exhibit A, and as shall be updated by Seller at the time Seller provides an executed Construction Start Date certificate in the form of Exhibit J to Buyer; *provided*, any such update to the Site that includes real property that was not originally contained within the Site boundaries described in Exhibit A (excluding Shared Facilities) shall be subject to Buyer's approval of such updates in its sole discretion.

"**Site Control**" means that, for the Contract Term, Seller (or, prior to the Delivery Term, its Affiliate): (a) owns or has the option to purchase the Site; (b) is the lessee or has the option to lease the Site; or (c) is the holder of an easement or an option for an easement, right-of-way grant, or similar instrument with respect to the Site.

"**SOC**" or "**State of Charge**" means (a) the Stored Energy Level relative to (b) the Effective Storage Capacity multiplied by four (4) hours, expressed as a percentage. The "SOC" shall represent the range of Stored Energy Level reserved exclusively for Buyer's use; *provided*, Seller may represent such range anywhere within the actual available capability of the Facility.

"**SOD**" or "**Slice-of-Day**" has the meaning set forth in the Resource Adequacy Rulings.

"**SP-15**" means the Existing Zone Generation Trading Hub for Existing Zone region SP15 as set forth in the CAISO Tariff.

"**Station Use**" means, in addition to all Auxiliary Use, the Energy (including Energy produced or discharged by the Facility) that is used within the Facility to power the lights, motors, temperature control systems, control systems and other electrical loads that are necessary for operation of the Facility.

"**Storage Capacity Availability Payment True-Up**" has the meaning set forth in Exhibit C.

"**Storage Capacity Availability Payment True-Up Amount**" has the meaning set forth in Exhibit C.

"**Storage Capacity Damages**" has the meaning set forth in Section 5 of Exhibit B.

"**Storage Capacity Test**" means any test or retest of the Storage Facility to establish the Installed Storage Capacity or Effective Storage Capacity, conducted in accordance with the testing procedures, requirements and protocols set forth in Section 4.9 and Exhibit O.

"**Storage Cure Plan**" has the meaning set forth in Section 11.1(b)(iv).

"**Storage Facility**" means the energy storage facility described on the Cover Sheet and in Exhibit A (including the operational requirements of the energy storage facility), located at the Site and including mechanical equipment and associated facilities and equipment required to deliver Storage Product (but excluding any Shared Facilities), and as such storage facility may be expanded or otherwise modified from time to time in accordance with the terms hereof.

"**Storage Facility Meter**" means the CAISO approved bi-directional revenue quality meter or meters (with a 0.3 accuracy class), along with a compatible data processing gateway or remote intelligence gateway, telemetering equipment and data acquisition services sufficient for monitoring, recording and reporting, in real time, the amount of Charging Energy delivered to the Storage Facility and the amount of Discharging Energy discharged from the Storage Facility at the Delivery Point to the Delivery Point for the purpose of invoicing in accordance with Section 8.1. For clarity, the Facility may contain multiple measurement devices that will make up the Storage Facility Meter, and, unless otherwise indicated, references to the Storage Facility Meter shall mean all such measurement devices and the aggregated data of all such measurement devices, taken together.

"**Storage Product**" means (a) Discharging Energy, (b) Capacity Attributes, if any, (c) Effective Storage Capacity, and (d) Ancillary Services, if any, in each case arising from or relating to the Storage Facility.

"**Storage RA Shortfall**" means, for a given Showing Month, the difference, expressed in kW, of (a) the Storage Facility's Qualifying Capacity *minus* (b) the sum of (i) the portion of the Net Qualifying Capacity of the Storage Facility for such month which is able to be shown on Buyer's monthly or annual RA Plan to the CAISO and CPUC *plus* (ii) Replacement RA provided by Seller with respect to an expected shortfall in Resource Adequacy Benefits of the Storage Facility for such Showing Month, if applicable.

"**Storage Rate**" has the meaning set forth on the Cover Sheet; *provided*, (a) if the officer's certificate provided by Seller pursuant to Section 2.2(k) states that the ITC rate for the Storage Facility is higher than Seller's assumed ITC rate as set forth on the Cover Sheet, the Storage Rate shall be reduced by $[redacted] per kW-mo. for each one (1) percentage point that the new ITC rate is above forty percent (40%), and (b) if, as a result of Buyer providing any Charging Notice for Charging Energy to be delivered from the CAISO Grid instead of the Generating Facility, Seller is informed by a Governmental Authority that it is no longer eligible for any portion of the "new construction" exemption for property tax purposes under California Revenue and Taxation Code Section 73 or a similar Law applicable to the Storage Facility, the Storage Rate shall be increased

by [redacted] dollars ($[redacted] per kW-mo for every one percent (1%) reduction in the amount of such property tax exemption for which the Storage Facility qualifies. In no event shall any price increase be applicable to any month of the Delivery Term dating back more than three (3) years prior to the date of Notice from Seller informing Buyer of the loss of the Property Tax Exclusion.

"**Stored Energy Level**" means, at a particular time, the amount of Energy in the Storage Facility available to be discharged to the Delivery Point as Discharging Energy, expressed in MWh.

"**Supplementary Capacity Test Protocol**" has the meaning set forth in Exhibit O.

"**Supply Chain Code**" has the meaning in Exhibit U.

"**System Emergency**" means any condition that requires, as determined and declared by CAISO or the Transmission Provider, automatic or immediate action to (i) prevent or limit harm to or loss of life or property, (ii) prevent loss of transmission facilities or generation supply in the immediate vicinity of the Facility, or (iii) to preserve Transmission System reliability.

"**Tax**" or "**Taxes**" means all U.S. federal, state and local and any foreign taxes, levies, assessments, surcharges, duties and other fees and charges of any nature imposed by a Governmental Authority, whether currently in effect or adopted during the Contract Term, including ad valorem, excise, franchise, gross receipts, import/export, license, property, sales and use, stamp, transfer, payroll, unemployment, income, and any and all items of withholding, deficiency, penalty, additions, interest or assessment related thereto.

"**Tax Credits**" means the PTC, ITC and any other state, local and/or federal production tax credit, depreciation benefit, tax deduction, income tax benefit and/or investment tax credit in each case related to or derived from the ownership, construction or operation of, or investment in, the Facility.

"**Terminated Transaction**" has the meaning set forth in Section 11.2(a).

"**Termination Payment**" has the meaning set forth in Section 11.3(b).

"**Test Energy**" means PV Energy delivered (a) commencing on the later of (i) the first date that the CAISO informs Seller in writing that Seller may deliver Energy to the CAISO and (ii) the first date that the Transmission Provider informs Seller in writing that Seller has conditional or temporary permission to operate in parallel with the CAISO Grid, and (b) ending upon the occurrence of the Commercial Operation Date.

"**Test Energy Rate**" has the meaning set forth in Section 3.6.

"**Total YTD Calculation Intervals**" has the meaning set forth in Exhibit P.

"**Transformer Failure**" means a failure of all or part of the main power transformer that results in the Storage Facility being unable receive Charging Energy or to deliver Discharging Energy during such failure, and such failure was not caused by Seller and could not have been

avoided through the exercise of Prudent Operating Practices, as demonstrated by the delivery from Seller of a certificate from a Licensed Professional Engineer attesting to the foregoing.

"**Transmission Provider**" means any entity that owns, operates and maintains transmission or distribution lines and associated facilities and/or has entitlements to use certain transmission or distribution lines and associated facilities for the purpose of transmitting or transporting the Facility Energy from the Delivery Point.

"**Transmission System**" means the transmission facilities operated by the CAISO, now or hereafter in existence, which provide energy transmission service downstream from the Delivery Point.

"**Transmission System Outage**" means an outage on the Transmission System, other than a System Emergency, that is not caused by Seller's actions or inactions and that prevents Buyer or the CAISO (as applicable) from receiving Facility Energy onto the Transmission System.

"**Ultimate Parent**" means BHE Renewables, LLC, a Delaware limited liability company.

"**Unavailable Calculation Interval**" has the meaning set forth in Exhibit P.

"**Variable Energy Resource**" or "**VER**" has the meaning set forth in the CAISO Tariff.

"**WREGIS**" means the Western Renewable Energy Generation Information System or any successor renewable energy tracking program.

"**WREGIS Certificate Deficit**" has the meaning set forth in Section 4.10(e).

"**WREGIS Certificates**" has the same meaning as "Certificate" as defined by WREGIS in the WREGIS Operating Rules and are designated as eligible for complying with the California Renewables Portfolio Standard.

"**WREGIS Operating Rules**" means those operating rules and requirements adopted by WREGIS as of October 2022, as subsequently amended, supplemented or replaced (in whole or in part) from time to time.

1.2 **Rules of Interpretation**. In this Agreement, except as expressly stated otherwise or unless the context otherwise requires:

(a) headings and the rendering of text in bold and italics are for convenience and reference purposes only and do not affect the meaning or interpretation of this Agreement;

(b) words importing the singular include the plural and vice versa and the masculine, feminine and neuter genders include all genders;

(c) the words "hereof", "herein", and "hereunder" and words of similar import shall refer to this Agreement as a whole and not to any particular provision of this Agreement;

(d) a reference to an Article, Section, paragraph, clause, Party, or Exhibit is a reference to that Article, Section, paragraph, clause of, or that Party or Exhibit to, this Agreement unless otherwise specified;

(e) a reference to a document or agreement, including this Agreement shall mean such document, agreement or this Agreement including any amendment or supplement to, or replacement, novation or modification of this Agreement, but disregarding any amendment, supplement, replacement, novation or modification made in breach of such document, agreement or this Agreement;

(f) a reference to a Person includes that Person's successors and permitted assigns;

(g) the terms "include" and "including" mean "include or including (as applicable) without limitation" and any list of examples following such term shall in no way restrict or limit the generality of the word or provision in respect of which such examples are provided;

(h) references to any statute, code or statutory provision are to be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or reenacted, and include references to all bylaws, instruments, orders and regulations for the time being made thereunder or deriving validity therefrom unless the context otherwise requires;

(i) in the event of a conflict, a mathematical formula or other precise description of a concept or a term shall prevail over words providing a more general description of a concept or a term;

(j) references to any amount of money shall mean a reference to the amount in United States Dollars;

(k) the expression "and/or" when used as a conjunction shall connote "any or all of";

(l) words, phrases or expressions not otherwise defined herein that (i) have a generally accepted meaning in Prudent Operating Practice shall have such meaning in this Agreement or (ii) do not have well known and generally accepted meaning in Prudent Operating Practice but that have well known and generally accepted technical or trade meanings, shall have such recognized meanings; and

(m) each Party acknowledges that it was represented by counsel in connection with this Agreement and that it or its counsel reviewed this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

ARTICLE 2
TERM; CONDITIONS PRECEDENT

2.1 **Contract Term**.

(a) The term of this Agreement shall commence on the Effective Date and shall remain in full force and effect until the conclusion of the Delivery Term, subject to any early termination provisions set forth herein ("**Contract Term**"); *provided*, subject to Buyer's obligations in Section 3.6, Buyer's obligations to pay for or accept any Product are subject to Seller's completion of the conditions precedent pursuant to Section 2.2.

(b) Applicable provisions of this Agreement shall continue in effect after termination, including early termination, to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to termination. The confidentiality obligations of the Parties under Article 18 shall remain in full force and effect for two (2) years following the termination of this Agreement, and all indemnity and audit rights shall remain in full force and effect for one (1) year following the termination of this Agreement.

2.2 **Conditions Precedent**.

The Delivery Term shall not commence until Seller completes to Buyer's reasonable satisfaction each of the following conditions, which Buyer shall, if submitted by Seller within five (5) Business Days of the expected Commercial Operation Date, review and either accept or provide Notice stating in reasonably detail the basis for Buyer's rejection thereof within five (5) Business Days of receipt thereof:

(a) Seller shall have delivered to Buyer (i) a completion certificate from a Licensed Professional Engineer substantially in the form of Exhibit H and (ii) a certificate from a Licensed Professional Engineer substantially in the form of Exhibit I-1 setting forth the Installed PV Capacity, the Installed Storage Capacity and the Installed Capacity on the Commercial Operation Date;

(b) A Participating Generator Agreement and a Meter Service Agreement between Seller and CAISO shall have been executed and delivered and be in full force and effect, and a copy of each such agreement delivered to Buyer;

(c) An Interconnection Agreement between Seller and the Transmission Provider shall have been executed and delivered and be in full force and effect and a copy of the Interconnection Agreement delivered to Buyer;

(d) All applicable regulatory authorizations, approvals and permits for the operation of the Facility have been obtained and all conditions thereof that are capable of being satisfied on the Commercial Operation Date have been satisfied and shall be in full force and effect;

(e) Seller has obtained CAISO Certification for the Facility;

(f) Seller has received CEC Precertification of the Facility (and reasonably expects to receive final CEC Certification and Verification for the Facility in no more than one hundred eighty (180) days from the Commercial Operation Date);

(g) Seller (with the reasonable participation of Buyer) shall have completed all applicable WREGIS registration requirements, including the completion and submittal of all

applicable registration forms and supporting documentation, which may include applicable interconnection agreements, informational surveys related to the Facility, QRE service agreements, and other appropriate documentation required to effect Facility registration with WREGIS and to enable Renewable Energy Credit transfers related to the Facility within the WREGIS system;

(h) The Facility is providing Resource Adequacy Benefits to Buyer for the month in which Delivery Term commences;

(i) Seller has delivered the Performance Security to Buyer in accordance with Section 8.8;

(j) Seller has taken all actions and executed all documents and instruments, required of Seller to authorize Buyer (or its designated agent) to act as Scheduling Coordinator under this Agreement and to fully enable the Facility to be Scheduled by Buyer, and Buyer (or its designated agent) is authorized to act as Scheduling Coordinator;

(k) Seller has delivered to Buyer an officer's certificate stating (i) that Seller has not utilized any equipment or resources in connection with the construction, commissioning or testing of the Facility in violation of Section 2.3(b), (ii) whether there has been a change in applicable Laws as set forth in subsection (b) of the definition of "Storage Rate", and (iii) the Tax Credit and applicable rate which Seller claims will apply for the Generating Facility, the Storage Facility and/or the Facility Energy;

(l) Seller shall have delivered to Buyer an engineering assessment from a Licensed Professional Engineer, using standard practices in renewable energy and energy storage project financing (for example, taking into account battery charging restrictions, round trip losses, and with the probabilistic assessment considering standard sources of uncertainty including interannual resource variability), demonstrating the Facility Energy, in MWh, that the Facility has a fifty percent (50%) probability ("P50") of delivering during each hour of Contract Year 1 for every one (1) MW of NQC of the Facility, subject to the Facility being Scheduled appropriately (the "**Facility Engineering Assessment**"); and

(m) Seller has paid Buyer for all amounts owing under this Agreement, if any, including Delay Damages.

2.3 **Development; Construction; Progress Reports**.

(a) Within fifteen (15) days after the close of (i) each calendar quarter from the first calendar quarter following the Effective Date until the Construction Start Date, and (ii) each calendar month from the first calendar month following the Construction Start Date until the Commercial Operation Date, Seller shall provide to Buyer a Progress Report and agree to regularly scheduled meetings between representatives of Buyer and Seller to review such reports and discuss Seller's construction progress. The form of the Progress Report is set forth in Exhibit E. Seller shall also provide Buyer with any reasonably requested documentation (subject to confidentiality restrictions) directly related to the achievement of Milestones within ten (10) Business Days of receipt of such request by Seller. Seller is solely responsible for the design and construction of the Facility, including the location of the Site, the Facility layout, and the selection and procurement

of the equipment comprising the Facility. Seller shall provide to Buyer a Facility Engineering Assessment upon the earlier of (i) the Commercial Operation Date or (ii) sixty (60) days following a written requested from Buyer.

(b) Seller shall use commercially reasonable efforts to cause all materials, products and components used in constructing, installing and operating the Facility throughout the Term shall be in compliance with the Supply Chain Code. Seller shall comprehensively implement due diligence procedures for its and its Affiliate's suppliers, subcontractors and other participants in its supply chains, to comply with the Supply Chain Code. Seller shall notify Buyer as soon as it becomes aware of any breach, or potential breach, of its obligations under this Section 2.3(b). Notwithstanding the foregoing, Buyer acknowledges that construction of the Facility commenced, and Seller had entered into its construction contracts, prior to execution of this Agreement, and therefore, it shall not be a breach of this Section 2.3(b) to the extent Seller does not comply with the Supply Chain Code due to Seller's agreements with respect to the Facility executed prior to this Agreement that do not comply with the Supply Chain Code provided such pre-existing agreements shall comply clause (d).

(c) Buyer shall have the right, at Buyer's sole expense, to retain an independent auditor to audit Seller's compliance with the requirements of Section 2.3(b).

(d) With respect to each of the contracts for the Facility entered into by Seller prior to the Effective Date of this Agreement, including the engineering, procurement and construction contract and the battery supply contract, Seller represents and warrants that each such contract (i) complies with the Seller's supply chain requirements, and (ii) requires the counterparty to (A) comply with all applicable laws, (B) conduct its business consistent with ethical business practices, and (C) utilize vendors approved by Seller.

2.4 **Remedial Action Plan**. If Seller misses a Milestone by more than thirty (30) days, except as the result of Force Majeure Event or Buyer Default, Seller shall submit to Buyer, within ten (10) Business Days after the end of such thirty (30)-day period following the Milestone completion date, a remedial action plan ("**Remedial Action Plan**"), which will describe in detail any delays (actual or anticipated) beyond the scheduled Milestone dates, including the cause of the delay (e.g., governmental approvals, financing, property acquisition, design activities, equipment procurement, project construction, interconnection, or any other factor), Seller's detailed description of its proposed course of action to achieve the missed Milestones and all subsequent Milestones by the Guaranteed Commercial Operation Date; *provided*, delivery of any Remedial Action Plan shall not relieve Seller of its obligation to provide Remedial Action Plans with respect to any subsequent Milestones and to achieve the Guaranteed Commercial Operation Date in accordance with the terms of this Agreement. Subject to the provisions of Exhibit B, so long as Seller complies with its obligations under this Section 2.4, Seller shall not be considered in default of its obligations under this Agreement solely as a result of missing any Milestone.

2.5 **Pre-Commercial Operations Actions**. The Parties agree that, in order for Buyer to dispatch the Storage Facility for its Commercial Operation Date, the Parties will have to perform certain of their Delivery Term obligations in advance of the Commercial Operation Date, including, without limitation, Seller's delivery of an Availability Notice for the Commercial Operation Date, and delivery of a Dispatch Notice and nominating and scheduling the Storage

Facility for the Commercial Operation Date, in advance of the Commercial Operation Date. The Parties shall cooperate with each other in order for Buyer to be able to dispatch the Storage Facility for the Commercial Operation Date. Seller shall give Buyer at least forty-five (45) days' Notice before the Commercial Operation Date.

ARTICLE 3
PURCHASE AND SALE

3.1 **Purchase and Sale of Product**. Subject to the terms and conditions of this Agreement, during the Delivery Term, Buyer shall purchase all the Product produced by or associated with the Facility at the Contract Price and in accordance with Exhibit C, and Seller shall supply and deliver to Buyer all the Product produced by or associated with the Facility. At its sole discretion, Buyer may during the Delivery Term re-sell or use for another purpose all or a portion of the Product; *provided*, no such re-sale or use shall relieve Buyer of any obligations hereunder; *provided further*, Seller shall only be liable to Buyer for the damages set forth in this Agreement if Seller fails to provide any of the Product that is resold by Buyer. During the Delivery Term, Buyer shall have exclusive rights to offer, bid, or otherwise submit the Product, and/or any component thereof, from the Facility after the Delivery Point for resale in the market, and retain and receive any and all related revenues.

3.2 **Sale of Green Attributes**. During the Delivery Term, Seller shall sell and deliver to Buyer, and Buyer shall purchase from Seller, all Green Attributes attributable to the PV Energy generated by the Facility. Upon request of Buyer, Seller shall use commercially reasonable efforts to (a) submit, and receive approval from the Center for Resource Solutions (or any successor that administers the Green-e Certification process), for the Green-e tracking attestations and (b) support Buyer's efforts to qualify the Green Attributes transferred by Seller as Green-e Certified.

3.3 **Imbalance Energy**. Buyer and Seller recognize that in any given Settlement Period the amount of PV Energy, Charging Energy, and/or Discharging Energy delivered from the Generating Facility and/or received or delivered by the Storage Facility may deviate from the amounts thereof scheduled with the CAISO. Following CAISO Commercial Operation, to the extent there are such deviations, any costs, liabilities or revenues from such imbalances shall be solely for the account of Buyer, except as expressly set forth in this Agreement.

3.4 **Ownership of Renewable Energy Incentives**. Seller shall have all right, title and interest in and to all Renewable Energy Incentives. Buyer acknowledges that any Renewable Energy Incentives belong to Seller. If any Renewable Energy Incentives, or values representing the same, are initially credited or paid to Buyer, Buyer shall cause such Renewable Energy Incentives or values relating to same to be assigned or transferred to Seller without delay. Buyer shall reasonably cooperate with Seller, at Seller's sole expense, in Seller's efforts to meet the requirements for any certification, registration, or reporting program relating to Renewable Energy Incentives.

3.5 **Future Environmental Attributes**.

(a) The Parties acknowledge and agree that as of the Effective Date, environmental attributes sold under this Agreement are restricted to Green Attributes; however,

Future Environmental Attributes may be created by a Governmental Authority through Laws enacted after the Effective Date. Subject to the final sentence of this Section 3.5(a) and to Section 3.5(b), in such event, Buyer shall bear all costs associated with the transfer, qualification, verification, registration and ongoing compliance for such Future Environmental Attributes, but there shall be no increase in the Contract Price. Upon Seller's receipt of Notice from Buyer of Buyer's intent to claim such Future Environmental Attributes, the Parties shall determine the necessary actions and additional costs associated with such Future Environmental Attributes. Seller shall have no obligation to alter the Facility or the operation of the Facility unless the Parties have agreed on all necessary terms and conditions relating to such alteration or change in operation and Buyer has agreed to reimburse Seller for all costs, losses, and liabilities associated with such alteration or change in operation.

(b) If Buyer elects to receive Future Environmental Attributes pursuant to Section 3.5(a), the Parties agree to negotiate in good faith with respect to the development of further agreements and documentation necessary to effectuate the transfer of such Future Environmental Attributes, including agreement with respect to (i) appropriate transfer, delivery and risk of loss mechanisms, and (ii) appropriate allocation of any additional costs to Buyer, as set forth above; *provided*, the Parties acknowledge and agree that such terms are not intended to alter the other material terms of this Agreement.

3.6 **Test Energy**. No less than fourteen (14) days prior to the first day on which Test Energy is expected to be available from the Facility, Seller shall notify Buyer of the availability of the Test Energy. If and to the extent the Facility generates Test Energy, Seller shall sell and Buyer shall purchase from Seller all Test Energy and any associated Products of the Generating Facility on an as-available basis for up to [redacted] days from the first delivery of Test Energy. As compensation for such Test Energy and associated Product, Buyer shall pay Seller an amount equal to (a) [redacted] of the Renewable Rate for any Showing Month in which the Generating Facility is not providing Resource Adequacy Benefits for such Showing Month, or (b) [redacted] of the Renewable Rate for any Showing Month in which the Generating Facility is providing Resource Adequacy Benefits for such Showing Month, and thereafter [redacted] per MWh (the "**Test Energy Rate**"). The conditions precedent in Section 2.2 are not applicable to the Parties' obligations under this Section 3.6.

3.7 **Capacity Attributes**. Seller shall diligently pursue Full Capacity Deliverability Status for the Guaranteed Capacity (not to exceed the Interconnection Capacity Limit) in the CAISO generator interconnection process. As between Buyer and Seller, Seller shall be responsible for the cost and installation of any Network Upgrades associated with obtaining such Full Capacity Deliverability Status.

(a) Throughout the Delivery Term and subject to Section 3.12, Seller grants, pledges, assigns and otherwise commits to Buyer all the Capacity Attributes from the Facility.

(b) Throughout the Delivery Term and subject to Section 3.12, Seller shall use commercially reasonable efforts to maintain eligibility for Full Capacity Deliverability Status or Interim Deliverability Status for the Facility from the CAISO and shall perform all actions necessary to ensure that the Facility qualifies to provide all Resource Adequacy Benefits, including

Flexible Capacity, to Buyer. Throughout the Delivery Term, and subject to Section 3.12, Seller hereby covenants and agrees to transfer all Resource Adequacy Benefits to Buyer.

(c) For the duration of the Delivery Term, and subject to Section 3.12, Seller shall take all commercially reasonable actions, including complying with all applicable registration and reporting requirements, and execute all documents or instruments necessary to enable Buyer to use all of the Capacity Attributes committed by Seller to Buyer pursuant to this Agreement.

(d) If Seller anticipates that it will have any RA Deficiency Amounts in a Showing Month, Seller may provide Replacement RA in the amount of the expected Facility RA Shortfall with respect to such Showing Month, provided that (a) the amount of Replacement RA in any Contract Year shall not to exceed twenty-five percent (25%) of the annual total amount of Resource Adequacy Benefits expected to be provided by the Generating Facility or Storage Facility, as applicable, and (b) any intended Replacement RA is communicated by Seller to Buyer in a Notice substantially in the form of Exhibit M at least fifty (50) Business Days before the applicable Showing Month for the purpose of including in Buyer's RA Compliance Showing for such Showing Month.

3.8 **Resource Adequacy Failure**.

(a) RA Deficiency Determination. For each RA Shortfall Month Seller shall pay to Buyer the RA Deficiency Amount as liquidated damages, as set forth in Section 3.8(b), as the sole remedy for the Capacity Attributes that Seller failed to convey to Buyer.

(b) RA Deficiency Amount Calculation. The "**RA Deficiency Amount**" shall equal the sum of:

(i) For any portion of the Facility RA Shortfall for which Buyer incurs a CPUC System RA Penalty ("**CPUC-Penalized Shortfall**"), Seller's pro rata share of the amount of such CPUC System RA Penalty for such month actually incurred by Buyer (which shall be zero (0) if Buyer does not incur any CPUC System RA Penalty), plus,

(ii) For any portion of the Facility RA Shortfall for which Buyer incurs CAISO costs, charges or penalties associated with such shortfall ("**CAISO-Penalized Shortfall**") Seller's pro rata share of the amount of such CAISO costs, charges or penalties associated with the Facility RA Shortfall for such month actually incurred by Buyer (which shall be zero (0) if Buyer does not incur any CAISO costs, charges or penalties associated with the Facility RA Shortfall), plus

(iii) For any portion of the Facility RA Shortfall which is not CPUC-Penalized Shortfall and/or CAISO-Penalized Shortfall, and for which Buyer purchased replacement Resource Adequacy Benefits, the amount of Buyer's cost of such replacement Resource Adequacy Benefits, plus

(iv) For any portion of the Facility RA Shortfall which is not CPUC-Penalized Shortfall and/or CAISO-Penalized Shortfall, and for which Buyer did not purchase replacement Resource Adequacy Benefits, the prevailing market value of such Facility RA Shortfall, as reasonably determined by Buyer.

3.9 **CEC Certification and Verification**. Subject to Section 3.12 and in accordance with the timing set forth in this Section 3.9, Seller shall take all necessary steps including, but not limited to, making or supporting timely filings with the CEC to obtain and maintain CEC Certification and Verification for the Facility throughout the Delivery Term, including compliance with all applicable requirements for certified facilities set forth in the current version of the *RPS Eligibility Guidebook* (or its successor). Seller shall obtain CEC Precertification by the Commercial Operation Date. Within thirty (30) days after the Commercial Operation Date, Seller shall apply with the CEC for final CEC Certification and Verification. Within one hundred eighty (180) days after the Commercial Operation Date, Seller shall obtain and maintain throughout the remainder of the Delivery Term the final CEC Certification and Verification. Seller must promptly notify Buyer and the CEC of any changes to the information included in Seller's application for CEC Certification and Verification for the Facility.

3.10 **Eligibility**. 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. [STC 6]

3.11 **California Renewables Portfolio Standard**. Subject to Section 3.12, Seller shall also take all other actions necessary to ensure that the PV Energy produced from the Generating Facility is tracked for purposes of satisfying the California Renewables Portfolio Standard requirements, as may be amended or supplemented by the CPUC or CEC from time to time.

3.12 **Compliance Expenditure Cap**. If a change in Law occurring after the Effective Date has increased Seller's cost to comply with Seller's obligations under this Agreement that are made subject to this Section 3.12, including with respect to obtaining, maintaining, conveying or effectuating Buyer's use of Green Attributes and Capacity Attributes (as applicable), then the Parties agree that the maximum aggregate amount of costs and expenses Seller shall be required to bear during the Delivery Term to comply with all of such obligations shall be capped at Twenty-Five Thousand Dollars ($25,000) per MW of Guaranteed Capacity (not to exceed the Interconnection Capacity Limit) ("**Compliance Expenditure Cap**").

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

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

(c) Buyer will have sixty (60) days to evaluate such Notice (during which time period Seller is not obligated to take any Compliance Actions described in the Notice) and shall, within such time, either (1) agree to reimburse Seller for all or some portion of the costs that exceed

the Compliance Expenditure Cap (such Buyer-agreed upon costs, the "**Accepted Compliance Costs**"), or (2) waive Seller's obligation to take such Compliance Actions, or any part thereof for which Buyer has not agreed to reimburse Seller. If Buyer does not respond to a Notice given by Seller under this Section 3.12 within sixty (60) days after Buyer's receipt of same, Buyer shall be deemed to have waived its rights to require Seller to take the Compliance Actions that are the subject of the Notice, and Seller shall have no further obligation to take, and no liability for any failure to take, such Compliance Actions until such time as Buyer agrees to pay such Accepted Compliance Costs.

(d) If Buyer agrees to reimburse Seller for the Accepted Compliance Costs, then Seller shall take such Compliance Actions covered by the Accepted Compliance Costs as agreed upon by the Parties and Buyer shall reimburse Seller for Seller's actual costs to effect the Compliance Actions, not to exceed the Accepted Compliance Costs, within sixty (60) days from the time that Buyer receives an invoice and documentation of such costs from Seller.

3.13 **Project Configuration**. In order to optimize the benefits of the Facility, Buyer and Seller each agree that if requested by the other Party, then Buyer and Seller shall discuss in good faith potential reconfiguration of the Facility or Interconnection Facilities; *provided*, neither Party shall be obligated to agree to any changes under this Agreement, or to incur any expense in connection with such changes, except under terms mutually acceptable to both Parties as set forth in a written agreement.

ARTICLE 4
OBLIGATIONS AND DELIVERIES

4.1 **Delivery**.

(a) Energy. Subject to the provisions of this Agreement, commencing on the Commercial Operation Date through the end of the Contract Term, Seller shall supply and deliver the Product to Buyer at the Delivery Point (except for PV Energy used as Charging Energy), and Buyer shall take delivery of the Product at the Delivery Point (except for PV Energy used as Charging Energy) in accordance with the terms of this Agreement. Seller shall be responsible for paying or satisfying when due any costs or charges imposed in connection with the delivery of Facility Energy to the Delivery Point, including any operation and maintenance charges imposed by the Transmission Provider directly relating to the Facility's operations. Except as otherwise set forth in this Agreement, Buyer shall be responsible for all costs, charges and penalties, if any, imposed in connection with: (a) the delivery of Charging Energy to the Delivery Point (including the cost of the Charging Energy itself) and (b) the acceptance and transmission of Facility Energy at and after the Delivery Point, including without limitation transmission costs and transmission line losses and imbalance charges. The PV Energy, Charging Energy and Discharging Energy will be scheduled with the CAISO by Buyer (or Buyer's designated Scheduling Coordinator) in accordance with Exhibit D.

(b) Green Attributes. All Green Attributes associated with Test Energy and the PV Energy during the Delivery Term are exclusively dedicated to and vested in Buyer. Seller represents and warrants that Seller holds the rights to all Green Attributes from the Facility, and

Seller agrees to convey and hereby conveys all such Green Attributes to Buyer as included in the delivery of the Product from the Facility.

(c) Energy Products. If, at any time during the Contract Term, Buyer requests Seller to provide any new or different Energy-related products or Ancillary Services that may become recognized from time to time in the CAISO market and that are not expressly listed in Exhibit Q (including, for example, reactive power), and Seller is able to provide any such product from the Facility without material adverse effect (including any obligation to incur more than *de minimis* costs or liabilities) on Seller or the Facility or Seller's obligations or liabilities under this Agreement, then Seller shall use commercially reasonable efforts to coordinate with Buyer to provide such product. If provision of any such new product would have a material adverse effect (including any obligation to incur more than *de minimis* costs or liabilities) on Seller or the Facility or Seller's obligations or liabilities under this Agreement, then Seller shall be obligated to provide such product only if the Parties first execute an amendment to this Agreement with respect to such product that is mutually acceptable to both Parties.

4.2 **Title and Risk of Loss**.

(a) Energy. Title to and risk of loss related to the Facility Energy, shall pass and transfer from Seller to Buyer at the Delivery Point. Seller warrants that all Product delivered to Buyer is free and clear of all liens, security interests, claims and encumbrances of any kind.

(b) Green Attributes. Title to and risk of loss related to the Green Attributes shall pass and transfer from Seller to Buyer upon the transfer of such Green Attributes in accordance with WREGIS.

4.3 **Forecasting**. Seller shall provide the forecasts described below. Seller shall use commercially reasonable efforts to forecast accurately and to transmit such information in a format reasonably acceptable to Buyer (or Buyer's designee).

(a) Annual Forecast of Energy. No less than forty-five (45) days before (i) the first day of the first Contract Year of the Delivery Term and (ii) the beginning of each calendar year for every subsequent Contract Year during the Delivery Term, Seller shall provide to Buyer and the SC (if applicable) a non-binding forecast of each month's average-day expected PV Energy, by hour, for the following calendar year in a form substantially similar to the table found in Exhibit F-1, or as reasonably requested by Buyer.

(b) Monthly Forecast of PV Energy and Available Capacity. No less than thirty (30) days before the beginning of Commercial Operation, and thereafter ten (10) Business Days before the beginning of each month during the Delivery Term, Seller shall provide to Buyer and the SC (if applicable) a non-binding forecast of the hourly expected (i) available capacity of the Generating Facility, (ii) PV Energy, (iii) Available Effective Storage Capacity, and (iv) Available Storage Capability (items (i)-(iv) collectively referred to as the "**Forecasted Product**"), for each day of the following month in a form substantially similar to Exhibits F-1, F-2, F-3 and F-4, as applicable ("**Monthly Forecast**").

(c) Day-Ahead Forecast. By 5:30 AM Pacific Prevailing Time on the Business Day immediately preceding the date of delivery, or as otherwise specified by Buyer consistent

with Prudent Operating Practice, Seller shall provide Buyer with a non-binding forecast of the hourly expected Forecasted Product, in each case, for each hour of the immediately succeeding day ("**Day-Ahead Forecast**"). A Day-Ahead Forecast provided in a day prior to any non-Business Day(s) shall include non-binding forecasts for the immediate day, each succeeding non-Business Day, and the next Business Day. Each Day-Ahead Forecast shall clearly identify, for each hour, Seller's best estimate of the hourly expected Forecasted Product. Such Day-Ahead Forecasts shall be sent to Buyer's on-duty Scheduling Coordinator. If Seller fails to provide Buyer with a Day-Ahead Forecast as required herein for any period, then for such unscheduled delivery period only, Buyer shall rely on any Real-Time Forecast or the Monthly Forecast or Buyer's best estimate based on information reasonably available to Buyer.

(d) Real-Time Forecasts. During the Delivery Term, Seller shall notify Buyer of any changes from the Day-Ahead Forecast of three (3) MW / three (3) MWh or more in the hourly expected Forecasted Product ("**Real-Time Forecast**"), in each case, whether due to a Forced Facility Outage, Force Majeure Event or other cause, as soon as reasonably possible, but no later than one (1) hour prior to the deadline for submitting schedules to the CAISO in accordance with the rules for participation in the Real-Time Market. If the Forecasted Product changes by at least three (3) MW as of a time that is less than one (1) hour prior to the Real-Time Market deadline, but before such deadline, then Seller must notify Buyer as soon as reasonably possible. Such Real-Time Forecasts of PV Energy shall be provided by an Approved Forecast Vendor and shall contain information regarding the beginning date and time of the event resulting in the change in any Forecasted Product, as applicable, the expected end date and time of such event, and any other information required by the CAISO or reasonably requested by Buyer. With respect to any Forced Facility Outage, Seller shall use commercially reasonable efforts to notify Buyer of such outage within ten (10) minutes of the commencement of the Forced Facility Outage. Seller shall inform Buyer of any developments that are reasonably likely to affect either the duration of such outage or the availability of the Facility during or after the end of such outage. Such Real-Time Forecasts shall be communicated in a method acceptable to Buyer, provided that Buyer specifies the method no later than sixty (60) days prior to the effective date of such requirement. In the event Buyer fails to provide Notice of an acceptable method for communications under this Section 4.3(d), then Seller shall send such communications by telephone and e-mail to Buyer.

(e) Forced Facility Outages. Notwithstanding anything to the contrary herein, Seller shall promptly notify Buyer's on-duty Scheduling Coordinator of Forced Facility Outages and Seller shall keep Buyer informed of any developments that will affect either the duration of the outage or the availability of the Facility during or after the end of the outage.

(f) Forecasting Penalties. In the event Seller does not in a given hour provide the forecast required in Section 4.3(d) and Buyer incurs a loss or penalty resulting from its scheduling activities with respect to Facility Energy during such hour, Seller shall be responsible for a "**Forecasting Penalty**" for each such hour equal to the product of (A) the absolute difference (if any) between (i) the expected PV Energy for such hour (which assumes no Charging Energy or Discharging Energy in such hour) set forth in the Monthly Forecast, and (ii) the actual PV Energy (absent any Charging Energy and Discharging Energy), multiplied by (B) the absolute value of the Real-Time Price in such hour. Settlement of Forecasting Penalties shall occur as set forth in Article 8 of this Agreement.

(g) CAISO Tariff Requirements. Seller shall comply with all applicable obligations for Variable Energy Resources under the CAISO Tariff and the Eligible Intermittent Resource Protocol, including providing appropriate operational data and meteorological data, and will fully cooperate with Buyer, Buyer's SC, and CAISO, in providing all data, information, and authorizations required thereunder.

4.4 **Dispatch Down/Curtailment**.

(a) General. Seller agrees to reduce the amount of PV Energy and/or Discharging Energy produced by the Facility, by the amount and for the period set forth in any Curtailment Order, Buyer Curtailment Order, or notice received from CAISO in respect of a Buyer Bid Curtailment; *provided*, Seller is not required to reduce such amount to the extent it is inconsistent with the limitations of the Facility set out in the Operating Restrictions.

(b) Buyer Curtailment. Buyer shall have the right to order Seller to curtail deliveries of PV Energy through Buyer Curtailment Orders; *provided*, Buyer shall pay Seller for all Deemed Delivered Energy associated with a Buyer Curtailment Period at the DDE Rate.

(c) Failure to Comply. If Seller fails to comply with a Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order other than as provided for in Section 4.4(a), then, for each MWh of PV Energy that is delivered by the Generating Facility to the Delivery Point that is in excess of the Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order, 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 excess MWh, (B) is the sum, for all Settlement Intervals with a Negative LMP during the Buyer Curtailment Period or Curtailment Period, of the absolute value of the product of such excess MWh in each Settlement Interval and the Negative LMP for such Settlement Interval, and (C) is any penalties assessed by the CAISO or other charges assessed by the CAISO resulting from Seller's failure to comply with the Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order.

(d) Seller Equipment Required for Operating Instruction Communications. Seller shall acquire, install, and maintain such facilities, communications links and other equipment, and implement such protocols and practices, as necessary to respond to and follow operating instructions from the CAISO and Buyer's SC, including an electronic signal conveying real time and intra-day instructions, to operate the Facility as directed by Buyer from time to time in accordance with this Agreement and/or a Governmental Authority, including to implement a Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order in accordance with the methodologies applicable to the Facility and used to transmit such instructions. If at any time during the Delivery Term, Seller's facilities, communications links or other equipment, protocols or practices are not in compliance with methodologies applicable to the Facility and directed by Buyer, Seller shall take the steps necessary to become compliant as soon as commercially reasonably possible. Seller shall be liable pursuant to Section 4.4(c) for failure to comply with a Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order, during the time that Seller's facilities, communications links or other equipment, protocols or practices are not in compliance with applicable methodologies. A Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order communication via such systems and facilities shall have the same force and effect on Seller as any other form of communication.

4.5 **Energy Management**.

(a) Charging Generally. Upon receipt of a valid Charging Notice, Seller shall take any and all action necessary to deliver the Charging Energy to the Storage Facility in order to deliver the Storage Product in accordance with the terms of this Agreement, including maintenance, repair or replacement of equipment in Seller's possession or control used to deliver the Charging Energy from the Generating Facility to the Storage Facility. Except as otherwise expressly set forth in this Agreement, including Section 4.5(c), Section 4.5(i), and Section 4.9(d)(i), Buyer shall be responsible for paying all CAISO costs and charges associated with Charging Energy.

(b) Charging Notices. Buyer will have the right to charge the Storage Facility seven (7) days per week and twenty-four (24) hours per day (including holidays), by causing Charging Notices to be issued, subject to the requirements and limitations set forth in this Agreement, including the Operating Restrictions. Each Charging Notice issued in accordance with this Agreement will be effective unless and until Buyer's SC or the CAISO modifies such Charging Notice by providing Seller with an updated Charging Notice.

(c) No Unauthorized Charging. Seller shall not charge the Storage Facility during the Delivery Term other than in accordance with a valid Charging Notice (it being understood that Seller may adjust a Charging Notice to the extent necessary to maintain compliance with the Operating Restrictions), or in connection with a Seller Initiated Test (including Facility maintenance or a Storage Capacity Test), or pursuant to a notice from the Transmission Provider or Governmental Authority.

(d) No Unauthorized Discharging. Seller shall not discharge the Storage Facility during the Delivery Term other than in accordance with a valid Discharging Notice (it being understood that Seller may adjust a Discharging Notice to the extent necessary to maintain compliance with the Operating Restrictions), or in connection with a Seller Initiated Test (including Facility maintenance or a Storage Capacity Test), or pursuant to a notice from the Transmission Provider or Governmental Authority. Buyer will have the right to discharge the Storage Facility seven (7) days per week and twenty-four (24) hours per day (including holidays), by causing Discharging Notices to be issued, subject to the requirements and limitations set forth in this Agreement. Each Discharging Notice issued in accordance with this Agreement will be effective unless and until Buyer's SC or the CAISO modifies such Discharging Notice by providing Seller with an updated Discharging Notice.

(e) Curtailments. Notwithstanding anything in this Agreement to the contrary, during any Settlement Interval, Curtailment Orders, Buyer Curtailment Orders, and Buyer Bid Curtailments applicable to such Settlement Interval shall have priority over any Dispatch Notices applicable to such Settlement Interval, and Seller shall have no liability for violation of this Section 4.5 or any Dispatch Notice if and to the extent such violation is caused by Seller's compliance with any Curtailment Order, Buyer Curtailment Order, Buyer Bid Curtailment or other instruction or direction from Buyer or its SC or a Governmental Authority or the Transmission Provider. Buyer shall have the right, but not the obligation, to provide Seller with updated Dispatch Notices during any Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order.

(f) Unauthorized Charges and Discharges. If Seller or any third party charges, discharges or otherwise uses the Storage Facility other than as permitted hereunder, or as is expressly addressed in Section 4.5(g), then (i) Seller shall hold Buyer harmless from, and indemnify Buyer against, all actual costs or losses associated therewith, and be responsible to Buyer for any damages arising therefrom, including any Imbalance Energy costs associated therewith, and, in the case of Seller charging the Storage Facility other than in compliance with a Charging Notice, (x) Seller shall pay Buyer the cost of such Energy associated with such charging of the Storage Facility, and (y) Buyer shall be entitled to discharge such Energy and entitled to all of the CAISO revenues and benefits (including Storage Product) associated with such discharge. Notwithstanding the foregoing, during any Curtailment Period, and (ii) it shall be a breach by Seller, and, if Seller fails to implement procedures reasonably acceptable to Buyer to prevent any further occurrences of the same, then the failure to implement such procedures shall be an Event of Default under Article 11.

(g) CAISO Dispatches. During the Delivery Term, CAISO Dispatches shall have priority over any Charging Notice or Discharging Notice issued by Buyer's SC, and Seller shall have no liability for violation of this Section 4.5 or any Charging Notice or Discharging Notice if and to the extent such violation is caused by Seller's compliance with any CAISO Dispatch. During any time interval during the Delivery Term in which the Storage Facility is capable of responding to a CAISO Dispatch, but the Storage Facility deviates from a CAISO Dispatch, Seller shall be responsible for all CAISO charges and penalties (including imbalance energy costs) resulting from such deviation (in addition to any Buyer remedy related to overcharging of the Storage Facility as set forth in Section 4.5(c)). To the extent the Storage Facility is unable to respond to ADS signals during any Calculation Interval, then as an exclusive remedy, such Calculation Interval shall be deemed an Unavailable Calculation Interval for purposes of calculating the YTD Annual Storage Capacity Availability.

(h) Pre-Commercial Operation Date Period. Prior to CAISO Commercial Operation, (i) Buyer shall have no rights to issue or cause to be issued Charging Notices or Discharging Notices, (ii) Seller shall have exclusive rights to charge and discharge the Storage Facility (provided, Seller shall only charge and discharge the Storage Facility in connection with installation, commissioning and testing of the Storage Facility), (iii) Buyer and Buyer's SC shall reasonably coordinate and cooperate with Seller with respect to Facility testing (including for Test Energy), and (iv) all CAISO costs, revenues, penalties and other amounts owing to or paid by CAISO in respect of the Storage Facility testing shall be for Seller's account. Upon CAISO Commercial Operation, Buyer or its designated SC shall be the Scheduling Coordinator for the Facility, and Buyer shall have exclusive rights to issue or cause to be issued Charging Notices or Discharging Notices and all CAISO costs, revenues, penalties and other amounts owing to or paid by CAISO in respect of the Storage Facility operations shall be for Buyer's account. For the period from CAISO Commercial Operation until the Commercial Operation Date, Buyer shall pay to Seller fifty percent (50%) of the Monthly Capacity Payment, pro-rated on a daily basis.

(i) Station Use. Notwithstanding anything to the contrary in this Agreement, the Parties acknowledge (i) during charging and discharging of the Storage Facility pursuant to a Charging Notice or Discharging Notice, Auxiliary Use may be served by Charging Energy or Discharging Energy, (ii) Seller is responsible for providing or obtaining all Energy to serve Station Use (including paying the cost of any Energy from the local utility to serve Station Use) except

for Auxiliary Use during periods of charging or discharging pursuant to a Charging Notice or Discharging Notice, (iii) the supply of Auxiliary Use shall not be deemed a violation of this Agreement, including Sections 4.5(c), (d), and (f), and (iv) Seller shall reimburse Buyer for all Idle Period Auxiliary Use in the manner contemplated by paragraph (d) of Exhibit C. If any Energy provided by Buyer (i.e. originally delivered as Charging Energy) is used by Seller for Station Use (including Idle Period Auxiliary Use) and such use violates any CAISO rules, other applicable Laws or any applicable utility tariff, Seller (i) shall be solely responsible for (and shall reimburse Buyer, as applicable) any and all costs, penalties and charges resulting therefrom and (ii) shall take such actions as may be necessary to comply with such CAISO rules, other applicable Laws or applicable utility tariff).

4.6 **Facility Maintenance**.

(a) Seller shall provide to Buyer written schedules for Planned Outages for each Contract Year no later than thirty (30) days prior to the first day of the applicable Contract Year. Buyer may provide comments no later than ten (10) days after receiving any such schedule, and Seller shall in good faith take into account any such comments. Seller shall deliver to Buyer the final updated schedule of Planned Outages no later than ten (10) days after receiving Buyer's comments. Seller shall be permitted to reduce deliveries of Product during any period of such Planned Outages.

(b) If reasonably required in accordance with Prudent Operating Practices, Seller may perform maintenance at a different time than maintenance scheduled pursuant to Section 4.6(a). Seller shall provide Notice to Buyer within the time period determined by the CAISO for the Facility, as a Resource Adequacy Resource that is subject to the Availability Standards, to qualify for an "Approved Maintenance Outage" under the CAISO Tariff (or such shorter period as may be reasonably acceptable to Buyer based on the likelihood of dispatch by Buyer), and Seller shall (A) reimburse Buyer for any cost Buyer incurs in connection therewith (including replacement Capacity Attributes as required by the CAISO), and (B) limit maintenance repairs performed pursuant to this Section 4.6(a) to periods when Buyer does not reasonably believe the Facility will be dispatched.

(c) Notwithstanding anything in this Agreement to the contrary, no Planned Outages of the Facility shall be scheduled or planned from each June 1 through October 31 during the Delivery Term, unless approved by Buyer in writing in its sole discretion. In the event that Seller has a previously Planned Outage that becomes coincident with a System Emergency, Seller shall make commercially reasonable efforts to reschedule such Planned Outage.

4.7 **Guaranteed Energy Production**. During each Performance Measurement Period, Seller shall deliver to Buyer an amount of PV Energy, not including any Excess MWh, equal to no less than the Guaranteed Energy Production (as defined below). "**Guaranteed Energy Production**" means an amount of PV Energy, as measured in MWh, equal to one hundred sixty percent (160%) of the average annual Expected Energy for the two (2) Contract Years constituting such Performance Measurement Period. Seller shall be excused from achieving the Guaranteed Energy Production during any Performance Measurement Period only to the extent of any Buyer Default or other Buyer failure to perform that directly prevents Seller from being able to deliver PV Energy to the Delivery Point. For purposes of determining whether Seller has achieved the

Guaranteed Energy Production, Seller shall be deemed to have delivered to Buyer the sum of (a) any delivered PV Energy, plus (b) Deemed Delivered Energy, plus (c) PV Energy in the amount it could reasonably have delivered to Buyer but was prevented from delivering to Buyer by reason of any Force Majeure Events, System Emergency, Transmission System Outage, or Curtailment Periods ("**Lost Output**"). If Seller fails to achieve the Guaranteed Energy Production amount in any Performance Measurement Period, Seller shall pay Buyer damages calculated in accordance with Exhibit G ("**Energy Replacement Damages**"); *provided*, Seller may, as an alternative, provide Replacement Product (as defined in Exhibit G) delivered to Buyer at SP 15 EZ Gen Hub under a Day-Ahead Schedule as an IST within ninety (90) days after the conclusion of the applicable Performance Measurement Period (i) upon a schedule reasonably acceptable to Buyer, (ii) provided that such deliveries do not impose additional costs upon Buyer for which Seller refuses to provide reimbursement, and (iii) not to exceed ten percent (10%) of the Expected Energy for the previous Contract Year.

4.8 **Storage Facility Availability; Ancillary Services**.

(a) During the period commencing upon CAISO Commercial Operation and continuing throughout the Delivery Term, the Storage Facility shall maintain an Annual Storage Capacity Availability during each Contract Year (and during the period from CAISO Commercial Operation through the Commercial Operation Date) of no less than [redacted] (the "**Guaranteed Storage Availability**"), which Annual Storage Capacity Availability shall be calculated in accordance with Exhibit P.

(b) During the Delivery Term, the Storage Facility shall maintain an Efficiency Rate of no less than the Guaranteed Efficiency Rate. Buyer's sole remedy for an Efficiency Rate that is less than the Guaranteed Efficiency Rate shall be an adjustment to the Monthly Capacity Payment by the Efficiency Rate Factor pursuant to Section (d) of Exhibit C.

(c) Buyer's exclusive remedies for Seller's failure to achieve the Guaranteed Storage Availability are (i) the adjustment of Seller's payment for the Product by application of the Capacity Availability Factor (as set forth in Exhibit C), and (ii) in the case of a Seller Event of Default as set forth in Section 11.1(b)(iv), the applicable remedies set forth in Article 11.

(d) Seller shall operate and maintain the Storage Facility throughout the Delivery Term so as to be able to provide the Ancillary Services in accordance with the specifications set forth in the Storage Facility's CAISO Certification associated with the Effective Storage Capacity. To the extent the Storage Facility fails or is unable to provide Ancillary Services for any reason not excused hereunder during any Calculation Interval that is not otherwise deemed an Unavailable Calculation Interval (including by reason of failing an Ancillary Services certification test), then as exclusive remedies the Available Storage Capability for such Calculation Interval shall be deemed reduced for purposes of calculating the YTD Annual Storage Capacity Availability to the extent of such inability or failure multiplied by fifty percent (50%), and Seller shall reimburse Buyer for any CAISO charges or penalties arising from the failure to provide such Ancillary Services.

(e) Upon Buyer's reasonable request, Seller shall submit the Facility for additional CAISO Certification so that the Facility may provide additional Ancillary Services that

the Facility is, at the relevant time, actually physically capable of providing consistent with the definition of Ancillary Services herein, provided that Buyer has agreed to reimburse Seller for all out-of-pocket costs Seller incurs in connection with conducting such additional CAISO Certification. If provision of any such new product would have an adverse effect (including any obligation to incur more than *de minimis* costs or liabilities) on Seller or the Facility or Seller's obligations or liabilities under this Agreement, then Seller shall be obligated to provide such product only if the Parties first execute an amendment to this Agreement with respect to such product that is mutually acceptable to both Parties.

4.9 **Storage Facility Testing**.

(a) Storage Capacity Tests. Prior to the Commercial Operation Date, Seller shall schedule and complete a Commercial Operation Storage Capacity Test in accordance with Exhibit O. Thereafter, Seller and Buyer shall have the right to run additional Storage Capacity Tests in accordance with Exhibit O.

(i) Buyer shall have the right to send one or more representative(s) to witness all Storage Capacity Tests.

(ii) Following each Storage Capacity Test, Seller shall submit a testing report in accordance with Exhibit O. If the actual capacity determined pursuant to a Storage Capacity Test varies from the then-current Effective Storage Capacity, then the actual capacity determined pursuant to such Storage Capacity Test shall become the new Effective Storage Capacity at the beginning of the first day of the month following the completion of the test for all purposes under this Agreement.

(iii) If Seller fails to conduct a Storage Capacity Test prior to the commencement of a Contract Year, Buyer shall have the right, in its sole discretion, to retroactively apply the results of the next Storage Capacity Test once completed back to the first day of the applicable Contract Year for all purposes of this Agreement.

(b) Additional Testing. Seller shall, at times and for durations reasonably agreed to by Buyer, conduct necessary testing to ensure the Storage Facility is functioning properly and the Storage Facility is able to respond to Dispatch Notices.

(c) Buyer or Seller Initiated Tests. Any testing of the Storage Facility requested by Buyer after the Commercial Operation Storage Capacity Tests and all required annual tests pursuant to Section B of Exhibit O shall be deemed Buyer-instructed dispatches of the Facility ("**Buyer Dispatched Test**"). Any test of the Storage Facility that is not a Buyer Dispatched Test (including all tests conducted prior to Commercial Operation, any Commercial Operation Storage Capacity Tests, any Storage Capacity Test conducted if the Effective Storage Capacity immediately prior to such Storage Capacity Test is below seventy percent (70%) of the Installed Storage Capacity, any test required by CAISO (including any test required to obtain or maintain CAISO Certification), and other Seller-requested discretionary tests, operating restrictions (including for cell rebalancing or similar operating limitations), or dispatches, at times and for durations reasonably agreed to by Buyer, that Seller deems necessary for purposes of reliably operating or maintaining the Storage Facility or for re-performing a required test within a

reasonable number of days of the initial required test (considering the circumstances that led to the need for a retest)) shall be deemed a "**Seller Initiated Test**".

(i) For any Seller Initiated Test, other than Storage Capacity Tests required by Exhibit O for which there is a stated notice requirement, Seller shall notify Buyer no later than twenty-four (24) hours prior thereto (or any shorter period reasonably acceptable to Buyer consistent with Prudent Operating Practices).

(ii) No Dispatch Notices shall be issued during any Seller Initiated Test or Buyer Dispatched Test except as reasonably requested by Seller or Buyer to implement the applicable test. Periods during which Buyer Dispatched Tests render the Storage Facility (or any portion thereof, as applicable) unavailable shall be excluded for purposes of calculating the Annual Storage Capacity Availability. The Storage Facility will be deemed unavailable during any Seller Initiated Test, and Buyer shall not dispatch or otherwise schedule the Storage Facility during such Seller Initiated Test.

(d) Testing Costs and Revenues.

(i) For all Buyer Dispatched Tests, Buyer shall direct only Charging Energy to be used to charge the Storage Facility and Buyer shall be entitled to all CAISO revenues associated with a Storage Facility dispatch during a Buyer Dispatched Test. For all Seller Initiated Tests, (1) Seller shall reimburse Buyer the amount of Buyer's payment of the Charging Energy for such Seller Initiated Test, and (2) Seller shall be entitled to all CAISO revenues associated with the discharge of such Energy, but all Green Attributes associated therewith shall be for Buyer's account at no additional cost to Buyer. Buyer shall pay to Seller, in the month following Buyer's receipt of such CAISO revenues and otherwise in accordance with Exhibit C, all applicable CAISO revenues received by Buyer and associated with the discharge Energy associated with such Seller Initiated Test.

(ii) Buyer shall be responsible for all costs, expenses and fees payable or reimbursable to its representative(s) witnessing any Facility test.

(iii) Except as set forth in Sections 4.9(d)(i) and (ii), all other costs of any testing of the Storage Facility shall be borne by Seller.

4.10 **WREGIS**. Seller shall, at its sole expense, but subject to Section 3.12, take all actions and execute all documents or instruments necessary to ensure that all WREGIS Certificates associated with all Renewable Energy Credits corresponding to all PV Energy are issued and tracked for purposes of satisfying the requirements of the California Renewables Portfolio Standard and transferred in a timely manner to Buyer for Buyer's sole benefit. Seller shall transfer the Renewable Energy Credits to Buyer. Seller shall comply with all Laws, including the WREGIS Operating Rules, regarding the certification and transfer of such WREGIS Certificates to Buyer and Buyer shall be given sole title to all such WREGIS Certificates. Seller shall be deemed to have satisfied the warranty in Section 4.10(g), provided that Seller fulfills its obligations under Sections 4.10(a) through (g) below. In addition:

(a) Prior to the Commercial Operation Date, Seller shall register the Facility with WREGIS and establish an account with WREGIS ("**Seller's WREGIS Account**"), which

Seller shall maintain until the end of the Delivery Term. Seller shall transfer the WREGIS Certificates using "**Recurring Certificate Transfers**" (as described in the WREGIS Operating Rules) from Seller's WREGIS Account to the WREGIS account(s) of Buyer or the account(s) of a designee that Buyer identifies by Notice to Seller ("**Buyer's WREGIS Account**"). Seller shall be responsible for all expenses associated with registering the Facility with WREGIS, establishing and maintaining Seller's WREGIS Account, paying WREGIS Certificate issuance and transfer fees, and transferring WREGIS Certificates from Seller's WREGIS Account to Buyer's WREGIS Account.

(b) Seller shall cause Recurring Certificate Transfers to occur on a monthly basis in accordance with the certification procedure established by the WREGIS Operating Rules. Since WREGIS Certificates will only be created for whole MWh amounts of PV Energy generated, any fractional MWh amounts (i.e., kWh) will be carried forward until sufficient generation is accumulated for the creation of a WREGIS Certificate.

(c) Seller shall, at its sole expense, ensure that the WREGIS Certificates for a given calendar month correspond with the PV Energy for such calendar month as evidenced by the Facility's metered data.

(d) Buyer shall make an invoice payment for a given month in accordance with Section 8.2 before the WREGIS Certificates for such month are formally transferred to Buyer in accordance with the WREGIS Operating Rules and this Section 4.10. Notwithstanding this delay, Buyer shall have all right and title to all such WREGIS Certificates upon payment to Seller in accordance with Section 8.2.

(e) A "**WREGIS Certificate Deficit**" means any deficit or shortfall in WREGIS Certificates delivered to Buyer for a calendar month as compared to the PV Energy for the same calendar month ("**Deficient Month**") caused by an error or omission of Seller. If any WREGIS Certificate Deficit is caused by, or is the result of any action or inaction of, Seller, then the amount of PV Energy in the Deficient Month shall be reduced by three (3) times the amount of the WREGIS Certificate Deficit for purposes of calculating Buyer's payment to Seller under Article 8 and the Guaranteed Energy Production for the applicable Contract Year; *provided*, such adjustment shall not apply to the extent that Seller either (x) resolves the WREGIS Certificate Deficit within ninety (90) days after the Deficient Month or (y) provides Replacement Green Attributes (as defined in Exhibit G) within ninety (90) days after the Deficient Month (i) upon a schedule reasonably acceptable to Buyer, and (ii) provided that such deliveries do not impose additional costs upon Buyer for which Seller has not reimbursed Buyer. Without limiting Seller's obligations under this Section 4.10, if a WREGIS Certificate Deficit is caused solely by an error or omission of WREGIS, the Parties shall cooperate in good faith to cause WREGIS to correct its error or omission.

(f) If WREGIS changes the WREGIS Operating Rules after the Effective Date or applies the WREGIS Operating Rules in a manner inconsistent with this Section 4.10 after the Effective Date, the Parties promptly shall modify this Section 4.10 as reasonably required to cause and enable Seller to transfer to Buyer's WREGIS Account a quantity of WREGIS Certificates for each given calendar month that corresponds to the PV Energy in the same calendar month.

(g) 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. [STC REC-1]

(h) 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. [STC REC-2]

(i) Seller's obligations under Sections 3.10, 4.10(g) and 4.10(h) shall be subject to Section 3.12, the term "Project" as used in Section 3.10 shall refer to the "Facility" and/or "Generating Facility" (as appropriate) as defined herein, the term "the contract" in Section 4.8(h) shall refer to "this Agreement" as defined herein, and the term "commercially reasonable efforts" as used in Section 3.10 and Section 4.10(g) means efforts consistent with and subject to Section 3.12.

4.11 **Dispatch Notices**. Buyer shall have the right to dispatch the Storage Facility seven days per week and 24 hours per day (including holidays), by providing Dispatch Notices, subject to the requirements and limitations set forth in this Agreement. Subject to the Operating Restrictions, each Dispatch Notice will be effective unless and until such Dispatch Notice is modified by the CAISO, Buyer or Buyer's SC. If an electronic submittal is not possible for reasons beyond Buyer's control, Dispatch Notices may be provided (in order of preference) telephonically or by electronic mail to Seller's personnel designated to receive such communications, as provided by Seller in writing. In addition to any other requirements set forth or referred to in this Agreement, all Dispatch Notices will be made in accordance with Market Notice Timelines as specified in the CAISO Tariff.

ARTICLE 5
TAXES

5.1 **Allocation of Taxes and Charges**. Seller shall pay or cause to be paid all Taxes on or with respect to the Facility or on or with respect to the sale and making available of Product to Buyer (other than withholding or other Taxes imposed on Buyer's income, revenue, receipts or employees), that are imposed on Product prior to its delivery to Buyer at the time and place contemplated under this Agreement. Buyer shall pay or cause to be paid all Taxes on or with respect to the delivery to and purchase by Buyer of Product that are imposed on Product at and after its delivery to Buyer at the time and place contemplated under this Agreement (other than withholding or other Taxes imposed on Seller's income, revenue, receipts or employees). If a Party is required to remit or pay Taxes that are the other Party's responsibility hereunder, such Party shall promptly pay the Taxes due and then seek and receive reimbursement from the other for such Taxes. In the event any sale of Product hereunder is exempt from or not subject to any particular Tax, Buyer shall provide Seller with all necessary documentation to evidence such exemption or

exclusion within thirty (30) days after the date Buyer makes such claim. Buyer shall indemnify, defend, and hold Seller harmless from any liability with respect to Taxes for which Buyer is responsible hereunder and from which Buyer claims it is exempt.

5.2 **Cooperation**. Each Party shall use reasonable efforts to implement the provisions of and administer this Agreement in accordance with the intent of the Parties to minimize all Taxes, so long as no Party is materially adversely affected by such efforts. The Parties shall cooperate to minimize Tax exposure; *provided*, neither Party shall be obligated to incur any financial or operational burden to reduce Taxes for which the other Party is responsible hereunder without receiving due compensation therefor from the other Party. All Product delivered by Seller to Buyer hereunder shall be a sale made at wholesale, with Buyer reselling such Product.

ARTICLE 6
MAINTENANCE OF THE FACILITY

6.1 **Maintenance of the Facility**. Seller shall, as between Seller and Buyer, be solely responsible for the operation and maintenance of the Facility and the delivery of the Product and shall comply with applicable Law and Prudent Operating Practices relating to the operation and maintenance of the Facility and the generation and sale of Product.

6.2 **Maintenance of Health and Safety**. Seller shall take reasonable safety precautions with respect to the operation, maintenance, repair and replacement of the Facility. If Seller becomes aware of any circumstances relating to the Facility that create an imminent risk of damage or injury to any Person or any Person's property, Seller shall take prompt, reasonable action to prevent such damage or injury and shall give Buyer's emergency contact identified in Exhibit N Notice of such condition. Such action may include disconnecting and removing all or a portion of the Facility, or suspending the supply of Facility Energy to the Delivery Point.

6.3 **Shared Facilities**. The Parties acknowledge and agree that certain of the Shared Facilities and Interconnection Facilities, and Seller's rights and obligations under the Interconnection Agreement, may be subject to certain shared facilities and/or co-tenancy agreements to be entered into among Seller, the Transmission Provider, Seller's Affiliates, and/or third parties pursuant to which certain Interconnection Facilities may be subject to joint ownership and shared maintenance and operation arrangements; *provided*, such agreements shall (i) permit Seller to perform or satisfy, and shall not purport to limit, its obligations hereunder, including maintaining Shared Facility capacity equal to the Interconnection Capacity Limit for Buyer's sole use, (ii) provide for separate metering of the Facility, (iii) provide that any other generating or energy storage facilities not included in the Facility but using Shared Facilities shall not be included within the Facility's CAISO Resource IDs, and (iv) provide that in the event of any curtailment that is not specific to one or more CAISO Resource IDs of output from generating or energy storage facilities using the Shared Facilities shall not be allocated to the Facility more than its pro rata portion of the total capacity of all generating or energy storage facilities using the Shared Facilities. Seller shall not, and shall not permit any affiliate to, allocate to other parties a share of the total interconnection capacity under the Interconnection Agreements in excess of an amount equal to the total interconnection capacity under the Interconnection Agreements minus the Interconnection Capacity Limit.

ARTICLE 7
METERING

7.1 **Metering**.

(a) Subject to Section 7.1(b) (with respect to the entirety of the following Section 7.1(a)), unless the Parties agree otherwise pursuant to Section 3.13, the Facility shall have a separate CAISO Resource ID for each of the Generating Facility and the Storage Facility. Seller shall measure the amount of PV Energy using the Generating Facility Meter. Seller shall measure the Charging Energy and the Discharging Energy using the Storage Facility Meters. Seller shall separately meter all Station Use and all Auxiliary Use. All meters shall be operated pursuant to applicable CAISO-approved calculation methodologies and maintained at Seller's cost. Subject to meeting any applicable CAISO requirements, the Storage Facility Meter and Generating Facility Meter shall be programmed to adjust for all Electrical Losses from such meters to the Delivery Point in a manner subject to Buyer's prior written approval, not to be unreasonably withheld. Metering shall be consistent with the Metering Diagram set forth as Exhibit R. Each Storage Facility Meter and Generating Facility Meter shall be kept under seal, such seals to be broken only when the meters are to be tested, adjusted, modified or relocated. In the event Seller breaks a seal, Seller shall notify Buyer as soon as practicable. In addition, Seller hereby agrees to provide all meter data to Buyer in a form reasonably acceptable to Buyer, and consents to Buyer obtaining from CAISO the CAISO meter data directly relating to the Facility and all inspection, testing and calibration data and reports. Seller and Buyer, or Buyer's Scheduling Coordinator, shall cooperate to allow both Parties to retrieve the meter reads from the CAISO Market Results Interface-Settlements (MRI-S) web and/or directly from the CAISO meter(s) at the Facility.

(b) Section 7.1(a) is based on the Parties' mutual understanding as of the Effective Date that (i) the CAISO requires the Generating Facility Meter and the Storage Facility Meter to be programmed for Electrical Losses as set forth in the definition of Electrical Losses in this Agreement and (ii) the automatic adjustments to Charging Notices and Discharging Notices as set forth in the definitions of Charging Notice and Discharging Notice in this Agreement will not result in Seller violating, or incurring any costs, penalties or charges under the CAISO Tariff. If any of the foregoing mutual understandings in (i) or (ii) between the Parties become incorrect during the Delivery Term, the Parties shall cooperate in good faith to make any amendments and modifications to the Facility and this Agreement as are reasonably necessary to conform this Agreement to the CAISO Tariff and avoid, to the maximum extent practicable, any CAISO charges, costs or penalties that may be imposed on either Party due to non-conformance with the CAISO Tariff, such agreement not to be unreasonably delayed, conditioned or withheld.

7.2 **Meter Verification**. Annually, if Seller has reason to believe there may be a Facility Meter malfunction, or upon Buyer's reasonable request, Seller shall test the Facility Meter. The tests shall be conducted by independent third parties qualified to conduct such tests. Buyer shall be notified seven (7) days in advance of such tests and have a right to be present during such tests. If a Facility Meter is inaccurate it shall be promptly repaired or replaced. If a meter is inaccurate by more than one percent (1%) and it is not known when the Facility Meter inaccuracy commenced (if such evidence exists, such date will be used to adjust prior invoices), then the invoices covering the period of time since the last Facility Meter test shall be adjusted for the amount of the inaccuracy on the assumption that the inaccuracy persisted during one-half of such

period if such adjustments are accepted by CAISO and WREGIS; *provided*, such period may not exceed twelve (12) months.

ARTICLE 8
INVOICING AND PAYMENT; CREDIT

8.1 **Invoicing**. Seller shall use commercially reasonable efforts to deliver an invoice to Buyer for Product no later than the tenth (10^{th}) day of each month for the previous calendar month. Each invoice shall (a) reflect records of metered data, including (i) CAISO metering and transaction data sufficient to document and verify the amount of Product delivered by the Facility for any Settlement Period during the preceding month, including the amount of PV Energy, Charging Energy, Discharging Energy, Station Use, Idle Period Auxiliary Use for which Seller owes reimbursement to Buyer, Replacement RA, and Replacement Product delivered to Buyer (if any), the cumulative percentage of Charging Energy charged from the CAISO Grid data pursuant to Section 4.5(j) and supporting charging data, the calculation of Deemed Delivered Energy and Adjusted Energy Production, the LMP prices at the Delivery Point for each Settlement Period, and the Contract Price applicable to such Product in accordance with Exhibit C, and (ii) data showing a calculation of the Monthly Capacity Payment and other relevant data for the prior month; and (b) be in a format reasonably specified by Buyer, covering the Product provided in the preceding month determined in accordance with the applicable provisions of this Agreement. Buyer shall, and shall cause its Scheduling Coordinator to, provide Seller with all reasonable access (including, in real time, to the maximum extent reasonably possible) to any records, including invoices or settlement data from the CAISO, forecast data and other information, all as may be necessary from time to time for Seller to prepare and verify the accuracy of all invoices.

8.2 **Payment**. Buyer shall make payment to Seller for Product (and any other amounts due) by wire transfer or ACH payment to the bank account provided on each monthly invoice. Buyer shall pay undisputed invoice amounts by the later of (a) ten (10) Business Days after Buyer's receipt of the invoice from Seller, and (b) the thirtieth (30^{th}) day of the month after the operational month for which such invoice was rendered; *provided*, if such due date falls on a weekend or legal holiday, such due date shall be the next Business Day. Payments made after the due date will be considered late and will bear interest on the unpaid balance. If the amount due is not paid on or before the due date or if any other payment that is due and owing from one Party to another is not paid on or before its applicable due date, a late payment charge shall be applied to the unpaid balance and shall be added to the next billing statement. Such late payment charge shall be calculated based on an annual interest rate equal to the prime rate published on the date of the invoice in The Wall Street Journal (or, if The Wall Street Journal is not published on that day, the next succeeding date of publication), plus two percent (2%) (the "**Interest Rate**"). If the due date occurs on a day that is not a Business Day, the late payment charge shall begin to accrue on the next succeeding Business Day.

8.3 **Books and Records**. To facilitate payment and verification, each Party shall maintain all books and records necessary for billing and payments, including copies of all invoices under this Agreement, for a period of at least two (2) years or as otherwise required by Law. Upon fifteen (15) days' Notice to the other Party, either Party shall be granted reasonable access to the accounting books and records within the possession or control of the other Party pertaining to all invoices generated pursuant to this Agreement. Seller acknowledges that in accordance with

California Government Code Section 8546.7, Seller may be subject to audit by the California State Auditor with regard to Seller's performance of this Agreement because the compensation under this Agreement exceeds $10,000.

8.4 **Payment Adjustments; Billing Errors**. Payment adjustments shall be made if Buyer or Seller discovers there have been good faith inaccuracies in invoicing that are not otherwise disputed under Section 8.5 or an adjustment to an amount previously invoiced or paid is required due to a correction of data by the CAISO, or there is determined to have been a meter inaccuracy sufficient to require a payment adjustment. If the required adjustment is in favor of Buyer, Buyer's next monthly payment shall be credited in an amount equal to the adjustment. If the required adjustment is in favor of Seller, Seller shall add the adjustment amount to Buyer's next monthly invoice. Adjustments in favor of either Buyer or Seller shall bear interest, until settled in full, in accordance with Section 8.2, accruing from the date on which the adjusted amount should have been due.

8.5 **Billing Disputes**. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within five (5) Business Days of such resolution along with interest accrued at the Interest Rate from and including the original due date to but excluding the date paid. Inadvertent overpayments shall be returned via adjustments in accordance with Section 8.4. Any dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section 8.5 within twelve (12) months after the invoice is rendered or subsequently adjusted, except to the extent any misinformation was from a third party not affiliated with any Party and such third party corrects its information after the twelve-month period. If an invoice is not rendered within twelve (12) months after the close of the month during which performance occurred, the right to payment for such performance is waived.

8.6 **Netting of Payments**. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Product during the monthly billing period under this Agreement or otherwise arising out of this Agreement, including any related damages calculated pursuant to Exhibits B, G, and P, interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

8.7 **Seller's Development Security**. To secure its obligations under this Agreement, Seller shall deliver the Development Security to Buyer within thirty (30) days after the Effective Date. Seller shall maintain the Development Security in full force and effect. Upon the earlier of (a) Seller's delivery of the Performance Security, or (b) sixty (60) days after termination of this Agreement, Buyer shall return the Development Security to Seller, less the amounts drawn in accordance with this Agreement.

8.8 **Seller's Performance Security**. To secure its obligations under this Agreement, Seller shall deliver Performance Security to Buyer on or before the Commercial Operation Date. If the Performance Security is not in the form of cash or Letter of Credit, it shall be substantially in the form of Guaranty set forth in Exhibit T. Seller shall maintain the Performance Security in full force and effect, until the following have occurred: (a) the Delivery Term has expired or terminated early, and (b) all payment obligations of Seller due and payable under this Agreement, including compensation for penalties, Termination Payment, indemnification payments or other damages are paid in full (whether directly or indirectly such as through set-off or netting). Following the occurrence of both events, Buyer shall promptly return to Seller the unused portion of the Performance Security.

8.9 **First Priority Security Interest in Cash or Cash Equivalent Collateral**.

To secure its obligations under this Agreement, and until released as provided herein, Seller hereby 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, Performance Security, any other cash collateral and cash equivalent collateral posted pursuant to Sections 8.7 and 8.8 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 all 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 an Event of Default caused by Seller, an Early Termination Date resulting from an Event of Default caused by Seller, or an occasion provided for in this Agreement where Buyer is authorized to retain all or a portion of the Development Security or Performance Security, Buyer may do any one or more of the following (in each case subject to the final sentence of this Section 8.9):

(a) Exercise any of its rights and remedies with respect to the Development Security and Performance Security, including any such rights and remedies under Law then in effect;

(b) Draw on any outstanding Letter of Credit issued for its benefit and retain any cash held by Buyer as Development Security or Performance Security; and

(c) Liquidate all Development Security or Performance Security (as applicable) 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 remains 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.

[redacted]

[redacted]

ARTICLE 9
NOTICES

9.1 **Addresses for the Delivery of Notices**.

Any Notice required, permitted, or contemplated hereunder shall be in writing, shall be addressed to the Party to be notified at the address set forth in Exhibit N or at such other address or addresses as a Party may designate for itself from time to time by Notice hereunder.

9.2 **Acceptable Means of Delivering Notice**.

Each Notice required, permitted, or contemplated hereunder shall be deemed to have been validly served, given or delivered as follows: (a) if sent by United States mail with proper first class postage prepaid, three (3) Business Days following the date of the postmark on the envelope in which such Notice was deposited in the United States mail; (b) if sent by a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement with such carrier made for the payment of such fees, the next Business Day after the same is delivered by the sending Party to such carrier; (c) if sent by electronic communication (including electronic mail or other electronic means) at the time indicated by the time stamp upon delivery and, if after 5 pm, on the next Business Day; or (d) if delivered in person, upon receipt by the receiving Party. Notwithstanding the foregoing, Notices of outages or other scheduling or dispatch information or requests, may be sent by electronic communication and shall be considered delivered upon successful completion of such transmission.

ARTICLE 10
FORCE MAJEURE

10.1 **Definition**.

(a) "**Force Majeure Event**" means any act or event that delays or prevents a Party from timely performing all or a portion of its obligations under this Agreement or from complying with all or a portion of the conditions under this Agreement if such act or event, despite the exercise of commercially reasonable efforts, cannot be avoided by and is beyond the reasonable control (whether direct or indirect) of the claiming Party; *provided*, a Force Majeure Event shall not excuse any such delay, nonperformance, or noncompliance to the extent the claiming Party's fault or negligence contributed thereto in scope or duration.

(b) Without limiting the generality of the foregoing, so long as the following events, despite the exercise of reasonable efforts, cannot be avoided by, and are beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance or noncompliance, a Force Majeure Event may include an act of God or the elements, such as flooding, lightning, hurricanes, tornadoes, or ice storms; explosion; fire; volcanic eruption; flood; epidemic or pandemic; landslide; mudslide; sabotage; terrorism; earthquake; or other cataclysmic events; an act of public enemy; war; blockade; civil insurrection; riot; civil disturbance; or strikes or other labor difficulties caused or suffered by a Party or any third party except as set forth below.

(c) Notwithstanding the foregoing, the term "**Force Majeure Event**" does not include (i) economic conditions or changes in Law that render a Party's performance of this Agreement at the Contract Price unprofitable or otherwise uneconomic (including an increase in component or compliance costs for any reason, including foreign or domestic tariffs, Buyer's ability to buy Product at a lower price, or Seller's ability to sell the Product, or any component thereof, at a higher price, than under this Agreement); (ii) Seller's inability to obtain permits or approvals of any type for the construction, operation, or maintenance of the Facility, except to the extent such inability is caused by a Force Majeure Event; (iii) the inability of a Party to make payments when due under this Agreement, unless the cause of such inability is an event that would otherwise constitute a Force Majeure Event as described above; (iv) a Curtailment Order; (v) Seller's inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Facility, including the lack of wind, sun or other fuel source of an inherently intermittent nature, except to the extent such inability is caused by a Force Majeure Event; (vi) a strike, work stoppage or labor dispute limited only to any one or more of Seller, Seller's Affiliates, Seller's contractors, their subcontractors thereof or any other third party employed by Seller to work on the Facility; (vii) any equipment failure except if such equipment failure is caused by a Force Majeure Event; (viii) the inability of Buyer to be able to utilize or re-sell the Product or any Ancillary Services, except to the extent due to a Force Majeure Event, or (ix) any action or inaction by any third party, including Transmission Provider, that delays or prevents the approval, construction or placement in service of any Interconnection Facilities or Network Upgrades, except to the extent caused by a Force Majeure Event.

10.2 **No Liability If a Force Majeure Event Occurs**. Except as provided in Section 4 of Exhibit B, neither Seller nor Buyer shall be liable to the other Party in the event it is prevented from performing its obligations hereunder in whole or in part due to a Force Majeure Event. The Party rendered unable to fulfill any obligation by reason of a Force Majeure Event shall take commercially reasonable actions necessary to remove such inability with due speed and diligence and to mitigate the impacts of the Force Majeure Event. Nothing herein shall be construed as permitting that Party to continue to fail to perform after said cause has been removed. The obligation to use due speed and diligence shall not be interpreted to require resolution of labor disputes by acceding to demands of the opposition when such course is inadvisable in the discretion of the Party having such difficulty. Neither Party shall be considered in breach or default of this Agreement if and to the extent that any failure or delay in the Party's performance of one or more of its obligations hereunder is caused by a Force Majeure Event. The occurrence and continuation of a Force Majeure Event shall not suspend or excuse the obligation of a Party to make any payments due hereunder.

10.3 **Notice**. In order to claim a Force Majeure Event, the claiming Party, within fourteen (14) days after the initial occurrence of the claimed Force Majeure Event, must give the other Party Notice describing the particulars of the occurrence in substantially the form set forth in Exhibit W, (b) provide timely evidence reasonably sufficient to establish that the occurrence constitutes Force Majeure as defined in this Agreement, and (c) notify the other Party in writing of the cessation or termination of such Force Majeure Event, all as known or estimated in good faith by the affected Party.

10.4 **Termination Following Force Majeure Event or Development Cure Period**.

(a) If the cumulative extensions granted under the Development Cure Period (other than the extensions granted pursuant to clause 4(d) in Exhibit B) plus the payment of Commercial Operation Delay Damages equal or exceed two hundred seventy (270) days, and Seller has demonstrated to Buyer's reasonable satisfaction that Seller's failure to achieve COD by the Guaranteed Commercial Operation Date (as extended) was the result of delays that would have otherwise entitled to Seller to two hundred seventy (270) days of Development Cure Period delays but for the one hundred eighty (180)-day limitation, then Seller may terminate this Agreement upon Notice to Buyer. Upon such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Sections 2.1(b) and 11.6, and Buyer shall promptly return to Seller any Development Security then held by Buyer plus the full amount of Commercial Operation Delay Damages paid by Seller, less any amounts drawn in accordance with this Agreement.

(b) If a Force Majeure Event has occurred after the Commercial Operation Date that has caused either Party to be wholly or partially unable to perform its obligations hereunder in any material respect, and the impacted Party has claimed and received relief from performance of its obligations for a consecutive twelve (12) month period, then the non-claiming Party may terminate this Agreement upon Notice to the other Party. Upon any such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Section 2.1(b), and Buyer shall promptly return to Seller any Performance Security then held by Buyer, less any amounts drawn in accordance with this Agreement.

ARTICLE 11
DEFAULTS; REMEDIES; TERMINATION

11.1 **Events of Default**. An "**Event of Default**" shall mean,

(a) with respect to a Party (the "**Defaulting Party**") that is subject to the Event of Default the occurrence of any of the following:

(i) the failure by such Party to make, when due, any payment required pursuant to this Agreement and such failure is not remedied within ten (10) Business Days after Notice thereof;

(ii) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated, and such default is not remedied within thirty (30) days after Notice thereof (or such longer additional period, not

to exceed an additional sixty (60) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30)-day period despite exercising commercially reasonable efforts);

(iii) the failure by such Party to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default set forth in this Section 11.1; and except for (A) failure to provide Capacity Attributes, the exclusive remedies for which are set forth in Section 3.8, (B) failures related to the Adjusted Energy Production that do not trigger the provisions of Section 11.1(b)(iii), the exclusive remedies for which are set forth in Section 4.7; and (C) failures related to the Annual Storage Capacity Availability that do not trigger the provisions of Section 11.1(b)(iv), the exclusive remedies for which are set forth in Section 4.8) and such failure is not remedied within thirty (30) days after Notice thereof (or such longer additional period, not to exceed an additional sixty (60) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30)-day period despite exercising commercially reasonable efforts);

(iv) such Party becomes Bankrupt;

(v) such Party assigns this Agreement or any of its rights hereunder other than in compliance with Article 14, if applicable; or

(vi) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party;

(b) with respect to Seller as the Defaulting Party, the occurrence of any of the following:

(i) if at any time, Seller delivers or attempts to deliver Energy to the Delivery Point for sale under this Agreement that was not generated or discharged by the Facility, except for Replacement Product;

(ii) the failure by Seller to (A) achieve Construction Start on or before the Guaranteed Construction Start Date, as such date may be extended by Seller's payment of Daily Delay Damages pursuant to Section 1(b) of Exhibit B and/or a Development Cure Period pursuant to Section 4 of Exhibit B, or (B) achieve Commercial Operation on or before the Guaranteed Commercial Operation Date, as such date may be extended by Seller's payment of Commercial Operation Delay Damages pursuant to Section 2 of Exhibit B and/or a Development Cure Period pursuant to Section 4 of Exhibit B;

(iii) if, in any consecutive six (6) month period, the Adjusted Energy Production amount (calculated in accordance with Exhibit G) for such period is not at least ten percent (10%) of the 6-month pro rata amount of Expected Energy for such period adjusted for seasonality proportionately to the monthly forecast provided annually by Seller under Section 4.3(a), and Seller fails to (x) deliver to Buyer within ten (10) Business Days after Notice from Buyer a plan or report developed by Seller that describes the cause of the failure to meet the ten percent (10%) threshold and the actions that Seller has taken, is taking, or proposes to take in an

effort to cure such condition along with the written confirmation of a Licensed Professional Engineer that such plan or report is in accordance with Prudent Operating Practices and capable of cure within a reasonable period of time, not to exceed one hundred eighty (180) days [redacted] "**Cure Plan**") and (y) complete such Cure Plan in all material respects as set forth therein, including within the timeframe set forth therein;

(iv) if, in any Contract Year, the year-to-date Annual Storage Capacity Availability multiplied by the Effective Storage Capacity for the applicable period is not at least seventy percent (70%) multiplied by the Installed Storage Capacity, and Seller fails to (x) deliver to Buyer within ten (10) Business Days after Notice from Buyer a plan or report developed by Seller that describes the cause of the failure to meet such seventy percent (70%) multiplied by the Installed Storage Capacity threshold, and the actions that Seller has taken, is taking, or proposes to take in an effort to cure such condition along with the written confirmation of a Licensed Professional Engineer that such plan or report is in accordance with Prudent Operating Practices and capable of cure within a reasonable period of time, not to exceed one hundred eighty (180) days ("**Storage Cure Plan**") and (y) complete such Storage Cure Plan in all material respects as set forth therein, including within the timeframe set forth therein;

(v) failure by Seller to satisfy the collateral requirements pursuant to Sections 8.7 or 8.8 within five (5) Business Days after Notice from Buyer;

(vi) with respect to any outstanding Letter of Credit provided for the benefit of Buyer that is not then required under this Agreement to be canceled or returned, the failure by Seller to provide for the benefit of Buyer either (1) cash, or (2) a Letter of Credit from a different issuer meeting the criteria set forth in the definition of Letter of Credit, in each case, in the amount required hereunder within ten (10) Business Days after Seller receives Notice of the occurrence of any of the following events:

(A) the issuer of the outstanding Letter of Credit shall fail to maintain a Credit Rating of at least A- by S&P or A3 by Moody's;

(B) the issuer of such Letter of Credit becomes Bankrupt;

(C) the issuer of the outstanding Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit and such failure shall be continuing after the lapse of any applicable grace period permitted under such Letter of Credit;

(D) the issuer of the outstanding Letter of Credit shall fail to honor a properly documented request to draw on such Letter of Credit;

(E) the issuer of the outstanding Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit;

(F) such Letter of Credit fails or ceases to be in full force and effect at any time; or

(G) Seller shall fail to renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit and as provided in accordance with this Agreement, and in no event less than sixty (60) days prior to the expiration of the outstanding Letter of Credit.

(vii) with respect to any Guaranty provided for the benefit of Buyer, the failure by Seller to provide for the benefit of Buyer either (1) cash, or (2) a Letter of Credit from an issuer meeting the criteria set forth in the definition of Letter of Credit, in each case, in the amount required hereunder within ten (10) Business Days after Seller receives Notice of the occurrence of any of the following events which has not been cured as provided in the Guaranty:

(A) if any representation or warranty made by the Guarantor in connection with this Agreement is false or misleading in any material respect when made or when deemed made or repeated;

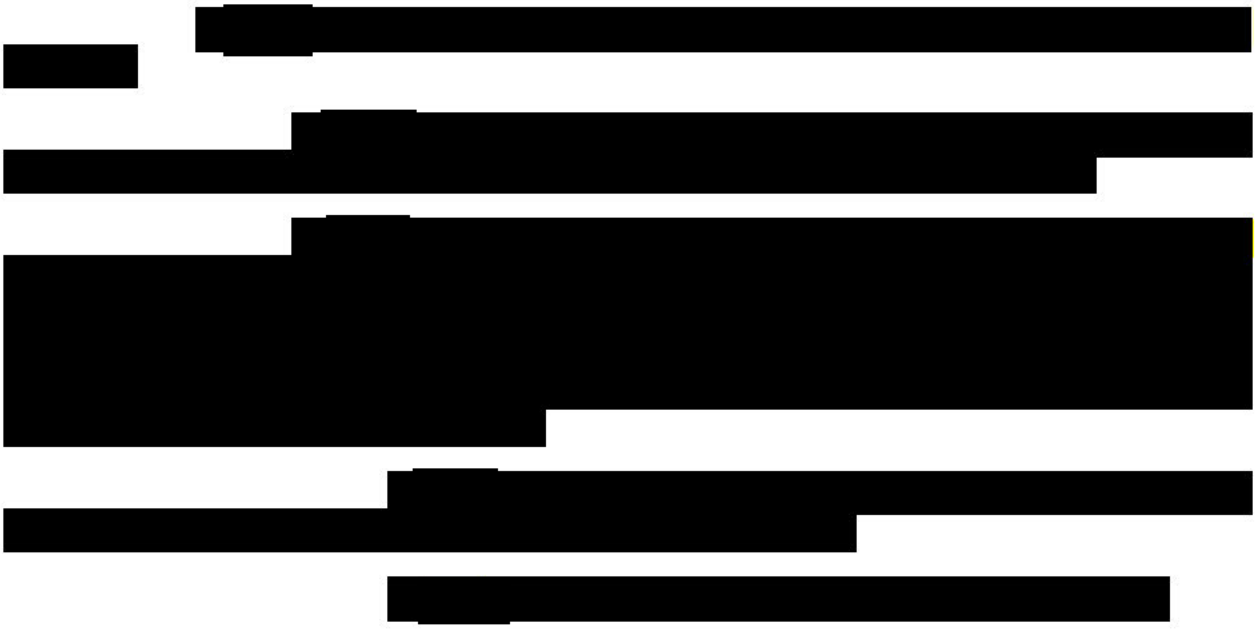
(B) the failure of the Guarantor to make any payment required or to perform any other material covenant or obligation in any Guaranty;

(C) the Guarantor becomes Bankrupt;

(D) the Guarantor shall fail to meet the criteria for an acceptable Guarantor as set forth in the definition of Guarantor;

(E) the failure of the Guaranty to be in full force and effect (other than in accordance with its terms) prior to the indefeasible satisfaction of all obligations of Seller hereunder; or

(F) the Guarantor shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of any Guaranty.





11.2 **Remedies; Declaration of Early Termination Date**. If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party ("**Non-Defaulting Party**") shall have the following rights:

(a) to send Notice, designating a day, no earlier than the day such Notice is deemed to be received and no later than twenty (20) days after such Notice is deemed to be received, as an early termination date of this Agreement ("**Early Termination Date**") that terminates this Agreement (the "**Terminated Transaction**") and ends the Delivery Term effective as of the Early Termination Date;

(b) to accelerate all amounts owing between the Parties, and to collect as liquidated damages (i) the Damage Payment, or (ii) the Termination Payment, as applicable, in each case calculated in accordance with Section 11.3 below;

(c) to withhold any payments due to the Defaulting Party under this Agreement;

(d) to suspend performance; and

(e) to exercise any other right or remedy available at law or in equity, including specific performance or injunctive relief, except to the extent such remedies are expressly limited under this Agreement; *provided*, payment by the Defaulting Party of the Damage Payment or Termination Payment, as applicable, shall constitute liquidated damages and the Non-Defaulting Party's sole and exclusive remedy for any Terminated Transaction and the Event of Default related thereto.

11.3 **Damage Payment; Termination Payment**. If an Early Termination Date has been declared, the Non-Defaulting Party shall calculate, in a commercially reasonable manner, the Damage Payment or Termination Payment, as applicable, in accordance with this Section 11.3.

(a) Damage Payment Prior to Commercial Operation Date. If the Early Termination Date occurs before the Commercial Operation Date, then the Damage Payment shall be calculated in accordance with this Section 11.3(a).

(i) If Seller is the Defaulting Party, then the Damage Payment shall be owed to Buyer and shall be a dollar amount that equals the amount of the Development Security plus, if the Development Security is posted as cash, any interest accrued thereon. Buyer shall be entitled to immediately retain for its own benefit those funds held as Development Security and any interest accrued thereon if the Development Security is posted as cash, and any amount of Development Security that Seller has not yet posted with Buyer shall be immediately due and payable by Seller to Buyer. There will be no amounts owed to Seller and Buyer shall have no further obligations to Seller (except with respect to those provisions that otherwise survive termination of this Agreement). The Parties agree that Buyer's damages in the event of an Early Termination Date prior to the Commercial Operation Date caused by Seller's default would be difficult or impossible to determine and that the damages set forth in this Section 11.3(a)(i) are a reasonable approximation of Buyer's harm or loss. Upon payment of the Damage Payment, Seller shall be released of all obligations to Buyer (except with respect to those provisions that otherwise survive termination of this Agreement).

(ii) If Buyer is the Defaulting Party, then in addition to the return of the Development Security to Seller, the Damage Payment shall be owed to Seller and shall equal the amount of Damage Payment calculated under Section 11.3(a)(i) had Seller been the Defaulting Party. There will be no amount owed to Buyer and Seller shall have no further obligations to Buyer (except with respect to those provisions that otherwise survive termination of this Agreement). The Parties agree that Seller's damages in the event of an Early Termination Date prior to the Commercial Operation Date caused by Buyer's default would be difficult or impossible to determine and that the damages set forth in this Section 11.3(a)(ii) are a reasonable approximation of Seller's harm or loss. Upon payment of the Damage Payment and return of the Development Security, Buyer shall be released of all obligations to Seller (except with respect to those provisions that otherwise survive termination of this Agreement).

(b) Termination Payment On or After the Commercial Operation Date. The payment owed by the Defaulting Party to the Non-Defaulting Party for a Terminated Transaction occurring after the Commercial Operation Date ("**Termination Payment**") shall be the aggregate of all Settlement Amounts plus any and all other amounts due to or from the Non-Defaulting Party (as of the Early Termination Date) netted into a single amount. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for the Terminated Transaction as of the Early Termination Date. Third parties supplying information for purposes of the calculation of Gains or Losses may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. The Settlement Amount shall not include consequential, incidental, punitive, exemplary, indirect or business interruption damages. Without prejudice to the Non-Defaulting Party's duty to mitigate, the Non-Defaulting Party shall not have to enter into replacement transactions to establish a Settlement Amount. Each Party agrees and acknowledges that (i) the actual damages that the Non-Defaulting Party would incur in connection with a Terminated Transaction would be difficult or impossible to predict with certainty, (ii) the Termination Payment described in this Section 11.3(b) is a reasonable and appropriate approximation of such damages, and (iii) the Termination

Payment described in this Section 11.3(b) is the exclusive remedy of the Non-Defaulting Party in connection with a Terminated Transaction but shall not otherwise act to limit any of the Non-Defaulting Party's rights or remedies if the Non-Defaulting Party does not elect a Terminated Transaction as its remedy for an Event of Default by the Defaulting Party.

11.4 **Notice of Payment of Termination Payment or Damage Payment**. As soon as practicable after a Terminated Transaction, but in no event later than sixty (60) days after the Early Termination Date, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Damage Payment or Termination Payment, as applicable, and whether the Termination Payment or Damage Payment, as applicable, is due to or from the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount and the sources for such calculation. The Termination Payment or Damage Payment, as applicable, shall be made to or from the Non-Defaulting Party, as applicable, within ten (10) Business Days after such Notice is effective.

11.5 **Disputes With Respect to Termination Payment or Damage Payment**. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment or Damage Payment, as applicable, in whole or in part, the Defaulting Party shall, within five (5) Business Days of receipt of the Non-Defaulting Party's calculation of the Termination Payment or Damage Payment, as applicable, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. Disputes regarding the Termination Payment or Damage Payment, as applicable, shall be determined in accordance with Article 15.

11.6 **Limitation on Seller's Ability to Make or Agree to Third-Party Sales from the Facility after Early Termination Date**. If the Agreement is terminated prior to the Commercial Operation Date for any reason except due to Buyer's Event of Default, neither Seller nor Seller's Affiliates may sell, market or deliver any Product associated with or attributable to the Facility to a party other than Buyer for a period of two (2) years following such early termination date, unless prior to selling, marketing or delivering such Product, or entering into the agreement to sell, market or deliver such Product to a party other than Buyer, Seller or Seller's Affiliates provide Buyer with a written offer to sell the Product on terms and conditions materially similar to the terms and conditions contained in this Agreement (including price) and Buyer fails to accept such offer within forty-five (45) days of Buyer's receipt thereof; [redacted]

Neither Seller nor Seller's Affiliates may sell or transfer the Facility, or any part thereof, or land rights or interests in the Site (including the interconnection queue position of the Facility) so long as the limitations contained in this Section 11.6 apply, unless the transferee agrees to be bound by the terms set forth in this Section 11.6 pursuant to a written agreement approved by Buyer.

Subject to Article 12, Seller shall indemnify and hold Buyer harmless from all benefits lost and other damages sustained by Buyer as a result of any breach by Seller of its covenants contained within this Section 11.6.

11.7 **Rights And Remedies Are Cumulative**. Except where liquidated damages or other remedy are explicitly provided as the exclusive remedy, the rights and remedies of a Party pursuant to this Article 11 shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

11.8 **Mitigation**. Any Non-Defaulting Party shall be obligated to use commercially reasonable efforts to mitigate its Costs, Losses and damages resulting from any Event of Default of the other Party under this Agreement.

ARTICLE 12
LIMITATION OF LIABILITY AND EXCLUSION OF WARRANTIES.

12.1 **No Consequential Damages**. EXCEPT TO THE EXTENT PART OF (A) AN EXPRESS REMEDY OR MEASURE OF DAMAGES HEREIN, (B) AN IP INDEMNITY CLAIM, (C) AN ARTICLE 16 INDEMNITY CLAIM, (D) INCLUDED IN A LIQUIDATED DAMAGES CALCULATION, OR (E) RESULTING FROM A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, OR LOSSES OR DAMAGES FOR LOST REVENUE OR LOST PROFITS, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT, BY STATUTE, IN TORT OR CONTRACT.

12.2 **Waiver and Exclusion of Other Damages**.

EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. ALL LIMITATIONS OF LIABILITY CONTAINED IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE PERTAINING TO SELLER'S LIMITATION OF LIABILITY AND THE PARTIES' WAIVER OF CONSEQUENTIAL DAMAGES, SHALL APPLY EVEN IF THE REMEDIES FOR BREACH OF WARRANTY PROVIDED IN THIS AGREEMENT ARE DEEMED TO "FAIL OF THEIR ESSENTIAL PURPOSE" OR ARE OTHERWISE HELD TO BE INVALID OR UNENFORCEABLE.

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS AND EXCLUSIVE REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES ONLY. THE VALUE OF ANY 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) AND AMOUNTS DUE IN CONNECTION WITH THE RECAPTURE OF ANY RENEWABLE ENERGY INCENTIVES, IF ANY, SHALL BE DEEMED TO BE DIRECT DAMAGES.

TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, INCLUDING UNDER SECTIONS 3.8, 4.7, 4.8, 11.2 AND 11.3, AND AS PROVIDED IN EXHIBIT B, EXHIBIT C, EXHIBIT G, AND EXHIBIT P, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT, AND THAT THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE ANTICIPATED HARM OR LOSS. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. THE PARTIES HEREBY WAIVE ANY RIGHT TO CONTEST SUCH PAYMENTS AS AN UNREASONABLE PENALTY.

THE PARTIES ACKNOWLEDGE AND AGREE THAT MONEY DAMAGES AND THE EXPRESS REMEDIES PROVIDED FOR HEREIN ARE AN ADEQUATE REMEDY FOR THE BREACH BY THE OTHER OF THE TERMS OF THIS AGREEMENT, AND EACH PARTY WAIVES ANY RIGHT IT MAY HAVE TO SPECIFIC PERFORMANCE WITH RESPECT TO ANY OBLIGATION OF THE OTHER PARTY UNDER THIS AGREEMENT.

ARTICLE 13
REPRESENTATIONS AND WARRANTIES; AUTHORITY

13.1 **Seller's Representations and Warranties**. As of the Effective Date, Seller represents and warrants as follows:

(a) Seller is a limited liability company, duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation, and is qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on the business or financial condition of Seller.

(b) Seller has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Seller's performance under this Agreement. The execution, delivery and performance of this Agreement by Seller has been duly authorized by all necessary limited liability company action on the part of Seller and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Seller or any other party to any other agreement with Seller.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Seller with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law

presently in effect having applicability to Seller, subject to any permits that have not yet been obtained by Seller, the documents of formation of Seller or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Seller is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Seller. This Agreement is a legal, valid and binding obligation of Seller enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) The Facility is located in the State of California.

13.2 **Buyer's Representations and Warranties**. As of the Effective Date, Buyer represents and warrants as follows:

(a) Buyer is a joint powers authority and a validly existing community choice aggregator, duly organized, validly existing and in good standing under the laws of the State of California and the rules, regulations and orders of the California Public Utilities Commission, and is qualified to conduct business in each jurisdiction of the Joint Powers Agreement members. All Persons making up the governing body of Buyer are the elected or appointed incumbents in their positions and hold their positions in good standing in accordance with the Joint Powers Agreement and other Law.

(b) Buyer has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Buyer's performance under this Agreement. The execution, delivery and performance of this Agreement by Buyer has been duly authorized by all necessary action on the part of Buyer and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Buyer or any other party to any other agreement with Buyer.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Buyer with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Buyer, including but not limited to community choice aggregation, the Joint Powers Act, competitive bidding, public notice, open meetings, election, referendum, or prior appropriation requirements, the documents of formation of Buyer or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Buyer is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Buyer. This Agreement is a legal, valid and binding obligation of Buyer enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

13.3 **Covenants**.

(a) Each Party covenants that commencing on the Effective Date and continuing throughout the Contract Term:

(i) It shall continue to be duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and to be qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on its business or financial condition;

(ii) It shall maintain (or obtain from time to time as required) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement; and

(iii) It shall perform its obligations under this Agreement in compliance with all terms and conditions in its governing documents and in material compliance with any Law.

(b) Buyer covenants that commencing on the Effective Date and continuing throughout the Contract Term:

(i) With respect to its contractual obligations under this Agreement, Buyer waives and will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (1) suit, (2) jurisdiction of court, (3) relief by way of injunction, order for specific performance or recovery of property, (4) attachment of assets, or (5) execution or enforcement of any judgment.

(ii) Buyer is a "local public entity" as defined in Section 900.4 of the Government Code of the State of California.

(iii) Buyer waives any right to and cannot assert sovereign immunity as a defense to the enforcement of its obligations under this Agreement.

13.4 **Workforce Development**. The Parties acknowledge that in connection with Buyer's renewable energy procurement efforts, including entering into this Agreement, Buyer is committed to creating community benefits, which includes engaging a skilled and trained workforce and targeted hires. In connection with construction of the Facility, Seller's primary contractor has entered into a project labor agreement, and has committed to comply with such agreement during construction.

ARTICLE 14
ASSIGNMENT

14.1 **General Prohibition on Assignments**. Except as provided below in this Article 14, neither Party may voluntarily assign this Agreement or its rights or obligations under this Agreement, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Any 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 shall not be unreasonably withheld, conditioned or delayed; *provided*, a Change of Control of Seller shall not require Buyer's consent if the assignee or

transferee is a Permitted Transferee. Any assignment made without the required written consent, or in violation of the conditions to assignment set out below, shall be null and void. Seller shall be responsible for Buyer's reasonable costs associated with the preparation, review, execution and delivery of documents in connection with any assignment of this Agreement by Seller, including without limitation reasonable attorneys' fees.

14.2 **Collateral Assignment**. Subject to the provisions of this Section 14.2, Seller has the right to assign this Agreement as collateral for any financing or refinancing of the Facility. In connection with any financing or refinancing of the Facility by Seller, Buyer shall in good faith work with Seller and Lender to execute a consent to collateral assignment of this Agreement substantially in the form attached hereto as Exhibit S, which shall incorporate changes reasonably requested by Lender ("**Consent to Collateral Assignment**").

14.3 **Permitted Assignment by Seller**. Seller may, without the prior written consent of Buyer, transfer or assign this Agreement to: (a) an Affiliate of Seller, or (b) any Person succeeding to all or substantially all of the assets of Seller (whether voluntary or by operation of law) if, and only if:

(a) the assignee is a Permitted Transferee;

(b) Seller has given Buyer Notice at least fifteen (15) Business Days before the date of such proposed assignment; and

(c) Seller has provided Buyer a written agreement signed by the Person to which Seller wishes to assign its interests that (x) provides that such Person will assume all of Seller's obligations and liabilities under this Agreement upon such transfer or assignment and (y) certifies that such Person meets the definition of a Permitted Transferee.

Notwithstanding the foregoing, any assignment by Seller, its successors or assigns under this Section 14.3 shall be of no force and effect unless and until such Notice and agreement by the assignee have been received and accepted by Buyer, which acceptance shall not be unreasonably delayed or withheld.

14.4 **Shared Facilities; Portfolio Financing**. Buyer agrees and acknowledges that Seller may elect to finance all or any portion of the Facility or the Interconnection Facilities or the Shared Facilities (1) utilizing tax equity or cash equity investment, and/or (2) through a Portfolio Financing, which may include cross-collateralization or similar arrangements. In connection with any financing or refinancing of the Facility, the Interconnection Facilities or the Shared Facilities by Seller or any Portfolio Financing, Buyer, Seller, Portfolio Financing Entity (if any) and Lender shall execute and deliver such further consents, approvals and acknowledgments as may be reasonable and necessary to facilitate such transactions; *provided*, Buyer shall not be required to agree to any terms or conditions which are reasonably expected to have a material adverse effect on Buyer and all reasonable third-party attorney's fees incurred by Buyer in connection therewith shall be borne by Seller.

14.5 **Buyer Financing Assignment**. Seller agrees that Buyer may assign a portion of its rights and obligations under this Agreement to a Person in connection with a municipal prepayment financing transaction ("**Buyer Assignee**") at any time upon not less than fifteen (15)

Business Days' notice by delivering Notice of such assignment, which notice must include a proposed assignment agreement substantially in the form attached hereto as Exhibit L ("**Assignment Agreement**"), *provided*, at the time of such assignment, (a) such Buyer Assignee has a Credit Rating equal to the higher of (i) Buyer's Credit Rating at the time of such assignment (if applicable), and (ii) Baa3 from Moody's and BBB- from S&P, (b) the portion of Buyer's rights and obligations assigned to Buyer Assignee [redacted] of the total Agreement, and (c) such assignment shall not release or novate Buyer from its obligations with respect to the Buyer Assignee Percentage assigned under any Assignment Agreement. As reasonably requested by Buyer Assignee, Seller shall (x) provide Buyer Assignee with information and documentation with respect to Seller, including but not limited to account opening information, information related to forecasted generation, Credit Rating, and compliance with anti-money laundering rules, the Dodd-Frank Act, the Commodity Exchange Act, the Patriot Act and similar rules, regulations, requirements and corresponding policies; and (y) promptly execute such Assignment Agreement and implement such assignment as contemplated thereby, subject only to the countersignature of Buyer Assignee and Buyer and the requirements of this Section 14.5; *provided*, nothing in this Section 14.5 shall require Seller to make any changes to this Agreement, or Seller's processes, procedures, corporate organization or the Facility to accommodate such Buyer Assignee other than administrative changes (e.g providing invoices and Notices to, and accepting payment from, the Buyer Assignee, etc.).

ARTICLE 15
DISPUTE RESOLUTION

15.1 **Governing Law**. This Agreement and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of Law. To the extent enforceable at such time, each Party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Agreement. [STC – 17]

15.2 **Dispute Resolution**. In the event of any dispute arising under this Agreement, within ten (10) Business Days following the receipt of a Notice from either Party identifying such dispute, the Parties shall meet, negotiate and attempt, in good faith, to resolve the dispute quickly, informally and inexpensively. If the Parties are unable to resolve a dispute arising hereunder within the earlier of either forty-five (45) days of initiating such discussions, or within sixty (60) days after Notice of the dispute, either Party may seek any and all remedies available to it at law or in equity, subject to the limitations set forth in this Agreement.

15.3 **Attorneys' Fees**. In any proceeding brought to enforce this Agreement or because of the breach by any Party of any covenant or condition herein contained, each Party shall bear its own respective costs, expenses and attorneys' fees in connection with said action.

15.4 **Venue.** In the event of any legal action to enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Los Angeles County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, and waive any claim or defense that such forum is not convenient or proper.

15.5 **Jury Trial Waiver.** TO THE FULLEST EXTENT PERMITTED BY LAW,

EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.

ARTICLE 16
INDEMNIFICATION

16.1 **Indemnification**.

(a) Each Party (the "**Indemnifying Party**") agrees to indemnify, defend and hold harmless the other Party and its Affiliates, directors, officers, employees and agents (collectively, the "**Indemnified Party**") from and against all claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees) (i) for personal injury or death to Persons and damage to the property of any third party to the extent arising out of, resulting from, or caused by the negligent acts or omissions or willful misconduct of the Indemnifying Party, its Affiliates, its directors, officers, employees, or agents, or (ii) for third-party claims resulting from the Indemnifying Party's breach (including inaccuracy of any representation of warranty made hereunder), performance or non-performance of its obligations under this Agreement.

(b) Seller shall indemnify, defend and hold harmless Buyer and its Affiliates, directors, officers, employees from and against all claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees) in connection with any claims of infringement upon or violation of any trade secret, trademark, trade name, copyright, patent, or other intellectual property rights of any third party by equipment, software, applications or programs (or any portion of same) used by Seller or any of Seller's contractors or service providers in connection with the Facility (an "**IP Indemnity Claim**").

(c) Nothing in this Section 16.1 shall enlarge or relieve Seller or Buyer of any liability to the other for any breach of this Agreement. Neither Party shall be indemnified for its damages resulting from the sole negligence, intentional acts or willful misconduct. These indemnity provisions shall not be construed to relieve any insurer of its obligation to pay claims consistent with the provisions of a valid insurance policy.

16.2 **Claims**. Promptly after receipt by a Party of any claim or Notice of the commencement of any action, administrative, or legal proceeding, or investigation as to which the indemnity provided for in this Article 16 may apply, the Indemnified Party shall notify the Indemnifying Party in writing of such fact. The Indemnifying Party shall assume the defense thereof with counsel designated by the Indemnifying Party and satisfactory to the Indemnified Party, *provided*, if the defendants in any such action include both the Indemnified Party and the Indemnifying Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, the Indemnified Party shall have the right to select and be represented by separate counsel, at the Indemnifying Party's expense, unless a liability insurer is willing to pay such costs. If the Indemnifying Party fails to assume the defense of a claim meriting

indemnification, the Indemnified Party may at the expense of the Indemnifying Party contest, settle, or pay such claim; *provided*, settlement or full payment of any such claim may be made only following consent of the Indemnifying Party or, absent such consent, written opinion of the Indemnified Party's counsel that such claim is meritorious or warrants settlement. Except as otherwise provided in this Article 16, in the event that a Party is obligated to indemnify and hold the other Party and its successors and assigns harmless under this Article 16, the amount owing to the Indemnified Party will be the amount of the Indemnified Party's damages net of any insurance proceeds received by the Indemnified Party following a reasonable effort by the Indemnified Party to obtain such insurance proceeds.

INSURANCE

17.1 **Insurance**.

(a) General Liability. Seller shall provide and maintain, at its sole expense, the following types and minimum limits of insurance with a carrier rated "A- VII" or higher by A.M. Best's Key Rating Guide: (i) commercial general liability insurance, including products and completed operations and personal injury insurance, in a minimum amount of One Million Dollars ($1,000,000) per occurrence, and an annual aggregate of not less than Two Million Dollars ($2,000,000), specifically covering Seller's obligations under this Agreement and including Buyer as an additional insured; and (ii) an umbrella/excess liability insurance policy in a minimum limit of liability of Five Million Dollars ($5,000,000). Defense costs shall be provided as an additional benefit and not included within the limits of liability. Such insurance shall contain standard cross-liability and severability of interest provisions.

(b) Employer's Liability Insurance. Employers' Liability insurance shall not be less than One Million Dollars ($1,000,000.00) for injury or death occurring as a result of each accident. With regard to bodily injury by disease, the One Million Dollar ($1,000,000) policy limit will apply to each employee.

(c) Workers Compensation Insurance. Seller, if it has employees, shall also maintain at all times during the Contract Term workers' compensation and employers' liability insurance coverage in accordance with applicable requirements of Law.

(d) Business Auto Insurance. Seller shall maintain at all times during the Contract Term business auto insurance for bodily injury and property damage with limits of One Million Dollars ($1,000,000) per occurrence. Such insurance shall cover liability arising out of Seller's use of all owned (if any), non-owned and hired vehicles, including trailers or semi-trailers in the performance of the Agreement.

(e) Construction All-Risk Insurance. Seller shall maintain or cause to be maintained during the construction of the Facility prior to the Commercial Operation Date, construction all-risk form property insurance covering the Facility during such construction periods, and naming Seller (and Lender if any) as the loss payee.

(f) Property Damage Insurance. Seller shall maintain or cause to be maintained during the Delivery Term, property damage insurance with a policy limit of not less than the full replacement cost of the Facility on a per occurrence basis.

(g) Pollution Liability Insurance. Seller shall maintain or cause to be maintained during the Contract Term, pollution liability insurance in an amount not less than Two Million Dollars ($2,000,000) each occurrence covering [redacted] losses involving hazardous material(s) and caused by pollution incidents or conditions that arise from any subcontractor's performance or lack of performance of work under this Agreement, or might be required by federal, state, regional, municipal, and local laws, including coverage for bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death, property damage including the resulting loss of use thereof, and the loss of use of tangible property that has not been physically damaged or destroyed, and defense costs. If such coverage is on a "claims made" policy form, any applicable "retroactive date" shall be no later than the Effective Date and shall be maintained for at least two (2) years beyond the termination of this Agreement, to allow for a reasonable extended reporting period.

(h) Subcontractor Insurance. Seller's subcontractor's shall maintain insurance in accordance with Seller's standard requirements, which shall, at a minimum, include requirements to carry: (i) comprehensive general liability insurance with a combined single limit of coverage not less than One Million Dollars ($1,000,000); (ii) workers' compensation insurance and employers' liability coverage in accordance with applicable requirements of Law; and (iii) business auto insurance for bodily injury and property damage with limits of one million dollars ($1,000,000) per occurrence. All subcontractors shall name Seller as an additional insured to insurance carried pursuant to clauses (h)(i) and (h)(iii). All subcontractors shall provide a primary endorsement and a waiver of subrogation to Seller for the required coverage pursuant to this Section 17.1(h).

(i) Evidence of Insurance. Within ten (10) days after execution of the Agreement and upon annual renewal thereafter, Seller shall deliver to Buyer certificates of insurance evidencing such coverage. Such certificates shall specify that Buyer shall be given at least thirty (30) days prior Notice by Seller in the event of any material modification, cancellation or termination of coverage. All insurance required herein shall be primary coverage without right of contribution from any insurance of Buyer, and to the extent permitted by applicable laws, such policies shall be endorsed with a waiver of subrogation in favor of Buyer for all work performed by Seller, its employees, agents and subcontractors and any subrogation rights which may pass to Seller's insurance carriers for the payment of any claims. Any other insurance maintained by Seller is for the exclusive benefit of Seller and shall not in any manner inure to the benefit of Buyer.

(j) Failure to Comply with Insurance Requirements. If Seller fails to comply with any of the provisions of this Article 17, Seller, among other things and without restricting Buyer's remedies under the Law or otherwise, shall, at its own cost and expense, act as an insurer and provide insurance in accordance with the terms and conditions above. With respect to the required 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. In addition, alleged violations of the provisions of this Article 17 means that Seller has the initial burden of proof regarding any legal justification for refusing or withholding coverage and Seller shall face

the same liability and damages as an insurer for wrongfully refusing or withholding coverage in accordance with the laws of California.

ARTICLE 18
CONFIDENTIAL INFORMATION

18.1 **Definition of Confidential Information**. The following constitutes "**Confidential Information**," whether oral or written which is delivered by Seller to Buyer or by Buyer to Seller including: (a) the terms and conditions of, and proposals and negotiations related to, this Agreement, and (b) information that either Seller or Buyer stamps or otherwise identifies as "confidential" or "proprietary" before disclosing it to the other and (c) information of one Party that a reasonable person would treat as confidential given the nature of such information, including business plans, drawings, third-party contracts, pricing information, technical information. Confidential Information does not include (i) information that was publicly available at the time of the disclosure, other than as a result of a disclosure in breach of this Agreement; (ii) information that becomes publicly available through no fault of the recipient after the time of the delivery; (iii) information that was rightfully in the possession of the recipient (without confidential or proprietary restriction) at the time of delivery or that becomes available to the recipient from a source not subject to any restriction against disclosing such information to the recipient; and (iv) information that the recipient independently developed without a violation of this Agreement or use of the Disclosing Party's information.

18.2 **Duty to Maintain Confidentiality**. The Party receiving Confidential Information (the "**Receiving Party**") from the other Party (the "**Disclosing Party**") shall not disclose Confidential Information to a third party (other than the Party's employees, lenders and potential lenders and their advisors, counsel, accountants, directors or advisors, or any such representatives of a Party's Affiliates, who have a need to know such information and have agreed or have an employment or professional obligation to keep such terms confidential) except in order to comply with any applicable Law, regulation, or any exchange, control area or independent system operator rule or in connection with any court or regulatory proceeding applicable to such Party or any of its Affiliates; *provided*, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation. The Parties agree and acknowledge that nothing in this Section 18.2 prohibits a Party from disclosing any one or more of the commercial terms of a transaction (other than the name or other identifying information of the other Party unless otherwise agreed to in writing by the Parties) to any industry price source for the purpose of aggregating and reporting such information in the form of a published energy price index.

The Parties acknowledge and agree that the Agreement and any transactions entered into in connection herewith are subject to the requirements of the California Public Records Act (Government Code Section 7920.000 et seq.). In order to designate information as confidential, the Disclosing Party must clearly stamp and identify the specific portion of the material designated with the word "Confidential." The Parties agree not to over-designate material as Confidential Information. Over-designation includes stamping whole agreements, entire pages or series of pages as "Confidential" that clearly contain information that is not Confidential Information.

Upon request or demand of any third person or entity not a Party hereto to Buyer pursuant to the California Public Records Act for production, inspection and/or copying of Confidential Information ("**Requested Confidential Information**"), Buyer shall as soon as practical notify Seller in writing via email that such request has been made. Seller shall be solely responsible for taking at its sole expense whatever legal steps are necessary to prevent release of the Requested Confidential Information to the third party by Buyer. If Seller takes no such action after receiving the foregoing notice from Buyer, Buyer shall, at its discretion, be permitted to comply with the third party's request or demand and is not required to defend against it. If Seller does take or attempt to take such action, Buyer shall provide timely and reasonable cooperation to Seller, if requested by Seller, including withholding any information Seller identifies as confidential pending a final order of a court or other body with jurisdiction requiring disclosure or further direction from Seller, and Seller agrees to indemnify and hold harmless Buyer, its officers, employees and agents ("**Buyer's Indemnified Parties**"), from any claims, liability, award of attorneys' fees, or damages, and to defend any action, claim or lawsuit brought against any of Buyer's Indemnified Parties for Buyer's refusal to disclose any Requested Confidential Information. Notwithstanding Section 18.1(c), if Buyer provides Seller an opportunity to opine as to whether or not certain Seller-provided information should be considered Requested Confidential Information and Seller does not identify some or all of such information as Confidential Information, then it shall be deemed to not be Confidential Information and Buyer shall have no liability to Seller for disclosing such information.

18.3 **Irreparable Injury; Remedies**. Receiving Party acknowledges that its obligations hereunder are necessary and reasonable in order to protect Disclosing Party and the business of Disclosing Party, and expressly acknowledges that monetary damages would be inadequate to compensate Disclosing Party for any breach or threatened breach by Receiving Party of any covenants and agreements set forth herein. Accordingly, Receiving Party acknowledges that, in addition to any other remedies that may be available, in law, in equity or otherwise, Disclosing Party will be entitled to seek injunctive relief against the threatened breach of this Agreement or the continuation of any such breach, and that for purposes of seeking injunctive relief any such breach or threatened breach will be deemed to cause irreparable injury to Disclosing Party without the necessity of proving actual damages.

18.4 **Further Permitted Disclosure**. Notwithstanding anything to the contrary in this Article 18, Confidential Information may be disclosed by the Receiving Party to any of its agents, consultants, contractors, trustees, or actual or potential financing parties (including, in the case of Seller, its Lender(s)), so long as such Person to whom Confidential Information is disclosed is required by employment or professional rules of conduct to maintain the information as confidential or agrees in writing to be bound by confidentiality provisions that are at least as restrictive as this Article 18 to the same extent as if it were a Party.

18.5 **Press Releases**. Neither Party shall issue (or cause its Affiliates to issue) a press release regarding the transactions contemplated by this Agreement unless both Parties have agreed upon the contents of any such public statement.

ARTICLE 19
MISCELLANEOUS

19.1 **Entire Agreement; Integration; Exhibits**. This Agreement, together with the Cover Sheet and Exhibits attached hereto constitutes the entire agreement and understanding between Seller and Buyer with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. The Exhibits attached hereto are integral parts hereof and are made a part of this Agreement by reference. The headings used herein are for convenience and reference purposes only. In the event of a conflict between the provisions of this Agreement and those of the Cover Sheet or any Exhibit, the provisions of first the Cover Sheet, and then this Agreement shall prevail, and such Exhibit shall be corrected accordingly. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.

19.2 **Amendments**. This Agreement may only be amended, modified or supplemented by an instrument in writing executed by duly authorized representatives of Seller and Buyer; *provided*, this Agreement may not be amended by electronic mail communications.

19.3 **No Waiver**. Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default.

19.4 **No Agency, Partnership, Joint Venture or Lease**. Seller and the agents and employees of Seller shall, in the performance of this Agreement, act in an independent capacity and not as officers or employees or agents of Buyer. Under this Agreement, Seller and Buyer intend to act as energy seller and energy purchaser, respectively, and do not intend to be treated as, and shall not act as, partners in, co-venturers in or lessor/lessee with respect to the Facility or any business related to the Facility. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement) and/or, to the extent set forth herein, any Lender and/or Indemnified Party.

19.5 **Severability**. In the event that any provision of this Agreement is unenforceable or held to be unenforceable, the Parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby. The Parties shall, however, use commercially reasonable efforts to agree on the replacement of the void, illegal or unenforceable provision(s) with legally acceptable clauses which correspond as closely as possible to the sense and purpose of the affected provision and this Agreement as a whole.

19.6 **Mobile-Sierra**. Notwithstanding any other provision of this Agreement, neither Party shall seek, nor shall they support any third party 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 written 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 shall be the "public interest" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service

Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956). Changes proposed by a non-Party or FERC acting *sua sponte* shall be subject to the most stringent standard permissible under applicable Law.

19.7 **Counterparts**. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument and each of which shall be deemed an original.

19.8 **Electronic Delivery**. This Agreement may be duly executed and delivered by a Party by electronic format (including portable document format (.pdf)) delivery of the signature page of a counterpart to the other Party.

19.9 **Binding Effect**. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

19.10 **No Recourse to Members of Buyer**. Buyer is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to its Joint Powers Agreement and is a public entity separate from its constituent members. Buyer shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Seller shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Buyer's constituent members, or the employees, directors, officers, consultants or advisors of Buyer or its constituent members, in connection with this Agreement. Buyer's members are not considered third-party beneficiaries of this Agreement and Buyer has not granted any rights to its members in this Agreement, and the Parties agree that they do not intend to, and this Agreement does not, confer any rights under this Agreement to Buyer's members, except to the extent one or more of Buyer's members are successors in interest to CPA's interest in the Agreement pursuant to that certain Joint Powers Agreement to which CPA and such members are parties.

19.11 **Forward Contract**. The Parties acknowledge and agree that this Agreement constitutes a "forward contract" within the meaning of the U.S. Bankruptcy Code, and Buyer and Seller are "forward contract merchants" within the meaning of the U.S. Bankruptcy Code. Each Party further agrees that, for all purposes of this Agreement, each Party waives and agrees not to assert the applicability of the provisions of 11 U.S.C. § 366 in any Bankruptcy proceeding wherein such Party is a debtor. In any such proceeding, each Party further waives the right to assert that the other Party is a provider of last resort to the extent such term relates to 11 U.S.C. §366 or another provision of 11 U.S.C. § 101-1532.

19.12 **Change in Electric Market Design**. If a change in the CAISO Tariff renders this Agreement or any provisions hereof incapable of being performed or administered, then any Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to make this Agreement capable of being performed and administered, while attempting to preserve to the maximum extent possible the benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, Buyer and Seller shall engage in such negotiations in good faith. If Buyer and Seller are unable, within sixty (60) days after delivery of such request, to agree upon changes to this Agreement or to resolve issues relating to changes to this Agreement, then any Party may submit issues pertaining to changes to

this Agreement to the dispute resolution process set forth in Article 15. Notwithstanding the foregoing, (i) a change in cost shall not in and of itself be deemed to render this Agreement or any of the provisions hereof incapable of being performed or administered, and (ii) all of the unaffected provisions of this Agreement shall remain in full force and effect during any period of such negotiation or dispute resolution.

19.13 **Further Assurances**. Each of the Parties hereto agrees to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the Effective Date.

SOLAR STAR 4, LLC

By: _____
Name: _____
Title: _____

CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority

By: _____
Name: _____
Title: _____

EXHIBIT A

FACILITY DESCRIPTION

Site Name: Solar Star 4

Site includes all or some of the following APNs:

APN	Project Footprint	Acres	S-T-R	Short Legal	Improvement
261-193-15	Solar Star 3	2.53	S27 T9N R15W	SW-SW-SW-SE	Panels
261-193-17	Solar Star 3	2.53	S27 T9N R15W	NE-SW-SW-SE	Panels
261-193-18	Solar Star 3	2.53	S27 T9N R15W	NW-SW-SW-SE	Panels
261-193-20	Solar Star 3	5	S27 T9N R15W	NH-NW-SW-SE	Panels
261-193-19	Solar Star 3	5	S27 T9N R15W	SH-NW-SW-SE	Panels
261-193-26	Solar Star 3	20	S27 T9N R15W	EH-SW-SE	Panels
261-193-22	Solar Star 3	19.55	S27 T9N R15W	WH-NW-SE	Panels
261-193-25	Solar Star 3	19.55	S27 T9N R15W	EH-NW-SE	Panels
261-193-24	Solar Star 3	39.09	S27 T9N R15W	NE-SE	Panels
261-193-23	Solar Star 3	40	S27 T9N R15W	SE-SE	Panels
261-194-45	Solar Star 3 and 4	19.34	S26 T9N R15W	NH-NW-SW	Panels
261-194-46	Solar Star 3 and 4	20.24	S26 T9N R15W	SH-NW-SW	Panels
261-194-47	Solar Star 3 and 4	20.24	S26 T9N R15W	NH-SW-SW	Panels
261-194-30	Solar Star 4	39.09	S26 T9N R15W	NE-SW	Panels
261-194-35	Solar Star 4	40	S26 T9N R15W	SE-SW	Panels
261-450-06	Solar Star 4	72.84	S26 T9N R15W	NH-SE	Panels
261-194-50	Solar Star 4	73.12	S26 T9N R15W	SH-NE	Panels - Corner driveway entrance
261-196-22	Shared	310.4	S25 T9N R15W	WH-NW	New Underground Transmission/ Substation
261-196-21	Shared	7.78	S25 T9N R15W	WH-NW	New Underground Transmission
261-194-50	Solar Star 4	73.12	S26 T9N R15W	SH-NE	BESS

City: Rosamond, California

County: Kern

Zip Code: 93560

Latitude and Longitude: 34°50'24.1"N 118°25'58.4"W

Facility Description: Solar Star 4 is comprised of co-located PV solar generation (Generating Facility) and Lithium-ion battery storage (Storage Facility). It is located in Kern County, California and delivered to Southern California Edison's Whirlwind 230 kV Substation. The facilities are 24 MW of installed PV with an expected annual energy production of 74,544 MWh

and 23 MW of installed battery storage. The Storage Facility is capable of charging from the Generating Facility or the interconnected grid.

Delivery Point: Whirlwind 230 kV Substation

P-node: SLSTR3_3_SOLAR4-APND (anticipated)

Transmission Provider: Southern California Edison

Additional Information: Not Applicable

Site Diagram:

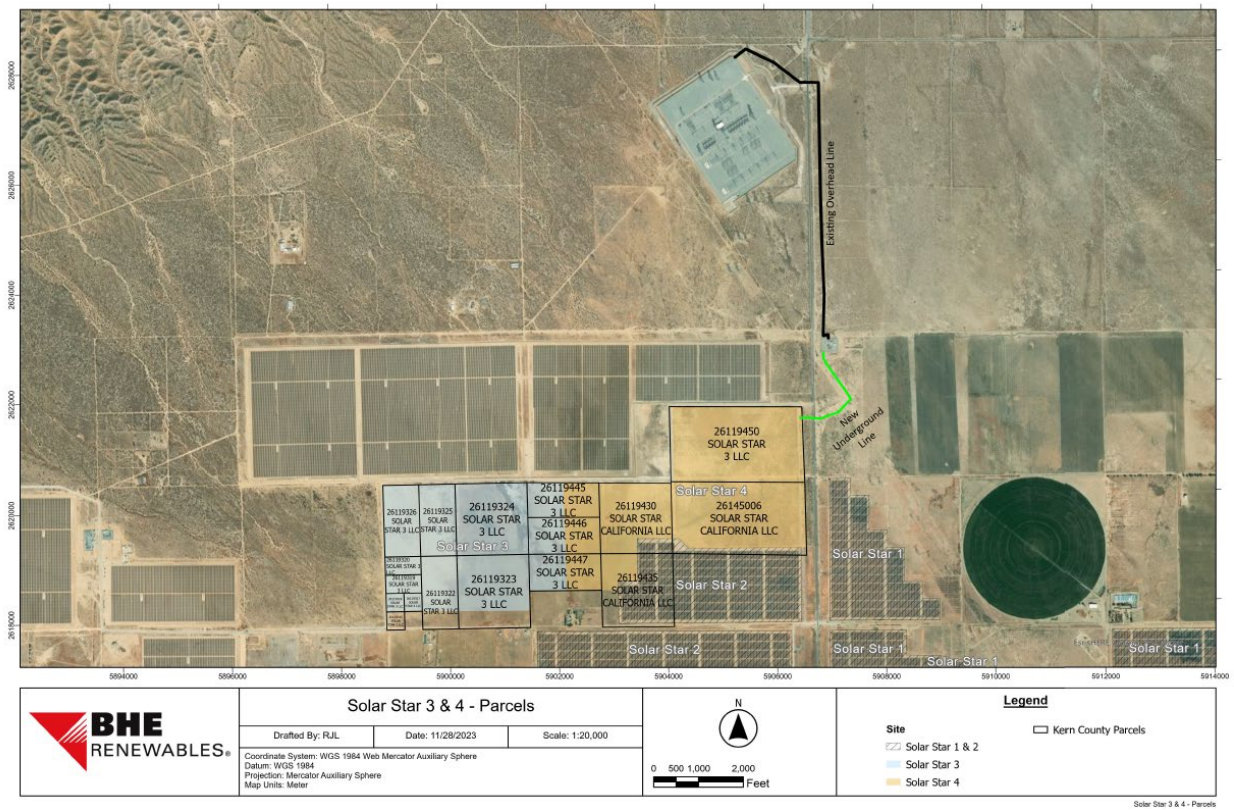


EXHIBIT B

FACILITY CONSTRUCTION AND COMMERCIAL OPERATION

1. **Construction of the Facility**.

   (a) "**Construction Start**" will occur upon Seller's acquisition of all applicable regulatory authorizations, approvals and permits for the construction of the Facility, and once Seller has engaged all contractors and ordered all essential equipment and supplies as, in each case, can reasonably be considered necessary so that physical construction of the Facility may begin and proceed to completion without foreseeable interruption of material duration, and has executed an engineering, procurement, and construction contract and issued thereunder a final notice to proceed that authorizes the contractor to mobilize to Site and begin physical construction (including, at a minimum, excavation for foundations or the installation or erection of improvements) at the Site. The date of Construction Start will be evidenced by and subject to Seller's delivery to Buyer of a certificate substantially in the form attached as Exhibit J hereto, and the date certified therein shall be the "**Construction Start Date**." Seller shall cause Construction Start to occur no later than the Guaranteed Construction Start Date.

   (b) Seller may extend the Guaranteed Construction Start Date by paying Daily Delay Damages to Buyer for each day Seller desires to extend the Guaranteed Construction Start Date, not to exceed a total of one hundred twenty (120) days of extensions by such payment of Daily Delay Damages. On or before the date that is ten (10) days prior to the then-current Guaranteed Construction Start Date, Seller shall provide notice and payment to Buyer of the Daily Delay Damages for the number of days of extension to the Guaranteed Construction Start Date. If Seller achieves Construction Start prior to the Guaranteed Construction Start Date, as extended by the payment of Daily Delay Damages, Buyer shall refund to Seller the Daily Delay Damages for each day Seller achieves Construction Start prior to the Guaranteed Construction Start Date times the Daily Delay Damages, not to exceed the total amount of Daily Delay Damages paid by Seller pursuant to this Section 1(b). Additionally, if Seller achieves Commercial Operation on or before the Guaranteed Commercial Operation Date (not including any extensions to such date resulting from Seller's payment of Commercial Operation Delay Damages, but as may be extended pursuant to a Development Cure Period), then Buyer shall refund to Seller all Daily Delay Damages paid by Seller and not previously refunded by Buyer.

2. **Commercial Operation of the Facility**. "**Commercial Operation**" means the condition existing when Seller has fulfilled all of the conditions precedent in Section 2.2 of the Agreement and provided Notice to Buyer substantially in the form of Exhibit H (the "**COD Certificate**").

   (a) Seller shall cause Commercial Operation for the Facility to occur by the Guaranteed Commercial Operation Date. Seller shall notify Buyer that it intends to achieve

Commercial Operation at least sixty (60) days before the anticipated Commercial Operation Date.

(b) Seller may extend the Guaranteed Commercial Operation Date by paying Commercial Operation Delay Damages to Buyer for each day Seller desires to extend the Guaranteed Commercial Operation Date, not to exceed a total of ninety (90) days of extensions by such payment of Commercial Operation Delay Damages. On or before the date that is ten (10) days prior to the then-current Guaranteed Commercial Operation Date, Seller shall provide Notice and payment to Buyer of the Commercial Operation Delay Damages for the number of days of extension to the Guaranteed Commercial Operation Date. If Seller achieves Commercial Operation prior to the Guaranteed Commercial Operation Date as extended by the payment of Commercial Operation Delay Damages, Buyer shall refund to Seller the Commercial Operation Delay Damages for each day Seller achieves Commercial Operation prior to the Guaranteed Commercial Operation Date times the Commercial Operation Delay Damages, not to exceed the total amount of Commercial Operation Delay Damages paid by Seller pursuant to this Section 2(b).

3. **Termination for Failure to Achieve Commercial Operation**. If the Facility has not achieved Commercial Operation on or before the Guaranteed Commercial Operation Date (as may be extended hereunder), Buyer may elect to terminate this Agreement in accordance with Sections 11.1(b)(ii) and 11.2.

4. **Extension of the Guaranteed Dates**. The Guaranteed Construction Start Date and the Guaranteed Commercial Operation Date shall, subject to notice and documentation requirements set forth below, be extended on a day-for-day basis (the "**Development Cure Period**") for the duration of any and all delays arising out of the following circumstances to the extent (i) the following circumstances are not the result of Seller's failure to take all commercially reasonable actions to meet its requirements and deadlines, (ii) such delays could not be mitigated by Seller using commercially reasonable efforts to overcome the delays, and (iii) such delays do not run concurrently:

   (a) Seller has not acquired the Material Permits by the Guaranteed Construction Start Date, despite the exercise of diligent and commercially reasonable efforts by Seller; or

   (b) a Force Majeure Event occurs; or

   (c) the Interconnection Facilities or Reliability Network Upgrades are not complete and ready for the Facility to connect and sell Product at the Delivery Point by the Guaranteed Commercial Operation Date, despite the exercise of diligent and commercially reasonable efforts by Seller; or

   (d) Buyer has not made all necessary arrangements to deliver Charging Energy to, and receive the Facility Energy at, the Delivery Point by the Guaranteed Commercial Operation Date.

Seller shall submit any claim for Development Cure Period delays within (x) three (3) Business Days of the applicable milestone in the case of (a), (c) or (d) above, and (y) fourteen (14) days after the initial occurrence of the claimed Force Majeure Event in the case of (b) above, in substantially the form set forth in Exhibit W. Notwithstanding anything in this Agreement to the contrary, the cumulative extensions granted under the Development Cure Period (other than the extensions granted pursuant to clause 4(d) above) shall not exceed one hundred eighty (180) days, for any reason, including a Force Majeure Event, and the cumulative extensions granted to the Guaranteed Commercial Operation Date by the payment of Commercial Operation Delay Damages and any Development Cure Period(s) (other than the extensions granted pursuant to clause 4(d) above) shall not exceed two hundred seventy (270) days. Upon request from Buyer, Seller shall provide documentation demonstrating to Buyer's reasonable satisfaction that the delays described above did not result from Seller's actions or failure to take commercially reasonable actions.

5. **Failure to Reach Guaranteed PV Capacity or Guaranteed Storage Capacity**.

   (a) *Guaranteed PV Capacity*. If, at Commercial Operation, the Installed PV Capacity is less than one hundred percent (100%) of the Guaranteed PV Capacity, Seller shall have ninety (90) days after the Commercial Operation Date to install additional capacity and/or Network Upgrades such that the Installed PV Capacity is equal to (but not greater than) the Guaranteed PV Capacity, and Seller shall provide to Buyer a new certificate substantially in the form attached as Exhibit I-1 hereto specifying the new Installed PV Capacity. If Seller fails to construct the Guaranteed PV Capacity by such date, Seller shall pay "**PV Capacity Damages**" to Buyer, in an amount equal to Three Hundred Fifty Thousand Dollars ($350,000) for each MW that the Guaranteed PV Capacity exceeds the Installed PV Capacity.

   (b) *Guaranteed Storage Capacity*. If, at Commercial Operation, the Installed Storage Capacity is less than one hundred percent (100%) of the Guaranteed Storage Capacity, Seller shall have ninety (90) days after the Commercial Operation Date to install additional capacity and/or Network Upgrades such that the Installed Storage Capacity is equal to (but not greater than) one hundred percent (100%) of the Guaranteed Storage Capacity, and Seller shall provide to Buyer a new certificate substantially in the form attached as Exhibit I-1 hereto specifying the new Installed Storage Capacity. If Seller fails to construct the Guaranteed Storage Capacity by such date, Seller shall pay "**Storage Capacity Damages**" to Buyer, in an amount equal to Five Hundred Thousand Dollars ($500,000) for each MW at four (4) hours of continuous discharge that the Guaranteed Storage Capacity exceeds the Installed Storage Capacity.

Capacity Damages shall not be limited by the payment of any other damages under this Agreement nor by the depletion or other use of the Development Security or Performance Security.

6. **Buyer's Right to Draw on Development Security**. If Seller fails to timely pay any Daily Delay Damages or Commercial Operation Delay Damages, Buyer may draw upon the Development Security to satisfy Seller's payment obligation thereof.

EXHIBIT C

COMPENSATION

Buyer shall compensate Seller for the Product in accordance with this Exhibit C.

(a) Renewable Rate. Buyer shall pay Seller (1) the Renewable Rate for each MWh of PV Energy plus (2) the DDE Rate for each MWh of Deemed Delivered Energy, if any, up to one hundred fifteen percent (115%) of the Expected Energy for such Contract Year.

(b) Excess Contract Year Deliveries Over 115%. Notwithstanding the foregoing, if at any point in any Contract Year, the amount of PV Energy plus Deemed Delivered Energy exceeds one hundred fifteen percent (115%) of the Expected Energy for such Contract Year, the price to be paid for additional PV Energy and/or Deemed Delivered Energy shall be $0.00/MWh.

(c) Excess Settlement Interval Deliveries. If during any Settlement Interval, Seller delivers PV Energy in excess of the product of the Guaranteed PV Capacity and the duration of the Settlement Interval, expressed in hours ("**Excess MWh**"), then the price applicable to all such Excess MWh in such Settlement Interval shall be zero dollars ($0), and if there is a Negative LMP during such Settlement Interval, Seller shall pay to Buyer an amount equal to the absolute value of the Negative LMP times such Excess MWh.

(d) Monthly Capacity Payment.

(i) Each month from the period commencing upon CAISO Commercial Operation and continuing throughout the Delivery Term (and pro-rated for the first and last month of the Delivery Term if the Delivery Term does not start on the first day of a calendar month), Buyer shall pay Seller a Monthly Capacity Payment equal to the Storage Rate x Effective Storage Capacity x Efficiency Rate Factor, *minus* an amount equal to the monthly average cost of Charging Energy times the total number of MWhs of Idle Period Auxiliary Use in such month *divided by* the Efficiency Rate. Such payment constitutes the entirety of the amount due to Seller from Buyer for the Storage Product. If the Effective Storage Capacity is adjusted pursuant to a Storage Capacity Test other than the first day of a calendar month, payment shall be calculated separately for each portion of the month in which the different Effective Storage Capacity is applicable.

"Efficiency Rate Factor" means:

(A) If the Efficiency Rate is greater than or equal to the Guaranteed Efficiency Rate, then:

Efficiency Rate Factor = 100%

(B) If the Efficiency Rate is less than the Guaranteed Efficiency Rate, but greater than or equal to 75%, then:

Efficiency Rate Factor = 100% - [(Guaranteed Efficiency Rate – Efficiency Rate) x .5]

(C) If the Efficiency Rate is less than 75%, then:

Efficiency Rate Factor = 0

(ii) Storage Capacity Availability Payment True-Up. Each month from the period commencing upon CAISO Commercial Operation and continuing throughout the Delivery Term, Buyer shall calculate the year-to-date (YTD) Annual Storage Capacity Availability for the applicable Contract Year (and during the period from CAISO Commercial Operation through the Commercial Operation Date) in accordance with Exhibit P. If (A) such YTD Annual Storage Capacity Availability is less than ninety percent (90%), or (B) the final Annual Storage Capacity Availability is less than the Guaranteed Storage Availability, Buyer shall (1) withhold the Storage Capacity Availability Payment True-Up Amount from the next Monthly Capacity Payment(s) (the "**Storage Capacity Availability Payment True-Up**"), and (2) provide Seller with a written statement of the calculation of the YTD Annual Storage Capacity Availability and the Storage Capacity Availability Payment True-Up Amount; *provided*, if the Storage Capacity Availability Payment True-Up Amount is a negative number for any month prior to the final year-end Storage Capacity Availability Payment True-Up calculation (and following the Commercial Operation Date for the period from CAISO Commercial Operation through the Commercial Operation Date), Buyer shall not be obligated to reimburse Seller any previously withheld Storage Capacity Availability Payment True-Up Amount, except as set forth in the following sentence. If Buyer withholds any Storage Capacity Availability Payment True-Up Amount pursuant to this subsection (d)(ii), and if the final year-end (and for the period from CAISO Commercial Operation through the Commercial Operation Date) Storage Capacity Availability Payment True-Up Amount is a negative number, Buyer shall pay to Seller the positive value of such amount together with the next Monthly Capacity Payment due to Seller.

"**Storage Capacity Availability Payment True-Up Amount**" means an amount equal to A x B - C, where:

A = The sum of the year-to-date Monthly Capacity Payments

B = The Capacity Availability Factor

C = The sum of any Storage Capacity Availability Payment True-Up Amounts previously withheld by Buyer in the applicable Contract Year (or for the period from CAISO Commercial Operation through the Commercial Operation Date).

"Capacity Availability Factor" means:

(A) If the YTD Annual Storage Capacity Availability times the Effective Storage Capacity is equal to or greater than the Guaranteed Storage Availability times the Effective Storage Capacity, then:

Capacity Availability Factor = 0

(B) If the YTD Annual Storage Capacity Availability times the Effective Storage Capacity is less than the Guaranteed Storage Availability times the Effective

Storage Capacity, but the product of (i) the sum of (a) the YTD Annual Storage Capacity Availability *plus* (b) Force Majeure Unavailability *times* (ii) the Effective Storage Capacity is greater than or equal to seventy percent (70%) of the Installed Storage Capacity, then:

Capacity Availability Factor = Guaranteed Storage Availability – YTD Annual Storage Capacity Availability

(C) If the product of (i) the sum of (a) the YTD Annual Storage Capacity Availability *plus* (b) Force Majeure Unavailability *times* (ii) the Effective Storage Capacity is less than seventy percent (70%) of the Installed Storage Capacity, then:

Capacity Availability Factor = (Guaranteed Storage Availability – YTD Annual Storage Capacity Availability) * 1.5 – (Force Majeure Unavailability * 0.5)

"**Force Majeure Unavailability**" means Total YTD Unavailable Calculation Intervals that resulted from a Force Majeure Event for which Seller is the claiming party divided by the Total YTD Calculation Intervals.

provided, if the result of any of the calculations in clauses (B) or (C) above is greater than 1.0, then the Capacity Availability Factor will be deemed to be equal to 1.0.

(e) Test Energy. Test Energy is compensated in accordance with Section 3.6.

(f) Tax Credits. The Parties agree that none of the Renewable Rate, the Storage Rate nor the Test Energy Rate are subject to adjustment or amendment if Seller fails to receive any Tax Credits, or if any Tax Credits expire, are repealed or otherwise cease to apply to Seller or the Facility in whole or in part, or Seller or its investors are unable to benefit from any Tax Credits, or if additional Tax Credits become available due to extension of Tax Credits or creation of new Tax Credits. Seller shall bear all risks, financial and otherwise, throughout the Contract Term, associated with Seller's or the Facility's eligibility to receive Tax Credits or to qualify for accelerated depreciation for Seller's accounting, reporting or Tax purposes. The obligations of the Parties hereunder, including those obligations set forth herein regarding the purchase and price for and Seller's obligation to deliver Facility Energy and Product, shall be effective regardless of whether construction of the Facility (or any portion thereof) or the sale of Facility Energy is eligible for, or receives Tax Credits during the Contract Term.

EXHIBIT D

SCHEDULING COORDINATOR RESPONSIBILITIES

(a) Buyer as Scheduling Coordinator for the Facility. Upon Initial Synchronization of the Facility to the CAISO Grid, Buyer shall be the Scheduling Coordinator or designate a qualified third party to provide Scheduling Coordinator services with the CAISO for the Facility for both the delivery and the receipt of Charging Energy Test Energy and the Product at the Delivery Point. At least thirty (30) days prior to the Initial Synchronization of the Facility to the CAISO Grid, (i) Seller shall take all actions and execute and deliver to Buyer and the CAISO all documents necessary to authorize or designate Buyer (or Buyer's designee) as the Scheduling Coordinator for the Facility effective as of the Initial Synchronization of the Facility to the CAISO Grid, and (ii) Buyer shall, and shall cause its designee to, take all actions and execute and deliver to Seller and the CAISO all documents necessary to authorize or designate Buyer or its designee as the Scheduling Coordinator for the Facility effective as of the Initial Synchronization of the Facility to the CAISO Grid. On and after Initial Synchronization of the Facility to the CAISO Grid, Seller shall not authorize or designate any other party to act as the Facility's Scheduling Coordinator, nor shall Seller perform for its own benefit the duties of Scheduling Coordinator, and Seller shall not revoke Buyer's authorization to act as the Facility's Scheduling Coordinator unless agreed to by Buyer. Buyer (as the Facility's SC) shall submit bids to the CAISO in accordance with this Agreement and the applicable CAISO Tariff, protocols and Scheduling practices for Product on a day-ahead, hour-ahead, fifteen-minute market, real-time or other market basis that may develop after the Effective Date, as determined by Buyer. Seller shall cooperate with Buyer to enable the grid-charging designation function with the CAISO for the Storage Facility. Buyer shall have the exclusive right to enable the grid-charging designation with respect to Scheduling the charging of the Storage Facility.

(b) Notices. Buyer (as the Facility's SC) shall provide Seller with access to a web-based system through which Seller shall submit to Buyer and the CAISO all notices and updates required under the CAISO Tariff regarding the Facility's status, including, but not limited to, all outage requests, forced outages, forced outage reports, clearance requests, or must offer waiver forms. Seller shall cooperate with Buyer to provide such notices and updates. If the web-based system is not available, Seller shall promptly submit such information to Buyer and the CAISO by (in order of preference) telephonically or electronic mail to the personnel designated to receive such information.

(c) CAISO Costs and Revenues. Except as otherwise set forth below and as set forth in Section 4.5(g), Buyer (as Scheduling Coordinator for the Facility) shall be responsible for CAISO costs (including penalties, Imbalance Energy costs (except as otherwise set forth in this Agreement), and other charges) and shall be entitled to all CAISO revenues (including credits, Imbalance Energy revenues, and other payments), including revenues associated with CAISO dispatches, bid cost recovery, Inter-SC Trade credits, or other credits in respect of the Product Scheduled or delivered from the Facility. Seller shall be responsible for all CAISO costs and penalties (including Imbalance Energy costs) and Buyer's lost opportunity to obtain a share of CAISO's allocation to non-violating Scheduling Coordinators of the penalties and/or sanctions collected from sanctioned or penalized market participants (not including Availability Incentive Payments or Non-Availability Charges (as such terms are defined in the CAISO Tariff)) resulting

from any deviations from Charging Notices or Discharging Notices or otherwise charging or discharging the Facility when not subject to a Charging Notice or Discharging Notice, or any failure by Seller to abide by the CAISO Tariff, the terms of this Agreement or the outage notification requirements set forth in this Agreement (except to the extent such non-compliance is caused by Buyer's failure to perform its duties as Scheduling Coordinator for the Facility). Buyer or its designated SC shall make commercially reasonable efforts to cooperate with Seller to allow Seller to make Resource Adequacy substitutions with respect to such outages as permitted by the CAISO Tariff. The Parties agree that any Availability Incentive Payments (as defined in the CAISO Tariff) are for the benefit of Seller and for Seller's account and that any Non-Availability Charges (as defined in the CAISO Tariff) are the responsibility of Seller and for Seller's account. In addition, if during the Delivery Term, 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 upon the Facility or to Buyer as Scheduling Coordinator due to failure by Seller to abide by the CAISO Tariff or the outage notification requirements set forth in this Agreement, the cost of the sanctions or penalties shall be Seller's responsibility.

(d) CAISO Settlements. Buyer (as the Facility's SC) shall be responsible for all settlement functions with the CAISO related to the Facility. Buyer shall render a separate invoice to Seller for any CAISO payments, charges or penalties ("**CAISO Charges Invoice**") for which Seller is responsible under this Agreement. CAISO Charges Invoices shall be rendered after settlement information becomes available from the CAISO that identifies any CAISO charges. Notwithstanding the foregoing, Seller acknowledges that the CAISO will issue additional invoices reflecting CAISO adjustments to such CAISO charges. Buyer shall review, validate, and if requested by Seller under paragraph (e) below, dispute any charges that are the responsibility of Seller in a timely manner and consistent with Buyer's existing settlement processes for charges that are Buyer's responsibilities. Subject to Seller's right to dispute and to have Buyer pursue the dispute of any such invoices, Seller shall pay the amount of CAISO Charges Invoices within ten (10) Business Days of Seller's receipt of the CAISO Charges Invoice. If Seller fails to pay such CAISO Charges Invoice within that period, Buyer may net or offset any amounts owing to it for such CAISO Charges Invoices against any future amounts it may owe to Seller under this Agreement. The obligations under this Section with respect to payment of CAISO Charges Invoices shall survive the expiration or termination of this Agreement.

(e) Dispute Costs. Buyer (as the Facility's SC) may be required by Seller to dispute CAISO settlements in respect of the Facility. Seller agrees to pay Buyer's costs and expenses (including reasonable attorneys' fees) associated with its involvement with such CAISO disputes to the extent they relate to CAISO charges payable by Seller with respect to the Facility that Seller has directed Buyer to dispute.

(f) Terminating Buyer's Designation as Scheduling Coordinator. At least thirty (30) days prior to expiration of this Agreement or as soon as reasonably practicable upon an earlier termination of this Agreement, the Parties will take all actions necessary to terminate the designation of Buyer as Scheduling Coordinator for the Facility as of 11:59 p.m. on such expiration date.

(g) Master Data File and Resource Data Template. The Parties will cooperate to comply with the applicable deadlines for filing and updating the information for the Facility in the

Master Resource Database and Master Data File. Seller shall provide the data to the CAISO (and to Buyer) that is required for the CAISO's Master Data File and Resource Data Template (or successor data systems) for the Facility consistent with this Agreement at least five (5) Business Days before the deadline for submission to CAISO and Buyer (as SC) shall promptly provide such data to CAISO. Seller shall provide the data that is required for the CPUC's Master Resource Database for the Facility consistent with this Agreement to Buyer for review and approval at least five (5) Business Days before the deadline for submission of such to the CPUC. Neither Party shall change such data without the other Party's prior written consent. At least once per Contract Year, Seller shall cooperate with Buyer to review and confirm that the data provided for the CAISO's Master Data File and Resource Data Template (or successor data systems) and CPUC's Master Resource Database for this Facility remains consistent with the actual operating characteristics of the Facility and provide such information and any additional supporting documentation to Buyer for review at least five (5) Business Days prior to submission to the CAISO or CPUC as applicable.

(h) NERC Reliability Standards. Buyer (as Scheduling Coordinator) shall cooperate reasonably with Seller to the extent necessary to enable Seller to comply, and for Seller to demonstrate Seller's compliance with, NERC reliability standards. This cooperation shall include the provision of information in Buyer's possession that Buyer (as Scheduling Coordinator) has provided to the CAISO related to the Facility or actions taken by Buyer (as Scheduling Coordinator) related to Seller's compliance with NERC reliability standards.

EXHIBIT E

PROGRESS REPORTING FORM

Each Progress Report must include the following items:

1. Executive Summary.

2. Facility description.

3. Site plan of the Facility.

4. Description of any material planned changes to the Facility or the Site.

5. Gantt chart schedule showing progress on achieving each of the Milestones.

6. Summary of activities during the previous calendar quarter or month, as applicable, including any OSHA labor hour reports.

7. Forecast of activities scheduled for the current calendar quarter or month, as applicable.

8. Written description about the progress relative to Seller's Milestones, including whether Seller has met or is on target to meet the Milestones.

9. List of issues that are reasonably likely to affect Seller's Milestones.

10. A status report of start-up activities including a forecast of activities ongoing and after start-up, a report on Facility performance including performance projections for the next twelve (12) months.

11. Progress and schedule of all material agreements, contracts, permits (including Material Permits), approvals, technical studies, financing agreements and major equipment purchase orders showing the start dates, completion dates, and completion percentages.

12. Pictures, in sufficient quantity and of appropriate detail, in order to document construction and startup progress of the Facility, the interconnection into the Transmission System and all other interconnection utility services.

13. Workforce Development or Supplier Diversity Reporting (if applicable). Format to be provided by Buyer.

14. Any other documentation reasonably requested by Buyer.

EXHIBIT F-1

MONTHLY EXPECTED AVAILABLE GENERATING FACILITY CAPACITY

[MW Per Hour] – [*Insert Month*]

	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00
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The foregoing table is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement.

EXHIBIT F-2

MONTHLY EXPECTED PV ENERGY

[MWh Per Hour] – [*Insert Month*]

	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00
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The foregoing table is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement.

EXHIBIT F-3

MONTHLY EXPECTED AVAILABLE EFFECTIVE STORAGE CAPACITY

[MW Per Hour] – [*Insert Month*]

	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00
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The foregoing table is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement.

EXHIBIT F-4

MONTHLY EXPECTED AVAILABLE STORAGE CAPABILITY

[MWh Per Hour] – [*Insert Month*]

	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00
Day 1																								
Day 2																								
Day 3																								
Day 4																								
Day 5																								
[insert additional rows for each day in the month]																								
Day 29																								
Day 30																								
Day 31																								

The foregoing table is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement.

EXHIBIT G

GUARANTEED ENERGY PRODUCTION DAMAGES CALCULATION

In accordance with Section 4.7, if Seller fails to achieve the Guaranteed Energy Production during any Performance Measurement Period, a liquidated damages payment shall be due from Seller to Buyer, calculated as follows:

[(A – B) * (C – D)] – (E + F)

where:

A = the Guaranteed Energy Production amount for the Performance Measurement Period, in MWh

B = the Adjusted Energy Production amount for the Performance Measurement Period, in MWh

C = Replacement price for the Performance Measurement Period, in $/MWh, which is the sum of (a) the simple average of the Integrated Forward Market hourly price for all the hours in the Performance Measurement Period, as published by the CAISO, for the Existing Zone Generation Trading Hub (as defined in the CAISO Tariff) for the Delivery Point, plus (b) the market value of Replacement Green Attributes

D = the Renewable Rate, in $/MWh

E = The amount of Energy Replacement Damages paid by Seller with respect to the immediately preceding Performance Measurement Period

F = The product of (a) the amount of Replacement Product in MWhs delivered by Seller in the immediately preceding Contract Year and (b) the price which is (C – D)

"**Adjusted Energy Production**" shall mean the sum of the following: PV Energy + Deemed Delivered Energy + Lost Output + Replacement Product.

"**Replacement Energy**" means energy produced by a facility other than the Facility, that is provided by Seller to Buyer as Replacement Product, in an amount equal to the amount of Replacement Green Attributes provided by Seller as Replacement Product for the same Performance Measurement Period.

"**Replacement Green Attributes**" means Renewable Energy Credits of the same Portfolio Content Category (i.e., PCC1) as the Green Attributes portion of the Product and of the same year of production as the Renewable Energy Credits that would have been generated by the Facility.

"**Replacement Product**" means (a) Replacement Energy, and (b) Replacement Green Attributes in an amount not to exceed ten percent (10%) of the Expected Energy for the previous Contract Year.

No payment shall be due if the calculation of (a) (A - B), (b) (C - D), or (c) [(A – B) * (C – D)] – (E + F), yields a negative number. In no event will Buyer owe any payment to Seller pursuant to this Exhibit G.

Within sixty (60) days after each Contract Year, Buyer shall send Seller Notice of the amount of damages owing, if any, which shall be payable to Buyer before the later of (a) thirty (30) days of such Notice and (b) ninety (90) days after each Performance Measurement Period; *provided*, the amount of damages owing shall be adjusted to account for Replacement Product, if any, delivered after each applicable Performance Measurement Period.

EXHIBIT H

FORM OF COMMERCIAL OPERATION DATE CERTIFICATE

This certification ("**Certification**") of Commercial Operation is delivered by _____[*licensed professional engineer*] ("**Engineer**") to Clean Power Alliance of Southern California, a California joint powers authority **(**"**Buyer**") in accordance with the terms of that certain Renewable Power Purchase Agreement dated _____ ("**Agreement**") by and between [*Seller*] and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

As of _____[DATE]_____, Engineer hereby certifies and represents to Buyer the following:

1. The Facility is fully operational, reliable and interconnected, fully integrated and synchronized with the Transmission System.

2. Seller has installed equipment for the Generating Facility with an Installed PV Capacity of no less than ninety-five percent (95%) of the Guaranteed PV Capacity.

3. Seller has installed equipment for the Storage Facility with an Installed Storage Capacity of no less than ninety-five percent (95%) of the Guaranteed Storage Capacity and is capable of receiving Charging Energy from both CAISO Grid and the Generating Facility.

4. Authorization to parallel the Facility was obtained by the Transmission Provider, [Name of Transmission Provider as appropriate] on___[DATE]____.

5. The Transmission Provider has provided documentation supporting full unrestricted release of the Facility for Commercial Operation by [Name of Transmission Provider as appropriate] on _____[DATE]_____.

6. The CAISO has provided notification supporting Commercial Operation of the Facility, in accordance with the CAISO Tariff on _____[DATE]_____.

7. Seller has segregated and separately metered Station Use to the extent reasonably possible in accordance with Prudent Operating Practice, and any such meter(s) have the same or greater level of accuracy as is required for CAISO certified meters used for settlement purposes.

8. The Storage Facility and its meters have been designed and installed in a manner such that all Energy used for Auxiliary Use within the Storage Facility is metered, and there is no Station Use (other than Auxiliary Use) that is served by Energy from the Storage Facility.

9. The total rated power of the Storage Facility inverters associated with the Installed Storage Capacity as measured to the Delivery Point is at least [____] MW charging and [____] MW discharging at 45°C ambient air temperature.

EXECUTED by **[**LICENSED PROFESSIONAL ENGINEER**]**

this _____ day of _____, 20__.

[LICENSED PROFESSIONAL ENGINEER]

By:_____

Its:_____

Date:_____

EXHIBIT I-1

FORM OF INSTALLED CAPACITY CERTIFICATE

This certification ("**Certification**") of Installed Capacity and related characteristics of the Facility is delivered by [licensed professional engineer] ("**Engineer**") to Clean Power Alliance of Southern California, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Renewable Power Purchase Agreement dated _____ ("**Agreement**") by and between [*SELLER ENTITY*] and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

I hereby certify the following:

(a) The installed nameplate capacity of the Generating Facility is __ MW AC ("**Installed PV Capacity**");

(b) The Commercial Operation Storage Capacity Test conducted on [Date] demonstrated a maximum dependable operating capability to discharge electric energy of __ MW AC to the Delivery Point at four (4) hours of continuous discharge, in accordance with the testing procedures, requirements and protocols set forth in Section 4.9 and Exhibit O (the "**Installed Storage Capacity**");

(c) The sum of (a) and (b) is __ MW AC and shall be the "**Installed Capacity**"; and

(d) Such Commercial Operation Storage Capacity Test demonstrated (i) a Battery Charging Factor of __% and (ii) a Battery Discharging Factor of __%, each in accordance with the testing procedures, requirements and protocols set forth in Section 4.9 and Exhibit O.

EXECUTED by **[**LICENSED PROFESSIONAL ENGINEER**]**

this _____ day of _____, 20__.

[LICENSED PROFESSIONAL ENGINEER**]**

By:_____

Its:_____

Date:_____

EXHIBIT I-2

FORM OF EFFECTIVE STORAGE CAPACITY CERTIFICATE

This certification ("**Certification**") of Effective Storage Capacity and related characteristics of the Facility is delivered by [licensed professional engineer] ("**Engineer**") to Clean Power Alliance of Southern California, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Renewable Power Purchase Agreement dated _____ ("**Agreement**") by and between [*SELLER ENTITY*] and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

I hereby certify the following:

(a) The Storage Capacity Test conducted on [Date] demonstrated a maximum dependable operating capability to discharge electric energy of __ MW AC to the Delivery Point at four (4) hours of continuous discharge, in accordance with the testing procedures, requirements and protocols set forth in Section 4.9 and Exhibit O of the Agreement (the "**Effective Storage Capacity**"); and

(b) Such Storage Capacity Test demonstrated (i) a Battery Charging Factor of __% and (ii) a Battery Discharging Factor of __%, each in accordance with the testing procedures, requirements and protocols set forth in Section 4.9 and Exhibit O.

EXECUTED by **[**LICENSED PROFESSIONAL ENGINEER**]**

this _____ day of _____, 20__.

[LICENSED PROFESSIONAL ENGINEER**]**

By:_____

Its:_____

Date:_____

EXHIBIT J

FORM OF CONSTRUCTION START DATE CERTIFICATE

This certification of Construction Start Date ("**Certification**") is delivered by [SELLER ENTITY] ("**Seller**") to Clean Power Alliance of Southern California, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Renewable Power Purchase Agreement dated _____ ("**Agreement**") by and between Seller and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Seller hereby certifies and represents to Buyer the following:

(1) Construction Start (as defined in Exhibit B of the Agreement) has occurred, and a copy of the notice to proceed that Seller issued to its contractor as part of Construction Start is attached hereto.

(2) the Construction Start Date occurred on _____ (the "**Construction Start Date**"); and

(3) the precise Site on which the Facility is located is, which must be within the boundaries of the previously identified Site: _____ (such description shall amend the description of the Site in Exhibit A of the Agreement).

IN WITNESS WHEREOF, the undersigned has executed this Certification on behalf of Seller as of the ___ day of _____.

[SELLER ENTITY]

By:_____
Its:_____

Date:_____

EXHIBIT K

FORM OF LETTER OF CREDIT

[Issuing Bank Letterhead and Address]

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [XXXXXXX]
Date:
Bank Ref.:
Amount: US$[XXXXXXXX]

Beneficiary:

Clean Power Alliance of Southern California,
a California joint powers authority
801 S Grand, Suite 400
Los Angeles, CA 90017

Ladies and Gentlemen:

By the order of _____ ("Applicant"), we, [insert bank name and address] ("Issuer") hereby issue our Irrevocable Standby Letter of Credit No. [XXXXXXX] (the "Letter of Credit") in favor of Clean Power Alliance of Southern California, a California joint powers authority ("Beneficiary"), 801 S Grand, Suite 400, Los Angeles, CA 90017, for an amount not to exceed the aggregate sum of U.S. $[XXXXXX] (United States Dollars [XXXXX] and 00/100) (the "Available Amount"), pursuant to that certain Renewable Power Purchase Agreement dated as of _____ and as amended (the "Agreement") between Applicant and Beneficiary. This Letter of Credit shall become effective immediately and shall be of no further force or effect at 5:00 p.m., California time, on [Date] or, if such day is not a Business Day (as hereinafter defined), on the next Business Day (as may be extended pursuant to the terms of this Letter of Credit, the "Expiration Date").

For the purposes hereof, "Business Day" shall mean any day on which commercial banks are not authorized or required to close in Los Angeles, California.

Funds under this Letter of Credit are available to Beneficiary by valid presentation on or before 5:00 p.m. California time, on or before the Expiration Date of a copy of this Letter of Credit No. [XXXXXXX] and all amendments accompanied by Beneficiary's dated statement purportedly signed by Beneficiary's duly authorized representative, in the form attached hereto as Exhibit A, containing one of the two alternative paragraphs set forth in paragraph 2 therein.

Any full or partial drawing hereunder may be requested by transmitting copies of the requisite documents as described above to the Issuer by facsimile at [facsimile number for draws] or such other number as specified from time-to-time by the Issuer.

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.
Issuer hereby agrees that all drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented to the Issuer before the Expiration Date. All correspondence and any drawings (other than those made by facsimile) hereunder are to be directed to [Issuer address/contact]. Issuer undertakes to make payment to Beneficiary under this Standby Letter of Credit within three (3) business days of receipt by Issuer of a properly presented Drawing Certificate. The Beneficiary shall receive payment from Issuer by wire transfer to the bank account of the Beneficiary designated in the Drawing Certificate.

Partial draws are permitted under this Letter of Credit, and this Letter of Credit shall remain in full force and effect with respect to any continuing balance; provided, the Available Amount shall be reduced by the amount of each such drawing.

It is a condition of this Letter of Credit that it shall be deemed automatically extended without an amendment for a one year period (or, if such period ends on a day that is not a Business Day, until the next Business Day thereafter) beginning on the present Expiration Date hereof and upon each anniversary for such date (or, if such period ends on a day that is not a Business Day, until the next Business Day thereafter), unless at least one hundred twenty (120) days prior to any such Expiration Date Issuer has sent Beneficiary written notice by overnight courier service at the address provided below that Issuer elects not to extend this Letter of Credit, in which case it will expire on its then-current Expiration Date. No presentation made under this Letter of Credit after such Expiration Date will be honored.

Notwithstanding any reference in this Letter of Credit to any other documents, instruments or agreements, this Letter of Credit contains the entire agreement between Beneficiary and Issuer relating to the obligations of Issuer hereunder.

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.

Please address all correspondence regarding this Letter of Credit to the attention of the Letter of Credit Department at [insert bank address information], referring specifically to Issuer's Letter of Credit No. [XXXXXXX]. For telephone assistance, please contact Issuer's Standby Letter of Credit Department at [XXX-XXX-XXXX] and have this Letter of Credit available.

All notices to Beneficiary shall be in writing and are required to be sent by certified letter, overnight courier, or delivered in person to: Clean Power Alliance of Southern California, a California joint powers authority, Chief Financial Officer, 801 S Grand, Suite 400, Los Angeles, CA 90017. Only notices to Beneficiary meeting the requirements of this paragraph shall be

considered valid. Any notice to Beneficiary which is not in accordance with this paragraph shall be void and of no force or effect.

[Bank Name]

_____
[Insert officer name]
[Insert officer title]

EXHIBIT A

(DRAW REQUEST SHOULD BE ON BENEFICIARY'S LETTERHEAD)

Drawing Certificate

[Insert Bank Name and Address]

Ladies and Gentlemen:

The undersigned, a duly authorized representative of [ ], [ADDRESS], as beneficiary (the "Beneficiary") of the Irrevocable Letter of Credit No. [XXXXXXX] (the "Letter of Credit") issued by [insert bank name] (the "Bank") by order of _____ (the "Applicant"), hereby certifies to the Bank as follows:

1. Applicant and Beneficiary are party to that certain Renewable Power Purchase Agreement dated as of _____, 20__ (the "Agreement").

2. Beneficiary is making a drawing under this Letter of Credit in the amount of U.S. $_____ because a Seller Event of Default (as such term is defined in the Agreement) has occurred.

or

Beneficiary is making a drawing under this Letter of Credit in the amount of U.S. $_____, which equals the full available amount under the Letter of Credit, because Applicant is required to maintain the Letter of Credit in force and effect beyond the expiration date of the Letter of Credit but has failed to provide Beneficiary with a replacement Letter of Credit or other acceptable instrument within thirty (30) days prior to such expiration date.

3. The undersigned is a duly authorized representative of [ ] and is authorized to execute and deliver this Drawing Certificate on behalf of Beneficiary.

You are hereby directed to make payment of the requested amount to [ ] by wire transfer in immediately available funds to the following account:

[Specify account information]

[ ]

_____
Name and Title of Authorized Representative

Date_____

EXHIBIT L

FORM OF LIMITED ASSIGNMENT AGREEMENT

FORM OF ASSIGNMENT SCHEDULE
[SELLER ENTITY]

Assigned Product: Energy and Green Attributes (PCC1)

Assigned Delivery Point: [__]

Assigned Prepay Quantity: As set forth in Appendix 2; provided that (i) all Assigned Products shall be delivered pursuant to the Limited Assignment Agreement during the Assignment Period as provided in Appendix 1 and (ii) the Assigned Prepay Quantity is defined for the convenience of PPA Buyer and [Financing Party] and shall have no impact on the obligations of the Parties under the Limited Assignment Agreement.

APC Contract Price: $[__]/MWh

Assignment Period: [__]

ANNEX I – FORM OF LIMITED ASSIGNMENT AGREEMENT

This Limited Assignment Agreement (this "**Assignment Agreement**" or "**Agreement**") is entered into as of [_____] by and among [PPA Seller], a [_____] ("**PPA Seller**"), Clean Power Alliance, a California joint powers authority ("**PPA Buyer**"), and [Financing Party], a [_____] ("**Financing Party**"), and relates to that certain power purchase agreement (the "**PPA**") between PPA Buyer and PPA Seller as defined in Appendix 1 hereto. Unless the context otherwise specifies or requires, capitalized terms used but not defined in this Agreement have the meanings set forth in the PPA.

In consideration of the premises above and the mutual covenants and agreements herein set forth, PPA Seller, PPA Buyer and Financing Party (the "**Parties**" hereto; each is a "**Party**") agree as follows:

1. Limited Assignment and Delegation.

(a) PPA Buyer hereby assigns, transfers, and conveys to Financing Party all right, title and interest in and to the rights of PPA Buyer under the PPA to receive delivery of, or have made available to it, the products described in Appendix 1 (collectively, the "**Assigned Product**") during the Assignment Period (as defined in Appendix 1), as such rights may be limited or further described in the "Further Information" section on Appendix 1 (the "**Assigned Product Rights**"). All Assigned Product shall be delivered pursuant to the terms and conditions of this Agreement during the Assignment Period as provided in Appendix 1. All other rights of PPA Buyer under the PPA are expressly reserved for PPA Buyer.

(b) PPA Buyer hereby delegates to Financing Party the obligation to pay for all Assigned Product that is actually delivered to Financing Party pursuant to the Assigned Product Rights during the Assignment Period (the "**Delivered Product Payment Obligation**" and together with the Assigned Product Rights, collectively the "**Assigned Rights and Obligations**"); provided that (i) all other obligations of PPA Buyer under the PPA are expressly retained by PPA Buyer and PPA Buyer shall be solely responsible for any amounts due to PPA Seller that are not directly related to Assigned Product; and (ii) the Parties acknowledge and agree that PPA Seller will only be obligated to deliver a single consolidated invoice during the Assignment Period (with a copy to Financing Party consistent with Section 1(d) hereof). To the extent Financing Party fails to pay the Delivered Product Payment Obligation by the due date for payment set forth in the PPA, notwithstanding anything in this Agreement to the contrary, PPA Buyer agrees that it shall have the obligation to make such payment and that it will be an Event of Default pursuant to Section 11.1 if PPA Buyer does not make such payment within five (5) Business Days of receiving Notice of such non-payment from PPA Seller.

(c) Financing Party hereby accepts and PPA Seller hereby consents and agrees to the assignment, transfer, conveyance, and delegation described in clauses (a) and (b) above. PPA Seller does not waive or novate any obligations of PPA Buyer hereby and breach of any obligations by Financing Party shall be a breach of the PPA by PPA Buyer.

(d) All scheduling of Assigned Product and other communications related to the PPA shall take place pursuant to the terms of the PPA with PPA Buyer acting on behalf of Financing Party; provided that during the Assignment Period (i) title to Assigned Product will pass from PPA Seller to Financing Party upon delivery or making available by PPA Seller of Assigned Product in accordance with the PPA; (ii) PPA Buyer will

provide copies to Financing Party of any Notice of a Force Majeure Event or Event of Default or default, breach or other occurrence that, if not cured within the applicable grace period, could result in an Event of Default contemporaneously upon delivery thereof to PPA Seller and promptly after receipt thereof from PPA Seller; (iii) PPA Seller will provide copies to Financing Party of annual forecasts of Energy and monthly forecasts of available capacity and Energy provided pursuant to Section 4.3 of the PPA; (iv) PPA Seller will provide copies to Financing Party of all invoices and supporting data provided to PPA Buyer pursuant to Section 8.1, provided that any payment adjustments or subsequent reconciliations occurring after the date that is 10 days prior to the payment due date for a monthly invoice, including pursuant to Section 8.4, will be resolved solely between PPA Buyer and PPA Seller and therefore PPA Seller will not be obligated to deliver copies of any communications relating thereto to Financing Party; and (v) PPA Buyer and PPA Seller, as applicable, will provide copies to Financing Party of any other information reasonably requested by Financing Party relating to Assigned Product.

(e) PPA Seller acknowledges that (i) Financing Party intends to immediately transfer title to any Assigned Product received from PPA Seller through one or more intermediaries such that all Assigned Product will be re-delivered to PPA Buyer; and (ii) in the event that PPA Buyer fails to pay the relevant intermediary entity for any such Assigned Products, the receivables owed by PPA Buyer for such Assigned Products ("PPA Buyer Receivables") may be transferred to Financing Party. To the extent any such PPA Buyer Receivables are transferred to Financing Party, Financing Party may transfer such PPA Buyer Receivables to PPA Seller and apply the face amount thereof as a reduction to any Delivered Product Payment Obligation. Thereafter, PPA Seller shall be entitled to pursue collection on such PPA Buyer Receivables directly against PPA Buyer.

(f) On or before the commencement of the Assignment Period, [_____] ("Guarantor") will issue, in favor of PPA Seller, a guaranty of Financing Party's payment obligations under this Assignment Agreement substantially in the form of Appendix 3 attached hereto ("**Guaranty**"). PPA Seller may draw upon, apply, or make demand under the Guaranty to recover any unpaid amounts due from Financing Party and not timely paid as set forth herein; provided, however, that PPA Seller's rights under the Guaranty and this subsection (f) shall not reduce or affect PPA Buyer's obligation to render payments when due under the PPA or extend any deadlines in the PPA.

(g) All payments due to PPA Seller in respect of Sections 3.3 of the PPA will be paid (subject to Section 1(e) above) by Financing Party into the custodial account listed in Appendix 1, and all payments due to PPA Buyer in respect of Section 3.3 of the PPA will be paid by PPA Seller into the custodial account listed in Appendix 1, which custodial account is established under that certain Custodial Agreement of even date herewith that Financing Party, PPA Buyer and [Custodian] have entered into for the administration of payments due hereunder.

(h) The Assigned Prepay Quantity set forth in Appendix 2 relates to obligations by and between Financing Party and PPA Buyer and has no impact on PPA Seller's rights and obligations under the PPA.

(i) Except as expressly set forth in Section 1(a) of this Assignment Agreement with respect to the product delivery obligations, nothing in this Agreement modifies or amends any rights or obligations of PPA Buyer and PPA Seller under the PPA.

2. Assignment Early Termination.

(a) The Assignment Period may be terminated early upon the occurrence of any of the following:

(1) delivery of a written notice of termination specifying a termination date by either Financing Party or PPA Buyer to each of the other Parties;

(2) delivery of a written notice of termination specifying a termination date by PPA Seller to each of Financing Party and PPA Buyer following Financing Party's failure to pay when due any amounts owed to PPA Seller in respect of any Delivered Product Payment Obligation and such payment is not made by Financing Party within five (5) business days following receipt by Financing Party and PPA Buyer of written notice;

(3) delivery of a written notice by PPA Seller if any of the events described in the definition of Bankrupt in the PPA occurs with respect to Financing Party;

(4) delivery of a written notice by Financing Party if any of the events described in the definition of Bankrupt in the PPA occurs with respect to PPA Seller; or

(5) failure of the Guaranty provided by the Guarantor to PPA Seller hereunder to be in full force and effect (other than in accordance with its terms) prior to the indefeasible satisfaction of all obligations of Financing Party hereunder or if the Guarantor provides notice of termination of the Guaranty or otherwise repudiates, disaffirms, disclaims, or rejects, in whole or in part, or challenges the validity of the Guaranty.

(b) The Assignment Period will end at the end of last delivery hour on the date specified in the termination notice provided pursuant to Section 2(a), which date shall not be earlier than the end of the last day of the calendar month in which such notice is delivered if termination is pursuant to clause (a)(1) or (a)(2) above. All Assigned Rights and Obligations shall revert from Financing Party to PPA Buyer upon the expiration or early termination of the Assignment Period, provided that (i) Financing Party shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered or made available to Financing Party prior to the end of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the expiration or early termination of the Assignment Period.

(c) The Assignment Period will automatically terminate upon the expiration or early termination of the PPA. All Assigned Rights and Obligations shall revert from Financing Party to PPA Buyer upon the expiration of or early termination of the PPA, provided that (i) Financing Party shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered to Financing Party prior to the end of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the expiration or early termination of the Assignment Period.

3. Representations and Warranties. The PPA Seller and the PPA Buyer represent and warrant to Financing Party that (a) the PPA is in full force and effect; and (b) no event or

circumstance exists (or would exist with the passage of time or the giving of notice) that would give either of them the right to terminate the PPA or suspend performance thereunder.

4. Notices. Any notice, demand, or request required or authorized by this Assignment Agreement to be given by one Party to another Party shall be delivered in accordance with Article 9 of the PPA and to the addresses of each of PPA Seller and PPA Buyer specified in the PPA. PPA Buyer agrees to notify Financing Party of any updates to such notice information, including any updates provided by PPA Seller to PPA Buyer. Notices to Financing Party shall be provided to the following address, as such address may be updated by Financing Party from time to time by notice to the other Parties:

Financing Party

_____

_____

Email: _____

5. Miscellaneous. Section 13.2 (Buyer's Representations and Warranties), Article 18 (Confidential Information), Sections 19.5 (Severability), 19.7 (Counterparts), 19.2 (Amendments), 19.4 (No Agency, Partnership, Joint Venture or Lease), 19.6 (Mobile-Sierra), 19.8 (Electronic Delivery), 19.9 (Binding Effect) and 19.10 (No Recourse to Members of Buyer) of the PPA are incorporated by reference into this Agreement, *mutatis mutandis*, as if fully set forth herein.

6. U.S. Resolution Stay Provisions. The Parties hereby confirm that they are adherents to the ISDA 2018 U.S. Resolution Stay Protocol ("ISDA U.S. Stay Protocol"), the terms of the ISDA U.S. Stay Protocol are incorporated into and form a part of this Agreement, and for the purposes of such incorporation, (i) Financing Party shall be deemed to be a Regulated Entity, (ii) each of PPA Buyer and PPA Seller shall be deemed to be an Adhering Party, and (iii) this Agreement shall be deemed a Protocol Covered Agreement. In the event of any inconsistencies between this Agreement and the ISDA U.S. Stay Protocol, the ISDA U.S. Stay Protocol will prevail.

7. Governing Law, Jurisdiction, Waiver of Jury Trial.

(a) **Governing Law.** This Assignment Agreement and the rights and duties of the parties under this Assignment Agreement will be governed by and construed, enforced and performed in accordance with the laws of the State of California, without reference to any conflicts of law provisions that would direct the application of another jurisdiction's laws; provided, however, that the authority of PPA Buyer to enter into and perform its obligations under this Assignment Agreement shall be determined in accordance with the laws of the State of California.

(b) **Jurisdiction.** Each party submits to the exclusive jurisdiction of the federal courts of the United States of America for the Southern District of California sitting in the city and county of Los Angeles.

(c) **Waiver of Right to Trial by Jury.** Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to this assignment agreement.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the Parties have executed this Assignment Agreement effective as of the date first set forth above.

[PPA SELLER]

By: _____

Name: _____

Title: _____

CLEAN POWER ALLIANCE

By: _____

Name: _____

Title: _____

[FINANCING PARTY]

By: _____

Name:
Title:

Execution and delivery of the foregoing Assignment Agreement is hereby approved.

CALIFORNIA COMMUNITY CHOICE FINANCING AUTHORITY

By: _____

Name:
Title:

Appendix 1

Assigned Rights and Obligations

PPA: "**PPA**" means that certain Power Purchase and Sale Agreement dated [____], by and between Clean Power Alliance and [____], a [____] limited liability company, as amended from time to time.

"**Assignment Period**" means the period beginning on [_____] and extending until [_____], provided that in no event shall the Assignment Period extend past the earlier of (i) the termination of the Assignment Period pursuant to Section 2 of the Assignment Agreement and (ii) the end of the Delivery Term under the PPA; provided that applicable provisions of this Agreement shall continue in effect after termination of the Assignment Period to the extent necessary to enforce or complete, duties, obligations or responsibilities of the Parties arising prior to the termination.

Assigned Product: "**Assigned Product**" includes (i) Energy and (ii) Green Attributes (including PCC1 RECs); and (iii) all rights and products and attributes associated with the maximum dependable operating capability of the Storage Facility to be charged with, store and discharge electric energy; provided, however, that the following are expressly excluded from the Assigned Product and any and all rights and obligations with respect to the following shall remain with Buyer: Ancillary Services; Capacity Attributes; Resource Adequacy Benefits; Discharging Energy; the right to provide Charging Notices and Discharging Notices or otherwise to charge, discharge or schedule the Storage Facility or the Storage Product; and obligations to supply Charging Energy in accordance with the PPA

Further Information: PPA Seller shall continue to transfer the WREGIS Certificates associated with all Renewable Energy Credits corresponding to all Metered Energy under the PPA pursuant to Section 4.7 of the PPA, provided that the transferee of such WREGIS Certificates may be changed from time to time in accordance with the written instructions of both Financing Party and PPA Buyer upon twenty (20) Business Days' notice, which change shall be effective as of the first day of the next calendar month, unless otherwise agreed, provided that the entity to which such WREGIS Certificates are to be transferred has taken all steps at it or PPA Buyer's sole cost to be entitled to and capable of receiving such WREGIS Certificates. All Assigned Product delivered by PPA Seller to Financing Party shall be a sale made at wholesale, with Financing Party reselling all such Assigned Product.

Appendix 2

Assigned Prepay Quantity

[NOTE: To be set forth in a monthly volume schedule.]

Appendix 3

Form of Financing Party Parent Guaranty

EXHIBIT M

FORM OF REPLACEMENT RA NOTICE

This Replacement RA Notice (this "**Notice**") is delivered by [SELLER ENTITY] ("**Seller**") to Clean Power Alliance of Southern California, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Renewable Power Purchase Agreement dated _____ ("**Agreement**") by and between Seller and Buyer. All capitalized terms used in this Notice but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Pursuant to Section 3.7(d) of the Agreement, Seller hereby provides the below Replacement RA product information:

Unit Information[1]

Name	
Location	
CAISO Resource ID	
Unit SCID	
Prorated Percentage of Unit Factor	
Resource Type	
Point of Interconnection with the CAISO Controlled Grid ("substation or transmission line")	
Path 26 (North or South)	
LCR Area (if any)	
Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment	
Run Hour Restrictions	
Delivery Period	

Month	Unit CAISO NQC (MW)	Unit Contract Quantity (MW)
January		
February		
March		
April		
May		
June		
July		
August		
September		
October		
November		
December		

[1] To be repeated for each unit if more than one.

[SELLER ENTITY]

By:_____
Its:_____

Date:_____

EXHIBIT N

NOTICES

SOLAR STAR 4, LLC ("Seller")	**CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority** ("Buyer")
All Notices: Street: City: Attn: Phone: Email:	**All Notices:** Street: 801 S Grand, Suite 400 City: Los Angeles, CA 90017 Attn: Chief Executive Officer Phone: (213) 269-5870 E-mail: tbardacke@cleanpoweralliance.org
Reference Numbers: Duns: Federal Tax ID Number:	**Reference Numbers:** Duns: Federal Tax ID Number:
Invoices: Attn: Phone: E-mail:	**Invoices:** Attn: CPA Settlements Phone: (213) 269-5870 E-mail: settlements@cleanpoweralliance.org
Scheduling: Attn: Phone: Email:	**Scheduling:** Attn: Phone: Email:
Confirmations: Attn: Phone: Email:	**Confirmations:** Attn: Phone: Email:
Payments: Attn: Phone: E-mail:	**Payments:** Attn: Vice President, Power Supply E-mail: settlements@cleanpoweralliance.org
Wire Transfer: BNK: ABA: ACCT:	**Wire Transfer:** BNK: River City Bank [redacted]

EXHIBIT O

STORAGE CAPACITY TESTS

Storage Capacity Test Notice and Frequency

A. Commercial Operation Storage Capacity Test(s). Upon no less than ten (10) Business Days prior Notice to Buyer, Seller shall schedule and complete a Commercial Operation Storage Capacity Test prior to the Commercial Operation Date. Such initial Commercial Operation Storage Capacity Test (and any subsequent Commercial Operation Storage Capacity Test permitted in accordance with Exhibit B) shall be performed in accordance with this Exhibit O and shall establish the Installed Storage Capacity hereunder based on the actual capacity and capabilities of the Storage Facility determined by such Commercial Operation Storage Capacity Test(s).

B. Subsequent Storage Capacity Tests. Following the Commercial Operation Storage Capacity Test(s), at least fifteen (15) days in advance of the start of each Contract Year, upon no less than ten (10) Business Days prior Notice to Buyer, Seller shall schedule and complete a Storage Capacity Test. In addition, Buyer shall have the right to require a retest of the Storage Capacity Test at any time upon no less than five (5) Business Days prior Notice to Seller if Buyer provides data with such Notice reasonably indicating that the then-current Effective Storage Capacity have varied materially from the results of the most recent prior Storage Capacity Test. Seller shall have the right to run a retest of any Storage Capacity Test at any time upon five (5) Business Days' prior Notice to Buyer (or any shorter period reasonably acceptable to Buyer consistent with Prudent Operating Practice).

C. Test Results and Re-Setting of Effective Storage Capacity. No later than five (5) days following any Capacity Test, Seller shall submit a testing report detailing results and findings of the test. The report shall include Storage Facility Meter readings and plant log sheets verifying the operating conditions and output of the Storage Facility. In accordance with Section 4.9(a)(ii) of the Agreement and Part II(I) below, after the Commercial Operation Storage Capacity Test(s), the Effective Storage Capacity (up to, but not in excess of, the Installed Storage Capacity) determined pursuant to such Storage Capacity Test shall become the new Effective Storage Capacity at the beginning of the first day of the month following the completion of the test for calculating the Monthly Capacity Payment and all other purposes under this Agreement.

Capacity Test Procedures

PART I. GENERAL.

(1) Each Capacity Test shall be conducted in accordance with Prudent Operating Practices, the Operating Restrictions, and the provisions of this Exhibit O. For ease of reference, a Capacity Test is sometimes referred to in this Exhibit O as a "**CT**". Buyer or its representative may be present for the CT and may, for informational purposes only, use its own metering equipment (at Buyer's sole cost).

(2) Conditions Prior to Testing.

(1) EMS Functionality. The EMS shall be successfully configured to receive data from the Battery Management System (BMS), exchange DNP3 data with the Buyer SCADA device, and transfer data to the database server for the calculation, recording and archiving of data points.

(2) Communications. The Remote Terminal Unit (RTU) testing should be successfully completed prior to any testing. The interface between Buyer's RTU and the Facility SCADA System should be fully tested and functional prior to starting any testing, including verification of the data transmission pathway between Buyer's RTU and Seller's EMS interface and the ability to record SCADA System data.

(3) Commissioning Checklist. Commissioning shall be successfully completed per manufacturer guidance on all applicable installed Facility equipment, including verification that all controls, set points, and instruments of the EMS are configured.

(4) Generating Facility Conditions. Any CTs requiring the availability of Charging Energy shall be conducted when the Generating Facility is producing at a rate equal to or above the Effective Storage Capacity continuously for a five (5)-hour period; *provided*, Seller may waive such conditions at its sole discretion. Any CTs that are required or allowed to occur under this Exhibit O that take place in the absence of the above condition being satisfied shall be subject to a mutually agreed upon adjustment (such agreement not to be unreasonably withheld) between Seller and Buyer with respect to the allowed charging time for such CT and/or the Battery Charging Factor definition, which adjustment(s) shall be commensurate with then-existing irradiance limitations.

PART II. REQUIREMENTS APPLICABLE TO ALL CAPACITY TESTS.

A. Test Elements. Each CT shall include at least the following individual test elements, which must be conducted in the order prescribed in Part III of this Exhibit O, unless the Parties mutually agree to deviations therefrom. The Parties acknowledge and agree that should Seller fall short of demonstrating one or more of the Test Elements as specified below, the Test will still be deemed "complete," and any adjustments necessary to the Effective Storage Capacity resulting from such Test, if applicable, will be made in accordance with this Exhibit O.

(1) Electrical output at the lesser of maximum discharging level (MW) and Guaranteed Storage Capacity for four (4) continuous hours; and

(2) Electrical input at maximum charging level at the Storage Facility Meter (MW), as sustained until the SOC reaches at least 90%, continued by the electrical input at a rate up to the maximum charging level at the Storage Facility Meter (MW), as sustained until the charging phase of the CT ends, not to exceed five (5) hours of total charging time.

B. Parameters. During each CT, the following parameters shall be measured and recorded simultaneously for the Storage Facility, at four (4) second intervals:

(1) Time;

(2) The amount of Discharging Energy;

(3) The amount of Charging Energy;

(4) The amount of Station Use;

(5) Stored Energy Level (MWh).

C. Site Conditions. During each CT, the following conditions at the Site shall be measured and recorded simultaneously at thirty (30) minute intervals:

(1) Relative humidity (%);

(2) Barometric pressure (inches Hg) near the horizontal centerline of the Storage Facility; and

(3) Ambient air temperature (°F).

D. Test Showing. Each CT shall record and report the following datapoints:

(1) That the CT successfully started;

(2) The maximum sustained discharging level for four (4) consecutive hours pursuant to A(1) above;

(3) The maximum sustained charging level for four (4) consecutive hours pursuant to A(2) above;

(4) Amount of time between the Storage Facility's electrical output going from 0 to the maximum sustained discharging level registered during the CT (for purposes of calculating the ramp rate);

(5) Amount of time between the Storage Facility's electrical input going from 0 to the maximum sustained charging level registered during the CT (for purposes of calculating the ramp rate);

(6) Amount of Charging Energy to go from 0% SOC to the SOC at which the charging phase of the CT ends;

(7) Amount of Discharging Energy to go from 100% SOC to the SOC at which the discharging phase of the CT ends.

E. Test Conditions.

(1) General. At all times during a CT, the Storage Facility shall be operated in compliance with Prudent Operating Practices, the Operating Restrictions, and all operating protocols recommended, required or established by the manufacturer for the Storage Facility.

(2) Abnormal Conditions. If abnormal operating conditions that prevent the testing or recordation of any required parameter occur during a CT, Seller may postpone or reschedule all or part of such CT in accordance with Part II.F below.

(3) Instrumentation and Metering. Seller shall provide all instrumentation, metering and data collection equipment required to perform the CT. The instrumentation, metering and data collection equipment electrical meters shall be calibrated in accordance with Prudent Operating Practice and, as applicable, the CAISO Tariff.

F. Incomplete Test. If any CT is not completed in accordance herewith, Buyer may in its sole discretion: (i) accept the results up to the time the CT stopped without any modification to the Effective Storage Capacity pursuant to Section I below; (ii) require that the portion of the CT not completed, be completed within a reasonable specified time period; or (iii) require that the CT be entirely repeated within a reasonable specified time period. Notwithstanding the above, if Seller is unable to complete a CT due to a Force Majeure Event or the actions or inactions of Buyer or the CAISO or the Transmission Provider, Seller shall be permitted to reconduct such CT on dates and at times reasonably acceptable to the Parties.

G. Test Report. Within five (5) Business Days after the completion of any CT, Seller shall prepare and submit to Buyer the completed Installed Capacity Certicate or Effective Storage Capacity Certificate, as applicble, together with a written report of the results of the CT, which report shall include:

(1) A record of the personnel present during the CT that served in an operating, testing, monitoring or other such participatory role;

(2) The measured and calculated data for each parameter set forth in Part II.A through D, including copies of the raw data taken during the test; and

(3) Seller's statement of either Seller's acceptance of the CT or Seller's rejection of the CT results and reason(s) therefor.

Seller's CT report and any submitted capacity certificate shall be deemed invalid if not delivered to Buyer within (5) Business Days after the completion of any CT. Within five (5) Business Days after receipt of such report, Buyer shall notify Seller in writing of either Buyer's acceptance of the CT results or Buyer's rejection of the CT and reason(s) therefor.

If either Party rejects the results of any CT, such CT shall be repeated in accordance with Part II.F.

H. Supplementary Capacity Test Protocol. No later than sixty (60) days prior to CAISO Commercial Operation, Seller shall deliver to Buyer for its review and approval (such approval not to be unreasonably delayed or withheld; *provided*, any additional cost to Buyer or restrictions on use of the Storage Facility as a result of such proposed changes shall be a reasonable basis for Buyer's rejection unless Seller agrees to make Buyer whole for such adverse impacts) a supplement to this Exhibit O with additional and supplementary details, procedures and requirements applicable to Capacity Tests based on the then-current design of the Storage Facility ("**Supplementary Capacity Test Protocol**"). Thereafter, from time to time, Seller may deliver to Buyer for its review and approval (such approval not to be unreasonably delayed or withheld; *provided*, any additional cost to Buyer or restrictions on use of the Storage Facility as a result of such proposed changes shall be a reasonable basis for Buyer's rejection unless Seller agrees to make Buyer whole for such adverse impacts) any Seller recommended updates to the then-current Supplementary Capacity Test Protocol. The initial Supplementary Capacity Test Protocol (and each update thereto), once approved by Buyer, shall be deemed an amendment to this Exhibit O.

I. Adjustment to Effective Storage Capacity. The Effective Storage Capacity shall equal the quotiant of (a) the total amount of Discharging Energy delivered to the Delivery Point (expressed in MWh AC) during the first four (4) hours of discharge (up to, but not in excess of, the product of (i) (A) the Guaranteed Storage Capacity (in the case of a Commercial Operation Storage Capacity Test, including under Section 5 of Exhibit B) or (B) the Installed Storage Capacity (in the case of any other Storage Capacity Test), multiplied by (ii) four (4) hours) divided by (b) four (4) hours, expressed in MW AC.

PART III. INITIAL SUPPLEMENTARY CAPACITY TEST PROTOCOL.

A. **Effective Storage Capacity**

- Procedure:

(1) System Starting State: The Storage Facility will be in the on-line state at 0% SOC.

(2) Record the initial value of the Storage Facility SOC.

(3) Command a real power charge that results in an AC power of Storage Facility's maximum charging level, and continue charging until the earlier of (a) the Storage Facility has reached 100% SOC, (b) the sustained charging level is at least 2% less than the lesser of (i) the maximum charging level and (ii) the Guaranteed Storage Capacity, or (c) five (5) hours have elapsed since the Storage Facility commenced charging.

(4) Record and store the Storage Facility SOC after the earlier of (a) the Storage Facility has reached 100% SOC, (b) the sustained charging level is at least

2% less than the lesser of (i) the maximum charging level and (ii) the Guaranteed Storage Capacity, or (c) five (5) hours of continuous charging. Such data point shall be used for purposes of calculation of the Battery Charging Factor.

(5) Record and store the Charging Energy.

(6) Following an agreed-upon rest period, command a real power discharge that results in an AC power output of the lesser of (i) the Storage Facility's maximum discharging level and (ii) the Guaranteed Storage Capacity, and maintain the discharging state until the earlier of (a) the Facility has discharged at the maximum discharging level for four (4) consecutive hours, (b) the Storage Facility has reached 0% SOC, or (c) the sustained discharging level is at least 2% less than the lesser of (i) the maximum discharging level and (ii) the Guaranteed Storage Capacity.

(7) Record and store the Storage Facility SOC after four (4) hours of continuous discharging. Such data point shall be used for purposes of calculation of the Battery Discharging Factor. If the Storage Facility SOC remains above 0% SOC after discharging at a rate at or above the Guaranteed Storage Capacity (or at or above the Installed Storage Capacity after a Commercial Operation Storage Capacity Test) for four (4) consecutive hours pursuant to Part III.A.6(a), the SOC will be deemed 0% for the purposes of calculating the Battery Discharging Factor.

(8) Record and store the Discharging Energy as measured at the Storage Facility Meter. Such data point shall be used for purposes of calculation the Effective Storage Capacity.

(9) If the Storage Facility has not reached 0% SOC pursuant to Section III.A.6, continue discharging the Storage Facility until it reaches 0% SOC. Record and store the additional Discharging Energy, if applicable.

- Test Results

(1) The resulting Effective Storage Capacity measurement is the sum of the total Discharging Energy at the Storage Facility Meter divided by four (4) hours.

B. **AGC Discharge Test**

- Purpose: This test will demonstrate the AGC discharge capability to achieve the Storage Facility's maximum discharging level within 4 seconds.

- System starting state: The Storage Facility will be in the on-line state at 50% SOC and at an initial active power level of 0 MW and reactive power level of 0 MVAR. The EMS will be configured to follow a predefined agreed-upon active power profile.

- Procedure:

    (1) Record the Storage Facility active power level at the Storage Facility Meter.

    (2) Command the Storage Facility to follow a simulated CAISO RIG signal of Pmax at .95 power factor for ten (10) minutes.

    (3) Record and store the Storage Facility active power response (in seconds).

- System end state: The Storage Facility will be in the on-line state and at a commanded active power level of 0 MW.

C. **AGC Charge Test**

- Purpose: This test will demonstrate the AGC charge capability to achieve the Storage Facility's full charging level within 4 seconds.

- System starting state: The Storage Facility will be in the on-line state at 50% SOC and at an initial active power level of 0 MW and reactive power level of 0 MVAR. The Storage Facility control system will be configured to follow a predefined agreed-upon active power profile.

- Procedure:

    (1) Record the Storage Facility active power level at the Storage Facility Meter.

    (2) Command the Storage Facility to follow a simulated CAISO RIG signal of -Pmax at .95 power factor for ten (10) minutes.

    (3) Record and store the Storage Facility active power response (in seconds).

- System end state: The Storage Facility will be in the on-line state and at a commanded active power level of 0 MW.

D. **Reactive Power Production Test**

- Purpose: This test will demonstrate the reactive power production capability of the Storage Facility.

- System starting state: The Storage Facility will be in the on-line state at 50% SOC and at an initial active power level of 0 MW and reactive power level of 0 MVAR. The EMS will be configured to follow an agreed-upon predefined reactive power profile.

- Procedure:

    (1) Record the Storage Facility reactive power level at the Facility Meter.

    (2) Command the Storage Facility to follow 11.5 MVAR for ten (10) minutes.

(3) Record and store the Storage Facility reactive power response.

- System end state: The Storage Facility will be in the on-line state and at a commanded reactive power level of 0 MVAR.

E. **Reactive Power Consumption Test**

- Purpose: This test will demonstrate the reactive power consumption capability of the Storage Facility.

- System starting state: The Storage Facility will be in the on-line state at 50% SOC and at an initial active power level of 0 MW and reactive power level of 0 MVAR. The Storage Facility control system will be configured to follow an agreed-upon predefined reactive power profile.

- Procedure:

  (1) Record the Storage Facility reactive power level at the Facility Meter.

  (2) Command the Storage Facility to follow 11.5 MVAR for ten (10) minutes.

  (3) Record and store the Storage Facility reactive power response.

- System end state: The Storage Facility will be in the on-line state and at a commanded reactive power level of 0 MVAR.

EXHIBIT P

ANNUAL STORAGE CAPACITY AVAILABILITY CALCULATION

(a) Following the end of each calendar month during the period commencing upon CAISO Commercial Operation and continuing throughout the Delivery Term, Buyer shall calculate the year-to-date (YTD) "**Annual Storage Capacity Availability**" for the current (and for the period from CAISO Commercial Operation through the Commercial Operation Date) Contract Year using the formula set forth below:

$$\text{Annual Storage Capacity Availability (\%)} = 1 - \frac{\text{Unavailable Calculation Intervals}}{\text{Total YTD Calculation Intervals}}$$

"**Calculation Interval**" or "**C.I.**" means each successive five-minute interval, but excluding all such intervals which by the express terms of the Agreement are disregarded or excluded.

"**Unavailable Calculation Intervals**" means the sum of year-to-date unavailable Calculation Intervals for the applicable Contract Year (and for the period from CAISO Commercial Operation through the Commercial Operation Date), where for each Calculation Interval:

$$\text{Unavailable Calculation Interval} = 1 \text{ C.I. x } \left(1 - \text{the lesser of: } \frac{A}{\text{Effective Storage Capacity}} \text{ or } \frac{B}{\text{Effective Storage Capacity x 4 hrs}} \right)$$

where:

"A" is the "**Available Effective Storage Capacity**", which is the available capacity expressed in MW expected from all Storage Facility inverters, calculated as the greater of the HOL and the absolute value of the LOL. The determination of Available Effective Storage Capacity in a Calculation Interval shall consider the conditions of the Facility in total to receive Charging Energy from the Generating Facility or CAISO Grid, as applicable, and to deliver Discharging Energy to the Delivery Point based on normal operating conditions pursuant to the manufacturer's guidelines. For purposes of the determination of Available Effective Storage Capacity in a Calculation Interval, it will be assumed that no PV Energy is being concurrently delivered to the Delivery Point in such Calculation Interval. "A" shall never exceed the Effective Storage Capacity. If Seller fails to provide the HOL or LOL for any Calculation Interval, the Available Effective Storage Capacity in such Calculation Interval shall be deemed to be zero (0) MW.

"B" is the "**Available Storage Capability**", which shall be calculated as the sum of the following (taking into account the SOC at the time of calculation): (i) the energy throughput capability in MWhs in the applicable Calculation Interval that the Storage Facility is available to be charged from the Generating Facility or CAISO Grid, as applicable, (calculated as the available battery charging capability (in MWh) to receive Charging Energy from the Generating Facility or CAISO Grid, as applicable, in the applicable Calculation Interval x the Battery Charging Factor) and (ii) the energy throughput capability in MWhs in the applicable Calculation Interval that the Storage Facility is available to be discharged to the Delivery Point (calculated as the available battery discharging capability (in MWh) to delivery Discharging Energy to the Delivery Point in the applicable Calculation Interval x the Battery Discharging Factor). In calculating Available Storage Capability, the "available battery charging capability" and "available battery discharging capability" are calculated as the product of (1) the count of available system strings in such Calculation Interval, *multiplied by* (2) the capability, in MWh, expected from each such system string (based on normal operating conditions pursuant to the manufacturer's guidelines), that are able (considering the conditions of the Facility in total) to receive Charging Energy from the Generating Facility or CAISO Grid, as applicable, and deliver Discharging Energy to the Delivery Point; *provided*, the Available Storage Capability shall never exceed the Effective Storage Capacity x four (4) hours.

"**Total YTD Calculation Intervals**" means, for each applicable Contract Year (and for the period from CAISO Commercial Operation through the Commercial Operation Date), the total number of Calculation Intervals year-to-date up through and including the month for which the Annual Storage Capacity Availability is being calculated.

(b) The Available Effective Storage Capacity and Available Storage Capability in the above calculations shall be the lower of (i) such amounts reported by Seller's real-time EMS data feed to Buyer for the Storage Facility for such Calculation Interval, such that available Effective Storage Capacity is calculated as the product of (A) the count of available system inverters, multiplied by (B) the capacity, in MW AC, expected from each system inverter under normal operating conditions pursuant to the manufacturer's guidelines, and available Storage Capability is likewise calculated as the product of (C) the count of available system strings, multiplied by (D) the capability, in MWh, expected from each system string under normal operating conditions pursuant to the manufacturer's guidelines, and (ii) Seller's most recent Availability Notice (as updated pursuant to Section 4.3), which, with respect to the Available Effective Storage Capacity, shall be calculated as the average of the "Gen Max" and "Load Max" (or equivalent successor terms which may be used by the SC or CAISO from time to time) amounts reported in Seller's Availability Notice and recorded in OMS for such Calculation Interval, and with respect to the Available Storage Capability, shall be calculated as "Max Energy" minus "Min Energy" (or equivalent successor terms which may be used by the SC or CAISO from time to time) amounts reported in Seller's Availability Notice and recorded in OMS for such Calculation Interval and for which calculation the Battery Charging Factor and Battery Discharging Factor shall not be applied, provided that any such revised Availability Notice indicating an increase in the Storage Facility's availability for the applicable Calculation Interval is submitted by Seller at least sixty (60) minutes prior to the time the Buyer is required to schedule or bid the Storage Facility in the Real-Time Market. Except as otherwise expressly provided in this Agreement, the calculations of Available

Effective Storage Capacity and Available Storage Capability in the foregoing sentence shall be based solely on the availability of the Storage Facility to charge or discharge Energy between the Storage Facility and the Delivery Point, as applicable (excluding for reasons at the high-voltage side of the Delivery Point or beyond). Any Calculation Interval in which the Storage Facility fails to maintain connectivity to the CAISO such that it cannot receive ADS or AGC signals shall be deemed an Unavailable Calculation Interval.

(c) If the total rated power of the Storage Facility inverters associated with the Installed Storage Capacity as measured to the Delivery Point is less than 23 MW charging and 23 MW discharging at 45°C, then Buyer shall have the right, in its reasonable discretion, to apply an ambient air temperature availability derate to the applicable Calculation Interval.

EXHIBIT Q

OPERATING RESTRICTIONS

The Parties will develop and finalize the Operating Restrictions prior to the Commercial Operation Date; *provided*, the Operating Restrictions (i) may not be materially more restrictive of the operation of the Storage Facility than as set forth below, unless agreed to by Buyer in writing, (ii) will, at a minimum, include the rules, requirements and procedures set forth in this Exhibit Q, (iii) will include protocols and parameters for Seller's operation of the Storage Facility in the absence of Charging Notices, Discharging Notices or other similar instructions from Buyer relating to the use of the Storage Facility, and (iv) may include facility scheduling, operating restrictions and Communications Protocols.

I. STORAGE FACILITY OPERATING RESTRICTIONS

File Update Date:	04/19/2024	
Technology:	Powin Centipede Stack750	
Storage Unit Name:	Solar Star 4, LLC	
A. Contract Capacity		
Guaranteed Storage Capacity (MW):	23	
Effective Storage Capacity (MW):	TBD	
B. Total Unit Dispatchable Range Information		
Interconnect Voltage (kV)	230kV	
Maximum Storage Level (MWh):	92	
Minimum Storage Level (MWh):	0	
Stored energy capability (MWh):	92	
Maximum Discharge (MW):	23	
Maximum Charge (MW):	23	
Guaranteed Efficiency Rate:	[redacted]	
Maximum energy throughput (BET) (Discharged MWh/year)*: *Any Idle Period Auxiliary Use does not count towards maximum energy throughput.	[redacted]	
C. Charge and Discharge Rates		
Mode	**Maximum (MW)**	**Ramp Rate (MW/s) Description**
Energy (Charge)	23	500 kW in 500 ms
Energy (Discharge)	23	500 kW in 500 ms
D. Ancillary Services		
Regulation (up and down) is included:	Yes	
Spinning and Non-Spinning Reserve is included:	Yes	

EXHIBIT R

METERING DIAGRAM

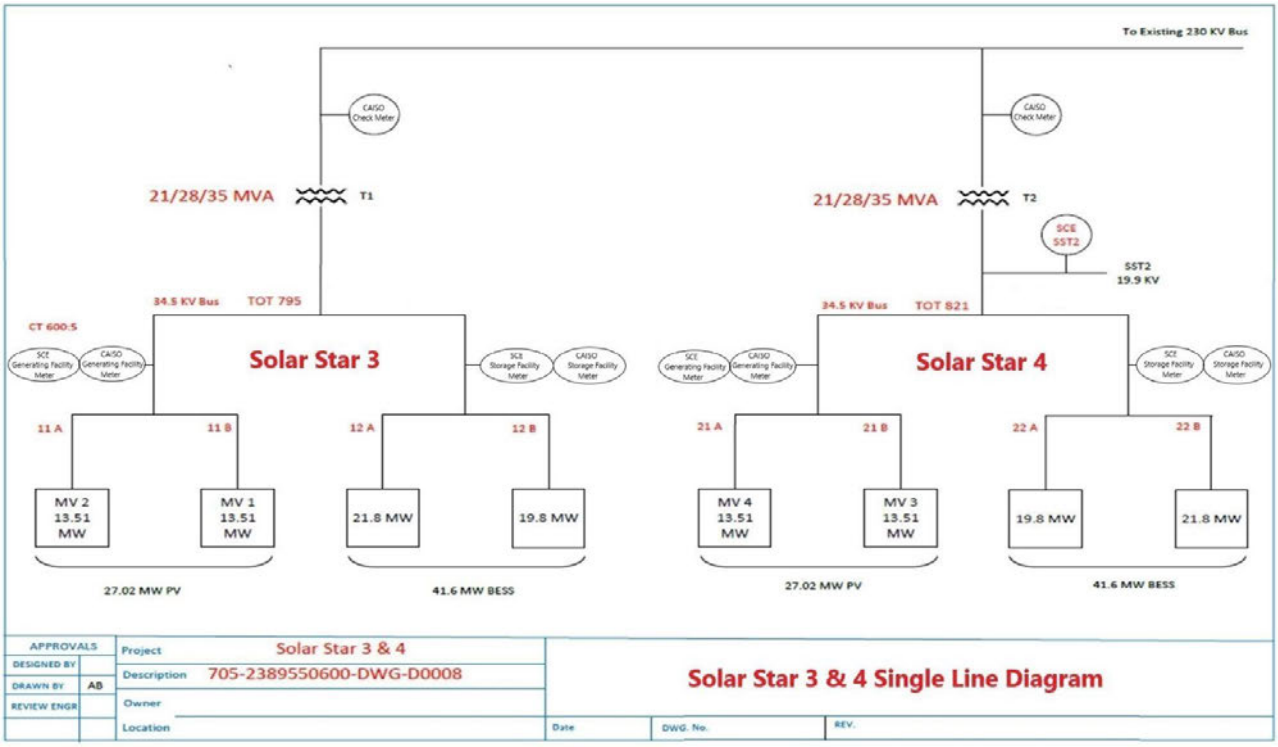


EXHIBIT S

FORM OF CONSENT TO COLLATERAL ASSIGNMENT

This Consent to Collateral Assignment (this "Consent") is entered into among (i) Clean Power Alliance of Southern California, a California joint powersauthority ("CPA"), (ii) *[Name of Seller]*, a *[Legal Status of Seller]* (the "Project Company"), and (iii) *[Name of* Collateral Agent*]*, a *[Legal Status of Collateral Agent]*, as Collateral Agent for the secured parties under the Financing Documents referred to below (such secured parties together with their successors permitted under this Consent in such capacity, the "Secured Parties", and, such agent, together with its successors in such capacity, the "Collateral Agent"). CPA, Project Company and Collateral Agent are hereinafter sometimes referred to individually as a "Party" and jointly as the "Parties". Capitalized terms used but not otherwise defined in this Consent shall have the meanings ascribed to them in the PPA (as defined below).

RECITALS

The Parties enter into this Consent with reference to the following facts:

A. Project Company and CPA have entered into that certain Renewable Power Purchase Agreement, dated as of *[Date] [List all amendments* as *contemplated by Section 3.4]* ("PPA"), pursuant to which Project Company will develop, construct, commission, test and operate the Facility and sell the Product to CPA, and CPA will purchase the Product from Project Company;

B. As collateral for Project Company's obligations under the PPA, Project Company has agreed to provide to CPA certain collateral, which may include Performance Security and Development Security and other collateral described in the PPA (collectively, the "PPA Collateral");

C. Project Company has entered into that certain *[Insert description of financing arrangements with Lender]*, dated as of *[Date]*, among Project Company, the Lenders party thereto and the Collateral Agent (the "Financing Agreement"), pursuant to which, among otherthings, the Lenders have extended commitments to make loans to Project Company;

D. As collateral security for Project Company's obligations under the Financing Agreement and related agreements (collectively, the "Financing Documents"), Project Company has, among other things, assigned all of its right, title and interest in, to and under the PPA and Project's Company's owners have pledged their ownership interest in Project Company (collectively, the "Assigned Interest") to the Collateral Agent pursuant to the Financing Documents; and

E. It is a requirement under the Financing Agreement and the PPA that CPA and the other Parties hereto shall have executed and delivered this Consent.

AGREEMENT

In consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties hereto hereby agree as follows:

SECTION 1. CONSENT TO ASSIGNMENT, ETC.

1.1 Consent and Agreement.

CPA hereby acknowledges:

(a) Notice of and consents to the assignment as collateral security to Collateral Agent, for the benefit of the Secured Parties, of the Assigned Interest; and

(b) The right (but not the obligation) of Collateral Agent in the exercise of its rights and remedies under the Financing Documents, to make all demands, give all notices, take all actions and exercise all rightsof Project Company permitted under the PPA (subject to CPA's rights and defenses under the PPA and the terms of this Consent) and accepts any such exercise; *provided*, insofar as the Collateral Agent exercises any such rights under the PPA or makes any claims with respect to payments or other obligations under the PPA, the terms and conditions of the PPA applicable to such exercise of rights or claims shall apply to Collateral Agent to the same extent as to Project Company.

1.2 Project Company's Acknowledgement.

Each of Project Company and Collateral Agent hereby acknowledges and agrees that CPA is authorized to act in accordance with Collateral Agent's instructions, and that CPA shall bear no liability to Project Company or Collateral Agent in connection therewith, including any liability for failing to act in accordance with Project Company's instructions.

1.3 Right to Cure.

If Project Company defaults in the performance of any of its obligations under the PPA, or upon the occurrence or non-occurrence of any event or condition under the PPA which would immediately or with the passage of any applicable grace period or the giving of notice, or both, enable CPA to terminate or suspend its performance under the PPA (a "PPA Default"), CPA will not terminate or suspend its performance under the PPA until it first gives written notice of such PPA Default to Collateral Agent and affords Collateral Agent the right to cure such PPA Default within the applicable cure period under the PPA, which cure period shall run concurrently with that afforded Project Company under the PPA. In addition, if Collateral Agent gives CPA written notice prior to the expiration of the applicable cure period under the PPA of Collateral Agent's intention to cure such PPA Default (which notice shall include a reasonable description of the time during which it anticipates to cure such PPA Default) and is diligently proceeding to cure such PPA Default, notwithstanding the applicable cure period under the PPA, Collateral Agent shall have a period of sixty (60) days (or, if such PPA Default is for failure by the Project Company to pay an amount to CPA which is due and payable under the PPA other than to provide PPA Collateral, thirty (30) days, or, if such PPA Default is for failure by Project Company to provide PPA Collateral, ten (10) Business Days) from the Collateral Agent's receipt of the notice of such PPA Default from CPA to cure such PPA Default; *provided*, (a) if possession of the Facility is necessary to cure any such non-monetary PPA Default and Collateral Agent has commenced foreclosure proceedings within sixty (60) days after notice of the PPA Default and is diligently pursuing such foreclosure proceedings, Collateral Agent will be allowed a reasonable time, not to exceed one hundred eighty (180) days after the notice of the PPA Default, to complete such

proceedings and cure such PPA Default, and (b) if Collateral Agent is prohibited from curing any such PPA Default by any process, stay or injunction issued by any Governmental Authority or pursuant to any bankruptcy or insolvency proceeding or other similar proceeding involving Project Company, then the time periods specified herein for curing a PPA Default shall be extended for theperiod of such prohibition, so long as Collateral Agent has diligently pursued removal of such process, stay or injunction. Collateral Agent shall provide CPA with reports concerning the status of efforts to cure a PPA Default upon CPA's reasonable request.

1.4 Substitute Owner.

Subject to Section 1.7, the Parties agree that if Collateral Agent notifies (such notice, a "Financing Document Default Notice") CPA that an event of default has occurred and is continuing under the Financing Documents (a "Financing Document Event of Default") then, upon a judicial foreclosure sale, non-judicial foreclosure sale, deed in lieu of foreclosure or other transfer following a Financing Document Event of Default, Collateral Agent (or its designee) shall be substituted for Project Company (the "Substitute Owner") under the PPA, and, subject to Sections 1.7(b) and 1.7(c) below, CPA and Substitute Owner will recognize each other as counterparties under the PPA and will continue to perform their respective obligations (including those obligations accruing to CPA and the Project Company prior to the existence of the Substitute Owner) under the PPA in favor of each other in accordance with the terms thereof; *provided*, before CPA is required to recognize the Substitute Owner, the Substitute Owner must have demonstrated to CPA's reasonable satisfaction that the Substitute Owner has financial qualifications and operating experience *[TBD]* (a "Permitted Transferee"). For purposes of the foregoing, CPA shall be entitled to assume that any such purported exercise of rights by Collateral Agent that results in substitution of a Substitute Owner under the PPA is in accordance with the Financing Documents without independent investigation thereof but shall have the right to require that the Collateral Agent and its designee (if applicable) provide reasonable evidence demonstrating the same.

1.5 Replacement Agreements.

Subject to Section 1.7, if the PPA is terminated, rejected or otherwise invalidated as a result of any bankruptcy, insolvency, reorganization or similar proceeding affecting Project Company, its owner(s) or guarantor(s), and if Collateral Agent or its designee directly or indirectly takes possession of, or title to, the Facility (including possession by a receiver or title by foreclosure or deed in lieu of foreclosure) ("Replacement Owner"), CPA shall, and Collateral Agent shall cause Replacement Owner to, enter into a new agreement with one another for the balance of the obligations under the PPA remaining to be performed having terms substantially the same as the terms of the PPA with respect to the remaining Contract Term ("Replacement PPA"); *provided*, before CPA is required to enter into a Replacement PPA, the Replacement Owner must have demonstrated to CPA's reasonable satisfaction that the Replacement Owner satisfies the requirements of a Permitted Transferee. For purposes of the foregoing, CPA is entitled to assume that any such purported exercise of rights by Collateral Agent that results in a Replacement Owner is in accordance with the Financing Documents without independent investigation thereof but shall have the right to require that the Collateral Agent and its designee (if applicable) provide reasonable evidence demonstrating the same. Notwithstanding the execution and delivery of a Replacement PPA, to the extent CPA is, or was otherwise prior to its termination as described in this Section 1.5, entitled under the PPA, CPA may suspend performance of its obligations under

such Replacement PPA, unless and until all PPA Defaults of Project Company under the PPA or Replacement PPA have been cured.

1.6 Transfer.

Subject to Section 1.7, a Substitute Owner or a Replacement Owner may assign all of its interest in the Facility and the PPA and a Replacement PPA to a natural person, corporation, trust, business trust, joint venture, joint stock company, association, company, limited liability company, partnership, Governmental Authority or other entity (a "Person") to which the Facility is transferred; *provided*, the proposed transferee shall have demonstrated to CPA's reasonable satisfaction that such proposed transferee satisfies the requirements of a Permitted Transferee.

1.7 Assumption of Obligations.

(a) Transferee.

Any transferee under Section 1.6 shall expressly assume in a writing reasonably satisfactory to CPA all of the obligations of Project Company, Substitute Owner or Replacement Owner under the PPA or Replacement PPA, as applicable, including posting and collateral assignment of the PPA Collateral. Upon such assignment and the cure of any outstanding PPA Default, and payment of all other amounts due and payable to CPA in respect of the PPA or such Replacement PPA, the transferor shall be released from any further liability under the PPA or Replacement PPA, as applicable.

(b) Substitute Owner.

Subject to Section 1.7(c), any Substitute Owner pursuant to Section 1.4 shall be required to perform Project Company's obligations under the PPA, including posting and collateral assignment of the PPA Collateral; *provided*, the obligations of such Substitute Owner shall be no more than those of Project Company under the PPA.

(c) No Liability.

CPA acknowledges and agrees that neither Collateral Agent nor any Secured Party shall have any liability or obligation under the PPAas a result of this Consent (except to the extentCollateral Agent or a Secured Party is a Substitute Owner or Replacement Owner) nor shall Collateral Agent or any other Secured Party be obligated or required to (i) perform any of Project Company's obligations under the PPA, except as provided in Sections 1.7(a) and 1.7(b) and to the extent Collateral Agent or a Secured Party is a Substitute Owner or Replacement Owner, or (ii) take any action to collect or enforce any claim for payment assigned under the Financing Documents. If Collateral Agent becomes a Substitute Owner pursuant to Section 1.4 or enters into a Replacement PPA, Collateral Agent shall not have any personal liability to CPA under the PPA or Replacement PPA and the sole recourse of CPA in seeking enforcement of such obligations against Collateral Agent shall be to the aggregate interest of the Secured Parties in the Facility; *provided*, such limited recourse shall not limit CPA's right to seek equitable or injunctive relief against Collateral Agent, or CPA's rights with respect to any offset rights expressly allowed under the PPA, a Replacement PPA or the PPA Collateral.

1.8 Delivery of Notices.

CPA shall deliver to Collateral Agent, concurrently with the delivery thereof to Project Company, a copy of each notice, request or demand given by CPA to Project Company pursuant to the PPA relating to (a) a PPA Default by Project Company under the PPA, (b) any claim regarding a Force Majeure Event by CPA under the PPA, (c) any notice of dispute under the PPA, (d) any notice of intent to terminate or any termination notice, and (e) any matter that would require the consent of Collateral Agent pursuant to Section 1.11 or any other provision of this Consent. Collateral Agent acknowledges that delivery of such notice, request and demand shall satisfy CPA's obligation to give Collateral Agent a notice of PPA Default under Section 1.3. Collateral Agent shall deliver to CPA, concurrently with delivery thereof to Project Company, a copy of each notice, request or demand given by Collateral Agent to Project Company pursuant to the Financing Documents relating to a default by Project Company under the Financing Documents.

1.9 Confirmations.

CPA will, as and when reasonably requested by Collateral Agent from time to time, confirm in writing matters relating to the PPA (including the performance of same by Project Company); *provided*, such confirmation may be limited to matters of which CPA is aware as of the time the confirmation is given and such confirmations shall be without prejudice to any rights of CPA under the PPA as between CPA and Project Company.

1.10 Exclusivity of Dealings.

Except as provided in Sections 1.3, 1.4, 1.8, 1.9 and 2.1, unless and until CPA receives a Financing Document Default Notice, CPA shall deal exclusively with Project Company in connection with the performance of CPA's obligations under the PPA. From and after such time as CPA receives a Financing Document Default Notice and until a Substitute Owner is substituted for Project Company pursuant to Section 1.4, a Replacement PPA is entered into or the PPA is transferred to a Person to whom the Facility is transferred pursuant to Section 1.6, CPA shall, until Collateral Agent confirms to CPA in writing that all obligations under the Financing Documents are no longer outstanding, deal exclusively with Collateral Agent in connection with the performance of CPA's obligations under the PPA, and CPA may irrevocably rely on instructions provided by Collateral Agent in accordance therewith to the exclusion of those provided by any other Person.

1.11 No Amendments.

To the extent permitted by Laws, CPA agrees that it will not, without the prior written consent of Collateral Agent (not to be unreasonably withheld, delayed or conditioned) (a) enter into any material supplement, restatement, novation, extension, amendment or modification of the PPA (b) terminate or suspend its performance under the PPA (except in accordance with Section 1.3) or (c) consent to or accept any termination or cancellation of the PPA by Project Company.

SECTION 2. PAYMENTS UNDER THE PPA

2.1 Payments.

Unless and until CPA receives written notice to the contrary from Collateral Agent, CPA will make all payments to be made by it to Project Company under or by reason of the PPA directly to Project Company. CPA, Project Company, and Collateral Agent acknowledge that CPA will be deemed to be in compliance with the payment terms of the PPA to the extent that CPA makes payments in accordance with Collateral Agent's instructions.

2.2 No Offset, Etc.

All payments required to be made by CPA under the PPA shall be made without any offset, recoupment, abatement, withholding, reduction or defense whatsoever, other than that expressly allowed by the terms of the PPA.

SECTION 3. REPRESENTATIONS AND WARRANTIES OF CPA

CPA makes the following representations and warranties as of the date hereof in favor of Collateral Agent:

3.1 Organization.

CPA is a joint powers authority and community choice aggregator duly organized and validly existing under the laws of the state of California, and the rules, regulations and orders of the California Public Utilities Commission, and is qualified to conduct business in each jurisdiction of the Joint Powers Agreement members. CPA has all requisite power and authority, corporate and otherwise, to enter into and to perform its obligations hereunder and underthe PPA, and to carry out the terms hereof and thereof and the transactions contemplated hereby and thereby.

3.2 Authorization.

The execution, delivery and performance by CPA of this Consent and the PPA have been duly authorized by all necessary corporate or other action on the part of CPA and do not require any approval or consent of any holder (or any trustee for any holder) of any indebtedness or other obligation of CPA which, if not obtained, will prevent CPA from performing its obligations hereunder or under the PPA except approvals or consents which have previously been obtained and which are in full force and effect.

3.3 Execution and Delivery; Binding Agreements.

Each of this Consent and the PPA is in full force and effect, has been duly executed and delivered on behalf of CPA by the appropriate officers of CPA, and constitutes the legal, valid and binding obligation of CPA, enforceable against CPA in accordance with its terms, except as the enforceability thereof may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application affecting the enforcement of creditors' rights generally and (b) general equitable principles (whether considered in a proceeding in equity or at law).

3.4 No Default or Amendment.

Except as set forth in Schedule A attached hereto: (a) Neither CPA nor, to CPA's actual knowledge, Project Company, is in default of any of its obligations under the PPA; (b) CPA and, to CPA's actual knowledge, Project Company, has complied with all conditions precedent to the effectiveness of its obligations under the PPA; (c) to CPA's actual knowledge, no event or condition exists which would either immediately or with the passage of any applicable grace period or giving of notice, or both,enable either CPA or Project Company to terminate or suspend its obligations under the PPA; and (d) the PPA has not been amended, modified or supplemented in any manner except as set forth herein and in the recitals hereto.

3.5 No Previous Assignments.

CPA has no notice of, and has not consented to, any previous assignment by Project Company of all or any part of its rights under the PPA, except as previously disclosed in writing and consented to by CPA.

SECTION 4. REPRESENTATIONS AND WARRANTIES OF PROJECT COMPANY

Project Company makes the following representations and warranties as of the date hereof in favor of the Collateral Agent and CPA:

4.1 Organization.

Project Company is a *[Legal Status of Seller]* duly organized and validly existing under the laws of the state of its organization, and is duly qualified, authorized to do business and in good standing in every jurisdiction in which it owns or leases real property or in which the nature of its business requires it to be so qualified, except where the failure to so qualify would not have a material adverse effect on its financial condition, its ability to own its properties or its ability to transact its business. Project Company has all requisite power and authority, corporate and otherwise, to enter into and to perform its obligations hereunder and under the PPA, and to carry out the terms hereof and thereof and the transactions contemplated hereby and thereby.

4.2 Authorization.

The execution, delivery and performance of this Consent by Project Company, and Project Company's assignment of its right, title and interest in, to and under the PPA to the Collateral Agent pursuant to the Financing Documents, have been duly authorized by all necessary corporate or other action on the part of Project Company.

4.3 Execution and Delivery; Binding Agreement.

This Consent is in full force and effect, has been duly executed and delivered on behalf of Project Company by the appropriate officers of Project Company, and constitutes the legal, valid and binding obligation of Project Company, enforceable against Project Company in accordance with its terms, except as the enforceability thereof may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application affecting the enforcement of creditors' rights generally and (b) general equitable principles (whether considered in a proceeding in equity or at law).

4.4 No Default or Amendment.

Except as set forth in Schedule B attached hereto: (a) neither Project Company nor, to Project Company's actual knowledge, CPA, is in default of any of its obligations under the PPA; (b) Project Company and, to Project Company's actual knowledge, CPA, has complied with all conditions precedent to the effectiveness of its obligations under the PPA; (c) to Project Company's actual knowledge, no event or condition exists which would either immediately or with the passage of any applicable grace period or giving of notice, or both, enable either CPA or Project Company to terminate or suspend its obligations under the PPA; and (d) the PPA has not been amended, modified or supplemented in any manner except as set forth herein and in the recitals hereto.

4.5 No Previous Assignments.

Project Company has not previously assigned all or any part of its rights under the PPA.

SECTION 5. REPRESENTATIONS AND WARRANTIES OF COLLATERAL AGENT

Collateral Agent makes the following representations and warranties as of the date hereof in favor of CPA and Project Company:

5.1 Authorization.

The execution, delivery and performance of this Consent by Collateral Agent have been duly authorized by all necessary corporate or other action on the part of Collateral Agent and Secured Parties.

5.2 Execution and Delivery; Binding Agreement.

This Consent is in full force and effect, has been duly executed and delivered on behalf of Collateral Agent by the appropriate officers of Collateral Agent, and constitutes the legal, valid and binding obligation of Collateral Agent as Collateral Agent for the Secured Parties, enforceable against Collateral Agent (and the Secured Parties to the extent applicable) in accordance with its terms, except as the enforceability thereof may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application affecting the enforcement of creditors' rights generally and (b) general equitable principles (whether considered in a proceeding in equity or at law).

SECTION 6. MISCELLANEOUS

6.1 Notices.

All notices and other communications hereunder shall be in writing, shall be deemed given upon receipt thereof by the Party or Parties to whom such notice is addressed, shall refer on their face to the PPA (although failure to so refer shall not render any such notice or communication ineffective), shall be sent by first class mail, by personal delivery or by a nationally recognized courier service, and shall be directed (a) if to CPA or Project Company, in accordance with *[Notice Section of the PPA]* of the PPA, (b) if to Collateral Agent, to *[Collateral Agent Name]*, *[Collateral*

Agent Address], Attn: *[Collateral Agent Contact Information]*, Telephone: *[___]*, Fax: *[___]*, and (c) to such other address or addressee as any such Party may designate by notice given pursuant hereto.

6.2 Governing Law; Submission to Jurisdiction.

(a) THIS CONSENT SHALL BE CONSTRUED IN ACCORDANCE WITH, AND THIS CONSENT AND ALL MATTERS ARISING OUT OF THIS CONSENT AND THE TRANSACTIONS CONTEMPLATED HEREBY SHALL BE GOVERNED BY, THE LAW OF THE STATE OF CALIFORNIA WITHOUT REGARD TO ANY CONFLICTS OF LAWS PROVISIONS THEREOF THAT WOULD RESULT IN THE APPLICATION OF THE LAW OF ANOTHER JURISDICTION.

(b) All disputes, claims or controversies arising out of, relating to, concerning or pertaining to the terms of this Consent shall be governed by the dispute resolution provisions of the PPA. Subject to the foregoing, any legal action or proceeding with respect to this Consent and any action for enforcement of any judgment in respect thereof may be brought in the courts of the State of California or of the United States of America for the Central District of California, and, by execution and delivery of this Consent, each Party hereby accepts for itself and in respect of its property, generally and unconditionally, the non-exclusive jurisdiction of the aforesaid courts and appellate courts from any appeal thereof. Each Party further irrevocably consents to the service of process out of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to its notice address provided pursuant to Section 6.1 hereof. Each Party hereby irrevocably waives any objection which it may now or hereafter have to the laying of venue of any of the aforesaid actions or proceedings arising out of or in connection with this Consent brought in the courts referred to above and hereby further irrevocably waives and agrees not to plead or claim in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum. Nothing herein shall affect the right of any Party to serve process in any other manner permitted by law.

6.3 Headings Descriptive.

The headings of the several sections and subsections of this Consent are insertedfor convenience only and shall not in any way affect the meaning or construction of any provisionof this Consent.

6.4 Severability.

In case any provision in or obligation under this Consent shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

6.5 Amendment, Waiver.

Neither this Consent nor any of the terms hereof may (a) be terminated, amended, supplemented or modified, except by an instrument in writing signed by CPA, Project Company and Collateral Agent or (b) waived, except by an instrument in writing signed by the waiving Party.

6.6 Termination.

Each Party's obligations hereunder are absolute and unconditional, and no Party has any right, and shall have no right, to terminate this Consent or to be released, relieved or discharged from any obligation or liability hereunder until CPA has been notified by Collateral Agent that all of the obligations under the Financing Documents shall have been satisfied in full (other than contingent indemnification obligations) or, with respect to the PPA or any Replacement PPA, its obligations under such PPA or Replacement PPA have been fully performed.

6.7 Successors and Assigns.

This Consent shall be binding upon each Party and its successors and assigns permitted under and in accordance with this Consent, and shall inure to the benefit of the other Parties and their respective successors and assignee permitted under and in accordance with this Consent. Each reference to a Person herein shall include such Person's successors and assigns permitted under and in accordance with this Consent.

6.8 Further Assurances.

CPA hereby agrees to execute and deliver all such instruments and take all such action as may be necessary to effectuate fully the purposes of this Consent.

6.9 Waiver of Trial by Jury.

TO THE EXTENT PERMITTED BY APPLICABLE LAWS, THE PARTIES HEREBY IRREVOCABLY WAIVE ALL RIGHT OF TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR IN CONNECTION WITH THIS CONSENT OR ANY MATTER ARISING HEREUNDER. EACH PARTY FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

6.10 Entire Agreement.

This Consent and any agreement, document or instrument attached hereto or referred to herein integrate all the terms and conditions mentioned herein or incidental hereto and supersede all oral negotiations and prior writings in respect to the subject matter hereof. In the event of any conflict between the terms, conditions and provisionsof this Consent and any such agreement, document or instrument, the terms, conditions and provisions of this Consent shall prevail.

6.11 Effective Date.

This Consent shall be deemed effective as of the date upon which the last Party executes this Consent.

6.12 Counterparts; Electronic Signatures.

This Consent may be executed in one or more counterparts, each of which will be deemed to be an original of this Consent and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Consent and of signature pages by

facsimile transmission, Portable Document Format (i.e., PDF), or by other electronic means shall constitute effective execution and delivery of this Consent as to the Parties and may be used in lieu of the original Consent for all purposes.

[Remainder of Page Left Intentionally Blank.]

IN WITNESS WHEREOF, the Parties hereto have caused this Consent to be duly executed and delivered by their duly authorized officers on the dates indicated below their respective signatures.

[NAME OF PROJECT COMPANY], *[Legal Status of Project Company]*.		CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority.
By: _____ *[Name]* *[Title]* Date: _____		**By:** _____ *[Name]* *[Title]* Date: _____
[NAME OF COLLATERAL AGENT], *[Legal Status of Collateral Agent]*. By: _____ *[Name]* *[Title]* Date: _____		

SCHEDULE A

[Describe any disclosures relevant to representations and warranties made in Section 3.4]

EXHIBIT T

FORM OF GUARANTY

This Guaranty (this "**Guaranty**") is entered into as of [_____] (the "**Effective Date**") by and between [___], a [jurisdiction and form of entity] ("**Guarantor**"), and Clean Power Alliance of Southern California, a California joint powers authority (together with its successors and permitted assigns, "**Buyer**").

Recitals

A. Buyer and [*SELLER* ENTITY], a Delaware limited liability company ("**Seller**"), entered into that certain Renewable Power Purchase Agreement (as amended, restated or otherwise modified from time to time, the "**PPA**") dated as of [_____], 2024.

B. Guarantor is entering into this Guaranty as Performance Security to secure Seller's obligations under the PPA, as required by Section [__] of the PPA.

C. It is in the best interest of Guarantor to execute this Guaranty inasmuch as Guarantor will derive substantial direct and indirect benefits from the execution and delivery of the PPA.

D. Initially capitalized terms used but not defined herein have the meaning set forth in the PPA.

Agreement

1. **Guaranty**. For value received, and subject to the terms and conditions hereof, Guarantor does hereby unconditionally, absolutely and irrevocably guarantee, as primary obligor and not as a surety, to Buyer the prompt payment by Seller of any and all amounts and payment obligations now or hereafter owing from Seller to Buyer under the PPA, including, without limitation, compensation for penalties, the Termination Payment, indemnification payments or other damages, as and when required pursuant to the terms of the PPA, provided, that Guarantor's aggregate liability under or arising out of this Guaranty shall not exceed _____ Dollars ($_____)[insert Development Security / Performance Security Amount](the "**Guaranteed Amount**"). The Parties understand and agree that any payment by Guarantor or Seller of any portion of the Guaranteed Amount shall thereafter reduce Guarantor's maximum aggregate liability hereunder on a dollar-for-dollar basis. This Guaranty is an irrevocable, absolute, unconditional and continuing guarantee of the full and punctual payment, and not of collection, of the Guaranteed Amount and, except as otherwise expressly addressed herein, is in no way conditioned upon any requirement that Buyer first attempt to collect the payment of the Guaranteed Amount from Seller, any other guarantor of the Guaranteed Amount or any other Person or entity or resort to any other means of obtaining payment of the Guaranteed Amount. In the event Seller shall fail to duly, completely or punctually pay any Guaranteed Amount as required pursuant to the PPA, Guarantor shall promptly pay such amount as required herein.

2. **Demand Notice**. For avoidance of doubt, a payment shall be due for purposes of this Guaranty only when and if a payment is due and payable by Seller to Buyer under the terms and conditions

of the Agreement. If Seller fails to pay any Guaranteed Amount as required pursuant to the PPA for five (5) Business Days following Seller's receipt of Buyer's written notice of such failure (the "**Demand Notice**"), then Buyer may elect to exercise its rights under this Guaranty and may make a demand upon Guarantor (a "**Payment Demand**") for such unpaid Guaranteed Amount. A Payment Demand shall be in writing and shall reasonably specify in what manner and what amount Seller has failed to pay and an explanation of why such payment is due and owing, with a specific statement that Buyer is requesting that Guarantor pay under this Guaranty. Guarantor shall, within five (5) Business Days following its receipt of the Payment Demand, pay the Guaranteed Amount to Buyer.

3. **Scope and Duration of Guaranty**. This Guaranty applies only to the Guaranteed Amount. This Guaranty shall continue in full force and effect from the Effective Date until the earlier of the following: (x) all Guaranteed Amounts have been paid in full (whether directly or indirectly through set-off or netting of amounts owed by Buyer to Seller), (y) the date that is twelve (12) months after the last day of the Delivery Term, and (z) replacement Performance Security is provided in an amount and form required by the terms of the PPA. Further, this Guaranty (a) shall remain in full force and effect without regard to, and shall not be affected or impaired by any invalidity, irregularity or unenforceability in whole or in part of this Guaranty, and (b) subject to the preceding sentence, shall be discharged only by complete performance of the undertakings herein. Without limiting the generality of the foregoing, the obligations of the Guarantor hereunder shall not be released, discharged, or otherwise affected and this Guaranty shall not be invalidated or impaired or otherwise affected for the following reasons:

   (i) the extension of time for the payment of any Guaranteed Amount, or

   (ii) any amendment, modification or other alteration of the PPA, or

   (iii) any indemnity agreement Seller may have from any party, or

   (iv) any insurance that may be available to cover any loss, except to the extent insurance proceeds are used to satisfy the Guaranteed Amount, or

   (v) any voluntary or involuntary liquidation, dissolution, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of, or other similar proceeding affecting, Seller or any of its assets, including but not limited to any rejection or other discharge of Seller's obligations under the PPA imposed by any court, trustee or custodian or any similar official or imposed by any law, statue or regulation, in each such event in any such proceeding, or

   (vi) the release, modification, waiver or failure to pursue or seek relief with respect to any other guaranty, pledge or security device whatsoever, or

   (vii) any payment to Buyer by Seller that Buyer subsequently returns to Seller pursuant to court order in any bankruptcy or other debtor-relief proceeding, or

   (viii) those defenses based upon (A) the legal incapacity or lack of power or

authority of any Person, including Seller and any representative of Seller to enter into the PPA or perform its obligations thereunder, (B) lack of due execution, delivery, validity or enforceability, including of the PPA, or (C) Seller's inability to pay any Guaranteed Amount or perform its obligations under the PPA, or

(ix) any other event or circumstance that may now or hereafter constitute a defense to payment of the Guaranteed Amount, including, without limitation, statute of frauds and accord and satisfaction;

provided that Guarantor reserves the right to assert for itself any defenses, setoffs or counterclaims that Seller is or may be entitled to assert against Buyer (except for such defenses, setoffs or counterclaims that are expressly waived under any provision of this Guaranty) in a subsequent action for recoupment, restitution, or reimbursement.

4. **Waivers by Guarantor**. Guarantor hereby unconditionally waives as a condition precedent to the performance of its obligations hereunder, with the exception of the requirements in Paragraph 2, (a) notice of acceptance, presentment or protest with respect to the Guaranteed Amounts and this Guaranty, (b) notice of any action taken or omitted to be taken by Buyer in reliance hereon, (c) any requirement that Buyer exhaust any right, power or remedy or proceed against Seller under the ESA, and (d) any event, occurrence or other circumstance which might otherwise constitute a legal or equitable discharge of a surety. Without limiting the generality of the foregoing waiver of surety defenses, it is agreed that the occurrence of any one or more of the following shall not affect the liability of Guarantor hereunder:

(i) at any time or from time to time, without notice to Guarantor, the time for payment of any Guaranteed Amount shall be extended, or such performance or compliance shall be waived;

(ii) the obligation to pay any Guaranteed Amount shall be modified, supplemented or amended in any respect in accordance with the terms of the ESA;

(iii) subject to Section 10, any (a) sale, transfer or consolidation of Seller into or with any other entity, (b) sale of substantial assets by, or restructuring of the corporate existence of, Seller or (c) change in ownership of any membership interests of, or other ownership interests in, Seller; or

(iv) the failure by Buyer or any other Person to create, preserve, validate, perfect or protect any security interest granted to, or in favor of, Buyer or any Person.

5. **Subrogation**. Notwithstanding any payments that may be made hereunder by the Guarantor, Guarantor hereby agrees that until the earlier of payment in full of all Guaranteed Amounts or expiration of the Guaranty in accordance with Section 3, it shall not be entitled to, nor shall it seek to, exercise any right or remedy arising by reason of its payment of any Guaranteed Amount under this Guaranty, whether by subrogation or otherwise, against Seller or seek contribution or reimbursement of such payments from Seller.

6. **Representations and Warranties**. Guarantor hereby represents and warrants that (a) it has all necessary and appropriate corporate or limited liability company powers and authority and the legal right to execute and deliver, and perform its obligations under, this Guaranty, (b) this Guaranty constitutes its legal, valid and binding obligations enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium and other similar laws affecting enforcement of creditors' rights or general principles of equity, (c) the execution, delivery and performance of this Guaranty does not and will not contravene Guarantor's organizational documents, any applicable Law or any contractual provisions binding on or affecting Guarantor, which would invalidate or materially impair Guarantor's ability to perform its obligations under this Guaranty, (d) except as disclosed in reports filed with the Securities and Exchange Commission by Guarantor's parent, [___], there are no actions, suits or proceedings pending before any court, governmental agency or arbitrator, or, to the knowledge of the Guarantor, threatened, against or affecting Guarantor or any of its properties or revenues which may, in any one case or in the aggregate, adversely affect the ability of Guarantor to enter into or perform its obligations under this Guaranty, and (e) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or Governmental Authority, and no consent of any other Person (including, any stockholder or creditor of the Guarantor), that has not heretofore been obtained is required in connection with the execution, delivery, performance, validity or enforceability of this Guaranty by Guarantor.

7. **Notices**. Notices under this Guaranty shall be deemed received if sent to the address specified below: (i) on the day received if served by overnight express delivery, and (ii) four Business Days after mailing if sent by certified, first class mail, return receipt requested. Any party may change its address to which notice is given hereunder by providing notice of the same in accordance with this Paragraph 8.

If delivered to Buyer, to it at [____]
Attn: [____]

If delivered to Guarantor, to it at [____]
Attn: [____]

8. **Governing Law and Forum Selection**. This Guaranty shall be governed by, and interpreted and construed in accordance with, the laws of the United States and the State of New York, excluding choice of law rules (other than Section 5-1401 and 5-1402 of the New York General Obligations Law), provided that, notwithstanding the foregoing, in no event shall such governing law prevent Buyer from complying with any obligations or from exercising any joint powers authority arising under the laws of the State of California. The Parties agree that any suit, action or other legal proceeding by or against any party (or its affiliates or designees) with respect to or arising out of this Guaranty shall be brought in the federal courts of the United States or the courts of the State of California sitting in the City and County of Los Angeles, California.

9. **Miscellaneous**. This Guaranty shall be binding upon Guarantor and its successors and assigns and shall inure to the benefit of Buyer and its successors and permitted assigns pursuant to the PPA. No

provision of this Guaranty may be amended or waived except by a written instrument executed by Guarantor and Buyer. This Guaranty is not assignable by Guarantor without the prior written consent of Buyer, which consent shall not be unreasonably withheld. This Guaranty is not assignable by Buyer without the prior written consent of Guarantor, which consent shall not be unreasonably withheld, except to the extent that the PPA is assigned in accordance with the terms thereof. No provision of this Guaranty confers, nor is any provision intended to confer, upon any third party (other than Buyer's successors and permitted assigns) any benefit or right enforceable at the option of that third party. This Guaranty embodies the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings of the parties hereto, verbal or written, relating to the subject matter hereof. If any provision of this Guaranty is determined to be illegal or unenforceable (i) such provision shall be deemed restated in accordance with applicable Laws to reflect, as nearly as possible, the original intention of the parties hereto and (ii) such determination shall not affect any other provision of this Guaranty and all other provisions shall remain in full force and effect. This Guaranty may be executed in any number of separate counterparts, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. This Guaranty may be executed and delivered by electronic means with the same force and effect as if the same was a fully executed and delivered original manual counterpart.

10. WAIVER OF JURY TRIAL; JUDICIAL REFERENCE.

(a) JURY WAIVER. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTY HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

(b) JUDICIAL REFERENCE. IN THE EVENT ANY LEGAL PROCEEDING IS FILED IN A FEDERAL COURT OF THE STATE OF CALIFORNIA, OR, TO THE EXTENT SUCH FEDERAL COURT LACKS SUBJECT MATTER JURISDICTION, IN A STATE COURT OF THE STATE OF CALIFORNIA (THE "COURT") BY OR AGAINST ANY PARTY HERETO IN CONNECTION WITH ANY CONTROVERSY, DISPUTE OR CLAIM DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY) (EACH, A "CLAIM") AND THE

WAIVER SET FORTH IN THE PRECEDING PARAGRAPH IS NOT ENFORCEABLE IN SUCH ACTION OR PROCEEDING, THE PARTIES HERETO AGREE AS FOLLOWS:

(i) ANY CLAIM (INCLUDING BUT NOT LIMITED TO ALL DISCOVERY AND LAW AND MOTION MATTERS, PRETRIAL MOTIONS, TRIAL MATTERS AND POST-TRIAL MOTIONS) WILL BE DETERMINED BY A GENERAL REFERENCE PROCEEDING IN ACCORDANCE WITH THE PROVISIONS OF CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 638 THROUGH 645.1. THE PARTIES INTEND THIS GENERAL REFERENCE AGREEMENT TO BE SPECIFICALLY ENFORCEABLE IN ACCORDANCE WITH CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638.

(ii) UPON THE WRITTEN REQUEST OF ANY PARTY, THE PARTIES SHALL SELECT A SINGLE REFEREE, WHO SHALL BE A RETIRED JUDGE OR JUSTICE. IF THE PARTIES DO NOT AGREE UPON A REFEREE WITHIN TEN (10) DAYS OF SUCH WRITTEN REQUEST, THEN, ANY PARTY MAY REQUEST THE COURT TO APPOINT A REFEREE PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 640(B).

(iii) THE PARTIES RECOGNIZE AND AGREE THAT ALL CLAIMS RESOLVED IN A GENERAL REFERENCE PROCEEDING PURSUANT HERETO WILL BE DECIDED BY A REFEREE AND NOT BY A JURY.

[*Signature on next page*]

IN WITNESS WHEREOF, the undersigned has caused this Guaranty to be duly executed and delivered by its duly authorized representative on the date first above written.

GUARANTOR:

[_____]

By:_____

Printed Name:_____

Title:_____

BUYER:

[_____]

By:_____

Printed Name:_____

Title:_____

EXHIBIT U

Supply Chain Code of Conduct

Buyer is committed to ensuring that the fundamental human rights of workers are protected, including addressing the potential risks of forced labor, child labor, servitude, human trafficking and slavery across our portfolio.

Our requirements and expectations for Seller's supply chain are detailed below in our Supply Chain Code of Conduct ("**Supply Chain Code**"). Seller must comply with all applicable Laws and this Supply Chain Code solely as set forth in this Exhibit U, even when this Supply Chain Code exceeds the requirements of applicable Law.

These standards are derived from the United Nations Guiding Principles on Business and Human Rights, the Core Conventions of the International Labour Organization ("ILO"), including the ILO Declaration on Fundamental Principles and Rights at Work, the Solar Energy Industries Association Solar Industry Commitment to Environmental & Social Responsibility, and the Responsible Business Alliance Code of Conduct.

1. **Freely Chosen Employment**
   Forced, bonded (including debt bondage) or indentured labor, involuntary or exploitative prison labor, slavery or trafficking of persons is not permitted. This includes transporting, harboring, recruiting, transferring, or receiving persons by means of threat, force, coercion, abduction or fraud for labor or services. There shall be no unreasonable restrictions on workers' freedom of movement in the facility in addition to unreasonable restrictions on entering or exiting company provided facilities including, if applicable, workers' dormitories or living quarters. All work must be voluntary, and workers shall be free to leave work at any time or terminate their employment without penalty if reasonable notice is given as per worker's contract, if any. Employers, agents, and sub-agents' may not hold or otherwise destroy, conceal, or confiscate identity or immigration documents, such as government-issued identification, passports, or work permits. Employers can only hold documentation if such holdings are required by law. In this case, at no time should workers be denied access to their documents. Workers shall not be required to pay employers' agents or sub-agents' recruitment fees or other related fees for their employment. If any such fees are found to have been paid by workers, such fees shall be repaid to the worker.

2. **Young Workers**
   Child labor is not to be used in any stage of manufacturing. The term "child" refers to any person under the age of 15, or under the age for completing compulsory education, or under the minimum age for employment in the country, whichever is greatest. Suppliers shall implement an appropriate mechanism to verify the age of workers. The use of legitimate workplace learning programs, which comply with all laws and regulations, is supported. Workers under the age of 18 shall not perform work that is likely to jeopardize their health or safety, including night shifts and overtime. Suppliers shall ensure proper management of student workers through proper maintenance of student records, rigorous due diligence of educational partners, and protection of students' rights in accordance with applicable laws and regulations. Suppliers shall provide appropriate support and training to all student

workers. In the absence of local law, the wage rate for student workers, interns, and apprentices shall be at least the same wage rate as other entry-level workers performing equal or similar tasks. If child labor is identified, assistance/remediation is provided.

3. **Working Hours**
   Studies of business practices clearly link worker strain to reduced productivity, increased turnover, and increased injury and illness. Working hours are not to exceed the maximum set by local law. Further, a workweek should not be more than 60 hours per week, including overtime, except in emergency or unusual situations. All overtime must be voluntary. Workers shall be allowed at least one day off every seven days.

4. **Wages and Benefits**
   Compensation paid to workers shall comply with all applicable wage laws, including those relating to minimum wages, overtime hours and legally mandated benefits. In compliance with local laws, workers shall be compensated for overtime at pay rates greater than regular hourly rates. Deductions from wages as a disciplinary measure shall not be permitted. For each pay period, workers shall be provided with a timely and understandable wage statement that includes sufficient information to verify accurate compensation for work performed. All use of temporary, dispatch and outsourced labor will be within the limits of the local law.

5. **Humane Treatment**
   There is to be no harsh or inhumane treatment including violence, gender-based violence, sexual harassment, sexual abuse, corporal punishment, mental or physical coercion, bullying, public shaming, or verbal abuse of workers; nor is there to be the threat of any such treatment. Disciplinary policies and procedures in support of these requirements shall be clearly defined and communicated to workers.

6. **Non-Discrimination/Non-Harassment**
   Suppliers should be committed to a workplace free of harassment and unlawful discrimination. Companies shall not engage in discrimination or harassment based on race, color, age, gender, sexual orientation, gender identity and expression, ethnicity or national origin, disability, pregnancy, religion, political affiliation, union membership, covered veteran status, protected genetic information or marital status in hiring and employment practices such as wages, promotions, rewards, and access to training. Workers shall be provided with reasonable accommodation for religious practices. In addition, workers or potential workers should not be subjected to medical tests that could be used in a discriminatory way or otherwise in violation of applicable law. This was drafted in consideration of ILO Discrimination (Employment and Occupation) Convention (No.111).

7. **Freedom of Association**
   In conformance with local law, Suppliers shall respect the right of all workers to form and join trade unions of their own choosing, to bargain collectively, and to engage in peaceful assembly as well as respect the right of workers to refrain from such activities. Workers and/or their representatives shall be able to openly communicate and share ideas and concerns with management regarding working conditions and management practices without fear of discrimination, reprisal, intimidation, or harassment.

8. Restricted Jurisdictions

Supplier shall not manufacture or produce products in the Xinjiang Uyghur Autonomous Region of China, or knowingly procure goods and services mined, produced or manufactured in the same.

EXHIBIT V

MATERIAL PERMITS

No.	*Permits*
1	Conditional Use Permit No. 8 (Map 233) Resolution 2012-037 – approval of mitigation measure compliance binders

EXHIBIT W

Force Majeure and/or Development Cure Period Claim Form

Instructions

A. Please review Article 10 and Exhibit B (if applicable) of the Power Purchase Agreement prior to filling out the form.

B. Fill out the form completely and return to your assigned Contract Manager at CPA.

Seller: [Name] Project: [Name]

Current Guaranteed Construction Start Date: [Date]

New Guaranteed Construction Start Date (if Seller's claims are validated in full): [Date]

Guaranteed Commercial Operation Date: [Date]

New Guaranteed Commercial Operation Date (if Seller's claims are validated in full): [Date]

---

1. Please describe the claimed Force Majeure Event or other event giving rise to the claimed Development Cure Period delay(s) (the "Claimed Event"), including its cause, date of commencement and date it ended or is anticipated to end.

2. Please specify the extent of the delay or prevented performance caused by the Claimed Event, including the relief claimed thereby. Describe how the claimed relief was calculated/determined, accounting for individual developments causing such delay or prevented performance.

3. With respect to a Claimed Event other than a Force Majeure Event, please describe the commercially reasonable efforts taken by Seller to prevent such event.

4. Please describe the commercially reasonable efforts taken to mitigate the delays or nonperformance caused by the Claimed Event and specify how such efforts reduced the delay days or nonperformance that would otherwise have occurred absent such mitigation.

5. Please attach supporting documentation, including without limitation:

- Force Majeure notices or other correspondence received from suppliers and/or contractors that describe the basis for and extentof the Claimed Event.
- Documentation, contracts, and/or correspondence with suppliers and/or contractors evidencing the claiming Party's mitigation efforts.
- Project schedule and/or GANTT charts that demonstrate the effect of the Claimed Event on the Guaranteed commercial Operation Date.

By signing this Claim form, I attest and affirm that I am authorized to sign this form on behalf of the Seller, that I have reviewed this Claim, including any attached documentation, and that the facts and statements made in this Claim are true and correct to the best of my knowledge.

Signed: _____

Name: _____

Title: _____

Date: _____

CONFIDENTIAL

CPA Draft 4-25-24

ENERGY STORAGE AGREEMENT

COVER SHEET

Seller: VESI 17 LLC

Buyer: Clean Power Alliance of Southern California, a California joint powers authority

Description of Facility: A 101.2 MWAC (404.8 MWh) battery energy storage facility, as more fully described in Exhibit A, with 93 MWAC of PCDS

Milestones:

Milestone	Expected Date for Completion
Evidence of Site Control	Complete
Documentation of Conditional Use Permit if required: **CEQA [ ] Cat Ex, [ ]Neg Dec, [ ]Mitigated Neg Dec, [x]EIR**	9/1/2026
Seller's receipt of Phase I and Phase II Interconnection study results for Seller's Interconnection Facilities	Complete
Executed Interconnection Agreement	[redacted]
Financial Close	N/A
Expected Construction Start Date	[redacted]
Initial Synchronization	6/29/2027
Network Upgrades completed (evidenced by delivery of permission to parallel letter from the Transmission Provider)	5/29/2027
Expected Date of CAISO Commercial Operation	11/29/2027
Expected Commercial Operation Date	12/29/2027

Delivery Term: Twenty (20) Contract Years

Guaranteed Capacity: 93 MW of Installed Capacity at four (4) hours of continuous discharge, subject to Section 3.4

Guaranteed Efficiency Rate:

Contract Year	Guaranteed Efficiency Rate
1	[redacted]
2	[redacted]
3	[redacted]
4	[redacted]
5	[redacted]
6	[redacted]
7	[redacted]
8	[redacted]
9	[redacted]
10	[redacted]
11	[redacted]
12	[redacted]
13	[redacted]
14	[redacted]
15	[redacted]
16	[redacted]
17	[redacted]
18	[redacted]
19	[redacted]
20	[redacted]

Guaranteed Construction Start Date: 3/29/2027

Guaranteed Commercial Operation Date: 12/29/2027

Storage Rate:

Contract Year	Storage Rate
1 – 20	$[redacted]/kW-mo. (flat) with no escalation

Product:

- ☒ Facility Energy
- ☒ Effective Capacity
- ☒ Ancillary Services
- ☒ Capacity Attributes

Anticipated Flexible Capacity: Amount: ___93____ (MW)

Scheduling Coordinator: Buyer

Security Amount:

Development Security: $105/kW of Guaranteed Capacity

Performance Security: $105/kW of Installed Capacity

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ENERGY STORAGE AGREEMENT

This Energy Storage Agreement ("**Agreement**") is entered into as of _____ (the "**Effective Date**"), between Buyer and Seller. Buyer and Seller are sometimes referred to herein individually as a "**Party**" and jointly as the "**Parties**." All capitalized terms used in this Agreement are used with the meanings ascribed to them in Article 1 to this Agreement.

RECITALS

WHEREAS, Seller intends to develop, design, construct, own, and operate the Facility; and

WHEREAS, Seller desires to sell, and Buyer desires to purchase, on the terms and conditions set forth in this Agreement, the Product;

WHEREAS, Buyer is entering into the Agreement with the intention that the Facility's NQC will be counted toward Buyer's clean energy mid-term reliability procurement obligations set forth in CPUC D.21-06-035 (as may be revised by further decisions);

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, and for other good and valuable consideration, the sufficiency and adequacy of which are hereby acknowledged, the Parties agree to the following:

ARTICLE 1
DEFINITIONS

1.1 Contract Definitions. The following terms, when used herein with initial capitalization, shall have the meanings set forth below:

"**AC**" means alternating current.

"**Accepted Compliance Costs**" has the meaning set forth in Section 3.6(c).

"**Affiliate**" means, with respect to any Person, each Person that directly or indirectly controls, is controlled by, or is under common control with such designated Person. For purposes of this definition and the definition of "Permitted Transferee", "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean (a) the direct or indirect right to cast at least fifty percent (50%) of the votes exercisable at an annual general meeting (or its equivalent) of such Person or, if there are no such rights, ownership of at least fifty percent (50%) of the equity or other ownership interest in such Person, or (b) the right to direct the policies or operations of such Person.

"**Agreement**" has the meaning set forth in the Preamble and includes the Cover Sheet and any Exhibits, schedules and any written supplements hereto.

"**Ancillary Services**" means spinning reserve, non-spinning reserve regulation up, regulation down, and any other ancillary services that the Facility is capable of providing without additional cost as of the Commercial Operation Date consistent with the Operating Restrictions, as each is defined in the CAISO Tariff.

"**Annual Capacity Availability**" has the meaning set forth in Exhibit P.

"**Anticipated Flexible Capacity**" means the amount and category of Flexible Capacity identified on the Cover Sheet which Seller anticipates as of the Effective Date that the Facility will be qualified by the CAISO to provide to Buyer.

"**Automated Dispatch System**" or "**ADS**" has the meaning set forth in the CAISO Tariff.

"**Automatic Generation Control**" or "**AGC**" has the meaning set forth in the CAISO Tariff.

"**Auxiliary Use**" means the Energy that is used (including Energy used during the charging or discharging of the Facility) within the Facility to power the motors, temperature control systems, control systems and other electrical loads that are integral to the charging or discharging of the Facility.

"**Availability Notice**" means Seller's availability forecasts issued pursuant to Section 4.10 with respect to the Available Effective Storage Capacity and Available Storage Capability, which shall include any updates from Seller with respect to Facility outages or availability as reported to CAISO (including as reported in OMS).

"**Availability Standards**" has the meaning set forth in the CAISO Tariff or such other similar term as modified and approved by FERC hereafter to be incorporated in the CAISO Tariff.

"**Available Capacity**" means the capacity of the Facility, expressed in whole MWs, that is mechanically available to charge and discharge Energy and provide Ancillary Services.

"**Available Effective Capacity**" has the meaning in Exhibit P.

"**Available Storage Capability**" has the meaning in Exhibit P.

"**Bankrupt**" or "**Bankruptcy**" means with respect to any entity, such entity that (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, (b) has any such petition filed or commenced against it which remains unstayed or undismissed for a period of ninety (90) days, (c) makes an assignment or any general arrangement for the benefit of creditors, (d) otherwise becomes bankrupt or insolvent (however evidenced), (e) 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 (f) is generally unable to pay its debts as they fall due.

"**Battery Charging Factor**" means the quotient (expressed as a decimal) of (a) the Charging Energy after reaching 100% SOC or the first five (5) hours of the charging phase of the applicable Capacity Test, as applicable, divided by (b) [the Installed Capacity x four (4) hours] MWh, not to exceed one (1).

"**Battery Discharging Factor**" means the quotient (expressed as a decimal) of (a) the Discharging Energy after the first four (4) hours of the discharging phase of the applicable Capacity Test, divided by (b) [the Installed Capacity x four (4) hours] MWh, not to exceed one (1).

"**Business Day**" means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday in California. A Business Day begins at 8:00 a.m. and ends 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 on the Cover Sheet.

"**Buyer Default**" means an Event of Default of Buyer.

"**Buyer Dispatched Test**" has the meaning in Section 4.4(c).

"**Buyer's Indemnified Parties**" has the meaning set forth in Section 18.2.

"**CAISO**" means the California Independent System Operator Corporation or any successor entity performing similar functions.

"**CAISO Certification**" means the certification and testing requirements for a storage unit set forth in the CAISO Tariff that are applicable to the Facility, including certification and testing that are applicable to the Facility for all Ancillary Services, PMAX, and PMIN associated with such storage units.

"**CAISO Charges Invoice**" has the meaning set forth in Exhibit D.

"**CAISO Commercial Operation**" has the meaning of "Commercial Operation" set forth in the CAISO Tariff.

"**CAISO Dispatch**" means any Charging Notice or Discharging Notice given by the CAISO to the Facility, whether through ADS, AGC or any successor communication protocol, communicating an Ancillary Service Award (as defined in the CAISO Tariff) or directing the Facility to charge or discharge at a specific MW rate for a specified period of time or amount of MWh.

"**CAISO Grid**" has the same meaning as "CAISO Controlled Grid" as defined in the CAISO Tariff.

"**CAISO-Penalized Shortfall**" has the meaning set forth in Section 3.8(b)(ii).

"**CAISO Tariff**" means the California Independent System Operator Corporation Agreement and Tariff, Business Practice Manuals (BPMs), and Operating Procedures, including

the rules, protocols, procedures and standards attached thereto, as the same may be amended or modified from time-to-time and approved by FERC.

"**Calculation Interval**" has the meaning set forth in Exhibit P.

"**Capacity Attribute**" means any current or future defined characteristic, certificate, tag, credit, or accounting construct associated with the amount of power that the Facility can charge or discharge and deliver to the Delivery Point at a particular moment and that can be purchased, sold or conveyed under CAISO or CPUC market rules, including Resource Adequacy Benefits.

"**Capacity Availability Factor**" has the meaning set forth in Exhibit C.

"**Capacity Availability Payment True-Up**" has the meaning set forth in Exhibit C.

"**Capacity Availability Payment True-Up Amount**" has the meaning set forth in Exhibit C.

"**Capacity Damages**" has the meaning set forth in Section 5 of Exhibit B.

"**Capacity Test**" or "**CT**" means any test or retest of the Facility to establish either the Installed Capacity or the Effective Capacity, or any other test conducted pursuant to Exhibit O.

"**Change of Control**" means, except in connection with public market transactions of equity interests or capital stock of Seller's Ultimate Parent, any circumstance in which Ultimate Parent ceases to own, directly or indirectly through one or more intermediate entities, more than fifty percent (50%) of the outstanding equity interests in Seller; *provided*, in calculating ownership percentages for all purposes of the foregoing:

(a) any ownership interest in Seller held by Ultimate Parent indirectly through one or more intermediate entities shall not be counted towards Ultimate Parent's ownership interest in Seller unless Ultimate Parent directly or indirectly owns more than fifty percent (50%) of the outstanding equity interests in each such intermediate entity; and

(b) ownership interests in Seller owned directly or indirectly by any Lender (including any tax equity provider) shall be excluded from the total outstanding equity interests in Seller.

"**Charging Energy**" means all Energy delivered to the Delivery Point pursuant to a Charging Notice, as measured by the Facility Meter.

"**Charging Notice**" means the operating instruction, and any subsequent updates, given by Buyer's SC or the CAISO to Seller, directing the Facility to charge at a specific MW rate for a specified period of time or amount of MWh. Any instruction to charge the Facility pursuant to a Buyer Dispatched Test shall be considered a Charging Notice.

"**COD Certificate**" has the meaning set forth in Exhibit B.

"**Commercial Operation**" has the meaning set forth in Exhibit B.

"**Commercial Operation Capacity Test**" means the Capacity Test conducted in connection with Commercial Operation of the Facility, including any additional Capacity Test for additional capacity installed after the Commercial Operation Date pursuant to Section 5 of Exhibit B.

"**Commercial Operation Date**" means the date Commercial Operation is achieved.

"**Commercial Operation Delay Damages**" means an amount equal to (a) the Development Security amount required hereunder, divided by (b) ninety (90).

"**Communications Protocols**" means certain Operating Restrictions developed by the Parties pursuant to Exhibit Q that involve procedures and protocols regarding communication with respect to the operation of the Facility pursuant to this Agreement.

"**Compliance Actions**" has the meaning set forth in Section 3.6(a).

"**Compliance Expenditure Cap**" has the meaning set forth in Section 3.6.

"**Confidential Information**" has the meaning set forth in Section 18.1.

"**Construction Start**" has the meaning set forth in Exhibit B.

"**Construction Start Date**" has the meaning set forth in Exhibit B.

"**Contract Term**" has the meaning set forth in Section 2.1.

"**Contract Year**" means a period of twelve (12) consecutive months. The first Contract Year shall commence on the Commercial Operation Date and each subsequent Contract Year shall commence on the anniversary of the Commercial Operation Date.

"**Costs**" means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third-party transaction costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace the Agreement; and all reasonable attorneys' fees and expenses incurred by the Non-Defaulting Party in connection with terminating the Agreement.

"**Cover Sheet**" means the cover sheet to this Agreement, which is incorporated into this Agreement.

"**COVID-19**" means the epidemic disease designated COVID-19 and the related virus designated SARS-CoV-2 and any mutations thereof, and the efforts of a Governmental Authority to combat such disease.

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

"**CPUC-Penalized Shortfall**" has the meaning set forth in Section 3.8(b)(i).

"**CPUC System RA Penalty**" means the penalties for "System Procurement Deficiency" adopted by the CPUC in its Decision 10-06-036, as may be updated or supplemented from time to

time.

"**Credit Rating**" means, with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt obligations (not supported by third party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuer rating by S&P or Moody's. If ratings by S&P and Moody's are not equivalent, the lower rating shall apply.

"**Cure Plan**" has the meaning set forth in Section 11.1(b)(iii).

"**Curtailment Order**" means any of the following:

(a) CAISO orders, directs, alerts, or provides notice to a Party, to curtail deliveries of Facility Energy for the following reasons: (i) any System Emergency, (ii) any warning of an anticipated System Emergency, or warning of an imminent condition or situation, which jeopardizes CAISO's electric system integrity or the integrity of other systems to which CAISO is connected, or (iii) in response to an Energy oversupply or potential Energy oversupply, and Buyer or the SC for the Facility submitted a Self-Schedule for the MWhs curtailed during the relevant time period;

(b) a 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, or (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) a curtailment ordered by CAISO or the Transmission Provider due to a Transmission System Outage; or

(d) a curtailment in accordance with Seller's obligations under its Interconnection Agreement with the Transmission Provider or distribution operator.

"**Daily Delay Damages**" means an amount equal to (a) the Development Security amount required hereunder, divided by (b) one hundred twenty (120).

"**Damage Payment**" means the amount to be paid by the Defaulting Party to the Non-Defaulting Party after a Terminated Transaction occurring prior to the Commercial Operation Date, in a dollar amount set forth in Section 11.3(a).

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

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

"**Defaulting Party**" has the meaning set forth in Section 11.1(a).

"**Delay Damages**" means Daily Delay Damages and Commercial Operation Delay Damages.

"**Delivery Point**" has the meaning set forth in Exhibit A.

"**Delivery Term**" shall mean the period of Contract Years set forth on the Cover Sheet beginning on the Commercial Operation Date, unless terminated earlier in accordance with the terms and conditions of this Agreement.

"**Development Cure Period**" has the meaning set forth in Exhibit B.

"**Development Security**" means (a) cash or (b) a Letter of Credit in the amount specified for the Development Security on the Cover Sheet.

"**Discharging Notice**" means the operating instruction, and any subsequent updates, given by Buyer's SC or the CAISO to the Facility, directing the Facility to discharge Facility Energy at a specific MW rate for a specified period of time or to an amount of MWh.

"**Disclosing Party**" has the meaning set forth in Section 18.2.

"**Dispatch Notice**" means any Charging Notice, Discharging Notice and any subsequent updates thereto, given by the CAISO, Buyer or Buyer's SC, to Seller, directing the Facility to charge or discharge Facility Energy at a specific MWh rate to a specified Stored Energy Level; *provided*, any such operating instruction or updates shall be in accordance with the Operating Restrictions. Dispatch Notices shall be communicated electronically through ADS, AGC or CAISO's Remote Intelligent Gateway, subject to Section 4.7. Telephonic or other verbal communications may be documented (either recorded by tape, electronically or in writing) without further notification to, or consent being required from, either Party with respect to such Party being recorded by the other, including by Buyer's designated Scheduling Coordinator; *provided*, in the event of a dispute between the Parties such recording(s) shall be made available to the requesting Party upon request to the extent such recordings are available using commercially reasonable efforts.

"**Early Termination Date**" has the meaning set forth in Section 11.2(a).

"**Effective Capacity**" means the lesser of (a) PMAX, and (b) maximum dependable operating capacity of the Facility to discharge Energy for four (4) hours of continuous discharge, as measured in MW at the Delivery Point (i.e., measured at the Facility Meter and adjusted for Electrical Losses to the Delivery Point to the extent such Electrical Losses are not already reflected in the Facility Meter measurements) as determined pursuant to the most recent Capacity Test (including the Commercial Operation Capacity Test), and as evidenced by a certificate substantially in the form attached as Exhibit I hereto, in either case (a) or (b) up to but not in excess of (i) the Guaranteed Capacity (with respect to a Commercial Operation Capacity Test) or (ii) the Installed Capacity (with respect to any other Capacity Test).

"**Effective Date**" has the meaning set forth on the Preamble.

"**Effective Flexible Capacity**" or "**EFC**" means the effective flexible capacity (in MWs) of the Facility pursuant to the counting conventions set forth in the Resource Adequacy Rulings and the CAISO Tariff, which such flexible capacity may be used to satisfy Flexible RAR.

"**Efficiency Rate**" means the rate calculated as the quotient of (a) the sum of (i) Facility Energy plus (ii) Idle Period Auxiliary Use for which Seller is required to reimburse Buyer, divided by (b) Energy In, based on actual Facility operations for each applicable month.

"**Efficiency Rate Factor**" has the meaning set forth in Exhibit C.

"**Electrical Losses**" means all transmission or transformation losses (a) between the Delivery Point and the Facility associated with delivery of Charging Energy, and (b) between the Facility and the Delivery Point associated with delivery of Facility Energy.

"**Emission Reduction Credits**" or "**ERCs**" means emission reductions that have been authorized by a local air pollution control district pursuant to California Division 26 Air Resources; Health and Safety Code Sections 40709 and 40709.5, whereby a district has established a system by which all reductions in the emission of air contaminants that are to be used to offset certain future increases in the emission of air contaminants shall be banked prior to use to offset future increases in emissions.

"**Energy**" means electrical energy, measured in kilowatt-hours, megawatt-hours, or multiple units thereof.

"**Energy In**" means the total energy (in MWh) delivered by Buyer to the Facility pursuant to a Charging Notice as measured at the Facility Meter (without adjusting for Electrical Losses or Station Use).

"**Energy Management System**" or "**EMS**" means the Facility's energy management system.

"**Environmental Costs**" means costs incurred in connection with acquiring and maintaining all environmental permits and licenses for the Facility, and the Facility's compliance with all applicable environmental laws, rules and regulations, including capital costs for pollution mitigation or installation of emissions control equipment required to permit or license the Facility, all operating and maintenance costs for operation of pollution mitigation or control equipment, costs of permit maintenance fees and emission fees as applicable, and the costs of all Emission Reduction Credits or Marketable Emission Trading Credits required by any applicable environmental laws, rules, regulations, and permits to operate, and costs associated with the disposal and clean-up of hazardous substances introduced to the Site, and the decontamination or remediation, on or off the Site, necessitated by the introduction of such hazardous substances on the Site.

"**Event of Default**" has the meaning set forth in Section 11.1.

"**Expected Commercial Operation Date**" has the meaning set forth on the Cover Sheet.

"**Expected Construction Start Date**" has the meaning set forth on the Cover Sheet.

"**Facility**" means the energy storage facility described on the Cover Sheet and in Exhibit A, located at the Site and including mechanical equipment and associated facilities and equipment

required to deliver Product (but excluding any Shared Facilities), as such storage facility may be expanded or otherwise modified from time to time in accordance with the terms hereof.

"**Facility Energy**" means all Energy delivered to the Delivery Point from the Facility pursuant to a Discharging Notice, as measured by the Facility Meter, net of Electrical Losses and Station Use. All Facility Energy shall have originally been delivered to the Facility as Charging Energy.

"**Facility Meter**" means a CAISO-approved bi-directional revenue quality meter or meters (with a 0.3 accuracy class), CAISO-approved data processing gateway or remote intelligence gateway, telemetering equipment and data acquisition services sufficient for monitoring, recording and reporting, in real time, the amount of Charging Energy delivered to the Facility and the amount of Facility Energy delivered to the Delivery Point for the purpose of invoicing in accordance with Section 8.1. The Facility may contain multiple measurement devices that will make up the Facility Meter, and, unless otherwise indicated, references to the Facility Meter shall mean all such measurement devices and the aggregated data of all such measurement devices, taken together.

"**FERC**" means the Federal Energy Regulatory Commission or any successor government agency.

"**Financial Close**" means Seller and/or one of its Affiliates has obtained debt and/or equity financing commitments from one or more Lenders sufficient to construct the Facility, including such financing commitments from Seller's owner(s).

"**Flexible Capacity**" means, with respect to any particular Showing Month, the number of MWs of Product which are eligible to satisfy Flexible RAR.

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

"**Force Majeure Event**" has the meaning set forth in Section 10.1.

"**Force Majeure Unavailability**" has the meaning set forth in Exhibit C.

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

"**Gains**" means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining the economic benefit to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., SP-15), all of

which should be calculated for the remaining Contract Term, and include the value of Capacity Attributes.

"**GHG Regulations**" means Title 17, Division 3 (Air Resources), Chapter 1 (Air Resources Board), Subchapter 10 (Climate Change), Article 5 (Emissions Cap), Sections 95800 to 96023 of the California Code of Regulations, as amended or supplemented from time to time.

"**Governmental Authority**" means any federal, state, provincial, local or municipal government, any political subdivision thereof or any other governmental, congressional or parliamentary, regulatory, or judicial instrumentality, authority, body, agency, department, bureau, or entity with authority to bind a Party at law, including CAISO; *provided*, "Governmental Authority" shall not in any event include any Party.

"**Greenhouse Gas**" or "**GHG**" has the meaning set forth in the GHG Regulations or in any other applicable Laws.

"**Guaranteed Capacity**" means the maximum dependable operating capability of the Facility to discharge Energy, as measured in MW at the Delivery Point for four (4) hours of continuous discharge, that Seller commits to install pursuant to this Agreement as set forth on the Cover Sheet.

"**Guaranteed Capacity Availability**" has the meaning set forth in Section 4.3.

"**Guaranteed Commercial Operation Date**" has the meaning on the Cover Sheet, as such date may be extended pursuant to Exhibit B.

"**Guaranteed Construction Start Date**" has the meaning on the Cover Sheet, as such date may be extended pursuant to Exhibit B.

"**Guaranteed Efficiency Rate**" means the minimum guaranteed Efficiency Rate of the Facility in each Contract Year of the Delivery Term, as set forth on the Cover Sheet.

"**Idle Period Auxiliary Use**" means Auxiliary Use consumed by the Facility during periods in which the Facility is not charging or discharging pursuant to a Charging Notice or Discharging Notice for which Seller does not pay retail rates to its retail electric utility provider.

"**Imbalance Energy**" means the amount of Energy, in any given Settlement Period or Settlement Interval, by which the amount of Facility Energy or Charging Energy deviates from the amount of Scheduled Energy.

"**Indemnified Party**" has the meaning set forth in Section 16.1(a).

"**Indemnifying Party**" has the meaning set forth in Section 16.1(a).

"**Initial Synchronization**" means the commencement of Trial Operations (as defined in the CAISO Tariff).

"**Installed Capacity**" means the lesser of (a) PMAX, and (b) maximum dependable operating capacity of the Facility to discharge Energy for four (4) hours of continuous discharge, as measured in MW at the Delivery Point (i.e., measured at the Facility Meter and adjusted for Electrical Losses and Station Use to the Delivery Point to the extent such Electrical Losses and Station Use are not already reflected in the Facility Meter measurements), that achieves Commercial Operation, as evidenced by a certificate substantially in the form attached as Exhibit I hereto, as such capacity may be adjusted pursuant to Section 5 of Exhibit B.

"**Inter-SC Trade**" has the meaning set forth in the CAISO Tariff.

"**Interconnection Agreement**" means the interconnection agreement entered into by Seller or an Affiliate pursuant to which the Facility will be interconnected with the Transmission System, and pursuant to which Seller's Interconnection Facilities and any other Interconnection Facilities will be constructed, operated and maintained during the Contract Term.

"**Interconnection Capacity Limit**" means the maximum instantaneous amount of Energy that is permitted to be delivered to the Delivery Point under Seller's Interconnection Agreement, in the amount of __ MW.

"**Interconnection Facilities**" means the interconnection facilities, control and protective devices and metering facilities required to connect the Facility with the Transmission System in accordance with the Interconnection Agreement.

"**Interest Rate**" has the meaning set forth in Section 8.2.

"**Interim Deliverability Status**" has the meaning set forth in the CAISO Tariff.

"**IP Indemnity Claim**" has the meaning set forth in Section 16.1(b).

"**ITC**" means the investment tax credit established pursuant to Section 48 of the United States Internal Revenue Code of 1986.

"**Joint Powers Act**" means the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.).

"**Joint Powers Agreement**" means that certain Joint Powers Agreement dated June 27, 2017, as amended from time to time, under which Buyer is organized as a Joint Powers Authority in accordance with the Joint Powers Act.

"**kWh**" means a kilowatt-hour measured in alternating current, unless expressly stated in terms of direct current.

"**Law**" means any applicable law, statute, rule, regulation, decision, writ, order, decree or judgment, permit or any interpretation thereof, promulgated or issued by a Governmental Authority.

"**Lender**" means, collectively, any Person (a) providing senior or subordinated construction, interim, back leverage or long-term debt, equity or tax equity financing or

refinancing for or in connection with the development, construction, purchase, installation or operation of the Facility, whether that financing or refinancing takes the form of private debt (including back-leverage debt), equity (including tax equity), public debt or any other form (including financing or refinancing provided to a member or other direct or indirect owner of Seller), including any equity or tax equity investor directly or indirectly providing financing or refinancing for the Facility or purchasing equity ownership interests of Seller and/or its Affiliates, and any trustee or agent or similar representative acting on their behalf, (b) providing interest rate or commodity protection under an agreement hedging or otherwise mitigating the cost of any of the foregoing obligations and/or (c) participating in a lease financing (including a sale leaseback or leveraged leasing structure) with respect to the Facility.

"**Letter(s) of Credit**" means one or more irrevocable, standby letters of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank (a) having a Credit Rating of at least A- with an outlook designation of "stable" from S&P or A3 with an outlook designation of "stable" from Moody's or (b) otherwise acceptable to Buyer in its sole discretion, in a form substantially similar to the letter of credit set forth in Exhibit K, with such changes as reasonably requested by Seller.

"**Licensed Professional Engineer**" means an independent, professional engineer selected by Seller and reasonably acceptable to Buyer, licensed in the State of California.

"**Local Capacity Area Resource**" has the meaning set forth in the CAISO Tariff.

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

"**Losses**" means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining economic loss to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., SP-15), all of which should be calculated for the remaining Contract Term and must include the value of Capacity Attributes.

"**Marketable Emission Trading Credits**" means emissions trading credits or units pursuant to the requirements of California Division 26 Air Resources; Health & Safety Code Section 39616 and Section 40440.2 for market-based incentive programs such as the South Coast Air Quality Management District's Regional Clean Air Incentives Market, also known as RECLAIM, and allowances of sulfur dioxide trading credits as required under Title IV of the Federal Clean Air Act (42 U.S.C. § 7651b (a) to (f)).

"**Material Permits**" means all permits required for Seller to commence construction, as set forth on Exhibit V.

"**Milestones**" means the significant permitting, interconnection, financing and construction milestones set forth on the Cover Sheet.

"**Monthly Capacity Payment**" means the payment required to be made by Buyer to Seller each month of the Delivery Term as compensation for the Product, as calculated in accordance with Exhibit C.

"**Monthly Forecast**" has the meaning set forth in Section 4.10(a).

"**Moody's**" means Moody's Investors Service, Inc., or its successor.

"**MW**" means megawatts in alternating current, unless expressly stated in terms of direct current.

"**MWh**" means megawatt-hour measured in alternating current, unless expressly stated in terms of direct current.

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

"**Net Qualifying Capacity**" or "**NQC**" has the meaning set forth in the CAISO Tariff.

"**Network Upgrades**" has the meaning set forth in the CAISO Tariff.

"**Non-Defaulting Party**" has the meaning set forth in Section 11.2.

"**Notice**" shall, unless otherwise specified in the Agreement, mean written communications by a Party to be delivered by hand delivery, United States mail, overnight courier service, or electronic messaging (e-mail).

"**Operating Restrictions**" means those restrictions, rules, requirements, and procedures set forth in Exhibit Q.

"**Outage Management System**" or "**OMS**" has the meaning set forth in the CAISO Tariff.

"**Outage Schedule**" has the meaning set forth in Section 4.11(a)(i).

"**Partial Capacity Deliverability Status**" or "**PCDS**" has the meaning set forth in the CAISO Tariff.

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

"**Performance Guarantees**" has the meaning set forth in Section 4.3(b).

"**Performance Security**" means (i) cash or (ii) a Letter of Credit, in the amount specified for the Performance Security on the Cover Sheet.

"**Permitted Disclosee**" has the meaning set forth in Section 18.2.

"**Permitted Transferee**" means (i) any Affiliate of Seller or (ii) any entity that satisfies, or is controlled by another Person that satisfies, the following requirements:

(a) A tangible net worth of not less than one hundred fifty million dollars ($150,000,000) or a Credit Rating of at least BBB- from S&P, BBB- from Fitch, or Baa3 from Moody's; and

(b) At least two (2) years of experience in the ownership and operations of energy storage facilities similar to the Facility, or has retained a third-party with such experience to operate the Facility.

"**Person**" means any individual, sole proprietorship, corporation, limited liability company, limited or general partnership, joint venture, association, joint-stock company, trust, incorporated organization, institution, public benefit corporation, unincorporated organization, government entity or other entity.

"**Planned Outage**" means a period during which the Facility is either in whole or in part not capable of providing service due to planned maintenance that has been scheduled in advance in accordance with Section 4.11(a).

"**PMAX**" means the applicable CAISO-certified maximum operating level of the Facility.

"**PMIN**" means the applicable CAISO-certified minimum operating level of the Facility.

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

"**Portfolio**" means the single portfolio of electrical energy generating, energy storage, or other assets and entities, including the Facility (or the interests of Seller or Seller's Affiliates or the interests of their respective direct or indirect parent companies), that is pledged as collateral security in connection with a Portfolio Financing.

"**Portfolio Financing**" means any debt incurred by an Affiliate of Seller that is secured only by a Portfolio.

"**Portfolio Financing Entity**" means any Affiliate of Seller that incurs debt in connection with any Portfolio Financing.

"**Product**" has the meaning set forth on the Cover Sheet.

"**Progress Report**" means a progress report including the items set forth in Exhibit E.

"**Prudent Operating Practice**" means (a) the applicable practices, methods and acts required by or consistent with applicable Laws and reliability criteria, and otherwise engaged in or approved by a significant portion of the electric industry during the relevant time period with respect to grid-interconnected, utility-scale energy storage facilities in the Western United States, and (b) any of the practices, methods and acts which, in the exercise of reasonable judgment in

light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Prudent Operating Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to acceptable practices, methods or acts generally accepted in the industry with respect to grid-interconnected, utility-scale energy storage facilities in the Western United States. Prudent Operating Practice shall include compliance with applicable Laws, applicable safety and reliability criteria, and the applicable criteria, rules and standards promulgated in the National Electric Safety Code and the National Electrical Code, as they may be amended or superseded from time to time, including the criteria, rules and standards of any successor organizations.

"**Qualifying Capacity**" has the meaning set forth in the CAISO Tariff.

"**RA Compliance Showing**" means the (a) Local RAR compliance or advisory showings (or similar or successor showings), (b) System RAR compliance or advisory showings (or similar or successor showings), and (c) Flexible RAR compliance or advisory showings (or similar successor showings), in each case, an entity is required to make to the CAISO pursuant to the CAISO Tariff, to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the Resource Adequacy Rulings, or to any Governmental Authority.

"**RA Deficiency Amount**" means the liquidated damages payment that Seller shall pay to Buyer for an applicable RA Shortfall as calculated in accordance with Section 3.5(b).

"**RA Guarantee Date**" means the first day of the month that is three (3) months following the Commercial Operation Date.

"**RA Plan**" has the meaning set forth for "Resource Adequacy Plan" in the CAISO Tariff with respect to Buyer's monthly or annual Resource Adequacy showings.

"**RA Shortfall**" means, for a given Showing Month, the difference, expressed in kW, of (a) the Facility's Qualifying Capacity *minus* (b) the sum of (i) the portion of the Net Qualifying Capacity of the Facility for such month which is able to be shown on Buyer's monthly or annual RA Plan to the CAISO and CPUC *plus* (ii) Replacement RA provided by Seller with respect to an expected shortfall in Resource Adequacy Benefits of the Facility for such Showing Month, if applicable; *plus* (D) any portion of the Net Qualifying Capacity that was not delivered as a result of the fault or negligence of Buyer.

"**RA Shortfall Month**" means for purposes of calculating an RA Deficiency Amount under Section 3.5(b), any month shown on an RA Plan, commencing with the RA Plan for the Showing Month that includes the RA Guarantee Date (including any month during the period between the RA Guarantee Date and the first day of the first Showing Month for Buyer which actually includes the Facility's Net Qualifying Capacity or any Replacement RA, if applicable) during which there is an RA Shortfall.

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

"**Receiving Party**" has the meaning set forth in Section 18.2.

"**Reliability Network Upgrades**" has the meaning set forth in the CAISO Tariff.

"**Remedial Action Plan**" has the meaning set forth in Section 2.4.

"**Replacement RA**" means resource adequacy benefits equivalent or superior to Resource Adequacy Benefits (including satisfying the same Slice-of-Day, generation profile and related characteristics) that would have been provided by the Facility with respect to the applicable month in which a RA Deficiency Amount is due to Buyer, and located within NP 15 TAC Area and, to the extent that the Facility would have qualified as a Local Capacity Area Resource for such month, described as a Local Capacity Area Resource.

"**Requested Confidential Information**" has the meaning set forth in Section 18.2.

"**Resource Adequacy Benefits**" means the rights and privileges attached to the Facility that satisfy any entity's resource adequacy obligations, as those obligations are set forth in any Resource Adequacy Rulings and shall include Flexible Capacity, and any local, zonal or otherwise locational attributes associated with the Facility.

"**Resource Adequacy Requirements**" or "**RAR**" means the resource adequacy requirements applicable to an entity as established by the CAISO pursuant to the CAISO Tariff, by the CPUC pursuant to the Resource Adequacy Rulings, or by any other Governmental Authority.

"**Resource Adequacy Resource**" shall have the meaning used in Resource Adequacy Rulings.

"**Resource Adequacy Rulings**" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-06-063, 16-06-045, 17-06-027, 18-06-030, 18-06-031, 19-02-022, 19-06-026, 19-10-021, 20-01-004, 20-03-016, 20-06-002, 20-06-028, 20-06-031, 20-12-006, 21-06-029, 21-07-014, 22-03-034, 22-06-050, 22-12-028, 22-08-039, 23-04-010 and any other existing or subsequent ruling or decision, or any other resource adequacy laws, rules or regulations enacted, adopted or promulgated by any applicable Governmental Authority, however described, as such decisions, rulings, Laws, rules or regulations may be amended or modified from time-to-time throughout the Contract Term.

"**S&P**" means the Standard & Poor's Financial Services, LLC (a subsidiary of S&P Global Inc.) or its successor.

"**SCADA Systems**" means the standard supervisory control and data acquisition systems to be installed by Seller as part of the Facility, including those system components that enable Seller to receive ADS and AGC instructions from the CAISO or similar instructions from Buyer's SC.

"**Schedule**" has the meaning set forth in the CAISO Tariff, and "**Scheduled**" and "**Scheduling**" have a corollary meaning.

"**Scheduled Energy**" means the Charging Energy or Facility Energy that clears under the applicable CAISO market based on the final Day-Ahead Schedule, FMM Schedule (as defined in the CAISO Tariff), and/or any other financially binding Schedule, market instruction or dispatch for the Facility for a given period of time implemented in accordance with the CAISO Tariff.

"**Scheduling Coordinator**" or "**SC**" means an entity certified by the CAISO as qualifying as a Scheduling Coordinator pursuant to the CAISO Tariff for the purposes of undertaking the functions specified in "Responsibilities of a Scheduling Coordinator," of the CAISO Tariff, as amended from time to time.

"**Security Interest**" has the meaning set forth in Section 8.9.

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

"**Seller**" has the meaning set forth on the Cover Sheet.

"**Seller Initiated Test**" has the meaning set forth in Section 4.4(c).

"**Settlement Amount**" means the Non-Defaulting Party's Costs and Losses, on the one hand, netted against its Gains, on the other. If the Non-Defaulting Party's Costs and Losses exceed its Gains, then the Settlement Amount shall be an amount owing to the Non-Defaulting Party. If the Non-Defaulting Party's Gains exceed its Costs and Losses, then the Settlement Amount shall be zero dollars ($0). The Settlement Amount does not include consequential, incidental, punitive, exemplary or indirect or business interruption damages.

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

"**Settlement Period**" has the meaning set forth in the CAISO Tariff.

"**Shared Facilities**" means the gen-tie lines, transformers, substations, or other equipment, permits, contract rights, and other assets and property (real or personal), in each case, as necessary to enable delivery of Energy to or from the Facility (which is excluded from Shared Facilities) to the point of interconnection, including the Interconnection Agreement itself, that are used in common with third parties.

"**Showing Month**" shall be the calendar month of the Delivery Term that is the subject of the RA Compliance Showing, as set forth in the Resource Adequacy Rulings and outlined in the CAISO Tariff. For illustrative purposes only, pursuant to the CAISO Tariff and Resource Adequacy Rulings in effect as of the Effective Date, the monthly RA Compliance Showing made in June is for the Showing Month of August.

"**Site**" means the real property on which the Facility is or will be located, as further described in Exhibit A, and as shall be updated by Seller at the time Seller provides an executed Construction Start Date certificate in the form of Exhibit J to Buyer; *provided*, any such update to the Site that includes real property that was not originally contained within the Site boundaries described in Exhibit A shall be subject to Buyer's approval of such updates in its sole discretion.

"**Site Control**" means that, for the Contract Term, Seller (or, prior to the Delivery Term, Seller or its Affiliate): (a) owns or has the option to purchase the Site; (b) is the lessee or has the option to lease the Site; or (c) is the holder of an easement or an option for an easement, right-of-way grant, or similar instrument with respect to the Site.

"**SOC**" or "**State of Charge**" means (a) the Stored Energy Level relative to (b) the Effective Capacity multiplied by four (4) hours, expressed as a percentage. The "SOC" shall represent the range of Stored Energy Level reserved exclusively for Buyer's use; *provided*, Seller may represent such range anywhere within the actual available capability of the Facility.

"**SOD**" or "**Slice-of-Day**" has the meaning set forth in the Resource Adequacy Rulings.

"**SP-15**" means the Existing Zone Generation Trading Hub for Existing Zone region SP15 as set forth in the CAISO Tariff.

"**Station Use**" means, in addition to all Auxiliary Use, the Energy (including Energy produced or discharged by the Facility) that is used within the Facility to power the lights, motors, temperature control systems, control systems and other electrical loads that are necessary for operation of the Facility.

"**Storage Rate**" has the meaning set forth on the Cover Sheet; *provided*, for the period commencing on CAISO Commercial Operation through the earlier of (a) the RA Guarantee Date and (b) the first Showing Month for which the Facility is providing Resource Adequacy Benefits to Buyer, the Storage Rate shall be (x) [redacted]

"**Stored Energy Level**" means, at a particular time, the amount of Energy in the Facility available to be discharged to the Delivery Point as Facility Energy, expressed in MWh.

"**Supplementary Capacity Test Protocol**" has the meaning set forth in Exhibit O.

"**Supply Chain Code**" has the meaning in Exhibit U.

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

"**System Emergency**" means any condition that requires, as determined and declared by CAISO or the Transmission Provider, automatic or immediate action to (i) prevent or limit harm to or loss of life or property, (ii) prevent loss of transmission facilities or generation supply in the immediate vicinity of the Facility, or (iii) to preserve Transmission System reliability.

"**System RAR**" means the Resource Adequacy Requirements established for load-serving entities by the CAISO pursuant to the CAISO Tariff, the CPUC pursuant to the Resource Adequacy Rulings, or by any other Governmental Authority, but excluding local and flexible Resource Adequacy Requirements. "System RAR" may also be known as system area reliability, system resource adequacy, system resource adequacy procurement requirements, or system capacity requirement in other regulatory proceedings or legislative actions.

"**Tax**" or "**Taxes**" means all U.S. federal, state and local and any foreign taxes, levies, assessments, surcharges, duties and other fees and charges of any nature imposed by a Governmental Authority, whether currently in effect or adopted during the Contract Term, including ad valorem, excise, franchise, gross receipts, import/export, license, property, sales and use, stamp, transfer, payroll, unemployment, income, and any and all items of withholding, deficiency, penalty, additions, interest or assessment related thereto.

"**Tax Credits**" means the ITC and any (i) state, local and/or federal production tax credit, depreciation benefit, tax deduction and/or investment tax credit specific to the production of clean or renewable energy and/or investments in clean or renewable energy facilities or battery storage facilities, and (ii) any refundable credit, grant, or other cash payment in lieu of an incentive described in clause (i).

"**Terminated Transaction**" has the meaning set forth in Section 11.2(a).

"**Termination Payment**" has the meaning set forth in Section 11.3.

"**Total YTD Calculation Intervals**" has the meaning set forth in Exhibit P.

[redacted]

"**Transmission Provider**" means any entity that owns, operates and maintains transmission or distribution lines and associated facilities and/or has entitlements to use certain transmission or distribution lines and associated facilities for the purpose of transmitting or transporting the Facility Energy from the Delivery Point.

"**Transmission System**" means the transmission facilities operated by the CAISO, now or hereafter in existence, which provide energy transmission service downstream from the Delivery Point.

"**Transmission System Outage**" means an outage on the Transmission System, other than a System Emergency, that is not caused by Seller's actions or inactions and that prevents Buyer or the CAISO (as applicable) from receiving Facility Energy onto the Transmission System.

"**Ultimate Parent**" means Ormat Nevada, Inc., a corporation registered in the State of Delaware.

"**Unavailable Calculation Interval**" has the meaning set forth in Exhibit P.

"**Unplanned Outage**" means a period during which the Facility is unavailable to provide some or all of the Product due to the need to maintain or repair a component of the Facility, which period is not a Planned Outage.

1.2 Rules of Interpretation. In this Agreement, except as expressly stated otherwise or unless the context otherwise requires:

(a) headings and the rendering of text in bold and italics are for convenience and reference purposes only and do not affect the meaning or interpretation of this Agreement;

(b) words importing the singular include the plural and vice versa and the masculine, feminine and neuter genders include all genders;

(c) the words "hereof", "herein", and "hereunder" and words of similar import shall refer to this Agreement as a whole and not to any particular provision of this Agreement;

(d) a reference to an Article, Section, paragraph, clause, Party, or Exhibit is a reference to that Article, Section, paragraph, clause of, or that Party or Exhibit to, this Agreement unless otherwise specified;

(e) a reference to a document or agreement, including this Agreement shall mean such document, agreement or this Agreement including any amendment or supplement to, or replacement, novation or modification of this Agreement, but disregarding any amendment, supplement, replacement, novation or modification made in breach of such document, agreement or this Agreement;

(f) a reference to a Person includes that Person's successors and permitted assigns;

(g) the terms "include" and "including" mean "include or including (as applicable) without limitation" and any list of examples following such term shall in no way restrict or limit the generality of the word or provision in respect of which such examples are provided;

(h) references to any statute, code or statutory provision are to be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or reenacted, and include references to all bylaws, instruments, orders and regulations for the time being made thereunder or deriving validity therefrom unless the context otherwise requires;

(i) in the event of a conflict, a mathematical formula or other precise description of a concept or a term shall prevail over words providing a more general description of a concept or a term;

(j) references to any amount of money shall mean a reference to the amount in United States Dollars;

(k) the expression "and/or" when used as a conjunction shall connote "any or all of";

(l) words, phrases or expressions not otherwise defined herein that (i) have a generally accepted meaning in Prudent Operating Practice shall have such meaning in this Agreement or (ii) do not have well known and generally accepted meaning in Prudent Operating

Practice but that have well known and generally accepted technical or trade meanings, shall have such recognized meanings; and

(m) each Party acknowledges that it was represented by counsel in connection with this Agreement and that it or its counsel reviewed this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

ARTICLE 2
TERM; CONDITIONS PRECEDENT

2.1 Contract Term.

(a) The term of this Agreement shall commence on the Effective Date and shall remain in full force and effect until the conclusion of the Delivery Term, subject to any early termination provisions set forth herein ("**Contract Term**"); *provided*, Buyer's obligations to pay for or accept any Product are subject to Seller's completion of the conditions precedent pursuant to Section 2.2.

(b) Applicable provisions of this Agreement shall continue in effect after termination, including early termination, to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to termination. The confidentiality obligations of the Parties under Article 18 shall remain in full force and effect for two (2) years following the termination of this Agreement, and all indemnity and audit rights shall remain in full force and effect for one (1) year following the termination of this Agreement.

2.2 Conditions Precedent. The Delivery Term shall not commence until Seller completes to Buyer's reasonable satisfaction each of the following conditions, which Buyer shall, if submitted by Seller within thirty (30) days of the expected Commercial Operation Date, review and either accept or provide Notice stating in reasonably detail the basis for Buyer's rejection thereof within five (5) Business Days of receipt thereof:

(a) Seller shall have delivered to Buyer (i) a completion certificate from a Licensed Professional Engineer substantially in the form of Exhibit H and (ii) a certificate from a Licensed Professional Engineer substantially in the form of Exhibit I setting forth the Installed Capacity on the Commercial Operation Date;

(b) A Participating Generator Agreement and a Meter Service Agreement between Seller and CAISO shall have been executed and delivered and be in full force and effect, and a copy of each such agreement delivered to Buyer;

(c) An Interconnection Agreement between Seller and the Transmission Provider shall have been executed and delivered and be in full force and effect and a copy of the Interconnection Agreement delivered to Buyer;

(d) Seller shall have delivered to Buyer a certificate from an authorized representative of Seller stating that (i) all applicable regulatory authorizations, approvals and permits for the operation of the Facility have been obtained and all conditions thereof that are capable of being satisfied on the Commercial Operation Date have been satisfied and shall be in full force and effect;

(e) Seller has obtained CAISO Certification for the Facility;

(f) [Intentionally Omitted]

(g) Seller has delivered the Performance Security to Buyer in accordance with Section 8.8;

(h) Seller has taken all actions and executed all documents and instruments, required to authorize Buyer (or its designated agent) to act as Scheduling Coordinator under this Agreement and to fully enable the Facility to be Scheduled by Buyer, and Buyer (or its designated agent) is authorized to act as Scheduling Coordinator;

(i) Seller has delivered to Buyer a certificate from an authorized representative of Seller stating that Seller has not utilized any equipment or resources in connection with the construction, commissioning or testing of the Facility in violation of Section 2.3(b); and

(j) Seller has paid Buyer for all amounts due and owing under this Agreement, if any, including Delay Damages.

2.3 Development; Construction; Progress Reports.

(a) Within fifteen (15) days after the close of (i) each calendar quarter from the first calendar quarter following the Effective Date until the Construction Start Date, and (ii) each calendar month from the first calendar month following the Construction Start Date until the Commercial Operation Date, Seller shall provide to Buyer a Progress Report and agree to regularly scheduled meetings between representatives of Buyer and Seller to review such reports and discuss Seller's construction progress. The form of the Progress Report is set forth in Exhibit E. Seller shall also provide Buyer with any reasonably requested documentation (subject to confidentiality restrictions) directly related to the achievement of Milestones within ten (10) Business Days of receipt of such request by Seller. Seller is solely responsible for the design and construction of the Facility, including the location of the Site, the Facility layout, and the selection and procurement of the equipment comprising the Facility.

(b) Seller shall use commercially reasonable efforts to ensure that all materials, products and components used in constructing, installing and operating the Facility throughout the Term shall be in compliance with the Supply Chain Code. Seller shall comprehensively implement due diligence procedures for its, and with respect to the Facility its Affiliate's, suppliers, subcontractors and other participants in its supply chains, to comply with the Supply Chain Code. Seller shall notify Buyer as soon as it becomes aware of any breach, or potential breach, of its obligations under this Section 2.3(b).

(c) Buyer shall have the right, at Buyer's sole expense, to retain an independent auditor to audit Seller's compliance with the requirements of Section 2.3(b).

(d) In the event that the [redacted]

2.4 Remedial Action Plan. If Seller misses a Milestone by more than sixty (60) days in respect of any Milestone prior to the Expected Constructed Start Date and thirty (30) days in respect of the Expected Construction Start Date and any subsequent Milestone, except as the result of Force Majeure Event or a Buyer Default, Seller shall submit to Buyer, within ten (10) Business Days of the end of such thirty (30)-day period following the Milestone completion date, a remedial action plan ("**Remedial Action Plan**"), which will describe in detail any delays (actual or anticipated) beyond the scheduled Milestone dates, including the cause of the delay (e.g., governmental approvals, financing, property acquisition, design activities, equipment procurement, project construction, interconnection, or any other factor), Seller's detailed description of its proposed course of action to achieve the missed Milestones and all subsequent Milestones by the Guaranteed Commercial Operation Date; *provided*, delivery of any Remedial Action Plan shall not relieve Seller of its obligation to provide Remedial Action Plans with respect to any subsequent Milestones and to achieve the Guaranteed Commercial Operation Date in accordance with the terms of this Agreement. Subject to the provisions of Exhibit B, so long as Seller complies with its obligations under this Section 2.4, Seller shall not be considered in default of its obligations under this Agreement solely as a result of missing any Milestone.

[redacted]

2.6 Pre-Commercial Operation Actions. The Parties agree that, in order for Buyer to dispatch the Facility for its Commercial Operation Date, the Parties will have to perform certain of their Delivery Term obligations in advance of the Commercial Operation Date, including, without limitation, Seller's delivery of an Availability Notice for the Commercial Operation Date, and delivery of a Dispatch Notice and nominating and scheduling the Facility for the Commercial Operation Date, in advance of the Commercial Operation Date. The Parties shall cooperate with each other in order for Buyer to be able to dispatch the Facility for the Commercial Operation Date. Seller shall give Buyer at least forty-five (45) days' Notice before the Commercial Operation Date.

ARTICLE 3
PURCHASE AND SALE

3.1 Product. Subject to the terms and conditions of this Agreement, during the Delivery Term, Buyer shall have the exclusive right to the Effective Capacity and all Product associated therewith, including the exclusive right to use, market or sell the Product and the right to all revenues generated from the use, resale or remarketing of the Product. Seller shall operate the Facility and make available, charge and discharge, deliver, and sell the Product therefrom to Buyer, when and as the Facility is available, subject to the terms and conditions of this Agreement, including the Operating Restrictions. Seller represents and warrants that it will deliver the Product to Buyer free and clear of all liens, security interests, claims and encumbrances. Seller shall not substitute or purchase any energy storage capacity, Energy, Ancillary Services or Capacity Attributes from any other energy storage resource or the market for delivery hereunder except as otherwise provided herein, nor shall Seller sell, assign or otherwise transfer any Product, or any portion thereof, to any third party other than to Buyer or CAISO pursuant to this Agreement.

3.2 Facility Energy. Except for Facility Energy resulting from a Seller Initiated Test, Seller commits to make available the Facility Energy to Buyer, and Buyer shall have the exclusive rights to all Facility Energy, subject to the Operating Restrictions. Title to and risk of loss related to the Facility Energy shall pass and transfer from Seller to Buyer at the Delivery Point.

3.3 Ancillary Services. Buyer shall have the exclusive rights to all Ancillary Services, with characteristics and quantities determined in accordance with the CAISO Tariff. Upon a request by Buyer, the Parties shall negotiate in good faith to modify the terms of this Agreement for the Facility to be able to provide Black Start (as defined in the CAISO Tariff) or any other Ancillary Services not listed Exhibit Q; *provided*, neither Party shall be obligated to agree to any changes under this Agreement, or to incur any expense in connection with such changes, except under terms mutually acceptable to both Parties as set forth in a written agreement.

3.4 Capacity Attributes. Seller shall diligently pursue Full Capacity Deliverability Status for the Facility in the amount of no less than the Guaranteed Capacity in the CAISO generator interconnection process. If Seller obtains Full Capacity Delivery Status or Partial Capacity Deliverability Status for the Facility in excess of 93 MW, Seller may, upon Notice to Buyer, increase the Guaranteed Capacity up to a maximum of 101.2 MW, and the Parties shall modify all related terms in this Agreement accordingly, including Section (c) of Exhibit P on a pro rata basis and Exhibit Q. As between Buyer and Seller, Seller shall be responsible for the cost and

installation of any Network Upgrades associated with obtaining such Full Capacity Deliverability Status.

(a) Throughout the Delivery Term, Seller grants, pledges, assigns and otherwise commits to Buyer all the Capacity Attributes from the Facility.

(b) Throughout the Delivery Term and subject to Section 3.6, Seller shall use commercially reasonable efforts to maintain eligibility for Full Capacity Deliverability Status or Interim Deliverability Status for the Facility from the CAISO and shall perform all actions necessary to ensure that the Facility qualifies to provide Resource Adequacy Benefits, including Flexible Capacity, to Buyer. Throughout the Delivery Term, and subject to Section 3.6, Seller hereby covenants and agrees to transfer all Resource Adequacy Benefits from the Facility to Buyer.

(c) For the duration of the Delivery Term, and subject to Section 3.6, Seller shall take all commercially reasonable actions, including complying with all applicable registration and reporting requirements, and execute all documents or instruments necessary to enable Buyer to use all of the Capacity Attributes committed by Seller to Buyer pursuant to this Agreement; *provided*, Seller shall not be required to incur costs under this Section 3.4(c) other than those that it should reasonably have expected to incur as of the Effective Date and other de-minimis internal administrative costs unless Buyer has agreed in writing, in its sole discretion, to reimburse Seller for such additional costs.

(d) If Seller anticipates that it will have any RA Deficiency Amounts in a Showing Month, Seller may provide Replacement RA in the amount of the expected RA Shortfall with respect to such Showing Month, provided that (a) the amount of Replacement RA in any Contract Year shall not to exceed twenty-five percent (25%) of the annual total amount of Resource Adequacy Benefits expected to be provided by the Facility, and (b) any intended Replacement RA is communicated by Seller to Buyer in a Notice substantially in the form of Exhibit M at least fifty (50) Business Days before the applicable Showing Month for the purpose of including in Buyer's RA Compliance Showing for such Showing Month.

3.5 Resource Adequacy Failure.

(a) RA Deficiency Determination. Subject to the provisions of Section 3.5(d), for each RA Shortfall Month Seller shall pay to Buyer the RA Deficiency Amount as liquidated damages, as set forth in Section 3.5(b). Payment of the RA Deficiency Amount is Buyer's sole remedy for the Capacity Attributes that Seller failed to convey to Buyer.

(b) RA Deficiency Amount Calculation. The "**RA Deficiency Amount**" shall equal to the sum of:

(i) For any portion of the RA Shortfall for which Buyer incurs a CPUC System RA Penalty ("**CPUC-Penalized Shortfall**"), Seller's pro rata share of the amount of such CPUC System RA Penalty for such month actually incurred by Buyer (which shall be zero (0) if Buyer does not incur any CPUC System RA Penalty), plus,

(ii) For any portion of the RA Shortfall for which Buyer incurs CAISO costs, charges or penalties associated with such shortfall ("**CAISO-Penalized Shortfall**") Seller's

pro rata share of the amount of such CAISO costs, charges or penalties associated with the RA Shortfall for such month actually incurred by Buyer (which shall be zero (0) if Buyer does not incur any CAISO costs, charges or penalties associated with the RA Shortfall), plus

(iii) For any portion of the RA Shortfall which is not CPUC-Penalized Shortfall and/or CAISO-Penalized Shortfall, and for which Buyer purchased replacement Resource Adequacy Benefits, the amount of Buyer's cost of such replacement Resource Adequacy Benefits, plus

(iv) For any portion of the RA Shortfall which is not CPUC-Penalized Shortfall and/or CAISO-Penalized Shortfall, and for which Buyer did not purchase replacement Resource Adequacy Benefits, the prevailing market value of such RA Shortfall, as reasonably determined by Buyer.

(c) RA Deficiency Amount Cap. Notwithstanding the provisions of Section 3.5(b), for any RA Deficiency Amount for an RA Shortfall associated with a monthly Resource Adequacy showing, the RA Deficiency Amount shall not exceed the product of (i) the RA Shortfall *multiplied by* the Storage Rate for the Showing Months of October through June; (ii) the RA Shortfall *multiplied by* the Storage Rate *multiplied by* [redacted] for the Showing Month of July) (iii) the RA Shortfall *multiplied by* the Storage Rate *multiplied by* [redacted] for the Showing Month of August); and (iv) the RA Shortfall *multiplied by* the Storage Rate *multiplied by* [redacted] for the Showing Month of September. Notwithstanding the provisions of Section 3.5(b), for any RA Deficiency Amount for an RA Shortfall associated with an annual Resource Adequacy showing, the RA Deficiency Amount shall not exceed the product of the RA Shortfall *multiplied by* the [redacted]

(d) Annual Plan Shortfalls. If there is an RA Shortfall associated with an annual Resource Adequacy showing, Buyer shall use commercially reasonable efforts to purchase replacement Resource Adequacy Benefits to cover such RA Shortfall and shall purchase such replacement Resource Adequacy Benefits if and to the extent that they are available at a price at or below the product of the RA Shortfall *multiplied by* the [redacted] If and to the extent that Buyer purchases such replacement Resource Adequacy Benefits, Seller shall have no liability for any Shortfall Amount associated with the corresponding monthly Resource Adequacy Showing.

3.6 Compliance Expenditure Cap. Notwithstanding anything herein to the contrary, if a change in Law occurring after the Effective Date has increased Seller's cost to comply with Seller's obligations under this Agreement with respect to obtaining, maintaining, conveying or effectuating Buyer's use of Capacity Attributes, then the Parties agree that the maximum aggregate amount of costs and expenses Seller shall be required to bear during the Delivery Term to comply with all of such obligations shall be capped at Twenty-Five Thousand Dollars ($25,000) per MW of Guaranteed Capacity ("**Compliance Expenditure Cap**").

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

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

(c) Buyer will have sixty (60) days to evaluate such Notice (during which time period Seller is not obligated to take any Compliance Actions described in the Notice) and shall, within such time, either (1) agree to reimburse Seller for all or some portion of the costs that exceed the Compliance Expenditure Cap (such Buyer-agreed upon costs, the "**Accepted Compliance Costs**"), or (2) waive Seller's obligation to take such Compliance Actions, or any part thereof for which Buyer has not agreed to reimburse Seller. If Buyer does not respond to a Notice given by Seller under this Section 3.6(c) within sixty (60) days after Buyer's receipt of same, Buyer shall be deemed to have waived its rights to require Seller to take the Compliance Actions that are the subject of the Notice, and Seller shall have no further obligation to take, and no liability for any failure to take, such Compliance Actions until such time as Buyer agrees to pay such Accepted Compliance Costs.

(d) If Buyer agrees to reimburse Seller for the Accepted Compliance Costs, then Seller shall take such Compliance Actions covered by the Accepted Compliance Costs as agreed upon by the Parties and Buyer shall reimburse Seller for Seller's actual costs to effect the Compliance Actions, not to exceed the Accepted Compliance Costs, within sixty (60) days from the time that Buyer receives an invoice and documentation of such costs from Seller.

3.7 Facility Configuration. In order to optimize the benefits of the Facility, Buyer and Seller each agree that if requested by the other Party, then Buyer and Seller shall discuss in good faith potential reconfiguration of the Facility or Interconnection Facilities; *provided*, neither Party shall be obligated to agree to any changes under this Agreement, or to incur any expense in connection with such changes, except under terms mutually acceptable to both Parties as set forth in a written agreement.

ARTICLE 4
OBLIGATIONS AND DELIVERIES

4.1 Delivery. Subject to the provisions of this Agreement, commencing on the Commercial Operation Date through the end of the Contract Term, Seller shall supply and deliver the Product to Buyer at the Delivery Point, and Buyer shall take delivery of the Product at the Delivery Point in accordance with the terms of this Agreement. Seller shall be responsible for paying or satisfying when due any costs or charges imposed in connection with the delivery of Facility Energy to the Delivery Point, including any operation and maintenance charges imposed by the Transmission Provider directly relating to the Facility's operations. Except as otherwise set forth in this Agreement, Buyer shall be responsible for all costs, charges and penalties, if any, imposed in connection with: (a) the delivery of Charging Energy to the Delivery Point (including the cost of the Charging Energy itself) and (b) the acceptance and transmission of Facility Energy at and after the Delivery Point, including without limitation transmission costs and transmission line losses with regard to (a) and (b). The Facility Energy will be scheduled with the CAISO by Buyer (or Buyer's designated Scheduling Coordinator) in accordance with Exhibit D.

4.2 Station Use. Notwithstanding anything to the contrary in this Agreement, during charging and discharging of the Facility pursuant to a Charging Notice or Discharging Notice, (a) Auxiliary Use may be served by Charging Energy, Facility Energy or Energy obtained from the local utility, (b) Seller is responsible for providing or obtaining all Energy to serve Station Use (including paying the cost of any Energy obtained from the local utility to serve Station Use) except for Auxiliary Use during periods of charging or discharging pursuant to a Charging Notice or Discharging Notice, (c) the supply of Auxiliary Use shall not be deemed a violation of this Agreement, including Sections 4.9(c), (d), and (f), and (d) Seller shall reimburse Buyer for all Idle Period Auxiliary Use in the manner contemplated by paragraph (a) of Exhibit C. If any Energy provided by Buyer (i.e. originally delivered as Charging Energy) is used by Seller for Station Use (including Idle Period Auxiliary Use) and such use violates any CAISO rules, other applicable Laws or any applicable utility tariff, Seller (x) shall be solely responsible for (and shall reimburse Buyer, as applicable) any and all costs, penalties and charges resulting therefrom and (y) shall take such actions as may be necessary to comply with such CAISO rules, other applicable Laws or applicable utility tariff). If Seller demonstrates to Buyer's reasonable satisfaction that the CAISO Tariff and the local utility will allow Auxiliary Use to be metered under the Facility's retail service arrangement and billed at (i) wholesale rates when the Facility is subject to Charging Notices and Discharging Notices and (ii) retail rates when the Facility is not subject to Charging Notices and Discharging Notices, then the Parties shall promptly amend this Agreement, making the changes set forth in Exhibit T.

4.3 Performance Guarantees; Ancillary Services.

(a) During the Delivery Term, the Facility shall maintain an Annual Capacity Availability during each Contract Year of no less than [redacted] percent ([redacted]%) (the "**Guaranteed Capacity Availability**"), which Annual Capacity Availability shall be calculated in accordance with Exhibit P.

(b) During the Delivery Term, the Facility shall maintain an Efficiency Rate of no less than Guaranteed Efficiency Rate. The Guaranteed Capacity Availability and Guaranteed Efficiency Rate are collectively the "**Performance Guarantees**".

(c) Buyer's exclusive remedies for Seller's failure to achieve the Performance Guarantees are (i) the Monthly Capacity Payment adjustment and/or Capacity Availability Payment True-Up, as applicable, as set forth in Exhibit C, and (ii) in the case of a Seller Event of Default as set forth in Section 11.1(b)(iii) with respect to the Guaranteed Capacity Availability, the applicable remedies set forth in Article 11.

(d) Seller shall operate and maintain the Facility throughout the Delivery Term so as to be able to provide the Ancillary Services in accordance with the specifications set forth in the Facility's CAISO Certification associated with the Effective Capacity. To the extent the Facility fails to provide Ancillary Services for any reason not excused hereunder during any Calculation Interval that is not otherwise deemed an Unavailable Calculation Interval (including by reason of failing an Ancillary Services certification test), then as exclusive remedies the Availability Storage Capability for such Calculation Interval shall be deemed reduced for purposes of calculating the YTD Annual Capacity Availability to the extent of such inability or failure multiplied by fifty percent (50%), and Seller shall reimburse Buyer for any CAISO charges or penalties arising directly and exclusively from the failure to provide such Ancillary Services.

(e) Upon Buyer's reasonable request, Seller shall submit the Facility for additional CAISO Certification so that the Facility may provide additional Ancillary Services that the Facility is, at the relevant time, actually physically capable of providing consistent with the definition of Ancillary Services herein, provided that Buyer has agreed to reimburse Seller for any costs (other than de-minimis internal costs) that Seller incurs in connection with conducting such additional CAISO Certification.

4.4 Facility Testing.

(a) Capacity Tests. Prior to the Commercial Operation Date, Seller shall schedule and complete a Commercial Operation Capacity Test in accordance with Exhibit O. Thereafter, Seller and Buyer shall have the right to run additional Capacity Tests in accordance with Exhibit O. No later than ninety (90) days prior to the Commercial Operation Date, Seller may propose [redacted]

(i) Buyer shall have the right to send one or more representative(s) to witness all Capacity Tests. To the extent that any Capacity Tests are done remotely, and no representatives are needed on the Site, Buyer's shall have the right to send one or more representative(s) to witness all Capacity Tests in the location from which Seller or its representative is conducting such Capacity Test. Alternatively, in Buyer's sole discretion, Buyer may elect to have Seller provide to Buyer real-time access to all data and information related to such tests.

(ii) Following each Capacity Test, Seller shall submit a testing report in accordance with Exhibit O. If the actual capacity determined pursuant to a Capacity Test varies from the then-current Effective Capacity, as applicable, then the actual capacity determined pursuant to such Capacity Test shall become the new Effective Capacity, at the beginning of the day following the completion of the test for all purposes under this Agreement.

(b) Additional Testing. Seller shall, at times and for durations reasonably agreed to by Buyer, conduct necessary testing to ensure the Facility is functioning properly and the Facility is able to respond to Dispatch Notices.

(c) Buyer or Seller Initiated Tests. Any testing of the Facility requested by Buyer and any routine testing required by CAISO after the Commercial Operation Capacity Tests, and all required annual tests pursuant to Section B of Exhibit O, shall be deemed Buyer-instructed dispatches of the Facility ("**Buyer Dispatched Test**"). Any test of the Facility that is not a Buyer Dispatched Test (including all tests conducted prior to Commercial Operation, any Commercial Operation Capacity Tests, any Capacity Test conducted if the Effective Capacity immediately prior to such Capacity Test is below seventy percent (70%) of the Installed Capacity, any test required by CAISO (including any test required to obtain or maintain CAISO Certification), and other Seller-requested discretionary tests or dispatches, at times and for durations reasonably agreed to by Buyer, that Seller deems necessary for purposes of reliably operating or maintaining the Facility

or for re-performing a required test within a reasonable number of days of the initial required test (considering the circumstances that led to the need for a retest)) shall be deemed a "**Seller Initiated Test**".

(i) For any Seller Initiated Test other than a Capacity Test required by Exhibit O for which there is a stated notice requirement, Seller shall notify Buyer no later than twenty-four (24) hours prior thereto; *provided*, such twenty-four (24) hours prior notice may be shortened to the extent necessary to respond to an emergency condition consistent with Prudent Operating Practices.

(ii) No Dispatch Notices shall be issued during any Seller Initiated Test or Buyer Dispatched Test except as reasonably requested by Seller or Buyer to implement the applicable test. For purposes of calculating the Annual Storage Capacity Availability, the Facility shall be considered fully available in periods during which Buyer Dispatched Tests render the Storage Facility (or any portion thereof, as applicable) unavailable. The Facility will be deemed unavailable during any Seller Initiated Test, and Buyer shall not dispatch or otherwise schedule the Facility during such Seller Initiated Test.

4.5 Testing Costs and Revenues.

(a) For all Buyer Dispatched Tests, Buyer shall direct only Charging Energy to be used to charge the Facility and Buyer shall be entitled to all CAISO revenues associated with a Facility dispatch during a Buyer Dispatched Test. For all Seller Initiated Tests, (1) Seller shall reimburse Buyer the amount of Buyer's payment of the Charging Energy for such Seller Initiated Test, and (2) Seller shall be entitled to all CAISO revenues associated with the discharge of such Energy. Buyer shall pay to Seller, in the month following Buyer's receipt of such CAISO revenues and otherwise in accordance with Exhibit C, all applicable CAISO revenues received by Buyer and associated with the discharge Energy associated with such Seller Initiated Test.

(b) Buyer shall be responsible for all costs, expenses and fees payable or reimbursable to its representative(s) witnessing any Facility test.

(c) Except as set forth in Sections 4.5(a) and (b), all other costs of any testing of the Facility shall be borne by Seller.

4.6 Facility Operations.

(a) Seller shall operate the Facility in accordance with Prudent Operating Practices.

(b) Seller shall operate the Facility to automatically follow Automatic Generation Control such that the Facility can receive continuous instruction on a 4-second basis.

(c) Seller shall maintain a daily operations log for the Facility which shall include but not be limited to information on Energy charging and discharging, electricity consumption and efficiency (if applicable), availability, outages, changes in operating status, inspections and any other significant events related to the operation of the Facility. Information

maintained pursuant to this Section 4.6(b) shall be provided to Buyer within fifteen (15) days of Buyer's request.

(d) Seller shall maintain accurate records with respect to all Capacity Tests.

(e) Seller shall maintain and make available to Buyer records, including logbooks, demonstrating that the Facility is operated in accordance with Prudent Operating Practices. Seller shall comply with all reporting requirements and permit on-site audits, investigations, tests and inspections permitted or required under any Prudent Operating Practices.

4.7 Dispatch Notices. Buyer shall have the right to dispatch the Facility seven days per week and 24 hours per day (including holidays), by providing Dispatch Notices, subject to the requirements and limitations set forth in this Agreement. Subject to the Operating Restrictions, each Dispatch Notice will be effective unless and until such Dispatch Notice is modified by the CAISO, Buyer or Buyer's SC. If an electronic submittal is not possible for reasons beyond Buyer's control, Dispatch Notices may be provided (in order of preference) telephonically or by electronic mail to Seller's personnel designated to receive such communications, as provided by Seller in writing. In addition to any other requirements set forth or referred to in this Agreement, all Dispatch Notices will be made in accordance with Market Notice Timelines as specified in the CAISO Tariff.

4.8 [Intentionally Omitted]

4.9 Energy Management.

(a) Charging Generally. Upon receipt of a valid Charging Notice, Seller shall take any and all action necessary to deliver the Charging Energy to the Facility from the Delivery Point in order to deliver the Storage Product in accordance with the terms of this Agreement, including the maintenance, repair or replacement of equipment in Seller's possession or control used to deliver the Charging Energy from the Delivery Point to the Facility. Except as otherwise expressly set forth in this Agreement, Buyer shall be responsible for paying all costs and charges of delivering the Charging Energy to the Delivery Point, including all CAISO costs and charges associated with Charging Energy.

(b) Charging Notices. Buyer will have the right to charge the Facility seven (7) days per week and twenty-four (24) hours per day (including holidays) commencing upon CAISO Commercial Operation and continuing throughout the Delivery Term, by causing Charging Notices to be issued, subject to availability of the Facility and the requirements and limitations set forth in this Agreement, including the Operating Restrictions. Each Charging Notice issued in accordance with this Agreement shall be effective unless and until Buyer, Buyer's SC or CAISO modifies such Charging Notice by providing Seller with an updated Charging Notice.

(c) No Unauthorized Charging. Seller shall not charge the Facility during the Delivery Term other than pursuant to a valid Charging Notice (it being understood that Seller may adjust or deviate without liability from a Charging Notice to the extent necessary to maintain compliance with the Operating Restrictions), or in connection with a Seller Initiated Test (including Facility maintenance or a Capacity Test), or pursuant to a notice from the Transmission Provider or Governmental Authority. If, during the Delivery Term, Seller charges the Facility (i)

to a Stored Energy Level greater than the Stored Energy Level provided for in a Charging Notice, or (ii) in violation of the first sentence of this Section 4.9(c), then (x) Seller shall pay Buyer the cost of such Energy associated with such charging of the Facility, and (y) Buyer shall be entitled to discharge such Energy and entitled to all of the CAISO revenues and other benefits (including Product) associated with such discharge.

(d) No Unauthorized Discharging. Seller shall not discharge the Facility during the Delivery Term other than pursuant to a valid Discharging Notice (it being understood that Seller may adjust or deviate without liability from a Discharging Notice to the extent necessary to maintain compliance with the Operating Restrictions), or in connection with a Seller Initiated Test (including Facility maintenance or a Storage Capacity Test), or pursuant to a notice from the Transmission Provider or Governmental Authority. Buyer shall have the right to discharge the Facility seven (7) days per week and twenty-four (24) hours per day (including holidays) commencing upon CAISO Commercial Operation and continuing throughout the Delivery Term, by causing Discharging Notices to be issued, subject to availability of the Facility and the requirements and limitations set forth in this Agreement, including the Operating Restrictions. Each Discharging Notice issued in accordance with this Agreement shall be effective unless and until Buyer, Buyer's SC or the CAISO modifies such Discharging Notice by providing Seller with an updated Discharging Notice.

(e) Unauthorized Charges and Discharges. If Seller, or any third party under Seller's control, charges, discharges or otherwise uses the Facility other than as permitted hereunder, or as is expressly addressed in this Section 4.9, it shall be a breach by Seller and Seller shall be responsible to Buyer for any net costs, losses or damages arising therefrom, and, if Seller fails to implement procedures reasonably acceptable to Buyer within a reasonable amount of time to prevent any further occurrences of the same, then the failure to implement such procedures shall be an Event of Default under Article 11.

(f) CAISO Dispatches. During the Delivery Term, CAISO Dispatches shall have priority over any Charging Notice or Discharging Notice, and Seller shall have no liability for violation of this Section 4.9 or any Charging Notices or Discharging Notice if and to the extent such violation is caused by Seller's compliance with any CAISO Dispatch. During any time interval during the Delivery Term in which the Facility is capable of responding to a CAISO Dispatch, but the Facility deviates from a CAISO Dispatch other than as a result of the fault or negligence of Buyer or its Scheduling Coordinator, Seller shall be responsible for all CAISO charges and penalties (including Imbalance Energy charges) resulting from such deviation (in addition to any Buyer remedy related to overcharging of the Facility as set forth in Section 4.9(c)). To the extent the Facility is unable to respond to ADS signals during any Calculation Interval (except if (i) such failure is caused by or results from the fault or negligence of Buyer or its Scheduling Coordinator, or (ii) Buyer or CAISO elects to dispatch the Facility by means other than ADS or AGC), then as an exclusive remedy, such Calculation Interval shall be deemed an Unavailable Calculation Interval for purposes of calculating the YTD Annual Storage Capacity Availability; *provided,* [redacted]

(g) Pre-Commercial Operation Date Period, etc. Prior to CAISO Commercial Operation, (i) Buyer shall have no rights to issue or cause to be issued Charging Notices or

Discharging Notices, (ii) Seller shall have exclusive rights to charge and discharge the Facility (provided, Seller shall only charge and discharge the Facility in connection with installation, commissioning and testing of the Facility), (iii) Buyer and Buyer's SC shall reasonably coordinate and cooperate with Seller with respect to Facility testing (including for Test Energy), and (iv) all CAISO costs, revenues, penalties and other amounts owing to or paid by CAISO in respect of the Facility testing shall be for Seller's account. Upon CAISO Commercial Operation, Buyer or its designated SC shall be the Scheduling Coordinator for the Facility, and Buyer shall have exclusive rights to issue or cause to be issued Charging Notices or Discharging Notices and all CAISO costs, revenues, penalties and other amounts owing to or paid by CAISO in respect of the Facility operations shall be for Buyer's account.

(h) Curtailments. Notwithstanding anything in this Agreement to the contrary, during any Settlement Interval, Curtailment Orders applicable to such Settlement Interval shall have priority over any Dispatch Notices applicable to such Settlement Interval, and Seller shall have no liability for violation of this Agreement or any Dispatch Notice if and to the extent such violation is caused by Seller's compliance with any Curtailment Order or other instruction or direction from a Governmental Authority or the Transmission Provider. Buyer shall have the right, but not the obligation, to provide Seller with updated Dispatch Notices during any Curtailment Order, subject to availability of the Facility and the requirements and limitations set forth in this Agreement, including the Operating Restrictions.

4.10 Capacity Availability Notice.

(a) No less than thirty (30) days before the beginning of Commercial Operation, and thereafter ten (10) Business Days before the beginning of each month during the Delivery Term, Seller shall provide to Buyer and the SC (if applicable) a non-binding forecast of the hourly expected Available Capacity, and (ii) Available Storage Capability, for each day of the following month in a form substantially similar to Exhibits F-1 and F-2, as applicable ("**Monthly Forecast**").

(b) During the Delivery Term, no later than two (2) Business Days before each schedule day for the Day-Ahead Market in accordance with WECC scheduling practices, Seller shall provide Buyer and the SC (if applicable) with an hourly schedule of the Available Capacity that the Facility is expected to have for each hour of such schedule day (including, in each case, as such availability may be adjusted as required by the CAISO Tariff for reporting to CAISO) (the "**Availability Notice**"). Seller shall provide Availability Notices (including updated Availability Notices) using the form attached in Exhibit G, or other form as reasonably requested by Buyer, by (in order of preference) electronic mail or telephonically to Buyer personnel or its Scheduling Coordinator designated to receive such communications.

(c) Seller shall notify Buyer and the SC (if applicable) as soon as practicable with an updated Monthly Forecast or updated Availability Notice, as applicable, if the Available Capacity of the Facility (including, in each case, as such availability may be adjusted as required by the CAISO Tariff for reporting to CAISO) changes or is expected to change after Buyer's receipt of a Monthly Forecast or Availability Notice, as applicable. Seller shall accommodate Buyer's reasonable requests for changes in the time of delivery of Availability Notices. Buyer shall not issue any Dispatch Notice or Schedule the Facility in a manner inconsistent with the most recent Availability Notice.

4.11 Outages.

(a) **Planned Outages**.

(i) No later than January 15, April 15, July 15 and October 15 of each Contract Year, and at least sixty (60) days prior to the Guaranteed Commercial Operation Date, Seller shall submit to Buyer Seller's schedule of proposed Planned Outages ("**Outage Schedule**") for the following twelve (12)-month period in a form reasonably agreed to by Buyer. Within twenty (20) Business Days after its receipt of an Outage Schedule, Buyer shall give Notice to Seller of any reasonable request for changes to the Outage Schedule, and Seller shall, consistent with Prudent Operating Practices, accommodate Buyer's requests regarding the timing of any Planned Outage. Seller may propose changes to any previously Planned Outage fifteen (15) days prior to such Planned Outage. Buyer shall review each such change and shall advise Seller within three (3) days of Buyer's receipt thereof, in Buyer's sole discretion but consistent with Prudent Operating Practices, whether such change is acceptable or Buyer may propose alternate dates for the requested scheduled maintenance. Seller shall cooperate with Buyer to arrange and coordinate all Planned Outages with the CAISO. Seller shall communicate to Buyer all changes to a Planned Outage and estimated time of return of the Facility as soon as practicable after the condition causing the change becomes known to Seller.

(ii) If reasonably required in accordance with Prudent Operating Practices, Seller may conduct a Planned Outage at a different time than the maintenance scheduled pursuant to Section 4.11(a)(i). Seller shall provide Notice to Buyer within the time period determined by the CAISO for the Facility, as a Resource Adequacy Resource that is subject to the Availability Standards, to qualify for an "Approved Maintenance Outage" under the CAISO Tariff. Seller shall limit maintenance repairs performed pursuant to this Section 4.11(a) to periods when Buyer does not reasonably believe the Facility will be dispatched. Buyer shall submit all Supply Plans for the Facility in accordance with the Outage Schedule, as it may be changed under this Section 4.11(a)(ii) (or such shorter period as may be reasonably acceptable to Buyer based on the likelihood of dispatch by Buyer).

(b) **No Planned Outages During Summer Months**. Except as scheduled by the Parties under Section 4.11(a)(ii), no outages shall be scheduled or planned from each June 1 through October 31 during the Delivery Term, unless such an outage is (i) approved by Buyer in writing in its sole discretion, (ii) required to avoid damage to the Transmission System, (iii) necessary to maintain equipment warranties and cannot reasonably be scheduled during other times, (iv) for purposes of inspection, preventative maintenance, corrective maintenance, or in accordance with Prudent Operating Practices and cannot reasonably be scheduled during other times, or (v) reasonably required to maintain health and safety pursuant to Section 6.2. In the event that Seller has a previously Planned Outage that becomes coincident with a System Emergency, Seller shall make all reasonable efforts to reschedule such Planned Outage.

(c) **Notice of Unplanned Outages**. Seller shall notify Buyer by telephoning Buyer's Scheduling Coordinator no later than ten (10) minutes following the occurrence and verification by Seller of an Unplanned Outage (provided that such ten (10) minutes may be extended by Seller in the interests of safety or to prevent property damage), or if Seller has knowledge that an Unplanned Outage will occur, within twenty (20) minutes of determining that

such Unplanned Outage will occur. Seller shall relay outage information to Buyer as required by the CAISO Tariff. Seller shall communicate to Buyer the estimated time of return of the Facility as soon as practical after Seller has knowledge thereof.

(d) **Inspection**. In the event of an Unplanned Outage, Buyer shall have the option to inspect the Facility and all records relating thereto on any Business Day and at a reasonable time and Seller shall reasonably cooperate with Buyer during any such inspection. Buyer shall comply with Seller's safety and security rules and instructions during any inspection, and shall not interfere with work on or operation of the Facility.

(e) **Reports of Outages**. Seller shall promptly prepare and provide to Buyer, all reports of Unplanned Outages or Planned Outages that Buyer may reasonably require for the purpose of enabling Buyer to comply with CAISO requirements or any applicable Laws.

ARTICLE 5
TAXES, GOVERNMENTAL AND ENVIRONMENTAL COSTS

5.1 Allocation of Taxes and Charges. Seller shall pay or cause to be paid all Taxes on or with respect to the Facility or on or with respect to the sale and making available of Product to Buyer, that are imposed on Product prior to its delivery to Buyer at the time and place contemplated under this Agreement (other than withholding or other Taxes imposed on Buyer's income, revenue, receipts or employees). Buyer shall pay or cause to be paid all Taxes on or with respect to the Charging Energy and delivery to and purchase by Buyer of Product that are imposed on Product at and after its delivery to Buyer at the time and place contemplated under this Agreement (other than withholding or other Taxes imposed on Seller's income, revenue, receipts or employees) or on Charging Energy prior to its delivery to Seller. If a Party is required to remit or pay Taxes that are the other Party's responsibility hereunder, such Party shall promptly pay the Taxes due and then seek and receive reimbursement from the other for such Taxes. In the event any sale of Product hereunder is exempt from or not subject to any particular Tax, Buyer shall provide Seller with all necessary documentation to evidence such exemption or exclusion within thirty (30) days after the date Buyer makes such claim. Buyer shall indemnify, defend, and hold Seller harmless from any liability with respect to Taxes for which Buyer is responsible hereunder and from which Buyer claims it is exempt.

5.2 Cooperation. Each Party shall use reasonable efforts to implement the provisions of and administer this Agreement in accordance with the intent of the Parties to minimize all Taxes, so long as no Party is materially adversely affected by such efforts. The Parties shall cooperate to minimize Tax exposure; *provided*, neither Party shall be obligated to incur any financial or operational burden to reduce Taxes for which the other Party is responsible hereunder without receiving due compensation therefor from the other Party. All Product delivered by Seller to Buyer hereunder shall be a sale made at wholesale, with Buyer reselling such Product.

5.3 Environmental Costs. Seller shall be solely responsible for:

(a) All Environmental Costs;

(b) All taxes, charges or fees imposed on the Facility or Seller by a Governmental Authority for Greenhouse Gas emitted by or attributable to the Facility during the Delivery Term;

(c) Seller's obligations listed under "Compliance Obligation" in the GHG Regulations, and

(d) All other costs associated with the implementation and regulation of Greenhouse Gas emissions (whether in accordance with the California Global Warming Solutions Act of 2006, Assembly Bill 32 (2006) and the regulations promulgated thereunder, including the GHG Regulations, or any other federal, state or local legislation to offset or reduce any Greenhouse Gas emissions implemented and regulated by a Governmental Authority) with respect to the Facility and/or Seller.

ARTICLE 6
MAINTENANCE AND REPAIR OF THE FACILITY

6.1 Maintenance of the Facility.

(a) Seller shall, as between Seller and Buyer, be solely responsible for the operation and maintenance of the Facility and the delivery of the Product, and shall comply with applicable Law and Prudent Operating Practices relating to the operation and maintenance of the Facility. Seller shall maintain and deliver maintenance and repair records of the Facility to Buyer's scheduling representative upon request. Nothing herein shall limit Seller's right to replace or augment existing batteries and other equipment to maintain the capacity of the Facility.

(b) Seller shall, subject to obtaining any required consent by the Lenders after using commercially reasonable efforts to obtain such consent, promptly make all necessary repairs to the Facility, and any portion thereof, and take all actions necessary in order to provide the Product to Buyer in accordance with the terms of this Agreement (and, at a minimum, the Performance Guarantees).

6.2 Maintenance of Health and Safety. Seller shall take reasonable safety precautions with respect to the operation, maintenance, repair and replacement of the Facility. If Seller becomes aware of any circumstances relating to the Facility that create an imminent risk of damage or injury to any Person or any Person's property, Seller shall take prompt, reasonable action to prevent such damage or injury and shall give Buyer's emergency contact identified in Exhibit N Notice of such condition. Such action may include disconnecting and removing all or a portion of the Facility, or suspending the supply of Facility Energy to the Delivery Point.

ARTICLE 7
METERING

7.1 Metering.

(a) Seller shall measure the amount of Charging Energy and Facility Energy using the Facility Meter, which will be subject to adjustment in accordance with applicable CAISO meter requirements and Prudent Operating Practices, including to account for Electrical Losses.

Seller shall separately meter Station Use and Auxiliary Use. The Facility Meter will be operated pursuant to applicable CAISO-approved calculation methodologies and maintained at Seller's cost. Metering shall be consistent with the Metering Diagram set forth as Exhibit R. The Facility Meter shall be kept under seal, such seals to be broken only when the Facility Meter is to be tested, adjusted, modified or relocated. In the event Seller breaks a seal, Seller shall notify Buyer as soon as practicable. In addition, Seller hereby agrees to provide all Facility Meter data to Buyer in a form reasonably acceptable to Buyer, and consents to Buyer obtaining from CAISO the CAISO meter data directly relating to the Facility and all inspection, testing and calibration data and reports. Seller and Buyer shall cooperate to allow both Parties to retrieve the meter reads from the CAISO Market Results Interface – Settlements (MRI-S) web and/or directly from the CAISO meter(s) at the Facility.

(b) Section 7.1(a) is based on the Parties' mutual understanding as of the Effective Date that (i) the CAISO requires the Facility Meter to be programmed for Electrical Losses as set forth in the definition of Electrical Losses in this Agreement and (ii) the automatic adjustments to Charging Notices and Discharging Notices as set forth in the definitions of Charging Notice and Discharging Notice in this Agreement will not result in Seller violating, or incurring any costs, penalties or charges under the CAISO Tariff. If any of the foregoing mutual understandings in (i) or (ii) between the Parties become incorrect during the Delivery Term, the Parties shall cooperate in good faith to make any amendments and modifications to the Facility and this Agreement as are reasonably necessary to conform this Agreement to the CAISO Tariff and avoid, to the maximum extent practicable, any CAISO charges, costs or penalties that may be imposed on either Party due to non-conformance with the CAISO Tariff, such agreement not to be unreasonably delayed, conditioned or withheld.

7.2 Meter Verification. Annually, if Seller has reason to believe there may be a Facility Meter malfunction, or upon Buyer's reasonable request, Seller shall test the Facility Meter. The tests shall be conducted by independent third parties qualified to conduct such tests. Buyer shall be notified seven (7) days in advance of such tests and have a right to be present during such tests. If a Facility Meter is inaccurate it shall be promptly repaired or replaced. If a meter is inaccurate by more than one percent (1%) and it is not known when the Facility Meter inaccuracy commenced (if such evidence exists such date will be used to adjust prior invoices), then the invoices covering the period of time since the last Facility Meter test shall be adjusted for the amount of the inaccuracy on the assumption that the inaccuracy persisted during one-half of such period if such adjustments are accepted by CAISO; *provided*, such period may not exceed twelve (12) months.

ARTICLE 8
INVOICING AND PAYMENT; CREDIT

8.1 Invoicing. Seller shall use commercially reasonable efforts to deliver an invoice to Buyer for Product no later than the tenth (10^{th}) day of each month for the previous calendar month. Buyer, or its Scheduling Coordinator, will provide such information to Seller as Seller reasonably requests for the purposes of preparing invoices under this Agreement. Each invoice shall (a) reflect records of metered data, including (i) CAISO metering and transaction data sufficient to document and verify the amount of Product delivered by the Facility for any Settlement Period during the preceding month, including the amount of Charging Energy and Facility Energy, Station Use, Idle

Period Auxiliary Use for which Seller owes reimbursement to Buyer, Energy In, and Replacement RA delivered to Buyer (if any) and (ii) data showing a calculation of the Monthly Capacity Payment and other relevant data for the prior month; and (b) be in a format reasonably specified by Buyer, covering the Product provided in the preceding month determined in accordance with the applicable provisions of this Agreement. Buyer shall, and shall cause its Scheduling Coordinator to, provide Seller with all reasonable access (including, in real time, to the maximum extent reasonably possible) to any records, including invoices or settlement data from the CAISO, forecast data and other information, all as may be necessary from time to time for Seller to prepare and verify the accuracy of all invoices.

8.2 Payment. Buyer shall make payment to Seller of Monthly Capacity Payments for Product (and any other amounts due) by wire transfer or ACH payment to the bank account provided on each monthly invoice. Buyer shall pay undisputed invoice amounts by the later of (a) ten (10) Business Days after Buyer's receipt of the invoice from Seller, and (b) the thirtieth (30^{th}) day of the month after the operational month for which such invoice was rendered; *provided*, if such due date falls on a weekend or legal holiday, such due date shall be the next Business Day. Payments made after the due date will be considered late and will bear interest on the unpaid balance. If the amount due is not paid on or before the due date or if any other payment that is due and owing from one Party to another is not paid on or before its applicable due date, a late payment charge shall be applied to the unpaid balance and shall be added to the next billing statement. Such late payment charge shall be calculated based on an annual interest rate equal to the prime rate published on the date of the invoice in The Wall Street Journal (or, if The Wall Street Journal is not published on that day, the next succeeding date of publication), plus two percent (2%) (the "**Interest Rate**"). If the due date occurs on a day that is not a Business Day, the late payment charge shall begin to accrue on the next succeeding Business Day.

8.3 Books and Records. To facilitate payment and verification, each Party shall maintain all books and records necessary for billing and payments, including copies of all invoices under this Agreement, for a period of at least two (2) years or as otherwise required by Law. Upon fifteen (15) days' Notice to the other Party, either Party shall be granted reasonable access to the accounting books and records within the possession or control of the other Party pertaining to all invoices generated pursuant to this Agreement. Seller acknowledges that in accordance with California Government Code Section 8546.7, Seller may be subject to audit by the California State Auditor with regard to Seller's performance of this Agreement because the compensation under this Agreement exceeds $10,000.

8.4 Payment Adjustments; Billing Errors. Payment adjustments shall be made if Buyer or Seller discovers there have been good faith inaccuracies in invoicing that are not otherwise disputed under Section 8.5 or an adjustment to an amount previously invoiced or paid is required due to a correction of data by the CAISO, or there is determined to have been a meter inaccuracy sufficient to require a payment adjustment. If the required adjustment is in favor of Buyer, Buyer's next monthly payment shall be credited in an amount equal to the adjustment. If the required adjustment is in favor of Seller, Seller shall add the adjustment amount to Buyer's next monthly invoice. Adjustments in favor of either Buyer or Seller shall bear interest, until settled in full, in accordance with Section 8.2, accruing from the date on which the adjusted amount should have been due.

8.5 Billing Disputes. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within five (5) Business Days of such resolution along with interest accrued at the Interest Rate from and including the original due date to but excluding the date paid. Inadvertent overpayments shall be returned via adjustments in accordance with Section 8.4. Any dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section 8.5 within twelve (12) months after the invoice is rendered or subsequently adjusted, except to the extent any misinformation was from a third party not affiliated with any Party and such third party corrects its information after the twelve-month period. If an invoice is not rendered within twelve (12) months after the close of the month during which performance occurred, the right to payment for such performance is waived.

8.6 Netting of Payments. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Product during the monthly billing period under this Agreement or otherwise arising out of this Agreement, including any related damages calculated pursuant to Exhibits B and P, interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

8.7 Seller's Development Security. To secure its obligations under this Agreement, Seller shall deliver the Development Security to Buyer within thirty (30) days after the Effective Date. Seller shall maintain the Development Security in full force and effect and shall replenish the Development Security following a draw by Buyer against the Development Security in accordance with this Agreement; *provided*, Seller shall have no obligation to replenish if to do so would result in the total amount of Development Security provided by Seller exceeding the product of the original amount of the Development Security multiplied by [redacted] Upon the earlier of (a) Seller's delivery of the Performance Security, or (b) sixty (60) days after termination of this Agreement, Buyer shall return the Development Security to Seller, less the amounts drawn in accordance with this Agreement.

8.8 Seller's Performance Security. To secure its obligations under this Agreement, Seller shall deliver Performance Security to Buyer on or before the Commercial Operation Date. Seller shall maintain the Performance Security in full force and effect, and Seller shall within ten (10) Business Days after any draw thereon replenish the Performance Security in the event Buyer collects or draws down any portion of the Performance Security for any reason permitted under this Agreement other than to satisfy a Termination Payment, until the following have occurred: (a) the Delivery Term has expired or terminated early; and (b) all payment obligations of Seller due and payable under this Agreement, including compensation for penalties, Termination Payment, indemnification payments or other damages are paid in full (whether directly or indirectly such as through set-off or netting). Following the occurrence of both events, Buyer shall promptly return

to Seller the unused portion of the Performance Security.

8.9 First Priority Security Interest in Cash or Cash Equivalent Collateral. To secure its obligations under this Agreement, and until released as provided herein, Seller hereby 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, Performance Security, any other cash collateral and cash equivalent collateral posted pursuant to Sections 8.7 and 8.8 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 all 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 an Event of Default caused by Seller, an Early Termination Date resulting from an Event of Default caused by Seller, or an occasion provided for in this Agreement where Buyer is authorized to retain all or a portion of the Development Security or Performance Security, Buyer may do any one or more of the following (in each case subject to the final sentence of this Section 8.9):

(a) Exercise any of its rights and remedies with respect to the Development Security and Performance Security, including any such rights and remedies under Law then in effect;

(b) Draw on any outstanding Letter of Credit issued for its benefit and retain any cash held by Buyer as Development Security or Performance Security; and

(c) Liquidate all Development Security or Performance Security (as applicable) 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 remains 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.

ARTICLE 9
NOTICES

9.1 Addresses for the Delivery of Notices. Any Notice required, permitted, or contemplated hereunder shall be in writing, shall be addressed to the Party to be notified at the address set forth in Exhibit N or at such other address or addresses as a Party may designate for itself from time to time by Notice hereunder.

9.2 Acceptable Means of Delivering Notice. Each Notice required, permitted, or contemplated hereunder shall be deemed to have been validly served, given or delivered as follows: (a) if sent by United States mail with proper first class postage prepaid, three (3) Business Days following the date of the postmark on the envelope in which such Notice was deposited in the United States mail; (b) if sent by a regularly scheduled overnight delivery carrier with delivery

fees either prepaid or an arrangement with such carrier made for the payment of such fees, the next Business Day after the same is delivered by the sending Party to such carrier; (c) if sent by electronic communication (including electronic mail or other electronic means) at the time indicated by the time stamp upon delivery and, if after 5 pm, on the next Business Day; or (d) if delivered in person, upon receipt by the receiving Party. Notwithstanding the foregoing, Notices of outages or other scheduling or dispatch information or requests, may be sent by electronic communication and shall be considered delivered upon successful completion of such transmission.

ARTICLE 10
FORCE MAJEURE

10.1 Definition.

(a) "**Force Majeure Event**" means any act or event that delays or prevents a Party from timely performing all or a portion of its obligations under this Agreement or from complying with all or a portion of the conditions under this Agreement if such act or event, despite the exercise of commercially reasonable efforts, cannot be avoided by and is beyond the reasonable control (whether direct or indirect) of the claiming Party; *provided*, a Force Majeure Event shall not excuse any such delay, nonperformance, or noncompliance to the extent the claiming Party's fault or negligence contributed thereto in scope or duration.

(b) Without limiting the generality of the foregoing, so long as the following events, despite the exercise of reasonable efforts, cannot be avoided by, and are beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance or noncompliance, a Force Majeure Event may include an act of God or the elements, such as flooding, lightning, hurricanes, tornadoes, or ice storms; explosion; fire; volcanic eruption; flood; epidemic or pandemic; landslide; mudslide; sabotage; terrorism; earthquake; or other cataclysmic events; an act of public enemy; war; blockade; civil insurrection; riot; civil disturbance; or strikes or other labor difficulties caused or suffered by a Party or any third party except as set forth below.

(c) Notwithstanding the foregoing, the term "**Force Majeure Event**" does not include (i) economic conditions or changes in Law that render a Party's performance of this Agreement at the Storage Rate unprofitable or otherwise uneconomic (including an increase in component or compliance costs for any reason, including foreign or domestic tariffs, Buyer's ability to buy Product at a lower price, or Seller's ability to sell the Product, or any component thereof, at a higher price, than under this Agreement); (ii) Seller's inability to obtain permits or approvals of any type for the construction, operation, or maintenance of the Facility, except to the extent such inability is caused by a Force Majeure Event; (iii) the inability of a Party to make payments when due under this Agreement, unless such inability is caused solely by a Force Majeure Event that disables physical or electronic facilities necessary to transfer funds to the payee Party; (iv) a Curtailment Order; (v) Seller's inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Facility, including the lack of wind, sun or other fuel source of an inherently intermittent nature, except to the extent such inability is caused by a Force Majeure Event; (vi) a strike, work stoppage or labor dispute limited only to any one or more of Seller, Seller's Affiliates, Seller's contractors, their subcontractors thereof or any other

third party employed by Seller to work on the Facility; (vii) any equipment failure except if such equipment failure is caused by a Force Majeure Event; or (viii) any action or inaction by any third party, including Transmission Provider, that delays or prevents the approval, construction or placement in service of any Interconnection Facilities or Network Upgrades, except to the extent caused by a Force Majeure Event.

10.2 No Liability If a Force Majeure Event Occurs. Except as provided in Section 4 of Exhibit B, neither Seller nor Buyer shall be liable to the other Party in the event it is prevented from performing its obligations hereunder in whole or in part due to a Force Majeure Event. The Party rendered unable to fulfill any obligation by reason of a Force Majeure Event shall take reasonable actions necessary to remove such inability with due speed and diligence. Nothing herein shall be construed as permitting that Party to continue to fail to perform after said cause has been removed. The obligation to use due speed and diligence shall not be interpreted to require resolution of labor disputes by acceding to demands of the opposition when such course is inadvisable in the discretion of the Party having such difficulty. Neither Party shall be considered in breach or default of this Agreement if and to the extent that any failure or delay in the Party's performance of one or more of its obligations hereunder is caused by a Force Majeure Event. The occurrence and continuation of a Force Majeure Event shall not suspend or excuse the obligation of a Party to make any payments due hereunder.

10.3 Notice. In order to claim a Force Majeure Event, the claiming Party, within fourteen (14) days after the initial occurrence of the claimed Force Majeure Event, must give the other Party Notice describing the particulars of the occurrence in substantially the form set forth in Exhibit W, (b) provide timely evidence reasonably sufficient to establish that the occurrence constitutes Force Majeure as defined in this Agreement, and (c) notify the other Party in writing of the cessation or termination of such Force Majeure Event, all as known or estimated in good faith by the affected Party.

10.4 Termination Following Force Majeure Event or Development Cure Period.

(a) If the cumulative extensions granted under the Development Cure Period (other than the extensions granted pursuant to clause 4(d) in Exhibit B) plus the extension to the Guaranteed Commercial Operation Date obtained by the payment of Commercial Operation Delay Damages equal or exceed [redacted] days, and Seller has demonstrated to Buyer's reasonable satisfaction that Seller's failure to achieve COD by the Guaranteed Commercial Operation Date (as extended) was the result of delays that would have otherwise entitled to Seller to [redacted] days of Development Cure Period delays but for the one hundred eighty (180)-day limitation on the Development Cure Period, then Seller may terminate this Agreement upon Notice to Buyer. Upon such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Section 2.1(b), and Buyer shall promptly return to Seller any Development Security then held by Buyer plus the full amount of Commercial Operation Delay Damages paid by Seller, less any amounts drawn in accordance with this Agreement.

(b) If a Force Majeure Event has occurred after the Commercial Operation Date that has caused either Party to be wholly or partially unable to perform its obligations hereunder in any material respect, and the impacted Party has claimed and received relief from performance

of its obligations for a consecutive twelve (12) month period, then the non-claiming Party may terminate this Agreement upon Notice to the other Party. Upon any such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Section 2.1(b), and Buyer shall promptly return to Seller any Performance Security then held by Buyer, less any amounts drawn in accordance with this Agreement.

ARTICLE 11
DEFAULTS; REMEDIES; TERMINATION

11.1 Events of Default. An "**Event of Default**" shall mean,

(a) with respect to a Party (the "**Defaulting Party**") that is subject to the Event of Default the occurrence of any of the following:

(i) the failure by such Party to make, when due, any payment required pursuant to this Agreement and such failure is not remedied within ten (10) Business Days after Notice thereof;

(ii) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated, and such default is not remedied within thirty (30) days after Notice thereof (or such longer additional period, not to exceed an additional sixty (60) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30)-day period despite exercising commercially reasonable efforts);

(iii) the failure by such Party to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default set forth in this Section 11.1; and except for (A) failure to provide Capacity Attributes, the exclusive remedies for which are set forth in Section 3.5, and (B) failures related to the Annual Capacity Availability that do not trigger the provisions of Section 11.1(b)(iii), the exclusive remedies for which are set forth in Exhibit C and Exhibit P) and such failure is not remedied within thirty (30) days after Notice thereof (or such longer additional period, not to exceed an additional sixty (60) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30)-day period despite exercising commercially reasonable efforts);

(iv) such Party becomes Bankrupt;

(v) such Party assigns this Agreement or any of its rights hereunder other than in compliance with Article 14, if applicable; or

(vi) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party;

(b) with respect to Seller as the Defaulting Party, the occurrence of any of the following:

(i) if at any time, Seller delivers or attempts to deliver Energy to the Delivery Point for sale under this Agreement that was not discharged by the Facility;

(ii) the failure by Seller to (A) achieve Construction Start on or before the Guaranteed Construction Start Date as such date may be extended by Seller's payment of Daily Delay Damages pursuant to Section 1(b) of Exhibit B and/or a Development Cure Period pursuant to Section 4 of Exhibit B, or (B) achieve Commercial Operation on or before the Guaranteed Commercial Operation Date, as such date may be extended by Seller's payment of Commercial Operation Delay Damages pursuant to Section 2 of Exhibit B and/or a Development Cure Period pursuant to Section 4 of Exhibit B;

(iii) if, in respect of any Contract Year, the Annual Capacity Availability multiplied by the Effective Capacity for such Contract Year is not equal to at least seventy percent (70%) multiplied by the Installed Capacity for reasons other than Force Majeure, curtailment of interconnection or transmission service (except to the extent caused by the fault or negligence of Seller), and Seller fails to (x) deliver to Buyer within ten (10) Business Days after Notice from Buyer a plan or report developed by Seller that describes, to the best of Seller's knowledge, the cause of the failure to meet such seventy percent (70%) multiplied by the Installed Capacity threshold, and the actions that Seller has taken, is taking, or proposes to take in an effort to cure such condition along with the written confirmation of a Licensed Professional Engineer that such plan or report is in accordance with Prudent Operating Practices and capable of cure within a reasonable period of time, not to exceed one hundred eighty (180) days [redacted] ("**Cure Plan**") and (y) complete such Cure Plan in all material respects as set forth therein, including within the timeframe set forth therein;

(iv) failure by Seller to satisfy the collateral requirements pursuant to Sections 8.7 or 8.8 within five (5) Business Days after Notice from Buyer, including the failure to replenish the Performance Security amount in accordance with this Agreement in the event Buyer draws against it for any reason other than to satisfy a Termination Payment;

(v) with respect to any outstanding Letter of Credit provided for the benefit of Buyer that is not then required under this Agreement to be canceled or returned, the failure by Seller to provide for the benefit of Buyer either (1) cash, or (2) a Letter of Credit from a different issuer meeting the criteria set forth in the definition of Letter of Credit, in each case, in the amount required hereunder within ten (10) Business Days after Seller receives Notice of the occurrence of any of the following events:

(A) the issuer of the outstanding Letter of Credit shall fail to maintain a Credit Rating of at least A- by S&P or A3 by Moody's;

(B) the issuer of such Letter of Credit becomes Bankrupt;

(C) the issuer of the outstanding Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit and such failure shall be continuing after the lapse of any applicable grace period permitted under such Letter of Credit;

(D) the issuer of the outstanding Letter of Credit shall fail to honor a properly documented request to draw on such Letter of Credit;

(E) the issuer of the outstanding Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit;

(F) such Letter of Credit fails or ceases to be in full force and effect at any time; or

(G) Seller shall fail to renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit and as provided in accordance with this Agreement, and in no event less than sixty (60) days prior to the expiration of the outstanding Letter of Credit.

11.2 Remedies; Declaration of Early Termination Date. If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party ("**Non-Defaulting Party**") shall have the following rights:

(a) to send Notice, designating a day, no earlier than the day such Notice is deemed to be received and no later than twenty (20) days after such Notice is deemed to be received, as an early termination date of this Agreement ("**Early Termination Date**") that terminates this Agreement (the "**Terminated Transaction**") and ends the Delivery Term effective as of the Early Termination Date;

(b) to accelerate all amounts owing between the Parties, and to collect as liquidated damages (i) the Damage Payment, or (ii) the Termination Payment, as applicable, in each case calculated in accordance with Section 11.3 below;

(c) to withhold any payments due to the Defaulting Party under this Agreement;

(d) to suspend performance; and

(e) to exercise any other right or remedy available at law or in equity, including specific performance or injunctive relief, except to the extent such remedies are expressly limited under this Agreement;

provided, payment by the Defaulting Party of the Damage Payment or Termination Payment, as applicable, shall constitute liquidated damages and the Non-Defaulting Party's sole and exclusive remedy for any Terminated Transaction and the Event of Default related thereto.

11.3 Damage Payment; Termination Payment. If an Early Termination Date has been declared, the Non-Defaulting Party shall calculate, in a commercially reasonable manner, the Damage Payment or Termination Payment, as applicable, in accordance with this Section 11.3.

(a) Damage Payment Prior to Commercial Operation Date. If the Early Termination Date occurs before the Commercial Operation Date, then the Damage Payment shall be calculated in accordance with this Section 11.3(a).

(i) If Seller is the Defaulting Party, then the Damage Payment shall be owed to Buyer and shall be a dollar amount that equals the amount of the Development Security plus, if the Development Security is posted as cash, any interest accrued thereon. Buyer shall be entitled to immediately retain for its own benefit those funds held as Development Security and any interest accrued thereon if the Development Security is posted as cash, and any amount of Development Security that Seller has not yet posted with Buyer shall be immediately due and payable by Seller to Buyer. There will be no amounts owed to Seller. The Parties agree that Buyer's damages in the event of an Early Termination Date prior to the Commercial Operation Date caused by Seller's default would be difficult or impossible to determine and that the damages set forth in this Section 11.3(a)(i) are a reasonable approximation of Buyer's harm or loss.

(ii) If Buyer is the Defaulting Party, then the Damage Payment shall be owed to Seller and shall [redacted] There will be no amount owed to Buyer. The Parties agree that Seller's damages in the event of an Early Termination Date prior to the Commercial Operation Date caused by Buyer's default would be difficult or impossible to determine and that the damages set forth in this Section 11.3(a)(ii) are a reasonable approximation of Seller's harm or loss.

(b) Termination Payment On or After the Commercial Operation Date. The payment owed by the Defaulting Party to the Non-Defaulting Party for a Terminated Transaction occurring after the Commercial Operation Date ("**Termination Payment**") shall be the aggregate of all Settlement Amounts plus any and all other amounts due to or from the Non-Defaulting Party (as of the Early Termination Date) netted into a single amount. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for the Terminated Transaction as of the Early Termination Date. Third parties supplying information for purposes of the calculation of Gains or Losses may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. The Settlement Amount shall not include consequential, incidental, punitive, exemplary, indirect or business interruption damages. Without prejudice to the Non-Defaulting Party's duty to mitigate, the Non-Defaulting Party shall not have to enter into replacement transactions to establish a Settlement Amount. Each Party agrees and acknowledges that (i) the actual damages that the Non-Defaulting Party would incur in connection with a Terminated Transaction would be difficult or impossible to predict with certainty, (ii) the Termination Payment described in this Section 11.3(b) is a reasonable and appropriate approximation of such damages, and (iii) the Termination Payment described in this Section 11.3(b) is the exclusive remedy of the Non-Defaulting Party in connection with a Terminated Transaction but shall not otherwise act to limit any of the Non-Defaulting Party's rights or remedies if the Non-Defaulting Party does not elect a Terminated Transaction as its remedy for an Event of Default by the Defaulting Party.

11.4 Notice of Payment of Termination Payment or Damage Payment. As soon as practicable after a Terminated Transaction, but in no event later than sixty (60) days after the Early Termination Date, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Damage Payment or Termination Payment, as applicable, and whether the Termination Payment or Damage Payment, as applicable, is due to or from the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount and the sources for such calculation. The Termination Payment or Damage

Payment, as applicable, shall be made to or from the Non-Defaulting Party, as applicable, within ten (10) Business Days after such Notice is effective.

11.5 Disputes With Respect to Termination Payment or Damage Payment. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment or Damage Payment, as applicable, in whole or in part, the Defaulting Party shall, within five (5) Business Days of receipt of the Non-Defaulting Party's calculation of the Termination Payment or Damage Payment, as applicable, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. Disputes regarding the Termination Payment or Damage Payment, as applicable, shall be determined in accordance with Article 15.

11.6 Limitation on Seller's Ability to Make or Agree to Third-Party Sales from the Facility after Early Termination Date. If the Agreement is terminated prior to the Commercial Operation Date for any reason except due to Buyer's Event of Default [redacted] neither Seller nor Seller's Affiliates may sell, market or deliver any Product associated with or attributable to the Facility to a party other than Buyer for a period of [redacted] unless prior to selling, marketing or delivering such Product, or entering into the agreement to sell, market or deliver such Product to a party other than Buyer, Seller or Seller's Affiliates provide Buyer with a written offer to sell the Product on terms and conditions materially similar to the terms and conditions contained in this Agreement (including price), and Buyer fails to accept such offer within forty-five (45) days of Buyer's receipt thereof.

Neither Seller nor Seller's Affiliates may sell or transfer the Facility, or any part thereof, or land rights or interests in the Site (including the interconnection queue position of the Facility) so long as the limitations contained in this Section 11.6 apply, unless the transferee agrees to be bound by the terms set forth in this Section 11.6 pursuant to a written agreement approved by Buyer. Seller shall indemnify and hold Buyer harmless from all benefits lost and other damages sustained by Buyer as a result of any breach by Seller of its covenants contained within this Section 11.6.

11.7 Rights And Remedies Are Cumulative. Except where liquidated damages or other remedy are explicitly provided as the exclusive remedy, the rights and remedies of a Party pursuant to this Article 11 shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

11.8 Mitigation. Any Non-Defaulting Party shall be obligated to use commercially reasonable efforts to mitigate its Costs, Losses and damages resulting from any Event of Default of the other Party under this Agreement.

ARTICLE 12
LIMITATION OF LIABILITY AND EXCLUSION OF WARRANTIES

12.1 No Consequential Damages. EXCEPT TO THE EXTENT PART OF (A) AN EXPRESS REMEDY OR MEASURE OF DAMAGES HEREIN, (B) AN IP INDEMNITY CLAIM, (C) AN ARTICLE 16 INDEMNITY CLAIM, (D) INCLUDED IN A LIQUIDATED DAMAGES CALCULATION, OR (E) RESULTING FROM A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, OR LOSSES OR DAMAGES FOR LOST REVENUE OR LOST PROFITS, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT, BY STATUTE, IN TORT OR CONTRACT.

12.2 Waiver and Exclusion of Other Damages. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. ALL LIMITATIONS OF LIABILITY CONTAINED IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE PERTAINING TO SELLER'S LIMITATION OF LIABILITY AND THE PARTIES' WAIVER OF CONSEQUENTIAL DAMAGES, SHALL APPLY EVEN IF THE REMEDIES FOR BREACH OF WARRANTY PROVIDED IN THIS AGREEMENT ARE DEEMED TO "FAIL OF THEIR ESSENTIAL PURPOSE" OR ARE OTHERWISE HELD TO BE INVALID OR UNENFORCEABLE.

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS AND EXCLUSIVE REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES ONLY. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, BUYER'S SOLE REMEDY FOR ANY FAILURE BY SELLER TO MEET ANY MILESTONE, ACHIEVE CONSTRUCTION START BY THE GUARANTEED CONSTRUCTION START DATE OR COMMERCIAL OPERATION BY THE GUARANTEED COMMERCIAL OPERATION DATE (EXCEPT AS OTHERWISE PROVIDED IN SECTION 2.4 IN CONNECTION WITH SELLER'S OBLIGATION TO PROVIDE A REMEDIAL ACTION PLAN, AND IN ADDITION TO BUYER'S RIGHT TO TERMINATE THIS AGREEMENT IN CONNECTION WITH AN EVENT OF DEFAULT OF SELLER UNDER SECTION 3 OF EXHIBIT B, AND SUBJECT TO SECTION 11.6), IS PAYMENT BY SELLER OF DAILY DELAY DAMAGES, COMMERCIAL OPERATION DELAY DAMAGES, AND THE DAMAGE PAYMENT, AND SELLER'S MAXIMUM AGGREGATE LIABILITY TO BUYER UNDER THIS AGREEMENT FOR DAILY DELAY DAMAGES, COMMERCIAL OPERATION DELAY DAMAGES, AND THE

DAMAGE PAYMENT SHALL BE LIMITED TO THE PRODUCT OF THE AMOUNT OF THE DEVELOPMENT SECURITY MULTIPLIED BY [redacted]

THE VALUE OF ANY 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 TO BE DIRECT DAMAGES.

TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, INCLUDING UNDER SECTIONS 3.5, 11.2 AND 11.3, AND AS PROVIDED IN EXHIBIT B, EXHIBIT C, AND EXHIBIT P THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT, AND THAT THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE ANTICIPATED HARM OR LOSS. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. THE PARTIES HEREBY WAIVE ANY RIGHT TO CONTEST SUCH PAYMENTS AS AN UNREASONABLE PENALTY.

THE PARTIES ACKNOWLEDGE AND AGREE THAT MONEY DAMAGES AND THE EXPRESS REMEDIES PROVIDED FOR HEREIN ARE AN ADEQUATE REMEDY FOR THE BREACH BY THE OTHER OF THE TERMS OF THIS AGREEMENT, AND EACH PARTY WAIVES ANY RIGHT IT MAY HAVE TO SPECIFIC PERFORMANCE WITH RESPECT TO ANY OBLIGATION OF THE OTHER PARTY UNDER THIS AGREEMENT.

ARTICLE 13
REPRESENTATIONS AND WARRANTIES; AUTHORITY

13.1 Seller's Representations and Warranties. As of the Effective Date, Seller represents and warrants as follows:

(a) Seller is a limited liability company, duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation, and is qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on the business or financial condition of Seller.

(b) Seller has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Seller's performance under this Agreement. The execution, delivery and performance of this Agreement by Seller has been duly authorized by all necessary limited liability company action on the part of Seller and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Seller or any other party to any other agreement with Seller.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Seller with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Seller, subject to any permits that have not yet been obtained by Seller, the documents of formation of Seller or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Seller is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Seller. This Agreement is a legal, valid and binding obligation of Seller enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) The Facility is located in the State of California.

(f) Neither Seller nor its Affiliates have received notice from or been advised by any existing or potential supplier or service provider that COVID-19 has caused, or is reasonably likely to cause, a delay in the construction of the Facility or the delivery of materials necessary to complete the Facility, in each case that would cause the Construction Start Date to be later than the Guaranteed Construction Start Date or the Commercial Operation Date to be later than the Guaranteed Commercial Operation Date.

13.2 Buyer's Representations and Warranties. As of the Effective Date, Buyer represents and warrants as follows:

(a) Buyer is a joint powers authority and a validly existing community choice aggregator, duly organized, validly existing and in good standing under the laws of the State of California and the rules, regulations and orders of the California Public Utilities Commission, and is qualified to conduct business in each jurisdiction of the Joint Powers Agreement members. All Persons making up the governing body of Buyer are the elected or appointed incumbents in their positions and hold their positions in good standing in accordance with the Joint Powers Agreement and other Law.

(b) Buyer has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Buyer's performance under this Agreement. The execution, delivery and performance of this Agreement by Buyer has been duly authorized by all necessary action on the part of Buyer and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Buyer or any other party to any other agreement with Buyer.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Buyer with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Buyer, including but not limited to community choice aggregation, the Joint Powers Act, competitive bidding, public notice, open meetings, election,

referendum, or prior appropriation requirements, the documents of formation of Buyer or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Buyer is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Buyer. This Agreement is a legal, valid and binding obligation of Buyer enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) Buyer warrants and covenants that with respect to its contractual obligations under this Agreement, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (1) suit, (2) jurisdiction of court, (3) relief by way of injunction, order for specific performance or recovery of property, (4) attachment of assets, or (5) execution or enforcement of any judgment.

(f) Buyer is a "local public entity" as defined in Section 900.4 of the Government Code of the State of California.

(g) Buyer cannot assert sovereign immunity as a defense to the enforcement of its obligations under this Agreement.

13.3 General Covenants. Each Party covenants that commencing on the Effective Date and continuing throughout the Contract Term:

(a) It shall continue to be duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and to be qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on its business or financial condition;

(b) It shall maintain (or obtain from time to time as required) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement; and

(c) It shall perform its obligations under this Agreement in compliance with all terms and conditions in its governing documents and in material compliance with any Law.

13.4 Prevailing Wage. Seller shall ensure that all workers engaged in the construction of the Project at the Site are paid in accordance with applicable prevailing wage requirements. Seller shall provide to Buyer documentation that would satisfy the Internal Revenue Service in connection with a claim for Investment Tax Credits in support of Seller's compliance with the requirements of this Section 13.4.

13.5 Shared Facilities. Seller shall not allow any part of the Facility to constitute Shared Facilities during the Delivery Term.

ARTICLE 14
ASSIGNMENT

14.1 General Prohibition on Assignments. Except as provided below in this Article 14, neither Party may voluntarily assign this Agreement or its rights or obligations under this Agreement, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Any 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 shall not be unreasonably withheld, conditioned or delayed; *provided*, a Change of Control of Seller shall not require Buyer's consent and will not be subject to Section 14.2 or Section 14.3 if the assignee or transferee is a Permitted Transferee. Any assignment made without the required written consent, or in violation of the conditions to assignment set out below, shall be null and void. Seller shall be responsible for Buyer's reasonable costs associated with the preparation, review, execution and delivery of documents in connection with any assignment of this Agreement by Seller, including without limitation reasonable attorneys' fees.

14.2 Collateral Assignment. Subject to the provisions of this Section 14.2, Seller has the right to assign this Agreement as collateral for any financing or refinancing of the Facility without the consent of Buyer. In connection with any financing or refinancing of the Facility by Seller, Buyer shall in good faith work with Seller and Lender to execute a consent to collateral assignment of this Agreement substantially in the form attached hereto as Exhibit S together with such changes as are reasonably requested by Seller ("**Consent to Collateral Assignment**").

14.3 Permitted Assignment by Seller. Seller may, without the prior written consent of Buyer, transfer or assign this Agreement to: (a) an Affiliate of Seller or (b) any Person succeeding to all or substantially all of the assets of Seller (whether voluntary or by operation of law); if, and only if:

(a) the assignee is a Permitted Transferee;

(b) Seller has given Buyer Notice at least fifteen (15) Business Days before the date of such proposed assignment; and

(c) Seller has provided Buyer a written agreement signed by the Person to which Seller wishes to assign its interests that (x) provides that such Person will assume all of Seller's obligations and liabilities under this Agreement upon such transfer or assignment and (y) certifies that such Person meets the definition of a Permitted Transferee.

Notwithstanding the foregoing, any assignment by Seller, its successors or assigns under this Section 14.3 shall be of no force and effect unless the Assignee is a Permitted Transferee and until such Notice and agreement by the assignee that complies with the requirements of this Section 14.3 have been received by Buyer. Any purported assignment by Seller in violation of this Section 14.3 shall be void *ab initio*.

14.4 Shared Facilities; Portfolio Financing. Buyer agrees and acknowledges that Seller may elect to finance all or any portion of the Facility or the Interconnection Facilities or the Shared Facilities (1) utilizing tax equity or cash equity investment, and/or (2) through a Portfolio

Financing, which may include cross-collateralization or similar arrangements. In connection with any financing or refinancing of the Facility, the Interconnection Facilities or the Shared Facilities by Seller or any Portfolio Financing, Buyer, Seller, Portfolio Financing Entity (if any), and Lender shall execute and deliver such further consents, approvals and acknowledgments as may be reasonable and necessary to facilitate such transactions; *provided*, Buyer shall not be required to agree to any terms or conditions which are reasonably expected to have a material adverse effect on Buyer and all reasonable attorney's fees incurred by Buyer in connection therewith shall be borne by Seller.

ARTICLE 15
DISPUTE RESOLUTION

15.1 Governing Law. This Agreement and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of Law. To the extent enforceable at such time, each Party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Agreement.

15.2 Dispute Resolution. In the event of any dispute arising under this Agreement, within ten (10) days following the receipt of a Notice from either Party identifying such dispute, the Parties shall meet, negotiate and attempt, in good faith, to resolve the dispute quickly, informally and inexpensively. If the Parties are unable to resolve a dispute arising hereunder within the earlier of either forty-five (45) days of initiating such discussions, or within sixty (60) days after Notice of the dispute, either Party may seek any and all remedies available to it at law or in equity, subject to the limitations set forth in this Agreement.

15.3 Attorneys' Fees. In any proceeding brought to enforce this Agreement or because of the breach by any Party of any covenant or condition herein contained, each Party shall bear its own respective costs, expenses and attorneys' fees in connection with said action.

15.4 Venue. In the event of any legal action to enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Los Angeles County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, and waive any claim or defense that such forum is not convenient or proper.

ARTICLE 16
INDEMNIFICATION

16.1 Indemnification.

(a) Each Party (the "**Indemnifying Party**") agrees to indemnify, defend and hold harmless the other Party and its Affiliates, directors, officers, employees and agents (collectively, the "**Indemnified Party**") from and against all claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees) (i) for personal injury or death to Persons and damage to the property of any third party to the extent arising out of, resulting from, or caused by the negligent or willful misconduct of the Indemnifying Party, its Affiliates, its directors, officers, employees, or agents, or (ii) for third-party claims resulting from the Indemnifying Party's breach (including inaccuracy of any representation of warranty made

hereunder), performance or non-performance of its obligations under this Agreement (other than obligations as to which specific remedies are herein provided).

(b) Seller shall indemnify, defend and hold harmless Buyer and its Affiliates, directors, officers, employees from and against all claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees) in connection with any claims of infringement upon or violation of any trade secret, trademark, trade name, copyright, patent, or other intellectual property rights of any third party by equipment, software, applications or programs (or any portion of same) used in connection with the Facility (an "**IP Indemnity Claim**").

(c) Nothing in this Section 16.1 shall enlarge or relieve Seller or Buyer of any liability to the other for any breach of this Agreement. Neither Party shall be indemnified for its damages resulting from its sole negligence, intentional acts or willful misconduct. These indemnity provisions shall not be construed to relieve any insurer of its obligation to pay claims consistent with the provisions of a valid insurance policy.

16.2 Claims. Promptly after receipt by a Party of any claim or Notice of the commencement of any action, administrative, or legal proceeding, or investigation as to which the indemnity provided for in this Article 16 may apply, the Indemnified Party shall notify the Indemnifying Party in writing of such fact. The Indemnifying Party shall assume the defense thereof with counsel designated by the Indemnifying Party and satisfactory to the Indemnified Party, *provided*, if the defendants in any such action include both the Indemnified Party and the Indemnifying Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, the Indemnified Party shall have the right to select and be represented by separate counsel, at the Indemnifying Party's expense, unless a liability insurer is willing to pay such costs. If the Indemnifying Party fails to assume the defense of a claim meriting indemnification, the Indemnified Party may at the expense of the Indemnifying Party contest, settle, or pay such claim; *provided*, settlement or full payment of any such claim may be made only following consent of the Indemnifying Party or, absent such consent, written opinion of the Indemnified Party's counsel that such claim is meritorious or warrants settlement. Except as otherwise provided in this Article 16, in the event that a Party is obligated to indemnify and hold the other Party and its successors and assigns harmless under this Article 16, the amount owing to the Indemnified Party will be the amount of the Indemnified Party's damages net of any insurance proceeds received by the Indemnified Party following a reasonable effort by the Indemnified Party to obtain such insurance proceeds.

ARTICLE 17
INSURANCE

17.1 Insurance.

(a) General Liability. Seller shall provide and maintain, at its sole expense, the following types and minimum limits of insurance with a carrier rated "A- VII" or higher by A.M. Best's Key Rating Guide: (i) commercial general liability insurance, including products and completed operations and personal injury insurance, in a minimum amount of [redacted] Million Dollars ($[redacted],000,000) per occurrence, and an annual aggregate of not less than [redacted] Million Dollars

([redacted],000,000), endorsed to provide contractual liability in said amount, specifically covering Seller's obligations under this Agreement and including Buyer as an additional insured; and (ii) an umbrella insurance policy in a minimum limit of liability of [redacted] Million Dollars ([redacted],000,000). Defense costs shall be provided as an additional benefit and not included within the limits of liability. Such insurance shall contain standard cross-liability and severability of interest provisions.

(b) Employer's Liability Insurance. Employers' Liability insurance shall not be less than One Million Dollars ($1,000,000.00) for injury or death occurring as a result of each accident. With regard to bodily injury by disease, the One Million Dollar ($1,000,000) policy limit will apply to each employee.

(c) Workers Compensation Insurance. Seller, if it has employees, shall also maintain at all times during the Contract Term workers' compensation and employers' liability insurance coverage in accordance with applicable requirements of Law.

(d) Business Auto Insurance. Seller shall maintain at all times during the Contract Term business auto insurance for bodily injury and property damage with limits of One Million Dollars ($1,000,000) per occurrence. Such insurance shall cover liability arising out of Seller's use of all owned (if any), non-owned and hired vehicles, including trailers or semi-trailers in the performance of the Agreement.

(e) Construction All-Risk Insurance. Seller shall maintain or cause to be maintained during the construction of the Facility prior to the Commercial Operation Date, construction all-risk form property insurance covering the Facility during such construction periods, and naming Seller (and Lender if any) as the loss payee.

(f) Property Damage Insurance. Seller shall maintain or cause to be maintained during the Delivery Term, property damage insurance with a policy limit of not less than the full replacement cost of the Facility on a per occurrence basis.

(g) Pollution Liability Insurance. Seller shall maintain or cause to be maintained during the Contract Term, pollution liability insurance in an amount not less than Two Million Dollars ($2,000,000) each occurrence covering losses involving hazardous material(s) and caused by pollution incidents or conditions that arise from any subcontractor's performance or lack of performance of work under this Agreement, or might be required by federal, state, regional, municipal, and local laws, including coverage for bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death, property damage including the resulting loss of use thereof, clean-up costs, and the loss of use of tangible property that has not been physically damaged or destroyed, and defense costs. If such coverage is on a "claims made" policy form, any applicable "retroactive date" shall be no later than the Effective Date and shall be maintained for at least two (2) years beyond the termination of this Agreement, to allow for a reasonable extended reporting period.

(h) Subcontractor Insurance. Seller shall require all of its subcontractors to carry: (i) comprehensive general liability insurance with a combined single limit of coverage not less than One Million Dollars ($1,000,000); (ii) workers' compensation insurance and employers'

liability coverage in accordance with applicable requirements of Law; and (iii) business auto insurance for bodily injury and property damage with limits of one million dollars ($1,000,000) per occurrence. All subcontractors shall name Seller as an additional insured to insurance carried pursuant to clauses (h)(i) and (h)(iii). All subcontractors shall provide a primary endorsement and a waiver of subrogation to Seller for the required coverage pursuant to this Section 17.1(h).

(i) Evidence of Insurance. Within ten (10) days after execution of the Agreement and upon annual renewal thereafter, Seller shall deliver to Buyer certificates of insurance evidencing such coverage. Such certificates shall specify that Buyer shall be given at least thirty (30) days prior Notice by Seller in the event of any material modification, cancellation or termination of coverage. All insurance required herein shall be primary coverage without right of contribution from any insurance of Buyer, and such policies shall be endorsed with a waiver of subrogation in favor of Buyer for all work performed by Seller, its employees, agents and subcontractors and any subrogation rights which may pass to Seller's insurance carriers for the payment of any claims. Any other insurance maintained by Seller is for the exclusive benefit of Seller and shall not in any manner inure to the benefit of Buyer.

(j) Failure to Comply with Insurance Requirements. If Seller fails to comply with any of the provisions of this Article 17, Seller, among other things and without restricting Buyer's remedies under the Law or otherwise, shall, at its own cost and expense, act as an insurer and provide insurance in accordance with the terms and conditions above. With respect to the required general liability, umbrella 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. In addition, alleged violations of the provisions of this Article 17 means that Seller has the initial burden of proof regarding any legal justification for refusing or withholding coverage and Seller shall face the same liability and damages as an insurer for wrongfully refusing or withholding coverage in accordance with the laws of California.

ARTICLE 18
CONFIDENTIAL INFORMATION

18.1 Definition of Confidential Information. The following constitutes "**Confidential Information**," whether oral or written which is delivered by Seller to Buyer or by Buyer to Seller including: (a) the terms and conditions of, and proposals and negotiations related to, this Agreement, and (b) information that either Seller or Buyer stamps or otherwise identifies as "confidential" or "proprietary" before disclosing it to the other. Confidential Information does not include (i) information that was publicly available at the time of the disclosure, other than as a result of a disclosure in breach of this Agreement; (ii) information that becomes publicly available through no fault of the recipient after the time of the delivery; (iii) information that was rightfully in the possession of the recipient (without confidential or proprietary restriction) at the time of delivery or that becomes available to the recipient from a source not subject to any restriction against disclosing such information to the recipient; and (iv) information that the recipient independently developed without a violation of this Agreement.

18.2 Duty to Maintain Confidentiality. The Party receiving Confidential Information (the "**Receiving Party**") from the other Party (the "**Disclosing Party**") shall not disclose Confidential Information to a third party (other than the Party's employees, lenders or investors, counsel, accountants, directors or advisors, or any such representatives of a Party's Affiliates, or Buyer's Scheduling Coordinator, in each case who have a need to know such information and have agreed to keep such terms confidential ("**Permitted Disclosee**")) except in order to comply with any applicable Law, regulation, or any exchange, control area or independent system operator rule or in connection with any court or regulatory proceeding applicable to such Party or any of its Affiliates; *provided*, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure, and each Party shall be responsible for any authorized use or disclosure by its Permitted Disclosee. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation. The Parties agree and acknowledge that nothing in this Section 18.2 prohibits a Party from disclosing any one or more of the commercial terms of a transaction (other than the name of the other Party unless otherwise agreed to in writing by the Parties) to any industry price source for the purpose of aggregating and reporting such information in the form of a published energy price index.

The Parties acknowledge and agree that the Agreement and any transactions entered into in connection herewith are subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.). In order to designate information as confidential, the Disclosing Party must clearly stamp and identify the specific portion of the material designated with the word "Confidential." The Parties agree not to over-designate material as Confidential Information. Over-designation includes stamping whole agreements, entire pages or series of pages as "Confidential" that clearly contain information that is not Confidential Information.

Upon request or demand of any third person or entity not a Party hereto to Buyer pursuant to the California Public Records Act for production, inspection and/or copying of Confidential Information ("**Requested Confidential Information**"), Buyer shall as soon as practical notify Seller in writing via email that such request has been made. Seller shall be solely responsible for taking at its sole expense whatever legal steps are necessary to prevent release of the Requested Confidential Information to the third party by Buyer. If Seller takes no such action after receiving the foregoing notice from Buyer, Buyer shall, at its discretion, be permitted to comply with the third party's request or demand and is not required to defend against it. If Seller does take or attempt to take such action, Buyer shall provide timely and reasonable cooperation to Seller, if requested by Seller, and Seller agrees to indemnify and hold harmless Buyer, its officers, employees and agents ("**Buyer's Indemnified Parties**"), from any claims, liability, award of attorneys' fees, or damages, and to defend any action, claim or lawsuit brought against any of Buyer's Indemnified Parties for Buyer's refusal to disclose any Requested Confidential Information.

18.3 Irreparable Injury; Remedies. Receiving Party acknowledges that its obligations hereunder are necessary and reasonable in order to protect Disclosing Party and the business of Disclosing Party, and expressly acknowledges that monetary damages would be inadequate to compensate Disclosing Party for any breach or threatened breach by Receiving Party of any covenants and agreements set forth herein. Accordingly, Receiving Party acknowledges that any such breach or threatened breach will cause irreparable injury to Disclosing Party and that, in addition to any other remedies that may be available, in law, in equity or otherwise, Disclosing

Party will be entitled to obtain injunctive relief against the threatened breach of this Agreement or the continuation of any such breach, without the necessity of proving actual damages.

18.4 Further Permitted Disclosure. Notwithstanding anything to the contrary in this Article 18, Confidential Information may be disclosed by the Receiving Party to any of its agents, consultants, contractors, trustees, or actual or potential financing parties (including, in the case of Seller, its Lender(s)), so long as such Person to whom Confidential Information is disclosed agrees in writing to be bound by confidentiality provisions that are at least as restrictive as this Article 18 to the same extent as if it were a Party.

18.5 Press Releases. Neither Party shall issue (or cause its Affiliates to issue) a press release regarding the transactions contemplated by this Agreement unless both Parties have agreed upon the contents of any such public statement; *provided*, Seller may, without Buyer's prior agreement but following Notice to Buyer and a reasonable opportunity for consultation, make such public statements as Seller in good faith determines are required by law.

ARTICLE 19
MISCELLANEOUS

19.1 Entire Agreement; Integration; Exhibits. This Agreement, together with the Cover Sheet and Exhibits attached hereto constitutes the entire agreement and understanding between Seller and Buyer with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. The Exhibits attached hereto are integral parts hereof and are made a part of this Agreement by reference. The headings used herein are for convenience and reference purposes only. In the event of a conflict between the provisions of this Agreement and those of the Cover Sheet or any Exhibit, the provisions of first the Cover Sheet, and then this Agreement shall prevail, and such Exhibit shall be corrected accordingly. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.

19.2 Amendments. This Agreement may only be amended, modified or supplemented by an instrument in writing executed by duly authorized representatives of Seller and Buyer; *provided*, this Agreement may not be amended by electronic mail communications.

19.3 No Waiver. Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default.

19.4 No Agency, Partnership, Joint Venture or Lease. Seller and the agents and employees of Seller shall, in the performance of this Agreement, act in an independent capacity and not as officers or employees or agents of Buyer. Under this Agreement, Seller and Buyer intend to act as energy seller and energy purchaser, respectively, and do not intend to be treated as, and shall not act as, partners in, co-venturers in or lessor/lessee with respect to the Facility or any business related to the Facility. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement) and/or, to the extent set forth herein, any Lender and/or Indemnified Party.

19.5 Severability. In the event that any provision of this Agreement is unenforceable or held to be unenforceable, the Parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby. The Parties shall, however, use their best endeavors to agree on the replacement of the void, illegal or unenforceable provision(s) with legally acceptable clauses which correspond as closely as possible to the sense and purpose of the affected provision and this Agreement as a whole.

19.6 Mobile-Sierra. Notwithstanding any other provision of this Agreement, neither Party shall seek, nor shall they support any third party 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 written 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 shall be the "public interest" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956). Changes proposed by a non-Party or FERC acting *sua sponte* shall be subject to the most stringent standard permissible under applicable Law.

19.7 Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument and each of which shall be deemed an original.

19.8 Electronic Delivery. This Agreement may be duly executed and delivered by a Party by electronic format (including portable document format (.pdf)) delivery of the signature page of a counterpart to the other Party.

19.9 Binding Effect. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

19.10 No Recourse to Members of Buyer. Buyer is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to its Joint Powers Agreement and is a public entity separate from its constituent members. Buyer shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Seller shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Buyer's constituent members, or the employees, directors, officers, consultants or advisors of Buyer or its constituent members, in connection with this Agreement.

19.11 Forward Contract. The Parties acknowledge and agree that this Agreement constitutes a "forward contract" within the meaning of the U.S. Bankruptcy Code, and Buyer and Seller are "forward contract merchants" within the meaning of the U.S. Bankruptcy Code. Each Party further agrees that, for all purposes of this Agreement, each Party waives and agrees not to assert the applicability of the provisions of 11 U.S.C. § 366 in any Bankruptcy proceeding wherein such Party is a debtor. In any such proceeding, each Party further waives the right to assert that the other Party is a provider of last resort to the extent such term relates to 11 U.S.C. §366 or another provision of 11 U.S.C. § 101-1532.

19.12 Change in Electric Market Design. If a change in the CAISO Tariff renders this Agreement or any provisions hereof incapable of being performed or administered, then any Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to make this Agreement capable of being performed and administered, while attempting to preserve to the maximum extent possible the benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, Buyer and Seller shall engage in such negotiations in good faith. If Buyer and Seller are unable, within sixty (60) days after delivery of such request, to agree upon changes to this Agreement or to resolve issues relating to changes to this Agreement, then any Party may submit issues pertaining to changes to this Agreement to the dispute resolution process set forth in Article 15. Notwithstanding the foregoing, (i) a change in cost shall not in and of itself be deemed to render this Agreement or any of the provisions hereof incapable of being performed or administered, and (ii) all of the unaffected provisions of this Agreement shall remain in full force and effect during any period of such negotiation or dispute resolution.

19.13 Further Assurances. Each of the Parties hereto agrees to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the Effective Date.

[SELLER]

By: _____
Name: _____
Title: _____

CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority

By: _____
Name: _____
Title: _____

EXHIBIT A

FACILITY DESCRIPTION

Site Name: Denali Energy Storage

Site includes all or some of the following APNs: 241-[redacted]

City: Lathrop

County: San Joaquin

Zip Code: 95330

Latitude and Longitude: [redacted]

Facility Description: Denali Energy Storage is a 101.2 MW, 4-hour, battery energy storage facility using LFP batteries and standard bi-directional inverters. The site is relatively flat and requires minimal grading for construction. The Denali Energy Storage will interconnect to the PG&E network at the 115 kV Vierra substation.

Delivery Point: Vierra 115 kV Substation

Facility Meter: See Exhibit R.

P-node: MANTECA (CAISO will assign P-node once NRI process is complete)

Transmission Provider: Pacific Gas and Electric Company

Additional Information: Li-ion Battery Energy Storage System

EXHIBIT B

FACILITY CONSTRUCTION AND COMMERCIAL OPERATION

1. **Construction of the Facility**.

   (a) "**Construction Start**" will occur upon Seller's acquisition of all applicable regulatory authorizations, approvals and permits for the construction of the Facility, and once Seller has engaged all contractors, and ordered all essential equipment and supplies as, in each case, can reasonably be considered necessary so that physical construction of the Facility may begin and proceed to completion without foreseeable interruption of material duration, and has executed an engineering, procurement, and construction contract and issued thereunder a final notice to proceed that authorizes the contractor to mobilize to Site and begin physical construction (including, at a minimum, excavation for foundations or the installation or erection of improvements) at the Site. The date of Construction Start will be evidenced by and subject to Seller's delivery to Buyer of a certificate substantially in the form attached as Exhibit J hereto, and the date certified therein shall be the "**Construction Start Date**." Seller shall cause Construction Start to occur no later than the Guaranteed Construction Start Date.

   (b) Seller may extend the Guaranteed Construction Start Date a total of [redacted] days of extensions by the payment of Daily Delay Damages. On or before the date that is ten (10) days prior to the then-current Guaranteed Construction Start Date Seller shall provide notice and payment to Buyer of the Daily Delay Damages for the number of days of extension to the Guaranteed Construction Start Date. If Seller achieves Construction Start prior to the Guaranteed Construction Start Date, as extended by the payment of Daily Delay Damages, Buyer shall refund to Seller the Daily Delay Damages for each day Seller achieves Construction Start prior to the Guaranteed Construction Start Date times the Daily Delay Damages, not to exceed the total amount of Daily Delay Damages paid by Seller pursuant to this Section 1(b). Additionally, if Seller achieves Commercial Operation on or before the Guaranteed Commercial Operation Date (not including any extensions to such date resulting from Seller's payment of Commercial Operation Delay Damages, but as may be extended pursuant to a Development Cure Period), then Buyer shall refund to Seller all Daily Delay Damages paid by Seller and not previously refunded by Buyer.

2. **Commercial Operation of the Facility**. "**Commercial Operation**" means the condition existing when Seller has fulfilled all of the conditions precedent in Section 2.2 of the Agreement and provided Notice to Buyer substantially in the form of Exhibit H (the "**COD Certificate**").

   (a) Seller shall cause Commercial Operation for the Facility to occur by the Guaranteed Commercial Operation Date. Seller shall notify Buyer that it intends to achieve Commercial Operation at least sixty (60) days before the anticipated Commercial Operation Date.

(b) Seller may extend the Guaranteed Commercial Operation Date by up to a total of [redacted] days of extensions by payment of Commercial Operation Delay Damages. On or before the date that is ten (10) days prior to the then-current Guaranteed Commercial Operation Date Seller shall provide Notice and payment to Buyer of the Commercial Operation Delay Damages for the number of days of extension to the Guaranteed Commercial Operation Date. If Seller achieves Commercial Operation prior to the Guaranteed Commercial Operation Date as extended by the payment of Commercial Operation Delay Damages, Buyer shall refund to Seller the Commercial Operation Delay Damages for each day Seller achieves Commercial Operation prior to the Guaranteed Commercial Operation Date times the Commercial Operation Delay Damages, not to exceed the total amount of Commercial Operation Delay Damages paid by Seller pursuant to this Section 2(b).

3. **Termination for Failure to Achieve Commercial Operation**. If the Facility has not achieved Commercial Operation on or before the Guaranteed Commercial Operation Date (as may be extended hereunder), Buyer may elect to terminate this Agreement in accordance with Sections 11.1(b)(ii) and 11.2.

4. **Extension of the Guaranteed Dates**. The Guaranteed Construction Start Date and the Guaranteed Commercial Operation Date shall, subject to notice and documentation requirements set forth below, be extended on a day-for-day basis (the "**Development Cure Period**") for the duration of any and all delays arising out of the following circumstances to the extent (i) the following circumstances are not the result of Seller's failure to take all commercially reasonable actions to meet its requirements and deadlines, (ii) such delays could not be mitigated by Seller using commercially reasonable efforts to overcome the delays, and (iii) such delays do not run concurrently:

   (a) Seller has not acquired the Material Permits by the Guaranteed Construction Start Date, despite the exercise of diligent and commercially reasonable efforts by Seller; or

   (b) a Force Majeure Event occurs; or

   (c) the Interconnection Facilities or Reliability Network Upgrades are not complete and ready for the Facility to connect and sell Product at the Delivery Point by the Guaranteed Commercial Operation Date, despite the exercise of diligent and commercially reasonable efforts by Seller; or

   (d) Without limiting Seller's other rights and remedies, Buyer has not made all necessary arrangements to deliver Charging Energy to, and receive the Facility Energy at, the Delivery Point by, or Buyer has not become or performed its responsibilities as Scheduling Coordinator for the Facility (except if due to the fault or negligence of Seller) sufficiently in advance of, the Guaranteed Commercial Operation Date.

   Seller shall submit any claim for Development Cure Period delays within (x) three (3)

Business Days of the applicable milestone in the case of (a), (c) or (d) above, and (y) fourteen (14) days after the initial occurrence of the claimed Force Majeure Event in the case of (b) above, in substantially the form set forth in Exhibit W. Notwithstanding anything in this Agreement to the contrary, the cumulative extensions granted under the Development Cure Period (other than the extensions granted pursuant to clause 4(d) above) shall not exceed one hundred eighty (180) days, for any reason, including a Force Majeure Event, and the cumulative extensions granted to the Guaranteed Commercial Operation Date by the payment of Commercial Operation Delay Damages and any Development Cure Period(s) (other than the extensions granted pursuant to clause 4(d) above) shall not exceed [redacted] days. Upon request from Buyer, Seller shall provide documentation demonstrating to Buyer's reasonable satisfaction that the delays described above did not result from Seller's actions or failure to take commercially reasonable actions.

5. **Failure to Reach Guaranteed Capacity**. If, at Commercial Operation, the Installed Capacity is less than one hundred percent (100%) of the Guaranteed Capacity, Seller shall have ninety (90) days after the Commercial Operation Date to install additional capacity and/or Network Upgrades such that the Installed Capacity is equal to (but not greater than) the Guaranteed Capacity, and Seller shall provide to Buyer a new certificate substantially in the form attached as Exhibit I hereto specifying the new Installed Capacity. If Seller fails to complete the Guaranteed Capacity by such date, Seller shall pay "**Capacity Damages**" to Buyer, in an amount equal to Five Hundred Thousand Dollars ($500,000) for each MW that the Guaranteed Capacity exceeds the Installed Capacity, and the Guaranteed Capacity and other applicable portions of the Agreement shall be adjusted accordingly. Capacity Damages shall not be offset or reduced by the payment of Development Security, Performance Security, Delay Damages, or any other form of liquidated damages under this Agreement.

6. **Buyer's Right to Draw on Development Security**. If Seller fails to timely pay any Daily Delay Damages or Commercial Operation Delay Damages, Buyer may draw upon the Development Security to satisfy Seller's payment obligation thereof.

EXHIBIT C

COMPENSATION

(a) Monthly Compensation.

(i) Each month beginning with CAISO Commercial Operation and continuing throughout the Delivery Term (and pro-rated for the first and last month of the Delivery Term if the Delivery Term does not start on the first day of a calendar month), Buyer shall pay Seller a Monthly Capacity Payment equal to the Storage Rate x Effective Capacity x Efficiency Rate Factor, minus an amount equal to the monthly average cost of Charging Energy times the total number of MWhs of Idle Period Auxiliary Use in such month, divided by the Efficiency Rate. Such payment constitutes the entirety of the amount due to Seller from Buyer for the Product. If the Effective Capacity is adjusted pursuant to a Capacity Test other than the first day of a calendar month, payment shall be calculated separately for each portion of the month in which the different Effective Capacity is applicable.

"**Efficiency Rate Factor**" means:

(A) If the Efficiency Rate is greater than or equal to the Guaranteed Efficiency Rate, then:

Efficiency Rate Factor = 100%

(B) If the Efficiency Rate is less than the Guaranteed Efficiency Rate, but greater than or equal to [redacted]%, then:

Efficiency Rate Factor = 100% - [(Guaranteed Efficiency Rate – Efficiency Rate) x .5]

(C) If the Efficiency Rate is less than [redacted]%, then:

Efficiency Rate Factor = 0

(ii) Capacity Availability Payment True-Up. Each month during the Delivery Term, Buyer shall calculate the year-to-date (YTD) Annual Capacity Availability for the applicable Contract Year in accordance with Exhibit P. If (A) such YTD Annual Capacity Availability is less than ninety percent (90%), or (B) in the last month of the Contract Year the final Annual Capacity Availability is less than the Guaranteed Capacity Availability, Buyer shall (1) withhold the Capacity Availability Payment True-Up Amount from the then-current Monthly Capacity Payment(s) (the "**Capacity Availability Payment True-Up**"), and (2) provide Seller with a written statement of the calculation of the YTD Annual Capacity Availability and the Capacity Availability Payment True-Up Amount; *provided*, if the Capacity Availability Payment True-Up Amount is a negative number for any month prior to the final year-end Capacity Availability Payment True-Up calculation for a given Contract Year, Buyer shall not be obligated to reimburse Seller any previously withheld Capacity Availability Payment True-Up Amount in such Contract Year, except as set forth in the following sentence. If Buyer withholds any Capacity Availability Payment True-Up Amount pursuant to this subsection (a)(ii) above, and if the final

year-end Capacity Availability Payment True-Up Amount is a negative number, Buyer shall pay to Seller the positive value of such amount together with the then-current Monthly Capacity Payment due to Seller.

"**Capacity Availability Payment True-Up Amount**" means an amount equal to A x B - C, where:

A = The sum of the year-to-date Monthly Capacity Payments

B = The Capacity Availability Factor

C = The sum of any Capacity Availability Payment True-Up Amounts previously withheld by Buyer in the applicable Contract Year.

"Capacity Availability Factor" means:

(i) If the YTD Annual Capacity Availability times the Effective Capacity is equal to or greater than the Guaranteed Capacity Availability times the Effective Capacity, then:

Capacity Availability Factor = 0

(ii) If the YTD Annual Capacity Availability times the Effective Capacity is less than the Guaranteed Capacity Availability times the Effective Capacity, but the product of (A) the sum of (1) YTD Annual Capacity Availability *plus* (2) Force Majeure Unavailability, *times* (B) the Effective Capacity is greater than or equal to seventy percent (70%) of the Installed Capacity, then:

Capacity Availability Factor = Guaranteed Capacity Availability – YTD Annual Capacity Availability

(iii) If the product of (A) the sum of (1) YTD Annual Capacity Availability *plus* (2) Force Majeure Unavailability, times (B) the Effective Capacity is less than seventy percent (70%) of the Installed Capacity, then:

Capacity Availability Factor = (Guaranteed Capacity Availability – YTD Annual Capacity Availability) * 1.5 – (Force Majeure Unavailability * 0.5)

"**Force Majeure Unavailability**" means Total YTD Unavailable Calculation Intervals that resulted from a Force Majeure Event for which Seller is the claiming party divided by the Total YTD Calculation Intervals.

provided, if the result of any of the calculations in clauses (ii) or (iii) above is greater than 1.0, then the Capacity Availability Factor will be deemed to be equal to 1.0.

(b) Tax Credits. The Parties agree that the Storage Rate is not subject to adjustment or amendment if Seller fails to receive any Tax Credits, or if any Tax Credits expire, are repealed or otherwise cease to apply to Seller or the Facility in whole or in part, or Seller or its

investors are unable to benefit from any Tax Credits. Seller shall bear all risks, financial and otherwise, throughout the Contract Term, associated with Seller's or the Facility's eligibility to receive Tax Credits or to qualify for accelerated depreciation for Seller's accounting, reporting or Tax purposes. The obligations of the Parties hereunder, including those obligations set forth herein regarding the purchase and price for and Seller's obligation to deliver Facility Energy and Product, shall be effective regardless of whether construction of the Facility (or any portion thereof) or the sale of Facility Energy is eligible for, or receives Tax Credits during the Contract Term.

EXHIBIT D

SCHEDULING COORDINATOR RESPONSIBILITIES

(a) Buyer as Scheduling Coordinator for the Facility. Upon Initial Synchronization of the Facility to the CAISO Grid, Buyer shall be the Scheduling Coordinator or designate a qualified third party to provide Scheduling Coordinator services with the CAISO for the Facility for both the delivery and the receipt of Charging Energy, Facility Energy and the Product at the Delivery Point. At least thirty (30) days prior to the Initial Synchronization of the Facility to the CAISO Grid, (i) Seller shall take all actions and execute and deliver to Buyer and the CAISO all documents necessary to authorize or designate Buyer (or Buyer's designee) as the Scheduling Coordinator for the Facility effective as of the Initial Synchronization of the Facility to the CAISO Grid, and (ii) Buyer shall, and shall cause its designee to, take all actions and execute and deliver to Seller and the CAISO all documents necessary to authorize or designate Buyer or its designee as the Scheduling Coordinator for the Facility effective as of the Initial Synchronization of the Facility to the CAISO Grid. On and after Initial Synchronization of the Facility to the CAISO Grid, Seller shall not authorize or designate any other party to act as the Facility's Scheduling Coordinator, nor shall Seller perform for its own benefit the duties of Scheduling Coordinator, and Seller shall not revoke Buyer's authorization to act as the Facility's Scheduling Coordinator unless agreed to by Buyer. Buyer (as the Facility's SC) shall take such steps as are reasonably necessary and within its reasonable control to establish and maintain ADS or AGC connectivity with CAISO, and shall submit bids to the CAISO in accordance with this Agreement and the applicable CAISO Tariff, protocols and Scheduling practices for Product on a day-ahead, hour-ahead, fifteen-minute market, real time or other market basis that may develop after the Effective Date, as determined by Buyer. Buyer shall be responsible for issuing all Charging Notices and Discharging Notices and for submitting bids to CAISO as necessary or required in connection with the Must Offer Obligations and all CAISO charges and penalties for failing to comply with the Must Offer Obligation to the extent such CAISO charges and penalties would not have been incurred but for Buyer's failure to perform such obligations. Buyer's bidding and scheduling of the Facility into the CAISO markets shall be in accordance with the Operating Restrictions and Seller's most recent Availability Notices.

(b) Notices. Buyer (as the Facility's SC) shall provide Seller with access to a web-based system through which Seller shall submit to Buyer and the CAISO all notices and updates required under the CAISO Tariff regarding the Facility's status, including, but not limited to, all outage requests, forced outages, forced outage reports, clearance requests, or must offer waiver forms. Seller shall cooperate with Buyer to provide such notices and updates. If the web-based system is not available, Seller shall promptly submit such information to Buyer and the CAISO (in order of preference) telephonically or electronic mail to the personnel designated to receive such information.

(c) CAISO Costs and Revenues. Except as otherwise set forth below, Buyer (as Scheduling Coordinator for the Facility) shall be responsible for CAISO costs (including penalties and other charges) and shall be entitled to all CAISO revenues (including credits, Imbalance Energy revenues, and other payments), including revenues associated with CAISO dispatches, bid cost recovery, Inter-SC Trade credits, or other credits in respect of the Product Scheduled or delivered from the Facility. Seller shall be responsible for all CAISO costs and

penalties (including associated with Imbalance Energy costs) resulting from any deviations from Charging Notices, Discharging Notices or CAISO Dispatches, otherwise charging or discharging the Facility when not subject to a Charging Notice or Discharging Notice, or any failure by Seller to abide by the CAISO Tariff, the terms of this Agreement or the outage notification requirements set forth in this Agreement (except to the extent such non-compliance is caused by Buyer's failure to perform its duties as Scheduling Coordinator for the Facility). Buyer or its designated SC shall make commercially reasonable efforts to cooperate with Seller to allow Seller to make Resource Adequacy substitutions with respect to such outages as permitted by the CAISO Tariff. The Parties agree that any Availability Incentive Payments (as defined in the CAISO Tariff) are for the benefit of Seller and for Seller's account and that any Non-Availability Charges (as defined in the CAISO Tariff) are the responsibility of Seller and for Seller's account. In addition, if during the Delivery Term, 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 upon the Facility or to Buyer as Scheduling Coordinator due to failure by Seller to abide by the CAISO Tariff or the outage notification requirements set forth in this Agreement, the cost of the sanctions or penalties shall be Seller's responsibility. Buyer shall be solely responsible and shall indemnify Seller for any CAISO costs or charges that are assessed to Seller or the Facility as a result of the failure of Buyer, or its third-party Scheduling Coordinator, to fulfill its duties as the SC in accordance with the requirements of this Agreement and the CAISO Tariff.

(d) CAISO Settlements. Buyer (as the Facility's SC) shall be responsible for all settlement functions with the CAISO related to the Facility. Buyer shall render a separate invoice to Seller for any CAISO payments, charges or penalties ("**CAISO Charges Invoice**") for which Seller is responsible under this Agreement. CAISO Charges Invoices shall be rendered after settlement information becomes available from the CAISO that identifies any CAISO charges. Notwithstanding the foregoing, Seller acknowledges that the CAISO will issue additional invoices reflecting CAISO adjustments to such CAISO charges. Buyer shall review, validate, and if requested by Seller under paragraph (e) below, dispute any charges that are the responsibility of Seller in a timely manner and consistent with Buyer's existing settlement processes for charges that are Buyer's responsibilities. Subject to Seller's right to dispute and to have Buyer pursue the dispute of any such invoices, Buyer may net or offset any amounts owing to it for such CAISO Charges Invoices against any future amounts it may owe to Seller under this Agreement. The obligations under this Section with respect to payment of CAISO Charges Invoices shall survive the expiration or termination of this Agreement.

(e) Dispute Costs. Buyer (as the Facility's SC) may be required by Seller to dispute CAISO settlements in respect of the Facility. Seller agrees to pay Buyer's separately invoiced third-party costs and expenses (including reasonable attorneys' fees) associated with its involvement with such CAISO disputes to the extent they relate to CAISO charges payable by Seller with respect to the Facility that Seller has directed Buyer to dispute.

(f) Terminating Buyer's Designation as Scheduling Coordinator. At least thirty (30) days prior to expiration of this Agreement or as soon as reasonably practicable upon an earlier termination of this Agreement, the Parties will take all actions necessary to terminate the designation of Buyer as Scheduling Coordinator for the Facility as of 11:59 p.m. on such expiration date.

(g) Master Data File and Resource Data Template. The Parties will cooperate to comply with the applicable deadlines for filing and updating the information for the Facility in the Master Resource Database and Master Data File. Seller shall provide the data to the CAISO (and to Buyer) that is required for the CAISO's Master Data File and Resource Data Template (or successor data systems) for the Facility consistent with this Agreement at least five (5) Business Days before the deadline for submission to CAISO and Buyer (as SC) shall promptly provide such data to CAISO. Seller shall provide the data that is required for the CPUC's Master Resource Database for the Facility consistent with this Agreement to Buyer for review and approval at least five (5) Business Days before the deadline for submission of such to the CPUC. Neither Party shall change such data without the other Party's prior written consent. At least once per Contract Year, Seller shall review and confirm that the data provided for the CAISO's Master Data File and Resource Data Template (or successor data systems) and CPUC's Master Resource Database for this Facility remains consistent with the actual operating characteristics of the Facility and provide such information to Buyer for review at least five (5) Business Days prior to submission to the CAISO or CPUC as applicable.

(h) NERC Reliability Standards and FERC Requirements. Buyer (as Scheduling Coordinator) shall cooperate reasonably with Seller to the extent necessary to enable Seller to comply, and for Seller to demonstrate Seller's compliance with, NERC reliability standards and applicable FERC requirements. This cooperation shall include the provision of information in Buyer's possession that Buyer (as Scheduling Coordinator) has provided to the CAISO related to the Facility or actions taken by Buyer (as Scheduling Coordinator) related to Seller's compliance with NERC reliability standards.

EXHIBIT E

PROGRESS REPORTING FORM

Each Progress Report must include the following items:

1. Executive Summary.

2. Facility description.

3. Site plan of the Facility.

4. Description of any material planned changes to the Facility or the Site.

5. Gantt chart schedule showing progress on achieving each of the Milestones.

6. Summary of activities during the previous calendar quarter or month, as applicable, including any OSHA labor hour reports.

7. Forecast of activities scheduled for the current calendar quarter or month, as applicable.

8. Written description about the progress relative to Seller's Milestones, including whether Seller has met or is on target to meet the Milestones.

9. List of issues that are reasonably likely to affect Seller's Milestones.

10. A status report of start-up activities including a forecast of activities ongoing and after start-up until the Commercial Operation Date.

11. Progress and schedule of all material agreements, contracts, permits (including Material Permits), approvals, technical studies, financing agreements and major equipment purchase orders showing the start dates, completion dates, and completion percentages.

12. Pictures, in sufficient quantity and of appropriate detail, in order to document construction and startup progress of the Facility, the interconnection into the Transmission System and all other interconnection utility services.

13. Workforce Development or Supplier Diversity Reporting (if applicable). Format to be provided by Buyer.

14. Any other documentation reasonably requested by Buyer.

EXHIBIT F-1

FORM OF MONTHLY EXPECTED AVAILABLE CAPACITY REPORT

[MW Per Hour] – [*Insert Month*]

	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00
Day 1																								
Day 2																								
Day 3																								
Day 4																								
Day 5																								
[insert additional rows for each day in the month]																								
Day 29																								
Day 30																								
Day 31																								

The foregoing table is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement.

EXHIBIT F-2

FORM OF MONTHLY EXPECTED AVAILABLE STORAGE CAPABILITY REPORT

[Stored Energy Capability, MWh Per Hour] – [*Insert Month*]

	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00
Day 1																								
Day 2																								
Day 3																								
Day 4																								
Day 5																								
[insert additional rows for each day in the month]																								
Day 29																								
Day 30																								
Day 31																								

The foregoing table is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement.

EXHIBIT G

FORM OF DAILY AVAILABILITY NOTICE

Trading Day: _____

Station: _____ Issued By: _____

Unit: _____ Issued At: _____

Unit 100% Available No Restrictions: _____

Hour Ending	Available Capacity			Available Storage Capability	Comments
	(MW)			(MWh)	
1:00					
2:00					
3:00					
4:00					
5:00					
6:00					
7:00					
8:00					
9:00					
10:00					
11:00					
12:00					
13:00					
14:00					
15:00					
16:00					
17:00					
18:00					
19:00					
20:00					
21:00					
22:00					
23:00					
0:00					

Comments: _____

_____

_____

_____

_____

_____

EXHIBIT H

FORM OF COMMERCIAL OPERATION DATE CERTIFICATE

This certification ("**Certification**") of Commercial Operation is delivered by _____[*licensed professional engineer*] ("**Engineer**") to Clean Power Alliance of Southern California, a California joint powers authority **(**"**Buyer**") in accordance with the terms of that certain Energy Storage Agreement dated _____ ("**Agreement**") by and between [*Seller*] and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

As of _____[DATE]_____, Engineer hereby certifies and represents to Buyer the following:

1. The Facility is fully operational, reliable and interconnected, fully integrated and synchronized with the Transmission System.

2. Seller has installed equipment for the Facility with an Installed Capacity of no less than ninety-five percent (95%) of the Guaranteed Capacity.

3. The Facility's Installed Capacity is no less than ninety-five percent (95%) of the Guaranteed Capacity and the Facility is capable of charging, storing and discharging Energy, all within the operational constraints and subject to the applicable Operating Restrictions.

4. Authorization to parallel the Facility was obtained by the Transmission Provider, [Name of Transmission Provider as appropriate] on___[DATE]____.

5. The Transmission Provider has provided documentation supporting full unrestricted release of the Facility for Commercial Operation by [Name of Transmission Provider as appropriate] on _____[DATE]_____.

6. The CAISO has provided notification supporting Commercial Operation, in accordance with the CAISO Tariff on _____[DATE]_____.

7. Seller has segregated and separately metered Station Use to the extent reasonably possible in accordance with Prudent Operating Practice, and any such meter(s) have the same or greater level of accuracy as is required for CAISO certified meters used for settlement purposes.

8. The Facility and its meters have been designed and installed in a manner such that all Energy used for Auxiliary Use within the Facility is metered, and there is no Station Use (other than Auxiliary Use) that is served by Charging Energy or Facility Energy.

9. The total rated power of the Facility inverters associated with the Installed Capacity as measured to the Delivery Point is at least [____] MW charging and [____] MW discharging at 45°C ambient air temperature.

EXECUTED by **[**LICENSED PROFESSIONAL ENGINEER**]**

this _____ day of _____, 20__.

[LICENSED PROFESSIONAL ENGINEER]

By:_____

Its:_____

Date:_____

EXHIBIT I

FORM OF CAPACITY TEST CERTIFICATE

This certification ("**Certification**") of Capacity Test results is delivered by [licensed professional engineer] ("**Engineer**")] to Clean Power Alliance of Southern California, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Energy Storage Agreement dated _____ ("**Agreement**") by and between [*SELLER ENTITY*] and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

I hereby certify that a Capacity Test conducted on [Date] demonstrated (i) an [Installed or Effective] Capacity of __ MW to the Delivery Point at four (4) hours of continuous discharge, (ii) a Battery Charging Factor of __%, and (iii) a Battery Discharging Factor of __%, all in accordance with the testing procedures, requirements and protocols set forth in Section 4.9 and Exhibit O.

EXECUTED by **[**LICENSED PROFESSIONAL ENGINEER**]**

this _____ day of _____, 20__.

[LICENSED PROFESSIONAL ENGINEER**]**

By:_____

Its:_____

Date:_____

EXHIBIT J

FORM OF CONSTRUCTION START DATE CERTIFICATE

This certification of Construction Start Date ("**Certification**") is delivered by [SELLER ENTITY] ("**Seller**") to Clean Power Alliance of Southern California, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Energy Storage Agreement dated _____ ("**Agreement**") by and between Seller and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Seller hereby certifies and represents to Buyer the following:

(1) Construction Start (as defined in Exhibit B of the Agreement) has occurred, and a copy of the notice to proceed that Seller issued to its contractor as part of Construction Start is attached hereto.

(2) the Construction Start Date occurred on _____ (the "**Construction Start Date**"); and

(3) the precise Site on which the Facility is located is, which must be within the boundaries of the previously identified Site:

_____

(such description shall amend the description of the Site in Exhibit A of the Agreement).

IN WITNESS WHEREOF, the undersigned has executed this Certification on behalf of Seller as of the ___ day of _____.

[SELLER ENTITY]

By:_____
Its:_____

Date:_____

EXHIBIT K

FORM OF LETTER OF CREDIT

[Issuing Bank Letterhead and Address]

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [XXXXXXX]
Date:
Bank Ref.:
Amount: US$[XXXXXXXX]

Beneficiary:

Clean Power Alliance of Southern California,
a California joint powers authority
801 S Grand, Suite 400
Los Angeles, CA 90017

Ladies and Gentlemen:

By the order of _____ ("Applicant"), we, [insert bank name and address] ("Issuer") hereby issue our Irrevocable Standby Letter of Credit No. [XXXXXXX] (the "Letter of Credit") in favor of Clean Power Alliance of Southern California, a California joint powers authority ("Beneficiary"), 801 S Grand, Suite 400, Los Angeles, CA 90017, for an amount not to exceed the aggregate sum of U.S. $[XXXXXX] (United States Dollars [XXXXX] and 00/100) (the "Available Amount"), pursuant to that certain Energy Storage Agreement dated as of _____ and as amended (the "Agreement") between Applicant and Beneficiary. This Letter of Credit shall become effective immediately and shall be of no further force or effect at 5:00 p.m., California time, on [Date] or, if such day is not a Business Day (as hereinafter defined), on the next Business Day (as may be extended pursuant to the terms of this Letter of Credit, the "Expiration Date").

For the purposes hereof, "Business Day" shall mean any day on which commercial banks are not authorized or required to close in Los Angeles, California.

Funds under this Letter of Credit are available to Beneficiary by valid presentation on or before 5:00 p.m. California time, on or before the Expiration Date of a copy of this Letter of Credit No. [XXXXXXX] and all amendments accompanied by Beneficiary's dated statement purportedly signed by Beneficiary's duly authorized representative, in the form attached hereto as Exhibit A, containing one of the two alternative paragraphs set forth in paragraph 2 therein.

Any full or partial drawing hereunder may be requested by transmitting copies of the requisite documents as described above to the Issuer by facsimile at [facsimile number for draws] or such other number as specified from time-to-time by the Issuer.

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.

Issuer hereby agrees that all drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented to the Issuer before the Expiration Date. All correspondence and any drawings (other than those made by facsimile) hereunder are to be directed to [Issuer address/contact]. Issuer undertakes to make payment to Beneficiary under this Standby Letter of Credit within three (3) business days of receipt by Issuer of a properly presented Drawing Certificate. The Beneficiary shall receive payment from Issuer by wire transfer to the bank account of the Beneficiary designated in the Drawing Certificate.

Partial draws are permitted under this Letter of Credit, and this Letter of Credit shall remain in full force and effect with respect to any continuing balance; *provided*, the Available Amount shall be reduced by the amount of each such drawing.

It is a condition of this Letter of Credit that it shall be deemed automatically extended without an amendment for a one year period (or, if such period ends on a day that is not a Business Day, until the next Business Day thereafter) beginning on the present Expiration Date hereof and upon each anniversary for such date (or, if such period ends on a day that is not a Business Day, until the next Business Day thereafter), unless at least one hundred twenty (120) days prior to any such Expiration Date Issuer has sent Beneficiary written notice by overnight courier service at the address provided below that Issuer elects not to extend this Letter of Credit, in which case it will expire on its then current Expiration Date. No presentation made under this Letter of Credit after such Expiration Date will be honored.

Notwithstanding any reference in this Letter of Credit to any other documents, instruments or agreements, this Letter of Credit contains the entire agreement between Beneficiary and Issuer relating to the obligations of Issuer hereunder.

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.

Please address all correspondence regarding this Letter of Credit to the attention of the Letter of Credit Department at [insert bank address information], referring specifically to Issuer's Letter of Credit No. [XXXXXXX]. For telephone assistance, please contact Issuer's Standby Letter of Credit Department at [XXX-XXX-XXXX] and have this Letter of Credit available.

All notices to Beneficiary shall be in writing and are required to be sent by certified letter, overnight courier, or delivered in person to: Clean Power Alliance of Southern California, a California joint powers authority, Chief Financial Officer, 801 S Grand, Suite 400, Los Angeles, CA 90017. Only notices to Beneficiary meeting the requirements of this paragraph shall be considered valid. Any notice to Beneficiary which is not in accordance with this paragraph shall be void and of no force or effect.

[Bank Name]

_____
[Insert officer name]
[Insert officer title]

EXHIBIT A

(DRAW REQUEST SHOULD BE ON BENEFICIARY'S LETTERHEAD)

Drawing Certificate

[Insert Bank Name and Address]

Ladies and Gentlemen:

The undersigned, a duly authorized representative of [ ], [ADDRESS], as beneficiary (the "Beneficiary") of the Irrevocable Letter of Credit No. [XXXXXXX] (the "Letter of Credit") issued by [insert bank name] (the "Bank") by order of _____ (the "Applicant"), hereby certifies to the Bank as follows:

1. Applicant and Beneficiary are party to that certain Energy Storage Agreement dated as of _____, 20__ (the "Agreement").

2. Beneficiary is making a drawing under this Letter of Credit in the amount of U.S. $_____ because a Seller Event of Default (as such term is defined in the Agreement) has occurred.

or

Beneficiary is making a drawing under this Letter of Credit in the amount of U.S. $_____, which equals the full available amount under the Letter of Credit, because Applicant is required to maintain the Letter of Credit in force and effect beyond the expiration date of the Letter of Credit but has failed to provide Beneficiary with a replacement Letter of Credit or other acceptable instrument within thirty (30) days prior to such expiration date.

3. The undersigned is a duly authorized representative of [ ] and is authorized to execute and deliver this Drawing Certificate on behalf of Beneficiary.

You are hereby directed to make payment of the requested amount to [ ] by wire transfer in immediately available funds to the following account:

[Specify account information]

[ ]

_____
Name and Title of Authorized Representative

Date_____

EXHIBIT L

[RESERVED.]

EXHIBIT M

FORM OF REPLACEMENT RA NOTICE

This Replacement RA Notice (this "**Notice**") is delivered by [SELLER ENTITY] ("**Seller**") to Clean Power Alliance of Southern California, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Energy Storage Agreement dated _____ ("**Agreement**") by and between Seller and Buyer. All capitalized terms used in this Notice but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Pursuant to Section 3.4(d) of the Agreement, Seller hereby provides the below Replacement RA product information:

Unit Information[1]

Name	
Location	
CAISO Resource ID	
Unit SCID	
Prorated Percentage of Unit Factor	
Resource Type	
Point of Interconnection with the CAISO Controlled Grid ("substation or transmission line")	
Path 26 (North or South)	
LCR Area (if any)	
Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment	
Run Hour Restrictions	
Delivery Period	

Month	Unit CAISO NQC (MW)	Unit Contract Quantity (MW)
January		
February		
March		
April		
May		
June		
July		
August		
September		
October		
November		
December		

[1] To be repeated for each unit if more than one.

[SELLER ENTITY]

By:_____
Its:_____

Date:_____

EXHIBIT N

NOTICES

VESI 17 LLC ("Seller")	**CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority** ("Buyer")
All Notices: VESI 17 LLC 6140 Plumas Street Reno, NV 89519 Attn: Asset Management Phone: (484) 474-5350 Facsimile: n/a Email: BESSAssetManagement@ormat.com	**All Notices:** Street: 801 S Grand, Suite 400 City: Los Angeles, CA 90017 Attn: Chief Executive Officer Phone: (213) 269-5870 E-mail: tbardacke@cleanpoweralliance.org
Invoices: Attn: VESI Settlements Group Phone: (484) 534-2222 Facsimile: n/a E-mail: invoices.us@ormat.com	**Invoices:** Attn: CPA Settlements Phone: (213) 269-5870 E-mail: settlements@cleanpoweralliance.org
Scheduling: Attn: VESI Settlements Group Phone: (484) 534-2222 Facsimile: n/a Email: ESODesk@ormat.com	**Scheduling:** Attn: Day Ahead Scheduling Phone: (817) 303-1104 Email: TenaskaComm@tnsk.com
Payments: Attn: VESI Settlements Group Phone: (484) 534-2222 Facsimile: E-mail: invoices.us@ormat.com	**Payments:** Attn: Vice President, Power Supply E-mail: settlements@cleanpoweralliance.org
Wire Transfer: BNK: [redacted] ABA: [redacted] ACCT: [redacted]	**Wire Transfer:** BNK: River City Bank ABA: 121133416 ACCT: XXXXXX8042

EXHIBIT O

CAPACITY TESTS

Capacity Test Notice and Frequency

A. Commercial Operation Capacity Test(s). Upon no less than ten (10) Business Days prior Notice to Buyer, Seller shall schedule and complete a Commercial Operation Capacity Test prior to the Commercial Operation Date. Such initial Commercial Operation Capacity Test (and any subsequent Commercial Operation Capacity Test permitted in accordance with Exhibit B) shall be performed in accordance with this Exhibit O and shall establish the Installed Capacity hereunder based on the actual capacity and capabilities of the Facility determined by such Commercial Operation Capacity Test(s).

B. Subsequent Capacity Tests. Following the Commercial Operation Capacity Test(s), at least fifteen (15) days in advance of the start of each Contract Year, upon no less than ten (10) Business Days prior Notice to Buyer, Seller shall schedule and complete a Capacity Test. In addition, Buyer shall have the right to require a retest of the Capacity Test at any time upon no less than five (5) Business Days prior Notice to Seller if Buyer provides data with such Notice reasonably indicating that the then-current Effective Capacity has varied materially from the results of the most recent prior Capacity Test. Seller shall have the right to run a retest of any Capacity Test at any time upon five (5) Business Days' prior Notice to Buyer (or any shorter period reasonably acceptable to Buyer consistent with Prudent Operating Practice).

C. Test Results and Re-Setting of Effective Capacity. No later than five (5) days following any Capacity Test, Seller shall submit a testing report detailing results and findings of the test. The report shall include Facility Meter readings and plant log sheets verifying the operating conditions and output of the Facility. In accordance with Section 4.4(a)(ii) of the Agreement and Part II(I) below, after the Commercial Operation Capacity Test(s), the Effective Capacity (up to, but not in excess of, the Installed Capacity) determined pursuant to such Capacity Test shall become the new Effective Capacity at the beginning of the day following the completion of the test for calculating the Monthly Capacity Payment and all other purposes under this Agreement.

Capacity Test Procedures

PART I. GENERAL.

A. Each Capacity Test shall be conducted in accordance with Prudent Operating Practices, the Operating Restrictions, and the provisions of this Exhibit O. For ease of reference, a Capacity Test is sometimes referred to in this Exhibit O as a "**CT**". Buyer or its representative may be present for the CT and may, for informational purposes only, use its own metering equipment (at Buyer's sole cost).

B. Conditions Prior to Testing.

(1) EMS Functionality. The EMS shall be successfully configured to receive data from the Battery Management System (BMS), exchange DNP3 data

with the Buyer SCADA device, and transfer data to the database server for the calculation, recording and archiving of data points.

(2) Communications. The Remote Terminal Unit (RTU) testing should be successfully completed prior to any testing. The interface between the RTU and the SCADA System should be fully tested and functional prior to starting any testing, including verification of the data transmission pathway between the RTU and Seller's EMS interface and the ability to record SCADA System data.

(3) Commissioning Checklist. Commissioning shall be successfully completed per manufacturer guidance on all applicable installed Facility equipment, including verification that all controls, set points, and instruments of the EMS are configured.

(4) Pre-Test Set-Up; Cell Balancing. Each battery module shall be balanced and all equipment calibrated for the start of the CT. SOC will be set to 20%, then the Facility will rest for an hour, then SOC will be reduced to 0% and test will begin; *provided*, subject to Section 4.4(a), if a cell balancing protocol is available from battery module supplier and is comparable, Seller will conform to the vendor protocol.

PART II. REQUIREMENTS APPLICABLE TO ALL CAPACITY TESTS.

A. Test Elements. Each CT shall include at least the following individual test elements, which must be conducted in the order prescribed in Part III of this Exhibit O, unless the Parties mutually agree to deviations therefrom. The Parties acknowledge and agree that should Seller fall short of demonstrating one or more of the Test Elements as specified below, the Test will still be deemed "complete," and any adjustments necessary to the Effective Capacity resulting from such Test, if applicable, will be made in accordance with this Exhibit O.

(1) Electrical output at the lesser of the maximum discharging level (MW) and Guaranteed Storage Capacity for four (4) continuous hours; and

(2) Electrical input at maximum charging level at the Facility Meter (MW), as sustained until the SOC reaches at least 90%, continued by the electrical input at a rate up to the maximum charging level at the Facility Meter (MW), as sustained until the SOC reaches 100%, not to exceed five (5) hours of total charging time.

B. Parameters. During each CT, the following parameters shall be measured and recorded simultaneously for the Facility, at two (2) second intervals:

(1) Time;

(2) The amount of Facility Energy;

(3) The amount of Charging Energy;

(4) The amount of Station Use;

(5) Stored Energy Level (MWh).

C. Site Conditions. During each CT, the following meteorological information from a weather station at the Site will be provided at sixty (60) minute intervals:

(1) Relative humidity (%);

(2) Barometric pressure (inches Hg) near the horizontal centerline of the Facility; and

(3) Ambient air temperature (°F).

D. Test Showing. Each CT shall record and report the following datapoints:

(1) That the CT successfully started;

(2) The maximum sustained discharging level for four (4) consecutive hours pursuant to A(1) above;

(3) The maximum sustained charging level for four (4) consecutive hours pursuant to A(2) above;

(4) Amount of time between the Facility's electrical output going from 0 to the maximum sustained discharging level registered during the CT (for purposes of calculating the ramp rate);

(5) Amount of time between the Facility's electrical input going from 0 to the maximum sustained charging level registered during the CT (for purposes of calculating the ramp rate);

(6) Amount of Charging Energy to go from 0% SOC to 100% SOC;

(7) Amount of Facility Energy to go from 100% SOC to 0% SOC.

E. Test Conditions.

(1) General. At all times during a CT, the Facility shall be operated in compliance with Prudent Operating Practices, the Operating Restrictions, and all operating protocols recommended, required or established by the manufacturer for the Facility.

(2) Abnormal Conditions. If abnormal operating conditions that prevent the testing or recordation of any required parameter occur during a CT, Seller may postpone or reschedule all or part of such CT in accordance with Part II.F below.

(3) Instrumentation and Metering. Seller shall provide all instrumentation, metering and data collection equipment required to perform the CT. The instrumentation, metering and data collection equipment electrical meters shall be calibrated in accordance with Prudent Operating Practice and, as applicable, the CAISO Tariff.

F. Incomplete Test. If any CT is not completed in accordance herewith, Buyer may in its sole discretion: (i) accept the results up to the time the CT stopped without any modification to the Effective Capacity pursuant to Section I below; (ii) require that the portion of the CT not completed, be completed within a reasonable specified time period; or (iii) require that the CT be entirely repeated within a reasonable specified time period. Notwithstanding the above, if Seller is unable to complete a CT due to a Force Majeure Event or the actions or inactions of Buyer or the CAISO or the Transmission Provider, Seller shall be permitted to reconduct such CT on dates and at times reasonably acceptable to the Parties.

G. Test Report. Within five (5) Business Days after the completion of any CT, Seller shall prepare and submit to Buyer the completed Capacity Test Certificate, together with a written report of the results of the CT, which report shall include:

(1) A record of the personnel present during the CT that served in an operating, testing, monitoring or other such participatory role;

(2) The measured and calculated data for each parameter set forth in Part II.A through D, including copies of the raw data taken during the test; and

(3) Seller's statement of either Seller's acceptance of the CT or Seller's rejection of the CT results and reason(s) therefor.

Seller's CT report and any submitted Capacity Test Certificate shall be deemed invalid if not delivered to Buyer within (5) Business Days after the completion of any CT. Within five (5) Business Days after receipt of such report, Buyer shall notify Seller in writing of either Buyer's acceptance of the CT results or Buyer's rejection of the CT and reason(s) therefor.

If either Party rejects the results of any CT, such CT shall be repeated in accordance with Part II.F.

H. Supplementary Capacity Test Protocol. No later than sixty (60) days prior to commencing Facility construction, Seller shall deliver to Buyer for its review and approval (such approval not to be unreasonably delayed or withheld) a supplement to this Exhibit O with additional and supplementary details, procedures and requirements applicable to Capacity Tests based on the then -current design of the Facility ("**Supplementary Capacity Test Protocol**"). Thereafter, from time to time, Seller may deliver to Buyer for its review and approval (such approval not to be unreasonably delayed or withheld) any Seller recommended updates to the then-current Supplementary Capacity Test Protocol. The initial Supplementary Capacity Test Protocol (and each update thereto), once approved by Buyer, shall be deemed

an amendment to this Exhibit O.

I. Adjustment to Effective Capacity. The Effective Capacity shall be updated following, and in accordance with, the results of the CT as follows:

(1) The total amount of Facility Energy delivered to the Delivery Point (expressed in MWh AC) during the first four (4) hours of discharge during the CT (up to, but not in excess of, the product of (i) (a) the Guaranteed Capacity (in the case of a Commercial Operation Capacity Test, including under Section 5 of Exhibit B) or (b) the Installed Capacity (in the case of any other Capacity Test), multiplied by (ii) four (4) hours) shall be divided by four (4) hours to determine the Effective Capacity, which shall be expressed in MW, and shall be the new Effective Capacity in accordance with Section 4.4(a)(ii) of the Agreement.

PART III. INITIAL SUPPLEMENTARY CAPACITY TEST PROTOCOL.

A. **Effective Capacity Test**

- Procedure:

(1) System Starting State: The Facility will be in the on-line state at 0% SOC.

(2) Record the initial value of the SOC.

(3) Command a real power charge that results in an AC power of Facility's maximum charging level, and continue charging until the earlier of (a) the Facility has reached 100% SOC or (b) five (5) hours have elapsed since the Facility commenced charging.

(4) Record and store the SOC after the earlier of (a) the Facility has reached 100% SOC or (b) five (5) hours of continuous charging. Such data point shall be used for purposes of calculation of the Battery Charging Factor.

(5) Record and store the Charging Energy.

(6) Following an agreed-upon rest period, command a real power discharge that results in an AC power output of the lesser of (i) the Facility's maximum discharging level and (ii) the Guaranteed Storage Capacity, and maintain the discharging state until the earlier of (a) the Facility has discharged at the maximum discharging level for four (4) consecutive hours, (b) the Facility has reached 0% SOC, or (c) the sustained discharging level is at least 2% less than the lesser of (i) the maximum discharging level and (ii) the Guaranteed Storage Capacity.

(7) Record and store the SOC after four (4) hours of continuous discharging. Such data point shall be used for purposes of calculation of the Battery Discharging Factor. If the Facility SOC remains above zero percent (0%)

after discharging at a rate at or above the Guaranteed Capacity (or at or above the Installed Capacity after a Commercial Operation Capacity Test) for four (4) consecutive hours pursuant to Part III.A.6(a), the SOC will be deemed 0 for the purposes of calculating the Battery Discharging Factor.

(8) Record and store the Facility Energy as measured at the Facility Meter. Such data point shall be used for purposes of calculation of the Effective Capacity.

(9) If the Facility has not reached 0% SOC pursuant to Section III.A.6, continue discharging the Facility until it reaches a 0% SOC. Record and store the additional Facility Energy, if applicable.

- Test Results

(1) The resulting Effective Capacity measurement is the sum of the total Facility Energy at the Facility Meter divided by four (4) hours.

B. **AGC Discharge Test**

- Purpose: This test will demonstrate the AGC discharge capability to achieve the Facility's maximum discharging level within 1 second.
- System starting state: The Facility will be in the on-line state at 50% SOC and at an initial active power level of 0 MW and reactive power level of 0 MVAR. The EMS will be configured to follow a predefined agreed-upon active power profile.
- Procedure:

(1) Record the Facility active power level at the Facility Meter.

(2) Command the Facility to follow a simulated CAISO RIG signal of Pmax at .95 power factor for ten (10) minutes.

(3) Record and store the Facility active power response (in seconds).

- System end state: The Facility will be in the on-line state and at a commanded active power level of 0 MW.

C. **AGC Charge Test**

- Purpose: This test will demonstrate the AGC charge capability to achieve the Facility's full charging level within 1 second.
- System starting state: The Facility will be in the on-line state at 50% SOC and at an initial active power level of 0 MW and reactive power level of 0 MVAR. The Facility control system will be configured to follow a predefined agreed-upon active power profile.
- Procedure:

(1) Record the Facility active power level at the Facility Meter.

(2) Command the Facility to follow a simulated CAISO RIG signal of -Pmax at .95 power factor for ten (10) minutes.

(3) Record and store the Facility active power response (in seconds).

- System end state: The Facility will be in the on-line state and at a commanded active power level of 0 MW.

EXHIBIT P

ANNUAL CAPACITY AVAILABILITY CALCULATION

(a) Following the end of each calendar month during the Delivery Term Buyer shall calculate the year-to-date (YTD) "**Annual Capacity Availability**" for the current Contract Year using the formula set forth below:

$$\text{Annual Capacity Availability (\%)} = 1 - \frac{\text{Unavailable Calculation Intervals}}{\text{Total YTD Calculation Intervals}}$$

"**Calculation Interval**" or "**C.I.**" means each successive five-minute interval, but excluding all such intervals which by the express terms of the Agreement are disregarded or excluded.

"**Unavailable Calculation Intervals**" means the sum of year-to-date unavailable Calculation Intervals for the applicable Contract Year, where for each Calculation Interval:

$$\text{Unavailable Calculation Interval} = 1 \text{ C.I. x } \left(1 - \text{the lesser of: } \frac{A}{\text{Effective Capacity}} \text{ or } \frac{B}{\text{Effective Capacity x 4 hrs}} \right)$$

"**A**" is the "**Available Effective Capacity**", which shall be calculated as the sum of the available capacity, in MW, expected from all system inverters to (considering the conditions of the Facility in total) receive Charging Energy from and deliver Facility Energy to the Delivery Point, in such Calculation Interval (based on normal operating conditions pursuant to the manufacturer's guidelines), but "A" shall never exceed the Effective Capacity.

"**B**" is the "**Available Storage Capability**", which shall be calculated as the sum of the following (taking into account the SOC at the time of calculation): (i) the energy throughput capability (in MWhs) in the applicable Calculation Interval that the Facility is available to be charged (calculated as the available battery capability (in MWh) to receive Charging Energy from the Delivery Point in the applicable Calculation Interval x the Battery Charging Factor) and (ii) the energy throughput capability in MWhs in the applicable Calculation Interval that the Facility is available to be discharged to the Delivery Point (calculated as the available battery capability (in MWh) to delivery Facility Energy to the Delivery Point in the applicable Calculation Interval x the Battery Discharging Factor). In calculating Available Storage Capability, the "available battery charging capability" and "available battery discharging capability" are calculated as the product of

(1) the count of available system cells in such Calculation Interval, multiplied by (2) the capability, in MWh, expected from each such system cell (based on normal operating conditions pursuant to the manufacturer's guidelines) that are able (considering the conditions of the Facility in total) to receive Charging Energy from and deliver Facility Energy to the Delivery Point, but Available Storage Capability shall never exceed the Effective Capacity x four (4) hours.

"**Total YTD Calculation Intervals**" means, for each applicable Contract Year, the total number of Calculation Intervals year-to-date up through and including the month for which the Annual Storage Capacity Availability is being calculated.

(b) The Available Effective Capacity and Available Storage Capability in the above calculations shall be the lower of (i) such amounts reported by Seller's real-time EMS data feed to Buyer for the Facility for such Calculation Interval, such that available Effective Storage Capacity is calculated as the product of (A) the count of available system inverters, multiplied by (B) the capacity, in MW AC, expected from each system inverter under normal operating conditions pursuant to the manufacturer's guidelines, and available Storage Capability is likewise calculated as the product of (C) the count of available system cells, multiplied by (D) the capability, in MWh, expected from each system cell under normal operating conditions pursuant to the manufacturer's guidelines, and (ii) Seller's most recent Availability Notice (as updated pursuant to Section 4.10), which, with respect to the Available Effective Storage Capacity, shall be calculated as the average of the "Gen Max" and "Load Max" (or equivalent successor terms which may be used by the SC or CAISO from time to time) amounts reported in Seller's Availability Notice and recorded in OMS for such Calculation Interval, and with respect to the Available Storage Capability, shall be calculated as "Max Energy" minus "Min Energy" (or equivalent successor terms which may be used by the SC or CAISO from time to time) amounts reported in Seller's Availability Notice and recorded in OMS for such Calculation Interval and for which calculation the Battery Charging Factor and Battery Discharging Factor shall not be applied, provided that any revised Availability Notice indicating an increase in the Storage Facility's availability for the applicable Calculation Interval is submitted by Seller at least sixty (60) minutes prior to the time the Buyer is required to schedule or bid the Storage Facility in the Real-Time Market. Except as otherwise expressly provided in this Agreement, the calculations of Available Effective Capacity and Available Storage Capability in the foregoing sentence shall be based solely on the availability of the Facility to charge or discharge Energy between the Facility and the Delivery Point, as applicable (excluding for reasons at the high-voltage side of the Delivery Point or beyond). Any Calculation Interval in which the Facility fails to maintain connectivity to the CAISO such that it cannot receive ADS or AGC signals (except to the extent (i) such failure is caused by or results from the fault or negligence of CAISO or Buyer or its Scheduling Coordinator, or (ii) Buyer or CAISO elects to dispatch the Facility by means other than ADS or AGC) shall be deemed an Unavailable Calculation Interval; *provided*, if such failure only affects Seller's ability to provide Ancillary Services, the Facility shall only be deemed to be [redacted] unavailable in such Calculation Interval.

(c) If the total rated power of the Facility inverters associated with the Installed Capacity as measured to the Delivery Point is less than [redacted] MW charging and [redacted] MW

discharging at 45°C, then Buyer shall have the right, in its reasonable discretion, to apply an ambient air temperature availability derate to the applicable Calculation Interval.

EXHIBIT Q

OPERATING RESTRICTIONS

The Parties will develop and finalize the Operating Restrictions prior to the Commercial Operation Date; *provided*, the Operating Restrictions (i) may not be materially more restrictive of the operation of the Facility than as set forth below, unless agreed to by Buyer in writing, (ii) will, at a minimum, include the rules, requirements and procedures set forth in this Exhibit Q, (iii) will include protocols and parameters for Seller's operation of the Facility in the absence of Charging Notices, Discharging Notices or other similar instructions from Buyer relating to the use of the Facility, and (iv) may include facility scheduling, operating restrictions and Communications Protocols.

File Update Date:	**[XX/XX/20XX]**	
Technology:	**Lithium Iron Phosphate Battery**	
Storage Unit Name:	**Denali Energy Storage**	
A. Contract Capacity		
Guaranteed Storage Capacity (MW):	93	
Effective Capacity (MW):	93	
B. Total Unit Dispatchable Range Information		
Interconnect Voltage (kV)	115	
Maximum Storage Level (MWh):	372	
Minimum Storage Level (MWh):	0	
Stored energy capability (MWh):	372	
Maximum Discharge (MW):	93	
Maximum Charge (MW):	93	
Guaranteed Efficiency Rate:	See Cover Sheet	
Maximum Energy Throughput (BET) (Discharged MWh/day) *:	[redacted]	
Maximum energy throughput (BET) (Discharged MWh/year) *: *Any Idle Period Auxiliary Use does not count towards maximum energy throughput.	[redacted]	
Excess energy throughput allowance (BET) (Discharged MWh/year):	[redacted] MWh/yr	
Excess energy discharge cost	[redacted]/MWh	
C. Charge and Discharge Rates		
Mode	**Maximum (MW)**	**Ramp Rate (MW/s) Description**
Energy (Charge)	93	1
Energy (Discharge)	93	1
D. Ancillary Services		
Frequency regulation is included:	Yes	
Spin is included:	Yes	

EXHIBIT R

METERING DIAGRAM

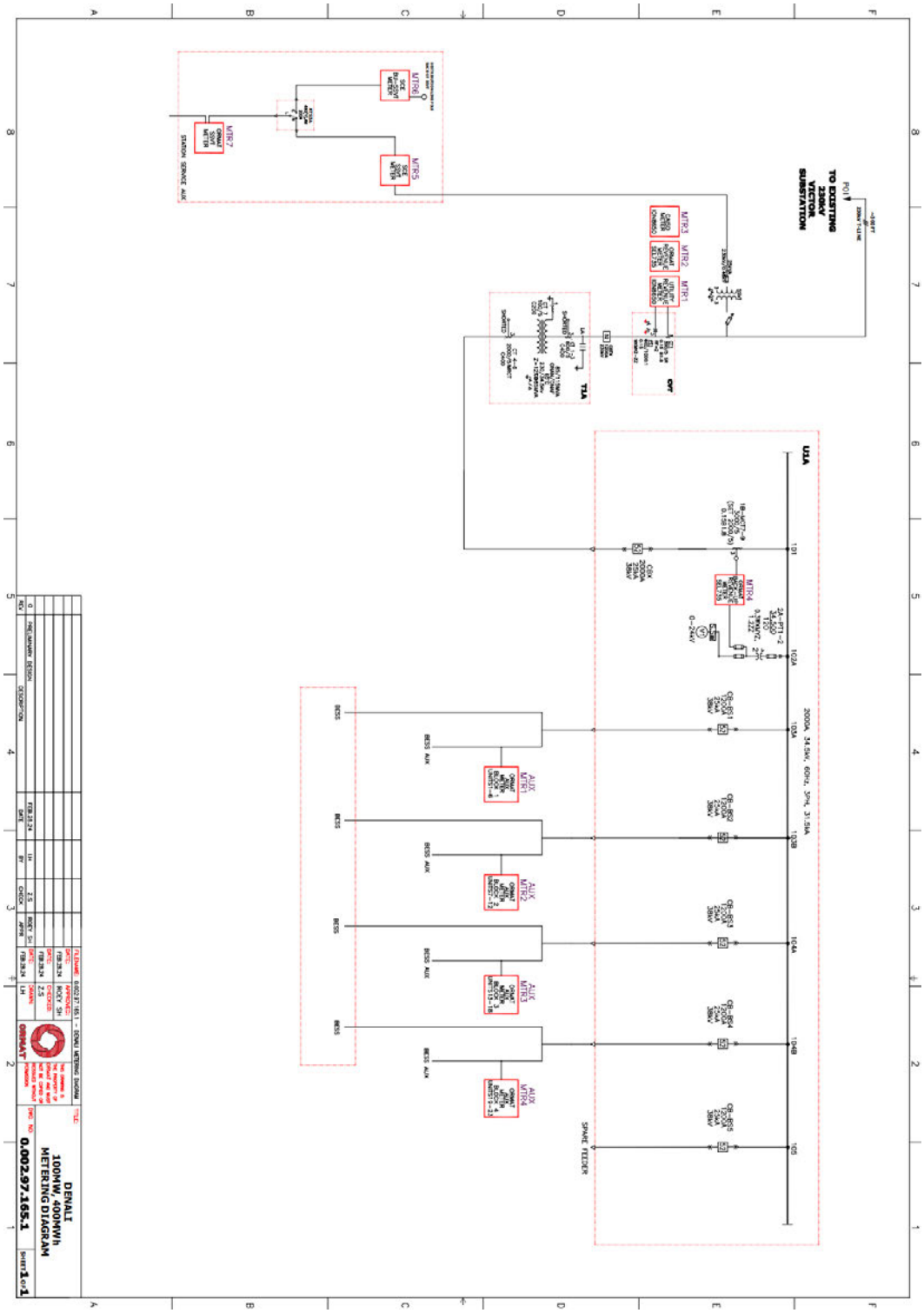


EXHIBIT S

FORM OF CONSENT TO COLLATERAL ASSIGNMENT

This Consent to Collateral Assignment (this "Consent") is entered into among (i) Clean Power Alliance of Southern California, a California joint powersauthority ("CPA"), (ii) *[Name of Seller]*, a *[Legal Status of Seller]* (the "Project Company"), and (iii) *[Name of* Collateral Agent*]*, a *[Legal Status of Collateral Agent]*, as Collateral Agent for the secured parties under the Financing Documents referred to below (such secured parties together with their successors permitted under this Consent in such capacity, the "Secured Parties", and, such agent, together with its successors in such capacity, the "Collateral Agent"). CPA, Project Company and Collateral Agent are hereinafter sometimes referred to individually as a "Party" and jointly as the "Parties". Capitalized terms used but not otherwise defined in this Consent shall have the meanings ascribed to them in the ESA (as defined below).

RECITALS

The Parties enter into this Consent with reference to the following facts:

A. Project Company and CPA have entered into that certain Energy Storage Agreement, dated as of *[Date] [List all amendments* as *contemplated by Section 3.4]* ("ESA"), pursuant to which Project Company will develop, construct, commission, test and operate the Facility and sell the Product to CPA, and CPA will purchase the Product from Project Company;

B. As collateral for Project Company's obligations under the ESA, Project Company has agreed to provide to CPA certain collateral, which may include Performance Security and Development Security and other collateral described in the ESA (collectively, the "ESA Collateral");

C. Project Company has entered into that certain *[Insert description of financing arrangements with Lender]*, dated as of *[Date]*, among Project Company, the Lenders party thereto and the Collateral Agent (the "Financing Agreement"), pursuant to which, among otherthings, the Lenders have extended commitments to make loans to Project Company;

D. As collateral security for Project Company's obligations under the Financing Agreement and related agreements (collectively, the "Financing Documents"), Project Company has, among other things, assigned all of its right, title and interest in, to and under the ESA and Project's Company's owners have pledged their ownership interest in Project Company (collectively, the "Assigned Interest") to the Collateral Agent pursuant to the Financing Documents; and

E. It is a requirement under the Financing Agreement and the ESA that CPA and the other Parties hereto shall have executed and delivered this Consent.

AGREEMENT

In consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties hereto hereby agree as follows:

SECTION 1. CONSENT TO ASSIGNMENT, ETC.

1.1 Consent and Agreement.

CPA hereby acknowledges:

(a) Notice of and consents to the assignment as collateral security to Collateral Agent, for the benefit of the Secured Parties, of the Assigned Interest; and

(b) The right (but not the obligation) of Collateral Agent in the exercise of its rights and remedies under the Financing Documents, to make all demands, give all notices, take all actions and exercise all rightsof Project Company permitted under the ESA (subject to CPA's rights and defenses under the ESA and the terms of this Consent) and accepts any such exercise; *provided*, insofar as the Collateral Agent exercises any such rights under the ESA or makes any claims with respect to payments or other obligations under the ESA, the terms and conditions of the ESA applicable to such exercise of rights or claims shall apply to Collateral Agent to the same extent as to Project Company.

1.2 Project Company's Acknowledgement.

Each of Project Company and Collateral Agent hereby acknowledges and agrees that CPA is authorized to act in accordance with Collateral Agent's instructions, and that CPA shall bear no liability to Project Company or Collateral Agent in connection therewith, including any liability for failing to act in accordance with Project Company's instructions.

1.3 Right to Cure.

If Project Company defaults in the performance of any of its obligations under the ESA, or upon the occurrence or non-occurrence of any event or condition under the ESA which would immediately or with the passage of any applicable grace period or the giving of notice, or both, enable CPA to terminate or suspend its performance under the ESA (a "ESA Default"), CPA will not terminate or suspend its performance under the ESA until it first gives written notice of such ESA Default to Collateral Agent and affords Collateral Agent the right to cure such ESA Default within the applicable cure period under the ESA, which cure period shall run concurrently with that afforded Project Company under the ESA. In addition, if Collateral Agent gives CPA written notice prior to the expiration of the applicable cure period under the ESA of Collateral Agent's intention to cure such ESA Default (which notice shall include a reasonable description of the time during which it anticipates to cure such ESA Default) and is diligently proceeding to cure such ESA Default, notwithstanding the applicable cure period under the ESA, Collateral Agent shall have a period of sixty (60) days (or, if such ESA Default is for failure by the Project Company to pay an amount to CPA which is due and payable under the ESA other than to provide ESA Collateral, thirty (30) days, or, if such ESA Default is for failure by Project Company to provide ESA Collateral, ten (10) Business Days) from the Collateral Agent's receipt of the notice of such ESA Default from CPA to cure such ESA Default; *provided*, (a) if possession of the Facility is necessary to cure any such non-monetary ESA Default and Collateral Agent has commenced foreclosure proceedings within sixty (60) days after notice of the ESA Default and is diligently pursuing such foreclosure proceedings, Collateral Agent will be allowed a reasonable time, not to

exceed one hundred eighty (180) days after the notice of the ESA Default, to complete such proceedings and cure such ESA Default, and (b) if Collateral Agent is prohibited from curing any such ESA Default by any process, stay or injunction issued by any Governmental Authority or pursuant to any bankruptcy or insolvency proceeding or other similar proceeding involving Project Company, then the time periods specified herein for curing a ESA Default shall be extended for theperiod of such prohibition, so long as Collateral Agent has diligently pursued removal of such process, stay or injunction. Collateral Agent shall provide CPA with reports concerning the status of efforts to cure a ESA Default upon CPA's reasonable request.

1.4 Substitute Owner.

Subject to Section 1.7, the Parties agree that if Collateral Agent notifies (such notice, a "Financing Document Default Notice") CPA that an event of default has occurred and is continuing under the Financing Documents (a "Financing Document Event of Default") then, upon a judicial foreclosure sale, non-judicial foreclosure sale, deed in lieu of foreclosure or other transfer following a Financing Document Event of Default, Collateral Agent (or its designee) shall be substituted for Project Company (the "Substitute Owner") under the ESA, and, subject to Sections 1.7(b) and 1.7(c) below, CPA and Substitute Owner will recognize each other as counterparties under the ESA and will continue to perform their respective obligations (including those obligations accruing to CPA and the Project Company prior to the existence of the Substitute Owner) under the ESA in favor of each other in accordance with the terms thereof; *provided*, before CPA is required to recognize the Substitute Owner, the Substitute Owner must have demonstrated to CPA's reasonable satisfaction that the Substitute Owner has financial qualifications and operating experience *[TBD]* (a "Permitted Transferee"). For purposes of the foregoing, CPA shall be entitled to assume that any such purported exercise of rights by Collateral Agent that results in substitution of a Substitute Owner under the ESA is in accordance with the Financing Documents without independent investigation thereof but shall have the right to require that the Collateral Agent and its designee (if applicable) provide reasonable evidence demonstrating the same.

1.5 Replacement Agreements.

Subject to Section 1.7, if the ESA is terminated, rejected or otherwise invalidated as a result of any bankruptcy, insolvency, reorganization or similar proceeding affecting Project Company, its owner(s) or guarantor(s), and if Collateral Agent or its designee directly or indirectly takes possession of, or title to, the Facility (including possession by a receiver or title by foreclosure or deed in lieu of foreclosure) ("Replacement Owner"), CPA shall, and Collateral Agent shall cause Replacement Owner to, enter into a new agreement with one another for the balance of the obligations under the ESA remaining to be performed having terms substantially the same as the terms of the ESA with respect to the remaining Contract Term ("Replacement ESA"); *provided*, before CPA is required to enter into a Replacement ESA, the Replacement Owner must have demonstrated to CPA's reasonable satisfaction that the Replacement Owner satisfies the requirements of a Permitted Transferee. For purposes of the foregoing, CPA is entitled to assume that any such purported exercise of rights by Collateral Agent that results in a Replacement Owner is in accordance with the Financing Documents without independent investigation thereof but shall have the right to require that the Collateral Agent and its designee (if applicable) provide reasonable evidence demonstrating the same. Notwithstanding the execution and delivery of a

Replacement ESA, to the extent CPA is, or was otherwise prior to its termination as described in this Section 1.5, entitled under the ESA, CPA may suspend performance of its obligations under such Replacement ESA, unless and until all ESA Defaults of Project Company under the ESA or Replacement ESA have been cured.

1.6 Transfer.

Subject to Section 1.7, a Substitute Owner or a Replacement Owner may assign all of its interest in the Facility and the ESA and a Replacement ESA to a natural person, corporation, trust, business trust, joint venture, joint stock company, association, company, limited liability company, partnership, Governmental Authority or other entity (a "Person") to which the Facility is transferred; *provided*, the proposed transferee shall have demonstrated to CPA's reasonable satisfaction that such proposed transferee satisfies the requirements of a Permitted Transferee.

1.7 Assumption of Obligations.

(a) Transferee.

Any transferee under Section 1.6 shall expressly assume in a writing reasonably satisfactory to CPA all of the obligations of Project Company, Substitute Owner or Replacement Owner under the ESA or Replacement ESA, as applicable, including posting and collateral assignment of the ESA Collateral. Upon such assignment and the cure of any outstanding ESA Default, and payment of all other amounts due and payable to CPA in respect of the ESA or such Replacement ESA, the transferor shall be released from any further liability under the ESA or Replacement ESA, as applicable.

(b) Substitute Owner.

Subject to Section 1.7(c), any Substitute Owner pursuant to Section 1.4 shall be required to perform Project Company's obligations under the ESA, including posting and collateral assignment of the ESA Collateral; *provided*, the obligations of such Substitute Owner shall be no more than those of Project Company under the ESA.

(c) No Liability.

CPA acknowledges and agrees that neither Collateral Agent nor any Secured Party shall have any liability or obligation under the ESAas a result of this Consent (except to the extentCollateral Agent or a Secured Party is a Substitute Owner or Replacement Owner) nor shall Collateral Agent or any other Secured Party be obligated or required to (i) perform any of Project Company's obligations under the ESA, except as provided in Sections 1.7(a) and 1.7(b) and to the extent Collateral Agent or a Secured Party is a Substitute Owner or Replacement Owner, or (ii) take any action to collect or enforce any claim for payment assigned under the Financing Documents. If Collateral Agent becomes a Substitute Owner pursuant to Section 1.4 or enters into a Replacement ESA, Collateral Agent shall not have any personal liability to CPA under the ESA or Replacement ESA and the sole recourse of CPA in seeking enforcement of such obligations against Collateral Agent shall be to the aggregate interest of the Secured Parties in the Facility; *provided*, such limited recourse shall not limit CPA's right to seek equitable or injunctive relief against Collateral Agent, or CPA's rights with respect to any offset rights expressly allowed under the ESA, a Replacement ESA or the ESA

Collateral.

1.8 Delivery of Notices.

CPA shall deliver to Collateral Agent, concurrently with the delivery thereof to Project Company, a copy of each notice, request or demand given by CPA to Project Company pursuant to the ESA relating to (a) a ESA Default by Project Company under the ESA, (b) any claim regarding Force Majeure Event by CPA under the ESA, (c) any notice of dispute under the ESA, (d) any notice of intent to terminate or any termination notice, and (e) any matter that would require the consent of Collateral Agent pursuant to Section 1.11 or any other provision of this Consent. Collateral Agent acknowledges that delivery of such notice, request and demand shall satisfy CPA's obligation to give Collateral Agent a notice of ESA Default under Section 1.3. Collateral Agent shall deliver to CPA, concurrently with delivery thereof to Project Company, a copy of each notice, request or demand given by Collateral Agent to Project Company pursuant to the Financing Documents relating to a default by Project Company under the Financing Documents.

1.9 Confirmations.

CPA will, as and when reasonably requested by Collateral Agent from time to time, confirm in writing matters relating to the ESA (including the performance of same by Project Company); *provided*, such confirmation may be limited to matters of which CPA is aware as of the time the confirmation is given and such confirmations shall be without prejudice to any rights of CPA under the ESA as between CPA and Project Company.

1.10 Exclusivity of Dealings.

Except as provided in Sections 1.3, 1.4, 1.8, 1.9 and 2.1, unless and until CPA receives a Financing Document Default Notice, CPA shall deal exclusively with Project Company in connection with the performance of CPA's obligations under the ESA. From and after such time as CPA receives a Financing Document Default Notice and until a Substitute Owner is substituted for Project Company pursuant to Section 1.4, a Replacement ESA is entered into or the ESA is transferred to a Person to whom the Facility is transferred pursuant to Section 1.6, CPA shall, until Collateral Agent confirms to CPA in writing that all obligations under the Financing Documents are no longer outstanding, deal exclusively with Collateral Agent in connection with the performance of CPA's obligations under the ESA, and CPA may irrevocably rely on instructions provided by Collateral Agent in accordance therewith to the exclusion of those provided by any other Person.

1.11 No Amendments.

To the extent permitted by Laws, CPA agrees that it will not, without the prior written consent of Collateral Agent (not to be unreasonably withheld, delayed or conditioned) (a) enter into any material supplement, restatement, novation, extension, amendment or modification of the ESA (b) terminate or suspend its performance under the ESA (except in accordance with Section 1.3) or (c) consent to or accept any termination or cancellation of the ESA by Project Company.

SECTION 2. PAYMENTS UNDER THE ESA

2.1 Payments.

Unless and until CPA receives written notice to the contrary from Collateral Agent, CPA will make all payments to be made by it to Project Company under or by reason of the ESA directly to Project Company. CPA, Project Company, and Collateral Agent acknowledge that CPA will be deemed to be in compliance with the payment terms of the ESA to the extent that CPA makes payments in accordance with Collateral Agent's instructions.

2.2 No Offset, Etc.

All payments required to be made by CPA under the ESA shall be made without any offset, recoupment, abatement, withholding, reduction or defense whatsoever, other than that expressly allowed by the terms of the ESA.

SECTION 3. REPRESENTATIONS AND WARRANTIES OF CPA

CPA makes the following representations and warranties as of the date hereof in favor of Collateral Agent:

3.1 Organization.

CPA is a joint powers authority and community choice aggregator duly organized and validly existing under the laws of the state of California, and the rules, regulations and orders of the California Public Utilities Commission, and is qualified to conduct business in each jurisdiction of the Joint Powers Agreement members. CPA has all requisite power and authority, corporate and otherwise, to enter into and to perform its obligations hereunder and underthe ESA, and to carry out the terms hereof and thereof and the transactions contemplated hereby and thereby.

3.2 Authorization.

The execution, delivery and performance by CPA of this Consent and the ESA have been duly authorized by all necessary corporate or other action on the part of CPA and do not require any approval or consent of any holder (or any trustee for any holder) of any indebtedness or other obligation of CPA which, if not obtained, will prevent CPA from performing its obligations hereunder or under the ESA except approvals or consents which have previously been obtained and which are in full force and effect.

3.3 Execution and Delivery; Binding Agreements.

Each of this Consent and the ESA is in full force and effect, has been duly executed and delivered on behalf of CPA by the appropriate officers of CPA, and constitutes the legal, valid and binding obligation of CPA, enforceable against CPA in accordance with its terms, except as the enforceability thereof may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application affecting the enforcement of creditors' rights generally and (b) general equitable principles (whether considered in a proceeding in equity or at law).

3.4 No Default or Amendment.

Except as set forth in Schedule A attached hereto: (a) Neither CPA nor, to CPA's actual

knowledge, Project Company, is in default of any of its obligations under the ESA; (b) CPA and, to CPA's actual knowledge, Project Company, has complied with all conditions precedent to the effectiveness of its obligations under the ESA; (c) to CPA's actual knowledge, no event or condition exists which would either immediately or with the passage of any applicable grace period or giving of notice, or both,enable either CPA or Project Company to terminate or suspend its obligations under the ESA; and (d) the ESA has not been amended, modified or supplemented in any manner except as set forth herein and in the recitals hereto.

3.5 No Previous Assignments.

CPA has no notice of, and has not consented to, any previous assignment by Project Company of all or any part of its rights under the ESA, except as previously disclosed in writing and consented to by CPA.

SECTION 4. REPRESENTATIONS AND WARRANTIES OF PROJECT COMPANY

Project Company makes the following representations and warranties as of the date hereof in favor of the Collateral Agent and CPA:

4.1 Organization.

Project Company is a *[Legal Status of Seller]* duly organized and validly existing under the laws of the state of its organization, and is duly qualified, authorized to do business and in good standing in every jurisdiction in which it owns or leases real property or in which the nature of its business requires it to be so qualified, except where the failure to so qualify would not have a material adverse effect on its financial condition, its ability to own its properties or its ability to transact its business. Project Company has all requisite power and authority, corporate and otherwise, to enter into and to perform its obligations hereunder and under the ESA, and to carry out the terms hereof and thereof and the transactions contemplated hereby and thereby.

4.2 Authorization.

The execution, delivery and performance of this Consent by Project Company, and Project Company's assignment of its right, title and interest in, to and under the ESA to the Collateral Agent pursuant to the Financing Documents, have been duly authorized by all necessary corporate or other action on the part of Project Company.

4.3 Execution and Delivery; Binding Agreement.

This Consent is in full force and effect, has been duly executed and delivered on behalf of Project Company by the appropriate officers of Project Company, and constitutes the legal, valid and binding obligation of Project Company, enforceable against Project Company in accordance with its terms, except as the enforceability thereof may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application affecting the enforcement of creditors' rights generally and (b) general equitable principles (whether considered in a proceeding in equity or at law).

4.4 No Default or Amendment.

Except as set forth in Schedule B attached hereto: (a) neither Project Company nor, to Project Company's actual knowledge, CPA, is in default of any of its obligations under the PPA; (b) Project Company and, to Project Company's actual knowledge, CPA, has complied with all conditions precedent to the effectiveness of its obligations under the ESA; (c) to Project Company's actual knowledge, no event or condition exists which would either immediately or with the passage of any applicable grace period or giving of notice, or both, enable either CPA or Project Company to terminate or suspend its obligations under the ESA; and (d) the ESA has not been amended, modified or supplemented in any manner except as set forth herein and in the recitals hereto.

4.5 No Previous Assignments.

Project Company has not previously assigned all or any part of its rights under the ESA.

SECTION 5. REPRESENTATIONS AND WARRANTIES OF COLLATERAL AGENT

Collateral Agent makes the following representations and warranties as of the date hereof in favor of CPA and Project Company:

5.1 Authorization.

The execution, delivery and performance of this Consent by Collateral Agent have been duly authorized by all necessary corporate or other action on the part of Collateral Agent and Secured Parties.

5.2 Execution and Delivery; Binding Agreement.

This Consent is in full force and effect, has been duly executed and delivered on behalf of Collateral Agent by the appropriate officers of Collateral Agent, and constitutes the legal, valid and binding obligation of Collateral Agent as Collateral Agent for the Secured Parties, enforceable against Collateral Agent (and the Secured Parties to the extent applicable) in accordance with its terms, except as the enforceability thereof may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application affecting the enforcement of creditors' rights generally and (b) general equitable principles (whether considered in a proceeding in equity or at law).

SECTION 6. MISCELLANEOUS

6.1 Notices.

All notices and other communications hereunder shall be in writing, shall be deemed given upon receipt thereof by the Party or Parties to whom such notice is addressed, shall refer on their face to the ESA (although failure to so refer shall not render any such notice or communication ineffective), shall be sent by first class mail, by personal delivery or by a nationally recognized courier service, and shall be directed (a) if to CPA or Project Company, in accordance with *[Notice Section of the ESA]* of the ESA, (b) if to Collateral Agent, to *[Collateral Agent Name]*, *[Collateral Agent Address]*, Attn: *[Collateral Agent Contact Information]*, Telephone: *[___]*, Fax: *[___]*, and (c) to such other address or addressee as any such Party may designate by notice given pursuant

hereto.

6.2 Governing Law; Submission to Jurisdiction.

(a) THIS CONSENT SHALL BE CONSTRUED IN ACCORDANCE WITH, AND THIS CONSENT AND ALL MATTERS ARISING OUT OF THIS CONSENT AND THE TRANSACTIONS CONTEMPLATED HEREBY SHALL BE GOVERNED BY, THE LAW OF THE STATE OF CALIFORNIA WITHOUT REGARD TO ANY CONFLICTS OF LAWS PROVISIONS THEREOF THAT WOULD RESULT IN THE APPLICATION OF THE LAW OF ANOTHER JURISDICTION.

(b) All disputes, claims or controversies arising out of, relating to, concerning or pertaining to the terms of this Consent shall be governed by the dispute resolution provisions of the ESA. Subject to the foregoing, any legal action or proceeding with respect to this Consent and any action for enforcement of any judgment in respect thereof may be brought in the courts of the State of California or of the United States of America for the Central District of California, and, by execution and delivery of this Consent, each Party hereby accepts for itself and in respect of its property, generally and unconditionally, the non-exclusive jurisdiction of the aforesaid courts and appellate courts from any appeal thereof. Each Party further irrevocably consents to the service of process out of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to its notice address provided pursuant to Section 6.1 hereof. Each Party hereby irrevocably waives any objection which it may now or hereafter have to the laying of venue of any of the aforesaid actions or proceedings arising out of or in connection with this Consent brought in the courts referred to above and hereby further irrevocably waives and agrees not to plead or claim in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum. Nothing herein shall affect the right of any Party to serve process in any other manner permitted by law.

6.3 Headings Descriptive.

The headings of the several sections and subsections of this Consent are insertedfor convenience only and shall not in any way affect the meaning or construction of any provisionof this Consent.

6.4 Severability.

In case any provision in or obligation under this Consent shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

6.5 Amendment, Waiver.

Neither this Consent nor any of the terms hereof may (a) be terminated, amended, supplemented or modified, except by an instrument in writing signed by CPA, Project Company and Collateral Agent or (b) waived, except by an instrument in writing signed by the waiving Party.

6.6 Termination.

Each Party's obligations hereunder are absolute and unconditional, and no Party has any right, and

shall have no right, to terminate this Consent or to be released, relieved or discharged from any obligation or liability hereunder until CPA has been notified by Collateral Agent that all of the obligations under the Financing Documents shall have been satisfied in full (other than contingent indemnification obligations) or, with respect to the ESA or any Replacement ESA, its obligations under such ESA or Replacement ESA have been fully performed.

6.7 Successors and Assigns.

This Consent shall be binding upon each Party and its successors and assigns permitted under and in accordance with this Consent, and shall inure to the benefit of the other Parties and their respective successors and assignee permitted under and in accordance with this Consent. Each reference to a Person herein shall include such Person's successors and assigns permitted under and in accordance with this Consent.

6.8 Further Assurances.

CPA hereby agrees to execute and deliver all such instruments and take all such action as may be necessary to effectuate fully the purposes of this Consent.

6.9 Waiver of Trial by Jury.

TO THE EXTENT PERMITTED BY APPLICABLE LAWS, THE PARTIES HEREBY IRREVOCABLY WAIVE ALL RIGHT OF TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR IN CONNECTION WITH THIS CONSENT OR ANY MATTER ARISING HEREUNDER. EACH PARTY FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

6.10 Entire Agreement.

This Consent and any agreement, document or instrument attached hereto or referred to herein integrate all the terms and conditions mentioned herein or incidental hereto and supersede all oral negotiations and prior writings in respect to the subject matter hereof. In the event of any conflict between the terms, conditions and provisionsof this Consent and any such agreement, document or instrument, the terms, conditions and provisions of this Consent shall prevail.

6.11 Effective Date.

This Consent shall be deemed effective as of the date upon which the last Party executes this Consent.

6.12 Counterparts; Electronic Signatures.

This Consent may be executed in one or more counterparts, each of which will be deemed to be an original of this Consent and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Consent and of signature pages by facsimile transmission, Portable Document Format (i.e., PDF), or by other electronic means shall

constitute effective execution and delivery of this Consent as to the Parties and may be used in lieu of the original Consent for all purposes.

[Remainder of Page Left Intentionally Blank.]

IN WITNESS WHEREOF, the Parties hereto have caused this Consent to be duly executed and delivered by their duly authorized officers on the dates indicated below their respective signatures.

[NAME OF PROJECT COMPANY], *[Legal Status of Project Company]*.		CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority.
By: _____ *[Name]* *[Title]* Date: _____		**By:** _____ *[Name]* *[Title]* Date: _____
[NAME OF COLLATERAL AGENT], *[Legal Status of Collateral Agent]*. By: _____ *[Name]* *[Title]* Date: _____		

SCHEDULE A

[Describe any disclosures relevant to representations and warranties made in Section 3.4]

EXHIBIT T

Station Use Amendments

1. Replace the following defined terms in Section 1.1 as follows:

"Auxiliary Use" means the Energy (including Energy produced or discharged by the Facility) that is used (including Energy used during the charging or discharging of the Facility) within the Facility to power the motors, temperature control systems, control systems and other electrical loads that are integral to the charging or discharging of the Facility.

"Efficiency Rate" means the rate calculated as the quotient of (a) Facility Energy, *divided by* (b) Energy In, based on actual Facility operations for each applicable month.

"Energy In" means the total energy (in MWh) delivered by Buyer to the Facility pursuant to a Charging Notice as measured at the Facility Meter (without adjusting for Electrical Losses but net of any Station Use).

"Station Use" means the Energy (including Energy produced or discharged by the Facility) that is (a) used (including Energy used during the charging or discharging of the Facility) within the Facility to power the lights, motors, temperature control systems, control systems and other electrical loads that are necessary for operation of the Facility and (b) billed at retail rates by the retail electricity service provider for the Project in accordance with the retail electricity service provider's tariff and the CAISO Tariff.

2. Delete the term "Idle Period Auxiliary Use" from Section 1.1.

3. Replace Section 4.2 with the following:

4.2 Station Use. Notwithstanding anything to the contrary in this Agreement, during charging and discharging of the Facility pursuant to a Charging Notice or Discharging Notice, (a) Auxiliary Use may be served by Charging Energy, Facility Energy or Energy obtained from the local utility, (b) Seller is responsible for providing or obtaining all Energy to serve Station Use (including paying the cost of any Energy obtained from the local utility to serve Station Use) except for Auxiliary Use during periods of charging or discharging pursuant to a Charging Notice or Discharging Notice, (c) the supply of Auxiliary Use shall not be deemed a violation of this Agreement, including Sections 4.9(c), (d), and (f), and (d) Buyer shall reimburse Seller for any Auxiliary Use served through Seller's retail service arrangements during periods when the Facility is charging pursuant to a Charging Notice or discharging pursuant to a Discharging Notice and for which Seller is billed by the retail electricity service provider for the Facility in accordance with the retail electricity service provider's tariff at a rate this is equivalent to wholesale rates. Seller shall prevent any Energy provided by Buyer (i.e. originally delivered as Charging Energy) from being used by Seller for Auxiliary Use.

4. Replace Sections 8.1 and 8.2 with the following:

8.1 Invoicing. Seller shall use commercially reasonable efforts to deliver an invoice to Buyer for Product no later than the tenth (10th) day of each month for the previous calendar month. Buyer, or its Scheduling Coordinator, will provide such information to Seller as Seller reasonably requests for the purposes of preparing invoices under this Agreement. Each invoice shall (a) reflect records of metered data, including (i) CAISO metering and transaction data sufficient to document and verify the amount of Product delivered by the Facility for any Settlement Period during the preceding month, including the amount of Charging Energy and Facility Energy, Station Use, Auxiliary Use (including associated interval data for Seller's retail meter) for which Buyer owes reimbursement to Seller pursuant to Section 4.2(d), Energy In, and Replacement RA delivered to Buyer (if any) and (ii) data showing a calculation of the Monthly Capacity Payment and other relevant data for the prior month; and (b) be in a format reasonably specified by Buyer, covering the Product provided in the preceding month determined in accordance with the applicable provisions of this Agreement; *provided*, if Seller is unable, using commercially reasonable efforts, to include the Auxiliary Use (including associated interval data for Seller's retail meter) for which Buyer owes reimbursement to Seller pursuant to Section 4.2(d) by the tenth (10^{th}) day of each month for the previous calendar month, Seller may separately invoice Buyer for such amount. Buyer shall, and shall cause its Scheduling Coordinator to, provide Seller with all reasonable access (including, in real time, to the maximum extent reasonably possible) to any records, including invoices or settlement data from the CAISO, forecast data and other information, all as may be necessary from time to time for Seller to prepare and verify the accuracy of all invoices.

8.2 Invoicing. Buyer shall make payment to Seller of Monthly Capacity Payments for Product (and any other amounts due) by wire transfer or ACH payment to the bank account provided on each monthly invoice. Buyer shall pay undisputed invoice amounts by the later of (a) ten (10) Business Days after Buyer's receipt of the invoice from Seller, and (b) the thirtieth (30^{th}) day of the month after the operational month for which such invoice was rendered; *provided*, if such due date falls on a weekend or legal holiday, such due date shall be the next Business Day; *provided further*, if Seller invoices Buyer for Auxiliary Use (including associated interval data for Seller's retail meter) for which Buyer owes reimbursement to Seller pursuant to Section 4.2(d) after the tenth (10^{th}) day of the month, Buyer shall pay the undisputed portion of such invoice with the following month's payment. Payments made after the due date will be considered late and will bear interest on the unpaid balance. If the amount due is not paid on or before the due date or if any other payment that is due and owing from one Party to another is not paid on or before its applicable due date, a late payment charge shall be applied to the unpaid balance and shall be added to the next billing statement. Such late payment charge shall be calculated based on an annual interest rate equal to the prime rate published on the date of the invoice in The Wall Street Journal (or, if The Wall Street Journal is not published on that day, the next succeeding date of publication), plus two percent (2%) (the "**Interest Rate**"). If the due date occurs on a day that is not a Business Day, the late payment charge shall begin to accrue on the next succeeding Business Day.

5. Replace Exhibit C, Section (a)(i) with the following:

Each month beginning with CAISO Commercial Operation and continuing throughout the Delivery Term (and pro-rated for the first and last month of the Delivery Term if the Delivery Term does not start on the first day of a calendar month), Buyer shall pay Seller a Monthly Capacity Payment equal to the Storage Rate x Effective Capacity x Efficiency Rate Factor. Such payment constitutes the entirety of the amount due to Seller from Buyer for the Product. If the Effective Capacity is adjusted pursuant to a Capacity Test other than the first day of a calendar month, payment shall be calculated separately for each portion of the month in which the different Effective Capacity is applicable.

6. Delete the following language in Exhibit Q:

[*Any Idle Period Auxiliary Use does not count towards maximum energy throughput.]

EXHIBIT U

Supply Chain Code of Conduct

Buyer is committed to ensuring that the fundamental human rights of workers are protected, including addressing the potential risks of forced labor, child labor, servitude, human trafficking and slavery across our portfolio.

Our requirements and expectations for Seller's supply chain are detailed below in our Supply Chain Code of Conduct ("**Supply Chain Code**"). Seller must comply with all applicable Laws and this Supply Chain Code, even when this Supply Chain Code exceeds the requirements of applicable Law.

These standards are derived from the United Nations Guiding Principles on Business and Human Rights, the Core Conventions of the International Labour Organization ("ILO"), including the ILO Declaration on Fundamental Principles and Rights at Work, the Solar Energy Industries Association Solar Industry Commitment to Environmental & Social Responsibility, and the Responsible Business Alliance Code of Conduct.

1. **Freely Chosen Employment**
   Forced, bonded (including debt bondage) or indentured labor, involuntary or exploitative prison labor, slavery or trafficking of persons is not permitted. This includes transporting, harboring, recruiting, transferring, or receiving persons by means of threat, force, coercion, abduction or fraud for labor or services. There shall be no unreasonable restrictions on workers' freedom of movement in the facility in addition to unreasonable restrictions on entering or exiting company provided facilities including, if applicable, workers' dormitories or living quarters. All work must be voluntary, and workers shall be free to leave work at any time or terminate their employment without penalty if reasonable notice is given as per worker's contract. Employers, agents, and sub-agents' may not hold or otherwise destroy, conceal, or confiscate identity or immigration documents, such as government-issued identification, passports, or work permits. Employers can only hold documentation if such holdings are required by law. In this case, at no time should workers be denied access to their documents. Workers shall not be required to pay employers' agents or sub-agents' recruitment fees or other related fees for their employment. If any such fees are found to have been paid by workers, such fees shall be repaid to the worker.

2. **Young Workers**
   Child labor is not to be used in any stage of manufacturing. The term "child" refers to any person under the age of 15, or under the age for completing compulsory education, or under the minimum age for employment in the country, whichever is greatest. Suppliers shall implement an appropriate mechanism to verify the age of workers. The use of legitimate workplace learning programs, which comply with all laws and regulations, is supported. Workers under the age of 18 shall not perform work that is likely to jeopardize their health or safety, including night shifts and overtime. Suppliers shall ensure proper management of student workers through proper maintenance of student records, rigorous due diligence of educational partners, and protection of students' rights in accordance with applicable laws and regulations. Suppliers shall provide appropriate support and training to all student

workers. In the absence of local law, the wage rate for student workers, interns, and apprentices shall be at least the same wage rate as other entry-level workers performing equal or similar tasks. If child labor is identified, assistance/remediation is provided.

3. **Working Hours**
   Studies of business practices clearly link worker strain to reduced productivity, increased turnover, and increased injury and illness. Working hours are not to exceed the maximum set by local law. Further, a workweek should not be more than 60 hours per week, including overtime, except in emergency or unusual situations. All overtime must be voluntary. Workers shall be allowed at least one day off every seven days.

4. **Wages and Benefits**
   Compensation paid to workers shall comply with all applicable wage laws, including those relating to minimum wages, overtime hours and legally mandated benefits. In compliance with local laws, workers shall be compensated for overtime at pay rates greater than regular hourly rates. Deductions from wages as a disciplinary measure shall not be permitted. For each pay period, workers shall be provided with a timely and understandable wage statement that includes sufficient information to verify accurate compensation for work performed. All use of temporary, dispatch and outsourced labor will be within the limits of the local law.

5. **Humane Treatment**
   There is to be no harsh or inhumane treatment including violence, gender-based violence, sexual harassment, sexual abuse, corporal punishment, mental or physical coercion, bullying, public shaming, or verbal abuse of workers; nor is there to be the threat of any such treatment. Disciplinary policies and procedures in support of these requirements shall be clearly defined and communicated to workers.

6. **Non-Discrimination/Non-Harassment**
   Suppliers should be committed to a workplace free of harassment and unlawful discrimination. Companies shall not engage in discrimination or harassment based on race, color, age, gender, sexual orientation, gender identity and expression, ethnicity or national origin, disability, pregnancy, religion, political affiliation, union membership, covered veteran status, protected genetic information or marital status in hiring and employment practices such as wages, promotions, rewards, and access to training. Workers shall be provided with reasonable accommodation for religious practices. In addition, workers or potential workers should not be subjected to medical tests that could be used in a discriminatory way or otherwise in violation of applicable law. This was drafted in consideration of ILO Discrimination (Employment and Occupation) Convention (No.111).

7. **Freedom of Association**
   In conformance with local law, Suppliers shall respect the right of all workers to form and join trade unions of their own choosing, to bargain collectively, and to engage in peaceful assembly as well as respect the right of workers to refrain from such activities. Workers and/or their representatives shall be able to openly communicate and share ideas and concerns with management regarding working conditions and management practices without fear of discrimination, reprisal, intimidation, or harassment.

8. Restricted Jurisdictions

Supplier shall not manufacture or produce products in the Xinjiang Uyghur Autonomous Region of China, or knowingly procure goods and services mined, produced or manufactured in the same.

EXHIBIT V

MATERIAL PERMITS

No.	*Permits*
1	
2	

EXHIBIT W

Force Majeure and/or Development Cure Period Claim Form

Instructions

A. Please review Article 10 and Exhibit B (if applicable) of the Power Purchase Agreement prior to filling out the form.

B. Fill out the form completely and return to your assigned Contract Manager at CPA.

Seller: [Name] Project: [Name]

Current Guaranteed Construction Start Date: [Date]

New Guaranteed Construction Start Date (if Seller's claims are validated in full): [Date]

Guaranteed Commercial Operation Date: [Date]

New Guaranteed Commercial Operation Date (if Seller's claims are validated in full): [Date]

---

1. Please describe the claimed Force Majeure Event or other event giving rise to the claimed Development Cure Period delay(s) (the "Claimed Event"), including its cause, date of commencement and date it ended or is anticipated to end.

2. Please specify the extent of the delay or prevented performance caused by the Claimed Event, including the relief claimed thereby. Describe how the claimed relief was calculated/determined, accounting for individual developments causing such delay or prevented performance.

3. With respect to a Claimed Event other than a Force Majeure Event, please describe the commercially reasonable efforts taken by Seller to prevent such event.

4. Please describe the commercially reasonable efforts taken to mitigate the delays or nonperformance caused by the Claimed Event and specify how such efforts reduced the delay days or nonperformance that would otherwise have occurred absent such mitigation.

5. Please attach supporting documentation, including without limitation:

- Force Majeure notices or other correspondence received from suppliers and/or contractors that describe the basis for and extentof the Claimed Event.
- Documentation, contracts, and/or correspondence with suppliers and/or contractors evidencing the claiming Party's mitigation efforts.
- Project schedule and/or GANTT charts that demonstrate the effect of the Claimed Event on the Guaranteed commercial Operation Date.

By signing this Claim form, I attest and affirm that I am authorized to sign this form on behalf of the Seller, that I have reviewed this Claim, including any attached documentation, and that the facts and statements made in this Claim are true and correct to the best of my knowledge.

Signed: _____

Name: _____

Title: _____

Date: _____

COMMERCIAL OPERATION DATE CERTIFICATE

This certification ("**Certification**") of Commercial Operation is delivered by Gevan Reeves, Vice President of Geysers Power Company, LLC ("**Officer**") to Clean Power Alliance of Southern California, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Renewable Power Purchase Agreement dated February 24, 2023 ("**Agreement**") by and between Geysers Power Company, LLC ("**Seller**") and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

As of May 21, 2026, Officer hereby certifies and represents to Buyer the following:

1. The Facility is fully operational, reliable and interconnected, fully integrated and synchronized with the Transmission System.

2. The installed capacity of the Facility allocated to Buyer under this Agreement is 18 MW AC ("Installed Capacity").

3. The Installed Capacity is not less than ninety-five percent (95%) of the Guaranteed Capacity. The Facility is providing Resource Adequacy Benefits, in the amount of the Installed Capacity, for the month of June 2026 (the month in which the Delivery Term commences).

4. Authorization to parallel the Facility was obtained by Pacific Gas and Electric Company ("**Transmission Provider**").

5. The Transmission Provider has provided documentation supporting full unrestricted release for Commercial Operation.

6. The CAISO has provided notification supporting Commercial Operation, in accordance with the CAISO Tariff.

7. Seller has not utilized any equipment or resources in connection with the construction, commissioning or testing of the Facility in violation of the Supply Chain Code.

EXECUTED by Gevan Reeves
this 21st day of May, 2026.

Initial
AD

GEYSERS POWER COMPANY, LLC

Signed by:
Gevan Reeves
19BED7C97652434...

By:_____
Gevan Reeves
Its Vice President

CONFIDENTIAL
Execution Version

ENERGY STORAGE AGREEMENT

COVER SHEET

Seller: Key Energy Storage, LLC

Buyer: Clean Power Alliance of Southern California, a California joint powers authority

Description of Facility: A 190 MW / 760 MWh battery energy storage system, located in Fresno County, California

Milestones:

Milestone	Expected Date for Completion
Evidence of Site Control	Complete
Documentation of Conditional Use Permit if required: **CEQA [ ] Cat Ex, [ ]Neg Dec, [ ]Mitigated Neg Dec, [X]EIR (provided CUP type subject to change)**	October 1, 2025
Seller's receipt of Phase I and Phase II Interconnection study results for Seller's Interconnection Facilities	Complete
Executed Interconnection Agreement	[redacted]
Financial Close	[redacted]
Expected Construction Start Date	[redacted]
Initial Synchronization	January 1, 2027
Network Upgrades completed (evidenced by delivery of permission to parallel letter from the Transmission Provider)	January 1, 2027
Expected Date of CAISO Commercial Operation	April 1, 2027
Expected Commercial Operation Date	June 1, 2027

Delivery Term: Twenty (20) Contract Years

Guaranteed Capacity: 190 MW of Installed Capacity at four (4) hours of continuous discharge

Guaranteed Efficiency Rate:

Contract Year	Guaranteed Efficiency Rate
1	[redacted]
2	[redacted]
3	[redacted]
4	[redacted]
5	[redacted]
6	[redacted]
7	[redacted]
8	[redacted]
9	[redacted]
10	[redacted]
11	[redacted]
12	[redacted]
13	[redacted]
14	[redacted]
15	[redacted]
16	[redacted]
17	[redacted]
18	[redacted]
19	[redacted]
20	[redacted]

Guaranteed Construction Start Date: March 1, 2026, as such date may be extended by Seller's payment of Daily Delay Damages pursuant to Section 1(b) of Exhibit B and/or a Development Cure Period pursuant to Section 4 of Exhibit B.

Guaranteed Commercial Operation Date: June 1, 2027, as such date may be extended by Seller's payment of Commercial Operation Delay Damages pursuant to Section 2 of Exhibit B and/or a Development Cure Period pursuant to Section 4 of Exhibit B.

Storage Rate:

Contract Year	Storage Rate
1 – 20	$[redacted]/kW-mo. (flat) with no escalation

Seller's Assumed Tax Credits: As of the Effective Date, Seller intends to qualify for and utilize the ITC at forty percent (40%).

Product:

- ☒ Facility Energy
- ☒ Installed Capacity and Effective Capacity
- ☒ Ancillary Services
- ☒ Capacity Attributes

Anticipated Flexible Capacity: Amount: 190 (MW), subject to changes by the CPUC pursuant to the Resource Adequacy Rulings, the CAISO pursuant to the CAISO Tariff, or by any other Governmental Authority having jurisdiction.)

Scheduling Coordinator: Buyer

Security Amount:

Development Security: $105/kW of Guaranteed Capacity

Performance Security: $105/kW of Installed Capacity

Guarantor: NextEra Energy Capital Holdings, Inc. (as of the Effective Date)

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Exhibit W	Force Majeure Event and/or Development Cure Period Claim Form

ENERGY STORAGE AGREEMENT

This Energy Storage Agreement ("**Agreement**") is entered into as of _____ (the "**Effective Date**"), between Buyer and Seller. Buyer and Seller are sometimes referred to herein individually as a "**Party**" and jointly as the "**Parties**." All capitalized terms used in this Agreement are used with the meanings ascribed to them in Article 1 to this Agreement.

RECITALS

WHEREAS, Seller intends to develop, design, construct, own, and operate the Facility; and

WHEREAS, Seller desires to sell, and Buyer desires to purchase, on the terms and conditions set forth in this Agreement, the Product;

WHEREAS, Buyer is entering into the Agreement with the intention that the Facility's NQC will be counted toward Buyer's clean energy mid-term reliability procurement obligations set forth in CPUC D.21-06-035 (as may be revised by further decisions);

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, and for other good and valuable consideration, the sufficiency and adequacy of which are hereby acknowledged, the Parties agree to the following:

ARTICLE 1
DEFINITIONS

1.1 **Contract Definitions**. The following terms, when used herein with initial capitalization, shall have the meanings set forth below:

"**AC**" means alternating current.

"**Accepted Compliance Costs**" has the meaning set forth in Section 3.6(c).

"**Affiliate**" means, with respect to any Person, each Person that directly or indirectly controls, is controlled by, or is under common control with such designated Person. For purposes of this definition and the definition of "Permitted Transfer" and "Permitted Transferee", "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean (a) the direct or indirect right to cast at least fifty percent (50%) of the votes exercisable at an annual general meeting (or its equivalent) of such Person or, if there are no such rights, ownership of at least fifty percent (50%) of the equity or other ownership interest in such Person, or (b) the right to direct the policies or operations of such Person. Notwithstanding the foregoing, with respect to Seller, Affiliate shall include NextEra Energy Partners, LP ("**NEP**"), NextEra Energy Operating Partners, LP ("**NEOP**"), and NextEra Energy Capital Holdings, Inc. ("**NEECH**"), and their respective direct or indirect subsidiaries.

"**After-Tax Basis**" means, with respect to any payment received, or deemed to have been

received, by any Person, the amount of such payment (the "**Base Payment**"), supplemented by a further payment (the "**Additional Payment**") to such Person so that the sum of the Base Payment plus the Additional Payment will be equal to the Base Payment, after deduction of the amount of all taxes required to be paid by such Person in respect of the receipt or accrual of the Base Payment and the Additional Payment (taking into account any current or previous credits or deductions arising from the underlying event giving rise to the payment, the Base Payment and the Additional Payment). Such calculations shall be made on the assumption that the recipient is subject to Federal income taxation at the statutory rate applicable to corporations under subchapter C of the Internal Revenue Code of 1986, as amended, and subject to the highest state and local income tax rate then in effect for corporations in the states in which the Person is subject to taxation during the applicable fiscal year, and shall take into account the deductibility, if applicable (for Federal income tax purposes), of state and local income taxes.

"**Agreement**" has the meaning set forth in the Preamble and includes the Cover Sheet and any Exhibits, schedules and any written supplements hereto.

"**Ancillary Meter**" has the meaning set forth in Section 7.1(a).

"**Ancillary Services**" means spinning reserve, non-spinning reserve, regulation up, regulation down, voltage support, and any other ancillary services that the Facility is capable of providing consistent with the Operating Restrictions, as each is defined in the CAISO Tariff.

"**Annual Capacity Availability**" has the meaning set forth in Exhibit P.

"**Anticipated Flexible Capacity**" means the amount and category of Flexible Capacity identified on the Cover Sheet which Seller anticipates as of the Effective Date that the Facility will be qualified by the CAISO to provide to Buyer.

"**Automated Dispatch System**" or "**ADS**" has the meaning set forth in the CAISO Tariff.

"**Automatic Generation Control**" or "**AGC**" has the meaning set forth in the CAISO Tariff.

"**Auxiliary Use**" means the Energy that is used (including Energy used during the charging or discharging of the Facility) within the Facility to power the motors, temperature control systems, control systems and other electrical loads that are integral to the charging or discharging of the Facility; *provided*, if Seller demonstrates prior to Commercial Operation to Buyer's reasonable satisfaction that Station Use is not reasonably likely to exceed Auxiliary Use by more than two percent (2%) in each month, "Auxiliary Use" and "Station Use" shall be deemed to be interchangeable for purposes of this Agreement.

"**Availability Notice**" means Seller's availability forecasts issued pursuant to Section 4.10 with respect to the Available Effective Capacity and Available Storage Capability, which shall include any updates from Seller with respect to Facility outages or availability as reported to CAISO (including as reported in OMS).

"**Availability Standards**" has the meaning set forth in the CAISO Tariff or such other similar term as modified and approved by FERC hereafter to be incorporated in the CAISO Tariff.

"**Available Effective Capacity**" has the meaning in Exhibit P.

"**Available Storage Capability**" has the meaning in Exhibit P.

"**Bankrupt**" or "**Bankruptcy**" means with respect to any entity, such entity that (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, (b) has any such petition filed or commenced against it which remains unstayed or undismissed for a period of ninety (90) days, (c) makes an assignment or any general arrangement for the benefit of creditors, (d) otherwise becomes bankrupt or insolvent (however evidenced), (e) 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 (f) is generally unable to pay its debts as they fall due.

"**Battery Charging Factor**" means the quotient (expressed as a decimal) of (a) the Charging Energy after reaching 100% SOC or the first five (5) hours of the charging phase of the applicable Capacity Test, as applicable, divided by (b) the Installed Capacity x four (4) hours MWh, not to exceed one (1).

"**Battery Discharging Factor**" means the quotient (expressed as a decimal) of (a) the Facility Energy after the first four (4) hours of the discharging phase of the applicable Capacity Test, divided by (b) the Installed Capacity x four (4) hours MWh, not to exceed one (1).

"**BESS Equipment**" means batteries, battery modules, onboard sensors, control components, inverters, transformers, or any of their components.

"**Business Day**" means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday in California. A Business Day begins at 8:00 a.m. and ends 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 on the Cover Sheet.

"**Buyer Default**" means an Event of Default of Buyer.

"**Buyer Dispatched Test**" has the meaning in Section 4.4(c).

"**Buyer's Indemnified Parties**" has the meaning set forth in Section 18.2.

"**CAISO**" means the California Independent System Operator Corporation or any successor entity performing similar functions.

"**CAISO Certification**" means the certification and testing requirements for a storage unit set forth in the CAISO Tariff that are applicable to the Facility, including certification and testing

for all Ancillary Services, PMAX, and PMIN associated with such storage units, that are applicable to the Facility.

"**CAISO Charges Invoice**" has the meaning set forth in Exhibit D.

"**CAISO Commercial Operation**" has the meaning of "Commercial Operation" set forth in the CAISO Tariff.

"**CAISO Dispatch**" means any Charging Notice or Discharging Notice given by the CAISO to the Facility, whether through ADS, AGC or any successor communication protocol, communicating an Ancillary Service Award (as defined in the CAISO Tariff) or directing the Facility to charge or discharge at a specific MW rate for a specified period of time or amount of MWh.

"**CAISO Grid**" has the same meaning as "CAISO Controlled Grid" as defined in the CAISO Tariff.

"**CAISO-Penalized Shortfall**" has the meaning set forth in Section 3.5(b)(ii).

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

"**Calculation Interval**" has the meaning set forth in Exhibit P.

"**Capacity Attribute**" means any current or future defined characteristic, certificate, tag, credit, or accounting construct associated with the amount of power that the Facility can charge or discharge and deliver to the Delivery Point at a particular moment and that can be purchased, sold or conveyed under CAISO or CPUC market rules, including Resource Adequacy Benefits.

"**Capacity Availability Factor**" has the meaning set forth in Exhibit C.

"**Capacity Availability Payment True-Up**" has the meaning set forth in Exhibit C.

"**Capacity Availability Payment True-Up Amount**" has the meaning set forth in Exhibit C.

"**Capacity Damages**" has the meaning set forth in Section 5 of Exhibit B.

"**Capacity Test**" or "**CT**" means any test or retest of the Facility to establish the Installed Capacity, Effective Capacity or any other test conducted pursuant to Exhibit O.

"**Change of Control**" means, except in connection with public market transactions of equity interests or capital stock of Seller's Ultimate Parent, any circumstance in which Ultimate Parent ceases to own, directly or indirectly through one or more intermediate entities, more than fifty percent (50%) of the outstanding equity interests in Seller; *provided*, in calculating ownership percentages for all purposes of the foregoing:

(a) any ownership interest in Seller held by Ultimate Parent indirectly through one or more intermediate entities shall not be counted towards Ultimate Parent's ownership interest in Seller unless Ultimate Parent directly or indirectly owns more than fifty percent (50%) of the outstanding equity interests in each such intermediate entity; and

(b) ownership interests in Seller owned directly or indirectly by any Lender (including any tax equity provider) or assignee or transferee thereof shall be excluded from the total outstanding equity interests in Seller;

provided further, a Change of Control shall not be deemed to have occurred as a result of a Permitted Transfer.

"**Charging Energy**" means all Energy delivered to the Delivery Point pursuant to a Charging Notice, as measured by the Facility Meter.

"**Charging Notice**" means the operating instruction, and any subsequent updates, given by Buyer's SC or the CAISO to Seller, directing the Facility to charge at a specific MW rate for a specified period of time or amount of MWh; *provided*, any such operating instruction shall be in accordance with the Operating Restrictions. Any instruction to charge the Facility pursuant to a Buyer Dispatched Test shall be considered a Charging Notice.

"**COD Certificate**" has the meaning set forth in Exhibit B.

"**Collateral Assignment Agreement**" has the meaning set forth in Section 14.2.

"**Commercial Operation**" has the meaning set forth in Exhibit B.

"**Commercial Operation Capacity Test**" means the Capacity Test conducted in connection with Commercial Operation of the Facility, including any additional Capacity Test for additional capacity installed after the Commercial Operation Date pursuant to Section 5 of Exhibit B.

"**Commercial Operation Date**" means the date Commercial Operation is achieved.

"**Commercial Operation Delay Damages**" means an amount equal to (a) the Development Security amount required hereunder, divided by (b) ninety (90).

"**Communications Protocols**" means certain Operating Restrictions developed by the Parties pursuant to Exhibit Q that involve procedures and protocols regarding communication with respect to the operation of the Facility pursuant to this Agreement.

"**Compliance Actions**" has the meaning set forth in Section 3.6(a).

"**Compliance Expenditure Cap**" has the meaning set forth in Section 3.6.

"**Confidential Information**" has the meaning set forth in Section 18.1.

"**Construction Start**" has the meaning set forth in Exhibit B.

"**Construction Start Date**" has the meaning set forth in Exhibit B.

"**Contract Term**" has the meaning set forth in Section 2.1.

"**Contract Year**" means a period of twelve (12) consecutive months. The first Contract Year shall commence on the Commercial Operation Date and each subsequent Contract Year shall commence on the anniversary of the Commercial Operation Date.

"**Costs**" means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third-party transaction costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace the Agreement; and all reasonable attorneys' fees and expenses incurred by the Non-Defaulting Party in connection with terminating the Agreement.

"**Cover Sheet**" means the cover sheet to this Agreement, which is incorporated into this Agreement.

"**COVID-19**" means the epidemic disease designated COVID-19 and the related virus designated SARS-CoV-2 and any mutations thereof, and the efforts of a Governmental Authority to combat such disease.

"**CPM Price**" means the CPM Soft Offer Cap (or its successor).

"**CPM Soft Offer Cap**" has the meaning set forth in the CAISO Tariff.

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

"**CPUC-Penalized Shortfall**" has the meaning set forth in Section 3.5(b)(i).

"**CPUC System RA Penalty**" means the penalties for "System Procurement Deficiency" adopted by the CPUC in its Decision 10-06-036, as may be updated or supplemented from time to time.

"**Credit Rating**" means, with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt obligations (not supported by third party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuer rating by Fitch, S&P or Moody's. If ratings by Fitch, S&P and Moody's are not equivalent, the lower rating shall apply.

"**Cure Plan**" has the meaning set forth in Section 11.1(b)(iii).

"**Curtailment Order**" means any of the following:

(a) CAISO orders, directs, alerts, or provides notice to a Party, to curtail deliveries of Facility Energy for the following reasons: (i) any System Emergency, (ii) any warning of an anticipated System Emergency, or warning of an imminent condition or situation, which jeopardizes CAISO's electric system integrity or the integrity of other systems to which CAISO is connected, or (iii) in response to an Energy oversupply or potential Energy oversupply, and Buyer

or the SC for the Facility submitted a Self-Schedule for the MWhs curtailed during the relevant time period;

(b) a 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, or (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) a curtailment ordered by CAISO or the Transmission Provider due to a Transmission System Outage; or

(d) a curtailment in accordance with Seller's obligations under its Interconnection Agreement with the Transmission Provider or distribution operator.

"**Daily Delay Damages**" means an amount equal to (a) the Development Security amount required hereunder, divided by (b) one hundred twenty (120).

"**Damage Payment**" means the amount to be paid by the Defaulting Party to the Non-Defaulting Party after a Terminated Transaction occurring prior to the Commercial Operation Date, in a dollar amount set forth in Section 11.3(a).

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

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

"**Defaulting Party**" has the meaning set forth in Section 11.1(a).

"**Delay Damages**" means Daily Delay Damages and Commercial Operation Delay Damages.

"**Delivery Point**" has the meaning set forth in Exhibit A.

"**Delivery Term**" shall mean the period of Contract Years set forth on the Cover Sheet beginning on the Commercial Operation Date, unless terminated earlier in accordance with the terms and conditions of this Agreement.

"**Development Cure Period**" has the meaning set forth in Exhibit B.

"**Development Security**" means (a) cash or (b) a Letter of Credit in the amount specified for the Development Security on the Cover Sheet.

"**Discharging Notice**" means the operating instruction, and any subsequent updates, given by Buyer's SC or the CAISO to the Facility, directing the Facility to discharge Facility Energy at a specific MW rate for a specified period of time or to an amount of MWh. Any instruction to discharge the Facility pursuant to a Buyer Dispatched Test shall be considered a Discharging Notice.

"**Disclosing Party**" has the meaning set forth in Section 18.2.

"**Dispatch Notice**" means any Charging Notice, Discharging Notice and any subsequent updates thereto, given by the CAISO, Buyer or Buyer's SC, to Seller, directing the Facility to charge or discharge Facility Energy at a specific MW level to a specified Stored Energy Level; *provided*, any such operating instruction or updates shall be in accordance with the Operating Restrictions and the CAISO Tariff. Dispatch Notices may be communicated electronically (i.e. through ADS, AGC or e-mail), or telephonically, in accordance with the procedures set forth in Section 4.7. Telephonic or other verbal communications may be documented (either recorded by tape, electronically or in writing) without further notification to, or consent being required from, either Party with respect to such Party being recorded by the other, including by Buyer's designated Scheduling Coordinator.

"**Early Termination Date**" has the meaning set forth in Section 11.2(a).

"**Effective Capacity**" means the lesser of (a) PMAX, and (b) maximum dependable operating capacity of the Facility to discharge Energy for four (4) hours of continuous discharge, as measured in MW at the Delivery Point (i.e., measured at the Facility Meter and adjusted for Electrical Losses to the Delivery Point) as determined pursuant to the most recent Capacity Test (including the Commercial Operation Capacity Test), and as evidenced by a certificate substantially in the form attached as Exhibit I hereto, in either case (a) or (b) up to but not in excess of (i) the Guaranteed Capacity (with respect to a Commercial Operation Capacity Test) or (ii) the Installed Capacity (with respect to any other Capacity Test).

"**Effective Date**" has the meaning set forth on the Preamble.

"**Effective Flexible Capacity**" or "**EFC**" means the effective flexible capacity (in MWs) of the Facility pursuant to the counting conventions set forth in the Resource Adequacy Rulings and the CAISO Tariff, which such flexible capacity may be used to satisfy Flexible RAR.

"**Efficiency Rate**" means the rate calculated as the quotient of (a) the sum of (i) Facility Energy plus (ii) Idle Period Auxiliary Use for which Seller is required to reimburse Buyer, divided by (b) Energy In, based on actual Facility operations for each applicable month, adjusted to reflect the nearest Facility Energy and Energy In values that would have resulted in equal Stored Energy Levels at the beginning of the first Calculation Interval and the end of the last Calculation Interval of such month.

"**Efficiency Rate Factor**" has the meaning set forth in Exhibit C.

"**Electrical Losses**" means all transmission or transformation losses (a) between the Delivery Point and the Facility associated with delivery of Charging Energy, and (b) between the Facility and the Delivery Point associated with delivery of Facility Energy.

"**Emission Reduction Credits**" or "**ERCs**" means emission reductions that have been authorized by a local air pollution control district pursuant to California Division 26 Air Resources; Health and Safety Code Sections 40709 and 40709.5, whereby a district has established a system by which all reductions in the emission of air contaminants that are to be used to offset certain

future increases in the emission of air contaminants shall be banked prior to use to offset future increases in emissions.

"**Energy**" means electrical energy, measured in kilowatt-hours, megawatt-hours, or multiple units thereof.

"**Energy In**" means the total Energy delivered by Buyer to the Delivery Point pursuant to one or more Charging Notices as measured at the Facility Meter (without adjusting for Electrical Losses or Station Use).

"**Energy Management System**" or "**EMS**" means the Facility's energy management system.

"**Energy Out**" means the total Energy delivered to the Delivery Point pursuant to one or more Discharging Notices during the relevant period as recorded by the CAISO.

"**Environmental Costs**" means costs incurred in connection with acquiring and maintaining all environmental permits and licenses for the Facility, and the Facility's compliance with all applicable environmental laws, rules and regulations, including capital costs for pollution mitigation or installation of emissions control equipment required to permit or license the Facility, all operating and maintenance costs for operation of pollution mitigation or control equipment, costs of permit maintenance fees and emission fees as applicable, and the costs of all Emission Reduction Credits or Marketable Emission Trading Credits required by any applicable environmental laws, rules, regulations, and permits to operate, and costs associated with the disposal and clean-up of hazardous substances introduced to the Site, and the decontamination or remediation, on or off the Site, necessitated by the introduction of such hazardous substances on the Site.

"**Event of Default**" has the meaning set forth in Section 11.1.

"**Expected Commercial Operation Date**" has the meaning set forth on the Cover Sheet.

"**Expected Construction Start Date**" has the meaning set forth on the Cover Sheet.

"**Facility**" means the energy storage facility described on the Cover Sheet and in Exhibit A (including the operational requirements of the energy storage facility), located at the Site and including mechanical equipment and associated facilities and equipment required to deliver Product (but excluding any Shared Facilities), as such storage facility may be expanded or otherwise modified from time to time in accordance with the terms hereof.

"**Facility Energy**" means the Energy delivered from the Facility to the Delivery Point pursuant to a Discharging Notice, as measured by the Facility Meter, net of Electrical Losses and Station Use. All Facility Energy shall have originally been delivered to the Facility as Charging Energy.

"**Facility Meter**" means a CAISO-approved bi-directional revenue quality meter or meters (with a 0.3 accuracy class), CAISO approved metering plan including a SQMD Plan, CAISO-approved data processing gateway or remote intelligence gateway, telemetering equipment and

data acquisition services sufficient for monitoring, recording and reporting, in real time, the amount of Charging Energy delivered to the Facility and the amount of Facility Energy delivered to the Delivery Point for the purpose of invoicing in accordance with Section 8.1. The Facility may contain multiple measurement devices that will make up the Facility Meter, and, unless otherwise indicated, references to the Facility Meter shall mean all such measurement devices and the aggregated data of all such measurement devices, taken together.

"**FERC**" means the Federal Energy Regulatory Commission or any successor government agency.

"**Financial Close**" means Seller and/or one of its Affiliates on Seller's behalf has obtained approval from its operating committee to commit capital sufficient for the full construction of the Facility, and Seller has delivered to Buyer documentation reasonably satisfactory to Buyer evidencing the foregoing.

"**Fitch**" means Fitch Ratings Ltd., or its successor.

"**Flexible Capacity**" means, with respect to any particular Showing Month, the number of MWs of Product which are eligible to satisfy Flexible RAR.

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

"**Force Majeure Event**" has the meaning set forth in Section 10.1.

"**Force Majeure Unavailability**" has the meaning set forth in Exhibit C.

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

"**Gains**" means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining the economic benefit to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., SP-15), all of which should be calculated for the remaining Contract Term, and include the value of Green Attributes and Capacity Attributes.

"**GHG Regulations**" means Title 17, Division 3 (Air Resources), Chapter 1 (Air Resources Board), Subchapter 10 (Climate Change), Article 5 (Emissions Cap), Sections 95800 to 96023 of the California Code of Regulations, as amended or supplemented from time to time.

"**Governmental Authority**" means any federal, state, provincial, local or municipal government, any political subdivision thereof or any other governmental, congressional or parliamentary, regulatory, or judicial instrumentality, authority, body, agency, department, bureau, or entity with authority to bind a Party at law, including CAISO; *provided*, "Governmental Authority" shall not in any event include any Party.

"**Greenhouse Gas**" or "**GHG**" has the meaning set forth in the GHG Regulations or in any other applicable Laws.

"**Guaranteed Capacity**" means the maximum dependable operating capability of the Facility to discharge Energy, as measured in MW at the Delivery Point for four (4) hours of continuous discharge, that Seller commits to install pursuant to this Agreement as set forth on the Cover Sheet.

"**Guaranteed Capacity Availability**" has the meaning set forth in Section 4.3.

"**Guaranteed Commercial Operation Date**" has the meaning on the Cover Sheet, as such date may be extended pursuant to Exhibit B.

"**Guaranteed Construction Start Date**" has the meaning on the Cover Sheet, as such date may be extended pursuant to Exhibit B.

"**Guaranteed Efficiency Rate**" means the minimum guaranteed Efficiency Rate of the Facility in each Contract Year of the Delivery Term, as set forth on the Cover Sheet.

"**Guarantor**" means, with respect to Seller, any Person that (a)(i) is NextEra Energy Capital Holdings, Inc. (provided it is an Affiliate of Seller), or other third party reasonably acceptable to Buyer or (ii) has an Investment Grade Credit Rating, (b) is incorporated or organized in a jurisdiction of the United States and is in good standing in such jurisdiction, and (c) executes and delivers a Guaranty for the benefit of Buyer.

"**Guaranty**" means a guaranty from a Guarantor provided for the benefit of Buyer substantially in the form attached as Exhibit S.

"**High Operating Limit**" or "**HOL**" means a real-time calculated number representing the instantaneous maximum power level at which the Facility can discharge Facility Energy to the Delivery Point, as communicated via the EMS.

"**Idle Period Auxiliary Use**" means Auxiliary Use consumed by the Facility during periods in which the Facility is not charging or discharging pursuant to a Charging Notice or Discharging Notice for which Seller does not pay retail rates to its retail electric utility provider.

"**Imbalance Energy**" means the amount of Energy, in any given Settlement Period or Settlement Interval, by which the amount of Charging Energy or Facility Energy deviates from the amount of Scheduled Energy.

[redacted]

[redacted]

"**Incentives**" means: (a) all Tax Credits and other federal, state, or local Tax credits or other Tax benefits associated with the construction, ownership, or production of electricity from the Facility (including Production Tax Credits, ITCs, and other credits under Sections 38, 45, 46, 48 and 48E of the Internal Revenue Code of 1986, as amended); (b) any federal, state, or local grants, subsidies or other like benefits relating in any way to the Facility; and (c) any other form of incentive relating in any way to the Facility that is not any (a) Capacity Attribute, (b) Ancillary Services, or (c) future environmental attributes (except to the extent related to the items which Seller is responsible for under Section 5.3 which shall be Incentives) or future energy attributes.

"**Indemnified Party**" has the meaning set forth in Section 16.1(a).

"**Indemnifying Party**" has the meaning set forth in Section 16.1(a).

"**Initial Synchronization**" means the commencement of Trial Operations (as defined in the CAISO Tariff).

"**Installed Capacity**" means the lesser of (a) PMAX, and (b) maximum dependable operating capacity of the Facility to discharge Energy for four (4) hours of continuous discharge, as measured in MW by the Facility Meter and adjusted for Electrical Losses to the Delivery Point, that achieves Commercial Operation, as evidenced by a certificate substantially in the form attached as Exhibit I hereto, as such capacity may be adjusted pursuant to Section 5 of Exhibit B.

"**Inter-SC Trade**" has the meaning set forth in the CAISO Tariff.

"**Interconnection Agreement**" means the interconnection agreement entered into by Seller or an Affiliate pursuant to which the Facility will be interconnected with the Transmission System, and pursuant to which Interconnection Facilities that are used by the Facility and any other Interconnection Facilities will be constructed, operated and maintained during the Contract Term.

"**Interconnection Capacity Limit**" means the maximum instantaneous amount of Energy that is permitted to be delivered from the Facility to the Delivery Point under the Interconnection Agreement, in the amount of 190 MW.

"**Interconnection Facilities**" means the interconnection facilities, control and protective devices and metering facilities required to connect the Facility with the Transmission System in accordance with the Interconnection Agreement.

"**Interest Rate**" has the meaning set forth in Section 8.2.

"**Interim Deliverability Status**" has the meaning set forth in the CAISO Tariff.

"**Investment Grade Credit Rating**" means a Credit Rating of BBB- or better from S&P or Fitch, or a Credit Rating of Baa3 or better from Moody's.

"**IP Indemnity Claim**" has the meaning set forth in Section 16.1(b).

"**ITC**" means the investment tax credit established pursuant to Section 48 or 48E of the United States Internal Revenue Code of 1986, as such Law may be amended or superseded.

"**Joint Powers Act**" means the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.).

"**Joint Powers Agreement**" means that certain Joint Powers Agreement dated June 27, 2017, as amended from time to time, under which Buyer is organized as a Joint Powers Authority in accordance with the Joint Powers Act.

"**kWh**" means a kilowatt-hour measured in alternating current, unless expressly stated in terms of direct current.

"**Law**" means any applicable law, statute, rule, regulation, decision, writ, order, decree or judgment, permit or any interpretation thereof, promulgated or issued by a Governmental Authority.

"**Lender**" means, collectively, any Person (a) providing senior or subordinated construction, interim, back leverage or long-term debt, equity or tax equity financing or refinancing for or in connection with the development, construction, purchase, installation or operation of the Facility, whether that financing or refinancing takes the form of private debt (including back-leverage debt), equity (including tax equity), public debt or any other form (including financing or refinancing provided to a member or other direct or indirect owner of Seller), including any equity or tax equity investor directly or indirectly providing financing or refinancing for the Facility or purchasing equity ownership interests of Seller and/or its Affiliates, and any trustee or agent or similar representative acting on their behalf, (b) providing interest rate or commodity protection under an agreement hedging or otherwise mitigating the cost of any of the foregoing obligations and/or (c) participating in a lease financing (including a sale leaseback or leveraged leasing structure) with respect to the Facility.

"**Letter(s) of Credit**" means one or more irrevocable, standby letters of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch, having assets of at least $10 Billion, and with such bank having a Credit Rating of at least A- from S&P or A3 from Moody's, in a form substantially similar to the letter of credit set forth in Exhibit K.

"**Licensed Professional Engineer**" means an independent, professional engineer selected by Seller and reasonably acceptable to Buyer, licensed in the State of California.

"**Local Capacity Area Resource**" has the meaning set forth in the CAISO Tariff.

"**Local RAR**" means the local Resource Adequacy Requirements established for load-serving entities by the CAISO pursuant to the CAISO Tariff, the CPUC pursuant to the Resource Adequacy Rulings, or by any other Governmental Authority. "Local RAR" may also be known as

local area reliability, local resource adequacy, local resource adequacy procurement requirements, or local capacity requirement in other regulatory proceedings or legislative actions.

"**Losses**" means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining economic loss to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., SP-15), all of which should be calculated for the remaining Contract Term and must include the value of Green Attributes, Capacity Attributes, and Incentives.

"**Low Operating Limit**" or "**LOL**" means a real-time calculated number representing the instantaneous maximum power level at which the Facility can charge Energy to the Facility, as communicated via the EMS.

"**Marketable Emission Trading Credits**" means emissions trading credits or units pursuant to the requirements of California Division 26 Air Resources; Health & Safety Code Section 39616 and Section 40440.2 for market based incentive programs such as the South Coast Air Quality Management District's Regional Clean Air Incentives Market, also known as RECLAIM, and allowances of sulfur dioxide trading credits as required under Title IV of the Federal Clean Air Act (42 U.S.C. § 7651b (a) to (f)).

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

"**Material Permits**" means all permits, consents, licenses, approvals, or authorizations from any Governmental Authority required for Seller to commence construction, as set forth on Exhibit V.

"**Milestones**" means the significant permitting, interconnection, financing and construction milestones set forth on the Cover Sheet.

"**Monthly Capacity Payment**" means the payment required to be made by Buyer to Seller each month of the Delivery Term as compensation for the Product, as calculated in accordance with Exhibit C.

"**Monthly Forecast**" has the meaning set forth in Section 4.10(a).

"**Monthly SOMD Charge**" has the meaning set forth in Section 4.1(a).

"**Moody's**" means Moody's Investors Service, Inc., or its successor.

"**MW**" means megawatts in alternating current, unless expressly stated in terms of direct current.

"**MWh**" means megawatt-hour measured in alternating current, unless expressly stated in terms of direct current.

"**NEECH**" has the meaning set forth in the definition of Affiliate.

"**NEER**" means NextEra Energy Resources, LLC.

"**NEOP**" has the meaning set forth in the definition of Affiliate.

"**NEP**" has the meaning set forth in the definition of Affiliate.

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

"**Net Qualifying Capacity**" or "**NQC**" has the meaning set forth in the CAISO Tariff.

"**Network Upgrades**" has the meaning set forth in the CAISO Tariff.

"**Non-Defaulting Party**" has the meaning set forth in Section 11.2.

"**Notice**" shall, unless otherwise specified in the Agreement, mean written communications by a Party to be delivered by hand delivery, United States mail, next Business Day courier service, or electronic messaging (e-mail).

"**Operating Restrictions**" means those restrictions, rules, requirements, and procedures set forth in Exhibit Q.

"**Outage Management System**" or "**OMS**" has the meaning set forth in the CAISO Tariff.

"**Outage Schedule**" has the meaning set forth in Section 4.11(a)(i).

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

"**Performance Guarantees**" has the meaning set forth in Section 4.3(b).

"**Performance Security**" means (i) cash or (ii) a Letter of Credit, or (iii) a Guaranty in the amount specified for the Performance Security on the Cover Sheet.

"**Permitted Transfer**" means each of the following transactions:

(a) Transactions among Affiliates of Seller, including any corporate reorganization, merger, combination or similar transaction or transfer of assets or ownership interests involving Seller or its Affiliates; *provided* (i)(A) Ultimate Parent retains the authority, directly or indirectly, to control Seller (or if applicable, the surviving entity), or (B) a wholly-owned, indirect subsidiary of Ultimate Parent operates the Facility, and (ii) if Seller is not the surviving entity, the transferee (A) executes and delivers to Buyer a written agreement under which the transferee assumes in writing all of Seller's duties and obligations under this Agreement and otherwise agrees to be bound by all of the terms and conditions of this Agreement, and (B) meets the Seller credit security requirements;

(b) A Change of Control of Ultimate Parent, NEER, NEP, NEOP, or NEECH, and includes any combination thereof;

(c) Any change of economic and voting rights triggered in Seller's organization documents arising from the financing of the Facility and that does not result in the transfer of ownership, economic or voting rights in any entity that had no such rights immediately prior to the change;

(d) The direct or indirect transfer of shares of, or equity interests in, Seller to a Lender; or

(e) A transfer of the Facility packaged with any of the following: (i) all or substantially all of the assets of NEER or Ultimate Parent; (ii) all or substantially all of NEER's or Ultimate Parent's renewable energy generation portfolio; or (iii) all or substantially all of NEER's or Ultimate Parent's solar generation and/or energy storage portfolio; provided, that in the case of each of (i), (ii) and (iii): (A) the transferee (1) executes and delivers to Buyer a written agreement under which the transferee assumes in writing all of Seller's duties and obligations under this Agreement and otherwise agrees to be bound by all of the terms and conditions of this Agreement, and (2) meets the Seller credit security requirements; and (B) the entity that operates the Facility following such transfer is (or contracts with) a Qualified Operator.

"**Permitted Transferee**" means (i) any Affiliate of Seller or (ii) any entity that satisfies, or is controlled by another Person that satisfies, the following requirements:

(a) A tangible net worth of not less than one hundred fifty million dollars ($150,000,000) or a Credit Rating of at least BBB- from S&P, BBB- from Fitch, or Baa3 from Moody's; and

(b) At least two (2) years of experience in the ownership and operations of energy storage facilities similar to the Facility, or has retained a third-party with such experience to operate the Facility.

Notwithstanding the foregoing, with respect to Seller, Permitted Transferee shall include NEP, NEOP and NEECH, and their respective direct or indirect subsidiaries.

"**Person**" means any individual, sole proprietorship, corporation, limited liability company, limited or general partnership, joint venture, association, joint-stock company, trust, incorporated organization, institution, public benefit corporation, unincorporated organization, government entity or other entity.

"**Planned Outage**" means a period during which the Facility is either in whole or in part not capable of providing service due to planned maintenance that has been scheduled in advance in accordance with Section 4.11(a).

"**PMAX**" means the applicable CAISO-certified maximum operating level of the Facility.

"**PMIN**" means the applicable CAISO-certified minimum operating level of the Facility.

"**Pnode**" has the meaning set forth in the CAISO Tariff.

"**Portfolio**" means the single portfolio of electrical energy generating, energy storage, or other assets and entities, including the Facility (or the interests of Seller or Seller's Affiliates or the interests of their respective direct or indirect parent companies), that is pledged as collateral security in connection with a Portfolio Financing.

"**Portfolio Financing**" means any tax equity or debt transactions entered into by an Affiliate of Seller that is secured only by a Portfolio.

"**Portfolio Financing Entity**" means any Affiliate of Seller that incurs debt in connection with any Portfolio Financing.

"**Product**" has the meaning set forth on the Cover Sheet.

"**Production Tax Credits**" or "**PTCs**" means production tax credit under Section 45 or 45 Y of the Internal Revenue Code as in effect from time-to-time throughout the Contract Term or any successor or other provision providing for a federal tax credit determined by reference to storage of energy resources for which Seller, as the owner of the Facility, is eligible.

"**Progress Report**" means a progress report including the items set forth in Exhibit E.

"**Prudent Operating Practice**" means (a) the applicable practices, methods and acts required by or consistent with applicable Laws and reliability criteria, and otherwise engaged in or approved by a significant portion of the electric industry during the relevant time period with respect to grid-interconnected, utility-scale energy storage facilities in the Western United States, and (b) any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Prudent Operating Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to acceptable practices, methods or acts generally accepted in the industry with respect to grid-interconnected, utility-scale energy storage facilities in the Western United States. Prudent Operating Practice shall include compliance with applicable Laws, applicable safety and reliability criteria, and the applicable criteria, rules and standards promulgated in the National Electric Safety Code and the National Electrical Code, as they may be amended or superseded from time to time, including the criteria, rules and standards of any successor organizations.

"**Qualified Operator**" means Seller or an operator of energy storage facilities that has sufficient experience and technical capability to perform for Seller's benefit the obligations of Seller under this Agreement related to the operation and maintenance of the Facility in accordance with the applicable requirements of this Agreement, as evidenced by such operator having operated two (2) or more battery energy storage facilities having a nameplate capacity rating of ten (10) MW and/or two (20) MWh or more, for not less than two (2) years

"**Qualifying Capacity**" has the meaning set forth in the CAISO Tariff.

"**RA Compliance Showing**" means the (a) Local RAR compliance or advisory showings (or similar or successor showings), (b) RAR compliance or advisory showings (or similar or successor showings), and (c) Flexible RAR compliance or advisory showings (or similar successor showings), in each case, an entity is required to make to the CAISO pursuant to the CAISO Tariff, to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the Resource Adequacy Rulings, or to any Governmental Authority.

"**RA Deficiency Amount**" means the liquidated damages payment that Seller shall pay to Buyer for an applicable RA Shortfall as calculated in accordance with Section 3.5(b).

[redacted]

"**RA Guarantee Date**" means the Commercial Operation Date.

"**RA Plan**" has the meaning set forth for "Resource Adequacy Plan" in the CAISO Tariff with respect to Buyer's monthly or annual Resource Adequacy Benefits showings.

"**RA Shortfall**" means, for a given Showing Month, the positive difference, if any, expressed in kW, of (a) the product of (i) the Facility's Qualifying Capacity [redacted] *minus* (b) the sum of (i) the portion of the Net Qualifying Capacity of the Facility for such month which is able to be shown on Buyer's monthly or annual RA Plan to the CAISO and CPUC *plus* (ii) Replacement RA provided by Seller with respect to an expected shortfall in Resource Adequacy Benefits of the Facility for such Showing Month, if applicable.

"**RA Shortfall Month**" means, for purposes of calculating an RA Deficiency Amount under Section 3.5(b), any month shown on an RA Plan, commencing with the RA Plan for the Showing Month that includes the RA Guarantee Date (including any month during the period between the RA Guarantee Date and the first day of the first Showing Month for Buyer which actually includes the Facility's Resource Adequacy Benefits or any Replacement RA, if applicable), for which there is an RA Shortfall.

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

"**Receiving Party**" has the meaning set forth in Section 18.2.

"**Reimbursable Station Use**" means all Station Use, except (a) to the extent Seller has been invoiced for such Station Use by the electric utility as retail energy, and (b) Auxiliary Use that is consumed by the Facility during periods in which the Facility is not charging or discharging pursuant to a Charging Notice or Discharging Notice.

"**Reliability Network Upgrades**" has the meaning set forth in the CAISO Tariff.

"**Remedial Action Plan**" has the meaning set forth in Section 2.4.

"**Replacement RA**" means resource adequacy benefits equivalent to Resource Adequacy Benefits (including satisfying the same Slice-of-Day, battery energy storage system profile and related characteristics) that would have been provided by the Facility with respect to the applicable month in which a RA Deficiency Amount is due to Buyer, and located within SP 15 TAC Area

and, to the extent that the Facility would have qualified as a Local Capacity Area Resource for such month, described as a Local Capacity Area Resource.

"**Requested Confidential Information**" has the meaning set forth in Section 18.2.

"**Resource Adequacy Benefits**" means the rights and privileges attached to the Facility that satisfy any entity's resource adequacy obligations, as those obligations are set forth in any Resource Adequacy Rulings and shall include Flexible Capacity, and any local, zonal or otherwise locational attributes associated with the Facility.

"**Resource Adequacy Requirements**" or "**RAR**" means the resource adequacy requirements applicable to an entity as established by the CAISO pursuant to the CAISO Tariff, by the CPUC pursuant to the Resource Adequacy Rulings, or by any other Governmental Authority.

"**Resource Adequacy Resource**" shall have the meaning used in Resource Adequacy Rulings.

"**Resource Adequacy Rulings**" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-06-063, 16-06-045, 17-06-027, 18-06-030, 18-06-031, 19-02-022, 19-06-026, 19-10-021, 20-01-004, 20-03-016, 20-06-002, 20-06-028, 20-06-031, 20-12-006, 21-06-029, 21-07-014, 22-03-034, 22-06-050, 22-12-028, 22-08-039, 23-04-010 and any other existing or subsequent ruling or decision, or any other resource adequacy laws, rules or regulations enacted, adopted or promulgated by any applicable Governmental Authority, however described, as such decisions, rulings, Laws, rules or regulations may be amended or modified from time-to-time throughout the Contract Term.

"**S&P**" means the Standard & Poor's Financial Services, LLC (a subsidiary of S&P Global Inc.) or its successor.

"**SCADA Systems**" means the standard supervisory control and data acquisition systems to be installed by Seller as part of the Facility, including those system components that enable Seller to receive ADS and AGC instructions from the CAISO or similar instructions from Buyer's SC.

"**Schedule**" has the meaning set forth in the CAISO Tariff, and "**Scheduled**" and "**Scheduling**" have a corollary meaning.

"**Scheduled Energy**" means the Charging Energy or Facility Energy that clears under the applicable CAISO market based on the final Day-Ahead Schedule(s), FMM Schedule(s) (as defined in the CAISO Tariff), and/or any other financially binding Schedule(s), market instruction or dispatch for the Facility for a given period of time implemented in accordance with the CAISO Tariff.

"**Scheduling Coordinator**" or "**SC**" means an entity certified by the CAISO as qualifying as a Scheduling Coordinator pursuant to the CAISO Tariff for the purposes of undertaking the

functions specified in "Responsibilities of a Scheduling Coordinator," of the CAISO Tariff, as amended from time to time.

"**Security Interest**" has the meaning set forth in Section 8.9.

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

"**Seller**" has the meaning set forth on the Cover Sheet.

"**Seller Board Approval**" has the meaning set forth in Section 2.1(c).

"**Seller Board Approval Deadline**" has the meaning set forth in Section 2.1(c).

"**Seller Initiated Test**" has the meaning set forth in Section 4.4(c).

"**Settlement Amount**" means the Non-Defaulting Party's Costs and Losses, on the one hand, netted against its Gains, on the other. If the Non-Defaulting Party's Costs and Losses exceed its Gains, then the Settlement Amount shall be an amount owing to the Non-Defaulting Party. If the Non-Defaulting Party's Gains exceed its Costs and Losses, then the Settlement Amount shall be zero dollars ($0). The Settlement Amount does not include consequential, incidental, punitive, exemplary or indirect or business interruption damages; *provided*, the Parties agree that the value of Incentives are direct damages to be accounted for as specified in the definitions of Losses and Gains.

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

"**Settlement Period**" has the meaning set forth in the CAISO Tariff.

"**Shared Facilities**" means the gen-tie lines, transformers, substations, or other equipment, permits, contract rights, and other assets and property (real or personal), in each case, as necessary to enable delivery of Energy from the Facility (which is excluded from Shared Facilities) to the point of interconnection, including the Interconnection Agreement itself, that are used in common with third parties.

"**Showing Month**" shall be the calendar month of the Delivery Term that is the subject of the RA Compliance Showing, as set forth in the Resource Adequacy Rulings and outlined in the CAISO Tariff. For illustrative purposes only, pursuant to the CAISO Tariff and Resource Adequacy Rulings in effect as of the Effective Date, the monthly RA Compliance Showing made in June is for the Showing Month of August.

"**Site**" means the real property on which the Facility is or will be located, as further described in Exhibit A, and as shall be updated by Seller at the time Seller provides an executed Construction Start Date certificate in the form of Exhibit J to Buyer; *provided*, any such update to the Site that includes real property that was not originally contained within the Site boundaries described in Exhibit A shall be subject to Buyer's approval of such updates in its sole discretion.

"**Site Control**" means that, for the Contract Term, Seller or its Affiliate: (a) owns or has the option to purchase the Site; (b) is the lessee or has the option to lease the Site; or (c) is the

holder of an easement or an option for an easement, right-of-way grant, or similar instrument with respect to the Site.

"**SOC**" or "**State of Charge**" means (a) the Stored Energy Level relative to (b) the Effective Capacity multiplied by four (4) hours, expressed as a percentage. The "SOC" shall represent the range of Stored Energy Level reserved exclusively for Buyer's use; *provided*, Seller may represent such range anywhere within the actual available capability of the Facility.

"**SOD**" or "**Slice-of-Day**" has the meaning set forth in the Resource Adequacy Rulings.

"**SOMD Plan**" has the meaning set forth in the CAISO Tariff.

"**SOMD Reporting**" has the meaning set forth in Section 4.1(a).

"**SP-15**" means the Existing Zone Generation Trading Hub for Existing Zone region SP15 as set forth in the CAISO Tariff.

"**Station Use**" means, in addition to all Auxiliary Use, the Energy (including Energy produced or discharged by the Facility) that is used within the Facility to power any other information technology, telecommunications, lights, motors, temperature control facility systems, control systems and other electrical loads that are necessary for operation of the Facility.

"**Storage Capability**" has the meaning in Exhibit P.

"**Storage Rate**" has the meaning set forth on the Cover Sheet; *provided*, if the officer's certificate provided by Seller pursuant to Section 2.2(i) states that the ITC rate for the Facility is higher than Seller's assumed ITC rate as set forth on the Cover Sheet, the Storage Rate shall be reduced by [redacted] per kW-mo. for each one (1) percentage point that the claimed ITC rate is above forty percent (40%); *provided further*, in the event of any reduction of the Storage Rate pursuant to the previous proviso, with respect to the first five (5) Contract Years, if the IRS rejects or reduces the claimed ITC applicable to the Facility above forty percent (40%) within the twelve (12)-month period following each such Contract Year, Buyer shall reimburse Seller the difference between such reduced payments for the immediately prior Contract Year (but not for any other prior Contract Years) through the date of such final adjustment by the IRS within thirty (30) days of Notice by Seller, and the Storage Rate shall immediately be modified to be based on the then-current ITC rate as approved by the IRS (but in no event higher than the original Storage Rate).

"**Stored Energy Level**" means, at a particular time, the amount of Energy in the Facility available to be discharged to the Delivery Point as Facility Energy, expressed in MWh.

"**Supplementary Capacity Test Protocol**" has the meaning set forth in Exhibit O.

"**Supply Chain Code**" has the meaning in Exhibit U.

"**System Emergency**" means any condition that requires, as determined and declared by CAISO or the Transmission Provider, automatic or immediate action to (i) prevent or limit harm to or loss of life or property, (ii) prevent loss of transmission facilities or generation supply in the immediate vicinity of the Facility, or (iii) to preserve Transmission System reliability.

"**Tax**" or "**Taxes**" means all U.S. federal, state and local and any foreign taxes, levies, assessments, surcharges, duties and other fees and charges of any nature imposed by a Governmental Authority, whether currently in effect or adopted during the Contract Term, including ad valorem, excise, franchise, gross receipts, import/export, license, property, sales and use, stamp, transfer, payroll, unemployment, income, and any and all items of withholding, deficiency, penalty, additions, interest or assessment related thereto.

"**Tax Credits**" means the ITC, PTC, and any state, local and/or federal production tax credit, depreciation benefit, tax deduction and/or investment tax credit specific to the production of clean or renewable energy and/or investments in clean or renewable energy facilities or battery storage facilities.

"**Terminated Transaction**" has the meaning set forth in Section 11.2(a).

"**Termination Payment**" has the meaning set forth in Section 11.3.

"**Total YTD Calculation Intervals**" has the meaning set forth in Exhibit P.

"**Transmission Provider**" means any entity that owns, operates and maintains transmission or distribution lines and associated facilities and/or has entitlements to use certain transmission or distribution lines and associated facilities for the purpose of transmitting or transporting the Facility Energy from the Delivery Point.

"**Transmission System**" means the transmission facilities operated by the CAISO, now or hereafter in existence, which provide energy transmission service downstream from the Delivery Point.

"**Transmission System Outage**" means an outage on the Transmission System, other than a System Emergency, that is not caused by Seller's actions or inactions and that prevents Buyer or the CAISO (as applicable) from receiving Facility Energy onto the Transmission System.

"**Ultimate Parent**" means NextEra Energy, Inc., a Delaware corporation.

"**Unavailable Calculation Interval**" has the meaning set forth in Exhibit P.

"**Unplanned Outage**" means a period during which the Facility is unavailable to provide some or all of the Product due to the need to maintain or repair a component of the Facility, which period is not a Planned Outage.

1.2 **Rules of Interpretation**. In this Agreement, except as expressly stated otherwise or unless the context otherwise requires:

(a) headings and the rendering of text in bold and italics are for convenience and reference purposes only and do not affect the meaning or interpretation of this Agreement;

(b) words importing the singular include the plural and vice versa and the masculine, feminine and neuter genders include all genders;

(c) the words “hereof”, “herein”, and “hereunder” and words of similar import shall refer to this Agreement as a whole and not to any particular provision of this Agreement;

(d) a reference to an Article, Section, paragraph, clause, Party, or Exhibit is a reference to that Article, Section, paragraph, clause of, or that Party or Exhibit to, this Agreement unless otherwise specified;

(e) a reference to a document or agreement, including this Agreement shall mean such document, agreement or this Agreement including any amendment or supplement to, or replacement, novation or modification of this Agreement, but disregarding any amendment, supplement, replacement, novation or modification made in breach of such document, agreement or this Agreement;

(f) a reference to a Person includes that Person’s successors and permitted assigns;

(g) the terms “include” and “including” mean “include or including (as applicable) without limitation” and any list of examples following such term shall in no way restrict or limit the generality of the word or provision in respect of which such examples are provided;

(h) references to any statute, code or statutory provision are to be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or reenacted, and include references to all bylaws, instruments, orders and regulations for the time being made thereunder or deriving validity therefrom unless the context otherwise requires;

(i) in the event of a conflict, a mathematical formula or other precise description of a concept or a term shall prevail over words providing a more general description of a concept or a term;

(j) references to any amount of money shall mean a reference to the amount in United States Dollars;

(k) the expression “and/or” when used as a conjunction shall connote “any or all of”;

(l) words, phrases or expressions not otherwise defined herein that (i) have a generally accepted meaning in Prudent Operating Practice shall have such meaning in this Agreement or (ii) do not have well known and generally accepted meaning in Prudent Operating Practice but that have well known and generally accepted technical or trade meanings, shall have such recognized meanings; and

(m) each Party acknowledges that it was represented by counsel in connection with this Agreement and that it or its counsel reviewed this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

ARTICLE 2
TERM; CONDITIONS PRECEDENT

2.1 **Contract Term**.

(a) The term of this Agreement shall commence on the Effective Date and shall remain in full force and effect until the conclusion of the Delivery Term, subject to any early termination provisions set forth herein ("**Contract Term**"); *provided*, subject to Buyer's obligations in Section 4.9(g), Buyer's obligations to pay for or accept any Product are subject to Seller's completion of the conditions precedent pursuant to Section 2.2.

(b) [Intentionally Omitted].

(c) If Seller has not received all approvals of the management and board of directors (or equivalent governing body) of Seller and its Affiliates, including, if applicable, the approval of the board of directors of NextEra Energy, Inc. or a committee thereof, as Seller determines in its sole discretion are required under its and their respective constituting documents for the performance by Seller of its obligations under this Agreement ("**Seller Board Approval**"), on or before May 31, 2024 (the "**Seller Board Approval Deadline**"), then Seller may elect to terminate this Agreement by providing written notice of termination to Buyer within ten (10) Business Days after the Seller Board Approval Deadline. If this Agreement is terminated by Seller pursuant to this Section 2.1(c), then, within five (5) Business Days of the date of such notice of termination, Seller shall pay to Buyer an amount equal to [redacted] of the Development Security amount, which shall be Buyer's sole and exclusive remedy associated with such failure to obtain the Seller Board Approval and related termination. Upon such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Section 2.1(d) and Buyer shall promptly return to Seller any Development Security then held by Buyer, less any amounts drawn in accordance with this Agreement.

(d) Applicable provisions of this Agreement shall continue in effect after termination, including early termination, to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to termination. The confidentiality obligations of the Parties under Article 18 shall remain in full force and effect for two (2) years following the termination of this Agreement, and all indemnity and audit rights shall remain in full force and effect for one (1) year following the termination of this Agreement.

2.2 **Conditions Precedent**. The Delivery Term shall not commence until Seller completes to Buyer's reasonable satisfaction each of the following conditions, which Buyer shall, if submitted by Seller within five (5) Business Days of the expected Commercial Operation Date, review and either accept or provide Notice stating in reasonably detail the basis for Buyer's rejection thereof as soon as reasonably practicable, but in any event within five (5) Business Days of receipt thereof:

(a) Seller shall have delivered to Buyer (i) a completion certificate from a Licensed Professional Engineer substantially in the form of Exhibit H and (ii) a certificate from a Licensed Professional Engineer substantially in the form of Exhibit I setting forth the Installed Capacity on the Commercial Operation Date;

(b) A Participating Generator Agreement and a Meter Service Agreement between Seller and CAISO shall have been executed and delivered and be in full force and effect, and a copy of each such agreement delivered to Buyer;

(c) An Interconnection Agreement between Seller (or Seller's Affiliate) and the Transmission Provider shall have been executed and delivered and be in full force and effect and a copy of the Interconnection Agreement delivered to Buyer;

(d) All applicable regulatory authorizations, approvals and permits for the operation of the Facility have been obtained and all conditions thereof that are capable of being satisfied on the Commercial Operation Date have been satisfied and shall be in full force and effect;

(e) Seller has obtained CAISO Certification for the Facility; The Facility is providing Resource Adequacy Benefits for the month in which Delivery Term commences;

(g) Seller has delivered the Performance Security to Buyer in accordance with Section 8.8;

(h) Seller (with reasonable assistance from Buyer) has taken all actions and executed all documents and instruments to be performed and/or signed by Seller, required to authorize Buyer (or its designated agent) to act as Scheduling Coordinator under this Agreement and Seller has taken the actions required by Seller under Section 2.6 and the CAISO Tariff in order for Buyer (or its designated agent) to be able to dispatch the Facility for the Commercial Operation Date;

(i) Seller has delivered to Buyer an officer's certificate stating (i) that Seller has complied with Section 2.3(b), and (ii) the ITC rate which Seller claims will apply for the Facility; and

(j) Seller has paid Buyer for all amounts owing under this Agreement, if any, including Delay Damages.

2.3 **Development; Construction; Progress Reports**.

(a) Within fifteen (15) days after the close of (i) each calendar quarter from the first calendar quarter following the Effective Date until the Construction Start Date, and (ii) each calendar month from the first calendar month following the Construction Start Date until the Commercial Operation Date, Seller shall provide to Buyer a Progress Report and agree to regularly scheduled meetings between representatives of Buyer and Seller to review such reports and discuss Seller's construction progress. The form of the Progress Report is set forth in Exhibit E. Seller shall also provide Buyer with any reasonably requested documentation (subject to confidentiality restrictions) directly related to the achievement of Milestones within ten (10) Business Days of receipt of such request by Seller. Seller is solely responsible for the design and construction of the Facility, including the location of the Site, the Facility layout, and the selection and procurement of the equipment comprising the Facility.

(b) Seller shall use commercially reasonable efforts to ensure that all materials, products and components used in the batteries and inverters for the Facility (the "**Major Equipment**") comply with the Supply Chain Code. Seller shall use commercially reasonable efforts to implement reasonable due diligence procedures to verify compliance by Seller, its Affiliates and its Major Equipment suppliers with the Supply Chain Code, and Seller shall promptly notify Buyer if Seller becomes aware of any breach, or potential breach, of its obligations under this Section 2.3(b).

(c) Buyer shall have the right, at Buyer's sole expense, to retain an independent auditor to audit Seller's compliance with the requirements of Section 2.3(b).

2.4 **Remedial Action Plan**. If Seller misses a Milestone by more than thirty (30) days, except as the result of Force Majeure Event or Buyer Default, Seller shall submit to Buyer, within ten (10) Business Days of the end of such thirty (30)-day period following the Milestone completion date, a remedial action plan ("**Remedial Action Plan**"), which will describe in detail any delays (actual or anticipated) beyond the scheduled Milestone dates, including the cause of the delay (e.g., governmental approvals, financing, property acquisition, design activities, equipment procurement, project construction, interconnection, or any other factor), Seller's detailed description of its proposed course of action to achieve the missed Milestones and all subsequent Milestones by the Guaranteed Commercial Operation Date; *provided*, delivery of any Remedial Action Plan shall not relieve Seller of its obligation to provide Remedial Action Plans with respect to any subsequent Milestones and to achieve the Guaranteed Commercial Operation Date in accordance with the terms of this Agreement. Subject to the provisions of Exhibit B, so long as Seller complies with its obligations under this Section 2.4, Seller shall not be considered in default of its obligations under this Agreement solely as a result of missing any Milestone.

2.5 **Pre-Commercial Operation Actions**. The Parties agree that, in order for Buyer to dispatch the Facility for its Commercial Operation Date, the Parties will have to perform certain of their Delivery Term obligations in advance of the Commercial Operation Date, including, without limitation, Seller's delivery of an Availability Notice for the Commercial Operation Date, and delivery of a Dispatch Notice and nominating and scheduling the Facility for the Commercial Operation Date, in advance of the Commercial Operation Date. The Parties shall cooperate with each other in order for Buyer to be able to dispatch the Facility for the Commercial Operation Date. Seller shall give Buyer at least forty-five (45) days' Notice before the Commercial Operation Date.

ARTICLE 3
PURCHASE AND SALE

3.1 **Product**. Subject to the terms and conditions of this Agreement, during the Delivery Term, Buyer shall have the exclusive right to the Installed Capacity and Effective Capacity, as applicable, and all Product associated therewith, including the exclusive right to use, market or sell the Product and the right to all revenues generated from the use, resale or remarketing of the Product. Seller shall operate the Facility and make available, charge and discharge, deliver, and sell the Product therefrom to Buyer, when and as the Facility is available, subject to the terms and conditions of this Agreement, including the Operating Restrictions. Seller represents and warrants that it will deliver the Product to Buyer free and clear of all liens, security

interests, claims and encumbrances. Seller shall not substitute or purchase any energy storage capacity, Energy, Ancillary Services or Capacity Attributes from any other energy storage resource or the market for delivery hereunder except as otherwise provided herein, nor shall Seller sell, assign or otherwise transfer any Product, or any portion thereof, to any third party other than to Buyer or CAISO pursuant to this Agreement.

3.2 **Facility Energy**. Except for Facility Energy resulting from a Seller Initiated Test, Seller commits to make available the Facility Energy to Buyer, and Buyer shall have the exclusive rights to all Facility Energy, subject to the Operating Restrictions. Title to and risk of loss related to the Facility Energy shall pass and transfer from Seller to Buyer at the Delivery Point.

3.3 **Ancillary Services**. Buyer shall have the exclusive rights to all Ancillary Services and Associated Ancillary Services Energy, with characteristics and quantities determined in accordance with the CAISO Tariff. Upon a request by Buyer, the Parties shall negotiate in good faith to modify the terms of this Agreement (which may include modification of the Storage Rate and/or other financial factors) for the Facility to be able to provide Black Start (as defined in the CAISO Tariff) or any other Ancillary Services not listed Exhibit Q.

3.4 **Capacity Attributes**. Seller shall diligently pursue Full Capacity Deliverability Status for the Guaranteed Capacity in the CAISO generator interconnection process. As between Buyer and Seller, Seller shall be responsible for the cost and installation of any Network Upgrades associated with obtaining such Full Capacity Deliverability Status.

(a) Throughout the Delivery Term and subject to Section 3.6, Seller grants, pledges, assigns and otherwise commits to Buyer all the Capacity Attributes from the Facility.

(b) Throughout the Delivery Term and subject to Section 3.6, Seller shall use commercially reasonable efforts to maintain eligibility for Full Capacity Deliverability Status or Interim Deliverability Status for the Facility from the CAISO and shall perform all actions necessary to ensure that the Facility qualifies to provide Resource Adequacy Benefits, including Flexible Capacity, to Buyer. Throughout the Delivery Term, and subject to Section 3.6, Seller hereby covenants and agrees to transfer all Resource Adequacy Benefits to Buyer.

(c) For the duration of the Delivery Term, and subject to Section 3.6, Seller shall take all commercially reasonable actions, including complying with all applicable registration and reporting requirements, and execute all documents or instruments necessary to enable Buyer to use all of the Capacity Attributes committed by Seller to Buyer pursuant to this Agreement.

(d) If Seller anticipates that it will have any RA Deficiency Amounts in a Showing Month, Seller may provide Replacement RA in an amount up to the expected RA Shortfall (ignoring the provision of Replacement RA for purposes of quantifying such "expected RA Shortfall") with respect to such Showing Month, provided that (a) the amount of Replacement RA in any Contract Year shall not to exceed twenty-five percent (25%) of the annual total amount of Resource Adequacy Benefits expected to be provided by the Facility, and (b) any intended Replacement RA is communicated by Seller to Buyer in a Notice substantially in the form of Exhibit M at least fifty (50) Business Days before the applicable Showing Month for the purpose of including in Buyer's RA Compliance Showing for such Showing Month.

3.5 **Resource Adequacy Failure**.

(a) RA Deficiency Determination. For each RA Shortfall Month Seller shall pay to Buyer the RA Deficiency Amount as liquidated damages, as set forth in Section 3.5(b), as the sole remedy for the Capacity Attributes that Seller failed to convey to Buyer.

(b) RA Deficiency Amount Calculation. The "**RA Deficiency Amount**" shall equal to the sum of the following (for which Buyer shall provide reasonable documentation):

(i) For any portion of the RA Shortfall for which Buyer incurs a CPUC System RA Penalty ("**CPUC-Penalized Shortfall**"), Seller's pro rata share of the amount of such CPUC System RA Penalty for such month actually incurred by Buyer (which shall be zero (0) if Buyer does not incur any CPUC System RA Penalty), plus,

(ii) For any portion of the RA Shortfall for which Buyer incurs CAISO costs, charges or penalties associated with such shortfall ("**CAISO-Penalized Shortfall**") Seller's pro rata share of the amount of such CAISO costs, charges or penalties associated with the Facility RA Shortfall for such month actually incurred by Buyer (which shall be zero (0) if Buyer does not incur any CAISO costs, charges or penalties associated with the RA Shortfall), plus

(iii) For any portion of the RA Shortfall which is not CPUC-Penalized Shortfall and/or CAISO-Penalized Shortfall, and for which Buyer purchased replacement Resource Adequacy Benefits, the amount of Buyer's cost of such replacement Resource Adequacy Benefits, [redacted] plus

(iv) For any portion of the RA Shortfall which is not CPUC-Penalized Shortfall and/or CAISO-Penalized Shortfall, and for which Buyer did not purchase replacement Resource Adequacy Benefits, the prevailing market value of such RA Shortfall, determined by Buyer in a commercially reasonable manner;

[redacted]

(c) [redacted]

[redacted]

[redacted]

3.6 **Compliance Expenditure Cap**. If a change in Law occurring after the Effective Date has increased Seller's cost to comply with Seller's obligations under this Agreement with respect to obtaining, maintaining, conveying or effectuating Buyer's use of Capacity Attributes, then the Parties agree that the maximum aggregate amount of costs and expenses ("**Compliance Costs**") Seller shall be required to bear during the Delivery Term to comply with all of such obligations shall be capped at Twenty-Five Thousand Dollars ($25,000) per MW of Guaranteed Capacity ("**Compliance Expenditure Cap**").

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

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

(c) Buyer will have sixty (60) days to evaluate such Notice (during which time period Seller is not obligated to take any Compliance Actions described in the Notice) and shall, within such time, either (1) agree to reimburse Seller for all or some portion of the costs that exceed the Compliance Expenditure Cap (such Buyer-agreed upon costs, the "**Accepted Compliance Costs**"), or (2) waive Seller's obligation to take such Compliance Actions, or any part thereof for which Buyer has not agreed to reimburse Seller. If Buyer does not respond to a Notice given by Seller under this Section 3.6(c) within sixty (60) days after Buyer's receipt of same, Buyer shall be deemed to have waived its rights to require Seller to take the Compliance Actions that are the subject of the Notice, and Seller shall have no further obligation to take, and no liability for any failure to take, such Compliance Actions until such time as Buyer agrees to pay such Accepted Compliance Costs.

(d) If Buyer agrees to reimburse Seller for the Accepted Compliance Costs, then Seller shall take such Compliance Actions covered by the Accepted Compliance Costs as agreed upon by the Parties and Buyer shall reimburse Seller for Seller's actual costs to effect the Compliance Actions, not to exceed the Accepted Compliance Costs, within sixty (60) days from the time that Buyer receives an invoice and documentation of such costs from Seller.

(e) If Buyer does not pay the Compliance Costs in excess of the Compliance Expenditure Cap, or if it is not possible for Seller to achieve compliance with a change in Law through the payment or incurrence of costs, then in each case (i) Seller shall be excused from the corresponding Compliance Actions under this Agreement, (ii) Buyer shall continue to pay Seller under this Agreement without any reduction in revenues that otherwise would result from the change in Law, and (iii) with respect to Resource Adequacy, the Net Qualifying Capacity shall be

adjusted downward to reflect the effect of the change in Law.

3.7 **Facility Configuration**. In order to optimize the benefits of the Facility, Buyer and Seller each agree that if requested by the other Party, then Buyer and Seller shall discuss in good faith potential reconfiguration of the Facility or Interconnection Facilities; *provided*, neither Party shall be obligated to agree to any changes under this Agreement, or to incur any expense in connection with such changes, except under terms (which may include modification of the Storage Rate and/or other financial factors) mutually acceptable to both Parties as set forth in a written agreement.

3.8 **Ownership of Incentives**. Seller shall have all right, title and interest in and to all Incentives. Buyer acknowledges that any Incentives belong to Seller. If any Incentives, or values representing the same, are initially credited or paid to Buyer, Buyer shall cause such Incentives or values relating to same to be assigned or transferred to Seller without delay. Buyer shall reasonably cooperate with Seller, at Seller's sole expense, in Seller's efforts to meet the requirements for any certification, registration, or reporting program relating to Incentives.

ARTICLE 4
OBLIGATIONS AND DELIVERIES

4.1 **Delivery**. Subject to the provisions of this Agreement, commencing on the Commercial Operation Date through the end of the Contract Term, Seller shall supply and deliver the Product to Buyer at the Delivery Point, and Buyer shall take delivery of the Product at the Delivery Point in accordance with the terms of this Agreement. Seller shall be responsible for paying or satisfying when due any costs or charges imposed in connection with the delivery of Facility Energy to the Delivery Point, including any operation and maintenance charges imposed by the Transmission Provider directly relating to the Facility's operations. Buyer shall be responsible for all costs, charges and penalties (except as otherwise set forth in this Agreement), if any, imposed in connection with: (a) the delivery of Charging Energy to the Delivery Point (including the cost of the Charging Energy itself) and (b) the acceptance and transmission of Facility Energy at and from the Delivery Point, including without limitation, transmission costs and transmission line losses with regard to (a) and (b). The Facility Energy will be scheduled with the CAISO by Buyer (or Buyer's designated Scheduling Coordinator) in accordance with Exhibit D. To the extent Seller elects, or the Facility is required, to be a Scheduling Coordinator Metered Entity, in consideration of Buyer's performance of its obligation to submit Settlement Quality Meter Data for the Facility to CAISO in accordance with Exhibit D ("**SQMD Reporting**"), Seller shall pay or cause to be paid to Buyer Five Hundred Dollars ($500) each month for which Buyer provides SQMD Reporting ("**Monthly SQMD Charge**"). If (a) Seller elects to withdraw its SQMD Plan for the Facility and as a result Buyer no longer has an obligation to submit Settlement Quality Meter Data for the Facility to CAISO in accordance with Exhibit D, or (b) the Parties mutually agree in their sole discretion to allow a third party selected by Seller to submit such Settlement Quality Meter Data to CAISO, then as of the later of (i) the date Seller provides Notice of such election to Buyer, and (ii) the effective date that any such change is approved by the CAISO (to the extent required), Buyer shall no longer provide any such SQMD Reporting and the Monthly SQMD Charge will terminate.

4.2 **Station Use**. Notwithstanding anything to the contrary in this Agreement, the Parties acknowledge (a) during charging and discharging of the Facility pursuant to a Charging Notice or Discharging Notice, Auxiliary Use may be served by Charging Energy or Facility Energy, (b) Seller is responsible for providing or obtaining all Energy to serve Station Use (including paying the cost of any Energy from the local utility to serve such Station Use) except for Auxiliary Use during periods of charging or discharging pursuant to a Charging Notice or Discharging Notice, (c) the supply of Auxiliary Use shall not be deemed a violation of this Agreement, including Sections 4.9(c), (d), and (f), and (d) Seller shall reimburse Buyer for all Reimbursable Station Use in the manner contemplated by paragraph (a) of Exhibit C. If any Energy provided by Buyer (i.e. originally delivered as Charging Energy) is used by Seller for Station Use (including Idle Period Auxiliary Use) and such use violates any CAISO rules, other applicable Laws or any applicable utility tariff, Seller (i) shall be solely responsible for (and shall reimburse Buyer, as applicable) any and all costs, penalties and charges resulting therefrom and (ii) shall take such actions as may be necessary to comply with such CAISO rules, other applicable Laws or applicable utility tariff).

4.3 **Performance Guarantees; Ancillary Services**.

(a) During the period commencing upon CAISO Commercial Operation and continuing throughout the Delivery Term, the Facility shall maintain an Annual Capacity Availability during each Contract Year (and during the period from CAISO Commercial Operation through the Commercial Operation Date) of no less than [redacted] for each Contract Year (the "**Guaranteed Capacity Availability**"), which Annual Capacity Availability shall be calculated in accordance with Exhibit P.

(b) During the Delivery Term, the Facility shall maintain an Efficiency Rate of no less than Guaranteed Efficiency Rate. The Guaranteed Capacity Availability and Guaranteed Efficiency Rate are collectively the "**Performance Guarantees**".

(c) Buyer's remedies for Seller's failure to achieve the Performance Guarantees are (i) the Monthly Capacity Payment adjustment and/or Capacity Availability Payment True-Up, as applicable, as set forth in Exhibit C, and (ii) in the case of a Seller Event of Default as set forth in Section 11.1(b)(iii) with respect to the Guaranteed Capacity Availability, the applicable remedies set forth in Article 11.

(d) Seller shall operate and maintain the Facility throughout the Contract Term so as to be able to provide the Ancillary Services in accordance with the specifications set forth in the Operating Restrictions and the Facility's CAISO Certification associated with the Effective Capacity. To the extent the Facility fails or is unable to provide Ancillary Services for any reason not excused hereunder during any Calculation Interval that is not otherwise deemed an Unavailable Calculation Interval (including by reason of failing an Ancillary Services certification test), then as exclusive remedies the Available Storage Capability for such Calculation Interval shall be deemed reduced for purposes of calculating the YTD Annual Capacity Availability to the extent of such inability or failure multiplied by [redacted]

(e) Upon Buyer's reasonable request, Seller shall submit the Facility for additional CAISO Certification so that the Facility may provide additional Ancillary Services that the Facility is, at the relevant time, actually physically capable of providing consistent with the

definition of Ancillary Services herein, provided that Buyer has agreed to reimburse Seller for any material costs Seller incurs in connection with conducting such additional CAISO Certification.

4.4 **Facility Testing**.

(a) Capacity Tests. Prior to the Commercial Operation Date, Seller shall schedule and complete a Commercial Operation Capacity Test in accordance with Exhibit O. Thereafter, Seller and Buyer shall have the right to run additional Capacity Tests in accordance with Exhibit O.

(i) Buyer shall have the right to send one or more representative(s) to witness all Capacity Tests.

(ii) Following each Capacity Test, Seller shall submit a testing report in accordance with Exhibit O. If the actual capacity determined pursuant to a Capacity Test varies from the then-current Effective Capacity, as applicable, then the actual capacity determined pursuant to such Capacity Test shall become the new Effective Capacity, at the beginning of the day following the completion of the test for all purposes under this Agreement.

(iii) If Seller fails to conduct a Storage Capacity Test prior to the commencement of a Contract Year in accordance with Exhibit O, Buyer shall have the right, in its sole discretion, to retroactively apply, for all purposes of this Agreement, the results of the next Storage Capacity Test once completed back to the later of: (A) the first day of the applicable Contract Year, or (B) the date that is two (2) months prior to Buyer providing notice to Seller of such failure to conduct the applicable Storage Capacity Test.

(b) Additional Testing. Seller shall, at times and for durations reasonably agreed to by Buyer, conduct necessary testing to ensure the Facility is functioning properly and the Facility is able to respond to Dispatch Notices.

(c) Buyer or Seller Initiated Tests. Any testing of the Facility requested by Buyer after the Commercial Operation Capacity Tests and all required annual tests pursuant to Section B of Exhibit O shall be deemed Buyer-instructed dispatches of the Facility ("**Buyer Dispatched Test**"). Any test of the Facility that is not a Buyer Dispatched Test (including all tests conducted prior to Commercial Operation, any Commercial Operation Capacity Tests, any Capacity Test conducted if the Effective Capacity immediately prior to such Capacity Test is below seventy percent (70%) of the Installed Capacity, any test required by CAISO (including any test required to obtain or maintain CAISO Certification), and other Seller-requested discretionary tests or dispatches, at times and for durations reasonably agreed to by Buyer, that Seller deems necessary for purposes of reliably operating or maintaining the Facility or for re-performing a required test within a reasonable number of days of the initial required test (considering the circumstances that led to the need for a retest)) shall be deemed a "**Seller Initiated Test**".

(i) For any Seller Initiated Test other than a Capacity Test required by Exhibit O for which there is a stated notice requirement, Seller shall notify Buyer no later than twenty-four (24) hours prior thereto (or any shorter period reasonably acceptable to Buyer consistent with Prudent Operating Practices).

(ii) No Dispatch Notices shall be issued during any Seller Initiated Test or Buyer Dispatched Test except as reasonably requested by Seller or Buyer to implement the applicable test. The Facility will be deemed unavailable during any Seller Initiated Test, and Buyer shall not dispatch or otherwise schedule the Facility during such Seller Initiated Test. The Facility will not be deemed unavailable during any Buyer Dispatched Test, except to the extent it is actually unavailable to perform the Buyer-instructed dispatches of the Facility during such Buyer Dispatched Test as would otherwise be determined under this Agreement.

4.5 **Testing Costs and Revenues**.

(a) For all Buyer Dispatched Tests, Buyer shall direct only Charging Energy to be used to charge the Facility and Buyer shall be entitled to all CAISO revenues associated with a Facility dispatch during a Buyer Dispatched Test. For all Seller Initiated Tests, (1) Seller shall reimburse Buyer the amount of Buyer's payment of the Charging Energy for such Seller Initiated Test, and (2) Seller shall be entitled to all CAISO revenues associated with the discharge of such Energy. Buyer shall pay to Seller, in the month following Buyer's receipt of such CAISO revenues and otherwise in accordance with Exhibit C, all applicable CAISO revenues received by Buyer and associated with the discharge Energy associated with such Seller Initiated Test.

(b) Buyer shall be responsible for all costs, expenses and fees payable or reimbursable to its representative(s) witnessing any Facility test.

(c) If Buyer requests any additional Buyer Dispatched Test between annual Capacity Tests and the Effective Capacity resulting from such additional Capacity Test increases, or decreases by less than one percent (1%), from the then-current Effective Capacity, then Buyer shall either, in its sole discretion, [redacted]

(d) Except as set forth in Sections 4.5(a), (b) and (c), as applicable, all other costs of any testing of the Facility shall be borne by Seller.

4.6 **Facility Operations**.

(a) Seller shall operate the Facility in accordance with Prudent Operating Practices.

(b) Seller shall operate the Facility to automatically follow Automatic Generation Control such that the Facility can receive continuous instruction on a 4-second basis.

(c) Seller shall maintain a daily operations log for the Facility which shall include but not be limited to information on Energy charging and discharging, electricity consumption and efficiency (if applicable), availability, outages, changes in operating status, inspections and any other significant events related to the operation of the Facility. Information maintained pursuant to this Section 4.6(b) shall be provided to Buyer within fifteen (15) days of Buyer's request.

(d) Seller shall maintain accurate records with respect to all Capacity Tests.

(e) Seller shall maintain and make available to Buyer records, including logbooks, demonstrating that the Facility is operated in accordance with Prudent Operating Practices. Seller shall comply with all reporting requirements and permit on-site audits, investigations, tests and inspections permitted or required under any Prudent Operating Practices.

4.7 **Dispatch Notices**. Buyer shall have the right to dispatch the Facility seven days per week and 24 hours per day (including holidays), by providing Dispatch Notices, subject to the requirements and limitations set forth in this Agreement. Subject to the Operating Restrictions, each Dispatch Notice will be effective unless and until such Dispatch Notice is modified by the CAISO, Buyer or Buyer's SC. If an electronic submittal is not possible for reasons beyond Buyer's control, Dispatch Notices may be provided (in order of preference) telephonically or by electronic mail to Seller's personnel designated to receive such communications, as provided by Seller in writing. In addition to any other requirements set forth or referred to in this Agreement, all Dispatch Notices will be made in accordance with Market Notice Timelines as specified in the CAISO Tariff.

4.8 **[Intentionally Omitted]**

4.9 **Energy Management**.

(a) Charging Generally. Upon receipt of a valid Charging Notice, Seller shall take any and all action necessary to deliver the Charging Energy to the Facility in order to deliver the Storage Product in accordance with the terms of this Agreement, including maintenance, repair or replacement of equipment in Seller's possession or control used to deliver the Charging Energy from the Delivery Point to the Facility. Except as otherwise expressly set forth in this Agreement, Buyer shall be responsible for paying all CAISO costs and charges associated with Charging Energy.

(b) Charging Notices. Buyer will have the right to charge the Facility seven (7) days per week and twenty-four (24) hours per day (including holidays), by causing Charging Notices to be issued, subject to the requirements and limitations set forth in this Agreement, including the Operating Restrictions. Each Charging Notice issued in accordance with this Agreement will be effective unless and until Buyer's SC or CAISO modifies such Charging Notice by providing Seller with an updated Charging Notice.

(c) No Unauthorized Charging. Seller shall not charge the Facility during the Delivery Term other than pursuant to a valid Charging Notice (it being understood that Seller may adjust a Charging Notice to the extent necessary to maintain compliance with the Operating Restrictions), or in connection with a Seller Initiated Test (including Facility maintenance or a Capacity Test), or pursuant to a notice from the Transmission Provider or Governmental Authority. If, during the Delivery Term, Seller charges the Facility (i) to a Stored Energy Level greater than the Stored Energy Level provided for in a Charging Notice, or (ii) in violation of the first sentence of this Section 4.9(c), then (x) Seller shall pay Buyer the cost of such Energy associated with such charging of the Facility, and (y) Buyer shall be entitled to discharge such Energy and entitled to all of the CAISO revenues and other benefits (including Product) associated with such discharge.

(d) No Unauthorized Discharging. Seller shall not discharge the Facility during the Delivery Term other than pursuant to a valid Discharging Notice (it being understood that Seller may adjust a Discharging Notice to the extent necessary to maintain compliance with the Operating Restrictions), or in connection with a Seller Initiated Test (including Facility maintenance or a Storage Capacity Test), or pursuant to a notice from the Transmission Provider or Governmental Authority. Buyer shall have the right to discharge the Facility seven (7) days per week and twenty-four (24) hours per day (including holidays), by causing Discharging Notices to be issued, subject to the requirements and limitations set forth in this Agreement. Each Discharging Notice issued in accordance with this Agreement will be effective unless and until Buyer's SC or the CAISO modifies such Discharging Notice by providing Seller with an updated Discharging Notice.

(e) Unauthorized Charges and Discharges. If Seller or any third party charges, discharges or otherwise uses the Facility other than as permitted hereunder or as expressly addressed in Section 4.9(f), it shall be a breach by Seller and Seller shall hold Buyer harmless from, and indemnify Buyer against, all actual costs or losses associated therewith, and be responsible to Buyer for any damages arising therefrom, and, if Seller fails to implement procedures reasonably acceptable to Buyer to prevent any further occurrences of the same, then the failure to implement such procedures shall be an Event of Default under Article 11.

(f) CAISO Dispatches. During the Delivery Term, CAISO Dispatches shall have priority over any Charging Notice or Discharging Notice issued by Buyer's SC, and Seller shall have no liability for violation of this Section 4.9 or any Charging Notices or Discharging Notice if and to the extent such violation is caused by Seller's compliance with any CAISO Dispatch. During any time interval during the Delivery Term in which the Facility is capable of responding to a CAISO Dispatch, but the Facility deviates from a CAISO Dispatch, Seller shall be responsible for all CAISO charges and penalties (including Imbalance Energy charges) resulting from such deviation (in addition to any Buyer remedy related to overcharging of the Facility as set forth in Section 4.9(c)), except to the extent such deviation is due to incorrect information received from the CAISO or a CAISO Dispatch that conflicts with the Operating Restrictions or the Master File. To the extent the Facility is unable to respond to ADS signals during any Calculation Interval (except to the extent caused by the CAISO), then as an exclusive remedy, such Calculation Interval shall be deemed an Unavailable Calculation Interval for purposes of calculating the YTD Annual Storage Capacity Availability.

(g) Pre-Commercial Operation Date Period, etc. Prior to CAISO Commercial Operation, (i) Buyer shall have no rights to issue or cause to be issued Charging Notices or Discharging Notices, (ii) Seller shall have exclusive rights to charge and discharge the Facility (provided, Seller shall only charge and discharge the Facility in connection with installation, commissioning and testing of the Facility), (iii) Buyer and Buyer's SC shall reasonably coordinate and cooperate with Seller with respect to Facility testing (including for Test Energy), and (iv) all CAISO costs, revenues, penalties and other amounts owing to or paid by CAISO in respect of the Facility testing shall be for Seller's account. Upon CAISO Commercial Operation, Buyer or its designated SC shall be the Scheduling Coordinator for the Facility, and Buyer shall have exclusive rights to issue or cause to be issued Charging Notices or Discharging Notices and all CAISO costs, revenues, penalties and other amounts owing to or paid by CAISO in respect of the Facility operations shall be for Buyer's account. For the period from CAISO Commercial Operation until

the Commercial Operation Date, Buyer shall pay to Seller fifty percent (50%) of the Monthly Capacity Payment, pro-rated on a daily basis.

(h) Curtailments. Notwithstanding anything in this Agreement to the contrary, during any Settlement Interval, Curtailment Orders applicable to such Settlement Interval shall have priority over any Dispatch Notices applicable to such Settlement Interval, and Seller shall have no liability for violation of this Section 4.9 or any Dispatch Notice if and to the extent such violation is caused by Seller's compliance with any Curtailment Order or other instruction or direction from a Governmental Authority or the Transmission Provider. Buyer shall have the right, but not the obligation, to provide Seller with updated Dispatch Notices during any Curtailment Order consistent with the operational procedures.

4.10 **Capacity Availability Notice**.

(a) No less than thirty (30) days before the beginning of Commercial Operation, and thereafter ten (10) Business Days before the beginning of each month during the Delivery Term, Seller shall provide to Buyer and the SC (if applicable) a non-binding forecast of the hourly expected Available Effective Capacity, and (ii) Available Storage Capability, for each day of the following month in a form substantially similar to Exhibits F-1 and F-2, as applicable ("**Monthly Forecast**").

(b) During the Delivery Term, no later than two (2) Business Days before each schedule day for the Day-Ahead Market in accordance with WECC scheduling practices, Seller shall provide Buyer and the SC (if applicable) with an hourly schedule of the Available Effective Capacity that the Facility is expected to have for each hour of such schedule day (including, in each case, as such availability may be adjusted as required by the CAISO Tariff for reporting to CAISO) (the "**Availability Notice**"). Seller shall provide Availability Notices (including updated Availability Notices) in a mutually agreeable form, by (in order of preference) electronic mail or telephonically to Buyer personnel or its Scheduling Coordinator designated to receive such communications.

(c) Seller shall notify Buyer and the SC (if applicable) immediately with an updated Monthly Forecast and Availability Notice, as applicable, if the Available Effective Capacity of the Facility (including, in each case, as such availability may be adjusted as required by the CAISO Tariff for reporting to CAISO) changes or is expected to change after Buyer's receipt of a Monthly Forecast or Availability Notice. Seller shall accommodate Buyer's reasonable requests for changes in the time of delivery of Availability Notices.

4.11 **Outages**.

(a) **Planned Outages**.

(i) No later than January 15, April 15, July 15 and October 15 of each Contract Year, and at least sixty (60) days prior to the Guaranteed Commercial Operation Date, Seller shall submit to Buyer Seller's schedule of proposed Planned Outages ("**Outage Schedule**") for the following twelve (12)-month period in a form reasonably agreed to by Buyer. Within twenty (20) Business Days after its receipt of an Outage Schedule, Buyer shall give Notice to Seller of any reasonable request for changes to the Outage Schedule, and Seller shall, consistent with

Prudent Operating Practices, accommodate Buyer's requests regarding the timing of any Planned Outage. Seller may propose changes to any previously Planned Outage fifteen (15) days prior to such Planned Outage. Buyer shall review each such change and shall advise Seller within three (3) days of Buyer's receipt thereof, in Buyer's sole discretion but consistent with Prudent Operating Practices, whether such change is acceptable or Buyer may propose alternate dates for the requested scheduled maintenance. Seller shall cooperate with Buyer to arrange and coordinate all Planned Outages with the CAISO. Seller shall communicate to Buyer all changes to a Planned Outage and estimated time of return of the Facility as soon as practicable after the condition causing the change becomes known to Seller.

(ii) If reasonably required in accordance with Prudent Operating Practices, Seller may perform maintenance at a different time than maintenance scheduled pursuant to Section 4.11(a)(i). Seller shall provide Notice to Buyer within the time period determined by the CAISO for the Facility, as a Resource Adequacy Resource that is subject to the Availability Standards, to qualify for an "Approved Maintenance Outage" under the CAISO Tariff (or such shorter period as may be reasonably acceptable to Buyer based on the likelihood of dispatch by Buyer), and Seller shall use commercially reasonable efforts to limit maintenance repairs performed pursuant to this Section 4.11(a) to periods when Buyer does not reasonably believe the Facility will be dispatched.

(b) **No Planned Outages During Summer Months**. Except as scheduled by the Parties under Section 4.11(a)(ii), no outages shall be scheduled or planned from each June 1 through October 31 during the Delivery Term, unless approved by Buyer in writing in its sole discretion or required to maintain equipment warranties that could not be scheduled outside such months. In the event that Seller has a previously Planned Outage that becomes coincident with a System Emergency, Seller shall make all reasonable efforts to reschedule such Planned Outage.

(c) **Notice of Unplanned Outages**. Seller shall notify Buyer by telephoning Buyer's Scheduling Coordinator no later than ten (10) minutes following the occurrence of an Unplanned Outage, or if Seller has knowledge that an Unplanned Outage will occur, within twenty (20) minutes of determining that such Unplanned Outage will occur. Seller shall relay outage information to Buyer as required by the CAISO Tariff within twenty (20) minutes of the Unplanned Outage. Seller shall communicate to Buyer the estimated time of return of the Facility as soon as practical after Seller has knowledge thereof.

(d) **Inspection**. In the event of an Unplanned Outage, Buyer shall have the option to inspect the Facility and all records relating thereto on any Business Day and at a reasonable time and Seller shall reasonably cooperate with Buyer during any such inspection. Buyer shall comply with Seller's safety and security rules and instructions during any inspection, Buyer shall be responsible for having provided commercially reasonable insurance for such Buyer personnel, and shall not interfere with work on or operation of the Facility.

(e) **Reports of Outages**. Seller shall promptly prepare and provide to Buyer, all reports of Unplanned Outages or Planned Outages that Buyer may reasonably require for the purpose of enabling Buyer to comply with CAISO requirements or any applicable Laws.

ARTICLE 5
TAXES, GOVERNMENTAL AND ENVIRONMENTAL COSTS

5.1 **Allocation of Taxes and Charges**. Seller shall pay or cause to be paid all Taxes on or with respect to the Facility or on or with respect to the sale and making available of Product to Buyer, that are imposed on Product prior to its delivery to Buyer at the time and place contemplated under this Agreement. Buyer shall pay or cause to be paid all Taxes on or with respect to the delivery to and purchase by Buyer of Product that are imposed on Product at and after its delivery to Buyer at the time and place contemplated under this Agreement (other than withholding or other Taxes imposed on Seller's income, revenue, receipts or employees). If a Party is required to remit or pay Taxes that are the other Party's responsibility hereunder, such Party shall promptly pay the Taxes due and then seek and receive reimbursement from the other for such Taxes. In the event any sale of Product hereunder is exempt from or not subject to any particular Tax, Buyer shall provide Seller with all necessary documentation to evidence such exemption or exclusion within thirty (30) days after the date Buyer makes such claim. Buyer shall indemnify, defend, and hold Seller harmless from any liability with respect to Taxes for which Buyer is responsible hereunder and from which Buyer claims it is exempt.

5.2 **Cooperation**. Each Party shall use reasonable efforts to implement the provisions of and administer this Agreement in accordance with the intent of the Parties to minimize all Taxes, so long as no Party is materially adversely affected by such efforts. The Parties shall cooperate to minimize Tax exposure; *provided*, neither Party shall be obligated to incur any financial or operational burden to reduce Taxes for which the other Party is responsible hereunder without receiving due compensation therefor from the other Party. All Product delivered by Seller to Buyer hereunder shall be a sale made at wholesale, with Buyer reselling such Product.

5.3 **Environmental Costs**. Seller shall be solely responsible for:

(a) All Environmental Costs;

(b) All taxes, charges or fees imposed on the Facility or Seller by a Governmental Authority for Greenhouse Gas emitted by or attributable to the Facility during the Delivery Term;

(c) Seller's obligations listed under "Compliance Obligation" in the GHG Regulations, and

All other costs associated with the implementation and regulation of Greenhouse Gas emissions (whether in accordance with the California Global Warming Solutions Act of 2006, Assembly Bill 32 (2006) and the regulations promulgated thereunder, including the GHG Regulations, or any other federal, state or local legislation to offset or reduce any Greenhouse Gas emissions implemented and regulated by a Governmental Authority) with respect to the Facility and/or Seller [redacted]

ARTICLE 6
MAINTENANCE AND REPAIR OF THE FACILITY

6.1 **Maintenance of the Facility**.

(a) Seller shall, as between Seller and Buyer, be solely responsible for the operation and maintenance of the Facility and the delivery of the Product, and shall comply with applicable Law and Prudent Operating Practices relating to the operation and maintenance of the Facility. Seller shall maintain and deliver maintenance and repair records of the Facility to Buyer's scheduling representative upon request.

(b) Seller shall promptly make all necessary repairs to the Facility, and any portion thereof, and take all actions necessary in order to provide the Product to Buyer in accordance with the terms of this Agreement (and, at a minimum, the Performance Guarantees).

6.2 **Maintenance of Health and Safety**. Seller shall take reasonable safety precautions with respect to the operation, maintenance, repair and replacement of the Facility. If Seller becomes aware of any circumstances relating to the Facility that create an imminent risk of damage or injury to any Person or any Person's property, Seller shall take prompt, reasonable action to prevent such damage or injury and shall give Buyer's emergency contact identified in Exhibit N Notice of such condition. Such action may include disconnecting and removing all or a portion of the Facility, or suspending the supply of Facility Energy to the Delivery Point.

6.3 **Shared Facilities**. The Parties acknowledge and agree that certain of the Shared Facilities and Interconnection Facilities, and Seller's rights and obligations under the Interconnection Agreement, may be subject to certain shared facilities and/or co-tenancy agreements to be entered into among Seller, the Transmission Provider, Seller's Affiliates, and/or third parties pursuant to which certain Interconnection Facilities may be subject to joint ownership and shared maintenance and operation arrangements, including through shared ownership of, or possessing contractual right from, an Affiliate that is the interconnection customer under the Interconnection Agreement or the owner of any Shared Facilities and Interconnection Facilities; *provided*, such agreements shall (i) permit Seller to perform or satisfy, and shall not purport to limit, its obligations hereunder, including maintaining Shared Facility capacity equal to the Interconnection Capacity Limit for Buyer's sole use, (ii) provide for separate metering of the Facility, (iii) provide that any other generating or energy storage facilities not included in the Facility but using Shared Facilities shall not be included within the Facility's CAISO Resource ID, and (iv) provide that in the event of any discretionary allocation of curtailment that is not specific to one or more CAISO Resource IDs of output from generating or energy storage facilities using the Shared Facilities shall not be allocated to the Facility more than its pro rata portion of the total capacity of all generating or energy storage facilities using the Shared Facilities. Seller shall not, and shall not permit any affiliate to, allocate to other parties a share of the total interconnection capacity under the Interconnection Agreements in excess of an amount equal to the total interconnection capacity under the Interconnection Agreements minus the Interconnection Capacity Limit.

ARTICLE 7
METERING

7.1 **Metering**.

(a) Seller shall measure the amount of Charging Energy and Facility Energy using the Facility Meter, which will be subject to adjustment in accordance with applicable CAISO meter requirements and Prudent Operating Practices, including to account for Electrical Losses. Seller shall separately meter (i) all Station Use and (ii) to the extent Station Use is expected to be, on average over any month, more than 2% greater than Auxiliary Use, all Auxiliary Use using one or more revenue-grade meters (collectively, the "**Ancillary Meter**"). The Facility Meter and Ancillary Meter will be operated pursuant to applicable CAISO-approved calculation methodologies and maintained at Seller's cost. If Seller elects to submit a SQMD Plan for the Facility, then the Facility Meter(s) will be programmed, operated and maintained pursuant to the applicable CAISO-approved SQMD Plan for the Facility, at Seller's sole cost, throughout the period to which the SQMD Plan applies. Seller shall promptly provide to Buyer a copy of any CAISO-approved SQMD Plan and any modifications thereto and notice of any termination or withdrawal thereof. Subject to meeting any applicable CAISO requirements, the Facility Meter shall be programmed to adjust for all Electrical Losses from such meters to the Delivery Point in a manner subject to Buyer's prior written approval, not to be unreasonably withheld. Metering shall be consistent with the Metering Diagram set forth as Exhibit R, as may be revised to be consistent with any CAISO-approved SQMD Plan. Each meter shall be kept under seal, such seals to be broken only when the Facility Meters and/or Ancillary Meter, as applicable, are to be tested, adjusted, modified or relocated. In the event Seller breaks a seal, Seller shall notify Buyer as soon as practicable. In addition, Seller hereby agrees to provide all Facility Meter and Ancillary Meter data to Buyer in a form reasonably acceptable to Buyer, and consents to Buyer obtaining from CAISO the CAISO meter data directly relating to the Facility and all inspection, testing and calibration data and reports, to the extent such meter data and related meters are not the subject of a CAISO-approved SQMD Plan. In the event Seller breaks a seal, Seller shall notify Buyer as soon as practicable. In addition, Seller hereby agrees to provide all meter data to Buyer in a form reasonably acceptable to Buyer, and consents to Buyer obtaining from CAISO the CAISO meter data directly relating to the Facility and all inspection, testing and calibration data and reports. Seller and Buyer, or Buyer's Scheduling Coordinator, shall cooperate to allow both Parties to retrieve the meter reads from the CAISO Market Results Interface-Settlements (MRI-S) web and/or directly from the CAISO meter(s) at the Facility, to the extent such meter data and related meters are not the subject of a CAISO-approved SQMD Plan.

(b) Section 7.1(a) is based on the Parties' mutual understanding as of the Effective Date that (i) the CAISO requires the Facility Meter to be programmed for Electrical Losses as set forth in the definition of Electrical Losses in this Agreement and (ii) the automatic adjustments to Charging Notices and Discharging Notices as set forth in the definitions of Charging Notice and Discharging Notice in this Agreement will not result in Seller violating, or incurring any costs, penalties or charges under the CAISO Tariff. If any of the foregoing mutual understandings in (i) or (ii) between the Parties become incorrect during the Delivery Term, the Parties shall cooperate in good faith to make any amendments and modifications to the Facility and this Agreement as are reasonably necessary to conform this Agreement to the CAISO Tariff and avoid, to the maximum extent practicable, any CAISO charges, costs or penalties that may be

imposed on either Party due to non-conformance with the CAISO Tariff, such agreement not to be unreasonably delayed, conditioned or withheld.

7.2 **Meter Verification**. Annually, if Seller has reason to believe there may be a Facility Meter malfunction, or upon Buyer's reasonable request, Seller shall test the Facility Meter. The tests shall be conducted by independent third parties qualified to conduct such tests. Buyer shall be notified seven (7) days in advance of such tests and have a right to be present during such tests. If a Facility Meter is inaccurate it shall be promptly repaired or replaced. If a meter is inaccurate by more than one percent (1%) and it is not known when the Facility Meter inaccuracy commenced (if such evidence exists, then such date will be used to adjust prior invoices), then the invoices covering the period of time since the last Facility Meter test shall be adjusted for the amount of the inaccuracy on the assumption that the inaccuracy persisted during one-half of such period so long as such adjustments are accepted by CAISO; *provided*, such period may not exceed twelve (12) months.

ARTICLE 8
INVOICING AND PAYMENT; CREDIT

8.1 **Invoicing**. Seller shall use commercially reasonable efforts to deliver an invoice to Buyer for Product no later than the tenth (10^{th}) day of each month for the previous calendar month. Each invoice shall reflect (a) records of metered data, including (i) CAISO metering and transaction data sufficient to document and verify the amount of Product delivered by the Facility for any Settlement Period during the preceding month, including the amount of Charging Energy, Reimbursable Station Use and the amount of Facility Energy, in each case as read by the Facility Meter, Energy In, Energy Out, and the amount of Replacement RA delivered to Buyer (if any) and (ii) data showing a calculation of the Monthly Capacity Payment and other relevant data for the prior month; and (b) be in a format reasonably specified by Buyer, covering the Product provided in the preceding month determined in accordance with the applicable provisions of this Agreement. Buyer shall, and shall cause its Scheduling Coordinator to, provide Seller with all reasonable access (including, in real time, to the maximum extent reasonably possible) to any records, including invoices or settlement data from the CAISO, forecast data and other information, all as may be necessary from time to time for Seller to prepare and verify the accuracy of all invoices.

8.2 **Payment**. Buyer shall make payment to Seller of Monthly Capacity Payments for Product (and any other amounts due) by wire transfer or ACH payment to the bank account provided on each monthly invoice. Buyer shall pay undisputed invoice amounts by the later of (a) ten (10) Business Days after Buyer's receipt of the invoice from Seller, and (b) the thirtieth (30^{th}) day of the month after the operational month for which such invoice was rendered; *provided*, if such due date falls on a weekend or legal holiday, such due date shall be the next Business Day. Payments made after the due date will be considered late and will bear interest on the unpaid balance. If the amount due is not paid on or before the due date or if any other payment that is due and owing from one Party to another is not paid on or before its applicable due date, a late payment charge shall be applied to the unpaid balance and shall be added to the next billing statement. Such late payment charge shall be calculated based on an annual Interest Rate equal to the prime rate published on the date of the invoice in The Wall Street Journal (or, if The Wall Street Journal is not published on that day, the next succeeding date of publication), plus two percent (2%) (the

"**Interest Rate**"). If the due date occurs on a day that is not a Business Day, the late payment charge shall begin to accrue on the next succeeding Business Day.

8.3 **Books and Records**. To facilitate payment and verification, each Party shall maintain all books and records necessary for billing and payments, including copies of all invoices under this Agreement, for a period of at least two (2) years or as otherwise required by Law. Upon fifteen (15) days' Notice to the other Party, either Party shall be granted reasonable access to the accounting books and records within the possession or control of the other Party pertaining to all invoices generated pursuant to this Agreement. Seller acknowledges that in accordance with California Government Code Section 8546.7, Seller may be subject to audit by the California State Auditor with regard to Seller's performance of this Agreement because the compensation under this Agreement exceeds $10,000.

8.4 **Payment Adjustments; Billing Errors**. Payment adjustments shall be made if Buyer or Seller discovers there have been good faith inaccuracies in invoicing that are not otherwise disputed under Section 8.5 or an adjustment to an amount previously invoiced or paid is required due to a correction of data by the CAISO, or there is determined to have been a meter inaccuracy sufficient to require a payment adjustment. If the required adjustment is in favor of Buyer, Buyer's next monthly payment shall be credited in an amount equal to the adjustment. If the required adjustment is in favor of Seller, Seller shall add the adjustment amount to Buyer's next monthly invoice. Adjustments in favor of either Buyer or Seller shall bear interest, until settled in full, in accordance with Section 8.2, accruing from the date on which the adjusted amount should have been due.

8.5 **Billing Disputes**. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within five (5) Business Days of such resolution along with interest accrued at the Interest Rate from and including the original due date to but excluding the date paid. Inadvertent overpayments shall be returned via adjustments in accordance with Section 8.4. Any dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section 8.5 within twelve (12) months after the invoice is rendered or subsequently adjusted, except to the extent any misinformation was from a third party not affiliated with any Party and such third party corrects its information after the twelve-month period. If an invoice is not rendered within twelve (12) months after the close of the month during which performance occurred, the right to payment for such performance is waived.

8.6 **Netting of Payments**. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Product during the monthly billing period under this Agreement or otherwise arising out of this Agreement, including any related damages calculated pursuant to Exhibits B and P, interest, and payments or

credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

8.7 **Seller's Development Security**. To secure its obligations under this Agreement, Seller shall deliver the Development Security to Buyer within thirty (30) days after the Effective Date. Seller shall maintain the Development Security in full force and effect. Upon the earlier of (a) Seller's delivery of the Performance Security, or (b) sixty (60) days after termination of this Agreement, Buyer shall return the Development Security to Seller, less the amounts drawn in accordance with this Agreement. Subject to this Section 8.7 and the other terms of this Agreement governing Seller's Development Security requirements, Seller may change the type and/or issuer (as applicable) of the Development Security from time to time and at any time. For avoidance of doubt, Seller shall have no replenishment obligation with respect to the Development Security.

8.8 **Seller's Performance Security**. To secure its obligations under this Agreement, Seller shall deliver Performance Security to Buyer on or before the Commercial Operation Date. If the Performance Security is not in the form of cash or Letter of Credit, it shall be substantially in the form of Guaranty set forth in Exhibit S. Seller shall maintain the Performance Security in full force and effect, and Seller shall within ten (10) Business Days after any draw thereon replenish the Performance Security in the event Buyer collects or draws down any portion of the Performance Security for any reason permitted under this Agreement other than to satisfy a Termination Payment, until the following have occurred: (a) the Delivery Term has expired or terminated early; and (b) all payment obligations of Seller due and payable under this Agreement, including compensation for penalties, Termination Payment, indemnification payments or other damages are paid in full (whether directly or indirectly such as through set-off or netting); *provided*, in no event shall Seller have any obligation to replenish the Performance Security to the extent that the total aggregate amount of such replenishment of the Performance Security during the Delivery Term exceeds two (2) times the amount of the original Performance Security. Following the occurrence of both events, Buyer shall promptly return to Seller the unused portion of the Performance Security. Subject to this Section 8.8 and the other terms of this Agreement governing Seller's Performance Security requirements, Seller may change the type and/or issuer (as applicable) of the Performance Security from time to time and at any time.

8.9 **First Priority Security Interest in Cash or Cash Equivalent Collateral**. To secure its obligations under this Agreement, and until released as provided herein, Seller hereby 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, Performance Security, any other cash collateral and cash equivalent collateral posted pursuant to Sections 8.7 and 8.8 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 all 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 an Event of Default caused by Seller, an Early Termination Date resulting from an Event of Default caused by Seller, or an occasion provided for in this Agreement where Buyer is authorized to retain all or a portion of the Development Security or Performance Security, Buyer may do any one or more of the following (in each case subject to

the final sentence of this Section 8.9):

(a) Exercise any of its rights and remedies with respect to the Development Security and Performance Security, including any such rights and remedies under Law then in effect;

(b) Draw on any outstanding Letter of Credit issued for its benefit and retain any cash held by Buyer as Development Security or Performance Security; and

(c) Liquidate all Development Security or Performance Security (as applicable) 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 remains 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.

8.10 **Buyer's Financial Statements**. From the Effective Date, unless such financial statements are available on the internet at https://www.cleanpoweralliance.org/, if requested in writing by Seller, Buyer shall provide to Seller unaudited quarterly financial statements within ninety (90) days of the end of each quarter, and audited annual financial statements within one hundred eighty (180) days after the end of each fiscal year. Buyer's financial statements shall have been prepared in accordance with GAAP, provided that Buyer's quarterly budget-to-actual reports are not prepared in accordance with GAAP. Should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as Buyer diligently pursues the preparation, certification and delivery of the statements.

ARTICLE 9
NOTICES

9.1 **Addresses for the Delivery of Notices**. Any Notice required, permitted, or contemplated hereunder shall be in writing, shall be addressed to the Party to be notified at the address set forth in Exhibit N or at such other address or addresses as a Party may designate for itself from time to time by Notice hereunder.

9.2 **Acceptable Means of Delivering Notice**. Each Notice required, permitted, or contemplated hereunder shall be deemed to have been validly served, given or delivered as follows: (a) if sent by United States mail with proper first class postage prepaid, three (3) Business Days following the date of the postmark on the envelope in which such Notice was deposited in the United States mail; (b) if sent by a regularly scheduled next Business Day delivery carrier with delivery fees either prepaid or an arrangement with such carrier made for the payment of such fees, the next Business Day after the same is delivered by the sending Party to such carrier; (c) if sent by electronic communication (including electronic mail or other electronic means) at the time indicated by the time stamp upon delivery and, if after 5 pm, on the next Business Day; or (d) if

delivered in person, upon receipt by the receiving Party. Notwithstanding the foregoing, Notices of outages or other scheduling or dispatch information or requests, may be sent by electronic communication and shall be considered delivered upon successful completion of such transmission.

ARTICLE 10
FORCE MAJEURE

10.1 **Definition**.

(a) "**Force Majeure Event**" means any act or event that delays or prevents a Party from timely performing all or a portion of its obligations under this Agreement or from complying with all or a portion of the conditions under this Agreement if such act or event, despite the exercise of commercially reasonable efforts, cannot be avoided by and is beyond the reasonable control (whether direct or indirect) of the claiming Party; *provided*, a Force Majeure Event shall not excuse any such delay, nonperformance, or noncompliance to the extent the claiming Party's fault or negligence contributed thereto in scope or duration.

(b) Without limiting the generality of the foregoing, so long as the following events, despite the exercise of reasonable efforts, cannot be avoided by, and are beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance or noncompliance, a Force Majeure Event may include an act of God or the elements, such as flooding, lightning, hurricanes, tornadoes, or ice storms; explosion; fire; volcanic eruption; flood; epidemic, pandemic or plague; landslide; mudslide; sabotage or vandalism; terrorism; earthquake; or other cataclysmic events; an act of public enemy; war; blockade; civil insurrection; riot; civil disturbance; strikes or other labor difficulties caused or suffered by a Party or any third party except as set forth below.

(c) Notwithstanding the foregoing, the term "**Force Majeure Event**" does not include (i) economic conditions or changes in Law that render a Party's performance of this Agreement at the Storage Rate unprofitable or otherwise uneconomic (including an increase in component or compliance costs for any reason, including foreign or domestic tariffs, Buyer's ability to buy Product at a lower price, or Seller's ability to sell the Product, or any component thereof, at a higher price, than under this Agreement); (ii) Seller's inability to obtain permits or approvals of any type for the construction, operation, or maintenance of the Facility, except to the extent such inability is caused by a Force Majeure Event; (iii) the inability of a Party to make payments when due under this Agreement, unless the cause of such inability is an event that would otherwise constitute a Force Majeure Event as described above; (iv) a Curtailment Order; (v) Seller's inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Facility, including the lack of wind, sun or other fuel source of an inherently intermittent nature, except to the extent such inability is caused by a Force Majeure Event; (vi) a strike, work stoppage or labor dispute limited only to any one or more of Seller, Seller's Affiliates, Seller's contractors, their subcontractors thereof or any other third party employed by Seller to work on the Facility; (vii) any equipment failure except if such equipment failure is caused by a Force Majeure Event; or (viii) any action or inaction by any third party, including Transmission Provider, that delays or prevents the approval, construction or placement in service of any

Interconnection Facilities or Network Upgrades, except to the extent caused by a Force Majeure Event.

10.2 **No Liability If a Force Majeure Event Occurs**. Except as provided in Section 4 of Exhibit B, neither Seller nor Buyer shall be liable to the other Party in the event it is prevented from performing its obligations hereunder in whole or in part due to a Force Majeure Event. The Party rendered unable to fulfill any obligation by reason of a Force Majeure Event shall take reasonable actions necessary to remove such inability with due speed and diligence. Nothing herein shall be construed as permitting that Party to continue to fail to perform after said cause has been removed. The obligation to use due speed and diligence shall not be interpreted to require resolution of labor disputes by acceding to demands of the opposition when such course is inadvisable in the discretion of the Party having such difficulty. Neither Party shall be considered in breach or default of this Agreement if and to the extent that any failure or delay in the Party's performance of one or more of its obligations hereunder is caused by a Force Majeure Event. The occurrence and continuation of a Force Majeure Event shall not suspend or excuse the obligation of a Party to make any payments due hereunder.

10.3 **Notice**. In order to claim a Force Majeure Event, the claiming Party, within fourteen (14) days after the date the claiming Party became (or reasonably should have become) aware of the claimed Force Majeure Event, must (a) give the other Party Notice describing the particulars of the occurrence in substantially the form set forth in Exhibit W, (b) provide information reasonably sufficient to establish that the occurrence constitutes Force Majeure as defined in this Agreement, and (c) notify the other Party in writing of the cessation or termination of such Force Majeure Event, all as known or estimated in good faith by the affected Party; *provided*, a Party's failure to provide Notice within such fourteen (14)-day period constitutes a waiver of the Force Majeure Event with respect to the period starting the date after such Notice is due, and continuing until the date that the Notice is provided.

10.4 **Termination Following Force Majeure Event or Development Cure Period**.

(a) If the cumulative extensions granted under the Development Cure Period (other than the extensions granted pursuant to clause 4(d) in Exhibit B) plus the payment of Commercial Operation Delay Damages equal or exceed two hundred seventy (270) days, and Seller has demonstrated to Buyer's reasonable satisfaction that Seller's failure to achieve COD by the Guaranteed Commercial Operation Date (as extended) was the result of delays that would have otherwise entitled to Seller to two hundred seventy (270) days of Development Cure Period delays but for the one hundred eighty (180)-day limitation, then Seller may terminate this Agreement upon Notice to Buyer. Upon such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Sections 2.1(c) and 11.6, and Buyer shall promptly return to Seller any Development Security then held by Buyer plus the full amount of Commercial Operation Delay Damages paid by Seller, less any amounts drawn in accordance with this Agreement.

(b) If a Force Majeure Event has occurred after the Commercial Operation Date that has caused either Party to be wholly or partially unable to perform its obligations hereunder in any material respect, and the impacted Party has claimed and received relief from performance of its obligations for a consecutive twelve (12) month period, then the non-claiming Party may

terminate this Agreement upon Notice to the other Party with respect to the Facility experiencing the Force Majeure Event. Upon any such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Section 2.1(d) and Buyer shall promptly return to Seller any Performance Security then held by Buyer, less any amounts drawn in accordance with this Agreement.

ARTICLE 11
DEFAULTS; REMEDIES; TERMINATION

11.1 **Events of Default**. An "**Event of Default**" shall mean,

(a) with respect to a Party (the "**Defaulting Party**") that is subject to the Event of Default the occurrence of any of the following:

(i) the failure by such Party to make, when due, any payment required pursuant to this Agreement and such failure is not remedied within ten (10) Business Days after Notice thereof;

(ii) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated, and such default is not remedied within thirty (30) days after Notice thereof (or such longer additional period, not to exceed an additional sixty (60) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30)-day period despite exercising commercially reasonable efforts);

(iii) the failure by such Party to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default set forth in this Section 11.1; and except for (A) failure to provide Capacity Attributes, the exclusive remedies for which are set forth in Section 3.5, and (B) failures related to the Annual Capacity Availability that do not trigger the provisions of Section 11.1(b)(iii), the exclusive remedies for which are set forth in Exhibit C and Exhibit P), (C) failures related to the Annual Capacity Availability or Guaranteed Efficiency Rate that do not trigger the provisions of Section 11.1(b)(iv), the exclusive remedies for which are set forth in Section 4.3) and (D) failures related to the timely provision of Settlement Quality Meter Data consistent with the SQMD Plan, the exclusive remedies for which are set forth in the last sentence of Exhibit D, Section (i), and such failure is not remedied within thirty (30) days after Notice thereof (or such longer additional period, not to exceed an additional ninety (90) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30)-day period despite exercising commercially reasonable efforts);

(iv) such Party becomes Bankrupt;

(v) such Party assigns this Agreement or any of its rights hereunder other than in compliance with Article 14, if applicable; or

(vi) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails

to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party;

(b) with respect to Seller as the Defaulting Party, the occurrence of any of the following:

(i) if at any time, Seller delivers or attempts to deliver Energy to the Delivery Point for sale under this Agreement that was not discharged by the Facility;

(ii) the failure by Seller to (A) achieve Construction Start on or before the Guaranteed Construction Start Date as such date may be extended by Seller's payment of Daily Delay Damages pursuant to Section 1(b) of Exhibit B and/or a Development Cure Period pursuant to Section 4 of Exhibit B, or (B) achieve Commercial Operation on or before the Guaranteed Commercial Operation Date, as such date may be extended by Seller's payment of Commercial Operation Delay Damages pursuant to Section 2 of Exhibit B and/or a Development Cure Period pursuant to Section 4 of Exhibit B;

(iii) if, in any Contract Year, [redacted] Annual Capacity Availability multiplied by the Effective Capacity for the applicable period is less than seventy percent (70%) multiplied by the Installed Capacity, and Seller fails to (x) deliver to Buyer within thirty (30) days after Notice from Buyer a plan or report developed by Seller that describes the cause of the failure to meet such seventy percent (70%) multiplied by the Installed Capacity threshold, and the actions that Seller has taken, is taking, or proposes to take in an effort to cure such condition along with the written confirmation of a Licensed Professional Engineer that such plan or report is in accordance with Prudent Operating Practices and capable of cure within a reasonable period of time, not to exceed one hundred eighty (180) days (unless the cure plan requires: (i) replacement of at least fifty percent (50%) of the battery capacity; (ii) replacement of at least fifty percent (50%) of the inverter capacity or sub-inverter capacity; and/or (iii) replacement of the generator step-up transformer (the GSU), in which case the time to cure shall not exceed three hundred sixty-five (365) days total) (a "**Cure Plan**") and (y) complete such Cure Plan in all material respects as set forth therein, including within the timeframe set forth therein;

(iv) failure by Seller to satisfy the collateral requirements pursuant to Sections 8.7 or 8.8 within five (5) Business Days after Notice from Buyer, including the failure to replenish the Performance Security amount in accordance with this Agreement in the event Buyer draws against it for any reason other than to satisfy a Termination Payment;

(v) with respect to any outstanding Letter of Credit provided for the benefit of Buyer that is not then required under this Agreement to be canceled or returned, the failure by Seller to provide for the benefit of Buyer either (1) cash, or (2) a substitute Letter of Credit from a different issuer meeting the criteria set forth in the definition of Letter of Credit, in each case, in the amount required hereunder within ten (10) Business Days after Seller receives Notice of the occurrence of any of the following events:

(A) the issuer of the outstanding Letter of Credit shall fail to maintain a Credit Rating of at least A- by S&P or Fitch or A3 by Moody's;

(B) the issuer of such Letter of Credit becomes Bankrupt;

(C) the issuer of the outstanding Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit and such failure shall be continuing after the lapse of any applicable grace period permitted under such Letter of Credit;

(D) the issuer of the outstanding Letter of Credit shall fail to honor a properly documented request to draw on such Letter of Credit;

(E) the issuer of the outstanding Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit;

(F) such Letter of Credit fails or ceases to be in full force and effect at any time; or

(G) Seller shall fail to renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit and as provided in accordance with this Agreement, and in no event less than sixty (60) days prior to the expiration of the outstanding Letter of Credit.

(vi) with respect to any Guaranty provided for the benefit of Buyer, the failure by Seller to provide for the benefit of Buyer either (1) cash or (2) a replacement Letter of Credit from an issuer meeting the criteria set forth in the definition of Letter of Credit, in each case, in the amount required hereunder within ten (10) Business Days after Seller receives Notice of the occurrence of any of the following events:

(A) if any representation or warranty made by the Guarantor in connection with this Agreement is false or misleading in any material respect when made or when deemed made or repeated;

(B) the failure of the Guarantor to make any payment required or to perform any other material covenant or obligation in any Guaranty;

(C) the Guarantor becomes Bankrupt;

(D) the Guarantor shall fail to meet the criteria for an acceptable Guarantor as set forth in the definition of Guarantor;

(E) the failure of the Guaranty to be in full force and effect (other than in accordance with its terms) prior to the indefeasible satisfaction of all obligations of Seller hereunder; or

(F) the Guarantor shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of any Guaranty.

11.2 **Remedies; Declaration of Early Termination Date**. If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party ("**Non-Defaulting Party**") shall have the following rights:

(a) to send Notice, designating a day, no earlier than the day such Notice is deemed to be received and no later than twenty (20) days after such Notice is deemed to be received, as an early termination date of this Agreement ("**Early Termination Date**") that terminates this Agreement (the "**Terminated Transaction**") and ends the Delivery Term effective as of the Early Termination Date;

(b) to accelerate all amounts owing between the Parties, and to collect as liquidated damages (i) the Damage Payment or (ii) the Termination Payment, as applicable, in each case calculated in accordance with Section 11.3 below;

(c) to withhold any payments due to the Defaulting Party under this Agreement;

(d) to suspend performance; and

(e) to exercise any other right or remedy available at law or in equity, including specific performance or injunctive relief, except to the extent such remedies are expressly limited under this Agreement;

provided, payment by the Defaulting Party of the Damage Payment or Termination Payment, as applicable, shall constitute liquidated damages and the Non-Defaulting Party's sole and exclusive remedy for any Terminated Transaction and the Event of Default related thereto.

11.3 **Damage Payment; Termination Payment**. If an Early Termination Date has been declared, the Non-Defaulting Party shall calculate, in a commercially reasonable manner, the Damage Payment or Termination Payment, as applicable, in accordance with this Section 11.3.

(a) Damage Payment Prior to Commercial Operation Date. If the Early Termination Date occurs before the Commercial Operation Date, then the Damage Payment shall be calculated in accordance with this Section 11.3(a).

(i) If Seller is the Defaulting Party, then the Damage Payment shall be owed to Buyer and shall be equal to the Development Security amount plus, if the Development Security is posted as cash, any interest accrued thereon. If Seller has not paid the Damage Payment, and the amount of Development Security held by Buyer is not equal to the Damage Payment amount, then Buyer may liquidate the Development Security and the remainder of the Damage Payment shall be immediately due and payable to Buyer. There will be no amounts owed to Seller. The Parties agree that Buyer's damages in the event of an Early Termination Date prior to the Commercial Operation Date caused by Seller's default would be difficult or impossible to determine and that the damages set forth in this Section 11.3(a)(i) are a reasonable approximation of Buyer's harm or loss.

(ii) If Buyer is the Defaulting Party, then the Damage Payment shall be owed to Seller and shall equal the sum of the actual, documented and verifiable costs incurred by Seller between the Effective Date and the Early Termination Date in connection with the Facility,

less the fair market value (determined in a commercially reasonable manner) of (A) all Seller's assets individually, or (B) the entire Facility, whichever is greater on the Early Termination Date, regardless of whether or not any Seller asset or the entire Facility is actually sold or disposed of. There will be no amount owed to Buyer. The Parties agree that Seller's damages in the event of an Early Termination Date prior to the Commercial Operation Date caused by Buyer's default would be difficult or impossible to determine and that the damages set forth in this Section 11.3(a)(ii) are a reasonable approximation of Seller's harm or loss.

(b) Termination Payment On or After the Commercial Operation Date. The payment owed by the Defaulting Party to the Non-Defaulting Party for a Terminated Transaction occurring after the Commercial Operation Date ("**Termination Payment**") shall be the aggregate of all Settlement Amounts plus any and all other amounts due to or from the Non-Defaulting Party (as of the Early Termination Date) netted into a single amount. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for the Terminated Transaction as of the Early Termination Date. Third parties supplying information for purposes of the calculation of Gains or Losses may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. The Settlement Amount shall not include consequential, incidental, punitive, exemplary, indirect or business interruption damages. Without prejudice to the Non-Defaulting Party's duty to mitigate, the Non-Defaulting Party shall not have to enter into replacement transactions to establish a Settlement Amount. Each Party agrees and acknowledges that (i) the actual damages that the Non-Defaulting Party would incur in connection with a Terminated Transaction would be difficult or impossible to predict with certainty, (ii) the Termination Payment described in this Section 11.3(b) is a reasonable and appropriate approximation of such damages, and (iii) the Termination Payment described in this Section 11.3(b) is the exclusive remedy of the Non-Defaulting Party in connection with a Terminated Transaction but shall not otherwise act to limit any of the Non-Defaulting Party's rights or remedies if the Non-Defaulting Party does not elect a Terminated Transaction as its remedy for an Event of Default by the Defaulting Party.

11.4 **Notice of Payment of Termination Payment or Damage Payment**. As soon as practicable after a Terminated Transaction, but in no event later than sixty (60) days after the Early Termination Date, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Damage Payment or Termination Payment, as applicable, and whether the Termination Payment or Damage Payment, as applicable, is due to or from the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount and the sources for such calculation. The Termination Payment or Damage Payment, as applicable, shall be made to or from the Non-Defaulting Party, as applicable, within ten (10) Business Days after such Notice is effective.

11.5 **Disputes With Respect to Termination Payment or Damage Payment**. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment or Damage Payment, as applicable, in whole or in part, the Defaulting Party shall, within five (5) Business Days of receipt of the Non-Defaulting Party's calculation of the Termination Payment or Damage Payment, as applicable, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. Disputes regarding the Termination Payment or Damage Payment, as applicable, shall be determined in accordance with Article 15.

11.6 **Limitation on Seller's Ability to Make or Agree to Third-Party Sales from the Facility after Early Termination Date**. If the Agreement is terminated prior to the Commercial Operation Date for any reason except due to Buyer's Event of Default, neither Seller nor Seller's Affiliates may sell, market or deliver any Product associated with or attributable to the Facility to a party other than Buyer for a period of two (2) years following such early termination date, unless prior to selling, marketing or delivering such Product, or entering into the agreement to sell, market or deliver such Product to a party other than Buyer, Seller or Seller's Affiliates provide Buyer with a written offer to sell the Product on terms and conditions materially similar to the terms and conditions contained in this Agreement (including price), and Buyer fails to accept such offer within forty-five (45) days of Buyer's receipt thereof.

Neither Seller nor Seller's Affiliates may sell or transfer the Facility, or any part thereof, or land rights or interests in the Site (including the interconnection queue position of the Facility) so long as the limitations contained in this Section 11.6 apply, unless the transferee agrees to be bound by the terms set forth in this Section 11.6 pursuant to a written agreement approved by Buyer.

Seller shall indemnify and hold Buyer harmless from all benefits lost and other damages sustained by Buyer as a result of any breach by Seller of its covenants contained within this Section 11.6.

11.7 **Rights And Remedies Are Cumulative**. Except where liquidated damages or other remedy are explicitly provided as the exclusive remedy, the rights and remedies of a Party pursuant to this Article 11 shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

11.8 **Mitigation**. Any Non-Defaulting Party shall be obligated to use commercially reasonable efforts to mitigate its Costs, Losses and damages resulting from any Event of Default of the other Party under this Agreement.

[redacted]

ARTICLE 12
LIMITATION OF LIABILITY AND EXCLUSION OF WARRANTIES.

12.1 **No Consequential Damages**. EXCEPT TO THE EXTENT PART OF (A) AN EXPRESS REMEDY OR MEASURE OF DAMAGES HEREIN, (B) AN IP INDEMNITY CLAIM, (C) AN ARTICLE 16 INDEMNITY CLAIM, (D) INCLUDED IN A LIQUIDATED DAMAGES CALCULATION, OR (E) RESULTING FROM A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, OR LOSSES OR DAMAGES FOR LOST REVENUE OR LOST PROFITS, WHETHER FORESEEABLE OR

NOT, ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT, BY STATUTE, IN TORT OR CONTRACT.

12.2 **Waiver and Exclusion of Other Damages**. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. ALL LIMITATIONS OF LIABILITY CONTAINED IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE PERTAINING TO SELLER'S LIMITATION OF LIABILITY AND THE PARTIES' WAIVER OF CONSEQUENTIAL DAMAGES, SHALL APPLY EVEN IF THE REMEDIES FOR BREACH OF WARRANTY PROVIDED IN THIS AGREEMENT ARE DEEMED TO "FAIL OF THEIR ESSENTIAL PURPOSE" OR ARE OTHERWISE HELD TO BE INVALID OR UNENFORCEABLE.

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS AND EXCLUSIVE REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES ONLY. THE VALUE OF ANY 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) AND AMOUNTS DUE IN CONNECTION WITH THE RECAPTURE OF ANY RENEWABLE ENERGY INCENTIVES, IF ANY, SHALL BE DEEMED TO BE DIRECT DAMAGES.

TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, INCLUDING UNDER SECTIONS 3.5, 11.2, 11.3 AND 11.9, AND AS PROVIDED IN EXHIBIT B, EXHIBIT C, AND EXHIBIT P THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT, AND THAT THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE ANTICIPATED HARM OR LOSS. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. THE PARTIES HEREBY WAIVE ANY RIGHT TO CONTEST SUCH PAYMENTS AS AN UNREASONABLE PENALTY.

THE PARTIES ACKNOWLEDGE AND AGREE THAT MONEY DAMAGES AND THE EXPRESS REMEDIES PROVIDED FOR HEREIN ARE AN ADEQUATE REMEDY FOR THE BREACH BY THE OTHER OF THE TERMS OF THIS AGREEMENT, AND EACH PARTY

WAIVES ANY RIGHT IT MAY HAVE TO SPECIFIC PERFORMANCE WITH RESPECT TO ANY OBLIGATION OF THE OTHER PARTY UNDER THIS AGREEMENT.

ARTICLE 13
REPRESENTATIONS AND WARRANTIES; AUTHORITY

13.1 **Seller's Representations and Warranties**. As of the Effective Date, Seller represents and warrants as follows:

(a) Seller is a limited liability company, duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation, and is qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on the business or financial condition of Seller.

(b) Seller has the power and authority to enter into and, subject to the Seller Board Approval, perform this Agreement and is not prohibited from entering into this Agreement or, subject to the Seller Board Approval, discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Seller's performance under this Agreement. The execution, delivery and, subject to the Seller Board Approval, performance of this Agreement by Seller has been duly authorized by all necessary limited liability company action on the part of Seller and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Seller or any other party to any other agreement with Seller.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Seller with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Seller, subject to any permits that have not yet been obtained by Seller, the documents of formation of Seller or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Seller is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Seller. This Agreement is a legal, valid and binding obligation of Seller enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) The Facility is located in the State of California.

(f) Seller reasonably believes that, despite Seller and/or its Affiliates having received notices or advisements from existing or potential suppliers or service providers on or prior to the Effective Date regarding delays in the delivery of materials and/or services due to COVID-19, neither Seller nor its Affiliates are aware of any conditions or circumstances evidenced in any such notice or advisement that are reasonably likely to cause a delay in (i) achieving the Construction Start by the Guaranteed Construction Start Date, or (ii) achieving Commercial Operation by the Guaranteed Commercial Operation Date. Notwithstanding anything to the contrary in this Agreement, Buyer's only remedy for any breach of this representation by Seller

shall be that Seller may not claim relief under Article 10 for a Force Majeure Event or Section 4 of Exhibit B for a Development Cure Period on the basis of such delays.

13.2 **Buyer's Representations and Warranties**. As of the Effective Date, Buyer represents and warrants as follows:

(a) Buyer is a joint powers authority and a validly existing community choice aggregator, duly organized, validly existing and in good standing under the laws of the State of California and the rules, regulations and orders of the California Public Utilities Commission, and is qualified to conduct business in each jurisdiction of the Joint Powers Agreement members. All Persons making up the governing body of Buyer are the elected or appointed incumbents in their positions and hold their positions in good standing in accordance with the Joint Powers Agreement and other Law.

(b) Buyer has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Buyer's performance under this Agreement. The execution, delivery and performance of this Agreement by Buyer has been duly authorized by all necessary action on the part of Buyer and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Buyer or any other party to any other agreement with Buyer.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Buyer with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Buyer, including but not limited to community choice aggregation, the Joint Powers Act, competitive bidding, public notice, open meetings, election, referendum, or prior appropriation requirements, the documents of formation of Buyer or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Buyer is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Buyer. This Agreement is a legal, valid and binding obligation of Buyer enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) Buyer warrants and covenants that with respect to its contractual obligations under this Agreement, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (1) suit, (2) jurisdiction of court, (3) relief by way of injunction, order for specific performance or recovery of property, (4) attachment of assets, or (5) execution or enforcement of any judgment.

(f) Buyer is a "local public entity" as defined in Section 900.4 of the Government Code of the State of California.

(g) Buyer cannot assert sovereign immunity as a defense to the enforcement of its obligations under this Agreement.

13.3 **General Covenants**. Each Party covenants that commencing on the Effective Date and continuing throughout the Contract Term:

(a) It shall continue to be duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and to be qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on its business or financial condition;

(b) It shall maintain (or obtain from time to time as required) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement; and

(c) It shall perform its obligations under this Agreement in compliance with all terms and conditions in its governing documents and in material compliance with any Law.

13.4 **Workforce Development**. The Parties acknowledge that in connection with Buyer's energy procurement efforts, including entering into this Agreement, Buyer is committed to creating community benefits, which includes engaging a skilled and trained workforce and targeted hires. Accordingly, prior to the Guaranteed Construction Start Date, Seller shall ensure that work performed in connection with construction of the Facility will be conducted using a project labor agreement, community workforce agreement, work site agreement, collective bargaining agreement, or similar agreement providing for terms and conditions of employment with applicable labor organizations, and shall remain compliant with such agreement in accordance with the terms thereof. Seller shall provide documentation reasonably satisfactory to Buyer demonstrating Seller's compliance with the requirements of this Section 13.4; *provided*, a Seller's officer's certificate certifying Seller's full compliance with the requirements of this Section 13.4 shall be deemed documentation reasonably satisfactory to Buyer for purposes of the foregoing sentence.

13.5 **Disadvantaged Communities Development**. Within thirty (30) days after the Effective Date, Seller shall pay to Buyer one hundred fifty thousand dollars ($150,000) for Buyer to use for community benefits as determined by Buyer in its sole discretion.

ARTICLE 14
ASSIGNMENT

14.1 **General Prohibition on Assignments**. Except as provided below in this Article 14, neither Party may voluntarily assign this Agreement or its rights or obligations under this Agreement, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Any 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 shall not be unreasonably withheld, conditioned or delayed; *provided*, a Change of Control of Seller shall not require Buyer's consent if the assignee or transferee is a Permitted Transferee. Any assignment made without the required written consent (if applicable), or in violation of the conditions to assignment set out below, shall be null and void. Seller shall be responsible for Buyer's reasonable costs associated with the preparation, review,

execution and delivery of documents in connection with any assignment of this Agreement by Seller, including without limitation reasonable attorneys' fees.

14.2 **Collateral Assignment**. Subject to the provisions of this Section 14.2, Seller has the right to assign this Agreement as collateral for any financing or refinancing of the Facility. In connection with any financing or refinancing of the Facility by Seller, Buyer shall in good faith work with Seller and Lender to agree upon a consent to collateral assignment of this Agreement in substantially the form attached as Exhibit T ("**Consent to Collateral Assignment**").

14.3 **Permitted Assignment by Seller**. Seller may, without the prior written consent of Buyer, transfer or assign this Agreement to: (a) an Affiliate of Seller or (b) any Person succeeding to all or substantially all of the assets of Seller (whether voluntary or by operation of law); if, and only if:

(a) the assignee is a Permitted Transferee;

(b) Seller gives Buyer Notice of such transfer or assignment within fifteen (15) Business Days before the date of such proposed transfer or assignment; and

(c) Seller has provided Buyer a written agreement signed by the Person to which Seller wishes to assign its interests that (x) provides that such Person will assume all of Seller's obligations and liabilities under this Agreement upon such transfer or assignment and (y) certifies that such Person meets the definition of a Permitted Transferee.

Notwithstanding the foregoing, any assignment by Seller, its successors or assigns under this Section 14.3 shall be of no force and effect unless and until such Notice and agreement by the assignee have been received and accepted by Buyer.

14.4 **Permitted Transfers by Seller**. Seller may make a Permitted Transfer, without the prior written consent of Buyer, provided that Seller has given Buyer Notice at least fifteen (15) Business Days before the date of such Permitted Transfer.

14.5 **Shared Facilities; Portfolio Financing**. Buyer agrees and acknowledges that Seller may elect to finance all or any portion of the Facility or the Interconnection Facilities or the Shared Facilities (1) utilizing tax equity investment, and/or (2) through a Portfolio Financing, which may include cross-collateralization or similar arrangements. In connection with any financing or refinancing of the Facility, the Interconnection Facilities or the Shared Facilities by Seller or any Portfolio Financing, Buyer, Seller, Portfolio Financing Entity (if any), and Lender shall execute and deliver such further consents, approvals and acknowledgments as may be reasonable and necessary to facilitate such transactions; *provided*, Buyer shall not be required to agree to any terms or conditions which are reasonably expected to have a material adverse effect on Buyer and all reasonable attorney's fees incurred by Buyer in connection therewith shall be borne by Seller.

14.6 **Buyer Financing Assignment**. Seller agrees that Buyer may assign a portion of its rights and obligations under this Agreement to a Person in connection with a municipal prepayment financing transaction ("**Buyer Assignee**") at any time upon not less than fifteen (15) Business Days' notice by delivering Notice of such assignment, which notice must include a

proposed assignment agreement (the "**Limited Assignment Agreement**"), the form of which Limited Assignment Agreement the Parties will work together in good faith to agree upon if/when Buyer in good faith believes the Facility may qualify for a municipal prepayment financing transaction and provides a Notice to Seller requesting that the Parties work together with respect to the preparation and agreement to such a form, which form shall be subject to the provisions set forth in the remainder of this Section 14.6 unless otherwise agreed to in writing by each of the Parties. At the time of such assignment, such Buyer Assignee has a Credit Rating equal to the higher of (a) Buyer's Credit Rating at the time of such assignment (if applicable), and (b) Baa3 from Moody's and BBB- from S&P (the "**Required Credit Rating**"). As reasonably requested by each of Buyer Assignee and Seller, each shall (i) provide the other with information and documentation with respect to it, including but not limited to Credit Rating, and compliance with anti-money laundering rules, the Dodd-Frank Act, the Commodity Exchange Act, the Patriot Act and similar rules, regulations, requirements and corresponding policies, and in the case of Seller, account opening information and information related to the forecasting requirements set forth in this Agreement; and (ii) Seller shall promptly execute such Assignment Agreement and implement such assignment as contemplated thereby, subject only to the countersignature of Buyer Assignee and Buyer and the requirements of this Section 14.6 and the form of the Limited Assignment Agreement; *provided*, (i) nothing in the Assignment Agreement shall modify any provision of this Agreement; (ii) PPA Buyer remains obligated to perform all its obligations under this Agreement notwithstanding the limited assignment under the Assignment Agreement (including without limitation any such obligations not timely performed by Buyer Assignee under the Assignment Agreement) and any failure by Buyer Assignee to make payments to Seller when due under the Agreement shall be a Buyer Event of Default if not cured within the applicable cure period specified herein; (iii) the Assignment Agreement shall not purport to convey or otherwise allege any right of Buyer or Buyer Assignee to make any prepayment to Seller under this Agreement or to file or impose any lien on the Facility; (iv) neither Limited Assignee nor Buyer shall make any assignment of its rights or delegation of its obligations under the Assignment Agreement without the prior written consent of Seller; (v) Seller shall not be required to agree to any terms or conditions which are reasonably expected to have a material adverse effect on Seller or its financing parties; (vi) Buyer shall reimburse Seller for all out-of-pocket expenses reasonably incurred by Seller in excess of five thousand dollars ($5,000) (but not to exceed ten thousand dollars ($10,000) of reimbursable expenses) as a result of such assignment by Buyer; and (vii) Buyer Assignee and PPA Buyer shall comply with all reasonable requests from any Lender in connection with the Limited Assignment Agreement, including in connection with any Consent to Collateral Assignment Agreement.

14.7 **[Intentionally Omitted]**.

14.8 **Accommodation of Tax Equity Investors**. Buyer will, as soon as reasonably practicable after request, cooperate reasonably with Seller and any tax equity investor of Seller or a parent of Seller involving the Facility or this Agreement to provide such consents to assignments, estoppels, certifications, representations, information or other documents as may be reasonably requested by Seller or such tax equity investor in connection with any financing or assignment involving the Facility or this Agreement.

ARTICLE 15
DISPUTE RESOLUTION

15.1 **Governing Law**. This Agreement and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of Law. To the extent enforceable at such time, each Party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Agreement.

15.2 **Dispute Resolution**. In the event of any dispute arising under this Agreement, within ten (10) days following the receipt of a Notice from either Party identifying such dispute, the Parties shall meet, negotiate and attempt, in good faith, to resolve the dispute quickly, informally and inexpensively. If the Parties are unable to resolve a dispute arising hereunder within the earlier of either forty-five (45) days of initiating such discussions, or within sixty (60) days after Notice of the dispute, either Party may seek any and all remedies available to it at law or in equity, subject to the limitations set forth in this Agreement.

15.3 **Attorneys' Fees**. In any proceeding brought to enforce this Agreement or because of the breach by any Party of any covenant or condition herein contained, each Party shall bear its own respective costs, expenses and attorneys' fees in connection with said action.

15.4 **Venue.** In the event of any legal action to enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Los Angeles County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, and waive any claim or defense that such forum is not convenient or proper.

ARTICLE 16
INDEMNIFICATION

16.1 **Indemnification**.

(a) Each Party (the "**Indemnifying Party**") agrees to indemnify, defend and hold harmless the other Party and its Affiliates, directors, officers, employees and agents (collectively, the "**Indemnified Party**") from and against all claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees) (i) for personal injury or death to Persons and damage to the property of any third party to the extent arising out of, resulting from, or caused by the negligent or willful misconduct of the Indemnifying Party, its Affiliates, its directors, officers, employees, or agents, or (ii) for third-party claims resulting from the Indemnifying Party's breach (including inaccuracy of any representation of warranty made hereunder), performance or non-performance of its obligations under this Agreement.

(b) Seller shall indemnify, defend and hold harmless Buyer and its Affiliates, directors, officers, employees from and against all claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees) in connection with any claims of infringement upon or violation of any trade secret, trademark, trade name, copyright, patent, or other intellectual property rights of any third party by equipment, software, applications or programs (or any portion of same) used in connection with the Facility (an "**IP Indemnity Claim**").

(c) Nothing in this Section 16.1 shall enlarge or relieve Seller or Buyer of any liability to the other for any breach of this Agreement. Neither Party shall be indemnified for its damages resulting from its sole negligence, intentional acts or willful misconduct. These indemnity provisions shall not be construed to relieve any insurer of its obligation to pay claims consistent with the provisions of a valid insurance policy.

16.2 **Claims**. Promptly after receipt by a Party of any claim or Notice of the commencement of any action, administrative, or legal proceeding, or investigation as to which the indemnity provided for in this Article 16 may apply, the Indemnified Party shall notify the Indemnifying Party in writing of such fact. The Indemnifying Party shall assume the defense thereof with counsel designated by the Indemnifying Party and satisfactory to the Indemnified Party, *provided*, if the defendants in any such action include both the Indemnified Party and the Indemnifying Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, the Indemnified Party shall have the right to select and be represented by separate counsel, at the Indemnifying Party's expense, unless a liability insurer is willing to pay such costs. If the Indemnifying Party fails to assume the defense of a claim meriting indemnification, the Indemnified Party may at the expense of the Indemnifying Party contest, settle, or pay such claim; *provided*, settlement or full payment of any such claim may be made only following consent of the Indemnifying Party or, absent such consent, written opinion of the Indemnified Party's counsel that such claim is meritorious or warrants settlement. Except as otherwise provided in this Article 16, in the event that a Party is obligated to indemnify and hold the other Party and its successors and assigns harmless under this Article 16, the amount owing to the Indemnified Party will be the amount of the Indemnified Party's damages net of any insurance proceeds received by the Indemnified Party following a reasonable effort by the Indemnified Party to obtain such insurance proceeds.

ARTICLE 17
INSURANCE

17.1 **Insurance**.

(a) General Liability. Seller shall maintain, or cause to be maintained at its sole expense, (i) commercial general liability insurance, including products and completed operations and personal injury insurance, in a minimum amount of Ten Million Dollars ($10,000,000) per occurrence, and an annual aggregate of not less than Ten Million Dollars ($10,000,000), endorsed to provide contractual liability in said amount, specifically covering Seller's obligations under this Agreement and including Buyer as an additional insured; and (ii) an umbrella insurance policy in a minimum limit of liability of Ten Million Dollars ($10,000,000) per occurrence and in aggregate. Defense costs shall be provided as an additional benefit and not included within the limits of liability. Such insurance shall contain standard cross-liability and severability of interest provisions. The amount of insurance required above may be satisfied by any combination of primary and excess insurance.

(b) Employer's Liability Insurance. Employers' Liability insurance shall not be less than One Million Dollars ($1,000,000.00) for injury or death occurring as a result of each

accident. With regard to bodily injury by disease, the One Million Dollar ($1,000,000) policy limit will apply to each employee.

(c) Workers Compensation Insurance. Seller, if it has employees, shall also maintain at all times during the Contract Term workers' compensation and employers' liability insurance coverage in accordance with applicable requirements of Law.

(d) Business Auto Insurance. Seller shall maintain at all times during the Contract Term business auto insurance for bodily injury and property damage with limits of One Million Dollars ($1,000,000) per occurrence. Such insurance shall cover liability arising out of Seller's use of all owned (if any), non-owned and hired vehicles, including trailers or semi-trailers in the performance of the Agreement.

(e) Builder's All-Risk Insurance. Seller shall maintain or cause to be maintained during the construction of the Facility prior to the Commercial Operation Date, builder's all-risk insurance covering the Facility during such construction periods.

(f) Property Damage Insurance. Seller shall maintain or cause to be maintained during the Delivery Term, property damage insurance with a policy limit of not less than the full replacement cost of the Facility on a per occurrence basis.

(g) Pollution Liability Insurance. Seller shall maintain or cause to be maintained during the Contract Term, pollution liability insurance in an amount not less than Two Million Dollars ($2,000,000) each occurrence covering losses involving hazardous material(s) and caused by pollution incidents or conditions that arise from any subcontractor's performance or lack of performance of work under this Agreement, or might be required by federal, state, regional, municipal, and local laws, including coverage for bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death, property damage including the resulting loss of use thereof, clean-up costs, and the loss of use of tangible property that has not been physically damaged or destroyed, and defense costs. If such coverage is on a "claims made" policy form, any applicable "retroactive date" shall be no later than the Effective Date and shall be maintained for at least two (2) years beyond the termination of this Agreement, to allow for a reasonable extended reporting period.

(h) Subcontractor Insurance. Seller shall require all of its subcontractors to carry: (i) comprehensive general liability insurance with a combined single limit of coverage not less than One Million Dollars ($1,000,000); (ii) workers' compensation insurance and employers' liability coverage in accordance with applicable requirements of Law; and (iii) business auto insurance for bodily injury and property damage with limits of one million dollars ($1,000,000) per occurrence. All subcontractors shall name Seller as an additional insured to insurance carried pursuant to clauses (h)(i) and (h)(iii). All subcontractors shall provide a primary endorsement and a waiver of subrogation to Seller for the required coverage pursuant to this Section 17.1(h).

(i) Evidence of Insurance. Within ten (10) days after execution of the Agreement and upon annual renewal thereafter, Seller shall deliver to Buyer certificates of insurance evidencing such coverage. Such certificates shall specify that Buyer shall be given at least thirty (30) days prior Notice by Seller in the event of any material modification, cancellation

or termination of coverage. Such insurance shall be primary coverage without right of contribution from any insurance of Buyer. Any other insurance maintained by Seller is for the exclusive benefit of Seller and shall not in any manner inure to the benefit of Buyer. The general liability, auto liability and worker's compensation policies shall be endorsed with a waiver of subrogation in favor of Buyer for all work performed by Seller, its employees, agents and sub-contractors.

(j) Failure to Comply with Insurance Requirements. If Seller fails to comply with any of the provisions of this Article 17, Seller, among other things and without restricting Buyer's remedies under the Law or otherwise, shall, at its own cost and expense, act as an insurer and self-insure in accordance with the terms and conditions above. With respect to the required general liability, umbrella liability and business 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. In addition, alleged violations of the provisions of this Article 17 means that Seller has the initial burden of proof regarding any legal justification for refusing or withholding coverage and Seller shall face the same liability and damages as an insurer for wrongfully refusing or withholding coverage in accordance with the laws of California.

ARTICLE 18
CONFIDENTIAL INFORMATION

18.1 **Definition of Confidential Information**. The following constitutes "**Confidential Information**," whether oral or written which is delivered by Seller to Buyer or by Buyer to Seller including: (a) the terms and conditions of, and proposals and negotiations related to, this Agreement, and (b) information that either Seller or Buyer stamps or otherwise identifies as "confidential" or "proprietary" before disclosing it to the other. Confidential Information does not include (i) information that was publicly available at the time of the disclosure, other than as a result of a disclosure in breach of this Agreement; (ii) information that becomes publicly available through no fault of the recipient after the time of the delivery; (iii) information that was rightfully in the possession of the recipient (without confidential or proprietary restriction) at the time of delivery or that becomes available to the recipient from a source not subject to any restriction against disclosing such information to the recipient; and (iv) information that the recipient independently developed without a violation of this Agreement.

18.2 **Duty to Maintain Confidentiality**. The Party receiving Confidential Information (the "**Receiving Party**") from the other Party (the "**Disclosing Party**") shall not disclose Confidential Information to a third party (other than the Party's employees, lenders (including bona fide prospective lenders), counsel, accountants, directors or advisors, or any such representatives of a Party's Affiliates, who have a need to know such information and have agreed to keep such terms confidential) except in order to comply with any applicable Law, regulation, or any exchange, control area or independent system operator rule or in connection with any court or regulatory proceeding applicable to such Party or any of its Affiliates; *provided*, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation. The Parties agree and acknowledge that nothing in this Section 18.2

prohibits a Party from disclosing any one or more of the commercial terms of a transaction (other than the name of the other Party unless otherwise agreed to in writing by the Parties) to any industry price source for the purpose of aggregating and reporting such information in the form of a published energy price index.

The Parties acknowledge and agree that the Agreement and any transactions entered into in connection herewith are subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.). In order to designate information as confidential, the Disclosing Party must clearly stamp and identify the specific portion of the material designated with the word "Confidential." The Parties agree not to over-designate material as Confidential Information. Over-designation includes stamping whole agreements, entire pages or series of pages as "Confidential" that clearly contain information that is not Confidential Information.

Upon request or demand of any third person or entity not a Party hereto to Buyer pursuant to the California Public Records Act for production, inspection and/or copying of Confidential Information ("**Requested Confidential Information**"), Buyer shall as soon as practical notify Seller in writing via email that such request has been made. Seller shall be solely responsible for taking at its sole expense whatever legal steps are necessary to prevent release of the Requested Confidential Information to the third party by Buyer. If Seller takes no such action after receiving the foregoing notice from Buyer, Buyer shall, at its discretion, be permitted to comply with the third party's request or demand and is not required to defend against it. If Seller does take or attempt to take such action, Buyer shall provide timely and reasonable cooperation to Seller, if requested by Seller, and Seller agrees to indemnify and hold harmless Buyer, its officers, employees and agents ("**Buyer's Indemnified Parties**"), from any claims, liability, award of attorneys' fees, or damages, and to defend any action, claim or lawsuit brought against any of Buyer's Indemnified Parties for Buyer's refusal to disclose any Requested Confidential Information.

18.3 **Irreparable Injury; Remedies**. Receiving Party acknowledges that its obligations hereunder are necessary and reasonable in order to protect Disclosing Party and the business of Disclosing Party, and expressly acknowledges that monetary damages would be inadequate to compensate Disclosing Party for any breach or threatened breach by Receiving Party of any covenants and agreements set forth herein. Accordingly, Receiving Party acknowledges that any such breach or threatened breach will cause irreparable injury to Disclosing Party and that, in addition to any other remedies that may be available, in law, in equity or otherwise, Disclosing Party will be entitled to obtain injunctive relief against the threatened breach of this Agreement or the continuation of any such breach, without the necessity of proving actual damages.

18.4 **Further Permitted Disclosure**. Notwithstanding anything to the contrary in this Article 18, Confidential Information may be disclosed by the Receiving Party to any of its agents, consultants, contractors, trustees, or actual or potential financing parties (including, in the case of Seller, its Lender(s)), so long as such Person to whom Confidential Information is disclosed agrees in writing to be bound by confidentiality provisions that are at least as restrictive as this Article 18 to the same extent as if it were a Party.

18.5 **Press Releases**. Neither Party shall issue (or cause its Affiliates to issue) a press release regarding the transactions contemplated by this Agreement unless both Parties have agreed

upon the contents of any such public statement.

ARTICLE 19
MISCELLANEOUS

19.1 **Entire Agreement; Integration; Exhibits**. This Agreement, together with the Cover Sheet and Exhibits attached hereto constitutes the entire agreement and understanding between Seller and Buyer with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. Notwithstanding the foregoing, and for clarification purposes, the Parties acknowledge that Buyer and on or more Affiliates of Seller are parties to separate power purchase agreements, for different facilities, and this Agreement is separate and distinct from those other agreements, and nothing in this Agreement shall have any effect on, including without limitation for collateral estoppel, admission, waiver, or any other purpose, those other agreements or any issues within those other agreements. Similarly, to the extent of any open issues under those other agreements, each of the Parties to this Agreement expressly reserves and retains its rights with respect to such open issues under this Agreement. The Exhibits attached hereto are integral parts hereof and are made a part of this Agreement by reference. The headings used herein are for convenience and reference purposes only. In the event of a conflict between the provisions of this Agreement and those of the Cover Sheet or any Exhibit, the provisions of first the Cover Sheet, and then this Agreement shall prevail, and such Exhibit shall be corrected accordingly. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.

19.2 **Amendments**. This Agreement may only be amended, modified or supplemented by an instrument in writing executed by duly authorized representatives of Seller and Buyer; *provided*, this Agreement may not be amended by electronic mail communications.

19.3 **No Waiver**. Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default.

19.4 **No Agency, Partnership, Joint Venture or Lease**. Seller and the agents and employees of Seller shall, in the performance of this Agreement, act in an independent capacity and not as officers or employees or agents of Buyer. Under this Agreement, Seller and Buyer intend to act as energy seller and energy purchaser, respectively, and do not intend to be treated as, and shall not act as, partners in, co-venturers in or lessor/lessee with respect to the Facility or any business related to the Facility. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement) and/or, to the extent set forth herein, any Lender and/or Indemnified Party.

19.5 **Severability**. In the event that any provision of this Agreement is unenforceable or held to be unenforceable, the Parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby. The Parties shall, however, use their best endeavors to agree on the replacement of the void, illegal or unenforceable provision(s) with legally acceptable clauses which correspond as closely as possible to the sense and purpose of the affected provision and this Agreement as a whole.

19.6 **Mobile-Sierra**. Notwithstanding any other provision of this Agreement, neither Party shall seek, nor shall they support any third party 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 written 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 shall be the "public interest" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956). Changes proposed by a non-Party or FERC acting *sua sponte* shall be subject to the most stringent standard permissible under applicable Law.

19.7 **Counterparts**. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument and each of which shall be deemed an original.

19.8 **Electronic Delivery**. This Agreement may be duly executed and delivered by a Party by electronic format (including portable document format (.pdf)) delivery of the signature page of a counterpart to the other Party.

19.9 **Binding Effect**. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

19.10 **No Recourse to Members of Buyer**. Buyer is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to its Joint Powers Agreement and is a public entity separate from its constituent members. Buyer shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Seller shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Buyer's constituent members, or the employees, directors, officers, consultants or advisors of Buyer or its constituent members, in connection with this Agreement.

19.11 **Forward Contract**. The Parties acknowledge and agree that this Agreement constitutes a "forward contract" within the meaning of the U.S. Bankruptcy Code, and Buyer and Seller are "forward contract merchants" within the meaning of the U.S. Bankruptcy Code. Each Party further agrees that, for all purposes of this Agreement, each Party waives and agrees not to assert the applicability of the provisions of 11 U.S.C. § 366 in any Bankruptcy proceeding wherein such Party is a debtor. In any such proceeding, each Party further waives the right to assert that the other Party is a provider of last resort to the extent such term relates to 11 U.S.C. §366 or another provision of 11 U.S.C. § 101-1532.

19.12 **Change in Electric Market Design**. If a change in the CAISO Tariff renders this Agreement or any provisions hereof incapable of being performed or administered, then any Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to make this Agreement capable of being performed and administered, while attempting to preserve to the maximum extent possible the benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, Buyer and Seller

shall engage in such negotiations in good faith. If Buyer and Seller are unable, within sixty (60) days after delivery of such request, to agree upon changes to this Agreement or to resolve issues relating to changes to this Agreement, then any Party may submit issues pertaining to changes to this Agreement to the dispute resolution process set forth in Article 15. Notwithstanding the foregoing, (i) a change in cost shall not in and of itself be deemed to render this Agreement or any of the provisions hereof incapable of being performed or administered, and (ii) all of the unaffected provisions of this Agreement shall remain in full force and effect during any period of such negotiation or dispute resolution.

19.13 **o Further Assurances**. Each of the Parties hereto agrees to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the Effective Date.

KEY ENERGY STORAGE, LLC

By: _____
Name: _____
Title: _____

CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority

By: _____
Name: _____
Title: _____

EXHIBIT A

FACILITY DESCRIPTION

Site Name: Key Energy Storage

Site includes all or some of the following APNs: **085-040-58S, 085-040-36S, 085-040-37S**

City: N/A (Unincorporated Fresno County)

County: Fresno

Zip Code: 93210

Latitude and Longitude: 36.136214, -120.132172

Facility Description: A standalone battery energy storage facility with a net nameplate capacity of 190 MW / 760 MWh located in unincorporated Fresno County, California. The Facility is a portion of a larger 300 MW (mixed 4-hour and 8-hour) energy complex (i.e., the Facility comprises 190 MW/300 MW of the energy complex). Seller may install additional inverter capacity to account for production and delivery losses.

Delivery Point: The P-node for the Facility (as defined below)

Facility Meter: See Exhibit R

Facility Metering Points: See Exhibit R

P-node: To be established prior to the Commercial Operation Date at the Gates 500 kV bus. Seller shall promptly notify Buyer following the establishment of the P-node.

Transmission Provider: Pacific Gas and Electric

Additional Information: None

* Seller represents the APNs identified above are sufficient for Seller to build the Facility. Seller may add additional APNs without the consent of Buyer.

EXHIBIT B

FACILITY CONSTRUCTION AND COMMERCIAL OPERATION

1. **Construction of the Facility**.

(a) "**Construction Start**" will occur upon Seller's acquisition of all applicable regulatory authorizations, approvals and permits for the construction of the Facility, and once Seller has engaged all primary contractors, and ordered all essential equipment and supplies as, in each case, can reasonably be considered necessary so that physical construction of the Facility may begin and proceed to completion without foreseeable interruption of material duration, and has executed an engineering, procurement, and construction contract and issued thereunder a final notice to proceed that authorizes the contractor to mobilize to Site and begin physical construction (including, at a minimum, beginning of either the excavation for foundations or the installation or erection of improvements) at the Site. The date of Construction Start will be evidenced by and subject to Seller's delivery to Buyer of a certificate substantially in the form attached as Exhibit J hereto, and the date certified therein shall be the "**Construction Start Date**." Subject to the other terms of this Agreement, Seller shall cause Construction Start to occur no later than the Guaranteed Construction Start Date.

(b) Seller may extend the Guaranteed Construction Start Date (in addition to any extensions pursuant to a Development Cure Period) by paying Daily Delay Damages to Buyer for each day Seller desires to extend the Guaranteed Construction Start Date, not to exceed a total of one hundred twenty (120) days of extensions by such payment of Daily Delay Damages. On or before the date that is ten (10) days prior to the then-current Guaranteed Construction Start Date (which may have already been extended due to a Development Cure Period, or a prior payment of Daily Delay Damages), Seller shall provide notice and payment to Buyer of the Daily Delay Damages for the number of days of extension to the Guaranteed Construction Start Date. If Seller achieves Construction Start prior to the Guaranteed Construction Start Date, as extended by the payment of Daily Delay Damages (and as may have been further extended by a Development Cure Period), Buyer shall refund to Seller the Daily Delay Damages for each day Seller achieves Construction Start prior to the Guaranteed Construction Start Date times the Daily Delay Damages, not to exceed the total amount of Daily Delay Damages paid by Seller pursuant to this Section 1(b). Additionally, if Seller achieves Commercial Operation on or before the Guaranteed Commercial Operation Date (not including any extensions to such date resulting from Seller's payment of Commercial Operation Delay Damages, but as may be extended pursuant to a Development Cure Period), then Buyer shall refund to Seller all Daily Delay Damages paid by Seller and not previously refunded by Buyer. If Seller achieves Commercial Operation after the Guaranteed Commercial Operation Date (not including any extensions to such date resulting from Seller's payment of Commercial Operation Delay Damages, but as may be extended pursuant to a Development Cure Period), but in fewer days than the number of days by which Seller missed the Guaranteed

Construction Start Date (not including any extensions to such date resulting from Seller's payment of Daily Delay Damages, but as may be extended pursuant to any Development Cure Period), then Buyer shall refund to Seller an amount equal to fifty percent (50%) of the Daily Delay Damages for the difference between (i) the number of days by which Seller missed the Guaranteed Construction Start Date (not including any extensions to such date resulting from Seller's payment of Daily Delay Damages, but as may be extended pursuant to any Development Cure Period), minus (ii) the number of days by which Seller missed the Guaranteed Commercial Operation Date (not including any extensions to such date resulting from Seller's payment of Commercial Operation Delay Damages, but as may be extended pursuant to any Development Cure Period). For illustrative purposes only, if Seller misses the Guaranteed Construction Start Date (not including any extensions to such date resulting from Seller's payment of Daily Delay Damages, but as may be extended pursuant to any Development Cure Period) by ten (10) days, but only misses the Guaranteed Commercial Operation Date (not including any extensions to such date resulting from Seller's payment of Commercial Operation Delay Damages, but accounting for any extensions to such date pursuant to any Development Cure Period) by four (4) days, then Buyer shall refund to Seller an amount equal to fifty percent (50%) of six (6) days' worth of Daily Delay Damages.

2. **Commercial Operation of the Facility**. "**Commercial Operation**" means the condition existing when Seller has fulfilled all of the conditions precedent in Section 2.2 of the Agreement and provided Notice to Buyer substantially in the form of Exhibit H (the "**COD Certificate**").

   (a) Subject to the other terms of this Agreement, Seller shall cause Commercial Operation for the Facility to occur by the Guaranteed Commercial Operation Date. Seller shall notify Buyer that it intends to achieve Commercial Operation at least sixty (60) days before the anticipated Commercial Operation Date.

   (b) In addition to any extensions pursuant to any Development Cure Period, Seller may extend the Guaranteed Commercial Operation Date by paying Commercial Operation Delay Damages to Buyer for each day Seller desires to extend the Guaranteed Commercial Operation Date, not to exceed a total of ninety (90) days of extensions by such payment of Commercial Operation Delay Damages. On or before the date that is ten (10) days prior to the then-current Guaranteed Commercial Operation Date (which may have already been extended due to a Development Cure Period or a prior payment of Daily Delay Damages), Seller shall provide Notice and payment to Buyer of the Commercial Operation Delay Damages for the number of days of extension to the Guaranteed Commercial Operation Date. If Seller achieves Commercial Operation prior to the Guaranteed Commercial Operation Date as extended by the payment of Commercial Operation Delay Damages (and as may have been further extended by a Development Cure Period), Buyer shall refund to Seller the Commercial Operation Delay Damages for each day Seller achieves Commercial Operation prior to the Guaranteed Commercial Operation Date times the Commercial Operation Delay Damages, not to exceed the

total amount of Commercial Operation Delay Damages paid by Seller pursuant to this Section 2(b).

3. **Termination for Failure to Achieve Commercial Operation**. If the Facility has not achieved Commercial Operation on or before the Guaranteed Commercial Operation Date (as may be extended hereunder), Buyer may elect to terminate this Agreement in accordance with Sections 11.1(b)(ii) and 11.2 (subject, however, to Buyer's and/or Seller's ability to terminate this Agreement in accordance with the provisions of Section 10.4(a)).

4. **Extension of the Guaranteed Dates**. The Guaranteed Construction Start Date and the Guaranteed Commercial Operation Date shall, subject to notice and documentation requirements set forth below, both be extended on a day-for-day basis (the "**Development Cure Period**") (provided, the Guaranteed Construction Start Date shall not be adjusted retroactively if the Construction Start Date has already occurred) for the duration of any and all delays arising out of the following circumstances to the extent the following circumstances are not the result of Seller's failure to take all commercially reasonable actions to meet its requirements and deadlines including commercially reasonable efforts to make up time from any such delays; *provided*, Seller shall not be entitled to more than one (1) day of Development Cure Period delay for a single day on which more than one of the conditions in (a)-(c) below occur concurrently:

   (a) Seller has not acquired (i) the conditional use permit by the Expected Construction Start Date, or (ii) all other Material Permits within sixty (60) days following the Expected Construction Start Date, despite the exercise of diligent and commercially reasonable efforts by Seller; or

   (b) a Force Majeure Event [redacted] occurs; or

   (c) the Interconnection Facilities or Reliability Network Upgrades are not complete and ready for the Facility to connect and sell Product at the Delivery Point by the Guaranteed Commercial Operation Date, despite the exercise of diligent and commercially reasonable efforts by Seller; or

   (d) Buyer has not made all necessary arrangements to receive the Facility Energy at the Delivery Point by the Guaranteed Commercial Operation Date.

   Seller shall submit any claim for Development Cure Period delays (x) within five (5) Business Days of (i) missing the applicable milestone date in the case of Sections 4(a) or (c) above or (ii) Seller becoming aware of the delays pursuant to Section 4(d) above, (y) concurrently with Seller's claim of a Force Majeure Event in the case of (b) above, and (z) within fourteen (14) days after Seller becomes aware of any [redacted] *provided*, Seller's failure to submit such Development Cure Period claim within such applicable period constitutes a waiver of such Development Cure Period starting the date after such notice is due, and continuing until the date that the submission is provided in substantially the form set forth in Exhibit W; *provided further*, Seller shall be entitled to revise any such claim to, among other things, reflect additional days of Development Cure Period which occur after the submission of any such claims. Notwithstanding anything in

this Agreement to the contrary, the cumulative extensions granted under the Development Cure Period (other than the extensions granted pursuant to clause 4(d) above) shall not exceed (i) one hundred eighty (180) days with respect to the Guaranteed Construction Start Date, and (ii) one hundred eighty (180) days with respect to the Guaranteed Commercial Operation Date, for any reason, including a Force Majeure Event, and the cumulative extensions granted to the Guaranteed Commercial Operation Date by the payment of Commercial Operation Delay Damages and any Development Cure Period(s) with respect to the Guaranteed Commercial Operation Date (other than the extensions granted pursuant to clause 4(d) above) shall not exceed two hundred seventy (270) days. Upon request from Buyer, Seller shall provide documentation demonstrating to Buyer's reasonable satisfaction that the delays described above did not result from Seller's actions or failure to take commercially reasonable actions.

5. **Failure to Reach Guaranteed Capacity**. If, at Commercial Operation, the Installed Capacity is less than one hundred percent (100%) of the Guaranteed Capacity, Seller shall have ninety (90) days after the Commercial Operation Date to install additional capacity and/or Network Upgrades such that the Installed Capacity is equal to (but not greater than) the Guaranteed Capacity, and Seller shall provide to Buyer a new certificate substantially in the form attached as Exhibit I hereto specifying the new Installed Capacity. If Seller fails to construct the Guaranteed Capacity by such date, Seller shall pay "**Capacity Damages**" to Buyer, in an amount equal to [redacted] for each MW that the Guaranteed Capacity exceeds the Installed Capacity, and the Guaranteed Capacity and other applicable portions of the Agreement shall be adjusted accordingly. Capacity Damages shall not be offset or reduced by the payment of Development Security, Performance Security, Delay Damages, or any other form of liquidated damages under this Agreement.

6. **Buyer's Right to Draw on Development Security**. If Seller fails to timely pay any Daily Delay Damages or Commercial Operation Delay Damages, Buyer may draw upon the Development Security to satisfy Seller's payment obligation thereof, subject to the limitation set forth in Section 11.9.

EXHIBIT C

COMPENSATION

(a) Monthly Compensation.

(i) Each month from the period commencing upon CAISO Commercial Operation and continuing throughout the Delivery Term (and pro-rated for the first and last month of the Delivery Term if the Delivery Term does not start on the first day of a calendar month), Buyer shall pay Seller a Monthly Capacity Payment equal to the Storage Rate x one thousand (1,000) x Effective Capacity x Efficiency Rate Factor *minus* an amount equal to Buyer's monthly average cost for Charging Energy *multiplied by* the total number of MWhs of Reimbursable Station Use in such month, *divided by* the Efficiency Rate. Such payment constitutes the entirety of the amount due to Seller from Buyer for the Product. If the Effective Capacity is adjusted pursuant to a Capacity Test effective as of a day other than the first day of a calendar month, payment shall be calculated separately for each portion of the month in which the different Effective Capacity and/or Efficiency Rate are applicable.

"**Efficiency Rate Factor**" means:

(A) If the Efficiency Rate is greater than or equal to the Guaranteed Efficiency Rate, then:

Efficiency Rate Factor = 100%

(B) If the Efficiency Rate is less than the Guaranteed Efficiency Rate, but greater than or equal to 75%, then:

Efficiency Rate Factor = 100% - [(Guaranteed Efficiency Rate – Efficiency Rate) x .5]

(C) If the Efficiency Rate is less than 75%, then:

Efficiency Rate Factor = 0

(ii) Capacity Availability Payment True-Up. Each month from the period commencing upon CAISO Commercial Operation and continuing throughout the Delivery Term, Buyer shall calculate the year-to-date (YTD) Annual Capacity Availability for the applicable Contract Year (and during the period from CAISO Commercial Operation through the Commercial Operation Date) in accordance with Exhibit P. If (A) such YTD Annual Capacity Availability is less than ninety percent (90%), or (B) the final Annual Capacity Availability is less than the Guaranteed Capacity Availability, Buyer shall (1) withhold the Capacity Availability Payment True-Up Amount from the next Monthly Capacity Payment(s) (the "**Capacity Availability Payment True-Up**"), and (2) provide Seller with a written statement of the calculation of the YTD Annual Capacity Availability and the Capacity Availability Payment True-Up Amount; *provided*, if the Capacity Availability Payment True-Up Amount is a negative number for any month prior to the final year-end Capacity Availability Payment True-Up calculation (and following the Commercial Operation Date for the period from CAISO

Commercial Operation through the Commercial Operation Date), Buyer shall not be obligated to reimburse Seller any previously withheld Capacity Availability Payment True-Up Amount, except as set forth in the following sentence. If Buyer withholds any Capacity Availability Payment True-Up Amount pursuant to this subsection (a)(ii) above, and if the final year-end (and for the period from CAISO Commercial Operation through the Commercial Operation Date) Capacity Availability Payment True-Up Amount is a negative number, Buyer shall pay to Seller the positive value of such amount together with the next Monthly Capacity Payment due to Seller. [redacted]

"**Capacity Availability Payment True-Up Amount**" means an amount equal to A x B – C - D, where:

A = The sum of the year-to-date Monthly Capacity Payments

B = The Capacity Availability Factor

C = The sum of any Capacity Availability Payment True-Up Amounts previously withheld by Buyer in the applicable Contract Year (or for the period from CAISO Commercial Operation through the Commercial Operation Date).

[redacted]

"**Capacity Availability Factor**" means:

(i) If the product of (A) the YTD Annual Capacity Availability *times* (B) the Effective Capacity is equal to or greater than the product of (C) the Guaranteed Capacity Availability *times* (D) the Effective Capacity, then:

Capacity Availability Factor = 0

(ii) If the product of (A) the YTD Annual Capacity Availability *times* (B) the Effective Capacity is less than the product of (C) the Guaranteed Capacity Availability *times* (D) the Effective Capacity, but the product of (X) the sum of (1) the YTD Annual Capacity Availability *plus* (2) Force Majeure Unavailability, *times* (Y) the Effective Capacity is greater than or equal to seventy percent (70%) of the Installed Capacity, then:

Capacity Availability Factor = Guaranteed Capacity Availability – YTD Annual Capacity Availability

(iii) If the product of (A) the sum of (1) the YTD Annual Capacity Availability *plus* (2) Force Majeure Unavailability, *times* (B) the Effective Capacity is less than seventy percent (70%) of the Installed Capacity, then:

Capacity Availability Factor = (Guaranteed Capacity Availability – YTD Annual Capacity Availability) * 1.5 – (Force Majeure Unavailability * 0.5)

provided, if the result of any of the calculations in clauses (i) through (iii) above is greater than 1.0, then the Capacity Availability Factor shall be deemed to be equal to 1.0.

"**Force Majeure Unavailability**" means total YTD Unavailable Calculation Intervals that resulted from a Force Majeure Event for which Seller is the claiming party divided by the total YTD Calculation Intervals.

(b) Tax Credits. The Parties agree that except as set forth in the definition of the term "Storage Rate", the following sentences of this subsection (c) shall apply. The Parties agree that the Storage Rate is not subject to adjustment or amendment if Seller fails to receive any Tax Credits, or if any Tax Credits expire, are repealed or otherwise cease to apply to Seller or the Facility in whole or in part, or Seller or its investors are unable to benefit from any Tax Credits. Seller shall bear all risks, financial and otherwise, throughout the Contract Term, associated with Seller's or the Facility's eligibility to receive Tax Credits or to qualify for accelerated depreciation for Seller's accounting, reporting or Tax purposes. The obligations of the Parties hereunder, including those obligations set forth herein regarding the purchase and price for and Seller's obligation to deliver Facility Energy and Product, shall be effective regardless of whether construction of the Facility (or any portion thereof) or the sale of Facility Energy is eligible for, or receives Tax Credits during the Contract Term. Buyer shall reimburse Seller within thirty (30) days of Notice from Seller any reimbursement amounts owed by Buyer to Seller as set forth in the definition of Storage Rate.

EXHIBIT D

SCHEDULING COORDINATOR RESPONSIBILITIES

(a) Buyer as Scheduling Coordinator for the Facility. Upon Initial Synchronization of the Facility to the CAISO Grid, Buyer shall be the Scheduling Coordinator or designate a qualified third party to provide Scheduling Coordinator services with the CAISO for the Facility for both the delivery and the receipt of Charging Energy, Facility Energy and the Product at the Delivery Point. At least thirty (30) days prior to the Initial Synchronization of the Facility to the CAISO Grid, (i) Seller shall take all actions and execute and deliver to Buyer and the CAISO all documents necessary to authorize or designate Buyer (or Buyer's designee) as the Scheduling Coordinator for the Facility effective as of the Initial Synchronization of the Facility to the CAISO Grid, and (ii) Buyer shall, and shall cause its designee to, take all actions and execute and deliver to Seller and the CAISO all documents necessary to authorize or designate Buyer or its designee as the Scheduling Coordinator for the Facility effective as of the Initial Synchronization of the Facility to the CAISO Grid. On and after Initial Synchronization of the Facility to the CAISO Grid, Seller shall not authorize or designate any other party to act as the Facility's Scheduling Coordinator, nor shall Seller perform for its own benefit the duties of Scheduling Coordinator, and Seller shall not revoke Buyer's authorization to act as the Facility's Scheduling Coordinator unless agreed to by Buyer. Buyer (as the Facility's SC) shall submit bids to the CAISO in accordance with this Agreement and the applicable CAISO Tariff, protocols and Scheduling practices for Product on a day-ahead, hour-ahead, fifteen-minute market, real time or other market basis that may develop after the Effective Date, as determined by Buyer.

(b) Notices. Buyer (as the Facility's SC) shall provide Seller with access to a web-based system through which Seller shall submit to Buyer and the CAISO all notices and updates required under the CAISO Tariff regarding the Facility's status, including, but not limited to, all outage requests, forced outages, forced outage reports, clearance requests, or must offer waiver forms. Seller shall cooperate with Buyer to provide such notices and updates. If the web-based system is not available, Seller shall promptly submit such information to Buyer and the CAISO (in order of preference) telephonically or electronic mail to the personnel designated to receive such information.

(c) CAISO Costs and Revenues. Except as otherwise set forth below, Buyer (as Scheduling Coordinator for the Facility) shall be responsible for CAISO costs (including penalties and other charges) and shall be entitled to all CAISO revenues (including credits, Imbalance Energy revenues, and other payments), including revenues associated with CAISO dispatches, bid cost recovery, Inter-SC Trade credits, or other credits in respect of the Product Scheduled or delivered from the Facility. Seller shall be responsible for all CAISO costs and penalties (including associated with Imbalance Energy costs) resulting from any deviations from Charging Notices or Discharging Notices or otherwise charging or discharging the Facility when not subject to a Charging Notice or Discharging Notice, or any failure by Seller to abide by the CAISO Tariff, the terms of this Agreement or the outage notification requirements set forth in this Agreement (except to the extent such non-compliance is caused by Buyer's failure to perform its duties as Scheduling Coordinator for the Facility). Buyer or its designated SC shall make commercially reasonable efforts to cooperate with Seller to allow Seller to make Resource Adequacy substitutions with respect to such outages as permitted by the CAISO Tariff. The Parties agree that any Availability

Incentive Payments (as defined in the CAISO Tariff) are for the benefit of Seller and for Seller's account and that any Non-Availability Charges (as defined in the CAISO Tariff) are the responsibility of Seller and for Seller's account. In addition, if during the Delivery Term, 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 upon the Facility or to Buyer as Scheduling Coordinator due to failure by Seller to abide by the CAISO Tariff or the outage notification requirements set forth in this Agreement, the cost of the sanctions or penalties shall be Seller's responsibility.

(d) CAISO Settlements. Buyer (as the Facility's SC) shall be responsible for all settlement functions with the CAISO related to the Facility. Buyer shall render a separate invoice to Seller for any CAISO payments, charges or penalties ("**CAISO Charges Invoice**") for which Seller is responsible under this Agreement. CAISO Charges Invoices shall be rendered after settlement information becomes available from the CAISO that identifies any CAISO charges. Notwithstanding the foregoing, Seller acknowledges that the CAISO will issue additional invoices reflecting CAISO adjustments to such CAISO charges. Buyer shall review, validate, and if requested by Seller under paragraph (e) below, dispute any charges that are the responsibility of Seller in a timely manner and consistent with Buyer's existing settlement processes for charges that are Buyer's responsibilities. Subject to Seller's right to dispute and to have Buyer pursue the dispute of any such invoices, Seller shall pay the amount of CAISO Charges Invoices within ten (10) Business Days of Seller's receipt of the CAISO Charges Invoice. If Seller fails to pay such CAISO Charges Invoice within that period, Buyer may net or offset any amounts owing to it for such CAISO Charges Invoices against any future amounts it may owe to Seller under this Agreement. The obligations under this Section with respect to payment of CAISO Charges Invoices shall survive the expiration or termination of this Agreement.

(e) Dispute Costs. Buyer (as the Facility's SC) may be required by Seller to dispute CAISO settlements in respect of the Facility. Seller agrees to pay Buyer's costs and expenses (including reasonable attorneys' fees) associated with its involvement with such CAISO disputes to the extent they relate to CAISO charges payable by Seller with respect to the Facility that Seller has directed Buyer to dispute.

(f) Terminating Buyer's Designation as Scheduling Coordinator. At least thirty (30) days prior to expiration of this Agreement or as soon as reasonably practicable upon an earlier termination of this Agreement, the Parties will take all actions necessary to terminate the designation of Buyer as Scheduling Coordinator for the Facility as of 11:59 p.m. on such expiration date.

(g) Master Data File and Resource Data Template. The Parties will cooperate to comply with the applicable deadlines for filing and updating the information for the Facility in the Master Resource Database and Master Data File. Seller shall provide the data to the CAISO (and to Buyer) that is required for the CAISO's Master Data File and Resource Data Template (or successor data systems) for the Facility consistent with this Agreement at least five (5) Business Days before the deadline for submission to CAISO and Buyer (as SC) shall promptly provide such data to CAISO. Seller shall provide the data that is required for the CPUC's Master Resource Database for the Facility consistent with this Agreement to Buyer for review and approval at least five (5) Business Days before the deadline for submission of such to the CPUC. Neither Party shall

change such data without the other Party's prior written consent. At least once per Contract Year, Seller shall cooperate with Buyer to review and confirm that the data provided for the CAISO's Master Data File and Resource Data Template (or successor data systems) and CPUC's Master Resource Database for this Facility remains consistent with the actual operating characteristics of the Facility and provide such information and any additional supporting documentation to Buyer for review at least five (5) Business Days prior to submission to the CAISO or CPUC as applicable.

(h) NERC Reliability Standards. Buyer (as Scheduling Coordinator) shall cooperate reasonably with Seller to the extent necessary to enable Seller to comply, and for Seller to demonstrate Seller's compliance with, NERC reliability standards. This cooperation shall include the provision of information in Buyer's possession that Buyer (as Scheduling Coordinator) has provided to the CAISO related to the Facility or actions taken by Buyer (as Scheduling Coordinator) related to Seller's compliance with NERC reliability standards.

(i) SQMD Reporting. If Seller elects to submit a SQMD Plan for the Facility, then for any time period covered by the CAISO-approved SQMD Plan, Seller shall provide or cause to be provided to Buyer (or Buyer's designee including any Buyer Scheduling Coordinator) with respect to the Facility Meters, Settlement Quality Meter Data no later than six (6) Business Days after the relevant flow date. In connection with any SQMD Plan or designation of the Facility as a Scheduling Coordinator Metered Entity (as defined in the CAISO Tariff), Buyer (as Scheduling Coordinator) shall reasonably cooperate with Seller in the SQMD Plan submission and approval process and perform the obligations required by the SQMD Plan or the CAISO applicable to Scheduling Coordinators with respect to submitting Settlement Quality Meter Data to the CAISO including without limitation submitting required affirmations and attestations (if any). Buyer (as Scheduling Coordinator) shall be responsible for submitting Settlement Quality Meter Data to the CAISO using the MRI-S System (or any alternate system designated by the CAISO) in accordance with the SQMD Plan and the CAISO Tariff; provided, Seller shall indemnify Buyer against any costs or penalties imposed on Buyer as a result of Seller's failure to provide or have provided Settlement Quality Meter Data consistent with the SQMD Plan to Buyer (or Buyer's designee including any Buyer Scheduling Coordinator), with respect to the Facility Meters within the timeframe required by this Section (i).

EXHIBIT E

PROGRESS REPORTING FORM

Each Progress Report must include the following items:

1. Executive Summary.

2. Facility description.

3. Site plan of the Facility.

4. Description of any material planned changes to the Facility or the Site.

5. Gantt chart schedule showing progress on achieving each of the Milestones.

6. Summary of activities during the previous calendar quarter or month, as applicable, including any OSHA labor hour reports.

7. Forecast of activities scheduled for the current calendar quarter.

8. Written description about the progress relative to Seller's Milestones, including whether Seller has met or is on target to meet the Milestones.

9. List of issues that are reasonably likely to affect Seller's Milestones.

10. A status report of start-up activities including a forecast of activities ongoing and after start-up, a report on Facility performance including performance projections for the next twelve (12) months.

11. Progress and schedule of all material agreements, contracts, permits (including Material Permits), approvals, technical studies, financing agreements and major equipment purchase orders showing the start dates, completion dates, and completion percentages.

12. Pictures, in sufficient quantity and of appropriate detail, in order to document construction and startup progress of the Facility, the interconnection into the Transmission System and all other interconnection utility services.

13. Workforce Development or Supplier Diversity Reporting (if applicable). Format to be provided by Buyer.

14. Any other documentation reasonably requested by Buyer.

EXHIBIT F-1

FORM OF MONTHLY EXPECTED AVAILABLE EFFECTIVE CAPACITY REPORT

[MW Per Hour] – [*Insert Month*]

	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00
Day 1																								
Day 2																								
Day 3																								
Day 4																								
Day 5																								
[insert additional rows for each day in the month]																								
Day 29																								
Day 30																								
Day 31																								

The foregoing table is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement.

EXHIBIT F-2

FORM OF MONTHLY EXPECTED AVAILABLE STORAGE CAPABILITY REPORT

[Stored Energy Capability, MWh Per Hour] – [*Insert Month*]

	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00
Day 1																								
Day 2																								
Day 3																								
Day 4																								
Day 5																								
[insert additional rows for each day in the month]																								
Day 29																								
Day 30																								
Day 31																								

The foregoing table is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement.

EXHIBIT G

FORM OF DAILY AVAILABILITY NOTICE

Trading Day: _____

Station: _____ Issued By: _____

Unit: _____ Issued At: _____

Unit 100% Available No Restrictions: _____

Hour Ending	Available Effective Capacity			Available Storage Capability	Comments
	(MW)			(MWh)	
1:00					
2:00					
3:00					
4:00					
5:00					
6:00					
7:00					
8:00					
9:00					
10:00					
11:00					
12:00					
13:00					
14:00					
15:00					
16:00					
17:00					
18:00					
19:00					
20:00					
21:00					
22:00					
23:00					
0:00					

Comments: _____

_____

_____

_____

_____

_____

EXHIBIT H

FORM OF COMMERCIAL OPERATION DATE CERTIFICATE

This certification ("**Certification**") of Commercial Operation is delivered by _____[*licensed professional engineer*] ("**Engineer**") to Clean Power Alliance of Southern California, a California joint powers authority **(**"**Buyer**") in accordance with the terms of that certain Energy Storage Agreement dated _____ ("**Agreement**") by and between [*Seller*] and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

As of _____[DATE]_____, Engineer hereby certifies and represents to Buyer the following:

1. The Facility is fully operational, reliable and interconnected, fully integrated and synchronized with the Transmission System.

2. Seller has installed equipment for the Facility with an Installed Capacity of no less than ninety-five percent (95%) of the Guaranteed Capacity.

3. The Facility's Installed Capacity is no less than ninety-five percent (95%) of the Guaranteed Capacity and the Facility is capable of charging, storing and discharging Energy, all within the operational constraints and subject to the applicable Operating Restrictions.

4. Authorization to parallel the Facility was obtained by the Transmission Provider, [Name of Transmission Provider as appropriate] on___[DATE]____.

5. The Transmission Provider has provided documentation supporting full unrestricted release of the Facility for Commercial Operation by [Name of Transmission Provider as appropriate] on _____[DATE]_____.

6. The CAISO has provided notification supporting Commercial Operation, in accordance with the CAISO Tariff on _____[DATE]_____.

7. Seller has segregated and separately metered Station Use (and, if applicable pursuant to the Agreement, Auxiliary Use) to the extent reasonably possible in accordance with Prudent Operating Practice, and any such meter(s) have the same or greater level of accuracy as is required for CAISO certified meters used for settlement purposes.

8. The Facility and its meters have been designed and installed in a manner such that all Energy used for Station Use (and, if applicable pursuant to the Agreement, Auxiliary Use) within the Facility is metered, and there is no material Station Use within the Facility (other than Auxiliary Use) that is served by Energy from the Facility.

9. The temperature derate curve for the Facility inverters associated with the Installed Capacity is rated for a temperature derate beginning at [__]° C.

EXECUTED by **[**LICENSED PROFESSIONAL ENGINEER**]**

this _____ day of _____, 20__.

[LICENSED PROFESSIONAL ENGINEER]

By:_____

Its:_____

Date:_____

EXHIBIT I

FORM OF CAPACITY TEST CERTIFICATE

This certification ("**Certification**") of Capacity Test results is delivered by [licensed professional engineer] ("**Engineer**") to Clean Power Alliance of Southern California, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Energy Storage Agreement dated _____ ("**Agreement**") by and between [*SELLER ENTITY*] and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

I hereby certify that a Capacity Test conducted on [Date] demonstrated (i) an [Installed or Effective] Capacity of __ MW to the Delivery Point at four (4) hours of continuous discharge, (ii) a Battery Charging Factor of __%, and (iii) a Battery Discharging Factor of __%, all in accordance with the testing procedures, requirements and protocols set forth in Section 4.9 and Exhibit O.

EXECUTED by **[**LICENSED PROFESSIONAL ENGINEER**]**

this _____ day of _____, 20__.

[LICENSED PROFESSIONAL ENGINEER**]**

By:_____

Its:_____

Date:_____

EXHIBIT J

FORM OF CONSTRUCTION START DATE CERTIFICATE

This certification of Construction Start Date ("**Certification**") is delivered by [SELLER ENTITY] ("**Seller**") to Clean Power Alliance of Southern California, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Energy Storage Agreement dated _____ ("**Agreement**") by and between Seller and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Seller hereby certifies and represents to Buyer the following:

(1) Construction Start (as defined in Exhibit B of the Agreement) has occurred, and a copy of the notice to proceed that Seller issued to its contractor as part of Construction Start is attached hereto.

(2) the Construction Start Date occurred on _____ (the "**Construction Start Date**"); and

(3) the precise Site on which the Facility is located is, which must be within the boundaries of the previously identified Site:

_____

(such description shall amend the description of the Site in Exhibit A of the Agreement).

IN WITNESS WHEREOF, the undersigned has executed this Certification on behalf of Seller as of the ___ day of _____.

[SELLER ENTITY]

By:_____
Its:_____

Date:_____

EXHIBIT K

FORM OF LETTER OF CREDIT

[Issuing Bank Letterhead and Address]

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [XXXXXXX]
Date:
Bank Ref.:
Amount: US$[XXXXXXXX]

Beneficiary:

Clean Power Alliance of Southern California,
a California joint powers authority
801 S Grand, Suite 400
Los Angeles, CA 90017

Ladies and Gentlemen:

By the order of NextEra Energy Capital Holdings, Inc. on behalf of [name of NextEra project company], 700 Universe Blvd, Juno Beach, Florida 33408 ("Applicant"), we, [insert bank name and address] ("Issuer") hereby issue our Irrevocable Standby Letter of Credit No. [XXXXXXX] (the "Letter of Credit") in favor of Clean Power Alliance of Southern California, a California joint powers authority ("Beneficiary"), 801 S Grand, Suite 400, Los Angeles, CA 90017, for an amount not to exceed the aggregate sum of U.S. $[XXXXXX] (United States Dollars [XXXXX] and 00/100) (the "Available Amount"), pursuant to that certain Energy Storage Agreement dated as of _____ and as amended (the "Agreement") between Applicant and Beneficiary. This Letter of Credit shall become effective immediately and shall be of no further force or effect at 5:00 p.m., New York time, on [Date] or, if such day is not a Business Day (as hereinafter defined), on the next Business Day (as may be extended pursuant to the terms of this Letter of Credit, the "Expiration Date").

For the purposes hereof, "Business Day" shall mean any day on which commercial banks are not authorized or required to close in New York, New York.

Funds under this Letter of Credit are available to Beneficiary by valid presentation on or before 5:00 p.m. New York time, on or before the Expiration Date of a copy of this Letter of Credit No. [XXXXXXX] and all amendments accompanied by Beneficiary's dated statement purportedly signed by Beneficiary's duly authorized officer, in the form attached hereto as Exhibit A, containing one of the two alternative paragraphs set forth in paragraph 2 therein.

Any full or partial drawing hereunder may be requested by transmitting copies of the requisite

documents as described above to the Issuer by facsimile at [facsimile number for draws] or such other number as specified from time-to-time by the Issuer.

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.

Issuer hereby agrees that all drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented to the Issuer before the Expiration Date. All correspondence and any drawings (other than those made by facsimile) hereunder are to be directed to [Issuer address/contact]. Issuer undertakes to make payment to Beneficiary under this Standby Letter of Credit within three (3) business days of receipt by Issuer of a properly presented Drawing Certificate. The Beneficiary shall receive payment from Issuer by wire transfer to the bank account of the Beneficiary designated in the Drawing Certificate.

Partial draws are permitted under this Letter of Credit, and this Letter of Credit shall remain in full force and effect with respect to any continuing balance; *provided*, the Available Amount shall be reduced by the amount of each such drawing.

It is a condition of this Letter of Credit that it shall be deemed automatically extended without an amendment for a one year period (or, if such period ends on a day that is not a Business Day, until the next Business Day thereafter) beginning on the present Expiration Date hereof and upon each anniversary for such date (or, if such period ends on a day that is not a Business Day, until the next Business Day thereafter), unless at least one hundred twenty (120) days prior to any such Expiration Date Issuer has sent Beneficiary written notice by overnight courier service at the address provided below that Issuer elects not to extend this Letter of Credit, in which case it will expire on its then current Expiration Date. No presentation made under this Letter of Credit after such Expiration Date will be honored.

Notwithstanding any reference in this Letter of Credit to any other documents, instruments or agreements, this Letter of Credit contains the entire agreement between Beneficiary and Issuer relating to the obligations of Issuer hereunder.

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 New York, without regard to the principles of conflicts of laws thereunder, shall govern all matters with respect to this Letter of Credit.

Please address all correspondence regarding this Letter of Credit to the attention of the Letter of Credit Department at [insert bank address information], referring specifically to Issuer's Letter of Credit No. [XXXXXXX]. For telephone assistance, please contact Issuer's Standby Letter of Credit Department at [XXX-XXX-XXXX] and have this Letter of Credit available.

All notices to Beneficiary shall be in writing and are required to be sent by certified letter, overnight courier, or delivered in person to: Clean Power Alliance of Southern California, a California joint powers authority, Chief Financial Officer, 801 S Grand, Suite 400, Los Angeles,

CA 90017. Only notices to Beneficiary meeting the requirements of this paragraph shall be considered valid. Any notice to Beneficiary which is not in accordance with this paragraph shall be void and of no force or effect.

[Bank Name]

_____
[Insert officer name]
[Insert officer title]

EXHIBIT A

(DRAW REQUEST SHOULD BE ON BENEFICIARY'S LETTERHEAD)

Drawing Certificate

[Insert Bank Name and Address]

Ladies and Gentlemen:

The undersigned, a duly authorized officer of [ ], [ADDRESS], as beneficiary (the "Beneficiary") of the Irrevocable Letter of Credit No. [XXXXXXX] (the "Letter of Credit") issued by [insert bank name] (the "Bank") by order of _____ (the "Applicant"), hereby certifies to the Bank as follows:

1. Applicant and Beneficiary are party to that certain Energy Storage Agreement dated as of _____, 20__ (the "Agreement").

2. Beneficiary is making a drawing under this Letter of Credit in the amount of U.S. $_____ because a Seller Event of Default (as such term is defined in the Agreement) has occurred.

or

Beneficiary is making a drawing under this Letter of Credit in the amount of U.S. $_____, which equals the full available amount under the Letter of Credit, because Applicant is required to maintain the Letter of Credit in force and effect beyond the expiration date of the Letter of Credit but has failed to provide Beneficiary with a replacement Letter of Credit or other acceptable instrument within thirty (30) days prior to such expiration date.

3. The undersigned is a duly authorized representative of [ ] and is authorized to execute and deliver this Drawing Certificate on behalf of Beneficiary.

You are hereby directed to make payment of the requested amount to [ ] by wire transfer in immediately available funds to the following account:

[Specify account information]

[ ]

_____
Name and Title of Authorized Representative

Date_____

EXHIBIT L

INTENTIONALLY OMITTED

EXHIBIT M

FORM OF REPLACEMENT RA NOTICE

This Replacement RA Notice (this "**Notice**") is delivered by [SELLER ENTITY] ("**Seller**") to Clean Power Alliance of Southern California, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Energy Storage Agreement dated _____ ("**Agreement**") by and between Seller and Buyer. All capitalized terms used in this Notice but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Pursuant to Section 3.5 of the Agreement, Seller hereby provides the below Replacement RA product information:

Unit Information[1]

Name	
Location	
CAISO Resource ID	
Unit SCID	
Prorated Percentage of Unit Factor	
Resource Type	
Point of Interconnection with the CAISO Controlled Grid ("substation or transmission line")	
Path 26 (North or South)	
LCR Area (if any)	
Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment	
Run Hour Restrictions	
Delivery Period	

Month	Unit CAISO NQC (MW)	Unit Contract Quantity (MW)
January		
February		
March		
April		
May		
June		
July		
August		
September		
October		
November		
December		

[1] To be repeated for each unit if more than one.

[SELLER ENTITY]

By:_____
Its:_____

Date:_____

EXHIBIT N

NOTICES

Key Energy Storage, LLC ("Seller")	**CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority** ("Buyer")
All Notices: Street: 700 Universe Blvd. City: Juno Beach, FL 33408 Attn: Business Management Phone: (561) 691-2816 Facsimile: Email: dl-bmo-west-caiso@nexteraenergy.com	**All Notices:** Street: 801 S Grand, Suite 400 City: Los Angeles, CA 90017 Attn: Chief Executive Officer Phone: (213) 269-5870 E-mail: tbardacke@cleanpoweralliance.org
Reference Numbers: Duns: Federal Tax ID Number:	**Reference Numbers:** Duns: Federal Tax ID Number:
Invoices: Attn: Business Management Phone: (561) 691-2816 Facsimile: E-mail: dl-bmo-west-caiso@nexteraenergy.com	**Invoices:** Attn: CPA Settlements Phone: (213) 269-5870 E-mail: settlements@cleanpoweralliance.org
Scheduling: [TBD] Attn: Phone: Facsimile: Email:	**Scheduling:** Attn: Day Ahead Scheduling Phone: (817) 303-1104 Email: TenaskaComm@tnsk.com
Confirmations: [TBD] Attn: Phone: Facsimile: Email:	**Confirmations:** Attn: Vice President, Power Supply Email:energycontracts@cleanpoweralliance.org
Payments: Attn: Business Management Phone: (561) 691-2816 Facsimile: E-mail: dl-bmo-west-caiso@nexteraenergy.com	**Payments:** Attn: Vice President, Power Supply E-mail: settlements@cleanpoweralliance.org

Key Energy Storage, LLC ("Seller")	**CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority** ("Buyer")
Wire Transfer: BNK: **[TBD]** ABA: **[TBD]** ACCT: **[TBD]**	**Wire Transfer:** BNK: River City Bank ABA: 121133416 ACCT: XXXXXX8042

EXHIBIT O

CAPACITY TESTS

Capacity Test Notice and Frequency

A. Commercial Operation Capacity Test(s). Upon no less than ten (10) Business Days prior Notice to Buyer, Seller shall schedule and complete a Commercial Operation Capacity Test prior to the Commercial Operation Date. Such initial Commercial Operation Capacity Test (and any subsequent Commercial Operation Capacity Test permitted in accordance with Exhibit B) shall be performed in accordance with this Exhibit O and shall establish the Installed Capacity hereunder based on the actual capacity and capabilities of the Facility determined by such Commercial Operation Capacity Test(s).

B. Subsequent Capacity Tests. Following the Commercial Operation Capacity Test(s), at least fifteen (15) days in advance of the start of each Contract Year, upon no less than ten (10) Business Days prior Notice to Buyer, Seller shall schedule and complete a Capacity Test. In addition, Buyer shall have the right to require a retest of the Capacity Test at any time upon no less than five (5) Business Days prior Notice to Seller if Buyer provides data with such Notice reasonably indicating that the then-current Effective Capacity has varied materially from the results of the most recent prior Capacity Test. Seller shall have the right to run a retest of any Capacity Test at any time upon five (5) Business Days' prior Notice to Buyer (or any shorter period reasonably acceptable to Buyer consistent with Prudent Operating Practice).

C. Test Results and Re-Setting of Effective Capacity. No later than five (5) days following any Capacity Test, Seller shall submit a testing report detailing results and findings of the test. The report shall include Facility Meter readings and plant log sheets verifying the operating conditions and output of the Facility. In accordance with Section 4.4(a)(ii) of the Agreement and Part II(I) below, after the Commercial Operation Capacity Test(s), the Effective Capacity (up to, but not in excess of, the Installed Capacity) determined pursuant to such Capacity Test shall become the new Effective Capacity at the beginning of the day following the completion of the test for calculating the Monthly Capacity Payment and all other purposes under this Agreement.

Capacity Test Procedures

PART I. GENERAL.

A. Each Capacity Test shall be conducted in accordance with Prudent Operating Practices, the Operating Restrictions, and the provisions of this Exhibit O. For ease of reference, a Capacity Test is sometimes referred to in this Exhibit O as a "**CT**". Buyer or its representative may be present for the CT and may, for informational purposes only, use its own metering equipment (at Buyer's sole cost).

B. Conditions Prior to Testing.

(1) EMS Functionality. The EMS shall be successfully configured to receive data from the Battery Management System (BMS), exchange DNP3 data with the Buyer SCADA device, and transfer data to the database server for the calculation, recording and archiving of data points.

(2) Communications. The Remote Terminal Unit (RTU) testing should be successfully completed prior to any testing. The interface between Seller's RTU and the SCADA System should be fully tested and functional prior to starting any testing, including verification of the data transmission pathway between Seller's RTU and Seller's EMS interface and the ability to record SCADA System data.

(3) Commissioning Checklist. Commissioning shall be successfully completed per manufacturer guidance on all applicable installed Facility equipment, including verification that all controls, set points, and instruments of the EMS are configured.

PART II. REQUIREMENTS APPLICABLE TO ALL CAPACITY TESTS.

A. Test Elements. Each CT shall include at least the following individual test elements, which must be conducted in the order prescribed in Part III of this Exhibit O, unless the Parties mutually agree to deviations therefrom. The Parties acknowledge and agree that should Seller fall short of demonstrating one or more of the Test Elements as specified below, the Test will still be deemed "complete," and any adjustments necessary to the Effective Capacity resulting from such Test, if applicable, will be made in accordance with this Exhibit O.

(1) Electrical output at the lesser of maximum discharging level (MW) and Guaranteed Capacity for four (4) continuous hours; and

(2) Electrical input at maximum charging level at the Facility Meter (MW), as sustained until the SOC reaches at least 90%, continued by the electrical input at a rate up to the maximum charging level at the Facility Meter (MW), as sustained until the SOC reaches 100%, not to exceed five (5) hours of total charging time.

B. Parameters. During each CT, the following parameters shall be measured and recorded simultaneously for the Facility, at six (6) second intervals:

(1) Time;

(2) The amount of Facility Energy;

(3) The amount of Charging Energy;

(4) The amount of Station Use;

(5) Stored Energy Level (MWh).

C. Site Conditions. During each CT, the following conditions at the Site shall be measured and recorded simultaneously at thirty (30) minute intervals:

(1) Relative humidity (%);

(2) Barometric pressure (inches Hg) near the horizontal centerline of the Facility; and

(3) Ambient air temperature (°F).

D. Test Showing. Each CT shall record and report the following datapoints:

(1) That the CT successfully started;

(2) The maximum sustained discharging level for four (4) consecutive hours pursuant to A(1) above;

(3) The maximum sustained charging level for four (4) consecutive hours pursuant to A(2) above;

(4) Amount of time between the Facility's electrical output going from 0 to the maximum sustained discharging level registered during the CT (for purposes of calculating the ramp rate);

(5) Amount of time between the Facility's electrical input going from 0 to the maximum sustained charging level registered during the CT (for purposes of calculating the ramp rate);

(6) Amount of Charging Energy to go from 0% SOC to 100% SOC;

(7) Amount of Facility Energy to go from 100% SOC to 0% SOC.

E. Test Conditions.

(1) General. At all times during a CT, the Facility shall be operated in compliance with Prudent Operating Practices, the Operating Restrictions, and all operating protocols recommended, required or established by the manufacturer for the Facility.

(2) Abnormal Conditions. If abnormal operating conditions that prevent the testing or recordation of any required parameter occur during a CT, Seller may postpone or reschedule all or part of such CT in accordance with Part II.F below.

(3) Instrumentation and Metering. Seller shall provide all instrumentation, metering and data collection equipment required to perform the CT. The instrumentation, metering and data collection equipment electrical meters

shall be calibrated in accordance with Prudent Operating Practice and, as applicable, the CAISO Tariff.

F. Incomplete Test. If any CT is not completed in accordance herewith, Buyer may in its sole discretion: (i) accept the results up to the time the CT stopped without any modification to the Effective Capacity pursuant to Section I below; (ii) require that the portion of the CT not completed, be completed within a reasonable specified time period; or (iii) require that the CT be entirely repeated within a reasonable specified time period. Notwithstanding the above, if Seller is unable to complete a CT due to a Force Majeure Event or the actions or inactions of Buyer or the CAISO or the Transmission Provider, Seller shall be permitted to reconduct such CT on dates and at times reasonably acceptable to the Parties.

G. Test Report. Within five (5) Business Days after the completion of any CT, Seller shall prepare and submit to Buyer a written report of the results of the CT, followed by [redacted] a completed Capacity Test Certificate unless a Capacity Test Certificate is waived by Buyer pursuant to Section 4.5(c). Such report shall include:

(1) A record of the personnel present during the CT that served in an operating, testing, monitoring or other such participatory role;

(2) The measured and calculated data for each parameter set forth in Part II.A through D, including copies of the raw data taken during the test; and

(3) Seller's statement of either Seller's acceptance of the CT or Seller's rejection of the CT results and reason(s) therefor.

Seller's CT report shall be deemed invalid if not delivered to Buyer within five (5) Business Days after the completion of any CT. Within five (5) Business Days after receipt of the later of such report or, as applicable, such Capacity Test Certificate, Buyer shall notify Seller in writing of either Buyer's acceptance of the CT results or Buyer's rejection of the CT and reason(s) therefor.

If either Party rejects the results of any CT, such CT shall be repeated in accordance with Part II.F.

H. Supplementary Capacity Test Protocol. No later than sixty (60) days prior to conducting the first Commercial Operation Capacity Test, Seller shall deliver to Buyer for its review and approval (such approval not to be unreasonably delayed or withheld) a supplement to this Exhibit O with additional and supplementary details, procedures and requirements applicable to Capacity Tests based on the then -current design of the Facility ("**Supplementary Capacity Test Protocol**"). Thereafter, from time to time, Seller may deliver to Buyer for its review and approval (such approval not to be unreasonably delayed or withheld) any Seller recommended updates to the then-current Supplementary Capacity Test Protocol. The initial Supplementary Capacity Test Protocol (and each update thereto), once

approved by Buyer, shall be deemed an amendment to this Exhibit O.

I. Adjustment to Effective Capacity. The Effective Capacity shall be updated as follows:

(1) The total amount of Facility Energy delivered to the Delivery Point (expressed in MWh AC) during the four (4) hours of maximum sustained discharge pursuant to Section D(2) above (up to, but not in excess of, the product of (i) (a) the Guaranteed Capacity (in the case of a Commercial Operation Capacity Test, including under Section 5 of Exhibit B) or (b) the Installed Capacity (in the case of any other Capacity Test), multiplied by (ii) four (4) hours) shall be divided by four (4) hours to determine the Effective Capacity, which shall be expressed in MW, and shall be the new Effective Capacity in accordance with Section 4.4(a)(ii) of the Agreement.

PART III. INITIAL SUPPLEMENTARY CAPACITY TEST PROTOCOL.

A. **Effective Capacity Test**

- Procedure:

(1) System Starting State: The Facility will be in the on-line state at 0% SOC.

(2) Record the initial value of the SOC.

(3) Command a real power charge that results in an AC power of Facility's maximum charging level, and continue charging until the earlier of (a) the Facility has reached 100% SOC or (b) five (5) hours have elapsed since the Facility commenced charging.

(4) Record and store the SOC after the earlier of (a) the Facility has reached 100% SOC or (b) five (5) hours of continuous charging.

(5) Record and store the Charging Energy, which shall be used to determine the Battery Charging Factor.

(6) Following an agreed-upon rest period, command a real power discharge that results in an AC power output of the lesser of (i) the Facility's maximum discharging level and (ii) the Guaranteed Capacity, and maintain the discharging state until the earlier of (a) the Facility has discharged at the maximum discharging level for four (4) consecutive hours, (b) the Facility has reached 0% SOC, or (c) the sustained discharging level is at least five percent (5%) less than the lesser of (i) the maximum discharging level and (ii) the Guaranteed Capacity for more than five (5) consecutive minutes.

(7) Record and store the SOC after four (4) hours of continuous discharging. If the Facility SOC remains above zero percent (0%) after discharging at a

rate at or above the Guaranteed Capacity (or at or above the Installed Capacity after a Commercial Operation Capacity Test) for four (4) consecutive hours pursuant to Part III.A.6(a), the SOC will be deemed 0 for the purposes of calculating the Battery Discharging Factor.

(8) Record and store the Facility Energy as measured at the Facility Meter. Such data point shall be used for purposes of calculation of the Effective Capacity and the Battery Discharging Factor.

(9) If the Facility has not reached 0% SOC pursuant to Section III.A.6, continue discharging the Facility until it reaches a 0% SOC. Record and store the additional Facility Energy, if applicable.

- Test Results

(1) The resulting Effective Capacity measurement is the sum of the total Facility Energy at the Facility Meter divided by four (4) hours.

B. **AGC Discharge Test**

- Purpose: This test will demonstrate the AGC discharge capability to achieve the Facility's maximum discharging level within 25 seconds.
- System starting state: The Facility will be in the on-line state at 50% SOC and at an initial active power level of 0 MW and reactive power level of 0 MVAR. The EMS will be configured to follow a predefined agreed-upon active power profile.
- Procedure:

(1) Record the Facility active power level at the Facility Meter.

(2) Command the Facility to follow a simulated CAISO RIG signal of Pmax at .95 power factor for ten (10) minutes.

(3) Record and store the Facility active power response (in seconds).

- System end state: The Facility will be in the on-line state and at a commanded active power level of 0 MW.

C. **AGC Charge Test**

- Purpose: This test will demonstrate the AGC charge capability to achieve the Facility's full charging level within 25 seconds.
- System starting state: The Facility will be in the on-line state at 50% SOC and at an initial active power level of 0 MW and reactive power level of 0 MVAR. The Facility control system will be configured to follow a predefined agreed-upon active power profile.
- Procedure:

(1) Record the Facility active power level at the Facility Meter.

(2) Command the Facility to follow a simulated CAISO RIG signal of -Pmax at .95 power factor for ten (10) minutes.

(3) Record and store the Facility active power response (in seconds).

- System end state: The Facility will be in the on-line state and at a commanded active power level of 0 MW.

D. **Reactive Power Production Test**

- Purpose: This test will demonstrate the reactive power production capability of the Facility.
- System starting state: The Facility will be in the on-line state at 50% SOC and at an initial active power level of 0 MW and reactive power level of 0 MVAR. The EMS will be configured to follow an agreed-upon predefined reactive power profile.
- Procedure:

(1) Record the Facility reactive power level at the Facility Meter.

(2) Command the Facility to follow __ 62 MVAR for ten (10) minutes.

(3) Record and store the Facility reactive power response.

- System end state: The Facility will be in the on-line state and at a commanded reactive power level of 0 MVAR.

E. **Reactive Power Consumption Test**

- Purpose: This test will demonstrate the reactive power consumption capability of the facility.
- System starting state: The Facility will be in the on-line state at 50% SOC and at an initial active power level of 0 MW and reactive power level of 0 MVAR. The Facility control system will be configured to follow an agreed-upon predefined reactive power profile.
- Procedure:

(1) Record the Facility reactive power level at the Facility Meter.

(2) Command the Facility to follow -__***62*** MVAR for ten (10) minutes.

(3) Record and store the Facility reactive power response.

System end state: The Facility will be in the on-line state and at a commanded reactive power level of 0 MVAR.

EXHIBIT P

ANNUAL CAPACITY AVAILABILITY CALCULATION

(a) Following the end of each calendar month during the period commencing upon CAISO Commercial Operation and continuing throughout the Delivery Term Buyer shall calculate the year-to-date (YTD) "**Annual Capacity Availability**" for the current Contract Year (and for the period from CAISO Commercial Operation through the Commercial Operation Date) using the formula set forth below:

$$\text{Annual Capacity Availability (\%)} = 1 - \frac{\text{Unavailable Calculation Intervals}}{\text{Total YTD Calculation Intervals}}$$

"**Calculation Interval**" or "**C.I.**" means each successive five-minute interval, but excluding all such intervals which by the express terms of the Agreement are disregarded or excluded.

$$\text{Unavailable Calculation Interval} = 1 \text{ C.I. x } \left(1 - \text{the lesser of: } \frac{A}{\text{Effective Capacity}} \text{ or } \frac{B}{\text{Effective Capacity x 4 hrs}} \right)$$

"**Unavailable Calculation Intervals**" means the sum of year-to-date unavailable Calculation Intervals for the applicable Contract Year (and for the period from CAISO Commercial Operation through the Commercial Operation Date), where for each Calculation Interval:

"**A**" is the "**Available Effective Capacity**", which shall equal the greater of the HOL and the absolute value of the LOL, considering the conditions of the Facility in total to receive Charging Energy from and deliver Facility Energy to the Delivery Point, in such Calculation Interval (based on normal operating conditions pursuant to the manufacturer's guidelines), but "A" shall never exceed the Effective Capacity.

"**B**" is the "**Available Storage Capability**", which shall be calculated as the sum of the following (taking into account the SOC at the time of calculation): (i) the energy throughput capability (in MWhs) in the applicable Calculation Interval that the Facility is available to be charged (calculated as the available battery capability (in MWh) to receive Charging Energy from the Delivery Point in the applicable Calculation Interval x the Battery Charging Factor) and (ii) the energy throughput capability in MWhs in the applicable Calculation Interval that the Facility is available to be discharged to the Delivery Point (calculated as the available battery discharging capability (in MWh) to delivery Facility Energy to the Delivery Point in the applicable Calculation Interval x the Battery

Discharging Factor). In calculating Available Storage Capability, the "available battery charging capability" and "available battery discharging capability" are calculated as the product of (1) the count of available system cells in such Calculation Interval, multiplied by (2) the capability, in MWh, expected from each such system cell (based on normal operating conditions pursuant to the manufacturer's guidelines) that are able (considering the conditions of the Facility in total) to receive Charging Energy from and deliver Facility Energy to the Delivery Point, but Available Storage Capability shall never exceed the Effective Capacity x four (4) hours.

"**Total YTD Calculation Intervals**" means, for each applicable Contract Year (and for the period from CAISO Commercial Operation through the Commercial Operation Date), the total number of Calculation Intervals year-to-date up through and including the month for which the Annual Storage Capacity Availability is being calculated.

(b) The Available Effective Capacity and Available Storage Capability in the above calculations shall be the lower of (i) such amounts reported by Seller's real-time EMS data feed to Buyer for the Facility for such Calculation Interval, such that available Effective Capacity is calculated as set forth in the definition above, and available Storage Capability is calculated as the product of (A) the count of available system cells, *multiplied by* (B) the capability, in MWh, expected from each system cell under normal operating conditions pursuant to the manufacturer's guidelines, and (ii) the amounts reported by Seller's most recent Availability Notice (as updated pursuant to Section 4.10), which, with respect to the Available Effective Capacity, shall be calculated as the average of the "Gen Max" and "Load Max" (or equivalent successor terms which may be used by the SC or CAISO from time to time) amounts reported in Seller's Availability Notice and recorded in OMS for such Calculation Interval, and with respect to the Available Storage Capability, shall be calculated as "Max Energy" minus "Min Energy" (or equivalent successor terms which may be used by the SC or CAISO from time to time) amounts reported in Seller's Availability Notice and recorded in OMS for such Calculation Interval and for which calculation the Battery Charging Factor and Battery Discharging Factor shall not be applied, provided that any such revised Availability Notice indicating an increase in the Facility's availability for the applicable Calculation Interval is submitted by Seller at least sixty (60) minutes prior to the time the Buyer is required to schedule or bid the Facility in the Real-Time Market. Except as otherwise expressly provided in this Agreement, the calculations of Available Effective Capacity and Available Storage Capability in the foregoing sentence shall be based solely on the availability of the Facility to charge or discharge Energy between the Facility and the Delivery Point, as applicable (excluding for reasons at the high-voltage side of the Delivery Point or beyond). Any Calculation Interval in which the Facility fails to maintain connectivity to the CAISO (except to the extent caused by the CAISO) such that it cannot receive ADS or AGC signals shall be deemed an Unavailable Calculation Interval; *provided*, if such failure to maintain connectivity only affects the availability of Ancillary Services and not Energy, then such Calculation Interval shall be deemed an Unavailable Calculation Interval on account of such failure only to the extent set forth in Section 4.3(d); *provided further*, any such Calculation Interval shall not be deemed an Unavailable Calculation Interval if the Facility responds with respect to such

Calculation Interval as directed by Buyer, Buyer's Scheduling Coordinator or the CAISO via telephone, email, or some other means.

(c) If the total rated power of the Facility inverters is less than the Installed Capacity [redacted] charging and [redacted] discharging expressed in kVA at 45°C, then Buyer shall have the right, in its reasonable discretion, to apply an ambient air temperature availability derate to the applicable Calculation Interval in a commercially reasonable manner consistent with Prudent Operating Practice.

EXHIBIT Q

OPERATING RESTRICTIONS

The Parties will develop and finalize the Operating Restrictions prior to the Commercial Operation Date; *provided*, the Operating Restrictions (i) may not be materially more restrictive of the operation of the Facility than as set forth below, unless agreed to by Buyer in writing, (ii) will, at a minimum, include the rules, requirements and procedures set forth in this Exhibit Q, (iii) will include protocols and parameters for Seller's operation of the Facility in the absence of Charging Notices, Discharging Notices or other similar instructions from Buyer relating to the use of the Facility, and (iv) may include facility scheduling, operating restrictions and Communications Protocols.

File Update Date:	**[XX/XX/20XX]**	
Technology:	**Lithium Ion Batteries**	
Storage Unit Name:	Key Energy Storage	
A. Contract Capacity		
Guaranteed Capacity (MW):	190	
Effective Capacity (MW):	190	
B. Total Unit Dispatchable Range Information		
Interconnect Voltage (kV)	500	
Maximum Storage Level (MWh):	760	
Minimum Storage Level (MWh):	0	
Stored energy capability (MWh):	760	
Maximum Discharge (MW):	190	
Maximum Charge (MW):	190	
Guaranteed Efficiency Rate:	As set forth on the Cover Sheet	
Maximum energy throughput (Discharged MWh/year)*: [*Any Reimbursable Station Use does not count towards maximum energy throughput.]	277,400 (365 cycles)	
C. Charge and Discharge Rates		
Mode	**Maximum (MW)**	**Ramp Rate (MW/s) Description**
Energy (Charge)	190	[redacted]
Energy (Discharge)	190	
D. Ancillary Services		
Frequency regulation is included:	Yes	
Spin is included:	Yes	

1. [redacted]

EXHIBIT R

METERING DIAGRAM

[NTD: Seller to provide preliminary metering diagram, subject to SQMD plan update]

To be updated by Seller prior to Commercial Operation Date

EXHIBIT S

FORM OF GUARANTY

This Guaranty (this "**Guaranty**") is entered into as of [_____] (the "**Effective Date**") by and between NextEra Energy Capital Holdings, Inc., a Delaware corporation ("**Guarantor**"), and Clean Power Alliance of Southern California, a California joint powers authority (together with its successors and permitted assigns, "**Buyer**").

Recitals

A. Buyer and [*SELLER* ENTITY], a Delaware limited liability company ("**Seller**"), entered into that certain Energy Storage Agreement (as amended, restated or otherwise modified from time to time, the "**ESA**") dated as of [____], 2023.

B. Guarantor is entering into this Guaranty as Performance Security to secure Seller's obligations under the ESA, as required by Section 8.8 of the ESA.

C. It is in the best interest of Guarantor to execute this Guaranty inasmuch as Guarantor will derive substantial direct and indirect benefits from the execution and delivery of the ESA.

D. Initially capitalized terms used but not defined herein have the meaning set forth in the ESA.

Agreement

1. **Guaranty**. For value received, and subject to the terms and conditions hereof, Guarantor does hereby unconditionally, absolutely and irrevocably guarantee, as primary obligor and not as a surety, to Buyer the prompt payment by Seller of any and all amounts and payment obligations now or hereafter owing from Seller to Buyer under the ESA, including, without limitation, compensation for penalties, the Termination Payment, indemnification payments or other damages, as and when required pursuant to the terms of the ESA (the "**Guaranteed Amount**"), provided, that Guarantor's aggregate liability under or arising out of this Guaranty shall not exceed _____ Dollars ($_____). The Parties understand and agree that any payment by Guarantor or Seller of any portion of the Guaranteed Amount shall thereafter reduce Guarantor's maximum aggregate liability hereunder on a dollar-for-dollar basis. This Guaranty is an irrevocable, absolute, unconditional and continuing guarantee of the full and punctual payment, and not of collection, of the Guaranteed Amount and, except as otherwise expressly addressed herein, is in no way conditioned upon any requirement that Buyer first attempt to collect the payment of the Guaranteed Amount from Seller, any other guarantor of the Guaranteed Amount or any other Person or entity or resort to any other means of obtaining payment of the Guaranteed Amount. In the event Seller shall fail to duly, completely or punctually pay any Guaranteed Amount as required pursuant to the ESA, Guarantor shall promptly pay such amount as required herein.

2. **Demand Notice**. For avoidance of doubt, a payment shall be due for purposes of this Guaranty only when and if a payment is due and payable by Seller to Buyer under the terms and conditions of the Agreement. If Seller fails to pay any Guaranteed Amount as required pursuant to the ESA for five (5) Business Days following Seller's receipt of Buyer's written notice of such failure (the "**Demand Notice**"), then Buyer may elect to exercise its rights under this Guaranty and may make a demand upon Guarantor (a "**Payment Demand**") for such unpaid Guaranteed Amount. A Payment Demand shall be in writing and shall reasonably specify in what manner and what amount Seller has failed to pay and an explanation of why such payment is due and owing, with a specific statement that Buyer is requesting that Guarantor pay under this Guaranty. Guarantor shall, within five (5) Business Days following

its receipt of the Payment Demand, pay the Guaranteed Amount to Buyer.

3. **Scope and Duration of Guaranty**. This Guaranty applies only to the Guaranteed Amount. This Guaranty shall continue in full force and effect from the Effective Date until the earlier of the following: (x) all Guaranteed Amounts have been paid in full (whether directly or indirectly through set-off or netting of amounts owed by Buyer to Seller), and the Delivery Term has expired or terminated early, (y) the date that is twelve (12) months after the last day of the Delivery Term, or (z) replacement Performance Security is provided in an amount and form required by the terms of the ESA. Further, this Guaranty (a) shall remain in full force and effect without regard to, and shall not be affected or impaired by any invalidity, irregularity or unenforceability in whole or in part of this Guaranty, and (b) subject to the preceding sentence, shall be discharged only by complete performance of the undertakings herein. Without limiting the generality of the foregoing, the obligations of the Guarantor hereunder shall not be released, discharged, or otherwise affected and this Guaranty shall not be invalidated or impaired or otherwise affected for the following reasons:

   (i) the extension of time for the payment of any Guaranteed Amount, or

   (ii) any amendment, modification or other alteration of the ESA, or

   (iii) any indemnity agreement Seller may have from any party, or

   (iv) any insurance that may be available to cover any loss, except to the extent insurance proceeds are used to satisfy the Guaranteed Amount, or

   (v) any voluntary or involuntary liquidation, dissolution, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of, or other similar proceeding affecting, Seller or any of its assets, including but not limited to any rejection or other discharge of Seller's obligations under the ESA imposed by any court, trustee or custodian or any similar official or imposed by any law, statue or regulation, in each such event in any such proceeding, or

   (vi) the release, modification, waiver or failure to pursue or seek relief with respect to any other guaranty, pledge or security device whatsoever, or

   (vii) any payment to Buyer by Seller that Buyer subsequently returns to Seller pursuant to court order in any bankruptcy or other debtor-relief proceeding, or

   (viii) those defenses based upon (A) the legal incapacity or lack of power or authority of any Person, including Seller and any representative of Seller to enter into the ESA or perform its obligations thereunder, (B) lack of due execution, delivery, validity or enforceability, including of the ESA, or (C) Seller's inability to pay any Guaranteed Amount or perform its obligations under the ESA, or

   (ix) any other event or circumstance that may now or hereafter constitute a defense to payment of the Guaranteed Amount, including, without limitation, statute of frauds and accord and satisfaction;

   provided that Guarantor reserves the right to assert for itself any defenses, setoffs or counterclaims that Seller is or may be entitled to assert against Buyer (except for such defenses, setoffs or counterclaims that are expressly waived under any provision of this Guaranty) in a subsequent action for recoupment, restitution, or reimbursement.

4. **Waivers by Guarantor**. Guarantor hereby unconditionally waives as a condition precedent to

the performance of its obligations hereunder, with the exception of the requirements in Paragraph 2, (a) notice of acceptance, presentment or protest with respect to the Guaranteed Amounts and this Guaranty, (b) notice of any action taken or omitted to be taken by Buyer in reliance hereon, (c) any requirement that Buyer exhaust any right, power or remedy or proceed against Seller under the ESA, and (d) any event, occurrence or other circumstance which might otherwise constitute a legal or equitable discharge of a surety. Without limiting the generality of the foregoing waiver of surety defenses, it is agreed that the occurrence of any one or more of the following shall not affect the liability of Guarantor hereunder:

(i) at any time or from time to time, without notice to Guarantor, the time for payment of any Guaranteed Amount shall be extended, or such performance or compliance shall be waived;

(ii) the obligation to pay any Guaranteed Amount shall be modified, supplemented or amended in any respect in accordance with the terms of the ESA;

(iii) subject to Section 10, any (a) sale, transfer or consolidation of Seller into or with any other entity, (b) sale of substantial assets by, or restructuring of the corporate existence of, Seller or (c) change in ownership of any membership interests of, or other ownership interests in, Seller; or

(iv) the failure by Buyer or any other Person to create, preserve, validate, perfect or protect any security interest granted to, or in favor of, Buyer or any Person.

5. **Subrogation**. Notwithstanding any payments that may be made hereunder by the Guarantor, Guarantor hereby agrees that until the earlier of payment in full of all Guaranteed Amounts or expiration of the Guaranty in accordance with Section 3, it shall not be entitled to, nor shall it seek to, exercise any right or remedy arising by reason of its payment of any Guaranteed Amount under this Guaranty, whether by subrogation or otherwise, against Seller or seek contribution or reimbursement of such payments from Seller.

6. **Representations and Warranties**. Guarantor hereby represents and warrants that (a) it has all necessary and appropriate corporate or limited liability company powers and authority and the legal right to execute and deliver, and perform its obligations under, this Guaranty, (b) this Guaranty constitutes its legal, valid and binding obligations enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium and other similar laws affecting enforcement of creditors' rights or general principles of equity, (c) the execution, delivery and performance of this Guaranty does not and will not contravene Guarantor's organizational documents, any applicable Law or any contractual provisions binding on or affecting Guarantor, which would invalidate or materially impair Guarantor's ability to perform its obligations under this Guaranty, (d) except as disclosed in reports filed with the Securities and Exchange Commission by Guarantor's parent, NextEra Energy, Inc., there are no actions, suits or proceedings pending before any court, governmental agency or arbitrator, or, to the knowledge of the Guarantor, threatened, against or affecting Guarantor or any of its properties or revenues which may, in any one case or in the aggregate, adversely affect the ability of Guarantor to enter into or perform its obligations under this Guaranty, and (e) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or Governmental Authority, and no consent of any other Person (including, any stockholder or creditor of the Guarantor), that has not heretofore been obtained is required in connection with the execution, delivery, performance, validity or enforceability of this Guaranty by Guarantor.

7. **Notices**. Notices under this Guaranty shall be deemed received if sent to the address specified below: (i) on the day received if served by overnight express delivery, and (ii) four Business Days

after mailing if sent by certified, first class mail, return receipt requested. Any party may change its address to which notice is given hereunder by providing notice of the same in accordance with this Paragraph 8.

If delivered to Buyer, to it at [____]
Attn: [____]

If delivered to Guarantor, to it at [____]
Attn: [____]

8. **Governing Law and Forum Selection**. This Guaranty shall be governed by, and interpreted and construed in accordance with, the laws of the United States and the State of New York, excluding choice of law rules (other than Section 5-1401 and 5-1402 of the New York General Obligations Law), provided that, notwithstanding the foregoing, in no event shall such governing law prevent Buyer from complying with any obligations or from exercising any joint powers authority arising under the laws of the State of California. The Parties agree that any suit, action or other legal proceeding by or against any party (or its affiliates or designees) with respect to or arising out of this Guaranty shall be brought in the federal courts of the United States or the courts of the State of California sitting in the City and County of Los Angeles, California.

9. **Miscellaneous**. This Guaranty shall be binding upon Guarantor and its successors and assigns and shall inure to the benefit of Buyer and its successors and permitted assigns pursuant to the ESA. No provision of this Guaranty may be amended or waived except by a written instrument executed by Guarantor and Buyer. This Guaranty is not assignable by Guarantor without the prior written consent of Buyer, which consent shall not be unreasonably withheld. This Guaranty is not assignable by Buyer without the prior written consent of Guarantor, which consent shall not be unreasonably withheld, except to the extent that the ESA is assigned in accordance with the terms thereof. No provision of this Guaranty confers, nor is any provision intended to confer, upon any third party (other than Buyer's successors and permitted assigns) any benefit or right enforceable at the option of that third party. This Guaranty embodies the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings of the parties hereto, verbal or written, relating to the subject matter hereof. If any provision of this Guaranty is determined to be illegal or unenforceable (i) such provision shall be deemed restated in accordance with applicable Laws to reflect, as nearly as possible, the original intention of the parties hereto and (ii) such determination shall not affect any other provision of this Guaranty and all other provisions shall remain in full force and effect. This Guaranty may be executed in any number of separate counterparts, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. This Guaranty may be executed and delivered by electronic means with the same force and effect as if the same was a fully executed and delivered original manual counterpart.

10. **WAIVER OF JURY TRIAL; JUDICIAL REFERENCE**.

(a) JURY WAIVER. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE,

AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTY HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

(b) JUDICIAL REFERENCE. IN THE EVENT ANY LEGAL PROCEEDING IS FILED IN A FEDERAL COURT OF THE STATE OF CALIFORNIA, OR, TO THE EXTENT SUCH FEDERAL COURT LACKS SUBJECT MATTER JURISDICTION, IN A STATE COURT OF THE STATE OF CALIFORNIA (THE "COURT") BY OR AGAINST ANY PARTY HERETO IN CONNECTION WITH ANY CONTROVERSY, DISPUTE OR CLAIM DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY) (EACH, A "CLAIM") AND THE WAIVER SET FORTH IN THE PRECEDING PARAGRAPH IS NOT ENFORCEABLE IN SUCH ACTION OR PROCEEDING, THE PARTIES HERETO AGREE AS FOLLOWS:

(i) ANY CLAIM (INCLUDING BUT NOT LIMITED TO ALL DISCOVERY AND LAW AND MOTION MATTERS, PRETRIAL MOTIONS, TRIAL MATTERS AND POST-TRIAL MOTIONS) WILL BE DETERMINED BY A GENERAL REFERENCE PROCEEDING IN ACCORDANCE WITH THE PROVISIONS OF CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 638 THROUGH 645.1. THE PARTIES INTEND THIS GENERAL REFERENCE AGREEMENT TO BE SPECIFICALLY ENFORCEABLE IN ACCORDANCE WITH CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638.

(ii) UPON THE WRITTEN REQUEST OF ANY PARTY, THE PARTIES SHALL SELECT A SINGLE REFEREE, WHO SHALL BE A RETIRED JUDGE OR JUSTICE. IF THE PARTIES DO NOT AGREE UPON A REFEREE WITHIN TEN (10) DAYS OF SUCH WRITTEN REQUEST, THEN, ANY PARTY MAY REQUEST THE COURT TO APPOINT A REFEREE PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 640(B).

(iii) THE PARTIES RECOGNIZE AND AGREE THAT ALL CLAIMS RESOLVED IN A GENERAL REFERENCE PROCEEDING PURSUANT HERETO WILL BE DECIDED BY A REFEREE AND NOT BY A JURY.

[*Signature on next page*]

IN WITNESS WHEREOF, the undersigned has caused this Guaranty to be duly executed and delivered by its duly authorized representative on the date first above written.

GUARANTOR:

NEXTERA ENERGY CAPITAL HOLDINGS, INC.

By:_____

Printed Name:_____

Title:_____

BUYER:

[_____]

By:_____

Printed Name:_____

Title:_____

By:_____

Printed Name:_____

Title:_____

EXHIBIT T

FORM OF CONSENT TO COLLATERAL ASSIGNMENT

This Consent to Collateral Assignment (this "Consent") is entered into among (i) Clean Power Alliance of Southern California, a California joint powers authority ("CPA"), (ii) *[NextEra Entity*], a Delaware limited liability company (the "Project Company"), and (iii) *[Name of* Collateral Agent*]*, a *[Legal Status of Collateral Agent]*, as Collateral Agent for the secured parties under the Financing Documents referred to below (such secured parties together with their successors permitted under this Consent in such capacity, the "Secured Parties", and, such agent, together with its successors in such capacity, the "Collateral Agent"). CPA, Project Company and Collateral Agent are hereinafter sometimes referred to individually as a "Party" and jointly as the "Parties". Capitalized terms used but not otherwise defined in this Consent shall have the meanings ascribed to them in the ESA (as defined below).

RECITALS

The Parties enter into this Consent with reference to the following facts:

A. Project Company and CPA have entered into that certain Renewable Power Purchase Agreement, dated as of *[Date] [List all amendments* as *contemplated by Section 3.4]* ("ESA"), pursuant to which Project Company will develop, construct, commission, test and operate the Facility and sell the Product to CPA, and CPA will purchase the Product from Project Company;

B. As collateral for Project Company's obligations under the ESA, Project Company has agreed to provide to CPA certain collateral, which may include Performance Security and Development Security and other collateral described in the ESA (collectively, the "ESA Collateral");

C. Project Company has entered into that certain *[Insert description of financing arrangements with Lender]*, dated as of *[Date]*, among Project Company, the Lenders party thereto and the Collateral Agent (the "Financing Agreement"), pursuant to which, among otherthings, the Lenders have extended commitments to make loans to Project Company;

D. As collateral security for Project Company's obligations under the Financing Agreement and related agreements (collectively, the "Financing Documents"), Project Company has, among other things, assigned all of its right, title and interest in, to and under the ESA and Project's Company's owners have pledged their ownership interest in Project Company (collectively, the "Assigned Interest") to the Collateral Agent pursuant to the Financing Documents; and

E. It is a requirement under the Financing Agreement and the ESA that CPA and the other Parties hereto shall have executed and delivered this Consent.

AGREEMENT

In consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties

hereto hereby agree as follows:

SECTION 1. CONSENT TO ASSIGNMENT, ETC.

1.1 Consent and Agreement.

CPA hereby acknowledges:

(a) Notice of and consents to the assignment as collateral securityto Collateral Agent, for the benefit of the Secured Parties, of the Assigned Interest; and

(b) The right (but not the obligation) of Collateral Agent in the exercise of its rights and remedies under the Financing Documents, to make all demands, give all notices, take all actions and exercise all rightsof Project Company permitted under the ESA (subject to CPA's rights and defenses under the ESA and the terms of this Consent) and accepts any such exercise; *provided*, insofar as the Collateral Agent exercises any such rights under the ESA or makes any claims with respect to payments or other obligations under the ESA, the terms and conditions of the ESA applicable to such exercise of rights or claims shall apply to Collateral Agent to the same extent as to Project Company.

1.2 Project Company's and Collateral Agent's Acknowledgement.

Each of Project Company and Collateral Agent hereby acknowledges and agrees that, following the occurrence of a default by Project Company under the ESA, CPA is authorized to act in accordance with Collateral Agent's instructions and the terms of this Agreement, and that, other than arising due to the negligence or willful misconduct of CPA, CPA shall bear no liability to Project Company or Collateral Agent under such situation for failing to act in accordance with Project Company's instructions.

1.3 Right to Cure.

If Project Company defaults in the performance of any of its obligations under the ESA, or upon the occurrence or non-occurrence of any event or condition under the ESA which would immediately or with the passage of any applicable grace period or the giving of notice, or both, enable CPA to terminate or suspend its performance under the ESA (a "ESA Default"), CPA will not terminate or suspend its performance under the ESA until it first gives written notice of such ESA Default to Collateral Agent and affords Collateral Agent the right to cure such ESA Default within the applicable cure period under the ESA, which cure period shall run concurrently with that afforded Project Company under the ESA. In addition, if Collateral Agent gives CPA written notice prior to the expiration of the applicable cure period under the ESA of Collateral Agent's intention to cure such ESA Default (which notice shall include a reasonable description of the time during which it anticipates to cure such ESA Default) and is diligently proceeding to cure such ESA Default, notwithstanding the applicable cure period under the ESA, Collateral Agent shall have a period of sixty (60) days (or, if such ESA Default is for failure by the Project Company to pay an amount to CPA which is due and payable under the ESA other than to provide ESA Collateral, thirty (30) days, or, if such ESA Default is for failure by Project Company to provide ESA Collateral, ten (10)

Business Days) from the Collateral Agent's receipt of the notice of such ESA Default from CPA to cure such ESA Default; *provided*, (a) if possession of the Facility is necessary to cure any such non-monetary ESA Default and Collateral Agent has commenced foreclosure proceedings within sixty (60) days after notice of the ESA Default and is diligently pursuing such foreclosure proceedings, Collateral Agent will be allowed a reasonable time, not to exceed one hundred eighty (180) days after the notice of the ESA Default, to complete such proceedings and cure such ESA Default, and (b) if Collateral Agent is prohibited from curing any such ESA Default by any process, stay or injunction issued by any Governmental Authority or pursuant to any bankruptcy or insolvency proceeding or other similar proceeding involving Project Company, then the time periods specified herein for curing a ESA Default shall be extended for theperiod of such prohibition, so long as Collateral Agent has diligently pursued removal of such process, stay or injunction. Collateral Agent shall provide CPA with reports concerning the status of efforts to cure a ESA Default upon CPA's reasonable request.

1.4 Substitute Owner.

Subject to Section 1.7, the Parties agree that if Collateral Agent notifies (such notice, a "Financing Document Default Notice") CPA that an event of default has occurred and is continuing under the Financing Documents (a "Financing Document Event of Default") then, upon a judicial foreclosure sale, non-judicial foreclosure sale, deed in lieu of foreclosure or other transfer following a Financing Document Event of Default, Collateral Agent (or its designee) shall be substituted for Project Company (the "Substitute Owner") under the ESA, and, subject to Sections 1.7(b) and 1.7(c) below, CPA and Substitute Owner will recognize each other as counterparties under the ESA and will continue to perform their respective obligations (including those obligations accruing to CPA and the Project Company prior to the existence of the Substitute Owner) under the ESA in favor of each other in accordance with the terms thereof; *provided*, before CPA is required to recognize the Substitute Owner, the Substitute Owner must have demonstrated to CPA's reasonable satisfaction that the Substitute Owner meets the qualifications of a Permitted Transferee under the ESA (a "Permitted Transferee"). For purposes of the foregoing, CPA shall be entitled to assume that any such purported exercise of rights by Collateral Agent that results in substitution of a Substitute Owner under the ESA is in accordance with the Financing Documents without independent investigation thereof but shall have the right to require that the Collateral Agent and its designee (if applicable) provide reasonable evidence demonstrating the same.

1.5 Replacement Agreements.

Subject to Section 1.7, if the ESA is terminated, rejected or otherwise invalidated as a result of any bankruptcy, insolvency, reorganization or similar proceeding affecting Project Company, its owner(s) or guarantor(s), and if Collateral Agent or its designee directly or indirectly takes possession of, or title to, the Facility (including possession by a receiver or title by foreclosure or deed in lieu of foreclosure) ("Replacement Owner"), CPA shall, and Collateral Agent shall cause Replacement Owner to, enter into a new agreement with one another for the balance of the obligations under the ESA remaining to be performed having terms substantially the same as the terms of the ESA with respect to the remaining Contract Term ("Replacement ESA"); *provided*, before CPA is required to enter into a Replacement ESA, the Replacement Owner must have demonstrated to CPA's reasonable

satisfaction that the Replacement Owner satisfies the requirements of a Permitted Transferee. For purposes of the foregoing, CPA is entitled to assume that any such purported exercise of rights by Collateral Agent that results in a Replacement Owner is in accordance with the Financing Documents without independent investigation thereof but shall have the right to require that the Collateral Agent and its designee (if applicable) provide reasonable evidence demonstrating the same. Notwithstanding the execution and delivery of a Replacement ESA, to the extent CPA is, or was otherwise prior to its termination as described in this Section 1.5, entitled under the ESA, CPA may suspend performance of its obligations under such Replacement ESA, unless and until all ESA Defaults of Project Company under the ESA or Replacement ESA have been cured.

1.6 Transfer.

Subject to Section 1.7, a Substitute Owner or a Replacement Owner may assign all of its interest in the Facility and the ESA and a Replacement ESA to a natural person, corporation, trust, business trust, joint venture, joint stock company, association, company, limited liability company, partnership, Governmental Authority or other entity (a "Person") to which the Facility is transferred; *provided*, the proposed transferee shall have demonstrated to CPA's reasonable satisfaction that such proposed transferee satisfies the requirements of a Permitted Transferee.

1.7 Assumption of Obligations.

(a) Transferee.

Any transferee under Section 1.6 shall expressly assume in a writing reasonably satisfactory to CPA all of the obligations of Project Company, Substitute Owner or Replacement Owner under the ESA or Replacement ESA, as applicable, including posting and collateral assignment of the ESA Collateral. Upon such assignment and the cure of any outstanding ESA Default, and payment of all other amounts due and payable to CPA in respect of the ESA or such Replacement ESA, the transferor shall be released from any further liability under the ESA or Replacement ESA, as applicable.

(b) Substitute Owner.

Subject to Section 1.7(c), any Substitute Owner pursuant to Section 1.4 shall be required to perform Project Company's obligations under the ESA, including posting and collateral assignment of the ESA Collateral; *provided*, the obligations of such Substitute Owner shall be no more than those of Project Company under the ESA.

(c) No Liability.

CPA acknowledges and agrees that neither Collateral Agent nor any Secured Party shall have any liability or obligation under the ESAas a result of this Consent (except to the extentCollateral Agent or a Secured Party is a Substitute Owner or Replacement Owner) nor shall Collateral Agent or any other Secured Party be obligated or required to (i) perform any of Project Company's obligations under the ESA, except as provided in Sections 1.7(a) and 1.7(b) and to the extent Collateral Agent or a Secured Party is a Substitute Owner or Replacement Owner, or (ii) take any action to collect or

enforce any claim for payment assigned under the Financing Documents. If Collateral Agent becomes a Substitute Owner pursuant to Section 1.4 or enters into a Replacement ESA, Collateral Agent shall not have any personal liability to CPA under the ESA or Replacement ESA and the sole recourse of CPA in seeking enforcement of such obligations against Collateral Agent shall be to the aggregate interest of the Secured Parties in the Facility; *provided*, such limited recourse shall not limit CPA's right to seek equitable or injunctive relief against Collateral Agent, or CPA's rights with respect to any offset rights expressly allowed under the ESA, a Replacement ESA or the ESA Collateral.

1.8 Delivery of Notices.

CPA shall deliver to Collateral Agent, concurrently with the delivery thereof to Project Company, a copy of each notice, request or demand given by CPA to Project Company pursuant to the ESA relating to (a) a ESA Default by Project Company under the ESA, (b) any claim regarding a Force Majeure Event by CPA under the ESA, (c) any notice of dispute under the ESA, (d) any notice of intent to terminate or any termination notice, and (e) any matter that would require the consent of Collateral Agent pursuant to Section 1.11 or any other provision of this Consent. Collateral Agent acknowledges that delivery of such notice, request and demand shall satisfy CPA's obligation to give Collateral Agent a notice of ESA Default under Section 1.3. Collateral Agent shall deliver to CPA, concurrently with delivery thereof to Project Company, a copy of each notice, request or demand given by Collateral Agent to Project Company pursuant to the Financing Documents relating to a default by Project Company under the Financing Documents.

1.9 Confirmations.

CPA will, as and when reasonably requested by Collateral Agent from time to time, confirm in writing matters relating to the ESA (including the performance of same by Project Company); *provided*, such confirmation may be limited to matters of which CPA is aware as of the time the confirmation is given and such confirmations shall be without prejudice to any rights of CPA under the ESA as between CPA and Project Company.

1.10 Exclusivity of Dealings.

Except as provided in Sections 1.3, 1.4, 1.8, 1.9 and 2.1, unless and until CPA receives a Financing Document Default Notice, CPA shall deal exclusively with Project Company in connection with the performance of CPA's obligations under the ESA. From and after such time as CPA receives a Financing Document Default Notice and until a Substitute Owner is substituted for Project Company pursuant to Section 1.4, a Replacement ESA is entered into or the ESA is transferred to a Person to whom the Facility is transferred pursuant to Section 1.6, CPA shall, until Collateral Agent confirms to CPA in writing that all obligations under the Financing Documents are no longer outstanding, deal exclusively with Collateral Agent in connection with the performance of CPA's obligations under the ESA, and CPA may irrevocably rely on instructions provided by Collateral Agent in accordance therewith to the exclusion of those provided by any other Person.

1.11 No Amendments.

To the extent permitted by Laws, CPA agrees that it will not, without the prior written consent of

Collateral Agent (not to be unreasonably withheld, delayed or conditioned) (a) enter into any material supplement, restatement, novation, extension, amendment or modification of the ESA (b) terminate or suspend its performance under the ESA (except in accordance with Section 1.3) or (c) consent to or accept any termination or cancellation of the ESA by Project Company.

SECTION 2. PAYMENTS UNDER THE ESA

2.1 Payments.

Unless and until CPA receives written notice to the contrary from Collateral Agent, CPA will make all payments to be made by it to Project Company under or by reason of the ESA directly to Project Company. CPA, Project Company, and Collateral Agent acknowledge that CPA will be deemed to be in compliance with the payment terms of the ESA to the extent that CPA makes payments in accordance with Collateral Agent's instructions.

2.2 No Offset, Etc.

All payments required to be made by CPA under the ESA shall be made without any offset, recoupment, abatement, withholding, reduction or defense whatsoever, other than that expressly allowed by the terms of the ESA.

SECTION 3. REPRESENTATIONS AND WARRANTIES OF CPA

CPA makes the following representations and warranties as of the date hereof in favor of Collateral Agent:

3.1 Organization.

CPA is a joint powers authority and community choice aggregator duly organized and validly existing under the laws of the state of California, and the rules, regulations and orders of the California Public Utilities Commission, and is qualified to conduct business in each jurisdiction of the Joint Powers Agreement members. CPA has all requisite power and authority, corporate and otherwise, to enter into and to perform its obligations hereunder and underthe ESA, and to carry out the terms hereof and thereof and the transactions contemplated hereby and thereby.

3.2 Authorization.

The execution, delivery and performance by CPA of this Consent and the ESA have been duly authorized by all necessary corporate or other action on the part of CPA and do not require any approval or consent of any holder (or any trustee for any holder) of any indebtedness or other obligation of CPA which, if not obtained, will prevent CPA from performing its obligations hereunder or under the ESA except approvals or consents which have previously been obtained and which are in full force and effect.

3.3 Execution and Delivery; Binding Agreements.

Each of this Consent and the ESA is in full force and effect, has been duly executed and delivered on behalf of CPA by the appropriate officers of CPA, and constitutes the legal, valid and binding obligation of CPA, enforceable against CPA in accordance with its terms,except as the enforceability thereof may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application affecting the enforcement of creditors' rights generally and (b) general equitable principles (whether considered in a proceeding in equity or at law).

3.4 No Default or Amendment.

Except as set forth in Schedule A attached hereto: (a) Neither CPA nor, to CPA's actual knowledge, Project Company, is in default of any of its obligations under the ESA; (b) CPA and, to CPA's actual knowledge, Project Company, has complied with all conditions precedent to the effectiveness of its obligations under the ESA; (c) to CPA's actual knowledge, no event or condition exists which would either immediately or with the passage of any applicable grace period or giving of notice, or both, enable either CPA or Project Company to terminate or suspend its obligations under the ESA; and (d) the ESA has not been amended, modified or supplemented in any manner except as set forth herein and in the recitals hereto.

3.5 No Previous Assignments.

CPA has no notice of, and has not consented to, any previous assignment by Project Company of all or any part of its rights under the ESA, except as previously disclosed in writing and consented to by CPA.

SECTION 4. REPRESENTATIONS AND WARRANTIES OF PROJECT COMPANY

Project Company makes the following representations and warranties as of the date hereof in favor of the Collateral Agent and CPA:

4.1 Organization.

Project Company is a limited liability company duly organized and validly existing under the laws of the state of its organization, and is duly qualified, authorized to do business and in good standing in every jurisdiction in which it owns or leases real property or in which the nature of its business requires it to be so qualified, except where the failure to so qualify would not have a material adverse effect on its financial condition, its ability to own its properties or its ability to transact its business. Project Company has all requisite power and authority, corporate and otherwise, to enter into and to perform its obligations hereunder and under the ESA, and to carry out the terms hereof and thereof and the transactions contemplated hereby and thereby.

4.2 Authorization.

The execution, delivery and performance of this Consent by Project Company, and Project Company's assignment of its right, title and interest in, to and under the ESA to the Collateral Agent pursuant to the Financing Documents, have been duly authorized by all necessary corporate or other action on the part of Project Company.

4.3 Execution and Delivery; Binding Agreement.

This Consent is in full force and effect, has been duly executed and delivered on behalf of Project Company by the appropriate officers of Project Company, and constitutes the legal, valid and binding obligation of Project Company, enforceable against Project Company in accordance with its terms, except as the enforceability thereof may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application affecting the enforcement of creditors' rights generally and (b) general equitable principles (whether considered in a proceeding in equity or at law).

4.4 No Default or Amendment.

Except as set forth in Schedule B attached hereto: (a) neither Project Company nor, to Project Company's actual knowledge, CPA, is in default of any of its obligations under the ESA; (b) Project Company and, to Project Company's actual knowledge, CPA, has complied with all conditions precedent to the effectiveness of its obligations under the ESA; (c) to Project Company's actual knowledge, no event or condition exists which would either immediately or with the passage of any applicable grace period or giving of notice, or both, enable either CPA or Project Company to terminate or suspend its obligations under the ESA; and (d) the ESA has not been amended, modified or supplemented in any manner except as set forth herein and in the recitals hereto.

4.5 No Previous Assignments.

Project Company has not previously assigned all or any part of its rights under the ESA.

SECTION 5. REPRESENTATIONS AND WARRANTIES OF COLLATERAL AGENT

Collateral Agent makes the following representations and warranties as of the date hereof in favor of CPA and Project Company:

5.1 Authorization.

The execution, delivery and performance of this Consent by Collateral Agent have been duly authorized by all necessary corporate or other action on the part of Collateral Agent and Secured Parties.

5.2 Execution and Delivery; Binding Agreement.

This Consent is in full force and effect, has been duly executed and delivered on behalf of Collateral Agent by the appropriate officers of Collateral Agent, and constitutes the legal, valid and binding obligation of Collateral Agent as Collateral Agent for the Secured Parties, enforceable against Collateral Agent (and the Secured Parties to the extent applicable) in accordance with its terms, except as the enforceability thereof may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application affecting the enforcement of creditors' rights generally and (b) general equitable principles (whether considered in a proceeding in equity or at law).

SECTION 6. MISCELLANEOUS

6.1 Notices.

All notices and other communications hereunder shall be in writing, shall be deemed given upon receipt thereof by the Party or Parties to whom such notice is addressed, shall refer on their face to the ESA (although failure to so refer shall not render any such notice or communication ineffective), shall be sent by first class mail, by personal delivery or by a nationally recognized courier service, and shall be directed (a) if to CPA or Project Company, in accordance with *[Notice Section of the ESA]* of the ESA, (b) if to Collateral Agent, to *[Collateral Agent Name]*, *[Collateral Agent Address]*, Attn: *[Collateral Agent Contact Information]*, Telephone: *[___]*, Fax: *[___]*, and (c) to such other address or addressee as any such Party may designate by notice given pursuant hereto.

6.2 Governing Law; Submission to Jurisdiction.

(a) THIS CONSENT SHALL BE CONSTRUED IN ACCORDANCE WITH, AND THIS CONSENT AND ALL MATTERS ARISING OUT OF THIS CONSENT AND THE TRANSACTIONS CONTEMPLATED HEREBY SHALL BE GOVERNED BY, THE LAW OF THE STATE OF CALIFORNIA WITHOUT REGARD TO ANY CONFLICTS OF LAWS PROVISIONS THEREOF THAT WOULD RESULT IN THE APPLICATION OF THE LAW OF ANOTHER JURISDICTION.

(b) All disputes, claims or controversies arising out of, relating to, concerning or pertaining to the terms of this Consent shall be governed by the dispute resolution provisions of the ESA. Subject to the foregoing, any legal action or proceeding with respect to this Consent and any action for enforcement of any judgment in respect thereof may be brought in the courts of the State of California or of the United States of America for the Central District of California, and, by execution and delivery of this Consent, each Party hereby accepts for itself and in respect of its property, generally and unconditionally, the non-exclusive jurisdiction of the aforesaid courts and appellate courts from any appeal thereof. Each Party further irrevocably consents to the service of process out of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to its notice address provided pursuant to Section 6.1 hereof. Each Party hereby irrevocably waives any objection which it may now or hereafter have to the laying of venue of any of the aforesaid actions or proceedings arising out of or in connection with this Consent brought in the courts referred to above and hereby further irrevocably waives and agrees not to plead or claim in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum. Nothing herein shall affect the right of any Party to serve process in any other manner permitted by law.

6.3 Headings Descriptive.

The headings of the several sections and subsections of this Consent are insertedfor convenience only and shall not in any way affect the meaning or construction of any provisionof this Consent.

6.4 Severability.

In case any provision in or obligation under this Consent shall be invalid, illegal or unenforceable in

any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

6.5 Amendment, Waiver.

Neither this Consent nor any of the terms hereof may (a) be terminated, amended, supplemented or modified, except by an instrument in writing signed by CPA, Project Company and Collateral Agent or (b) waived, except by an instrument in writing signed by the waiving Party.

6.6 Termination.

Each Party's obligations hereunder are absolute and unconditional, and no Party has any right, and shall have no right, to terminate this Consent or to be released, relieved or discharged from any obligation or liability hereunder until CPA has been notified by Collateral Agent that all of the obligations under the Financing Documents shall have been satisfied in full (other than contingent indemnification obligations) or, with respect to the ESA or any Replacement ESA, its obligations under such ESA or Replacement ESA have been fully performed.

6.7 Successors and Assigns.

This Consent shall be binding upon each Party and its successors and assigns permitted under and in accordance with this Consent, and shall inure to the benefit of the other Parties and their respective successors and assignee permitted under and in accordance with this Consent. Each reference to a Person herein shall include such Person's successors and assigns permitted under and in accordance with this Consent.

6.8 Further Assurances.

CPA hereby agrees to execute and deliver all such instruments and take all such action as may be necessary to effectuate fully the purposes of this Consent.

6.9 Waiver of Trial by Jury.

TO THE EXTENT PERMITTED BY APPLICABLE LAWS, THE PARTIES HEREBY IRREVOCABLY WAIVE ALL RIGHT OF TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR IN CONNECTION WITH THIS CONSENT OR ANY MATTER ARISING HEREUNDER. EACH PARTY FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

6.10 Entire Agreement.

This Consent and any agreement, document or instrument attached hereto or referred to herein integrate all the terms and conditions mentioned herein or incidental hereto and supersede all oral negotiations and prior writings in respect to the subject matter hereof. In the event of any conflict

between the terms, conditions and provisionsof this Consent and any such agreement, document or instrument, the terms, conditions and provisions of this Consent shall prevail.

6.11 Effective Date.

This Consent shall be deemed effective as of the date upon which the last Party executes this Consent.

6.12 Counterparts; Electronic Signatures.

This Consent may be executed in one or more counterparts, each of which will be deemed to be an original of this Consent and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Consent and of signature pages by facsimile transmission, Portable Document Format (i.e., PDF), or by other electronic means shall constitute effective execution and delivery of this Consent as to the Parties and may be used in lieu of the original Consent for all purposes.

[Remainder of Page Left Intentionally Blank.]

IN WITNESS WHEREOF, the Parties hereto have caused this Consent to be duly executed and delivered by their duly authorized officers on the dates indicated below their respective signatures.

[NEXTERA ENTITY], a Delaware limited liability company.		CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority.
By:____ *[Name]* *[Title]* Date:__		**By:**____ *[Name]* *[Title]* Date:__
[NAME OF COLLATERAL AGENT], *[Legal Status of Collateral Agent].* By:____ *[Name]* *[Title]* Date:__		

SCHEDULE A

[Describe any disclosures relevant to representations and warranties made in Section 3.4]

EXHIBIT U

Supply Chain Code of Conduct

Buyer is committed to ensuring that the fundamental human rights of workers are protected, including addressing the potential risks of forced labor, child labor, servitude, human trafficking and slavery across our portfolio.

Our requirements and expectations with respect to any Major Equipment are set forth in Sections 1 – 8 below ("**Supply Chain Code**").

These standards are derived from the United Nations Guiding Principles on Business and Human Rights, the Core Conventions of the International Labour Organization ("ILO"), including the ILO Declaration on Fundamental Principles and Rights at Work, the Solar Energy Industries Association Solar Industry Commitment to Environmental & Social Responsibility, and the Responsible Business Alliance Code of Conduct.

1. **Freely Chosen Employment**
   Forced, bonded (including debt bondage) or indentured labor, involuntary or exploitative prison labor, slavery or trafficking of persons is not permitted. This includes transporting, harboring, recruiting, transferring, or receiving persons by means of threat, force, coercion, abduction or fraud for labor or services. There shall be no unreasonable restrictions on workers' freedom of movement in any work-related facility in addition to unreasonable restrictions on entering or exiting work-related facilities including, if applicable, workers' dormitories or living quarters. All work must be voluntary, and workers shall be free to leave work at any time or terminate their employment without penalty if reasonable notice is given as per worker's contract. Employers, agents, and sub-agents may not hold or otherwise destroy, conceal, or confiscate identity or immigration documents, such as government-issued identification, passports, or work permits. Employers can only hold documentation if such holdings are required by law. In this case, at no time should workers be denied access to their documents. Workers shall not be required to pay employers' agents' or sub-agents' recruitment fees or other related fees for their employment. If any such fees are found to have been paid by workers, such fees shall be repaid to the worker.

2. **Young Workers**
   Child labor is not to be used in any stage of manufacturing Major Equipment or BOP Services. The term "child" refers to any person under the age of 15, or under the age for completing compulsory education, or under the minimum age for employment in the country, whichever is greatest. Suppliers shall implement an appropriate mechanism to verify the age of workers. The use of legitimate workplace learning programs, which comply with all laws and regulations, is supported. Workers under the age of 18 shall not perform work that is likely to jeopardize their health or safety, including night shifts and overtime. Suppliers of Major Equipment shall ensure proper management of student workers through proper maintenance of student records, rigorous due diligence of educational partners, and protection of students' rights in accordance with applicable laws and regulations. Suppliers of Major Equipment shall ensure appropriate support and training is provided to all student workers. In the absence of local law, the wage rate for

student workers, interns, and apprentices shall be at least the same wage rate as other entry-level workers performing equal or similar tasks. If child labor is identified, assistance/remediation is provided.

3. **Working Hours**
   Studies of business practices clearly link worker strain to reduced productivity, increased turnover, and increased injury and illness. Working hours are not to exceed the maximum set by local law. Further, a workweek should not be more than 60 hours per week, including overtime, except in emergency or unusual situations. All overtime must be voluntary. Workers shall be allowed at least one day off every seven days.

4. **Wages and Benefits**
   Compensation paid to workers shall comply with all applicable wage laws, including those relating to minimum wages, overtime hours and legally mandated benefits. In compliance with local laws, workers shall be compensated for overtime at pay rates greater than regular hourly rates. Deductions from wages as a disciplinary measure shall not be permitted. For each pay period, workers shall be provided with a timely and understandable wage statement that includes sufficient information to verify accurate compensation for work performed. All use of temporary, dispatch and outsourced labor will be within the limits of the local law.

5. **Humane Treatment**
   There is to be no harsh or inhumane treatment including violence, gender-based violence, sexual harassment, sexual abuse, corporal punishment, mental or physical coercion, bullying, public shaming, or verbal abuse of workers; nor is there to be the threat of any such treatment. Disciplinary policies and procedures in support of these requirements shall be clearly defined and communicated to workers.

6. **Non-Discrimination/Non-Harassment**
   Suppliers should be committed to a workplace free of harassment and unlawful discrimination. Companies shall not engage in discrimination or harassment based on race, color, age, gender, sexual orientation, gender identity and expression, ethnicity or national origin, disability, pregnancy, religion, political affiliation, union membership, covered veteran status, protected genetic information or marital status in hiring and employment practices such as wages, promotions, rewards, and access to training. Workers shall be provided with reasonable accommodation for religious practices. In addition, workers or potential workers should not be subjected to medical tests that could be used in a discriminatory way or otherwise in violation of applicable law. This was drafted in consideration of ILO Discrimination (Employment and Occupation) Convention (No.111).

7. **Freedom of Association**
   In conformance with local law, Suppliers shall respect the right of all workers to form and join trade unions of their own choosing, to bargain collectively, and to engage in peaceful assembly as well as respect the right of workers to refrain from such activities. Workers and/or their representatives shall be able to openly communicate and share ideas and concerns with management regarding working conditions and management practices without fear of discrimination, reprisal, intimidation, or harassment.

8. Restricted Jurisdictions

No Major Equipment may include any components or materials mined, manufactured or produced in the Xinjiang Uyghur Autonomous Region of China.

EXHIBIT V

MATERIAL PERMITS

No.	*Permits*
1	Conditional Use Permit (including modifications)

EXHIBIT W

Force Majeure and/or Development Cure Period Claim Form

Instructions

A. Please review Article 10 and Exhibit B (if applicable) of the Power Purchase Agreement prior to filling out the form.

B. Fill out the form completely and return to your assigned Contract Manager at CPA.

Seller: [Name] Project: [Name]

Current Guaranteed Construction Start Date: [Date]

New Guaranteed Construction Start Date (if Seller's claims are validated in full): [Date]

Guaranteed Commercial Operation Date: [Date]

New Guaranteed Commercial Operation Date (if Seller's claims are validated in full): [Date]

---

1. Please describe the claimed Force Majeure Event or other event giving rise to the claimed Development Cure Period delay(s) (the "Claimed Event"), including its cause, date of commencement and date it ended or is anticipated to end.

2. Please specify the extent of the delay or prevented performance caused by the Claimed Event, including the relief claimed thereby. Describe how the claimed relief was calculated/determined, accounting for individual developments causing such delay or prevented performance.

3. With respect to a Claimed Event other than a Force Majeure Event, please describe the commercially reasonable efforts taken by Seller to prevent such event.

4. Please describe the commercially reasonable efforts taken to mitigate the delays or nonperformance caused by the Claimed Event and specify how such efforts reduced the delay days or nonperformance that would otherwise have occurred absent such mitigation.

5. Please attach supporting documentation, including without limitation:

- Force Majeure notices or other correspondence received from suppliers and/or contractors that describe the basis for and extentof the Claimed Event.
- Documentation, contracts, and/or correspondence with suppliers and/or contractors evidencing the claiming Party's mitigation efforts.
- Project schedule and/or GANTT charts that demonstrate the effect of the Claimed Event on the Guaranteed commercial Operation Date.

By signing this Claim form, I attest and affirm that I am authorized to sign this form on behalf of the Seller, that I have reviewed this Claim, including any attached documentation, and that the facts and statements made in this Claim are true and correct to the best of my knowledge.

Signed: _____

Name: _____

Title: _____

Date: _____

Docusign Envelope ID: DF3BDEC7-6E6F-44F7-8166-730932E59B12

CONSTRUCTION START DATE CERTIFICATE

This certification of Construction Start Date ("**Certification**") is delivered by Key Energy Storage, LLC, a Delaware limited liability company ("**Seller**") to Clean Power Alliance of Southern California, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Energy Storage Agreement dated May 3, 2024 ("**Agreement**") and between Seller and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Seller hereby certifies and represents to Buyer the following:

1. Construction Start (as defined in Exhibit B of the Agreement) has occurred, and a copy of the notice to proceed that Seller issued to its contractor as part of Construction Start is attached hereto;

2. the Construction Start Date occurred on January 06, 2026 (the "**Construction Start Date**"); and

3. the precise Site on which the Facility is located is, which must be within the boundaries of the previously identified Site: a portion of APN 085-040-58S, with mailing address 18443 W Jayne Ave, Huron CA 93234.

(such description shall amend the description of the Site in Exhibit A of the Agreement).

IN WITNESS WHEREOF, the undersigned has executed this Certification on behalf of Seller as of the 13th day of January 2026.

Key Energy Storage, LLC

DocuSigned by:
Christine Seal
32151400FB6C44D...

By: Christine Seal

Its: Assistant Vice President

Date: January 13, 2026

Docusign Envelope ID: DF3BDEC7-6E6F-44F7-8166-730932E59B12

PROCUREMENT AND CONSTRUCTION AGREEMENT

FOR

BESS AND ASSOCIATED INFRASTRUCTURE

by and between

KEY ENERGY STORAGE, LLC,
as Owner,
and

CUPERTINO ELECTRIC, INC.,
as Contractor,

dated as of

September 4, 2025

Key Energy Storage Project

Docusign Envelope ID: DF3BDEC7-6E6F-44F7-8166-730932E59B12

IN WITNESS WHEREOF, the Parties have caused this PROCUREMENT AND CONSTRUCTION AGREEMENT FOR BESS AND ASSOCIATED INFRASTRUCTURE to be executed by their duly authorized representatives as of the date and year first above written.

as Owner:

KEY ENERGY STORAGE, LLC

By: Vincent J. Scrima Digitally signed by Vincent J. Scrima Date: 2025.09.04 16:37:29 -04'00'
Name: Vincent J. Scrima
Title: Vice President

as Contractor:

CUPERTINO ELECTRIC, INC.

By: DocuSigned by: Tom Schott 1846F732C3FF4DA...
Name: Tom Schott
Title: Chief Executive Officer

March 4, 2026

ESCA-PLD-CARSON6, LLC
1800 Wazee St., Suite 500
Denver, CO 80202
Attn: Global Energy

Via Email: globalenergyops@prologis.com; nkeefer@prologis.com
CC: amarin@prologis.com@prologis.com; apawlowski@prologis.com

Re: Occurrence of ESCA-PLD-CARSON6, LLC Commercial Operation Date

Dear Ladies and Gentlemen,

CPA is pleased to confirm that February 24, 2026 is the Commercial Operation Date under the Power Purchase Agreement between ESCA-PLD-CARSON6, LLC and Clean Power Alliance.

Sincerely,

Matthew Langer
Chief Operating Officer

CPA Declaration of COD for Carson 1

Final Audit Report 2026-03-04

Created:	2026-03-04
By:	Tsemon Awala-Velly (tvelly@cleanpoweralliance.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAA4NWUfSo4WaNEgoe8teXs-p3XHHjNPdZO

"CPA Declaration of COD for Carson 1" History

Document created by Tsemon Awala-Velly (tvelly@cleanpoweralliance.org)
2026-03-04 - 4:35:29 PM GMT

Document emailed to Matthew Langer (mlanger@cleanpoweralliance.org) for signature
2026-03-04 - 4:35:59 PM GMT

Email viewed by Matthew Langer (mlanger@cleanpoweralliance.org)
2026-03-04 - 6:23:15 PM GMT

Document e-signed by Matthew Langer (mlanger@cleanpoweralliance.org)
Signature Date: 2026-03-04 - 6:23:43 PM GMT - Time Source: server

Agreement completed.
2026-03-04 - 6:23:43 PM GMT

Adobe Acrobat Sign

January 29, 2026

ESCA-PLD-CPA-Commerce3 LLC
1800 Wazee St., Suite 500
Denver, CO 80202
Attn: Global Energy

Via Email: globalenergyops@prologis.com; nkeefer@prologis.com
CC: amarin@prologis.com@prologis.com; apawlowski@prologis.com

Re: Occurrence of ESCA-PLD-CPA- COMMERCE3 LLC Commercial Operation Date

Dear Ladies and Gentlemen,

CPA is pleased to confirm that January 26, 2026 is the Commercial Operation Date under the Power Purchase Agreement between ESCA-PLD-CPA-COMMERCE3 LLC and Clean Power Alliance.

Sincerely,

Matthew Langer
Chief Operating Officer

CPA Declaration of COD for Commerce 4

Final Audit Report 2026-01-29

Created:	2026-01-29
By:	Tsemon Awala-Velly (tvelly@cleanpoweralliance.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAA2_r636s7e79FQJYRTPSnLYacSMazjtak

"CPA Declaration of COD for Commerce 4" History

Document created by Tsemon Awala-Velly (tvelly@cleanpoweralliance.org)
2026-01-29 - 11:37:17 PM GMT

Document emailed to Matthew Langer (mlanger@cleanpoweralliance.org) for signature
2026-01-29 - 11:39:55 PM GMT

Email viewed by Matthew Langer (mlanger@cleanpoweralliance.org)
2026-01-29 - 11:58:35 PM GMT

Document e-signed by Matthew Langer (mlanger@cleanpoweralliance.org)
Signature Date: 2026-01-29 - 11:58:48 PM GMT - Time Source: server

Agreement completed.
2026-01-29 - 11:58:48 PM GMT

Adobe Acrobat Sign

January 29, 2026

ESCA-PLD-SOUTHBAY1 LLC
1800 Wazee St., Suite 500
Denver, CO 80202
Attn: Global Energy

Via Email: globalenergyops@prologis.com; nkeefer@prologis.com
CC: amarin@prologis.com@prologis.com; apawlowski@prologis.com

Re: Occurrence of ESCA-PLD-SOUTHBAY1 LLC Commercial Operation Date

Dear Ladies and Gentlemen,

CPA is pleased to confirm that January 27, 2026 is the Commercial Operation Date under the Power Purchase Agreement between ESCA-PLD-SOUTHBAY1 LLC and Clean Power Alliance.

Sincerely,

Matthew Langer
Chief Operating Officer

CPA Declaration of COD for South Bay 20

Final Audit Report 2026-01-29

Created:	2026-01-29
By:	Tsemon Awala-Velly (tvelly@cleanpoweralliance.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAnsWBssENOUcbmN6hQqoXcXTVJg_NAe3z

"CPA Declaration of COD for South Bay 20" History

Document created by Tsemon Awala-Velly (tvelly@cleanpoweralliance.org)
2026-01-29 - 11:39:04 PM GMT

Document emailed to Matthew Langer (mlanger@cleanpoweralliance.org) for signature
2026-01-29 - 11:40:00 PM GMT

Email viewed by Matthew Langer (mlanger@cleanpoweralliance.org)
2026-01-29 - 11:57:57 PM GMT

Document e-signed by Matthew Langer (mlanger@cleanpoweralliance.org)
Signature Date: 2026-01-29 - 11:58:25 PM GMT - Time Source: server

Agreement completed.
2026-01-29 - 11:58:25 PM GMT

Adobe Acrobat Sign

EXHIBIT J

FORM OF CONSTRUCTION START DATE CERTIFICATE

This certification of Construction Start Date ("**Certification**") is delivered by SunZia Wind PowerCo LLC, a Delaware limited liability company ("**Seller**") to Clean Power Alliance of Southern California, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Renewable Power Purchase Agreement dated November 3, 2023 ("**Agreement**") by and between Seller and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Seller hereby certifies and represents to Buyer the following:

(1) the EPC Contract(s) related to the Facility were executed on September 8, 2023 and October 31, 2023;

(2) the notice to proceed with the construction of the Facility was issued on December 27, 2023 (attached);

(3) the Construction Start Date (as defined in Exhibit B of the Agreement) has occurred as of December 27, 2023; and

(4) the precise Site on which the Facility is located is (which must be within the boundaries of the previously identified Site): Appendix 1 to this Exhibit J (such description shall amend the description of the Site in Exhibit A).

IN WITNESS WHEREOF, the undersigned has executed this Certification on behalf of Seller as of the 9th day of Jan. 2024.

SunZia Wind PowerCo LLC

By: _____ Andrew Murray

Its: Authorized Signatory

Date: 01/09/2024

Appendix 1

GISTract	Zone	Tax ID	State	County
NM-LN-2001.10-CBM	Zone 3S & 4S	4073009264264; 4072010261134; 4071010458132; 407100946428; 4071009467066; 4072009067067; 4072009261279; 4072008249264; 407100846627; 4071014233274	New Mexico	Lincoln
NM-LN-5001.10-MCW	Zone 2S & 3S	4079007290329	New Mexico	Lincoln
NM-LN-5002.10-MCW	Zone 2S & 3S	4071013308158	New Mexico	Lincoln
NM-LN-1002.10-ANW	Zone 5S & 6S	4069011287279; 406901226726; 4069010379404; 4068011483450; 4070017489053	New Mexico	Lincoln
NM-LN-1003.10-ANW	Zone 5S	4071014233274; 4071015232248; 4070014264265; 4070015264266; 4071015232248; 4070013265279;	New Mexico	Lincoln
NM-LN-5003.10-MCW	Zone 3S, 4S, 5S	4074008060492	New Mexico	Lincoln
NM-LN-5004.10-MCW	Zone 4S, 5S, 6S, 7S	4071013308158	New Mexico	Lincoln
NM-LN-5005.10-MCW	Zone 2S & 3S	407700446333	New Mexico	Lincoln
NM-LN-5006.10-MCW	Zone 3S, 4S, 5S	4081011269335; 4081012264269; 4082012068462; 4082013288266; 4083013283265; 4084013278267; 4081013307135; 4080012441263; 408001343813	New Mexico	Lincoln
NM-LN-1005.10-ANW	Zone 5S & 6S	4072019272461; 4072020266264;	New Mexico	Lincoln

NM-LN-1006.10-ANW	Zone 6S & 7S	4075029264263	New Mexico	Lincoln
NM-LN-1007.10-ANW	Zone 6S	4073022203269; 4072022264134; 4070021133265; 4070021397265; 4071021264267; 4072021221222	New Mexico	Lincoln
NM-LN-2003.10-CBM	Zone 2S & 3S	4080005299255; 4080004301434; 4079006392196; 4000230700001	New Mexico	Lincoln
NM-LN-5009.10-MCW	Zone 3S	407700929943	New Mexico	Lincoln
NM-LN-2005.10-CBM	Zone 2S & 3S	4076003267268, 4076004263266, 4076005264268, 4077003262268	New Mexico	Lincoln
NM-LN-2006.10-CBM	Zone 1S & 2S	4079001276275, 4078001469285, 4079002152171, 4078002478133	New Mexico	Lincoln
NM-LN-1009.10-ANW	Zone 6S	4074022132266; 4074021135269; 4073021266267; 4073022470266	New Mexico	Lincoln
NM-LN-2002.10-CBM	Zone 1S, 2S, 3S	4074007266267; 4074006067134; 4073008457132; 407300729025; 4073006267277	New Mexico	Lincoln
NM-LN-2007.10-CBM	Zone 3S & 4S	4073007064403	New Mexico	Lincoln
NM-LN-5013.10-MCW	Zone 4S & 6S	4088018240435; 4085011265271	New Mexico	Lincoln
NM-LN-5007.10-MCW	Zone 4S	4087013201346000000	New Mexico	Lincoln
NM-LN-1010.10-ANW	Zone 6S & 7S	4066026268264; 4066027336132; 4068024371224; 4068024350467; 4076019464394; 4078019132331; 4076020304346; 4077020267132; 4078020463265; 4078020132136; 4078020134334; 4076021266134; 4077021266134; 407802131022; 4078022398134; 4077022133267; 4077022333068;	New Mexico	Lincoln

NM-LN-5012.10-MCW	Zone 4S	4087010145242	New Mexico	Lincoln
NM-LN-7185.99.11	Zone 7S	Exempt	New Mexico	Lincoln
NM-LN-7177.99.11	Zone 6S	Exempt	New Mexico	Lincoln
NM-LN-118.10	Zone 2S	4081002410472	New Mexico	Lincoln
NM-LN-346.11	Zone 6S & 7S	4082022460329	New Mexico	Lincoln
NM-LN-435.11	Zone 7S	4096021066205	New Mexico	Lincoln
NM-LN-7224.99.11	Zone 6S	Exempt	New Mexico	Lincoln
NM-LN-5010.10-MCW	Zone 2S	4082006267118	New Mexico	Lincoln
NM-LN-251.99.10	Zone 2S	Exempt	New Mexico	Lincoln
NM-LN-7017.99.11	Zone 2S	Exempt	New Mexico	Lincoln
NM-LN-7133.99.10	Zone 3S	Exempt	New Mexico	Lincoln
NM-LN-7121.99.10	Zone 3S	Exempt	New Mexico	Lincoln
NM-LN-7180.99.10	Zone 6S & 7S	Exempt	New Mexico	Lincoln
NM-LN-7151.99.10	Zone 4S	Exempt	New Mexico	Lincoln
NM-LN-7132.99.10	Zone 3S	Exempt	New Mexico	Lincoln
NM-LN-7115.99.11	Zone 3S	Exempt	New Mexico	Lincoln

NM-LN-7168.99.10	Zone 4S & 6S	Exempt	New Mexico	Lincoln
NM-LN-7139.99.10	Zone 4S, 5S, 6S	Exempt	New Mexico	Lincoln
NM-LN-7122.99.10	Zone 3S	Exempt	New Mexico	Lincoln
NM-LN-7272.99.11	Zone 2S	Exempt	New Mexico	Lincoln
NM-TO-7015.99.11-CM	Zone 1S	Exempt	New Mexico	Torrance
NM-TO-7095.10-CM	Zone 1S	1076006225302	New Mexico	Torrance
NM-TO-7005.10-VIE	Zone 1S	1072006083265	New Mexico	Torrance
NM-TO-7000.10-VIE	Zone 1S	1076007398266	New Mexico	Torrance
NM-TO-7089-CM	Zone 1S	1077005332465; 1078011285432; 1076004397111; 1078008510317; 1079013284265	New Mexico	Torrance
NM-TO-2104.10-CBM	Zone 1S	1080003483191	New Mexico	Torrance
NM-TO-7002.10-VIE	Zone 1S	1075011409464; 1076008065504; 1075007333134; 1073007101008; 1075007266398	New Mexico	Torrance
NM-TO-2100.10-CBM	Zone 1S, 2S, 3S	107700116928	New Mexico	Torrance
NM-TO-7006.10-VIE	Zone 1S	1070005287143; 1073005436132; 1070005452257	New Mexico	Torrance
NM-TO-2103.10-CBM	Zone 1S	1080002263397; 1079004422217; 1079002266065	New Mexico	Torrance
NM-TO-7194.99.11	Zone 1S	Exempt	New Mexico	Torrance

NM-TO-7103.99.10	Zone 1S	Exempt	New Mexico	Torrance
NM-TO-7091.99.10	Zone 1S	Exempt	New Mexico	Torrance
NM-TO-7274.99.11	Zone 2S	Exempt	New Mexico	Torrance
NM-TO-7003.10-VIE	Zone 1S	1069013400269, 1071008084509,1071009528397, 1072011241059	New Mexico	Torrance
NM-TO-016	Zone 2N	1076053440421	New Mexico	Torrance
NM-TO-015.10	Zone 1N	1078048463343,1077049399401,1078047016041,1078049262262,1079047231 17,1076049402468,1079048053209,	New Mexico	Torrance
NM-TO-7056.99.11	Zone 1N	Exempt	New Mexico	Torrance
NM-TO-7058.99.11	Zone 1N	Exempt	New Mexico	Torrance
NM-TO-004.11	Zone 1N, 2N, 3N	1077051188316; 1080049466431	New Mexico	Torrance
NM-TO-7227.99.11	Zone 1N, 2N, 3N	Exempt	New Mexico	Torrance
NM-TO-7228.99.11	Zone 1N, 2N, 3N	Exempt	New Mexico	Torrance
NM-TO-7046.99	Zone 3N	Exempt	New Mexico	Torrance
NM-TO-7056.10-ELC	Zone 3N	1069037056396	New Mexico	Torrance
NM-TO-7250.99	Zone 3N	Exempt	New Mexico	Torrance
NM-TO-237.99.11	Zone 1N	Exempt	New Mexico	Torrance
NM-TO-7049-	Zone 3N	1065045280017	New Mexico	Torrance

ELC				
NM-TO-7281.99	Zone 3N	Exempt	New Mexico	Torrance
NM-TO-7283.10-ELC	Zone 3N	1074039067336, 1073039266334, 1075041177474, 1070042402255,1070042402255,1068035313138, 1070042135253, 1072040160272	New Mexico	Torrance
NM-TO-7282.10-ELC	Zone 3N	1062042265263;1068042334272; 1063039316369; 1066039265265; 106203704328;1066037470266; 1065040405448; 1068041412315; 1068041067266; 1063036017264	New Mexico	Torrance
NM-TO-7298.10-PAW	Zone 1N	1083050311338	New Mexico	Torrance

From: rims-noreply@caiso.com <rims-noreply@caiso.com>
Sent: Monday, May 18, 2026 7:51 PM
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Cc: nri@gridsme.com <nri@gridsme.com>; Deral Danis <deral.danis@patternenergy.com>; Leo Peirick <Leo.Peirick@patternenergy.com>; George E. Brown <george.brown@patternenergy.com>; Christina Gallegos <CGallegos@gridsme.com>; nri@caiso.com <nri@caiso.com>
Subject: [EXTERNAL] Notification of Commercial Operation (COD)- SunZia Wind North SZWDN_3_SZWX6

This Message Is From an External Sender
This message came from outside of Pattern. Be careful with links and attachments.

All,

The CAISO has received a request for SunZia Wind North stating that the resource has completed start-up testing and is available for commercial operations beginning, 05/19/2026. This resource of 1089.00 MW Wind is located in Torrance County, 25191 US Hwy 285 Clines Corners NM 87070.

NRI has received internal approval for the COD and have notified all relevant parties for:

Resource ID: SZWDN_3_SZWX6
POD: Pete Heinrich 345kV
SCID:
COD MW: 1089.00

Thank you for your efforts throughout the implementation process and for participating in the CAISO markets please let us know if there are any questions. If you have any feedback on the NRI process, please consider filling out our survey here: https://www.surveymonkey.com/r/PostCOD

Thank you,
New Resource Implementation

****
The foregoing electronic message, together with any attachments thereto, is confidential and may be legally privileged against disclosure other than to the intended recipient. It is intended solely for the addressee(s) and access to the message by anyone else is unauthorized. If you are not the intended recipient of this electronic message, you are hereby notified that any dissemination, distribution, or any action taken or omitted to be taken in reliance on it is strictly prohibited and may be unlawful. If you have received this electronic message in error, please delete and immediately notify the sender of this error.
****

CONFIDENTIAL

SUNZIA (NORTH) PPA
RENEWABLE ENERGY
EXECUTION VERSION

RENEWABLE POWER PURCHASE AGREEMENT (SUNZIA NORTH)

COVER SHEET

Seller: SunZia Wind North LLC, a Delaware limited liability company

Buyer: Clean Power Alliance of Southern California, a California joint powers authority

Description of Facility: The wind-powered electricity generating facility known as SunZia Wind North, with a nameplate capacity of up to 1,089 MW located in San Miguel County, New Mexico, as described in Exhibit A, as such facility may be modified under the terms of this Agreement

Milestones:

Milestone	Expected Date for Completion
Executed Interconnection Agreement	Completed
Bureau of Land Management Record of Decision for SunZia Transmission Line	Completed
Site Control	Completed
Financial Close	Completed
Construction Start Date	Completed
Expected Initial Synchronization	2/28/2026
Expected Commercial Operation Date	4/30/2026
Expected Date of CAISO Commercial Operation	4/30/2026
Guaranteed Commercial Operation Date	10/31/2026

Delivery Term: Fifteen (15) Contract Years

Delivery Term Expected Energy: 119,173 MWh per Contract Year, commencing on the Initial Energy Delivery Date, as such amount may be adjusted by Seller in accordance with the definition of "Expected Energy" below

Guaranteed Capacity: 37.3 MW of total Facility capacity

Contract Rate:

Contract Year	Contract Rate ($/MWh)
1 – 15	Prior to the Initial Energy Delivery Date:$[redacted]/kW-mo (flat) with no escalation From and after the Initial Energy Delivery Date: $[redacted]/MWh (flat) with no escalation

Product

☒ Facility Energy (from and after the Initial Energy Delivery Date)
☒ Green Attributes (from and after the Initial Energy Delivery Date):
  ☒ Portfolio Content Category 1
  ☐ Portfolio Content Category 2
  ☐ Portfolio Content Category 3
☒ Capacity Attributes (from and after the RA Guarantee Date)

Scheduling Coordinator: Seller

Security Amounts:

Development Security: $[redacted]/kW of Guaranteed Capacity

Performance Security: $[redacted]/kW of Guaranteed Capacity

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RENEWABLE POWER PURCHASE AGREEMENT (SUNZIA NORTH)

This Renewable Power Purchase Agreement (SunZia North) ("**Agreement**") is entered into as of _____ (the "**Effective Date**"), between Buyer and Seller. Buyer and Seller are sometimes referred to herein individually as a "**Party**" and jointly as the "**Parties**". All capitalized terms used in this Agreement are used with the meanings ascribed to them in Article 1 to this Agreement.

RECITALS

WHEREAS, Seller intends to develop, design, construct, own, and operate the Facility known as SunZia Wind North, with a nameplate capacity of up to 1,089 MW, located in San Miguel County, New Mexico;

WHEREAS, Seller desires to sell, and Buyer desires to purchase, on the terms and conditions set forth in this Agreement, the Product;

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, and for other good and valuable consideration, the sufficiency and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1
DEFINITIONS

Contract Definitions. The following terms, when used herein with initial capitalization, shall have the meanings set forth below:

"**AC**" means alternating current.

"**Accepted Compliance Costs**" has the meaning set forth in Section 3.12(c).

"**Adjusted Energy Production**" has the meaning set forth in Exhibit G.

"**Affiliate**" means, with respect to any Person, each Person that directly or indirectly controls, is controlled by, or is under common control with such designated Person. For purposes of this definition and the definition of "Permitted Transferee", "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean (a) the direct or indirect right to cast at least fifty percent (50%) of the votes exercisable at an annual general meeting (or its equivalent) of such Person or, if there are no such rights, ownership of at least fifty percent (50%) of the equity or other ownership interest in such Person, or (b) the right to direct the policies or operations of such Person.

"**Agreement**" has the meaning set forth in the Preamble and includes the Cover Sheet and any Exhibits, schedules and any written supplements hereto.

"**Alternate Facility**" means that certain wind generating facility described in Exhibit A.

"**Alternative Delivery Point**" means a Scheduling Point other than the Delivery Point that is agreed upon by Buyer and Seller.

"**Approved Forecast Vendor**" means (a) [redacted] or (b) any other reputable third-party vendor that is registered to do business in California, experienced in providing and verifying wind energy generation forecasts, and not an Affiliate of Seller.

"**Assignment Agreement**" has the meaning set forth in Section 14.5(a).

"**Available Capacity**" means Buyer's Share of the Installed Capacity, expressed in whole MW, that is available to generate Energy.

"**Balancing Authority**" has the meaning set forth in the CAISO Tariff.

"**Balancing Authority Area**" has the meaning set forth in the CAISO Tariff.

"**Bankrupt**" or "**Bankruptcy**" means with respect to any entity, such entity that (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, (b) has any such petition filed or commenced against it which remains unstayed or undismissed for a period of ninety (90) days, (c) makes an assignment or any general arrangement for the benefit of creditors, (d) otherwise becomes bankrupt or insolvent (however evidenced), (e) 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 (f) is generally unable to pay its debts as they fall due.

"**Business Day**" means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday in California. A Business Day begins at 8:00 a.m. and ends 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 on the Cover Sheet.

"**Buyer Assignee**" has the meaning set forth in Section 14.5(a).

"**Buyer Default**" means an Event of Default of Buyer.

"**Buyer's Indemnified Parties**" has the meaning set forth in Section 18.2.

"**Buyer's Share**" means the percentage equal to the result of dividing the Guaranteed Capacity by the Installed Capacity, as such percentage may change from time to time with changes to the Installed Capacity; *provided*, in no event shall the Buyer's Share exceed 100% (whether before or after establishment of the final Installed Capacity).

"**Buyer's WREGIS Account**" has the meaning set forth in Section 4.8(a).

"**CAISO**" means the California Independent System Operator Corporation or any successor entity performing similar functions.

"**CAISO Certification**" means the certification and testing requirements for a generating unit set forth in the CAISO Tariff that are applicable to the Facility, including certification and testing for PMAX and PMIN (as each term is defined in the CAISO Tariff) associated with such generating units, that are applicable to the Facility.

"**CAISO Commercial Operation**" means that the CAISO has provided notification that the Energy generation from a portion of the Facility that is no smaller than the Guaranteed Installed Capacity may be scheduled into the CAISO markets on an unconditional basis in accordance with the CAISO Tariff and Business Practice Manual(s) as applicable, including the New Resource Implementation process.

"**CAISO Grid**" has the same meaning as "CAISO Controlled Grid" as defined in the CAISO Tariff.

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

"**California Renewables Portfolio Standard**" or "**RPS**" means the renewable energy program and policies established by California State Senate Bills 1038 (2002), 1078 (2002), 107 (2008), X-1 2 (2011), 350 (2015), and 100 (2018) as codified in, *inter alia*, California Public Utilities Code Sections 399.11 through 399.31 and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time.

"**Capacity Attribute**" means Buyer's Share of any current or future defined characteristic, certificate, tag, credit, or accounting construct associated with the amount of power that the Facility can generate and deliver to the Delivery Point at a particular moment and that can be purchased, sold or conveyed under CAISO or CPUC market rules, including Resource Adequacy Benefits.

"**CEC**" means the California Energy Commission or its successor agency.

"**CEC Certification and Verification**" means that the CEC has certified that the Facility is an Eligible Renewable Energy Resource for purposes of the California Renewables Portfolio Standard and that all Facility Energy qualifies as generation from an Eligible Renewable Energy Resource.

"**Change of Control**" means any circumstance in which Ultimate Parent ceases to own, directly or indirectly through one or more intermediate entities, at least fifty percent (50%) of the outstanding equity interests in Seller; *provided*, in calculating ownership percentages for all purposes of the foregoing:

(a) any ownership interest in Seller held by Ultimate Parent indirectly through one or more intermediate entities shall not be counted towards Ultimate Parent's ownership interest in Seller unless Ultimate Parent directly or indirectly owns at least fifty percent (50%) of the outstanding equity interests in each such intermediate entity; and

(b) ownership interests in Seller owned directly or indirectly by any Lender (including any tax equity provider) shall be excluded from the total outstanding equity interests in Seller.

"**CIRA Tool**" means the CAISO Customer Interface for Resource Adequacy, or any successor mechanism.

"**COD Certificate**" has the meaning set forth in Exhibit B.

"**COD Delay Damages Payment**" has the meaning set forth in Exhibit B.

"**Commercial Operation**" has the meaning set forth in Exhibit B.

"**Commercial Operation Date**" means the date Commercial Operation is achieved.

"**Commercial Operation Delay Damages**" means an amount equal to (a) the Development Security amount required hereunder, *divided by* (b) [redacted]

"**Compliance Actions**" has the meaning set forth in Section 3.12(a).

"**Compliance Expenditure Cap**" has the meaning set forth in Section 3.12.

"**Confidential Information**" has the meaning set forth in Section 18.1.

"**Contract Rate**" has the meaning set forth on the Cover Sheet.

"**Contract Revenues**" has the meaning set forth in Section 4.4(b).

"**Contract Term**" has the meaning set forth in Section 2.1(a).

"**Contract Year**" means a period of twelve (12) consecutive months. The first Contract Year shall commence on the Commercial Operation Date and each subsequent Contract Year shall commence on the anniversary of the Commercial Operation Date.

"**Costs**" means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third-party transaction costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace the Agreement; and all reasonable attorneys' fees and expenses incurred by the Non-Defaulting Party in connection with terminating the Agreement.

"**Cover Sheet**" means the cover sheet to this Agreement, which is incorporated into this Agreement.

"**COVID-19**" means the pandemic disease designated COVID-19 and the related virus designated SARS-CoV-2 and any mutations thereof, and the efforts of a Governmental Authority to combat such disease.

"**CPM Adjustment Factor**" means, for any RA Shortfall Month, the percentage for the corresponding calendar month set forth in Exhibit P.

"**CPM Price**" has the meaning set forth in Section 3.8(b).

"**CPM Soft Offer Cap**" has the meaning set forth in the CAISO Tariff.

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

"**Credit Rating**" means, with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt obligations (not supported by third party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuer rating by S&P or Moody's. If ratings by S&P and Moody's are not equivalent, the lower rating shall apply.

"**Cure Plan**" has the meaning set forth in Section 11.1(b)(iii).

"**Curtailment Order**" means any of the following:

(a) CAISO orders, directs, alerts, or provides notice to a Party, including an Operating Instruction (as defined in the CAISO Tariff), to curtail deliveries of Facility Energy for the following reasons: (i) any System Emergency, (ii) any warning of an anticipated System Emergency, or warning of an imminent condition or situation, which jeopardizes CAISO's electric system integrity or the integrity of other systems to which CAISO is connected, or (iii) in response to an Energy oversupply or potential Energy oversupply, and Seller or the SC for the Facility submitted a Self-Schedule for the MWhs curtailed during the relevant time period;

(b) a curtailment ordered by a 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, including a System Emergency, or (ii) any warning, forecast or anticipation of conditions or situations that jeopardize a Transmission Provider's electric system integrity or the integrity of other systems to which a Transmission Provider is connected, including a System Emergency;

(c) a curtailment ordered by CAISO or a Transmission Provider due to a Transmission System Outage; or

(d) a curtailment in accordance with Seller's obligations under its Interconnection Agreement with the PTO.

"**Curtailment Period**" means the period of time, as measured using current Settlement Intervals, during which Seller reduces generation or deliveries of Facility Energy from the Facility pursuant to a Curtailment Order; *provided*, the Curtailment Period shall be inclusive of the time required for the Facility to ramp down and ramp up.

"**Damage Payment**" means the amount to be paid by the Defaulting Party to the Non-Defaulting Party after a Terminated Transaction occurring prior to the Commercial Operation Date, in a dollar amount as set forth in Section 11.3(a).

"**Day-Ahead Forecast**" means the amount of Energy expected to be generated by the Facility and delivered to Buyer at the Delivery Point, net of all Electrical Losses and subject to the Hourly Delivery Cap, for each hour of the immediately succeeding day in accordance with Seller's obligations under this Agreement, based on a forecast from the Approved Forecast Vendor using a forecasting methodology to determine the potential generation of the Facility as a function of Available Capacity, wind speed and direction, wind turbine power curves and other pertinent data (including data related to Curtailment Orders), for the period of time, consistent with Prudent Operating Practice; *provided*, a Day-Ahead Forecast provided in a day prior to any non-Business Day(s) shall include non-binding forecasts for the immediately succeeding day, each succeeding non-Business Day and the next Business Day.

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

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

"**Deemed Delivered Energy**" means the difference of (i) the Market Curtailment Max Energy, *minus* (ii) the amount of Facility Energy delivered to the Delivery Point during the Market Curtailment Period; *provided*, if the applicable difference is negative, the Deemed Delivered Energy shall be zero (0) MWh.

"**Deemed Delivered RA**" means, for any month, the amount of Resource Adequacy Benefits expressed in kW that Seller would have delivered to Buyer, but for Buyer's actions or inactions (including, until such time as the Facility receives a Deliverability Allocation from the CAISO, failure to obtain Import Capability sufficient to allow for the importation of such capacity into the CAISO). As of the Effective Date, the Parties agree that the Deemed Delivered RA shall be determined by calculating the quotient of (i) the sum of the following: for each hour of the twenty-four hour array applicable to such Showing Month, the amount of Resource Adequacy Benefits (in MW) that Seller would have delivered to Buyer, but for Buyer's actions or inactions (including, until such time as the Facility receives a Deliverability Allocation from the CAISO, failure to obtain Import Capability sufficient to allow for the importation of such capacity into the CAISO, unless Buyer is prohibited by the CAISO Tariff from using Import Capability with respect to the Resource Adequacy Benefits and such prohibition is not due to the fault or negligence of Buyer and Buyer has used commercially reasonable efforts to avoid or mitigate such prohibition), *divided by* (ii) twenty four (24). If (i) Seller submits a Supply Plan to the CAISO in accordance with the requirements of this Agreement by the applicable Showing Deadline and is otherwise in compliance with Section 3.7, but (ii) the CIRA Tool shows that Seller's Supply Plan has not been accepted by the CAISO through no fault of Seller, and (iii) Seller uses commercially reasonable efforts to resolve any failure by the CAISO to approve such Supply Plan, then the Resource Adequacy Benefits included in such Supply Plan shall be considered Deemed Delivered RA; *provided*, if Buyer's inability to utilize any Resource Adequacy Benefits is the result of the CAISO Tariff disallowing Buyer from using Import Capability to obtain some or all of the Capacity Attributes from the Facility and such prohibition is not due to the fault or negligence of Buyer and Buyer has used commercially reasonable efforts to avoid or mitigate such prohibition, it shall not be considered Deemed Delivered RA.

"**Defaulting Party**" has the meaning set forth in Section 11.1(a).

"**Deficient Month**" has the meaning set forth in Section 4.8(e).

"**Deliverability Allocation**" means an allocation of Deliverability (as defined in the CAISO Tariff) to the Facility such that Buyer may receive all of the Resource Adequacy Benefits at the Delivery Point throughout the Delivery Term without any need to obtain an allocation of Maximum Import Capability or other import rights.

"**Delivery Point**" has the meaning set forth in Exhibit A.

"**Delivery Term**" shall mean the period of Contract Years set forth on the Cover Sheet beginning on the Commercial Operation Date, unless terminated earlier in accordance with the terms and conditions of this Agreement.

"**Development Cure Period**" has the meaning set forth in Exhibit B.

"**Development Security**" means, at Seller's option, (a) cash or (b) one or more Letters of Credit, in aggregate in the amount specified for the Development Security on the Cover Sheet.

"**Disclosing Party**" has the meaning set forth in Section18.2.

"**E-Tag**" has the meaning set forth in the CAISO Tariff.

"**Early Termination Date**" has the meaning set forth in Section 11.2(a).

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

"**Electrical Losses**" means all transmission or transformation losses between the Facility's Point of Interconnection to the PTO's Transmission System and the Delivery Point, expressed in MWh; *provided*, Electrical Losses shall not include losses that are replaced with Energy provided by one or more Transmission Providers and paid for by Seller (at Seller's sole expense) and that, when delivered to Buyer hereunder, meet the requirements for Product delivered hereunder, including PCC1 status.

"**Eligible Renewable Energy Resource**" has the meaning set forth in California Public Utilities Code Section 399.12(e) and California Public Resources Code Section 25741(a), as either code provision is amended or supplemented from time to time.

"**Energy**" means electrical energy, measured in kilowatt-hours, megawatt-hours, or multiple units thereof.

"**Energy Replacement Damages**" has the meaning set forth in Section 4.7(a).

"**EPC Contract**" means Seller's engineering, procurement and construction contract(s) for the Facility.

"**Event of Default**" has the meaning set forth in Section 11.1.

"**Exceedance Profile RA Amount**" means, as of the Effective Date, for a given Showing Month, the quotient of (i) the sum of the following: for each hour of the twenty-four hour array applicable to such Showing Month, the maximum amount of Resource Adequacy Benefits (in MW) that Buyer is able to receive in the relevant RA Compliance Template, based on the shape factor set forth for the applicable hour of the applicable Showing Month under tab "Resource Default Profiles" for New Mexico Wind, Cells E338-E625, on the CPUC website at https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/resource-adequacy-compliance-materials/guides-and-resources/rashowingtemplate_rev35.xlsm (as such may be updated or replaced by the CPUC from time to time) and assuming that Buyer's RA Plan in respect of the Facility matches the Supply Plan submitted by Seller for the Facility (provided Seller's Supply Plan does not reflect an amount in excess of the Guaranteed RA Amount), *divided by* (ii) twenty four (24).

"**Excess MWh**" has the meaning set forth in Exhibit C.

"**Excused Capacity Reduction**" means a reduction to the Capacity Attributes available from the Facility due to (a) System Emergency [redacted], (b) Curtailment Order [redacted] (c) Force Majeure Event, (d) Major Planned Outage, (e) Qualified Forced Facility Outage, or (f) Planned Outage; *provided*:

(x) [redacted];

(y) [redacted]

[redacted]

(z) [redacted] an Excused Capacity Reduction (as described below). In the case of a Qualified Forced Facility Outage that occurs and as to which Notice was provided to Buyer thirty (30) days or more before the RA Plan Showing Deadline for the applicable Showing Month, Seller may elect to treat such Qualified Forced Facility Outage as a Planned Outage or Major Planned Outage for purposes of determining the treatment of such Qualified Forced Facility Outage as an Excused Capacity Reduction by including such election in its original Notice to Buyer of such Qualified Forced Facility Outage, and may change such election via a subsequent Notice to Buyer on or before the date that is thirty (30) days prior to an applicable Showing Deadline and no more often than once per Showing Month.

"**Expected Commercial Operation Date**" has the meaning set forth on the Cover Sheet.

"**Expected Energy**" means the quantity of Facility Energy (with associated Green Attributes) that Seller expects to be able to deliver to Buyer from the Facility during each Contract Year, from and after the Initial Energy Delivery Date, which for each Contract Year is the quantity specified on the Cover Sheet and which shall be adjusted on a pro rata basis as appropriate for the Contract Year during which the Initial Energy Delivery Date occurs based on the number of days in such Contract Year; *provided*, (i) such amount shall be increased or decreased by Seller in a Notice to Buyer within sixty (60) days following the delivery by Seller of the final Installed Capacity Certificate in the form attached hereto as Exhibit I, and (ii) the amount of Expected Energy stated in such notice shall equal Buyer's Share of the P50 amount set forth in the most wind resource assessment from a Licensed Professional Engineer (adjusted as necessary to reflect the Hourly Delivery Cap), but in no event shall the adjusted annual Expected Energy amount be more than [redacted] higher or lower than the annual Expected Energy amount as set forth on the Cover Sheet; *provided further*, Seller shall use commercially reasonable efforts to notify Buyer of any change in the anticipated Expected Energy from the quantity specified on the Cover Sheet prior to the Commercial Operation Date.

"**Expected Installed Capacity**" the amount of Seller's anticipated Installed Capacity, which as of the Effective Date equals 1,089 MW, and which may be reduced upon Notice to Buyer from time to time.

"**Facility**" means the wind-powered electricity generating facility described on the Cover Sheet and in Exhibit A, installed at the Site pursuant to the terms of the EPC Contracts, and including mechanical equipment and associated facilities and equipment required to deliver Facility Energy to the Delivery Point; *provided*, the "Facility" does not include any Shared Facilities.

"**Facility Energy**" means, in any Settlement Interval or Settlement Period, as applicable, the amount of Energy generated by the Facility and delivered to Buyer at the Delivery Point in accordance with Seller's obligations under this Agreement, which such amount shall equal: (i) (a) Buyer's Share of the Energy produced by the Facility and delivered to the Point of Interconnection, as measured in MWh by the Facility Meter, as such amount may be reduced as a result of a Curtailment Order, net of all Electrical Losses (without duplication of losses programmed into the Facility Meter, if any) and Station Use, or (b) if the Facility output is reduced, at Seller's direction (and not, for example, as a result of a Forced Facility Outage) in any Settlement Interval or Settlement Period, as applicable, that is not during a Curtailment Period or Market Curtailment Period, then Facility Energy for such Settlement Interval or Settlement Period, as applicable, will instead be equal to Buyer's Share of the Energy that the Facility would have been able to produce and deliver to the Point of Interconnection, if the Facility output was not so reduced, or (c) if the Facility output is reduced, at Seller's direction in any Settlement Interval or Settlement Period, as applicable, during a Market Curtailment Period, then Facility Energy for such Settlement Interval or Settlement Period, as applicable, will instead be equal to the Market Curtailment Max Energy, *minus* any of such Market Curtailment Max Energy that is actually curtailed in connection with such Market Curtailment Period, which amount of curtailed Energy shall be calculated by Seller in a manner consistent with Prudent Industry Practices and, upon request from Buyer, demonstrated to Buyer's reasonable satisfaction; and, in each case of (a), (b) and (c), subject to the Hourly Delivery Cap *multiplied by* the duration of the Settlement Interval or Settlement Period, as applicable, (as measured in hours); *plus* (ii) all Replacement Energy delivered as part of prospectively delivered Replacement Product pursuant to Section 4.7(b).

"**Facility Meter**" means one or more CAISO-approved revenue quality meters located inside the Facility's Point of Interconnection switching station, together with a CAISO-approved data processing gateway or remote intelligence gateway, telemetering equipment and data acquisition services sufficient for monitoring, recording and reporting, in real time, all Energy produced by the Facility net of Electrical Losses and Station Use.

"**FERC**" means the Federal Energy Regulatory Commission or any successor government agency.

"**Fifteen Minute Market**" or "**FMM**" has the meaning set forth in the CAISO Tariff.

"**Financial Close**" means Seller and/or one or more of its Affiliates has obtained debt and/or equity financing commitments from one or more Lenders sufficient to construct the Facility, including such financing commitments from Seller's owner(s).

"**Fitch**" means Fitch Ratings, Inc., or its successor.

"**Floor Price**" means (a) for the period during which Seller is eligible to obtain PTCs and for that portion of the Facility Energy or Deemed Delivered Energy, as the case may be, to which PTC eligibility applies, the amount, on a dollar per MWh basis, equal to the Negative PTC Amount, or (b) for all other periods and portions of Facility Energy or Deemed Delivered Energy, zero dollars per MWh ($0/MWh), subject to clause (b)(ii) of Exhibit D. The Floor Price will be a single value. Subject to clause (b)(ii) of Exhibit D, the Floor Price shall be calculated as the average of the amounts determined pursuant to clauses (a) and (b) of this definition of "Floor Price", such average to be weighted based on the percentages of the Installed Capacity to which such amounts apply.

"**Force Majeure Event**" has the meaning set forth in Section 10.1.

"**Forced Facility Outage**" means (i) an unexpected failure of one or more components of the Facility (including subsequent outages to remediate such unexpected failure), or (ii) the unexpected removal from service of one or more components of the Facility, which removal from service is required to prevent or limit imminent harm to or loss of life or property, or prevent imminent loss of or damage to the Facility or the Transmission System, in each case that prevents Seller from generating Energy and/or making Energy from the Facility available at the Delivery Point, and that is not the result of a Force Majeure Event.

"**Forecasted Product**" has the meaning set forth in Section 4.3(b).

"**Future Environmental Attributes**" means any and all Green Attributes that become recognized under applicable Law after the Effective Date (and not before the Effective Date), notwithstanding the last sentence of the definition of "Green Attributes" herein. Future Environmental Attributes do not include Tax Credits associated with the construction or operation of the Facility, or other financial incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation.

"**Gains**" means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining the economic benefit to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., SP-15), all of which should be calculated for the remaining Contract Term, and includes the value of Green Attributes and Capacity Attributes.

"**Governmental Authority**" means any federal, state, provincial, local or municipal government, any political subdivision thereof or any other governmental, congressional or parliamentary, regulatory, or judicial instrumentality, authority, body, agency, department, bureau, or entity with authority to bind a Party at law, including CAISO, WREGIS, and the CPUC; *provided*, "Governmental Authority" shall not in any event include any Party.

"**Green Attributes**" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled (including under the RPS regulations and/or under any and all other international, federal, regional, state or other law, rule, regulation, bylaw, treaty or other intergovernmental compact, decision, administrative decision, program (including any voluntary compliance or membership program), competitive market or business method (including all credits, certificates, benefits, and emission measurements, reductions, offsets and allowances related thereto)), attributable to the generation from the Facility and its displacement of conventional energy generation. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (3) the reporting rights to such avoided emissions, such as Green Tag Reporting Rights. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Facility, (ii) Tax Credits associated with the construction or operation of the Facility and other financial incentives in the form of credits, reductions, or allowances associated therewith, or (iii) emission reduction credits encumbered or used by the Facility for compliance with local, state, or federal operating and/or air quality permits. Green Attributes under the preceding definition are limited to Green Attributes that exist under applicable Law as of the Effective Date.

"**Green Tag Reporting Rights**" means the right of a purchaser of renewable energy to report ownership of accumulated Green Tags in compliance with and to the extent permitted by applicable Law and include, without limitation, rights under Section 1605(b) of the Energy Policy Act of 1992, and any present or future federal, state or local certification program or emissions trading program, including pursuant to the WREGIS Operating Rules.

"**Green Tags**" means a unit accumulated on a MWh basis where one (1) represents the Green Attributes associated with one (1) MWh of Facility Energy.

"**Green-e Certified**" means the Green Attributes provided to Buyer pursuant to this Agreement are certified under the Green-e Energy National Standard.

"**Green-e Energy National Standard**" means the Green-e Renewable Energy Standard for Canada and the United States (formerly Green-e Energy National Standard) version 4.2, updated April 27, 2023, as may be further amended from time to time.

"**Guaranteed Capacity**" means the portion of the generating capacity of the Facility, as measured in MW, that Seller commits to install pursuant to this Agreement, as set forth on the Cover Sheet.

"**Guaranteed Commercial Operation Date**" has the meaning set forth on the Cover Sheet, subject to extension pursuant to Exhibit B.

"**Guaranteed Energy Production**" has the meaning set forth in Section 4.7(a).

"**Guaranteed Installed Capacity**" means, as of any date, the total installed generating nameplate capacity of the Facility, as measured in MW, with respect to which Seller has commenced and is obligated to continue deliveries of Energy (not including test energy) and associated Green Attributes and/or resource adequacy benefits produced by or associated with such generating nameplate capacity to purchasers under power purchase agreements or similar long-term offtake agreements with third parties; *provided* that (a) in determining whether each of CAISO Commercial Operation and Commercial Operation has occurred and (b) on and after the Commercial Operation Date, the Guaranteed Installed Capacity shall include the Guaranteed Capacity.

"**Guaranteed RA Amount**" means a guaranteed amount of Resource Adequacy Benefits for a given Showing Month, equal to the difference between (i) the maximum amount of Resource Adequacy Benefits (in MW) that could be provided by the Facility under then-current Law, and (ii) Excused Capacity Reductions.

For the purposes of the definition of "Guaranteed RA Amount", the amount described in clause (i) above shall not be deemed reduced based on the calculation or determination, by the CAISO or the CPUC, of the Resource Adequacy Benefits (in MW) available from the Facility resulting from any performance of the Facility or any actions or inactions of Seller impacting the performance of the Facility, including due to Planned Outages, Major Planned Outages or Forced Facility Outages, as reasonably demonstrated by documentation prepared by the CAISO or the CPUC (but not including any cause external to the Facility, for example, a lack of wind resource, any outage of the Transmission System, or a Curtailment Order not caused by Seller), regardless of whether such outages result in Excused Capacity Reductions).

Subject to the foregoing, as of the Effective Date, the Parties agree that the Guaranteed RA Amount shall be the quotient of (a) the sum of the following: for each hour of the twenty-four hour array applicable to such Showing Month, the product of (w) the PMAX (as defined in the CAISO Tariff) of the Facility *minus* the capacity of the Facility (in MW) that is not available for purposes of compliance with the Resource Adequacy Requirements as a result of Excused Capacity Reductions, *multiplied by* (y) Buyer's Share, *multiplied by* (z) [redacted] on the CPUC website at https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/resource-adequacy-compliance-materials/guides-and-resources/rashowingtemplate rev35.xlsm (as such may be updated or replaced by the CPUC from time to time), [redacted] An

illustrative-only example of the calculation of the Guaranteed RA Amount as of the Effective Date is set forth in Exhibit O.

"**Guarantor**" means any Person that (a) is an Affiliate of Seller, or other third party reasonably acceptable to Buyer, (b) has a Credit Rating of BBB- or better from S&P or a Credit Rating of Baa3 or better from Moody's, (c) is incorporated or organized in a jurisdiction of the United States and is in good standing in such jurisdiction, and (d) executes and delivers a Guaranty for the benefit of Buyer.

"**Guaranty**" means a guaranty from a Guarantor provided for the benefit of Buyer substantially in the form attached as Exhibit M, or as reasonably acceptable to Buyer.

"**Hourly Delivery Cap**" means the maximum delivery rate of Energy and associated Renewable Energy Credits and Green Tags delivered to the Delivery Point and sold to Buyer in any given hour under this Agreement, which amount shall be equal to Buyer's Share *multiplied by* 636 MW.

"**Imbalance Energy**" means the amount of Energy in MWh, in any given Settlement Period or Settlement Interval, by which the amount of Facility Energy deviates from the amount of Scheduled Energy.

"**Import Capability**" means that portion of the Maximum Import Capability allocated by the CAISO that is necessary to support the importation of Resource Adequacy Benefits from the Facility into the CAISO market in an amount equal to the Guaranteed RA Amount.

"**Indemnified Party**" has the meaning set forth in Section 16.1.

"**Indemnifying Party**" has the meaning set forth in Section 16.1.

"**Initial Energy Delivery Date**" means the first date upon which Seller delivers Facility Energy and associated Green Attributes to Buyer, which shall occur on January 1, 2029.

"**Initial Synchronization**" means the commencement of Trial Operations (as defined in the CAISO Tariff).

"**Installed Capacity**" means the nameplate capacity of the Facility at the Point of Interconnection, as evidenced by a certificate from a Licensed Professional Engineer substantially in the form attached as Exhibit I hereto, as it may be updated from time to time by delivery of a subsequent certificate from a Licensed Professional Engineer substantially in the form attached as Exhibit I hereto solely as permitted pursuant to Section 2(a) of Exhibit B.

"**Inter-SC Trade**" has the meaning set forth in the CAISO Tariff.

"**Interconnection Agreement**" means the interconnection agreement entered into by Seller or an Affiliate pursuant to which the Facility will be interconnected with the PTO's Transmission System, and pursuant to which Seller's Interconnection Facilities and any other Interconnection Facilities will be constructed, operated and maintained during the Contract Term.

"**Interconnection Facilities**" means the interconnection facilities, control and protective devices and metering facilities required to connect the Facility with the PTO's Transmission System in accordance with the Interconnection Agreement.

"**Interest Rate**" has the meaning set forth in Section 8.2.

"**Intertie**" has the meaning set forth in the CAISO Tariff.

"**IP Indemnity Claim**" has the meaning set forth in Section 16.1(b).

"**ITC**" means the investment tax credit established pursuant to Section 48 of the United States Internal Revenue Code of 1986.

"**Joint Powers Act**" means the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.).

"**Joint Powers Agreement**" means that certain Joint Powers Agreement dated June 27, 2017, as amended from time to time, under which Buyer is organized as a Joint Powers Authority in accordance with the Joint Powers Act.

"**kW**" means kilowatts in alternating current, unless expressly stated in terms of direct current.

"**kWh**" means a kilowatt-hour measured in alternating current, unless expressly stated in terms of direct current.

"**Law**" means any applicable law, statute, rule, regulation, decision, writ, order, decree or judgment, permit or any interpretation thereof, promulgated or issued by a Governmental Authority.

"**Lender**" means, collectively, any Person (a) providing senior or subordinated construction, interim, back leverage or long-term debt, equity or tax equity financing or refinancing for or in connection with the development, construction, purchase, installation or operation of the Facility, whether that financing or refinancing takes the form of private debt (including back-leverage debt), equity (including tax equity), public debt or any other form (including financing or refinancing provided to a member or other direct or indirect owner of Seller), including any equity or tax equity investor directly or indirectly providing financing or refinancing for the Facility or purchasing equity ownership interests of Seller and/or its Affiliates, and any trustee or agent or similar representative acting on their behalf, (b) providing interest rate or commodity protection under an agreement hedging or otherwise mitigating the cost of any of the foregoing obligations and/or (c) participating in a lease financing (including a sale leaseback or leveraged leasing structure) with respect to the Facility.

"**Letter(s) of Credit**" means one or more irrevocable, standby letters of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a Credit Rating of at least A- with an outlook designation of "stable" from S&P or A3 with an outlook designation of "stable" from Moody's, or from an issuer otherwise acceptable to Buyer in its sole discretion,

in a form substantially similar to the letter of credit set forth in Exhibit K, or as reasonably acceptable to Buyer.

"**Licensed Professional Engineer**" means either (i) [redacted], (ii) [redacted], (iii) the independent engineer retained by the Lenders, or on their behalf under customary terms and conditions, in connection with a financing of the Facility, which engineer, or employee or principal thereof (a) is licensed to practice engineering in New Mexico, (b) has training and experience in the power industry specific to the technology of the Facility, (c) is not a representative of a consultant, engineer, contractor, designer or other individual involved in the development of the Facility or of a manufacturer or supplier of any equipment installed at the Facility other than as the independent engineer for the Lenders, and (d) is licensed in an appropriate engineering discipline for the required certification being made, or (iv) a person acceptable to Buyer in its reasonable judgment.

"**Locational Marginal Price**" or "**LMP**" has the meaning set forth in the CAISO Tariff.

"**Losses**" means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining economic loss to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., SP-15), all of which should be calculated for the remaining Contract Term and must include the value of Green Attributes, Capacity Attributes, and Renewable Energy Incentives.

"**Lost Output**" has the meaning set forth in Section 4.7(a).

"**Major Equipment Failure**" means a failure of (i) one of the Facility's [redacted] (the procurement of which involves a similarly long lead time), or (ii) no less than [redacted] of the Facility's [redacted] or (iii) no less than [redacted] of the Facility's [redacted]

"**Major Planned Outage**" means a Planned Outage which results in a reduction of more than [redacted] to the amount of Resource Adequacy Benefits provided to Buyer from the Facility in any Showing Month.

"**Market Curtailment Max Energy**" means Buyer's Share of the total Energy the Facility would have been able to deliver to the Point of Interconnection during a Market Curtailment Period, subject to the Hourly Delivery Cap, if the output of the Facility was not reduced at Seller's direction, which amount shall be equal to the Real-Time Forecast (of the hourly expected Facility Energy) provided pursuant to Section 4.3(d) for the period of time during such Market Curtailment Period.

"**Market Curtailment Period**" means the period of time during a Settlement Interval or Settlement Period, as applicable, in which the LMP in the Day-Ahead Market and the Real-Time Market at the Delivery Point are less than the Floor Price; *provided*, if applicable, the Market Curtailment Period shall be inclusive of the time required for the Facility to ramp down to implement such curtailment (if any) and ramp up following such curtailment (if any) in accordance with the Operating Restrictions.

"**Material Permits**" means all permits required for Seller to commence construction that have not been obtained as of the Effective Date, as set forth on Exhibit S.

"**Maximum Import Capability**" has the meaning set forth in the CAISO Tariff, and includes any replacement or successor method implemented by the CAISO with respect to the ability of generating units that are external to the CAISO Balancing Authority Area to provide Resource Adequacy Benefits.

"**Milestones**" means the significant development activities and dates associated therewith set forth on the Cover Sheet.

"**Monthly Forecast**" has the meaning set forth in Section 4.3(b).

"**Moody's**" means Moody's Investors Service, Inc., or its successor.

"**MW**" means megawatts in alternating current, unless expressly stated in terms of direct current.

"**MWh**" means megawatt-hour measured in alternating current, unless expressly stated in terms of direct current.

"**Negative LMP**" means, in any Settlement Period or Settlement Interval, the LMP at the Delivery Point in the applicable CAISO market that is less than zero dollars per MWh ($0/MWh).

"**Negative PTC Amount**" means the amount, on a dollar per MWh basis, equal to the PTC Amount that Seller is eligible to earn in respect of Energy from the Facility at the time of calculation, *multiplied by* negative one (-1).

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

"**Net Qualifying Capacity**" has the meaning set forth in the CAISO Tariff.

"**Network Upgrades**" has the meaning set forth in the CAISO Tariff.

"**Non-Defaulting Party**" has the meaning set forth in Section 11.2.

"**Non-Summer Month**" means any month that is not a Summer Month, commencing as of the month in which the RA Guarantee Date occurs and throughout the Delivery Term.

"**Notice**" shall, unless otherwise specified in the Agreement, mean written communications by a Party to be delivered by hand delivery, United States mail, overnight courier service, or electronic messaging (e-mail).

"**Operating Restrictions**" means the operational characteristics of the Facility set forth in Exhibit U.

"**Pacific Prevailing Time**" means the prevailing standard time or daylight savings time, as applicable, in the Pacific time zone.

"**Participating Transmission Owner**" or "**PTO**" means an entity that owns, operates and maintains the Transmission System or distribution lines and associated facilities and/or has entitlements to use certain transmission or distribution lines and associated facilities where the Facility is interconnected, as set forth in Exhibit A.

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

"**Performance Measurement Period**" means the prior 24-month period measured from the end of each Contract Year, commencing in the second full Contract Year following the Initial Energy Delivery Date; provided, the first Performance Measurement Period shall be extended to include any period between the Initial Energy Delivery Date and the first day of the first Contract Year of such Performance Measurement Period, and the amount of Expected Energy used in the calculation of the Guaranteed Energy Production for such extended first Performance Measurement Period shall be increased, pro-rata, based on the number of days in such Performance Measurement Period.

"**Performance Security**" means (i) cash, (ii) one or more Letters of Credit, and/or (iii) a Guaranty, in aggregate in the amount specified for the Performance Security on the Cover Sheet.

"**Permitted Transferee**" means (i) any Affiliate of Seller or (ii) any entity that satisfies, or is controlled by another Person that satisfies, the following requirements:

(a) A tangible net worth plus Unfunded Capital Commitments of not less than [redacted] or a Credit Rating of at least BBB- from S&P, BBB- from Fitch, or Baa3 from Moody's; and

(b) At least two (2) years of experience in the ownership and operations of utility-scale wind-powered electricity generation facilities, or has retained a third-party with such experience to operate the Facility.

"**Person**" means any individual, sole proprietorship, corporation, limited liability company, limited or general partnership, joint venture, association, joint-stock company, trust, incorporated organization, institution, public benefit corporation, unincorporated organization, government entity or other entity.

"**Planned Outage**" means a period during which the Facility is either in whole or in part not capable of providing service due to planned maintenance that has been scheduled in advance in accordance with Sections 4.6(a) and 4.6(c).

"**Point of Interconnection**" has the meaning set forth in Exhibit A.

"**Portfolio Content Category**" means PCC1, PCC2 or PCC3, as applicable.

"**Portfolio Content Category 1**" or "**PCC1**" means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(1), as may be amended from time to time or as further defined or supplemented by Law.

"**Portfolio Content Category 2**" or "**PCC2**" means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(2), as may be amended from time to time or as further defined or supplemented by Law.

"**Portfolio Content Category 3**" or "**PCC3**" means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(3), as may be amended from time to time or as further defined or supplemented by Law.

"**Portfolio Financing**" means any debt incurred by an Affiliate of Seller that is secured only by a portfolio.

"**Portfolio Financing Entity**" means any Affiliate of Seller that incurs debt in connection with any Portfolio Financing.

"**Prevailing Wage**" has the meaning set forth in Section 13.4.

"**Product**" has the meaning set forth on the Cover Sheet.

"**Production Tax Credits**" or "**PTCs**" means production tax credit under Section 45 of the Internal Revenue Code as in effect from time-to-time throughout the Contract Term or any successor or other provision providing for a federal tax credit determined by reference to production of renewable energy for which Seller, as the owner of the Facility, is eligible.

"**Progress Report**" means a progress report including the items set forth in Exhibit E.

"**Prudent Operating Practice**" means (a) the applicable practices, methods and acts required by or consistent with applicable Laws and reliability criteria, and otherwise engaged in or approved by a significant portion of the electric industry during the relevant time period with respect to grid-interconnected, utility-scale wind-powered electricity generating facilities in the Western United States, and (b) any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business

practices, reliability, safety and expedition. Prudent Operating Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to acceptable practices, methods or acts generally accepted in the industry with respect to grid-interconnected, utility-scale wind-powered electricity generating facilities in the Western United States. Prudent Operating Practice shall include compliance with applicable Laws, applicable safety and reliability criteria, and the applicable criteria, rules and standards promulgated in the National Electric Safety Code and the National Electrical Code, as they may be amended or superseded from time to time, including the criteria, rules and standards of any successor organizations.

"**PTC Amount**" means the amount, on a dollar per MWh basis, equal to the Production Tax Credits that Seller would have earned in respect of Energy from the Facility at the time, grossed up on an after-tax basis at the then-highest marginal combined federal and New Mexico state corporate tax rate [redacted] in the aggregate), but failed to earn as a result of Market Curtailment Period, which amount will be calculated by reference to the amount of Deemed Delivered Energy and the number of the Facility's wind turbines that are eligible to receive Production Tax Credits at the time of determination.

"**Qualified Forced Facility Outage**" means a Forced Facility Outage with respect to which a Licensed Professional Engineer has certified: (i) that the conditions for a Forced Facility Outage have been met (*provided*, in the event of a removal from service of a component of the Facility as set forth in clause (ii) of the definition of "Forced Facility Outage", such removal from service must occur no later than [redacted] following the discovery by Seller of the need for such removal), (ii) that such Forced Facility Outage was not caused by Seller's fault or negligence, including Seller's failure to follow Prudent Operating Practices, and (iii) the estimated duration of such Forced Facility Outage.

"**Qualified Forced Facility Outage Limit**" means [redacted]

"**RA Compliance Showing**" means the RAR compliance or advisory showings (or similar or successor showings) an entity is required to make to the CAISO pursuant to the CAISO Tariff, to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the Resource Adequacy Rulings, or to any Governmental Authority.

"**RA Compliance Template**" means, as of the Effective Date, the tab titled "LSE Showing Complete" on the CPUC website at https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/resource-adequacy-compliance-materials/guides-and-resources/rashowingtemplate_rev35.xlsm, as such document may be updated or replaced by the CPUC from time to time.

"**RA Deficiency Amount**" means the liquidated damages payment that Seller shall pay to Buyer for an applicable RA Shortfall Amount as calculated in accordance with Section 3.8(b).

"**RA Deficiency Cap**" shall mean, for each Showing Month, the corresponding dollar amount set forth below:

RA Deficiency Cap	
Showing Month	**$/kW-month**
Jan	[redacted]
Feb	[redacted]
Mar	[redacted]
Apr	[redacted]
May	[redacted]
Jun	[redacted]
Jul	[redacted]
Aug	[redacted]
Sep	[redacted]
Oct	[redacted]
Nov	[redacted]
Dec	[redacted]

"**RA Guarantee Date**" means the Commercial Operation Date; *provided*, if the Facility is not delivering Resource Adequacy Benefits to Buyer for the Showing Month in which the Commercial Operation Date occurs, the RA Guarantee Date shall be the earlier of (i) the first day of the Showing Month in which the Facility is delivering Resource Adequacy Benefits to Buyer, and (ii) the first day of the Showing Month following the date that is [redacted] after the Commercial Operation Date.

"**RA Plan**" means each of (a) Buyer's monthly or annual "Resource Adequacy Plan" (as defined in the CAISO Tariff) filed with the CAISO, and (b) Buyer's monthly or annual resource adequacy plans filed with the CPUC.

"**RA Shortfall Amount**" has the meaning set forth in Section 3.8(b).

"**RA Shortfall Month**" means, for purposes of calculating an RA Deficiency Amount under Section 3.8(b), any Showing Month during which the RA Shortfall Amount is greater than zero (0) kW.

"**RA Substitute Capacity**" has the meaning set forth in the CAISO Tariff. As of the Effective Date, the Parties agree that the amount of RA Substitute Capacity delivered by Seller for a given Showing Month shall be determined by calculating the quotient of (i) the sum of the following: for each hour of the twenty-four hour array applicable to such Showing Month, the amount of RA Substitute Capacity (in MW) that Seller provided in accordance with the CAISO Tariff, *divided by* (ii) twenty four (24).

"**Real-Time Forecast**" has the meaning set forth in Section 4.3(d).

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

"**Real-Time Price**" means the Resource-Specific Settlement Interval LMP as defined in the CAISO Tariff. If there is more than one applicable Real-Time Price for the same period of time, Real-Time Price shall mean the price associated with the smallest time interval.

"**REC Price**" means the prevailing market price (expressed in $/MWh) for RECs meeting the RPS requirements for Portfolio Content Category 1, determined by averaging quotes provided by Buyer from three (3) unaffiliated brokers.

"**Receiving Party**" has the meaning set forth in Section 18.2.

"**Recurring Certificate Transfers**" has the meaning set forth in the WREGIS Operating Rules.

"**Remedial Action Plan**" has the meaning set forth in Section 2.4.

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

"**Renewable Energy Incentives**" means: (a) all federal, state, or local Tax credits or other Tax benefits associated with the construction, ownership, or production of electricity from the Facility (including credits under Sections 38, 45, 46 and 48 of the Internal Revenue Code of 1986, as amended); (b) any federal, state, or local grants, subsidies or other like benefits relating in any way to the Facility, including a cash grant available under Section 1603 of Division B of the American Recovery and Reinvestment Act of 2009, in lieu of federal Tax credits or any similar or substitute payment available under subsequently enacted federal legislation; and (c) any other form of incentive relating in any way to the Facility that is not a Green Attribute, Future Environmental Attribute, or Capacity Attribute.

"**Replacement Energy**" has the meaning set forth in Exhibit G.

"**Replacement Green Attributes**" has the meaning set forth in Exhibit G.

"**Replacement Product**" has the meaning set forth in Exhibit G.

"**Replacement RA**" means resource adequacy benefits from the Facility or from one or more resources (individually or in the aggregate), in each case that are reasonably comparable to the Resource Adequacy Benefits (including, if applicable under then-current Law, having MW values for each hour of the twenty-four (24) hour Slice-of-Day framework that are the same as or greater than those then applicable to the Facility) delivered to the Delivery Point or to another point within the CAISO grid and provided by Seller to Buyer in accordance with Section 3.7(e); *provided*, notwithstanding anything else herein, unless and until there is a change, after the Effective Date, to the manner of determining the resource adequacy benefits available from any

wind facility located in New Mexico causing such resource adequacy benefits to be no longer comparable to the Resource Adequacy Benefits available from the Facility (including due to the performance of any particular wind facility), any resource adequacy benefits from any such wind facility which Seller provides to Buyer in accordance with Section 3.7(e) shall be deemed to satisfy the requirements of this definition of "Replacement RA". As of the Effective Date, the Parties agree that the amount of Replacement RA delivered by Seller for a given Showing Month shall be determined by calculating the quotient of (i) the sum of the following: for each hour of the twenty-four hour array applicable to such Showing Month, the resource adequacy benefits (in MW) that Buyer would receive, as set forth in the relevant RA Compliance Template, assuming that Buyer's RA Plan in respect of the Replacement RA matches the Supply Plan submitted by Seller in respect of the Replacement RA, *divided by* (ii) twenty four (24).

"**Requested Confidential Information**" has the meaning set forth in Section 18.2.

"**Resource Adequacy Benefits**" means the rights and privileges attached to Buyer's Share of the Capacity Attributes available from the Facility that satisfy any entity's resource adequacy obligations, as those obligations are set forth in any Resource Adequacy Rulings and shall include flexible capacity and any local, zonal or otherwise locational attributes associated with the Facility, if any.

"**Resource Adequacy Requirements**" or "**RAR**" means the resource adequacy requirements applicable to an entity as established by the CAISO pursuant to the CAISO Tariff, by the CPUC pursuant to the Resource Adequacy Rulings, or by any other Governmental Authority.

"**Resource Adequacy Rulings**" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-06-063, 16-06-045, 17-06-027, 18-06-030, 18-06-031, 19-02-022, 19-06-026, 19-10-021, 20-01-004, 20-03-016, 20-06-002, 20-06-028, 20-06-031, 20-12-006, 21-06-029, 21-07-014, 22-03-034, 22-06-050, 22-12-028, 22-08-039, 23-04-010, 24-06-004, and any other existing or subsequent ruling or decision, or any other resource adequacy laws, rules or regulations enacted, adopted or promulgated by any applicable Governmental Authority, however described, as such decisions, rulings, Laws, rules or regulations may be amended or modified from time-to-time throughout the Contract Term.

"**S&P**" means the Standard & Poor's Financial Services, LLC (a subsidiary of S&P Global Inc.) or its successor.

"**Schedule**" has the meaning set forth in the CAISO Tariff, and "**Scheduled**" and "**Scheduling**" have a corollary meaning.

"**Scheduled Energy**" means the Facility Energy scheduled by Seller that clears under the applicable CAISO market based on the final Day-Ahead Schedule, FMM Schedule (as defined in the CAISO Tariff), and/or any other financially binding Schedule, market instruction or dispatch for the Facility for a given period of time implemented in accordance with the CAISO Tariff.

"**Scheduling Coordinator**" or "**SC**" means an entity certified by the CAISO as qualifying as a Scheduling Coordinator pursuant to the CAISO Tariff for the purposes of undertaking the functions specified in "Responsibilities of a Scheduling Coordinator," of the CAISO Tariff, as amended from time to time.

"**Scheduling Point**" has the meaning set forth in the CAISO Tariff.

"**Second A&R Agreement**" has the meaning set forth in the Recitals hereto.

"**Security Interest**" has the meaning set forth in Section 8.9.

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

"**Seller**" has the meaning set forth on the Cover Sheet.

"**Seller's WREGIS Account**" has the meaning set forth in Section 4.8(a).

"**Settlement Amount**" means the Non-Defaulting Party's Costs and Losses, on the one hand, netted against its Gains, on the other. If the Non-Defaulting Party's Costs and Losses exceed its Gains, then the Settlement Amount shall be an amount owing to the Non-Defaulting Party. If the Non-Defaulting Party's Gains exceed its Costs and Losses, then the Settlement Amount shall be zero dollars ($0). The Settlement Amount does not include consequential, incidental, punitive, exemplary or indirect or business interruption damages.

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

"**Settlement Period**" has the meaning set forth in the CAISO Tariff.

"**Shared Facilities**" means the gen-tie lines, transformers, substations, or other equipment, permits, contract rights, and other assets and property (real or personal), in each case, as necessary to enable delivery of Energy from the Facility (which is excluded from Shared Facilities) to the Point of Interconnection, including the Interconnection Agreement itself, that are used in common with third parties.

"**Shared Facilities Agreements**" has the meaning set forth in Section 6.3.

"**Showing Deadline**" means, for any Showing Month, the deadline for submitting a Supply Plan or RA Plan, as applicable, applicable to that Showing Month, as established by the CAISO.

"**Showing Month**" shall be the calendar month of the Delivery Term, commencing with the Showing Month that contains the RA Guarantee Date, that is the subject of the RA Compliance Showing, as set forth in the Resource Adequacy Rulings and outlined in the CAISO Tariff. For illustrative purposes only, pursuant to the CAISO Tariff and Resource Adequacy Rulings in effect as of the Effective Date, the monthly RA Compliance Showing made in June is for the Showing Month of August.

"**Site**" means the real property on which the Facility is or will be located, as further described in Exhibit A,; *provided*, any such update to the Site that includes real property that was not originally contained within the Site boundaries described in Exhibit A shall be subject to Buyer's approval of such updates in its sole discretion.

"**Site Control**" means that Seller: (a) owns or has the option to purchase the Site; (b) is the lessee or has the option to lease the Site; or (c) is the holder of an easement or an option for an easement, right-of-way grant, or similar instrument with respect to the Site.

"**Slice-of-Day**" has the meaning set forth in the Resource Adequacy Rulings.

"**SOD Coefficient**" means the amount, for each Showing Month, set forth in the table below:

Month	SOD Coefficient
Jan	[redacted]
Feb	[redacted]
Mar	[redacted]
Apr	[redacted]
May	[redacted]
Jun	[redacted]
Jul	[redacted]
Aug	[redacted]
Sep	[redacted]
Oct	[redacted]
Nov	[redacted]
Dec	[redacted]

"**South Affiliate**" means SunZia Wind South LLC.

"**SP-15**" means the Existing Zone Generation Trading Hub for Existing Zone region SP15 as set forth in the CAISO Tariff.

"**Station Use**" means the Energy (including Energy produced by the Facility) that is used within the Facility to power the lights, motors, temperature control systems, control systems and other electrical loads that are necessary for operation of the Facility, and/or that is consumed within the Facility's electric energy distribution system as losses.

"**Summer Month**" means any of June, July, August September and October, commencing as of the month in which the RA Guarantee Date occurs and throughout the Delivery Term.

"SunZia Transmission Line" means that certain 3,000-MW high-voltage (+/-525-kV) transmission line originating at the Point of Interconnection in New Mexico and terminating near Phoenix, Arizona. The western terminus of the line will connect to the 500-kV Pinal Central Substation.

"**Supply Chain Code**" has the meaning in Exhibit Q.

"**Supply Plan**" has the meaning set forth in the CAISO Tariff, as applicable to the Guaranteed RA Amount from the Facility.

"**System Emergency**" means any condition that requires, as determined and declared by CAISO or a Transmission Provider, automatic or immediate action to (i) prevent or limit harm to or loss of life or property, (ii) prevent loss of transmission facilities or generation supply in the immediate vicinity of the Facility, or (iii) to preserve Transmission System reliability.

"**Tax**" or "**Taxes**" means all U.S. federal, state and local and any foreign taxes, levies, assessments, surcharges, duties and other fees and charges of any nature imposed by a Governmental Authority, whether currently in effect or adopted during the Contract Term, including ad valorem, excise, franchise, gross receipts, import/export, license, property, sales and use, stamp, transfer, payroll, unemployment, income, and any and all items of withholding, deficiency, penalty, additions, interest or assessment related thereto.

"**Tax Credits**" means the PTC, ITC and any other state, local and/or federal production tax credit, depreciation benefit, tax deduction and/or investment tax credit specific to the production of renewable energy and/or investments in renewable energy facilities.

"**Terminated Transaction**" has the meaning set forth in Section 11.2(a).

"**Termination Payment**" has the meaning set forth in Section 11.3(b).

[redacted]

"**Transmission Provider**" means any entity that (i) owns, operates and maintains transmission or distribution lines and associated facilities and/or has entitlements to use certain transmission or distribution lines and associated facilities, and (ii) transmits or transports the Product on behalf of Seller or Buyer to or from the Delivery Point, including the Participating Transmission Owner.

"**Transmission System**" means the transmission facilities operated by the Transmission Providers, now or hereafter in existence, which provide energy transmission service upstream to or downstream from the Delivery Point.

"**Transmission System Outage**" means an outage on a Transmission System, other than a System Emergency, that prevents (i) Buyer from receiving, or (ii) Seller from delivering, Energy at the Delivery Point.

"**Ultimate Parent**" means Pattern Energy Group LP.

"**Unfunded Capital Commitments**" means as of any date of determination, the aggregate amount of all currently-available but undrawn capital obligated to be provided to a Person by investor(s) pursuant to binding, written agreements, not subject to the satisfaction of any conditions precedent to such funding outside the control of such Person.

"**Variable Energy Resource**" or "**VER**" has the meaning set forth in the CAISO Tariff.

"**WREGIS**" means the Western Renewable Energy Generation Information System or any successor renewable energy tracking program.

"**WREGIS Certificate Deficit**" has the meaning set forth in Section 4.8(e).

"**WREGIS Certificates**" has the same meaning as "Certificate" as defined by WREGIS in the WREGIS Operating Rules and are designated as eligible for complying with the California Renewables Portfolio Standard.

"**WREGIS Operating Rules**" means those operating rules and requirements adopted by WREGIS as of October 2022, as subsequently amended, supplemented or replaced (in whole or in part) from time to time.

Rules of Interpretation. In this Agreement, except as expressly stated otherwise or unless the context otherwise requires:

(a) headings and the rendering of text in bold and italics are for convenience and reference purposes only and do not affect the meaning or interpretation of this Agreement;

(b) words importing the singular include the plural and vice versa and the masculine, feminine and neuter genders include all genders;

(c) the words "hereof", "herein", and "hereunder" and words of similar import shall refer to this Agreement as a whole and not to any particular provision of this Agreement;

(d) a reference to an Article, Section, paragraph, clause, Party, or Exhibit is a reference to that Article, Section, paragraph, clause of, or that Party or Exhibit to, this Agreement unless otherwise specified;

(e) a reference to a document or agreement, including this Agreement shall mean such document, agreement or this Agreement including any amendment or supplement to, or replacement, novation or modification of this Agreement, but disregarding any amendment, supplement, replacement, novation or modification made in breach of such document, agreement or this Agreement;

(f) a reference to a Person includes that Person's successors and permitted assigns;

(g) the terms "include" and "including" mean "include or including (as applicable) without limitation" and any list of examples following such term shall in no way restrict or limit the generality of the word or provision in respect of which such examples are provided;

(h) references to any statute, code or statutory provision are to be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or

reenacted, and include references to all bylaws, instruments, orders and regulations for the time being made thereunder or deriving validity therefrom unless the context otherwise requires;

(i) in the event of a conflict, a mathematical formula or other precise description of a concept or a term shall prevail over words providing a more general description of a concept or a term;

(j) references to any amount of money shall mean a reference to the amount in United States Dollars;

(k) the expression "and/or" when used as a conjunction shall connote "any or all of";

(l) words, phrases or expressions not otherwise defined herein that (i) have a generally accepted meaning in Prudent Operating Practice shall have such meaning in this Agreement or (ii) do not have well known and generally accepted meaning in Prudent Operating Practice but that have well known and generally accepted technical or trade meanings, shall have such recognized meanings; and

(m) each Party acknowledges that it was represented by counsel in connection with this Agreement and that it or its counsel reviewed this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

ARTICLE 2
TERM; CONDITIONS PRECEDENT

2.1 **Contract Term**.

(a) Conditions Precedent to Contract Term. This Agreement shall become effective on the Effective Date, and shall remain in full force and effect until the conclusion of the Delivery Term, subject to any early termination provisions set forth herein ("**Contract Term**"); *provided*, subject to Buyer's obligations in Section 3.6, Buyer's obligations to pay for or accept any Product are subject to Seller's completion of the conditions precedent pursuant to Section 2.2.

(b) Continuing Provisions. Applicable provisions of this Agreement shall continue in effect after termination, including early termination, to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to termination. The confidentiality obligations of the Parties under Article 18 shall remain in full force and effect for two (2) years following the termination of this Agreement, and all indemnity and audit rights shall remain in full force and effect for one (1) year following the termination of this Agreement.

Conditions Precedent to Delivery.

(a) The Delivery Term shall not commence until Seller completes to Buyer's reasonable satisfaction each of the following conditions, which Buyer shall, if submitted by Seller within thirty (30) days of the expected Commercial Operation Date, review and either accept or

provide Notice stating in reasonably detail the basis for Buyer's rejection thereof within five (5) Business Days of receipt thereof. If there is a dispute between Buyer and Seller as to whether Commercial Operation has occurred, then either Party may elect to immediately refer the matter to the dispute resolution procedures set forth in Article 15, and all payments of Commercial Operation Delay Damages from and after the date such dispute is initiated shall be tolled until the dispute is resolved. If the dispute is resolved in favor of Seller, the Commercial Operation Date shall be the date proposed by Seller prior to such dispute and no Commercial Operation Delay Damages shall be owed from Seller from and after such date, and if the dispute is resolved in favor of Buyer, Commercial Operation Delay Damages (if any) shall be due as set forth in Exhibit B.

(i) Seller shall have delivered to Buyer certificates from a Licensed Professional Engineer substantially in the form of Exhibit H and Exhibit I;

(ii) A Participating Generator Agreement (as defined in the CAISO Tariff) between Seller and CAISO and a Meter Service Agreement for CAISO Metered Entities (as defined in the CAISO Tariff) between CAISO and Seller (if, with respect to each such agreement, it is required under the CAISO Tariff or for Seller to meet its obligations under this Agreement), shall have been executed and delivered and be in full force and effect and a copy of such agreements delivered to Buyer;

(iii) All applicable regulatory authorizations, approvals and permits necessary for the operation of the Facility have been obtained and all conditions thereof that are capable of being satisfied on the Commercial Operation Date have been satisfied and shall be in full force and effect;

(iv) Seller has obtained CAISO Certification for the Facility;

(v) Seller has delivered the Performance Security to Buyer in accordance with Section 8.8;

(vi) Seller has delivered to Buyer an officer's certificate stating that Seller has not utilized any equipment or resources in connection with the construction, commissioning or testing of the Facility in violation of Section 2.3(b); and

(vii) Seller has paid Buyer for all amounts due and owing by Seller under this Agreement as of the Commercial Operation Date, if any, including Delay Damages.

(b) The Initial Energy Delivery Date shall not occur until Seller completes to Buyer's reasonable satisfaction each of the following conditions, which Buyer shall, if submitted by Seller within thirty (30) days of the expected Initial Energy Delivery Date, review and either accept or provide Notice stating in reasonably detail the basis for Buyer's rejection thereof within five (5) Business Days of receipt thereof. If there is a dispute between Buyer and Seller as to whether the Initial Energy Delivery Date has occurred, then either Party may elect to immediately refer the matter to the dispute resolution procedures set forth in Article 15. If the dispute is resolved in favor of Seller, the Initial Energy Delivery Date shall be the date proposed by Seller prior to

such dispute, and if the dispute is resolved in favor of Buyer, the Initial Energy Delivery Date shall be deemed not to have occurred upon the date claimed by Seller.

(i) Seller has received final CEC Certification and Verification for the Facility; and

(ii) Seller (with the reasonable participation of Buyer) shall have completed all applicable WREGIS registration requirements, including the completion and submittal of all applicable registration forms and supporting documentation, which may include applicable interconnection agreements, informational surveys related to the Facility, QRE service agreements, and other appropriate documentation required to effect Facility registration with WREGIS and to enable Renewable Energy Credit transfers related to the Facility within the WREGIS system.

Development; Construction; Progress Reports.

(a) Within fifteen (15) days after the close of each calendar month from the first calendar month following the Effective Date until the Commercial Operation Date, Seller shall provide to Buyer a Progress Report and agree to regularly scheduled meetings between representatives of Buyer and Seller to review such reports and discuss Seller's construction progress. The form of the Progress Report is set forth in Exhibit E. Seller shall also provide Buyer with any reasonably requested documentation and additional information (subject to confidentiality restrictions) directly related to the achievement of Milestones within ten (10) Business Days of receipt of such request by Seller. Seller is solely responsible for the design and construction of the Facility, including the location of the Site, the Facility layout, and the selection and procurement of the equipment comprising the Facility.

(b) Seller shall use commercially reasonable efforts to ensure that all materials, products and components that are used in constructing, installing and operating the Facility throughout the Contract Term and provided by Seller and Seller's contractors and suppliers in direct contract with Seller or Seller's Affiliates shall be in compliance with the Supply Chain Code. Seller shall comprehensively implement due diligence procedures for its and its Affiliate's first-tier subcontractors and suppliers, and other subcontractors and suppliers to the extent reasonably practicable. Seller shall notify Buyer as soon as reasonably practicable if it becomes aware of any breach of its obligations under this Section 2.3(b).

(c) Buyer shall have the right, at Buyer's sole expense, to retain an independent auditor to audit Seller's compliance with the requirements of Section 2.3(b).

Remedial Action Plan. If Seller misses a Milestone by more than thirty (30) days, except as the result of Force Majeure Event or Buyer Default, in addition to updates provided to Buyer via Progress Reports delivered pursuant to Section 2.3, Seller shall submit to Buyer, within ten (10) Business Days of the end of such thirty (30)-day period following the Milestone completion date, a remedial action plan ("**Remedial Action Plan**"), which will describe in detail any delays (actual or anticipated) beyond the scheduled Milestone dates, including the cause of the delay (e.g., governmental approvals, financing, property acquisition, design activities, equipment

procurement, project construction, interconnection, or any other factor), Seller's detailed description of its proposed course of action to achieve the missed Milestones and all subsequent Milestones by the Guaranteed Commercial Operation Date, as it may be extended; *provided*, delivery of any Remedial Action Plan shall not relieve Seller of its obligation to provide Remedial Action Plans with respect to any subsequent Milestones and to achieve the Guaranteed Commercial Operation Date in accordance with the terms of this Agreement. Subject to the provisions of Exhibit B, so long as Seller complies with its obligations under this Section 2.4, Seller shall not be considered in default of its obligations under this Agreement solely as a result of missing any Milestone.

ARTICLE 3
PURCHASE AND SALE

Purchase and Sale of Product. Subject to the terms and conditions of this Agreement, during the Delivery Term, Buyer shall purchase all the Product produced by or associated with the Facility at the Contract Rate and in accordance with Exhibit C, and Seller shall supply and deliver to Buyer all the Product produced by or associated with the Facility; provided, prior to the Initial Energy Delivery Date the Product shall be limited to Capacity Attributes and Resource Adequacy Benefits. The sale by Seller and purchase by Buyer of Facility Energy hereunder shall be for resale; *provided*, no such re-sale or use shall relieve Buyer of any obligations hereunder. During the Delivery Term, Buyer shall have exclusive rights to offer, bid, or otherwise submit the Product, and/or any component thereof, from the Facility after the Delivery Point for resale in the market, and retain and receive any and all related revenues.

Sale of Green Attributes. During the Delivery Term, on and after the Initial Energy Delivery Date, Seller shall sell and deliver to Buyer, and Buyer shall purchase from Seller, all Green Attributes attributable to the Facility Energy. Upon request of Buyer, Seller shall use commercially reasonable efforts to (a) submit, and receive approval from the Center for Resource Solutions (or any successor that administers the Green-e Certification process), for the Green-e tracking attestations and (b) support Buyer's efforts to qualify the Green Attributes transferred by Seller as Green-e Certified, in each case with respect to the portion of the Delivery Term on and after the Initial Energy Delivery Date.

Imbalance Energy. Buyer and Seller recognize that in any given Settlement Period or Settlement Interval, as applicable, the amount of Facility Energy may deviate from the amounts thereof scheduled with the CAISO. To the extent there are such deviations, any costs, liabilities or revenues from such imbalances shall be solely for the account of Seller as Scheduling Coordinator hereunder, except as expressly set forth in this Agreement.

Ownership of Renewable Energy Incentives. Seller shall have all right, title and interest in and to all Renewable Energy Incentives. Buyer acknowledges that any Renewable Energy Incentives belong to Seller. If any Renewable Energy Incentives, or values representing the same, are initially credited or paid to Buyer, Buyer shall cause such Renewable Energy Incentives or values relating to same to be assigned or transferred to Seller without delay. Buyer shall reasonably cooperate

with Seller, at Seller's sole expense, in Seller's efforts to meet the requirements for any certification, registration, or reporting program relating to Renewable Energy Incentives.

3.5 **Future Environmental Attributes.**

(a) The Parties acknowledge and agree that as of the Effective Date, environmental attributes anticipated to be sold under this Agreement are restricted to Green Attributes; however, Future Environmental Attributes may be created by a Governmental Authority through Laws enacted after the Effective Date. Subject to the final sentence of this Section 3.5(a) and to Section 3.5(b), in such event, Buyer shall bear all costs associated with the transfer, qualification, verification, registration and ongoing compliance for such Future Environmental Attributes, but there shall be no increase in the Contract Rate. Upon Seller's receipt of Notice from Buyer of Buyer's intent to claim such Future Environmental Attributes, the Parties shall determine the necessary actions and additional costs associated with such Future Environmental Attributes. Seller shall have no obligation to alter the Facility or the operation of the Facility unless the Parties have agreed on all necessary terms and conditions relating to such alteration or change in operation and Buyer has agreed to reimburse Seller for all costs, losses, and liabilities associated with such alteration or change in operation.

(b) If Buyer elects to receive Future Environmental Attributes pursuant to Section 3.5(a), the Parties agree to negotiate in good faith with respect to the development of further agreements and documentation necessary to effectuate the transfer of such Future Environmental Attributes, including agreement with respect to (i) appropriate transfer, delivery and risk of loss mechanisms, and (ii) appropriate allocation of any additional costs to Buyer, as set forth above; *provided*, the Parties acknowledge and agree that such terms are not intended to alter the other material terms of this Agreement.

[Reserved].

Capacity Attributes.

(a) Throughout the Delivery Term and subject to Section 3.12, Seller grants, pledges, assigns and otherwise commits to Buyer all the Capacity Attributes from the Facility.

(b) Throughout the Delivery Term and subject to Section 3.7(d) and Section 3.12, Seller shall perform all commercially reasonable actions necessary to ensure that the Facility qualifies to provide all Resource Adequacy Benefits to Buyer at the Delivery Point. Throughout the Delivery Term, and subject to Section 3.7(d) and Section 3.12, Seller hereby covenants and agrees to transfer all Resource Adequacy Benefits to Buyer.

(c) For the duration of the Delivery Term, and subject to Section 3.12, Seller shall take all commercially reasonable actions, including complying with all applicable registration and reporting requirements, and execute all documents or instruments that are reasonable and necessary to enable Buyer to use all of the Capacity Attributes committed by Seller to Buyer pursuant to this Agreement, including submitting Supply Plans in accordance with CAISO and CPUC requirements and the requirements of this Agreement. At least [redacted] prior to the

CAISO submission deadline for each annual RA Plan, and at least [redacted] prior to the Showing Deadline for each monthly RA Plan [redacted], Seller shall provide a non-binding Notice to Buyer presenting the Resource Adequacy Benefits that Seller expects to include in such Supply Plan for the next calendar year or Showing Month, including any Replacement RA Seller commits to provide pursuant to Section 3.7(e), if applicable; *provided*, if Seller becomes aware of any change to the Resource Adequacy Benefits that Seller is able to include in any monthly Supply Plan after delivering any such Notice, Seller shall provide a Notice to Buyer of any such change as soon as reasonably practicable, [redacted]

(d) Buyer acknowledges that during some or all of the Delivery Term, it will be required to take certain actions and obtain certain rights at the Delivery Point in order to make use of the Capacity Attributes associated with the Product, including: (a) at least until such time as the Facility receives a Deliverability Allocation from the CAISO, maintaining Import Capability necessary to import the Guaranteed RA Amount into the CAISO at the Delivery Point, (b) timely filing its RA Plans as required by the CAISO and the CPUC, and (c) obtaining any other rights or capacities that Buyer is required to obtain, or take any other action that Buyer is required to take, in order for Seller to provide or Buyer to make use of the Capacity Attributes of the Facility, in each case as may be required under applicable Law and as may change from time to time. To the extent Buyer does not or cannot maintain Import Capability (solely until such time as the Facility receives a Deliverability Allocation from the CAISO) or any other rights or capacities necessary to support the importation of the Guaranteed RA Amount into the CAISO or otherwise receive or utilize the Capacity Attributes, for reasons other than a Seller failure under this Agreement, including Seller's failure to comply with applicable CPUC and CAISO requirements necessary to qualify the Facility as a Resource Adequacy Resource located within the CAISO Balancing Authority Area, the Capacity Attributes that are not delivered or that cannot be delivered (or that Buyer cannot make use of) shall constitute Deemed Delivered RA; *provided*, if Buyer is unable to obtain or utilize any portion of the Import Capability due to any allocation of Deliverability (as defined in the CAISO Tariff) to the Facility that is not a Deliverability Allocation and, as a result, Seller is unable to deliver to Buyer an amount of Resource Adequacy Benefits equal to the Guaranteed RA Amount, then such portion of the Capacity Attributes that are not delivered or that cannot be delivered (or that Buyer cannot make use of) shall not constitute Deemed Delivered RA but shall constitute a shortfall for which Seller owes to Buyer the RA Deficiency Amount.

(e) If Seller anticipates that it will have any RA Shortfall Amounts in a Showing Month from and after the RA Guarantee Date, Seller may provide Replacement RA in the amount of (X) Guaranteed RA Amount, minus (Y) the expected amount of Resource Adequacy Benefits Seller includes in its Notice provided to Buyer pursuant to Section 3.7(c) with respect to such Showing Month.

(f) Seller shall provide RA Substitute Capacity in accordance with applicable CAISO requirements in connection with Facility outages. Seller acknowledges and agrees that any

failure by Seller to provide such RA Substitute Capacity may result in CAISO rejecting or cancelling Seller's request for CAISO to approve such Facility outage.

(g) The Parties acknowledge that following the Effective Date there may be changes of Applicable Laws with respect to the rules for Resource Adequacy Benefits that in certain respects may be inconsistent with the provisions of this Agreement. The Parties shall negotiate in good faith to further amend this Agreement to resolve any such inconsistencies between this Agreement and such changes to Applicable Law; *provided*, the intent of the negotiations shall be to maintain the balance of the Parties' benefits, burdens, and obligations set forth in this Agreement as of the Effective Date ; *provided further*, any amendment to this Agreement pursuant to this Section 3.7(g) shall be subject to Lender consent.

Resource Adequacy Failure.

(a) RA Deficiency Determination. For each RA Shortfall Amount, Seller shall pay to Buyer the RA Deficiency Amount as liquidated damages, as the sole and exclusive remedy for the Capacity Attributes that Seller failed to convey to Buyer.

(b) RA Deficiency Amount Calculation. For any Showing Month from and after the RA Guarantee Date, the "**RA Deficiency Amount**" shall equal the product of (i) the difference, expressed in kW, of (A) the Guaranteed RA Amount, *minus* [redacted], *minus* (C) Deemed Delivered RA in respect of such Showing Month, *minus* (D) Replacement RA delivered in respect of such Showing Month, *minus* (E) RA Substitute Capacity delivered in respect of such Showing Month (such difference, the "**RA Shortfall Amount**"), *multiplied by* (ii) the lesser of (A) the product of (X) the CPM Soft Offer Cap (or its successor) *multiplied by* (Y) the CPM Adjustment Factor ("**CPM Price**") *multiplied by* [redacted], and (B) the RA Deficiency Cap for the applicable Showing Month *multiplied by* [redacted] Notwithstanding anything else in this Section 3.8, [redacted]

CEC Certification and Verification. Subject to Section 3.12 and in accordance with the timing set forth in this Section 3.9, Seller shall take all necessary steps including, but not limited to, making or supporting timely filings with the CEC to obtain and maintain CEC Certification and Verification for the Facility on and after the Initial Energy Delivery Date, including compliance with all applicable requirements for certified facilities set forth in the current version of the *RPS Eligibility Guidebook* (or its successor). Seller shall obtain final CEC Certification and Verification for the Facility on or before the Initial Energy Delivery Date and shall maintain final CEC Certification and Verification for the remainder of the Delivery Term. Seller must promptly notify Buyer and the CEC of any changes to the information included in Seller's application for CEC Certification and Verification for the Facility.

Eligibility. 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. [STC 6]

California Renewables Portfolio Standard. Subject to Section 3.12, on and after the Initial Energy Delivery Date, Seller shall also take all other actions necessary to ensure that the Facility Energy is tracked for purposes of satisfying the California Renewables Portfolio Standard requirements, as may be amended or supplemented by the CPUC or CEC from time to time.

Compliance Expenditure Cap. If a change in Law occurring after the Effective Date has increased Seller's cost to comply with Seller's obligations under this Agreement with respect to obtaining, maintaining, conveying or effectuating Buyer's use of Green Attributes, Capacity Attributes, CEC Certification and Verification, and/or WREGIS Certificates (as applicable), then the Parties agree that the maximum aggregate amount of costs and expenses Seller shall be required to bear during the Delivery Term to comply with all of such obligations shall be capped at Twenty-Five Thousand Dollars ($25,000) per MW of Guaranteed Capacity ("**Compliance Expenditure Cap**").

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

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

(c) Buyer will have sixty (60) days to evaluate such Notice (during which time period Seller is not obligated to take any Compliance Actions described in the Notice) and shall, within such time, either (1) agree to reimburse Seller for all or some portion of the costs that exceed the Compliance Expenditure Cap (such Buyer-agreed upon costs, the "**Accepted Compliance Costs**"), or (2) waive Seller's obligation to take such Compliance Actions, or any part thereof for which Buyer has not agreed to reimburse Seller. If Buyer does not respond to a Notice given by Seller under this Section 3.12 within sixty (60) days after Buyer's receipt of same, Buyer shall be deemed to have waived its rights to require Seller to take the Compliance Actions that are the subject of the Notice, and Seller shall have no further obligation to take, and no liability for any failure to take, such Compliance Actions until such time as Buyer agrees to pay such Accepted Compliance Costs.

(d) If Buyer agrees to reimburse Seller for the Accepted Compliance Costs, then Seller shall take such Compliance Actions covered by the Accepted Compliance Costs as agreed upon by the Parties and Buyer shall reimburse Seller for Seller's actual costs to effect the

Compliance Actions, not to exceed the Accepted Compliance Costs, within sixty (60) days from the time that Buyer receives an invoice and documentation of such costs from Seller.

Project Configuration. In order to optimize the benefits of the Facility, Buyer and Seller each agree that if requested by the other Party, then Buyer and Seller shall discuss in good faith potential reconfiguration of the Facility or Interconnection Facilities, which discussion either Party may terminate in its sole discretion at any time; *provided*, neither Party shall be obligated to agree to any changes under this Agreement, or to incur any expense in connection with such changes, except under terms mutually acceptable to both Parties in the sole discretion of each as set forth in a written agreement.

ARTICLE 4
OBLIGATIONS AND DELIVERIES

Delivery.

(a) Energy. Subject to the provisions of this Agreement, commencing on the Initial Energy Delivery Date through the end of the Contract Term, Seller shall supply and deliver the Facility Energy and associated Green Attributes to Buyer at the Delivery Point, and Buyer shall take delivery of the Facility Energy and associated Green Attributes, and Replacement Product, at the Delivery Point in accordance with the terms of this Agreement. Seller shall effectuate the delivery of Facility Energy and shall be responsible for securing such arrangements with CAISO, the PTO and any other Transmission Provider as are necessary in connection therewith. Seller shall be responsible for paying or satisfying when due any costs or charges (except as otherwise set forth in this Agreement) imposed in connection with the delivery of Facility Energy to the Delivery Point, including any operation and maintenance charges imposed by the Transmission Provider directly relating to the Facility's operations. Buyer shall be responsible for all costs, charges and penalties (except as otherwise set forth in this Agreement), if any, imposed in connection with the delivery of Facility Energy at and after the Delivery Point, including without limitation transmission costs and transmission line losses. The Facility Energy will be scheduled with the CAISO by Seller (or Seller's designated Scheduling Coordinator) in accordance with Exhibit D.

(b) Green Attributes. All Green Attributes associated with the Facility Energy during the Delivery Term, on and after the Initial Energy Delivery Date are exclusively dedicated to and vested in Buyer. Seller represents and warrants that Seller holds the rights to all Green Attributes from the Facility, and Seller agrees to convey and hereby conveys Buyer's Share of all such Green Attributes to Buyer as included in the delivery of the Product from the Facility.

(c) Energy Products. If, at any time during the Contract Term following the Initial Energy Delivery Date, Buyer requests Seller to provide any new or different Energy-related products or Ancillary Services that may become recognized from time to time in the CAISO market, and Seller is able to provide any such product from the Facility without material adverse effect (including any obligation to incur more than *de minimis* costs, expenses or liabilities, or any more than *de minimis* impacts on the operations of Seller, any of Seller's Affiliates, or the Facility) on Seller, Seller's Affiliates or the Facility or Seller's obligations or liabilities under this Agreement or any other agreement, then Seller shall use commercially reasonable efforts to

coordinate with Buyer to provide such product. If provision of any such new product would have a material adverse effect (including any obligation to incur more than *de minimis* costs, expenses or liabilities, or any more than *de minimis* impacts on the operations of Seller, any of Seller's Affiliates, or the Facility) on Seller, Seller's Affiliates or the Facility or Seller's obligations or liabilities under this Agreement or any other agreement, then Seller shall be obligated to provide such product only if the Parties first execute an amendment to this Agreement with respect to such product that is mutually acceptable to both Parties.

4.2 **Title and Risk of Loss**.

(a) Energy. Title to and risk of loss related to the Facility Energy, shall pass and transfer from Seller to Buyer at the Delivery Point. Seller warrants that all Product delivered to Buyer is free and clear of all liens, security interests, claims and encumbrances of any kind.

(b) Green Attributes. Title to and risk of loss related to the Green Attributes shall pass and transfer from Seller to Buyer upon the transfer of such Green Attributes in accordance with WREGIS.

Forecasting. Seller shall provide the forecasts described below. Seller shall use commercially reasonable efforts to forecast accurately and to transmit such information in a format reasonably acceptable to Buyer (or Buyer's designee). Seller shall use reasonable efforts to provide forecasts that are consistent with the information known by Seller at the time the forecasts are submitted and, to the extent not inconsistent with the requirements of this Agreement, shall prepare such forecasts, or cause such forecasts to be prepared, in accordance with Prudent Operating Practice.

(a) Annual Forecast of Facility Energy. No less than forty-five (45) days before (i) the first day of the first Contract Year of the Delivery Term and (ii) the compliance deadline for the annual RA Plan (which is currently the last Business Day of October that is prior to commencement of the year for the annual RA Plan) for every subsequent Contract Year during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of expected Facility Energy, by hour, for the following calendar year in a form substantially similar to the table found in Exhibit F-1, or as reasonably requested by Buyer.

(b) Monthly Forecast of Facility Energy and Available Capacity. No less than thirty (30) days before the beginning of Commercial Operation, and thereafter fifteen (15) days before the applicable RA Plan Showing Deadline for each Showing Month during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of the hourly expected (i) Available Capacity and (ii) Facility Energy (only with respect to the period on and after the Initial Energy Delivery Date) (items (i)-(ii) collectively referred to as the "**Forecasted Product**"), for each day of the following month in a form substantially similar to Exhibits F-1 and F-2, as applicable ("**Monthly Forecast**").

(c) Day-Ahead Forecast. On and after the Initial Energy Delivery Date, by 5:30 AM Pacific Prevailing Time on the Business Day immediately preceding the date of delivery of Facility Energy, Seller shall provide Buyer with a non-binding forecast of the hourly expected Available Capacity and the Day-Ahead Forecast.

(d) Real-Time Forecasts. On and after the Initial Energy Delivery Date, Seller shall, or shall cause its authorized representative to, notify Buyer of any changes from the Day-Ahead Forecast resulting from changes of fifteen (15) MW or more in Available Capacity or when the expected Facility Energy, net of all Electrical Losses, differs by more than fifteen (15) MWh, as applicable, of the amount set forth in the Day-Ahead Forecast, in each case whether due to a Forced Facility Outage, Force Majeure Event or other cause affecting the Available Capacity, as soon as reasonably possible, but no later than one (1) hour prior to the deadline for submitting schedules to the CAISO in accordance with the rules for participation in the Real-Time Market. Such updated forecast shall be deemed the "**Real-Time Forecast**"; *provided*, if there are no such changes from the Day-Ahead Forecast, the Day-Ahead Forecast for the applicable day shall be deemed the Real-Time Forecast. If the Available Capacity or, if applicable, the expected Facility Energy, changes by at least fifteen (15) MW or fifteen (15) MWh, as applicable, as of a time that is less than one (1) hour prior to the Real-Time Market deadline, but before such deadline, then Seller must notify Buyer as soon as reasonably possible. Such Real-Time Forecasts of Facility Energy shall be based on a forecast from the Approved Forecast Vendor and shall contain information regarding the beginning date and time of the event resulting in the change in Available Capacity or the expected Facility Energy, as applicable, the expected end date and time of such event, and any other information required by the CAISO or reasonably requested by Buyer. With respect to any Forced Facility Outage, Seller shall use commercially reasonable efforts to notify Buyer of such outage within ten (10) minutes of the commencement of the Forced Facility Outage. Seller shall use commercially reasonable efforts to inform Buyer of any developments that are reasonably likely to affect either the duration of such outage or the availability of the Facility during or after the end of such outage. Such Real-Time Forecasts shall be communicated in a method reasonably acceptable to Buyer, provided that Buyer specifies the method no later than sixty (60) days prior to the effective date of such requirement. In the event Buyer fails to provide Notice of an acceptable method for communications under this Section 4.3(d), then Seller shall send such communications by telephone and e-mail to Buyer.

(e) Meteorological Data.

(i) Commencing on the Initial Energy Delivery Date, and continuing throughout the Delivery Term, Seller shall provide to Buyer records of meteorological measurements based on output from [redacted] reasonably representative meteorological stations installed at the Site, which shall be either [redacted] which measurements shall be provided by Seller to Buyer [redacted] (*provided*, Buyer shall have the option to elect, no more than once per calendar year, the method of delivery as set forth in subsections (x) or (y) above upon no less than [redacted] prior written Notice to Seller of such election), in each case including the following data points: (A) wind speed (and, if Seller elects to receive meteorological data as set forth in 4.3(e)(y) above, the highest 3-second wind gust within ten (10) minutes), (B) wind direction, (C) ambient air temperature, (D) precipitation (rain rate), (E) precipitation (running thirty (30)-day total), and (F) barometric pressure; *provided*, the method of data delivery and the foregoing data points specified under this Section 4.3(e) may be updated as reasonably agreed to by the Parties. Such updates may

include modifications to or additions of data points as are reasonably necessary for Buyer's administration of this Agreement, to the extent that Seller can effectuate such updates through the use of commercially reasonable efforts.

(ii) All information provided to Buyer pursuant to this Section 4.3(e) shall constitute Confidential Information of Seller, and Buyer shall be prohibited from providing any such information to any other Person without Seller's express written prior consent (in Seller's sole discretion). Seller shall not be obligated to provide any assistance to Buyer with respect to using, interpreting or otherwise processing such data, but Seller shall respond to Buyer's reasonable requests for clarifying or correcting information.

4.4 **Dispatch Down/Curtailment**.

(a) General. On and after the Initial Energy Delivery Date, Seller agrees to reduce the amount of Facility Energy produced by the Facility, by the amount and for the period set forth in any Curtailment Order; *provided*, Seller is not required to reduce such amount to the extent it is inconsistent with the limitations of the Facility set forth in the Operating Restrictions.

(b) Alternative Delivery Point/Third-Party Sales. In the event that, and for so long as, at any point on and after the Initial Energy Delivery Date, Seller is unable, despite using commercially reasonable efforts, to deliver all or a portion of the Product to Buyer at the Delivery Point, but is able to deliver Product to Buyer at one or more Alternative Delivery Points, such Alternative Delivery Points shall be considered the Delivery Point for all purposes under this Agreement. [redacted]

(c) Failure to Comply. Subject to Section 4.4(a), if Seller fails to comply with a Curtailment Order on and after the Initial Energy Delivery Date,, then, for each MWh of Facility Energy that is delivered in excess of the Curtailment Order, Seller shall pay Buyer for each such MWh the amount, if any, paid to Seller by Buyer for delivery of such excess MWh.

(d) Seller Equipment Required for Operating Instruction Communications. Seller shall develop and install all communications systems necessary for the operation of the Facility in accordance with Prudent Operating Practice, including communications systems that provide for the receipt and following of automated dispatch instructions from the CAISO.

Station Use. Notwithstanding anything to the contrary in this Agreement, the Parties acknowledge (i) Seller is responsible for providing all Energy to serve Station Use (including paying the cost of

any Energy used to serve Station Use), (ii) the supply of such Station Use shall not be deemed a violation of this Agreement, (*provided*, Seller shall indemnify and hold harmless Buyer from any and all costs, penalties, charges or other adverse consequences that result from Energy supplied for Station Use by any means other than retail service from the applicable utility, and shall take any additional measures to ensure Station Use is supplied by the applicable utility's retail service if necessary to avoid any such costs, penalties, charges or other adverse consequences), and (iii) Station Use may not be supplied from Facility Energy (*provided*, Seller may supply Station Use from Energy produced by the Facility so long no such Energy is recorded as Facility Energy by the Facility Meter, and subject to the other requirements of this Agreement).

Facility Maintenance. Without limiting Section 3.1 or Exhibit G:

(a) Seller shall provide to Buyer written schedules for Planned Outages for each calendar year no later than September 1 of the prior calendar year for each following calendar year. Buyer may provide comments no later than ten (10) days after receiving any such schedule, and Seller shall in good faith take into account any such comments. Seller shall promptly deliver to Buyer the final updated schedule of Planned Outages thereafter. Seller shall be permitted to reduce deliveries of Product during any period of such Planned Outages.

(b) If reasonably required in accordance with Prudent Operating Practices, Seller may perform maintenance at a different time than maintenance scheduled pursuant to Section 4.6(a). Seller shall be responsible, at no additional cost to Buyer, to provide any replacement Capacity Attributes required by the CAISO in connection with the CAISO's approval of any Seller request for a Planned Outage after the applicable Supply Plan has been submitted.

(c) Notwithstanding anything in this Agreement to the contrary, no Planned Outages of the Facility shall be scheduled or planned during any Summer Month during the Delivery Term [redacted], unless (i) such outage is required to avoid damage to the Transmission System, (ii) [redacted], (iv) such outage is reasonably required to maintain health and safety pursuant to Section 6.2, or (v) the Parties agree otherwise in writing. In the event that Seller has a previously Planned Outage that becomes coincident with a System Emergency that prevents Seller from reasonably performing the contemplated maintenance activities, Seller shall make commercially reasonable efforts to reschedule such Planned Outage.

(d) Seller shall be permitted to reduce deliveries of Product during any Forced Facility Outage. Seller shall promptly provide Buyer with Notice and expected duration (if known) of any Forced Facility Outage and shall keep Buyer informed of any developments that will affect either the duration of the outage or the availability of the Facility during or after the end of such outage.

(e) Seller shall be permitted to reduce deliveries of Product (i) during any period of System Emergency, (ii) pursuant to a Curtailment Order, (iii) during a Market

Curtailment Period, (iv) during any Force Majeure Event, (v) due to Prudent Operating Practice or in compliance with applicable Law, or (vi) otherwise pursuant to the terms of this Agreement, the Interconnection Agreement or applicable tariff or as may be required under a Shared Facilities Agreement.

(f) Seller shall be permitted to reduce deliveries of Product as necessary to maintain health and safety pursuant to Section 6.2.

(g) Seller shall be permitted in its sole discretion to reduce Facility generation other than Buyer's Share of such Facility generation during any Settlement Interval or Settlement Period that is not during a Curtailment Period or Market Curtailment Period. On and after the Initial Energy Delivery Date, during such curtailments, Seller shall deliver Facility Energy to Buyer in accordance with clause (b) of the definition of "Facility Energy".

(h) With respect to any (i) Major Planned Outage or (ii) Forced Facility Outage of [redacted] MW or more of Installed Capacity that persists for more than one [redacted], Seller shall provide reports to Buyer not less frequently than each month regarding Seller's progress toward completion of repairs, maintenance, equipment replacement and/or any other material aspect of returning the Facility to full operation, including information reasonably requested by Buyer.

Guaranteed Energy Production.

(a) On and after the Initial Energy Delivery Date, during each Performance Measurement Period, Seller shall deliver to Buyer an amount of Facility Energy, not including any Excess MWh, equal to no less than the Guaranteed Energy Production (as defined below). "**Guaranteed Energy Production**" means an amount of Facility Energy, as measured in MWh, equal to [redacted] of the average annual Expected Energy for the two (2) Contract Years constituting such Performance Measurement Period. For purposes of determining whether Seller has achieved the Guaranteed Energy Production, in addition to Facility Energy, Seller shall be deemed to have delivered to Buyer the sum of (a) any Deemed Delivered Energy, *plus* (b) Facility Energy in the amount it could reasonably have delivered to Buyer but was prevented from delivering to Buyer by reason of any (i) Force Majeure Events, (ii) Curtailment Period (excluding any Transmission System Outage due to the fault or negligence of Seller), (iii) System Emergency not caused by Seller, or (iv) Buyer Default or other Buyer failure to perform that prevents Seller from being able to deliver Facility Energy to the Delivery Point ("**Lost Output**"). If Seller fails to achieve the Guaranteed Energy Production amount in any Performance Measurement Period on and after the Initial Energy Delivery Date, Seller shall pay Buyer damages calculated in accordance with Exhibit G ("**Energy Replacement Damages**"); *provided*, Seller may, as an alternative, provide Replacement Product delivered retrospectively to Buyer at the Delivery Point or the SP 15 EZ Gen Hub.

(b) Seller shall be permitted to deliver Replacement Product (i) prospectively during any Performance Measurement Period if Seller reasonably anticipates that delivery of such Replacement Product is necessary to achieve the Guaranteed Energy Production for such Performance Measurement Period, or (ii) retrospectively during the Contract Year immediately

following any Performance Measurement Period in accordance with Section 4.7(a) above; *provided,* Seller's right to deliver Replacement Product shall be subject to mutual agreement of the Parties (in the reasonable discretion of each) of the delivery schedule for such Replacement Product; *provided further*, the amount of Replacement Product delivered by Seller pursuant to (i) or (ii) shall not exceed ten percent (10%) of the Expected Energy for the Contract Year for which such Replacement Product is delivered. Seller shall provide Notice to Buyer of any proposed delivery of Replacement Product, including a proposed schedule of such deliveries, (i) no later than thirty (30) days prior to the proposed delivery of such Replacement Product in the case of prospectively delivered Replacement Product, and (ii) no later than thirty (30) days after the conclusion of any Performance Measurement Period with respect to which Seller proposes to deliver retroactive Replacement Product.

(a) **WREGIS**. On and after the Initial Energy Delivery Date, Seller shall, at its sole expense, but subject to Section 3.12, take all actions and execute all documents or instruments necessary to ensure that all WREGIS Certificates associated with all Renewable Energy Credits corresponding to all Facility Energy are issued and tracked for purposes of satisfying the requirements of the California Renewables Portfolio Standard and transferred in a timely manner to Buyer for Buyer's sole benefit. On and after the Initial Energy Delivery Date Seller shall transfer the Renewable Energy Credits to Buyer. On and after the Initial Energy Delivery Date Seller shall comply with all Laws, including the WREGIS Operating Rules, regarding the certification and transfer of such WREGIS Certificates to Buyer and Buyer shall be given sole title to all such WREGIS Certificates. Seller shall be deemed to have satisfied the warranty in Section 4.8(g), provided that Seller fulfills its obligations under Sections 4.8(a) through (g) below. In addition:

(a) Prior to the Initial Energy Delivery Date, Seller shall register the Facility with WREGIS and establish an account with WREGIS ("**Seller's WREGIS Account**"), which Seller shall maintain until the end of the Delivery Term. Seller shall transfer the WREGIS Certificates using Recurring Certificate Transfers (as described in the WREGIS Operating Rules) from Seller's WREGIS Account to the WREGIS account(s) of Buyer or the account(s) of a designee that Buyer identifies by Notice to Seller ("**Buyer's WREGIS Account**"). Seller shall be responsible for all expenses associated with registering the Facility with WREGIS, establishing and maintaining Seller's WREGIS Account, paying WREGIS Certificate issuance and transfer fees, and transferring WREGIS Certificates from Seller's WREGIS Account to Buyer's WREGIS Account.

(b) Seller shall cause Recurring Certificate Transfers to occur on a monthly basis in accordance with the certification procedure established by the WREGIS Operating Rules. Since WREGIS Certificates will only be created for whole MWh amounts of Facility Energy generated, any fractional MWh amounts (i.e., kWh) will be carried forward until sufficient generation is accumulated for the creation of a WREGIS Certificate.

(c) Seller shall, at its sole expense, ensure that the WREGIS Certificates for a given calendar month correspond with the Facility Energy for such calendar month as evidenced by the Facility's metered data.

(d) Buyer shall make an invoice payment for a given month in accordance with Section 8.2 before the WREGIS Certificates for such month are formally transferred to Buyer in accordance with the WREGIS Operating Rules and this Section 4.8. Notwithstanding this delay, Buyer shall have all right and title to all such WREGIS Certificates upon payment to Seller in accordance with Section 8.2.

(e) A "**WREGIS Certificate Deficit**" means any deficit or shortfall in WREGIS Certificates delivered to Buyer for a calendar month as compared to the Facility Energy for the same calendar month ("**Deficient Month**") caused by an error or omission of Seller. If any WREGIS Certificate Deficit is caused by, or is the result of any action or inaction of, Seller, then Seller shall either (x) resolve the associated WREGIS Certificate Deficit or (y) provide Replacement Green Attributes (as defined in Exhibit G) upon a schedule reasonably acceptable to Buyer (including in consideration of costs to Buyer), in each case no later than ninety (90) days following such Deficient Month; *provided*, Seller may offer to cure such WREGIS Certificate Deficit pursuant to clause (x) or (y) above after such ninety (90)-day period, which cure Buyer may accept or reject in its sole discretion; *provided further*, (1) if Buyer rejects Seller's proffered cure following such ninety (90)-day period, [redacted]. If and to the extent Seller fails to cure any WREGIS Certificate Deficit, as set forth in either clause (x) or (y) of the previous sentence, Buyer's payment obligation for Facility Energy associated with the uncured WREGIS Certificate Deficit shall be reduced by [redacted]. Without limiting Seller's obligations under this Section 4.8, if a deficit or shortfall in WREGIS Certificates delivered to Buyer for a calendar month as compared to the Facility Energy for the same calendar month is caused solely by an error or omission of WREGIS, the Parties shall cooperate in good faith to cause WREGIS to correct its error or omission.

(f) If WREGIS changes the WREGIS Operating Rules after the Effective Date or applies the WREGIS Operating Rules in a manner inconsistent with this Section 4.8 after the

Effective Date, the Parties promptly shall modify this Section 4.8 as reasonably required to cause and enable Seller to transfer to Buyer's WREGIS Account a quantity of WREGIS Certificates for each given calendar month that corresponds to the Facility Energy in the same calendar month.

(g) 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. [STC REC-1]

(h) 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. [STC REC-2]

(i) Seller's obligations under Sections 3.10, 4.8(g) and 4.8(h) shall be subject to Section 3.12, the term "Project" as used in Section 3.10 shall refer to the "Facility" as defined herein, the term "the contract" in Section 4.8(h) shall refer to "this Agreement" as defined herein, the term "commercially reasonable efforts" as used in Section 3.10 and Section 4.10(g) means efforts consistent with and subject to Section 3.12, and the Parties agree and acknowledge that no Energy, Green Attributes, or WREGIS Certificates shall be sold or delivered from Seller to Buyer prior to the Initial Energy Delivery Date.

ARTICLE 5
TAXES

Allocation of Taxes and Charges. Seller shall pay or cause to be paid all Taxes on or with respect to the Facility or on or with respect to the sale and making available of Product to Buyer, that are imposed on Product prior to its delivery to Buyer at the time and place contemplated under this Agreement. Buyer shall pay or cause to be paid all Taxes on or with respect to the delivery to and purchase by Buyer of Product that are imposed on Product at and after its delivery to Buyer at the time and place contemplated under this Agreement (other than withholding or other Taxes imposed on Seller's income, revenue, receipts or employees). If a Party is required to remit or pay Taxes that are the other Party's responsibility hereunder, such Party shall promptly pay the Taxes due and then seek and receive reimbursement from the other for such Taxes. In the event any sale of Product hereunder is exempt from or not subject to any particular Tax, Buyer shall provide Seller with all necessary documentation to evidence such exemption or exclusion within thirty (30) days after the date Buyer makes such claim. Buyer shall indemnify, defend, and hold Seller harmless from any liability with respect to Taxes for which Buyer is responsible hereunder and from which Buyer claims it is exempt.

Cooperation. Each Party shall use reasonable efforts to implement the provisions of and administer this Agreement in accordance with the intent of the Parties to minimize all Taxes, so

long as no Party is materially adversely affected by such efforts. The Parties shall cooperate to minimize Tax exposure; *provided*, neither Party shall be obligated to incur any financial or operational burden to reduce Taxes for which the other Party is responsible hereunder without receiving due compensation therefor from the other Party. All Product delivered by Seller to Buyer hereunder shall be a sale made at wholesale, with Buyer reselling such Product.

ARTICLE 6
MAINTENANCE OF THE FACILITY

Maintenance of the Facility. Seller shall, as between Seller and Buyer, be solely responsible for the operation and maintenance of the Facility and the delivery of the Product and shall comply with Law and Prudent Operating Practice relating to the operation and maintenance of the Facility and the generation and sale of Product.

Maintenance of Health and Safety. Seller shall take reasonable safety precautions with respect to the operation, maintenance, repair and replacement of the Facility. If Seller becomes aware of any circumstances relating to the Facility that create an imminent risk of damage or injury to any Person or any Person's property, Seller shall take prompt, reasonable action to prevent such damage or injury and shall give Buyer's emergency contact identified in Exhibit N Notice of such condition as soon as practicable thereafter. Such action may include disconnecting and removing all or a portion of the Facility, or suspending the supply of Facility Energy to the Delivery Point.

Shared Facilities The Parties acknowledge and agree that certain of the Shared Facilities and Interconnection Facilities, and Seller's rights and obligations under the Interconnection Agreement, may be subject to certain shared facilities and/or co-tenancy agreements ("**Shared Facilities Agreements**") to be entered into among two or more of Seller, the Participating Transmission Owner, Seller's Affiliates, and/or third parties pursuant to which certain Interconnection Facilities, interconnection service and/or transmission service may be subject to joint ownership and/or shared maintenance and operation arrangements; *provided*, such agreements shall (i) not preclude Seller from performing or satisfying, and shall not purport to limit, its obligations hereunder, including providing interconnection capacity for the Facility in an amount not less than 901.28 MWat the Point of Interconnection and transmission capacity for delivery of energy from the Facility to the Delivery Point in an amount not less than 636 MW (*provided*, that Seller may share its interconnection capacity rights and transmission rights for the Facility with the South Affiliate [redacted], solely if and to the extent that, and solely for the period of time that, the amount of Energy that the Facility is capable of generating and delivering is less than 901.28 MW at the Point of Interconnection with respect to interconnection capacity, and 636 MW at the Delivery Point with respect to transmission capacity), (ii) provide for separate metering of the Facility, (iii) provide that any other generating or energy storage facilities not included in the Facility but using Shared Facilities shall not be included within the Facility's CAISO Resource ID, and (iv) provide that any curtailment that is not specific to one or more CAISO Resource IDs of output from generating or energy storage facilities using the Shared Facilities shall not be allocated to the Facility more than its pro rata portion of the total capacity of all generating or energy storage facilities using the Shared Facilities, unless such curtailment of Shared Facilities was attributable to the Facility or caused by Seller. Seller shall not, and shall not permit any Affiliate to, allocate to other parties a share of the total

interconnection capacity under the Interconnection Agreements in excess of an amount equal to the total interconnection capacity under the Interconnection Agreements *minus* 901.28 MW at the Point of Interconnection or a share of total transmission rights in excess of 636 MW at the Delivery Point MW (*provided*, Seller may share its interconnection capacity rights and/or transmission rights for the Facility with the South Affiliate [redacted], solely if and to the extent that, and solely for the period of time that, the amount of Energy that the Facility is capable of generating and delivering is less than 901.28 MW at the Point of Interconnection with respect to interconnection capacity rights and 636 MW at the Delivery Point with respect to transmission rights).

[redacted]

[redacted]

ARTICLE 7
METERING

Metering. The Facility Meter shall be installed at the switching station adjacent to the SunZia East Converter Station and maintained at Seller's cost. If the Facility Meter is inaccurate, Seller will cause such meter to be promptly corrected in accordance with Prudent Operating Practice and CAISO requirements, as applicable. Seller shall be responsible for any costs, fines or penalties, including imbalance charges as a result of the inaccurate meter. The Facility Meter shall be kept under seal, such seals to be broken only when the meters are to be tested, adjusted, modified or relocated. In the event that Seller breaks a seal, Seller shall notify Buyer as soon as practicable. On and after the Initial Energy Delivery Date, Seller shall, or shall cause its Scheduling Coordinator to, provide Buyer with read-only access to a real-time data feed of the generation of the Facility, and real-time Facility Meter reads. In addition, on and after the Initial Energy Delivery Date, Seller hereby agrees to provide all Facility Meter data to Buyer in a form reasonably acceptable to Buyer on a read-only basis, and consents to Buyer obtaining from the CAISO or the PTO, as applicable, the Facility Meter data applicable to the Facility and all inspection, testing and calibration data and reports. On and after the Initial Energy Delivery Date, Seller, or Seller's Scheduling Coordinator, shall cooperate with Buyer to provide records, including invoices or settlement data from the CAISO, for the full Facility, for Buyer to verify the accuracy of all invoices, and to allow both Parties to retrieve the Facility Meter reads from the CAISO Market Results Interface – Settlements (MRIS-S) (or its successor) or from the Facility Meter at the Facility.

ARTICLE 8 **Meter Verification**. On and after the Initial Energy Delivery Date, annually, if **ARTICLE 8** Seller has reason to believe there may be a meter malfunction, or upon Buyer's **ARTICLE 8** reasonable request, Seller shall test the Facility Meter. The tests shall be conducted **ARTICLE 8** by independent third parties qualified to conduct such tests. Buyer shall be notified **ARTICLE 8** seven (7) days in advance of such tests and have a right to be present during such **ARTICLE 8** tests. If a meter is inaccurate it shall be promptly repaired or replaced. If a meter is **ARTICLE 8** inaccurate by more than one percent (1%) and it is not known when the meter **ARTICLE 8** inaccuracy commenced (if such evidence exists, such date will be used to adjust **ARTICLE 8** prior invoices), then the invoices covering the period of time since the last meter **ARTICLE 8** test shall be adjusted for the amount of the inaccuracy on the assumption that the **ARTICLE 8** inaccuracy persisted during the second half of such period so long as such **ARTICLE 8** adjustments are accepted by CAISO and WREGIS; *provided*, such period may not

ARTICLE 8exceed twelve (12) months.
INVOICING AND PAYMENT; CREDIT

Invoicing. Seller shall use commercially reasonable efforts to deliver an invoice to Buyer for Product no later than the fifteen (15th) day of each month for the previous calendar month. Each invoice shall (a) state the Contract Rate applicable to such Product in accordance with Exhibit C, reflect records of metered data, including CAISO metering and transaction data sufficient to document and verify the amount of Product delivered by the Facility for any Settlement Period during the preceding month, including (on and after the Initial Energy Delivery Date) the amount of Facility Energy and Replacement Product delivered to Buyer (if any), the calculation of Deemed Delivered Energy and Adjusted Energy Production (if any), the LMP prices at the Delivery Point for each Settlement Period, and shall include other relevant data for the prior month; and (b) be in a format reasonably acceptable to Buyer, covering the Product provided in the preceding month determined in accordance with the applicable provisions of this Agreement. Seller shall provide Buyer with all reasonable access (including, in real time, to the maximum extent reasonably possible) to any records, including invoices or settlement data from the CAISO, forecast data and other information, all as may be necessary from time to time for Buyer to verify the accuracy of all invoices.

Payment. Buyer shall make payment to Seller for Product (and any other amounts due) by wire transfer or ACH payment to the bank account provided on each monthly invoice. Buyer shall pay undisputed invoice amounts no later than thirty (30) days after Buyer's receipt of the invoice from Seller; *provided*, if such due date falls on a weekend or legal holiday, such due date shall be the next Business Day. Payments made after the due date will be considered late and will bear interest on the unpaid balance. If the amount due is not paid on or before the due date or if any other payment that is due and owing from one Party to another is not paid on or before its applicable due date, a late payment charge shall be applied to the unpaid balance and shall be added to the next billing statement. Such late payment charge shall be calculated based on an annual Interest Rate equal to the prime rate published on the date of the invoice in The Wall Street Journal (or, if The Wall Street Journal is not published on that day, the next succeeding date of publication), *plus* two percent (2%) (the "**Interest Rate**"). If the due date occurs on a day that is not a Business Day, the late payment charge shall begin to accrue on the next succeeding Business Day.

Books and Records. To facilitate payment and verification, each Party shall maintain all books and records necessary for billing and payments, including copies of all invoices under this Agreement, for a period of at least two (2) years or as otherwise required by Law. Upon fifteen (15) days' Notice to the other Party, either Party shall be granted reasonable access to the accounting books and records within the possession or control of the other Party pertaining to all invoices generated pursuant to this Agreement. Seller acknowledges that in accordance with California Government Code Section 8546.7, Seller may be subject to audit by the California State Auditor with regard to Seller's performance of this Agreement, for a period of three (3) years following the last payment hereunder (or such longer period required by applicable Law), because the compensation under this Agreement exceeds $10,000.

Payment Adjustments; Billing Errors. Payment adjustments shall be made if Buyer or Seller discovers there have been good faith inaccuracies in invoicing that are not otherwise disputed

under Section 8.5 or an adjustment to an amount previously invoiced or paid is required due to a correction of data by the CAISO, or there is determined to have been a meter inaccuracy sufficient to require a payment adjustment. If the required adjustment is in favor of Buyer, Buyer's next monthly payment shall be credited in an amount equal to the adjustment. If the required adjustment is in favor of Seller, Seller shall add the adjustment amount to Buyer's next monthly invoice. Adjustments in favor of either Buyer or Seller shall bear interest, until settled in full, in accordance with Section 8.2, accruing from the date on which the adjusted amount should have been due.

Billing Disputes. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within five (5) Business Days of such resolution along with interest accrued at the Interest Rate from and including the original due date to but excluding the date paid. Inadvertent overpayments shall be returned via adjustments in accordance with Section 8.4. Any dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section 8.5 within twelve (12) months after the invoice is rendered or subsequently adjusted, except to the extent any misinformation was from a third party not affiliated with any Party and such third party corrects its information after the twelve-month period. If an invoice is not rendered within twelve (12) months after the close of the month during which performance occurred, the right to payment for such performance is waived.

Netting of Payments. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all undisputed amounts owed by each Party to the other Party for the purchase and sale of Product during the monthly billing period under this Agreement or otherwise arising out of this Agreement, including any related damages calculated pursuant to Exhibits B and G, interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

Seller's Development Security. To secure its obligations under this Agreement, Seller shall have delivered the Development Security to Buyer on or before the Effective Date. Seller shall maintain the Development Security in full force and effect; *provided*, Seller shall have no obligation to replenish the Development Security following any draw thereupon by Buyer; *provided further*, Buyer shall not draw on the Development Security with respect to any payments due from and payable by Seller until after any required Notice and the expiration of all cure periods. Upon the earlier of (a) Seller's delivery of the Performance Security, or (b) sixty (60) days after termination of this Agreement, Buyer shall return the Development Security to Seller, less the amounts drawn in accordance with this Agreement. If the Development Security is provided in the form of more than one Letter of Credit, any draw on the Development Security by Buyer shall be made pro rata among each such Letter of Credit.

Seller's Performance Security. To secure its obligations under this Agreement, Seller shall deliver Performance Security to Buyer on or before the Commercial Operation Date. Seller shall maintain the Performance Security in full force and effect, and Seller shall within ten (10) Business Days after any draw thereon replenish the Performance Security in the event Buyer collects or draws down any portion of the Performance Security for any reason permitted under this Agreement other than to satisfy a Termination Payment, until the following have occurred: (a) the Delivery Term has expired or terminated early; and (b) all payment obligations of Seller due and payable under this Agreement, including compensation for penalties, Termination Payment, indemnification payments or other damages are paid in full (whether directly or indirectly such as through set-off or netting); *provided*, Buyer shall not draw on the Performance Security with respect to any payments due from and payable by Seller until after any required Notice and the expiration of all cure periods. Following the occurrence of both events listed in clauses (a) and (b) above, Buyer shall promptly return to Seller the unused portion of the Performance Security. If the Performance Security is provided in the form of more than one Letter of Credit, any draw on the Performance Security by Buyer shall be made pro rata among each such Letter of Credit.

First Priority Security Interest in Cash or Cash Equivalent Collateral. To secure its obligations under this Agreement, and until released as provided herein, Seller hereby 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 and Performance Security, to the extent the Development Security and/or Performance Security are provided in the form of cash collateral or cash equivalent collateral, any other cash collateral and cash equivalent collateral posted pursuant to Sections 8.7 and 8.8 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 all 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 an Event of Default caused by Seller, an Early Termination Date resulting from an Event of Default caused by Seller, or an occasion provided for in this Agreement where Buyer is authorized to retain all or a portion of the Development Security or Performance Security, Buyer may do any one or more of the following (in each case subject to the final sentence of this Section 8.9):

(a) Exercise any of its rights and remedies with respect to the Development Security and Performance Security, including any such rights and remedies under Law then in effect;

(b) Draw on any outstanding Letter(s) of Credit issued for its benefit and retain any cash held by Buyer as Development Security or Performance Security; and

(c) Liquidate all Development Security or Performance Security (as applicable) 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 remains 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.

8.10 **Financial Statements**.

(a) If a Guaranty is provided as Performance Security in lieu of cash or a Letter of Credit, Seller shall provide to Buyer, or cause the Guarantor to provide to Buyer, unaudited quarterly and annual audited financial statements of the Guarantor (including a balance sheet and statements of income and cash flows), all prepared in accordance with generally accepted accounting principles in the United States, consistently applied.

(b) Buyer shall provide to Seller (i) within one hundred twenty (120) days following the end of each fiscal year during the Contract Term, a copy of Buyer's annual report containing audited consolidated financial statements for such fiscal year and (ii) within sixty (60) days after the end of each of its first three fiscal quarters of each fiscal year during the Contract Term, a copy of Buyer's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles ("GAAP"); *provided*, should any such statements not be available on a timely basis due to a delay in preparation or certifications, such unavailability shall not be an Event of Default so long as Buyer diligently pursues the preparation, certification, and delivery of the statements. Buyer shall be deemed to have delivered such financial statements to Seller if such statements are made publicly available.

ARTICLE 9
NOTICES

Addresses for the Delivery of Notices. Any Notice required, permitted, or contemplated hereunder shall be in writing, shall be addressed to the Party to be notified at the address set forth in Exhibit N or at such other address or addresses as a Party may designate for itself from time to time by Notice hereunder.

Acceptable Means of Delivering Notice. Each Notice required, permitted, or contemplated hereunder shall be deemed to have been validly served, given or delivered as follows: (a) if sent by United States mail with proper first class postage prepaid, three (3) Business Days following the date of the postmark on the envelope in which such Notice was deposited in the United States mail; (b) if sent by a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement with such carrier made for the payment of such fees, the next Business Day after the same is delivered by the sending Party to such carrier; (c) if sent by electronic communication (including electronic mail or other electronic means) at the time indicated by the time stamp upon delivery and, if after 5 pm, on the next Business Day; or (d) if delivered in person, upon receipt by the receiving Party. Notwithstanding the foregoing, Notices of outages or other scheduling or dispatch information or requests, may be sent by electronic communication and shall be considered delivered upon successful completion of such transmission.

ARTICLE 10
FORCE MAJEURE

Definition.

(a) "**Force Majeure Event**" means any act or event that delays or prevents a Party from timely performing all or a portion of its obligations under this Agreement or from complying with all or a portion of the conditions under this Agreement if such act or event, despite the exercise of commercially reasonable efforts, cannot be avoided by and is beyond the reasonable control (whether direct or indirect) of the claiming Party*; provided*, a Force Majeure Event shall not excuse any such delay, nonperformance, or noncompliance to the extent the claiming Party's fault or negligence contributed thereto in scope or duration.

(b) Without limiting the generality of the foregoing, so long as the following events, despite the exercise of reasonable efforts, cannot be avoided by, and are beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance or noncompliance, a Force Majeure Event may include an act of God or the elements, such as flooding, lightning, hurricanes, tornadoes, or ice storms; explosion; fire; volcanic eruption; flood; epidemic or pandemic (including the COVID-19 pandemic, but only to the extent that new governmental rules or mandates related to COVID-19 are implemented that were not in place as of the Effective Date); landslide; mudslide; sabotage; terrorism; earthquake; or other cataclysmic events; an act of public enemy; war; blockade; civil insurrection; riot; civil disturbance; or strikes or other labor difficulties caused or suffered by a Party or any third party except as set forth below.

(c) Notwithstanding the foregoing, the term "**Force Majeure Event**" does not include (i) economic conditions or changes in Law that render a Party's performance of this Agreement at the Contract Rate unprofitable or otherwise uneconomic (including an increase in component or compliance costs for any reason, including foreign or domestic tariffs, Buyer's ability to buy Product at a lower price, or Seller's ability to sell the Product, or any component thereof, at a higher price, than under this Agreement); (ii) Seller's inability to obtain permits or approvals of any type for the construction, operation, or maintenance of the Facility, except to the extent such inability is caused by a Force Majeure Event; (iii) the inability of a Party to make payments when due under this Agreement, unless the cause of such inability is an event that would otherwise constitute a Force Majeure Event as described above; (iv) a Curtailment Order, except to the extent that a Curtailment Order is caused by an event that otherwise qualifies as a Force Majeure Event; (v) Seller's inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Facility, including the lack of wind, sun or other fuel source of an inherently intermittent nature, except to the extent such inability is caused by a Force Majeure Event; (vi) a strike, work stoppage or labor dispute limited only to any one or more of Seller, Seller's Affiliates, Seller's contractors, their subcontractors thereof or any other third party employed by Seller to work on the Facility; (vii) any equipment failure except if such equipment failure is caused by a Force Majeure Event; or (viii) any action or inaction by any third party, including Transmission Provider, that delays or prevents the approval, construction or placement in service of any Interconnection Facilities or Network Upgrades, except to the extent caused by a Force Majeure Event.

No Liability If a Force Majeure Event Occurs. Except as provided in Section 4 of Exhibit B, neither Seller nor Buyer shall be liable to the other Party in the event it is prevented from performing its obligations hereunder in whole or in part due to a Force Majeure Event. The Party rendered unable to fulfill any obligation by reason of a Force Majeure Event shall take reasonable actions necessary to remove such inability with due speed and diligence. Nothing herein shall be construed as permitting that Party to continue to fail to perform after said cause has been removed. The obligation to use due speed and diligence shall not be interpreted to require resolution of labor disputes by acceding to demands of the opposition when such course is inadvisable in the discretion of the Party having such difficulty. Neither Party shall be considered in breach or default of this Agreement if and to the extent that any failure or delay in the Party's performance of one or more of its obligations hereunder is caused by a Force Majeure Event. The occurrence and continuation of a Force Majeure Event shall not suspend or excuse the obligation of a Party to make any payments due hereunder.

Notice. In order to claim a Force Majeure Event, the claiming Party, within fourteen (14) days of becoming aware that an event or series of events, as applicable, constitutes a Force Majeure Event, must give the other Party Notice describing the particulars of the occurrence in substantially the form set forth in Exhibit T, (b) provide timely evidence reasonably sufficient to establish that the occurrence constitutes Force Majeure as defined in this Agreement, and (c) notify the other Party in writing of the cessation or termination of such Force Majeure Event, all as known or estimated in good faith by the affected Party. Failure to provide timely Notice shall not affect such Party's ability to assert that a Force Majeure Event has occurred but shall preclude such Party from claiming a Force Majeure Event (including any Development Cure Period delays) or being excused from any delay or nonperformance associated therewith with respect to the days prior to the date on Notice was actually given.

Termination Following Force Majeure Event or Development Cure Period.

(a) If the cumulative extensions granted under the Development Cure Period (other than the extensions granted pursuant to clause 4(d) in Exhibit B) plus the payment of Commercial Operation Delay Damages equal or exceed [redacted], and Seller has demonstrated to Buyer's reasonable satisfaction that Seller's failure to achieve COD by the Guaranteed Commercial Operation Date (as extended) was the result of delays that would have otherwise entitled to Seller to [redacted] of Development Cure Period delays but for the one hundred eighty (180)-day limitation, then Seller may terminate this Agreement upon Notice to Buyer. Upon such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Section 2.1(b), and Buyer shall promptly return to Seller any Development Security then held by Buyer plus the full amount of Commercial Operation Delay Damages paid by Seller, less any amounts drawn in accordance with this Agreement with respect to other amounts due from Seller, if any.

(b) If a Force Majeure Event has occurred after the Commercial Operation Date that has caused either Party to be wholly or partially unable to perform its obligations hereunder in any material respect, and the impacted Party has claimed and received relief from performance of its obligations for a consecutive twelve (12)-month period, then the non-claiming Party may terminate this Agreement upon Notice to the other Party; *provided*, if Seller is the Party claiming

such Force Majeure Event and such Force Majeure Event cannot reasonably be cured within such twelve (12) month period, then Seller may provide a plan to Buyer, which must be acceptable to Buyer in its reasonable discretion, to cure such Force Majeure Event within an additional six (6) month period and Buyer may not terminate this Agreement due to such Force Majeure Event unless Seller has not resumed performance of its material obligations hereunder upon the expiration of such additional six (6)-month period; *provided further*, if the impacted Party has claimed and received relief from performance of its obligations due to such Force Majeure Event for a consecutive eighteen (18)-month period, then either Party may terminate this Agreement upon Notice to the other Party. Upon any such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Section 2.1(b), and Buyer shall promptly return to Seller any Performance Security then held by Buyer, less any amounts drawn in accordance with this Agreement.

ARTICLE 11
DEFAULTS; REMEDIES; TERMINATION

Events of Default. An "**Event of Default**" shall mean,

(a) with respect to a Party (the "**Defaulting Party**") that is subject to the Event of Default the occurrence of any of the following:

(i) the failure by such Party to make, when due, any payment required pursuant to this Agreement and such failure is not remedied within ten (10) Business Days after Notice thereof;

(ii) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated, and such default is not remedied within thirty (30) days after Notice thereof (or such longer additional period, not to exceed an additional sixty (60) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30)-day period despite exercising commercially reasonable efforts);

(iii) the failure by such Party to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default set forth in this Section 11.1 or for which an exclusive remedy is provided), and such failure is not remedied within thirty (30) days after Notice thereof (or such longer additional period, not to exceed an additional sixty (60) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30)-day period despite exercising commercially reasonable efforts);

(iv) such Party becomes Bankrupt;

(v) such Party assigns this Agreement or any of its rights hereunder other than in compliance with Article 14, if applicable;

(vi) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was

a party by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party; or

(vii) failure by either Party to satisfy the collateral requirements pursuant to Sections 8.7 or 8.8 (except, with respect to Seller, as set forth in Sections 11.1(b)(vi) and 11.1(b)(vii)) within five (5) Business Days after Notice from the other Party, including Seller's failure to replenish the Performance Security amount in accordance with this Agreement in the event Buyer draws against it for any reason other than to satisfy a Termination Payment;

(b) with respect to Seller as the Defaulting Party, the occurrence of any of the following:

(i) if at any time Seller delivers or attempts to deliver Energy to the Delivery Point for sale under this Agreement that was not generated or discharged by the Facility, except for Replacement Product;

(ii) the failure by Seller to achieve Commercial Operation on or before the Guaranteed Commercial Operation Date, as such date may be extended by Seller's payment of Commercial Operation Delay Damages and/or by Development Cure Period extensions, or the failure by Seller to begin selling Facility Energy and associated Green Attributes to Buyer on or before the Initial Energy Delivery Date;

(iii) if, in any consecutive six (6) month period after the Initial Energy Delivery Date, the Adjusted Energy Production amount (calculated in accordance with Exhibit G) for such period is not at least ten percent (10%) of the 6-month pro rata amount of Expected Energy for such period adjusted for seasonality proportionately to the monthly forecast provided annually by Seller under Section 4.3(a), and Seller fails to (x) deliver to Buyer within ten (10) Business Days after Notice from Buyer a plan or report developed by Seller that describes the cause of the failure to meet the ten percent (10%) threshold and the actions that Seller has taken, is taking, or proposes to take in an effort to cure such condition along with the written confirmation of a Licensed Professional Engineer that such plan or report is in accordance with Prudent Operating Practices and capable of cure within a reasonable period of time, not to exceed one hundred eighty (180) days, or such longer period if necessary to remedy a Major Equipment Failure, not to exceed a total of eighteen (18) months ("**Cure Plan**") and (y) complete such Cure Plan in all material respects as set forth therein, including within the timeframe set forth therein;

(iv) if at any time during the Delivery Term the Installed Capacity does not equal or exceed the Guaranteed Installed Capacity;

(v) Reserved;

(vi) with respect to any outstanding Letter of Credit provided for the benefit of Buyer that is not then required under this Agreement to be canceled or returned, the failure by Seller to provide for the benefit of Buyer either (1) cash, (2) a Letter of Credit from a different issuer meeting the criteria set forth in the definition of Letter of Credit, or (3) a replacement Guaranty from a Guarantor meeting the criteria set forth in the definition of

Guarantor, in each case, in the amount required hereunder within ten (10) Business Days after Seller receives Notice of the occurrence of any of the following events:

(A) the issuer of the outstanding Letter of Credit shall fail to maintain a Credit Rating of at least A- by S&P or A3 by Moody's;

(B) the issuer of such Letter of Credit becomes Bankrupt;

(C) the issuer of the outstanding Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit and such failure shall be continuing after the lapse of any applicable grace period permitted under such Letter of Credit;

(D) the issuer of the outstanding Letter of Credit shall fail to honor a properly documented request to draw on such Letter of Credit;

(E) the issuer of the outstanding Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit;

(F) such Letter of Credit fails or ceases to be in full force and effect at any time;

(G) Seller shall fail to renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit and as provided in accordance with this Agreement, and in no event less than sixty (60) days prior to the expiration of the outstanding Letter of Credit;

(vii) with respect to any Guaranty provided for the benefit of Buyer, the failure by Seller to provide for the benefit of Buyer either (1) cash, (2) a replacement Guaranty from a different Guarantor meeting the criteria set forth in the definition of Guarantor, or (3) a replacement Letter of Credit from an issuer meeting the criteria set forth in the definition of Letter of Credit, in each case, in the amount required hereunder within ten (10) Business Days after Seller receives Notice of the occurrence of any of the following events:

(A) if any representation or warranty made by the Guarantor in connection with this Agreement is false or misleading in any material respect when made or when deemed made or repeated, and such representation or warranty is not remedied within thirty (30) days after Notice thereof;

(B) the failure of the Guarantor to make any payment required or to perform any other material covenant or obligation in any Guaranty;

(C) the Guarantor becomes Bankrupt;

(D) the Guarantor shall fail to meet the criteria for an acceptable Guarantor as set forth in the definition of Guarantor;

(E) the failure of the Guaranty to be in full force and effect (other than in accordance with its terms) prior to the indefeasible satisfaction of all obligations of Seller hereunder; or

(F) the Guarantor shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of any Guaranty.

Remedies; Declaration of Early Termination Date. If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party ("**Non-Defaulting Party**") shall have the following rights:

(a) to send Notice, designating a day, no earlier than the day such Notice is deemed to be received and no later than twenty (20) days after such Notice is deemed to be received, as an early termination date of this Agreement ("**Early Termination Date**") that terminates this Agreement (the "**Terminated Transaction**") and ends the Delivery Term effective as of the Early Termination Date;

(b) to accelerate all amounts owing between the Parties, and to collect as liquidated damages (i) the Damage Payment, or (ii) the Termination Payment, as applicable, in each case calculated in accordance with Section 11.3 below;

(c) to withhold any payments due to the Defaulting Party under this Agreement;

(d) to suspend performance; and

(e) to exercise any other right or remedy available at law or in equity, including specific performance or injunctive relief, except to the extent such remedies are expressly limited under this Agreement; *provided*, payment by the Defaulting Party of the Damage Payment or Termination Payment, as applicable, shall constitute liquidated damages and the Non-Defaulting Party's sole and exclusive remedy for any Terminated Transaction and the Event of Default related thereto.

Damage Payment; Termination Payment. If an Early Termination Date has been declared, the Non-Defaulting Party shall calculate, in a commercially reasonable manner, the Damage Payment or Termination Payment, as applicable, in accordance with this Section 11.3.

(a) Damage Payment Prior to Commercial Operation Date. If the Early Termination Date occurs before the Commercial Operation Date, then the Damage Payment shall be calculated in accordance with this Section 11.3(a).

(i) If Seller is the Defaulting Party, then the Damage Payment shall be owed to Buyer and shall be a dollar amount that equals the amount of the Development Security as set forth on the Cover Sheet plus, if the Development Security is posted as cash, any interest accrued thereon. Buyer shall be entitled to immediately retain for its own benefit those funds held as Development Security and any interest accrued thereon if the Development Security is posted as cash, and any amount of Development Security that Seller has not yet posted with Buyer shall be immediately due and payable by Seller to Buyer. There will be no amounts owed to Seller. The

Parties agree that Buyer's damages in the event of an Early Termination Date prior to the Commercial Operation Date caused by Seller's default would be difficult or impossible to determine and that the damages set forth in this Section 11.3(a)(i) are a reasonable approximation of Buyer's harm or loss.

(ii) Except as set forth in Section 11.3(a)(iii), if Buyer is the Defaulting Party, then the Damage Payment shall be owed to Seller and shall equal Buyer's Share of the sum of the actual, documented and verifiable costs incurred by Seller between the Effective Date and the Early Termination Date in connection with the Facility, less the fair market value (determined in a commercially reasonable manner) of (A) all Seller's assets individually or (B) the entire Facility, whichever is greater on the Early Termination Date, regardless of whether or not any Seller asset or the entire Facility is actually sold or disposed of.

(iii) If Buyer is the Defaulting Party and such default arises in connection with: (A) Buyer's repudiation of this Agreement; (B) Buyer's bad faith; (C) Buyer's failure to comply with its obligations under Section 2.2(a) to, within five (5) Business Days after receipt thereof, either accept or provide Notice stating in reasonable detail the basis for its reasonable rejection of Seller's evidence of completion of any condition to Commercial Operation set forth in Section 2.2(a) (provided that Seller submitted such evidence within thirty (30) days of the expected Commercial Operation Date); or (D) Buyer's failure to comply with its obligations under Section 2.6 to (x) within ten (10) Business Days of its receipt of Seller's Notice of a Project Bifurcation or Project Transition, provide Notice to Seller of any comments on the draft Replacement PPA(s) and termination agreement attached to such Notice, and (y) cooperate reasonably with Seller and the Owners to resolve any issues and enter into the Replacement PPA(s) and the termination agreement within thirty (30) days of Seller's Notice to Buyer of the same (*provided*, this clause (D) shall apply only if the draft Replacement PPA(s) are on the same terms and conditions as those set forth in this Agreement, except for those administrative changes that are necessary to effectuate the separation or transition of this Agreement into Replacement PPA(s) (including such changes as are set forth in Section 2.6(a) through Section 2.6(g), as applicable)), then the Damage Payment shall be owed to Seller and shall be equal to the Termination Payment determined in accordance with Section 11.3(b) below as of the Early Termination Date. There will be no amount owed to Buyer. The Parties agree that Seller's damages in the event of an Early Termination Date prior to the Commercial Operation Date caused by Buyer's default would be difficult or impossible to determine and that the damages set forth in Section 11.3(a)(ii) above or this Section 11.3(a)(iii), as applicable, are a reasonable approximation of Seller's harm or loss.

(b) Termination Payment On or After the Commercial Operation Date. The payment owed by the Defaulting Party to the Non-Defaulting Party for a Terminated Transaction occurring after the Commercial Operation Date ("**Termination Payment**") shall be the aggregate of all Settlement Amounts plus any and all other amounts due to or from the Non-Defaulting Party (as of the Early Termination Date) netted into a single amount. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for the Terminated Transaction as of the Early Termination Date. Third parties supplying information for purposes of the calculation of Gains or Losses may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. The Settlement Amount shall not include consequential, incidental, punitive, exemplary, indirect

or business interruption damages. Without prejudice to the Non-Defaulting Party's duty to mitigate, the Non-Defaulting Party shall not have to enter into replacement transactions to establish a Settlement Amount. Each Party agrees and acknowledges that (i) the actual damages that the Non-Defaulting Party would incur in connection with a Terminated Transaction would be difficult or impossible to predict with certainty, (ii) the Termination Payment described in this Section 11.3(b) is a reasonable and appropriate approximation of such damages, and (iii) the Termination Payment described in this Section 11.3(b) is the exclusive remedy of the Non-Defaulting Party in connection with a Terminated Transaction but shall not otherwise act to limit any of the Non-Defaulting Party's rights or remedies if the Non-Defaulting Party does not elect a Terminated Transaction as its remedy for an Event of Default by the Defaulting Party.

Notice of Payment of Termination Payment or Damage Payment. As soon as practicable after a Terminated Transaction, but in no event later than sixty (60) days after the Early Termination Date, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Damage Payment or Termination Payment, as applicable, and whether the Termination Payment or Damage Payment, as applicable, is due to or from the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount and the sources for such calculation. The Termination Payment or Damage Payment, as applicable, shall be made to or from the Non-Defaulting Party, as applicable, within ten (10) Business Days after such Notice is effective.

Disputes With Respect to Termination Payment or Damage Payment. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment or Damage Payment, as applicable, in whole or in part, the Defaulting Party shall, within five (5) Business Days of receipt of the Non-Defaulting Party's calculation of the Termination Payment or Damage Payment, as applicable, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. Disputes regarding the Termination Payment or Damage Payment, as applicable, shall be determined in accordance with Article 15.

Limitation on Seller's Ability to Make or Agree to Third-Party Sales from the Facility after Early Termination Date. If this Agreement is terminated prior to the Commercial Operation Date for any reason except due to Buyer's Event of Default, neither Seller nor Seller's Affiliates may sell, market or deliver any Product associated with or attributable to the Facility to a party other than Buyer for a period of [redacted] following such early termination date, unless prior to selling, marketing or delivering such Product, or entering into the agreement to sell, market or deliver such Product to a party other than Buyer, Seller or Seller's Affiliates provide Buyer with a written offer to sell the Product on terms and conditions materially similar to the terms and conditions contained in this Agreement and (a) Buyer fails to accept such offer within forty-five (45) days of Buyer's receipt thereof, or (b) Seller and Buyer fail to reach an agreement on the changes necessary to conform the new agreement on materially similar terms to this Agreement within ninety (90) days after Buyer's receipt of such offer, despite both Parties negotiating in good faith. Seller's or Seller's Affiliate's written offer to sell the Product pursuant to this Section 11.6 shall be at the Contract Rate without increase or escalation; [redacted]

[redacted]. Nothing in this Section 11.6 shall be construed to limit in any way Seller's right to market, sell, or deliver Energy, green attributes, capacity attributes, or other products generated by or associated with the Facility in excess of Buyer's Share of such Energy, green attributes, capacity attributes, or other products generated by or associated with the Facility.

Neither Seller nor Seller's Affiliates may sell or transfer the Facility, or any part thereof, or land rights or interests in the Site (including the interconnection queue position of the Facility) so long as the limitations contained in this Section 11.6 apply, unless the transferee agrees to be bound by the terms set forth in this Section 11.6 pursuant to a written agreement approved by Buyer.

Seller shall indemnify and hold Buyer harmless from all benefits lost and other damages sustained by Buyer as a result of any breach by Seller of its covenants contained within this Section 11.6.

Rights And Remedies Are Cumulative. Except where liquidated damages or other remedy are explicitly provided as the exclusive remedy, the rights and remedies of a Party pursuant to this Article 11 shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

Mitigation. Any Non-Defaulting Party shall be obligated to use commercially reasonable efforts to mitigate its Costs, Losses and damages resulting from any Event of Default of the other Party under this Agreement.

LIMITATION OF LIABILITY AND EXCLUSION OF WARRANTIES.

No Consequential Damages. EXCEPT TO THE EXTENT PART OF (A) AN EXPRESS REMEDY OR MEASURE OF DAMAGES HEREIN, (B) AN IP INDEMNITY CLAIM, (C) AN ARTICLE 16 INDEMNITY CLAIM, (D) INCLUDED IN A LIQUIDATED DAMAGES CALCULATION, OR (E) RESULTING FROM A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, OR LOSSES OR DAMAGES FOR LOST REVENUE OR LOST PROFITS, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT, BY STATUTE, IN TORT OR CONTRACT.

Waiver and Exclusion of Other Damages. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. ALL LIMITATIONS OF LIABILITY CONTAINED IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE PERTAINING TO SELLER'S LIMITATION OF LIABILITY AND THE PARTIES' WAIVER OF CONSEQUENTIAL DAMAGES, SHALL

APPLY EVEN IF THE REMEDIES FOR BREACH OF WARRANTY PROVIDED IN THIS AGREEMENT ARE DEEMED TO "FAIL OF THEIR ESSENTIAL PURPOSE" OR ARE OTHERWISE HELD TO BE INVALID OR UNENFORCEABLE.

NOTWITHSTANDING ANYTHING ELSE HEREIN TO THE CONTRARY, SELLER'S AGGREGATE LIABILITY ARISING UNDER OR RELATED TO THIS AGREEMENT IN CONNECTION WITH ANY DELAY BY SELLER IN COMPLETING THE FACILITY OR ACHIEVING THE COMMERCIAL OPERATION DATE, INCLUDING FAILURE BY SELLER TO ACHIEVE THE MILESTONE DATES SET FORTH ON THE COVER SHEET AND ANY FAILURE BY SELLER TO SELL PRODUCT TO BUYER HEREUNDER AS A RESULT OF ANY SUCH DELAY OR FAILURE, SHALL NOT EXCEED THE SUM OF (A) THE AMOUNT OWING OR PAID BY SELLER IN RESPECT OF DELAY DAMAGES, IF ANY, AND (B) THE AMOUNT OF THE DAMAGE PAYMENT OWED BY SELLER, IF ANY.

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS AND EXCLUSIVE REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES ONLY. THE VALUE OF ANY 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) AND AMOUNTS DUE IN CONNECTION WITH THE RECAPTURE OF ANY RENEWABLE ENERGY INCENTIVES, IF ANY, SHALL BE DEEMED TO BE DIRECT DAMAGES.

TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, INCLUDING UNDER SECTIONS 3.8, 4.7, 4.8, 11.2 AND 11.3, AND AS PROVIDED IN EXHIBIT B, EXHIBIT C, EXHIBIT G, AND EXHIBIT P, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT, AND THAT THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE ANTICIPATED HARM OR LOSS. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. THE PARTIES HEREBY WAIVE ANY RIGHT TO CONTEST SUCH PAYMENTS AS AN UNREASONABLE PENALTY.

THE PARTIES ACKNOWLEDGE AND AGREE THAT MONEY DAMAGES AND THE EXPRESS REMEDIES PROVIDED FOR HEREIN ARE AN ADEQUATE REMEDY FOR THE BREACH BY THE OTHER OF THE TERMS OF THIS AGREEMENT, AND EACH PARTY

WAIVES ANY RIGHT IT MAY HAVE TO SPECIFIC PERFORMANCE WITH RESPECT TO ANY OBLIGATION OF THE OTHER PARTY UNDER THIS AGREEMENT.

ARTICLE 13
REPRESENTATIONS AND WARRANTIES; AUTHORITY

Seller's Representations and Warranties. As of the Effective Date, Seller represents and warrants as follows:

(a) Seller is a limited liability company, duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation, and is qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on the business or financial condition of Seller.

(b) Seller has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Seller's performance under this Agreement. The execution, delivery and performance of this Agreement by Seller has been duly authorized by all necessary limited liability company action on the part of Seller and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Seller or any other party to any other agreement with Seller.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Seller with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Seller, subject to any permits that have not yet been obtained by Seller, the documents of formation of Seller or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other material agreement or instrument to which Seller is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Seller. This Agreement is a legal, valid and binding obligation of Seller enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) Seller and its Affiliates are developing the Facility to be located in New Mexico.

(f) Neither Seller nor its Affiliates have received notice from or been advised by any existing or potential supplier or service provider that COVID-19 has caused, or is reasonably likely to cause, a delay in the construction of the Facility or the delivery of materials necessary to complete the Facility, in each case that would cause the Commercial Operation Date to be later than the Guaranteed Commercial Operation Date.

Buyer's Representations and Warranties. As of the Effective Date, Buyer represents and warrants as follows:

(a) Buyer is a joint powers authority and a validly existing community choice aggregator, duly organized, validly existing and in good standing under the laws of the State of California and the rules, regulations and orders of the California Public Utilities Commission, and is qualified to conduct business in each jurisdiction of the Joint Powers Agreement members. All Persons making up the governing body of Buyer are the elected or appointed incumbents in their positions and hold their positions in good standing in accordance with the Joint Powers Agreement and other Law.

(b) Buyer has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Buyer's performance under this Agreement. The execution, delivery and performance of this Agreement by Buyer has been duly authorized by all necessary action on the part of Buyer and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Buyer or any other party to any other agreement with Buyer.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Buyer with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Buyer, including but not limited to community choice aggregation, the Joint Powers Act, competitive bidding, public notice, open meetings, election, referendum, or prior appropriation requirements, the documents of formation of Buyer or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Buyer is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Buyer. This Agreement is a legal, valid and binding obligation of Buyer enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) Buyer warrants and covenants that with respect to its contractual obligations under this Agreement, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (1) suit, (2) jurisdiction of court, (3) relief by way of injunction, order for specific performance or recovery of property, (4) attachment of assets, or (5) execution or enforcement of any judgment.

(f) Buyer is a "local public entity" as defined in Section 900.4 of the Government Code of the State of California.

(g) Buyer cannot assert sovereign immunity as a defense to the enforcement of its obligations under this Agreement.

General Covenants. Each Party covenants that commencing on the Effective Date and continuing throughout the Contract Term:

(a) It shall continue to be duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and to be qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on its business or financial condition;

(b) It shall maintain (or obtain from time to time as required) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement; and

(c) It shall perform its obligations under this Agreement in compliance with all terms and conditions in its governing documents and in material compliance with any Law.

Prevailing Wage. Seller shall use commercially reasonable efforts to ensure that all employees hired by Seller (and its contractors and subcontractors) that will perform construction work or provide services at the Site related to construction of the Facility are paid wages at base rates not less than those prevailing for workers performing similar work in the locality as provided by applicable New Mexico Law, if any ("**Prevailing Wages**"). Within one hundred eighty (180) days after the Commercial Operation Date, Seller shall, at Seller's sole expense, provide either (a) a certificate [redacted] reasonably acceptable to Buyer, demonstrating that Seller (and its contractors and subcontractors) paid Prevailing Wages, or (b) a certificate from an officer of Seller certifying that Seller made commercially reasonable efforts to pay Prevailing Wages together [redacted] reasonably acceptable to Buyer of such efforts, and in either case including at a minimum (i) the Prevailing Wages pursuant to New Mexico Law for each applicable trade classification with respect to workers performing work or providing services at the Site, and (ii) the highest and the lowest annual base rate paid to such workers for the Facility in each such classification. Nothing herein shall require Seller, its contractors and subcontractors to comply with, or assume liability created by, other inapplicable provisions of any New Mexico labor laws. Buyer agrees that Seller's obligations under this Section 13.4 may be satisfied upon the execution of a project labor agreement with respect to construction of the Facility.

[Reserved].

Supplier Diversity Reporting. From the Effective Date until the Commercial Operation Date, upon request from Buyer and on a schedule to be reasonably agreed by the Parties, Seller shall provide a separate "Supplier Plan" setting forth (a) the plans and efforts of Seller to subcontract with businesses owned by women, minorities, disabled veterans, lesbian, gay, bisexual, or transgender persons, or persons with disabilities ("**Diverse Suppliers**"), as more fully defined under CPUC General Order 156 (*provided*, Persons shall qualify as Diverse Suppliers only to the extent such Persons are so certified with the Supplier Clearinghouse as set forth in CPUC General Order 156 or elect to voluntarily self-identify as such to Seller), and (b) the plans and efforts of Seller to subcontract with small, local, and diverse businesses, as more fully defined under CPUC General Order 156 ("**Small Local Businesses**"); *provided*, such report shall be in a form reasonably acceptable to Buyer.

ARTICLE 14
ASSIGNMENT

General Prohibition on Assignments. Except as provided below in this Article 14, neither Party may voluntarily assign this Agreement or its rights or obligations under this Agreement, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Any 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 shall not be unreasonably withheld, conditioned or delayed; *provided*, a Change of Control of Seller shall not require Buyer's consent if the assignee or transferee is a Permitted Transferee. Any assignment made without the required written consent, or in violation of the conditions to assignment set out below, shall be null and void.

Collateral Assignment. Subject to the provisions of this Section 14.2, Seller has the right to assign this Agreement as collateral for any financing or refinancing (including any tax equity financing) of the Facility without the consent of Buyer. In connection with any financing or refinancing of the Facility by Seller, Buyer shall in good faith work with Seller and Lender to execute a customary and reasonable consent to collateral assignment of this Agreement and deliver a customary and reasonable estoppel to the Lender, as reasonably agreed by Buyer, Seller and Lender; *provided*, Seller shall reimburse Buyer's reasonable and documented out-of-pocket legal fees in connection with negotiating such consent to collateral assignment.

Permitted Assignment by Seller. Seller may, without the prior written consent of Buyer, transfer or assign this Agreement to: (a) an Affiliate of Seller or (b) any Person succeeding to all or substantially all of the assets of Seller (whether voluntary or by operation of law); if, and only if:

(a) the assignee is a Permitted Transferee;

(b) Seller has given Buyer Notice at least fifteen (15) Business Days before the date of such proposed assignment to the extent permitted under applicable Law, and if prior Notice is not permitted because Seller or any other Person involved in the transaction, directly or indirectly, is a publicly traded company and applicable Laws prohibit prior disclosure to Buyer, then within ten (10) Business Days after the date of such assignment [redacted]; and

(c) Seller (x) has, except in connection with a Change of Control, provided Buyer a written agreement signed by the Person to which Seller wishes to assign its interests that provides that such Person will assume all of Seller's obligations and liabilities under this Agreement upon such transfer or assignment and (y) certifies that such Person meets the definition of a Permitted Transferee.

Notwithstanding the foregoing, any assignment by Seller, its successors or assigns under this Section 14.3 shall be of no force and effect unless and until such Notice and agreement by the assignee have been received and accepted by Buyer.

Shared Facilities; Portfolio Financing. Buyer agrees and acknowledges that Seller may elect to finance all or any portion of the Facility or the Interconnection Facilities or the Shared Facilities (1) utilizing tax equity or cash equity investment, and/or (2) through a Portfolio Financing, which may include cross-collateralization or similar arrangements. In connection with any financing or refinancing of the Facility, the Interconnection Facilities or the Shared Facilities by Seller or any Portfolio Financing, Buyer, Seller, Portfolio Financing Entity (if any), and Lender shall execute and deliver such further consents, approvals and acknowledgments as may be reasonable and necessary to facilitate such transactions; *provided*, Buyer shall not be required to agree to any terms or conditions which are reasonably expected to have a material adverse effect on Buyer and all reasonable attorney's fees incurred by Buyer in connection therewith shall be borne by Seller.

14.5 **Buyer Financing Assignment.**

(a) Seller agrees that Buyer may assign a portion of its rights and obligations under this Agreement to a Person in connection with a municipal prepayment financing transaction ("**Buyer Assignee**") at any time upon not less than fifteen (15) Business Days' prior notice to Seller by delivering Notice of such assignment, which Notice must include a proposed assignment agreement substantially in the form attached hereto as Exhibit L ("**Assignment Agreement**"); *provided*, at the time of such assignment, such Buyer Assignee has a Credit Rating equal to Baa3 from Moody's and BBB- from S&P. As reasonably requested by Buyer Assignee, Seller shall (i) provide Buyer Assignee with reasonable information and documentation with respect to Seller, including but not limited to account opening information, information related to forecasted generation, Credit Rating, and compliance with anti-money laundering rules, the Dodd-Frank Act, the Commodity Exchange Act, the Patriot Act and similar rules, regulations, requirements and corresponding policies; and (ii) promptly execute such Assignment Agreement and implement such assignment as contemplated thereby, subject only to the countersignature of Buyer Assignee and Buyer, the requirements of this Section 14.5, and Lender consent. From and after any execution of an Assignment Agreement, Buyer shall remain primarily responsible for all its obligations under this Agreement and the Assignment Agreement, including (i) the obligation to pay for all Product and (ii) any and all damages, costs and expenses of Seller associated with Buyer Assignee's failure to take or pay for any such Product as contemplated by this Agreement. In no event shall any assignment by Buyer under this Section 14.5 purport to limit any rights of Seller under, or cause Seller to incur any additional obligations under, this Agreement other than *de minimis* administrative or ministerial obligations.

(b) Subject to the provisions of this Section 14.5(b), if Buyer proposes to use a financing structure other than the financing structure contemplated by the form attached hereto as Exhibit L, including modifying this Agreement to require Seller to deliver some or all of the Facility Energy using Inter-SC Trades or other structure that materially deviates from the terms of this Agreement or the form of Assignment Agreement, Seller agrees to use commercially reasonable efforts to negotiate with Buyer an assignment agreement providing for such structure, starting from the form of Assignment Agreement attached hereto, as such form shall be modified at the request of Seller to ensure that Seller is satisfied in its reasonable discretion that (x) it will be made financially whole (including for the time value of money) with respect to its financial position under such proposed financing structure compared to Seller's financial position absent such proposed financing structure and the transactions contemplated thereby, including but not

limited to with respect to Seller's cash flows and liquidity position, and (y) it will not be required to (i) change the manner in which the Facility is operated, (ii) change the Delivery Point or the transmission path to the Delivery Point, (iii) procure additional or alternative transmission capacity, or (iv) change the way that Energy is delivered (*provided*, such restriction shall not preclude Inter-SC Trades at a different transaction point, such as SP-15); *provided*, such form must include the express requirements that Buyer Assignee shall make timely payment of all amounts due from Buyer under this Agreement, and that Buyer shall remain primarily liable for all of Buyer's obligations under this Agreement and such agreement memorializing such proposed financing structure, including (i) the obligation to pay for all Product and (ii) any and all damages, costs and expenses of Seller associated with Buyer Assignee's failure to take or pay for any such Product as contemplated by this Agreement; *provided further*, Seller's execution of any such agreement memorializing such proposed financing structure shall be subject to Lender consent.

ARTICLE 15
DISPUTE RESOLUTION

Governing Law. This agreement and the rights and duties of the parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law. To the extent enforceable at such time, each party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this agreement. [STC – 17]

Dispute Resolution. In the event of any dispute arising under this Agreement, within ten (10) days following the receipt of a Notice from either Party identifying such dispute, the Parties shall meet, negotiate and attempt, in good faith, to resolve the dispute quickly, informally and inexpensively. If the Parties are unable to resolve a dispute arising hereunder within the earlier of either forty-five (45) days of initiating such discussions, or within sixty (60) days after Notice of the dispute, either Party may seek any and all remedies available to it at law or in equity, subject to the limitations set forth in this Agreement.

Attorneys' Fees. In any proceeding brought to enforce this Agreement or because of the breach by any Party of any covenant or condition herein contained, each Party shall bear its own respective costs, expenses and attorneys' fees in connection with said action.

Venue. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be the federal courts of the United States or, if such federal courts refuse jurisdiction notwithstanding the Parties' agreement, then in the courts of the State of California, in either case sitting in Los Angeles County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, and waive any claim or defense that such forum is not convenient or proper.

ARTICLE 16
INDEMNIFICATION

16.1 **Indemnification**.

(a) Each Party (the "**Indemnifying Party**") agrees to indemnify, defend and hold harmless the other Party and its Affiliates, directors, officers, employees and agents (collectively, the "**Indemnified Party**") from and against all claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees) (i) for personal injury or death to Persons and damage to the property of any third party to the extent arising out of, resulting from, or caused by the negligent or willful misconduct of the Indemnifying Party, its Affiliates, its directors, officers, employees, or agents, or (ii) for third-party claims resulting from the Indemnifying Party's breach (including inaccuracy of any representation of warranty made hereunder), performance or non-performance of its obligations under this Agreement.

(b) Seller shall indemnify, defend and hold harmless Buyer and its Affiliates, directors, officers, employees from and against all claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees) in connection with any claims of infringement upon or violation of any trade secret, trademark, trade name, copyright, patent, or other intellectual property rights of any third party by equipment, software, applications or programs (or any portion of same) used in connection with the Facility (an "**IP Indemnity Claim**").

(c) Nothing in this Section 16.1 shall enlarge or relieve Seller or Buyer of any liability to the other for any breach of this Agreement. Neither Party shall be indemnified for its damages resulting from its sole negligence, intentional acts or willful misconduct. These indemnity provisions shall not be construed to relieve any insurer of its obligation to pay claims consistent with the provisions of a valid insurance policy.

Claims. Promptly after receipt by a Party of any claim or Notice of the commencement of any action, administrative, or legal proceeding, or investigation as to which the indemnity provided for in this Article 16 may apply, the Indemnified Party shall notify the Indemnifying Party in writing of such fact. The Indemnifying Party shall assume the defense thereof with counsel designated by the Indemnifying Party and satisfactory to the Indemnified Party, *provided*, if the defendants in any such action include both the Indemnified Party and the Indemnifying Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, the Indemnified Party shall have the right to select and be represented by separate counsel, at the Indemnifying Party's expense, unless a liability insurer is willing to pay such costs. If the Indemnifying Party fails to assume the defense of a claim meriting indemnification, the Indemnified Party may at the expense of the Indemnifying Party contest, settle, or pay such claim; *provided*, settlement or full payment of any such claim may be made only following consent of the Indemnifying Party or, absent such consent, written opinion of the Indemnified Party's counsel that such claim is meritorious or warrants settlement. Except as otherwise provided in this Article 16, in the event that a Party is obligated to indemnify and hold the other Party and its successors and assigns harmless under this Article 16, the amount owing to the Indemnified Party will be the amount of the Indemnified Party's damages net of any insurance proceeds received by the Indemnified Party following a reasonable effort by the Indemnified Party to obtain such insurance proceeds.

ARTICLE 17
INSURANCE

Insurance.

(a) General Liability. Seller shall maintain, or cause to be maintained at its sole expense, the following types and minimum limits of insurance with a carrier rated "A- VII" or higher by A.M. Best's Key Rating Guide: (i) commercial general liability insurance, including products and completed operations and personal injury (including bodily injury and death) and property damage insurance, with a minimum limit of liability of One Million Dollars ($1,000,000) per occurrence, and a general aggregate of not less than Two Million Dollars ($2,000,000) for combined bodily injury and property damage; and (ii) an umbrella insurance policy in a minimum limit of liability of Ten Million Dollars ($10,000,000). The amounts of liability insurance described in this Article 17 may be satisfied by primary insurance or by any combination of primary and excess/umbrella insurance. Such insurance shall contain standard cross-liability and severability of interest provisions such that each Person is protected in the same manner as though a separate policy has been issued to each but nothing therein shall operate to increase the insurance company's liability beyond the amount the insurance company would have been liable if only one Person or interest had been named as insured. The liability insurance policies referenced in this Article 17 shall (x) provide an endorsement waiving rights of subrogation against Buyer, (y) name Buyer as additional insured on all required liability insurance (except workers compensation), and (z) be primary to any insurance of Buyer that may apply to such occurrence, accident or claim and no "other insurance" provision shall be applicable to Buyer or any additional insureds, by virtue of having been named an additional insured under any policy of insurance.

(b) Workers Compensation and Employer's Liability Insurance. Employers' Liability insurance shall not be less than One Million Dollars ($1,000,000) providing statutory benefits as required by Law (if any exposure exists) for injury, sickness, disability or death of the employees.

(c) Business Auto Liability Insurance. Seller shall maintain at all times during the Contract Term business auto insurance for bodily injury and property damage with limits of One Million Dollars ($1,000,000) combined single limit. Such insurance shall cover liability arising out of Seller's use of all owned (if any), non-owned and hired motor vehicles in the performance of the Agreement.

(d) Property Insurance. Seller shall maintain or cause to be maintained property insurance (construction all-risk or operational all-risk as may be applicable) covering the Facility against physical loss or damage, including coverage for natural perils including but not limited to flood, earthquake, windstorm, severe convective storm and wildfire, all with limits in accordance with industry standard recognizing that natural perils may be subject to a lower sublimit. Coverage will be on an "all-risk" basis including mechanical and electrical breakdown.

(e) Subcontractor Insurance. Seller shall require all of its tier-one subcontractors to carry: (i) comprehensive general liability insurance with a combined single limit of coverage not less than One Million Dollars ($1,000,000); (ii) workers' compensation insurance

and employers' liability coverage in accordance with applicable requirements of Law; and (iii) business auto insurance for bodily injury and property damage with limits of one million dollars ($1,000,000) per occurrence. Seller shall use commercially reasonable efforts to cause all subcontractors shall name Seller as an additional insured to insurance carried pursuant to clauses (e)(i) and (e)(iii). Seller shall use commercially reasonable efforts to cause all subcontractors shall provide a primary endorsement and a waiver of subrogation to Seller for the required coverage pursuant to this Section 17.1(e).

(f) Evidence of Insurance. Within ten (10) days after execution of the Agreement and upon annual renewal thereafter, Seller shall deliver to Buyer certificates of insurance evidencing such coverage. Such certificates shall specify that Buyer shall be given at least thirty (30) days prior Notice by Seller in the event of any material modification, cancellation or termination of coverage. All insurance required herein shall be primary coverage without right of contribution from any insurance of Buyer, and such policies shall be endorsed with a waiver of subrogation in favor of Buyer for all work performed by Seller, its employees, agents and subcontractors and any subrogation rights which may pass to Seller's insurance carriers for the payment of any claims. Any other insurance maintained by Seller is for the exclusive benefit of Seller and shall not in any manner inure to the benefit of Buyer.

(g) Failure to Comply with Insurance Requirements. If Seller fails to comply with any of the provisions of this Article 17, Seller, among other things and without restricting Buyer's remedies under the Law or otherwise, shall, at its own cost and expense, comply with the terms and conditions of Article 16.

ARTICLE 18
CONFIDENTIAL INFORMATION

Definition of Confidential Information. The following constitutes "**Confidential Information**," whether oral or written which is delivered by Seller to Buyer or by Buyer to Seller including: (a) the terms and conditions of, and proposals and negotiations related to, this Agreement, and (b) information that either Seller or Buyer stamps or otherwise identifies as "confidential" or "proprietary" before disclosing it to the other. Confidential Information does not include (i) information that was publicly available at the time of the disclosure, other than as a result of a disclosure in breach of this Agreement; (ii) information that becomes publicly available through no fault of the recipient after the time of the delivery; (iii) information that was rightfully in the possession of the recipient (without confidential or proprietary restriction) at the time of delivery or that becomes available to the recipient from a source not subject to any restriction against disclosing such information to the recipient; and (iv) information that the recipient independently developed without a violation of this Agreement.

Duty to Maintain Confidentiality. The Party receiving Confidential Information (the "**Receiving Party**") from the other Party (the "**Disclosing Party**") shall not disclose Confidential Information to a third party (other than the Party's employees, lenders, counsel, accountants, directors or advisors, or any such representatives of a Party's Affiliates, who have a need to know such information and have agreed to keep such terms confidential) except in order to comply with any applicable Law, regulation, or any exchange, control area or independent system operator rule or

in connection with any court or regulatory proceeding applicable to such Party or any of its Affiliates; *provided*, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation. The Parties agree and acknowledge that nothing in this Section 18.2 prohibits a Party from disclosing any one or more of the commercial terms of a transaction (other than the name of the other Party unless otherwise agreed to in writing by the Parties) to any industry price source for the purpose of aggregating and reporting such information in the form of a published energy price index.

The Parties acknowledge and agree that the Agreement and any transactions entered into in connection herewith are subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.). In order to designate information as confidential, the Disclosing Party must clearly stamp and identify the specific portion of the material designated with the word "Confidential." The Parties agree not to over-designate material as Confidential Information. Over-designation includes stamping whole agreements, entire pages or series of pages as "Confidential" that clearly contain information that is not Confidential Information.

Upon request or demand of any third person or entity not a Party hereto to Buyer pursuant to the California Public Records Act for production, inspection and/or copying of Confidential Information ("**Requested Confidential Information**"), Buyer shall as soon as practical, and no later than ten (10) Business Days after receipt, notify Seller in writing via email that such request has been made. Seller shall be solely responsible for taking at its sole expense whatever legal steps are necessary to prevent release of the Requested Confidential Information to the third party by Buyer. If Seller takes no such action after receiving the foregoing Notice from Buyer, Buyer shall, at its discretion, be permitted to comply with the third party's request or demand to the extent Buyer reasonably believes that disclosure is required under the California Public Records Act and is not required to defend against it. If Seller does take or attempt to take such action, Buyer shall provide timely and reasonable cooperation to Seller, if requested by Seller, and Seller agrees to indemnify and hold harmless Buyer, its officers, employees and agents ("**Buyer's Indemnified Parties**"), from any claims, liability, award of attorneys' fees, or damages, and to defend any action, claim or lawsuit brought against any of Buyer's Indemnified Parties for Buyer's refusal to disclose any Requested Confidential Information.

Irreparable Injury; Remedies. Receiving Party acknowledges that its obligations hereunder are necessary and reasonable in order to protect Disclosing Party and the business of Disclosing Party, and expressly acknowledges that monetary damages would be inadequate to compensate Disclosing Party for any breach or threatened breach by Receiving Party of any covenants and agreements set forth herein. Accordingly, Receiving Party acknowledges that any such breach or threatened breach will cause irreparable injury to Disclosing Party and that, in addition to any other remedies that may be available, in law, in equity or otherwise, Disclosing Party will be entitled to obtain injunctive relief against the threatened breach of this Agreement or the continuation of any such breach, without the necessity of proving actual damages.

Further Permitted Disclosure. Notwithstanding anything to the contrary in this Article 18, Confidential Information may be disclosed by the Receiving Party to any of its agents, consultants, contractors, trustees, or actual or potential investors or financing parties (including, in the case of

Seller, its Lender(s)), so long as such Person to whom Confidential Information is disclosed agrees in writing to be bound by confidentiality provisions that are at least as restrictive as this Article 18 to the same extent as if it were a Party.

Press Releases. Neither Party shall issue or make (or cause its Affiliates to issue or make) a written press release or written public statement regarding the transactions contemplated by this Agreement unless both Parties have agreed upon the contents of any such written press release or written public statement, which agreement shall not be unreasonably conditioned, withheld or delayed.

ARTICLE 19
MISCELLANEOUS

Entire Agreement; Integration; Exhibits. This Agreement, together with the Cover Sheet and Exhibits attached hereto constitutes the entire agreement and understanding between Seller and Buyer with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. The Exhibits attached hereto are integral parts hereof and are made a part of this Agreement by reference. The headings used herein are for convenience and reference purposes only. In the event of a conflict between the provisions of this Agreement and those of the Cover Sheet or any Exhibit, the provisions of first the Cover Sheet, and then this Agreement shall prevail, and such Exhibit shall be corrected accordingly. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.

Amendments. This Agreement may only be amended, modified or supplemented by an instrument in writing executed by duly authorized representatives of Seller and Buyer; *provided*, this Agreement may not be amended by electronic mail communications.

No Waiver. Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default.

No Agency, Partnership, Joint Venture or Lease. Seller and the agents and employees of Seller shall, in the performance of this Agreement, act in an independent capacity and not as officers or employees or agents of Buyer. Under this Agreement, Seller and Buyer intend to act as energy seller and energy purchaser, respectively, and do not intend to be treated as, and shall not act as, partners in, co-venturers in or lessor/lessee with respect to the Facility or any business related to the Facility. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement) and/or, to the extent set forth herein, any Lender and/or Indemnified Party.

Severability. In the event that any provision of this Agreement is unenforceable or held to be unenforceable, the Parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby. The Parties shall, however, use their best endeavors to agree on the replacement of the void, illegal or unenforceable provision(s) with legally acceptable clauses

which correspond as closely as possible to the sense and purpose of the affected provision and this Agreement as a whole.

Mobile-Sierra. Notwithstanding any other provision of this Agreement, neither Party shall seek, nor shall they support any third party 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 written 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 shall be the "public interest" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956). Changes proposed by a non-Party or FERC acting *sua sponte* shall be subject to the most stringent standard permissible under applicable Law.

Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument and each of which shall be deemed an original.

Electronic Delivery. This Agreement may be duly executed and delivered by a Party by electronic format (including portable document format (.pdf)) delivery of the signature page of a counterpart to the other Party.

Binding Effect. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

No Recourse to Members of Buyer. Buyer is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to its Joint Powers Agreement and is a public entity separate from its constituent members. Buyer shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Seller shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Buyer's constituent members, or the employees, directors, officers, consultants or advisors of Buyer or its constituent members, in connection with this Agreement.

Forward Contract. The Parties acknowledge and agree that this Agreement constitutes a "forward contract" within the meaning of the U.S. Bankruptcy Code, and Buyer and Seller are "forward contract merchants" within the meaning of the U.S. Bankruptcy Code. Each Party further agrees that, for all purposes of this Agreement, each Party waives and agrees not to assert the applicability of the provisions of 11 U.S.C. §366 in any Bankruptcy proceeding wherein such Party is a debtor. In any such proceeding, each Party further waives the right to assert that the other Party is a provider of last resort to the extent such term relates to 11 U.S.C. §366 or another provision of 11 U.S.C. §101-1532.

Change in Electric Market Design.

(a) If a change in the CAISO Tariff renders this Agreement or any provisions hereof incapable of being performed or administered, then any Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to make this Agreement capable of being performed and administered, while attempting to preserve to the maximum extent possible the benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, Buyer and Seller shall engage in such negotiations in good faith. If Buyer and Seller are unable, within sixty (60) days after delivery of such request, to agree upon changes to this Agreement or to resolve issues relating to changes to this Agreement, then any Party may submit issues pertaining to changes to this Agreement to the dispute resolution process set forth in Article 15. Notwithstanding the foregoing, (i) a change in cost shall not in and of itself be deemed to render this Agreement or any of the provisions hereof incapable of being performed or administered, and (ii) all of the unaffected provisions of this Agreement shall remain in full force and effect during any period of such negotiation or dispute resolution.

(b) If any of the Transmission Systems utilized to deliver Product to the Delivery Point under this Agreement are integrated into a new or existing regional transmission organization or independent system operator and such integration has a material and adverse impact on either Party's performance under this Agreement, including the costs of either Party to perform, then the affected Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to restore the balance of benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, Buyer and Seller shall engage in such negotiations in good faith; *provided*, neither Party shall be obligated to amend this Agreement if such amendment(s) would adversely affect, or could reasonably be expected to have or result in any adverse effect on, any of such Party's rights, benefits, costs, revenue, value of the Agreement, risks and/or obligations under this Agreement.

Further Assurances. Each of the Parties hereto agrees to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than or in addition to those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the Effective Date.

SunZia Wind North LLC, a Delaware limited liability company

By: _____
Name: _____
Title: _____

CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA,
a California joint powers authority

By: _____
Name: _____
Title: _____

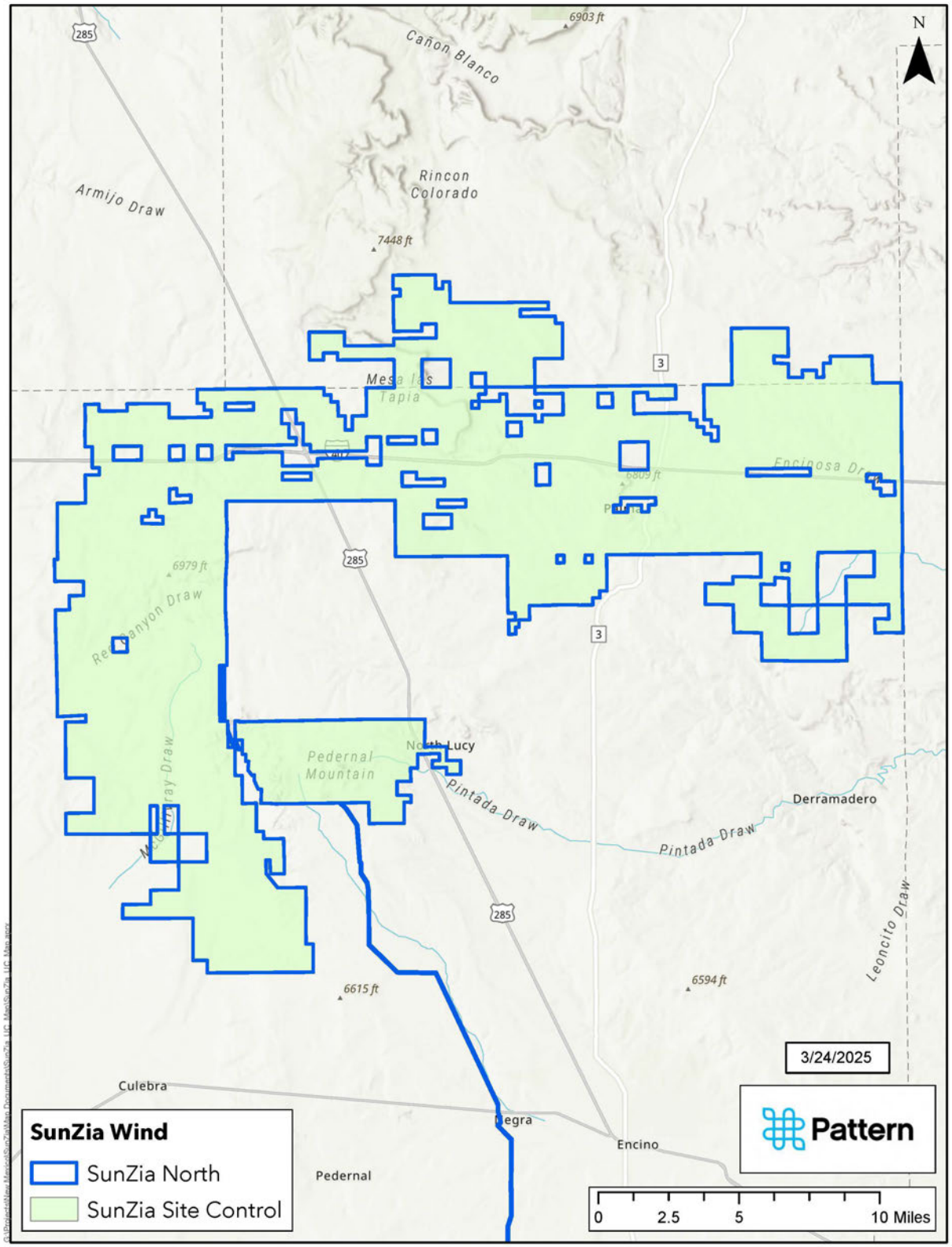
EXHIBIT A

FACILITY DESCRIPTION

The Facility description provided herein reflects Seller's expectation for the Facility and the Site as of the Effective Date. Except as otherwise provided in the Agreement, Seller shall not make any alteration or modification to the Facility which results in a change to the Guaranteed Capacity, Guaranteed RA Amount, or to the anticipated output of the Facility without Buyer's prior written consent; *provided*, Seller shall be permitted to repower the Facility after the tenth (10^{th}) Contract Year so long as Seller continues to be obligated to deliver Guaranteed Energy Production and Guaranteed RA Amount associated with the Guaranteed Capacity during such repower; upon any such repower that changes the Installed Capacity, Seller shall deliver an updated Installed Capacity Certificate in the form of Exhibit I.

Site Name: SunZia Wind North LLC **Site Map:**

[*Site Map shown on next page*]


N
Cañon Blanco
6903 ft
Armijo Draw
Rincon Colorado
7448 ft
Mesa las Tapia
Encinosa Draw
6809 ft
285
3
6979 ft
Red Canyon Draw
Pedernal Mountain
North Lucy
Pintada Draw
Derramadero
Leoncito Draw
6615 ft
6594 ft
3/24/2025
Culebra
Negra
Encino
Pedernal
SunZia Wind
SunZia North
SunZia Site Control
Pattern
0
2.5
5
10 Miles

Project	Anticipated Nameplate Capacity (MW)*	Wind Turbine Model(s)
SunZia Wind North LLC	1,089 MW	Vestas

* the "Anticipated Nameplate Capacity" listed above is the anticipated nameplate capacity for the Facility as of the Effective Date, which shall be subject to modification pursuant to the terms of this Agreement.

Site Location: San Miguel County, New Mexico

Delivery Point: CAISO Scheduling Point-Intertie combination at PALOVRDE_ASR-APND and PVWEST.

Point of Interconnection: the Pete Heinrich AC Switching Station.

Transmission Provider: SunZia Transmission, LLC; Salt River Project Agricultural Improvement and Power District; Tucson Electric Power Company; Desert Southwest Region of Western Area Power Administration; and such other Persons who meet the definition of a Transmission Provider hereunder from time to time.

Technology: Utility Scale Wind Technology

Guaranteed Capacity: 37.3 MW

State: New Mexico

Facility Metering Points: See Exhibit R, as may be updated by Seller from time to time upon Notice to Buyer, so long as such update does not have a materially adverse effect on Buyer, as determined by Buyer in its reasonable discretion.

Participating Transmission Owner: SunZia Transmission, LLC

Alternate Facility Descriptions: the Western Spirit Wind Complex, consisting of the below projects:

1. Clines Corners Wind Project: a 324 MW wind-powered electricity generating facility located in Torrance and Guadalupe Counties, in the State of New Mexico, with CAISO IDs CLINESCO_3_PVDYN and CLINESCO_3_WBDYN.

2. Duran Mesa Wind Project: a 105 MW wind-powered electricity generating facility located in Torrance County, in the State of New Mexico, with CAISO ID DURNMESA_3_WBDYN.

3. Tecolote Wind Project: a 272 MW wind-powered electricity generating facility located in Torrance and Guadalupe Counties, in the State of New Mexico, with CAISO ID TECOLOTE_3_WBDYN.

EXHIBIT B

FACILITY CONSTRUCTION AND COMMERCIAL OPERATION

1. **[Reserved]**.

2. **Commercial Operation of the Facility**. "**Commercial Operation**" means the condition existing when Seller has fulfilled all of the conditions precedent as set forth in Section 2.2(a) of the Agreement and provided Notice to Buyer substantially in the form of Exhibit H (the "**COD Certificate**").

   (a) Seller shall notify Buyer that it intends to achieve Commercial Operation at least sixty (60) days before the anticipated Commercial Operation Date. Seller may continue to increase the Installed Capacity of the Facility after the Commercial Operation Date and will notify Buyer from time to time of such increases by delivering a certificate from a Licensed Professional Engineer substantially in the form attached as Exhibit I hereto; when the Installed Capacity is complete, Seller shall include a statement to that effect in a Notice accompanying the final such certificate.

   (b) Subject to Section 2.2(a) of the Agreement and Section 5 of this Exhibit B, if Seller does not achieve Commercial Operation by the Guaranteed Commercial Operation Date (as it may be otherwise extended hereunder), Seller may elect to extend the Guaranteed Commercial Operation Date by paying Commercial Operation Delay Damages to Buyer for each day Seller desires to extend the Guaranteed Commercial Operation Date, not to exceed a total of [redacted] days of extensions by such payment of Commercial Operation Delay Damages. If Seller elects to extend the Guaranteed Commercial Operation Date, on or before the date that is five (5) Business Days prior to the then-current Guaranteed Commercial Operation Date, Seller shall provide Notice and payment to Buyer of the Commercial Operation Delay Damages for the number of days of extension to the Guaranteed Commercial Operation Date ("**COD Delay Damages Payment**"); *provided*, such COD Delay Damages Payment may, at Seller's option, be in the form of cash or one or more Letter(s) of Credit, which Letter(s) of Credit Buyer may immediately draw on, on a pro rata basis, to receive such COD Delay Damages Payment; *provided*, if Seller provides such Letter(s) of Credit to Buyer prior to providing Notice of the COD Delay Damages Payment as set forth above, then Buyer shall not draw on such Letter(s) of Credit until Buyer receives such Notice from Seller. If Seller achieves Commercial Operation prior to the Guaranteed Commercial Operation Date as extended by the payment of the COD Delay Damages Payment, Buyer shall refund to Seller in cash the Commercial Operation Delay Damages for each day Seller achieves Commercial Operation prior to the Guaranteed Commercial Operation Date, as extended, times the Commercial Operation Delay Damages, not to exceed the total amount of the COD Delay Damages Payment paid by Seller pursuant to this Section 2(b).

3. **Termination for Failure to Achieve Commercial Operation**. If the Facility has not achieved Commercial Operation on or before the Guaranteed Commercial Operation Date (as may be extended hereunder), Buyer may elect to terminate this Agreement in accordance with Sections 11.1(b)(ii) and 11.2. If the Facility has not achieved Commercial Operation on or before the Guaranteed Commercial Operation Date (as may be extended hereunder), and Buyer has not terminated this Agreement on or before the date that is sixty (60) days after the Guaranteed Commercial Operation Date (as may be extended hereunder) in accordance with Sections 11.1(b)(ii) and 11.2, Seller may elect to terminate this Agreement upon Notice to Buyer, it shall not be an Event of Default by either Party, and neither Party shall have any liability to the other Party, except for the payment by Seller, as liquidated damages, of the Damage Payment, and those obligations that survive termination as expressly described in Section 2.1(b) and Section 11.6.

4. **Extension of the Guaranteed Dates**. The Guaranteed Commercial Operation Date shall, subject to notice and documentation requirements set forth below, be extended on a day-for-day basis (the "**Development Cure Period**") for the duration of any and all delays arising out of the following circumstances to the extent (i) the following circumstances are not the result of Seller's failure to take all commercially reasonable actions to meet its requirements and deadlines, and (ii) such delays could not be mitigated by Seller using commercially reasonable efforts to overcome the delays; *provided*, if such delays occur concurrently, the Guaranteed Commercial Operation Date, as applicable, shall only be extended by a single day for each such concurrent day of delay:

   (a) a Force Majeure Event occurs; or

   (b) the Interconnection Facilities or the SunZia Transmission Line are not complete and ready for the Facility to achieve Initial Synchronization by the expected date for Initial Synchronization as set forth on the Cover Sheet, despite the exercise of commercially reasonable efforts by Seller;

   (c) [redacted]

   (d) a delay caused by Buyer.

   Seller shall submit any claim for Development Cure Period delays within (x) three (3) Business Days of the applicable milestone in the case of (b) or (d) above, and (y) fourteen (14) days after the initial occurrence of the claimed Force Majeure Event in the case of (a) above, in substantially the form set forth in Exhibit T. Notwithstanding anything in this

Agreement to the contrary, the cumulative extensions granted under the Development Cure Period (other than the extensions granted pursuant to clause 4(d) above) shall not exceed one hundred eighty (180) days, for any reason, including a Force Majeure Event, and the cumulative extensions granted to the Guaranteed Commercial Operation Date by the payment of Commercial Operation Delay Damages and any Development Cure Period(s) (other than the extensions granted pursuant to clause 4(d) above) shall not exceed [redacted]. Upon request from Buyer, Seller shall provide documentation demonstrating to Buyer's reasonable satisfaction that the delays described above did not result from Seller's actions or failure to take commercially reasonable actions.

5. [redacted]

EXHIBIT C

COMPENSATION

Buyer shall compensate Seller for the Product in accordance with this Exhibit C.

(a) Contract Rate.

(i) During the Delivery Term, starting on the RA Guarantee Date and continuing until the day prior to the Initial Energy Delivery Date, Buyer shall pay Seller on a monthly basis an amount equal to (i) the Contract Rate, *multiplied by* (ii) the Guaranteed RA Amount.

(ii) On and after the Initial Energy Delivery Date, , Buyer shall pay Seller the following amounts for each MWh of Facility Energy, retroactively delivered Replacement Energy delivered pursuant to Section 4.7, and Deemed Delivered Energy during each Contract Year:

(A) Facility Energy. For each MWh of Facility Energy and retroactively delivered Replacement Energy delivered pursuant to Section 4.7, in each Settlement Interval or Settlement Period, as applicable, the difference of (A) the Contract Rate, *minus* (B) the Day-Ahead Market LMP applicable to the Delivery Point for such Settlement Interval or Settlement Period, as applicable; *provided*, (x) if the Day-Ahead Market LMP applicable to the Delivery Point for such Settlement Interval or Settlement Period, as applicable, is less than the Floor Price, (A) if the LMP in the Real-Time Market at the Delivery Point is greater than or equal to the Floor Price, Buyer shall pay the difference of (1) the Contract Rate *minus* (2) the LMP in the Real-Time Market at the Delivery Point, or (B) if the LMP in the Real-Time Market at the Delivery Point is less than the Floor Price, then such LMP in the Day-Ahead Market will be deemed to be the Floor Price for purposes of this clause (a), and (y) if the result of the foregoing results in a negative value, then Seller shall pay Buyer the absolute value of such result (which payment may be applied as a credit to Buyer on Seller's monthly invoice); and

(B) Deemed Delivered Energy. On and after the Initial Energy Delivery Date, for each MWh of Deemed Delivered Energy in each Settlement Interval or Settlement Period, as applicable, Buyer shall pay Seller the Contract Rate. In addition, on and after the Initial Energy Delivery Date, during the period in which Seller is receiving the PTC for the Facility Energy, Buyer shall also pay the PTC Amount for all Deemed Delivered Energy; *provided*, *however*, Buyer shall not pay the PTC Amount for Deemed Delivered Energy that was generated by the Facility and sold to a third party during a Market Curtailment Period pursuant to Section 4.4(b). Notwithstanding the foregoing, Seller shall receive no compensation from Buyer, including for the PTC Amount, for Deemed Delivered Energy to the extent that Seller is required to reduce delivery of Facility Energy or would be required to reduce delivery of Deemed Delivered Energy as a result of any Curtailment Period.

(b) Excess Contract Year Deliveries Over 115%. Notwithstanding the foregoing, if at any point in a Contract Year, starting with the first full Contract Year following the Initial Energy Delivery Date, the amount of Facility Energy *plus* Deemed Delivered Energy exceeds one hundred fifteen percent (115%) of the Expected Energy for such Contract Year, Seller shall provide Notice to Buyer thereof and Buyer shall have the right, but not the obligation, to purchase additional Product (which shall include the purchase of Replacement Energy and Deemed Delivered Energy) during such Contract Year. If Buyer elects not to purchase such additional Product for the remainder of such Contract Year, Buyer shall notify Seller thereof, and (i) Seller's obligation to deliver and Buyer's obligation to purchase Product will stop five (5) Business Days following the receipt of such notice by Seller, until the first day of the following Contract Year, and (ii) Seller may sell and deliver Product to any third party until the first day of the following Contract Year. If Seller makes third-party sales in accordance with this paragraph, Seller shall be entitled to all revenues and shall bear all costs associated with such sales.

(c) Excess Settlement Interval Deliveries. On and after the Initial Energy Delivery Date, if during any Settlement Interval or Settlement Period, as applicable, Seller delivers Facility Energy in excess of the product of (a) the Hourly Delivery Cap *multiplied by* (b) the duration of the Settlement Interval or Settlement Period, as applicable, expressed in hours ("**Excess MWh**"), then the price applicable to all such Excess MWh in such Settlement Interval shall be zero dollars ($0), and if there is a Negative LMP during such Settlement Interval, Seller shall pay to Buyer an amount equal to the absolute value of the Negative LMP times such Excess MWh.

(d) [Reserved].

(e) Tax Credits. The Parties agree that the Contract Rate is not subject to adjustment or amendment if Seller fails to receive any Tax Credits, or if any Tax Credits expire, are repealed or otherwise cease to apply to Seller or the Facility in whole or in part, or Seller or its investors are unable to benefit from any Tax Credits. Seller shall bear all risks, financial and otherwise, throughout the Contract Term, associated with Seller's or the Facility's eligibility to receive Tax Credits or to qualify for accelerated depreciation for Seller's accounting, reporting or Tax purposes. The obligations of the Parties hereunder, including those obligations set forth herein regarding the purchase and price for and Seller's obligation to deliver Facility Energy and Product, shall be effective regardless of whether construction of the Facility (or any portion thereof) or the sale of Facility Energy is eligible for, or receives Tax Credits during the Contract Term.

EXHIBIT D

SCHEDULING COORDINATOR RESPONSIBILITIES

(a) Seller as Scheduling Coordinator for the Facility. Seller shall act as the Scheduling Coordinator or designate a qualified third party to provide Scheduling Coordinator services with the CAISO for the Facility to Schedule and deliver the Product at the Delivery Point. On and after the Initial Energy Delivery Date, Seller shall bid the Facility's generation into the applicable CAISO market pursuant clause (b) below. Each Party shall perform all scheduling activities in compliance with (i) the CAISO Tariff, (ii) WECC scheduling practices, and (iii) Prudent Operating Practice. As between Buyer and Seller hereunder, Seller shall be responsible for reporting the Facility Energy delivered to the CAISO in its FERC electronic quarterly reports. The Parties agree to communicate and cooperate as necessary in order to address any scheduling or settlement issues as they may arise, and to work together in good faith to resolve them in a manner consistent with the terms of the Agreement. To the extent required under the CAISO Tariff, on and after the Initial Energy Delivery Date, Seller (as the Facility's SC) shall ensure that all Facility Energy is electronically tagged (E-Tagged) in accordance with Prudent Operating Practice, this Agreement, and the applicable CAISO Tariff protocols and Scheduling practices.

(b) CAISO Market Participation. On and after the Initial Energy Delivery Date:

(i) (x) Seller shall, at Seller's election, submit either bids equal to or below the Floor Price, or Self-Schedules, in each case for the Day-Ahead Forecast into the Day-Ahead Market, and (y) Seller shall, at Seller's election, submit either bids equal to or below the Floor Price, or Self-Schedules, in each case into the Real-Time Market for any portion of the expected Facility Energy above the amount of the Day-Ahead Forecast that is awarded a Day-Ahead Schedule. Seller may, but is not required to, reduce deliveries of Product during periods in which the LMP in the Day-Ahead Market or Real-Time Market at the Delivery Point is less than the Floor Price, as applicable; *provided*, Seller shall not reduce deliveries of Product below the amount of the Day-Ahead Forecast that has been awarded a Day-Ahead Schedule during periods in which the LMP in the Real-Time Market at the Delivery Point is less than the Floor Price; *provided further*, if Seller does not reduce deliveries of Product during such periods, Seller shall be compensated for such Facility Energy pursuant to Section (a) in Exhibit C, and such Facility Energy shall not be considered to be Deemed Delivered Energy.

(ii) The Parties agree to use good faith efforts to work together to permit Buyer to set the Floor Price on a [redacted] basis upon not less than ten (10) Business Days' Notice to Seller; *provided*, *however*, that Buyer shall not have the right to set the Floor Price at a price that is greater than (i) for the period during which Seller is eligible to obtain PTCs for Facility Energy, the Negative PTC Amount, and (ii) after the period during which Seller is eligible to obtain PTCs for Facility Energy, zero dollars per MWh ($0/MWh).

(c) CAISO Costs and Revenues. As the Scheduling Coordinator for the Facility, Seller shall be responsible for all CAISO costs, including without limitation, all penalties, Imbalance Energy charges, and other charges, and shall be entitled to all CAISO revenues, including without

limitation, credits, Imbalance Energy payments, and revenues associated with CAISO dispatches, bid cost recovery, Inter-SC Trade credits, or other credits in respect of the Product scheduled or delivered from the Facility. Seller shall be responsible for all CAISO penalties resulting from any failure by Seller to abide by the CAISO Tariff. The Parties agree that any Availability Incentive Payments (as defined in the CAISO Tariff) are for the benefit of Seller and for Seller's account and that any Non-Availability Charges (as defined in the CAISO Tariff) are the responsibility of Seller and for Seller's account. In addition, if during the Delivery Term, the CAISO implements or has implemented any sanction or penalty related to scheduling, outage reporting, or generator operation, the cost of such sanctions or penalties arising from the scheduling, outage reporting, or generator operation of the Facility shall be Seller's responsibility.

(d) Master File and Resource Data Template. Seller shall provide the data to the CAISO (and to Buyer) that is required for the CAISO's Master File and Resource Data Template (or successor data systems) for the Facility consistent with this Agreement. Neither Party shall change such data without the other Party's prior written consent.

(e) Customer Market Results Interface Access. On and after the Initial Energy Delivery Date, Seller shall provide to Buyer read-only access to Seller's (or its SC's) customer market results interface for the Facility.

EXHIBIT E

PROGRESS REPORTING FORM

Each Progress Report must include the following items:

1. Executive summary.

2. Current facility description.

3. Current Site plan of the Facility.

4. Description of any planned changes to the Facility or the Site from the previous Progress Report.

5. Gantt chart or schedule showing progress on achieving each of the Milestones.

6. Summary of activities during the previous calendar quarter or month, as applicable, including any OSHA labor hour reports.

7. Forecast of activities scheduled for the current calendar quarter or month, as applicable.

8. Written description about the progress relative to Seller's Milestones, including (i) whether Seller has met or is on target to meet the Milestones, and (ii) if a Milestone has been delayed, a description of the cause of the delay, potential courses of action to achieve such missed Milestone and all subsequent Milestones.

9. List of issues that could reasonably foreseeably affect Seller's Milestones.

10. A status report of start-up activities including a forecast of activities ongoing and after start-up, a report on Facility performance including performance projections for the next twelve (12) months.

11. Schedule of status of all major construction agreements, permits, financing agreements and major equipment purchase orders showing the start dates, anticipated completion dates, and completion percentages.

12. Schedule of all Material Permits obtained through the date of the Progress Report.

13. Pictures, in sufficient quantity and of appropriate detail, in order to document construction and startup progress of the Facility, the interconnection into the PTO's Transmission System and all other interconnection utility services.

EXHIBIT F-1

MONTHLY EXPECTED AVAILABLE CAPACITY

[MW Per Hour] – [*Insert Month*]

	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00
JAN																								
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The foregoing table is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement.

EXHIBIT F-2

MONTHLY EXPECTED FACILITY ENERGY

[MWh Per Hour] – [*Insert Month*]

	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00
JAN																								
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The foregoing table is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement.

EXHIBIT G

GUARANTEED ENERGY PRODUCTION DAMAGES CALCULATION

In accordance with Section 4.7, if Seller fails to achieve the Guaranteed Energy Production during any Performance Measurement Period commencing after the Initial Energy Delivery Date, a liquidated damages payment shall be due from Seller to Buyer, calculated as follows:

$$[(A - B) * (C - D)] - (E + F)$$

where:

A = the Guaranteed Energy Production amount for the Performance Measurement Period, in MWh

B = the Adjusted Energy Production amount for the Performance Measurement Period, in MWh

C = Replacement price for the Performance Measurement Period, in $/MWh, which is the sum of (a) the simple average of the LMP in the Day-Ahead Market at the Delivery Point for all of the hours in the Performance Measurement Period, *plus* (b) the REC Price

D = the Contract Rate, in $/MWh

E = The amount of Energy Replacement Damages paid by Seller with respect to the immediately preceding Performance Measurement Period

F = The product of (a) the amount of Replacement Product in MWhs delivered by Seller with respect to the immediately preceding Contract Year and (b) the price which is (C – D)

[redacted]

"**Adjusted Energy Production**" shall mean the sum of the following: Facility Energy + Deemed Delivered Energy + Lost Output.

"**Replacement Energy**" means Energy that is produced by the Facility or the Alternate Facility and provided by Seller to Buyer as Replacement Product, in an amount equal to the amount of Replacement Green Attributes provided by Seller as Replacement Product for the same Performance Measurement Period.

"**Replacement Green Attributes**" means Renewable Energy Credits that are of the same Portfolio Content Category (i.e., PCC1) and greenhouse gas characteristics with respect to categorization under Buyer's power content label as the Green Attributes portion of the Product,

and that may be used in connection with the same compliance period applicable to Buyer under the RPS program as the Renewable Energy Credits that would have been generated by the Facility.

"**Replacement Product**" means (a) Replacement Energy, and (b) Replacement Green Attributes in an amount not to exceed ten percent (10%) of the Expected Energy for the Contract Year in connection with which such Replacement Product is delivered.

No payment shall be due if the calculation of (a) (A – B), (b) (C – D), or (c) [(A – B) * (C – D)] – (E + F), yields a negative number. In no event will Buyer owe any payment to Seller pursuant to this Exhibit G.

Within sixty (60) days after each Contract Year, Buyer shall send Seller Notice of the amount of damages owing, if any, which shall be payable to Buyer before the later of (a) thirty (30) days of such Notice and (b) ninety (90) days after each Performance Measurement Period; *provided*, the amount of damages owing shall be adjusted to account for Replacement Product, if any, delivered after each applicable Performance Measurement Period.

EXHIBIT H

FORM OF COMMERCIAL OPERATION DATE CERTIFICATE

This certification ("**Certification**") of Commercial Operation is delivered by the undersigned, a licensed professional engineer and duly authorized representative of _____ in its capacity as independent engineer ("**Engineer**") for purposes of this certification, to Clean Power Alliance of Southern California, a California joint powers authority **(**"**Buyer**"), pursuant to the [agreement between Seller and Engineer] and in connection with that certain Renewable Power Purchase Agreement (SunZia North) dated _____ ("**Agreement**") by and between [Pattern Entity] ("**Seller**") and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Engineer hereby certifies and represents to Buyer the following:

(1) Wind turbines with a nameplate capacity at least equal to at least 100% of the Guaranteed Installed Capacity have been installed at the Facility.

(2) Testing and commissioning of each wind turbine referred to in paragraph (1) above has been completed in accordance with the turbine supply agreement, and each such wind turbine has delivered electricity to the Point of Interconnection specified in the Interconnection Agreement.

(3) The Participating Transmission Owner has provided documentation supporting full unrestricted release of at least the Guaranteed Installed Capacity for Commercial Operation on _____[DATE]_____.

(4) the CAISO has provided notification that the Energy generation from a portion of the Facility that is no smaller than the Guaranteed Installed Capacity may be scheduled into the CAISO markets on an unconditional basis in accordance with the CAISO Tariff and Business Practice Manual(s) as applicable, including the New Resource Implementation process.

EXECUTED on this _____ day of _____, 20__.

Sincerely,

By:_____
[NAME], P.E.
[TITLE]
New Mexico License No. [##]

EXHIBIT I

FORM OF INSTALLED CAPACITY CERTIFICATE

This certification ("**Certification**") of Installed Capacity is delivered by the undersigned, a licensed professional engineer and duly authorized representative of _____ in its capacity as independent engineer ("**Engineer**") for purposes of this certification, to Clean Power Alliance of Southern California, a California joint powers authority ("**Buyer**"), pursuant to the [agreement between Seller and Engineer] and in connection with that certain Renewable Power Purchase Agreement (SunZia North) dated _____ ("**Agreement**") by and between [Pattern Entity] ("**Seller**") and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

As of the date set forth below, [___] wind turbines with an aggregate nameplate capacity of [__], which is the Installed Capacity as of the date hereof, have been installed at the Facility, and testing and commissioning of each such wind turbines has been completed in accordance with the turbine supply agreement and each such wind turbine has delivered electricity to the Point of Interconnection specified in the Interconnection Agreement.

EXECUTED on this _____ day of _____, 20__.

Sincerely,

By:_____
[NAME], P.E.
[TITLE]
New Mexico License No. [##]
Exp. [DATE]

EXHIBIT J

[RESERVED]

EXHIBIT K

FORM OF LETTER OF CREDIT

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [●]

DATE: [●]

BENEFICIARY:

APPLICANT: SUNZIA WIND NORTH LLC

1088 SANSOME STREET, SAN FRANCISCO, CA 94111

EXPIRATION DATE: [●]

AMOUNT/CURRENCY: [●]

AT THE REQUEST OF AND FOR THE ACCOUNT OF APPLICANT, WE, [INSERT BANK NAME AND ADDRESS] ("ISSUER"), HEREBY ESTABLISH IN YOUR FAVOR IN RESPECT OF OBLIGATIONS OF APPLICANT OUR IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER [●] ("LETTER OF CREDIT") IN FAVOR OF CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, A CALIFORNIA JOINT POWERS AUTHORITY ("BENEFICIARY"), 801 S GRAND, SUITE 400, LOS ANGELES, CA 90017, WHEREBY, SUBJECT TO THE TERMS AND CONDITIONS CONTAINED HEREIN, BENEFICIARY IS HEREBY AUTHORIZED TO DRAW ON US, BY SIGHT, BY ITS DRAWING STATEMENT AS PROVIDED HEREIN, FOR AN AGGREGATE AMOUNT UP TO BUT NOT EXCEEDING [●] (THE "FACE AMOUNT").

WE ARE ADVISED THIS LETTER OF CREDIT IS IRREVOCABLE AND IS ESTABLISHED AS SECURITY PURSUANT TO THAT CERTAIN RENEWABLE POWER PURCHASE AGREEMENT (SUNZIA NORTH) DATED AS OF _____, 2025 BETWEEN APPLICANT AND BENEFICIARY (AS AMENDED, SUPPLEMENTED, OR RESTATED FROM TIME TO TIME, THE "AGREEMENT").

THIS LETTER OF CREDIT SHALL BE EFFECTIVE IMMEDIATELY AND SHALL EXPIRE ON [●], WHICH IS ONE YEAR AFTER THE ISSUE DATE OF THIS LETTER OF CREDIT, OR ANY EXPIRATION DATE EXTENDED IN ACCORDANCE WITH THE TERMS HEREOF (THE "EXPIRATION DATE").

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT SHALL BE AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR ADDITIONAL TWELVE (12) MONTH PERIODS FROM THE PRESENT OR EACH FUTURE EXPIRATION DATE, BUT IN NO EVENT TO AN EXPIRATION DATE LATER THAN [●] (THE "FINAL EXPIRATION DATE"), UNLESS AT LEAST NINETY (90) DAYS PRIOR TO THE EXPIRATION DATE WE SEND NOTICE IN WRITING TO YOU VIA HAND DELIVERY OR OVERNIGHT COURIER AT THE ABOVE ADDRESS, THAT WE ELECT NOT TO

AUTOMATICALLY EXTEND THIS LETTER OF CREDIT FOR ANY ADDITIONAL PERIOD.

ON OR BEFORE THE EXPIRATION DATE OF THIS LETTER OF CREDIT YOU MAY DRAW ON US HEREUNDER FOR UP TO THE FULL UNUTILIZED AMOUNT AVAILABLE AS OF THE DATE OF DRAWING ON THIS LETTER OF CREDIT.

PARTIAL AND MULTIPLE DRAWINGS ARE PERMITTED UNDER THIS LETTER OF CREDIT (PROVIDED THAT THE CUMULATIVE AGGREGATE AMOUNT THAT MAY BE DEMANDED UNDER THIS LETTER OF CREDIT SHALL NOT EXCEED THE FACE AMOUNT), AND THIS LETTER OF CREDIT SHALL REMAIN IN FULL FORCE AND EFFECT WITH RESPECT TO ANY CONTINUING BALANCE.

FUNDS UNDER THIS LETTER OF CREDIT SHALL BE AVAILABLE TO THE BENEFICIARY UPON PRESENTATION TO US OF A DATED DRAWING CERTIFICATE IN THE FORM OF EXHIBIT A HERETO (WHICH IS AN INTEGRAL PART OF THIS LETTER OF CREDIT) PURPORTEDLY SIGNED BY THE BENEFICIARY'S DULY AUTHORIZED REPRESENTATIVE.

THE DRAWING CERTIFICATE MAY BE PRESENTED BY (A) PHYSICAL DELIVERY TO [ADDRESS] OR (B) BY FACSIMILE TO FACSIMILE NUMBER [●] (EACH SUCH DRAWING, A "FAX DRAWING"); PROVIDED, HOWEVER, THAT A FAX DRAWING WILL NOT BE EFFECTIVELY PRESENTED UNTIL YOU CONFIRM BY TELEPHONE OUR RECEIPT OF SUCH FAX DRAWING BY CALLING US AT TELEPHONE NUMBER [●] OR YOU CONFIRM BY EMAIL AT: [●]. IF YOU PRESENT A FAX DRAWING UNDER THIS LETTER OF CREDIT YOU DO NOT NEED TO PRESENT THE ORIGINAL OF ANY DRAWING DOCUMENTS, AND IF WE RECEIVE ANY SUCH ORIGINAL DRAWING DOCUMENTS THEY WILL NOT BE EXAMINED BY US.

ALL PAYMENTS MADE UNDER THIS LETTER OF CREDIT SHALL BE MADE WITH ISSUER'S OWN IMMEDIATELY AVAILABLE FUNDS BY MEANS OF WIRE TRANSFER IN IMMEDIATELY AVAILABLE UNITED STATES DOLLARS TO BENEFICIARY'S ACCOUNT AS INDICATED BY BENEFICIARY IN ITS DRAWING CERTIFICATE OR IN A COMMUNICATION ACCOMPANYING ITS DRAWING CERTIFICATE.

WE HEREBY AGREE THAT THE DRAWING DOCUMENTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT WILL BE DULY HONORED BY US UPON DELIVERY OF THE ABOVE SPECIFIED DRAWING CERTIFICATE, IF PRESENTED ON OR BEFORE THE EXPIRATION DATE AS SPECIFIED HEREIN.

AS STIPULATED HEREIN, "BUSINESS DAY" SHALL MEAN ANY DAY OTHER THAN A SATURDAY, SUNDAY OR A DAY ON WHICH BANKING INSTITUTIONS IN THE STATE OF _____ ARE AUTHORIZED OR REQUIRED BY LAW TO CLOSE. IF ANY DRAWING OR THE DOCUMENTATION PRESENTED IN CONNECTION THEREWITH, DOES NOT

CONFORM TO THE TERMS AND CONDITIONS HEREOF, WE WILL ADVISE YOU OF THE SAME BY TELEPHONE OR FACSIMILE AND GIVE THE REASONS FOR SUCH NON-CONFORMANCE.

THIS LETTER OF CREDIT IS ISSUED SUBJECT TO THE RULES OF THE 'INTERNATIONAL STANDBY PRACTICES 1998', INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 590 ('ISP98') AND AS TO MATTERS NOT ADDRESSED BY ISP98 SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF STATE OF NEW YORK.

NOTWITHSTANDING ANY REFERENCE IN THIS LETTER OF CREDIT TO ANY OTHER DOCUMENTS, INSTRUMENTS OR AGREEMENTS (OTHER THAN AS SET FORTH IN THE IMMEDIATELY PRIOR PARAGRAPH), THIS LETTER OF CREDIT CONTAINS THE ENTIRE AGREEMENT BETWEEN BENEFICIARY AND ISSUER RELATING TO THE OBLIGATIONS OF ISSUER HEREUNDER.

OTHER THAN AS PROVIDED HEREIN, COMMUNICATIONS WITH RESPECT TO THIS LETTER OF CREDIT SHALL BE IN WRITING, SHALL SPECIFICALLY REFER TO BENEFICIARY AND TO OUR LETTER OF CREDIT NO. [●], AND SHALL BE ADDRESSED TO: [●] [ISSUING BANK'S NAME AND ADDRESS]

ALL NOTICES TO BENEFICIARY SHALL BE IN WRITING AND ARE REQUIRED TO BE SENT BY CERTIFIED LETTER, OVERNIGHT COURIER OR DELIVERED IN PERSON TO: [BENEFICIARY], ATTN: [BENEFICIARY ADDRESS]. ONLY NOTICES TO BENEFICIARY MEETING THE REQUIREMENTS OF THIS PARAGRAPH SHALL BE CONSIDERED VALID. ANY NOTICE TO BENEFICIARY WHICH IS NOT IN ACCORDANCE WITH THIS PARAGRAPH SHALL BE VOID AND OF NO FORCE OR EFFECT.

ALL COSTS RELATED TO THIS LETTER OF CREDIT SHALL BE PAID BY THE APPLICANT.

ALL PARTIES TO THIS LETTER OF CREDIT ARE ADVISED THAT THE U.S. AND CANADIAN GOVERNMENT HAS IN PLACE CERTAIN SANCTIONS AGAINST CERTAIN COUNTRIES, TERRITORIES, INDIVIDUALS, ENTITIES, AND VESSELS. ISSUER ENTITIES, INCLUDING BRANCHES AND, IN CERTAIN CIRCUMSTANCES, SUBSIDIARIES, ARE/WILL BE PROHIBITED FROM ENGAGING IN TRANSACTIONS OR OTHER ACTIVITIES WITHIN THE SCOPE OF APPLICABLE SANCTIONS.

THIS LETTER OF CREDIT MAY BE SIGNED BY THE ISSUING BANK WITH EITHER A DIGITAL OR ORIGINAL SIGNATURE, EITHER OF WHICH SHALL BE LEGALLY VALID AND ENFORCEABLE. THE ISSUING BANK MAY TRANSMIT THIS LETTER OF CREDIT TO THE BENEFICIARY BY MAIL, FAX OR ELECTRONIC TRANSMISSION. FOR THE AVOIDANCE OF DOUBT, ANY ELECTRONIC PDF VERSION OF THIS LETTER OF CREDIT RECEIVED BY THE BENEFICIARY SHALL BE AN OPERATIVE INSTRUMENT AND MAY BE USED BY THE BENEFICIARY AS IT WOULD A HARDCOPY ORIGINAL.

EXHIBIT "A"

DRAWING CERTIFICATE

TO: [ISSUING BANK]

[ADDRESS]

RE: IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER [●] ISSUED BY [ISSUING BANK] TO [BENEFICIARY] ("LETTER OF CREDIT"); CAPITALIZED TERMS USED BUT NOT DEFINED IN THIS DRAWING CERTIFICATE HAVE THE MEANINGS ASCRIBED TO THEM IN THE LETTER OF CREDIT)

THIS IS A DRAWING CERTIFICATE UNDER THE ABOVE-MENTIONED LETTER OF CREDIT.

I,_____, AN AUTHORIZED REPRESENTATIVE OF [BENEFICIARY], DO HEREBY CERTIFY THAT:

APPLICANT AND BENEFICIARY ARE PARTY TO THAT CERTAIN RENEWABLE POWER PURCHASE AGREEMENT (SUNZIA NORTH) DATED AS OF _____, 2025 (AS AMENDED, SUPPLEMENTED, OR RESTATED FROM TIME TO TIME, THE "AGREEMENT").

THE DRAWING UNDER THIS LETTER OF CREDIT IS IN AN AMOUNT DETERMINED ON A PROPORTIONATE BASIS WITH RESPECT TO EACH OTHER OUTSTANDING LETTER OF CREDIT (OR OTHER FORM OF CREDIT SUPPORT) PROVIDED BY OR ON BEHALF OF THE APPLICANT TO BENEFICIARY IN SUPPORT OF THE AGREEMENT AS [DEVELOPMENT SECURITY] [PERFORMANCE SECURITY] [SECURITY FOR PAYMENT OF COMMERCIAL OPERATION DELAY DAMAGES IN ACCORDANCE WITH EXHIBIT B OF THE AGREEMENT], AND DOES NOT EXCEED A PRO RATA AMOUNT WITH RESPECT TO A CONCURRENT DRAWING UNDER EACH SUCH OTHER OUTSTANDING LETTER OF CREDIT (OR OTHER FORM OF CREDIT SUPPORT).

[CHOOSE ONLY ONE OF THE FOLLOWING]

(1) BENEFICIARY IS MAKING A DRAWING UNDER THIS LETTER OF CREDIT IN THE AMOUNT OF U.S. $_____ BECAUSE [AN EVENT OF DEFAULT (AS SUCH TERM IS DEFINED IN THE AGREEMENT) WITH RESPECT TO SELLER HAS OCCURRED OR OTHER OCCASION PROVIDED FOR IN THE AGREEMENT WHERE BENEFICIARY IS AUTHORIZED TO DRAW ON THE LETTER OF CREDIT HAS OCCURRED] [OR] [A COMMERCIAL OPERATION DELAY DAMAGES PAYMENT IS DUE UNDER THE AGREEMENT].

(2) BENEFICIARY IS MAKING A DRAWING UNDER THIS LETTER OF CREDIT IN THE AMOUNT OF U.S. $_____, WHICH EQUALS THE FULL AVAILABLE AMOUNT UNDER THE LETTER OF CREDIT, BECAUSE APPLICANT IS REQUIRED TO MAINTAIN THE LETTER OF CREDIT IN FORCE AND EFFECT BEYOND THE EXPIRATION DATE OF THE LETTER OF CREDIT BUT HAS FAILED TO PROVIDE BENEFICIARY WITH A REPLACEMENT LETTER OF CREDIT OR OTHER ACCEPTABLE INSTRUMENT WITHIN THIRTY (30) DAYS PRIOR TO SUCH EXPIRATION DATE.

IN ACCORDANCE WITH THE TERMS OF THE AGREEMENT, CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, A CALIFORNIA JOINT POWERS AUTHORITY IS ENTITLED TO AND HEREBY DEMANDS PAYMENT OF USD _____, SUCH AMOUNT TO BE PAID TO [BENEFICIARY] BY WIRE TRANSFER IN IMMEDIATELY AVAILABLE FUNDS TO: (INSERT WIRE INSTRUCTIONS),WHICH, CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA CERTIFIES IT IS ENTITLED TO UNDER THE AGREEMENT.

COMMUNICATIONS TO ME CONCERNING THIS DRAWING CERTIFICATE MAY BE MADE AT FOLLOWING TELEPHONE AND FACSIMILE NUMBERS: _____; _____.

IN WITNESS WHEREOF, [BENEFICIARY] THROUGH ITS AUTHORIZED REPRESENTATIVE HAS EXECUTED AND DELIVERED THIS DRAWING CERTIFICATE THIS DAY OF , 20 _.

[____]

BY:_____

NAME:_____

TITLE:_____

EXHIBIT L

FORM OF LIMITED ASSIGNMENT AGREEMENT

FORM OF ASSIGNMENT SCHEDULE
[SELLER ENTITY]

Assigned Product: Energy and Green Attributes (PCC1)

Assigned Delivery Point: [__]

Assigned Prepay Quantity: As set forth in Appendix 2; provided that (i) all Assigned Products shall be delivered pursuant to the Limited Assignment Agreement during the Assignment Period as provided in Appendix 1 and (ii) the Assigned Prepay Quantity is defined for the convenience of PPA Buyer and [Financing Party] and shall have no impact on the obligations of the Parties under the Limited Assignment Agreement.

APC Contract Price: $[__]/MWh

Assignment Period: [__]

ANNEX I – FORM OF LIMITED ASSIGNMENT AGREEMENT

This Limited Assignment Agreement (this "**Assignment Agreement**" or "**Agreement**") is entered into as of [_____] by and among [PPA Seller], a [_____] ("**PPA Seller**"), Clean Power Alliance, a California joint powers authority ("**PPA Buyer**"), and [Financing Party], a [_____] ("**Financing Party**"), and relates to that certain power purchase agreement (the "**PPA**") between PPA Buyer and PPA Seller as defined in Appendix 1 hereto. Unless the context otherwise specifies or requires, capitalized terms used but not defined in this Agreement have the meanings set forth in the PPA.

In consideration of the premises above and the mutual covenants and agreements herein set forth, PPA Seller, PPA Buyer and Financing Party (the "**Parties**" hereto; each is a "**Party**") agree as follows:

1. Limited Assignment and Delegation.

(a) PPA Buyer hereby assigns, transfers, and conveys to Financing Party all right, title and interest in and to the rights of PPA Buyer under the PPA to receive delivery of, or have made available to it, the products described in Appendix 1 (collectively, the "**Assigned Product**") during the Assignment Period (as defined in Appendix 1), as such rights may be limited or further described in the "Further Information" section on Appendix 1 (the "**Assigned Product Rights**"). All Assigned Product shall be delivered pursuant to the terms and conditions of this Agreement during the Assignment Period as provided in Appendix 1. All other rights of PPA Buyer under the PPA are expressly reserved for PPA Buyer. The Parties agree that the assignment, transfer and/or conveyance of all or any portion of the Assigned Products in accordance with this Agreement and the Parties' performance of any obligation in accordance with this Agreement shall not constitute a failure to meet the requirements of the PPA, or a breach of any covenant, representation or warranty under the PPA (and in no event shall Seller be responsible for any failure of any portion of the Assigned Products to satisfy the requirements of the PPA, to the extent such failure results from the assignment, transfer and/or conveyance of such Assigned Products in accordance with this Agreement).

(b) PPA Buyer hereby delegates to Financing Party the obligation to pay for all Assigned Product that is actually delivered to Financing Party pursuant to the Assigned Product Rights during the Assignment Period (the "**Delivered Product Payment Obligation**" and together with the Assigned Product Rights, collectively the "**Assigned Rights and Obligations**"); provided that (i) all other obligations of PPA Buyer under the PPA are expressly retained by PPA Buyer and PPA Buyer shall be solely responsible for any amounts due to PPA Seller that are not directly related to Assigned Product; and (ii) the Parties acknowledge and agree that PPA Seller will only be obligated to deliver a single consolidated invoice during the Assignment Period (with a copy to Financing Party consistent with Section 1(d) hereof). To the extent Financing Party fails to pay the Delivered Product Payment Obligation by the due date for payment set forth in the PPA, notwithstanding anything in this Agreement to the contrary, PPA Buyer agrees that it shall remain responsible for payment of such Delivered Product Payment Obligation and that PPA Seller may declare an Event of Default pursuant to Section 11.1(a)(i) of the PPA if Buyer does not make such payment within five (5) Business Days of receiving Notice of such non-payment from PPA Seller, and that PPA Buyer shall remain liable for any and all damages, costs and expenses of Seller associated with Financing Party's failure to take or pay for any such Product as contemplated by this Agreement. The Parties acknowledge and agree that (i) the Assigned Rights and Obligations include only a portion of PPA Buyer's rights and obligations under the PPA, and that all rights and obligations arising under the PPA that are not expressly included in the Assigned Rights and Obligations

shall be "Retained Rights and Obligations" that are retained solely by PPA Buyer, and (ii) the Retained Rights and Obligations include all rights and obligations of PPA Buyer arising during the Assignment Period except the rights and obligations expressly included in the Assigned Rights and Obligations. Any claims arising or existing in connection with or related to the PPA, whether related to performance by PPA Seller, PPA Buyer or Financing Party, and whether arising before, during or after the Assignment Period, in each case excluding the Delivered Product Payment Obligation (provided, however, PPA Buyer still remains liable that all amounts due and owing under the PPA are timely paid), will be included in the Retained Rights and Obligations, and any such claim will be resolved exclusively between PPA Seller and PPA Buyer in accordance with the PPA.

(c) Financing Party hereby accepts and PPA Seller hereby consents and agrees to the assignment, transfer, conveyance, and delegation described in clauses (a) and (b) above.

(d) All scheduling of Assigned Product and other communications related to the PPA shall take place pursuant to the terms of the PPA; provided that during the Assignment Period (i) title to Assigned Product will pass from PPA Seller to Financing Party upon delivery or making available by PPA Seller of Assigned Product in accordance with the PPA; (ii) PPA Buyer will provide copies to Financing Party of any Notice of a Force Majeure Event or Event of Default or default, breach or other occurrence that, if not cured within the applicable grace period, could result in an Event of Default contemporaneously upon delivery thereof to PPA Seller and promptly after receipt thereof from PPA Seller; (iii) PPA Seller will provide copies to Financing Party of annual forecasts of Energy and monthly forecasts of available capacity and Energy provided pursuant to Section 4.3 of the PPA; (iv) PPA Seller will provide copies to Financing Party of all invoices and supporting data provided to PPA Buyer pursuant to Section 8.1, provided that any payment adjustments or subsequent reconciliations occurring after the date that is ten (10) days prior to the payment due date for a monthly invoice, including pursuant to Section 8.4, will be resolved solely between PPA Buyer and PPA Seller and therefore PPA Seller will not be obligated to deliver copies of any communications relating thereto to Financing Party; and (v) PPA Buyer and PPA Seller, as applicable, will provide copies to Financing Party of any other information reasonably requested by Financing Party relating to Assigned Product.

(e) PPA Seller acknowledges that (i) Financing Party intends to immediately transfer title to any Assigned Product received from PPA Seller through one or more intermediaries such that all Assigned Product will be re-delivered to PPA Buyer; and (ii) in the event that PPA Buyer fails to pay the relevant intermediary entity for any such Assigned Products, the receivables owed by PPA Buyer for such Assigned Products ("PPA Buyer Receivables") may be transferred to Financing Party. To the extent any such PPA Buyer Receivables are transferred to Financing Party, and PPA Buyer acknowledges in writing that such receivables are due and payable and waives any and all defences and counterclaims associated with such receivables for the undisputed amounts owed pursuant to the PPA, Financing Party may transfer such PPA Buyer Receivables to PPA Seller and apply the face amount thereof as a reduction to any Delivered Product Payment Obligation. Thereafter, PPA Seller shall be entitled to pursue collection on such PPA Buyer Receivables directly against PPA Buyer. Nothing in this Section 1(e) shall modify PPA Seller's right to declare an Event of Default pursuant to Section 11.1(a)(i) of the PPA in the event that any portion of the Delivered Product Payment Obligation remains unpaid by the due date for payment set forth in the PPA, and such amount is not paid by Financing Party or PPA Buyer within five (5) Business Days of PPA Buyer receiving Notice of such non-payment from PPA Seller as provided in Section 1(b), above.

(f) On or before the commencement of the Assignment Period, [_____] ("**Guarantor**") will issue, in favor of PPA Seller, a guaranty of Financing Party's payment obligations under this Assignment Agreement substantially in the form of Appendix 3 attached hereto ("**Guaranty**"). PPA Seller may draw upon, apply, or make demand under the Guaranty to recover any unpaid amounts due from Financing Party and not timely paid as set forth herein; provided, however, that PPA Seller's rights under the Guaranty and this subsection (f) shall not reduce or affect PPA Buyer's obligation to render payments when due under the PPA or extend any deadlines in the PPA.

(g) All payments due to PPA Seller in respect of Sections 3.3 of the PPA will be paid (subject to Section 1(e), above) by Financing Party into the custodial account listed in Appendix 1, and all payments due to PPA Buyer in respect of Section 3.3 of the PPA will be paid by PPA Seller into the custodial account listed in Appendix 1, which custodial account is established under that certain Custodial Agreement of even date herewith that Financing Party, PPA Buyer and [Custodian] have entered into for the administration of payments due hereunder.

(h) The Assigned Prepay Quantity set forth in Appendix 2 relates to obligations by and between Financing Party and PPA Buyer and has no impact on PPA Seller's rights and obligations under the PPA.

(i) Except as expressly set forth in Section 1(a) of this Assignment Agreement with respect to the product delivery obligations, nothing in this Agreement modifies or amends any rights or obligations of PPA Buyer and PPA Seller under the PPA.

2. Assignment Early Termination.

(a) The Assignment Period may be terminated early upon the occurrence of any of the following:

(1) delivery of a written notice of termination specifying a termination date by either Financing Party or PPA Buyer to each of the other Parties;

(2) delivery of a written notice of termination specifying a termination date by PPA Seller to each of Financing Party and PPA Buyer following Financing Party's failure to pay when due any amounts owed to PPA Seller in respect of any Delivered Product Payment Obligation and such payment is not made by Financing Party within five (5) Business Days following receipt by Financing Party and PPA Buyer of written notice;

(3) delivery of a written notice by PPA Seller if any of the events described in the definition of Bankrupt in the PPA occurs with respect to Financing Party;

(4) delivery of a written notice by Financing Party if any of the events described in the definition of Bankrupt in the PPA occurs with respect to PPA Seller; or

(5) failure of the Guaranty provided by the Guarantor to PPA Seller hereunder to be in full force and effect (other than in accordance with its terms) prior to the indefeasible satisfaction of all obligations of Financing Party hereunder or if the Guarantor provides notice of termination of the Guaranty or otherwise repudiates, disaffirms, disclaims, or rejects, in whole or in part, or challenges the validity of the Guaranty.

(b) The Assignment Period will end at the end of last delivery hour on the date specified in the termination notice provided pursuant to Section 2(a), above, which date shall not be earlier than the end of the last day of the calendar month in which such notice is delivered if termination is pursuant to clause (1) or (2) of Section 2(a), above. All Assigned Rights and Obligations shall revert from Financing Party to PPA Buyer upon the expiration or early termination of the Assignment Period, provided that (i) Financing Party shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered or made available to Financing Party prior to the end of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the expiration or early termination of the Assignment Period.

(c) The Assignment Period will automatically terminate upon the expiration or early termination of the PPA. All Assigned Rights and Obligations shall revert from Financing Party to PPA Buyer upon the expiration of or early termination of the PPA, provided that (i) Financing Party shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered to Financing Party prior to the end of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the expiration or early termination of the Assignment Period.

3. Representations and Warranties. The PPA Seller and the PPA Buyer represent and warrant to Financing Party that (a) the PPA is in full force and effect; and (b) no event or circumstance exists (or would exist with the passage of time or the giving of notice) that would give either of them the right to terminate the PPA or suspend performance thereunder.

4. Notices. Any notice, demand, or request required or authorized by this Assignment Agreement to be given by one Party to another Party shall be delivered in accordance with Article 9 of the PPA and to the addresses of each of PPA Seller and PPA Buyer specified in the PPA. PPA Buyer agrees to notify Financing Party of any updates to such notice information, including any updates provided by PPA Seller to PPA Buyer. Notices to Financing Party shall be provided to the following address, as such address may be updated by Financing Party from time to time by notice to the other Parties:

Financing Party

_____

_____

Email: _____

5. Miscellaneous. Section 13.2 (Buyer's Representations and Warranties), Article 18 (Confidential Information), Sections 19.5 (Severability), 19.7 (Counterparts), 19.2 (Amendments), 19.4 (No Agency, Partnership, Joint Venture or Lease), 19.6 (Mobile-Sierra), 19.8 (Electronic Delivery), 19.9 (Binding Effect) and 19.10 (No Recourse to Members of Buyer) of the PPA are incorporated by reference into this Agreement, *mutatis mutandis*, as if fully set forth herein.

6. U.S. Resolution Stay Provisions. The Parties agree that the terms of Section 1 and Section 2 and the related defined terms (together, the "**Bilateral Terms**") of the form of bilateral template entitled "Full-Length Omnibus (for use between U.S. G-SIBs and Corporate Groups)", published by ISDA on November 2, 2018 (currently available on the 2018 ISDA U.S. Resolution Stay Protocol page at www.isda.org), the effect of which is to amend the qualified financial contracts between the Parties thereto to conform with the requirements of

the QFC Stay Rules, are hereby incorporated into and form a part of this Agreement, and for such purposes this Agreement shall be deemed a "Covered Agreement", Financing Party shall be deemed a "Covered Entity" and the Counterparty shall be deemed a "Counterparty Entity". In the event that, after the date of this Agreement, all Parties hereto become adhering Parties to the 2018 ISDA U.S. Resolution Say Protocol (the "**Protocol**"), the terms of the Protocol will replace the terms of this section. In the event of any inconsistencies between this Agreement and the terms of the Protocol or the Bilateral Terms (each, the "**QFC Stay Terms**"), as applicable, the QFC Stay Terms will govern. Terms used in this paragraph without definition shall have the meanings assigned to them under the QFC Stay Rules. For purposes of this paragraph, references to "this Agreement" include any related credit enhancements entered into between the Parties, directly or indirectly through an agent, or provided by one to the other.

"QFC Stay Rules" means the regulations codified at 12 C.F.R. 252.2, 252.81–8, 12 C.F.R. 382.1-7 and 12 C.F.R. 47.1-8, which, subject to limited exceptions, require an express recognition of the stay-and-transfer powers of the FDIC under the Federal Deposit Insurance Act and the Orderly Liquidation Authority under Title II of the Dodd Frank Wall Street Reform and Consumer Protection Act and the override of default rights related directly or indirectly to the entry of an affiliate into certain insolvency proceedings and any restrictions on the transfer of any covered affiliate credit enhancements.

7. Governing Law, Jurisdiction, Waiver of Jury Trial.

(a) **Governing Law**. This Assignment Agreement and the rights and duties of the Parties under this Assignment Agreement will be governed by and construed, enforced and performed in accordance with the laws of the State of California, without reference to any conflicts of law provisions that would direct the application of another jurisdiction's laws; provided, however, that the authority of PPA Buyer to enter into and perform its obligations under this Assignment Agreement shall be determined in accordance with the laws of the State of California.

(b) **Jurisdiction**. Each Party submits to the exclusive jurisdiction of the federal courts of the United States of America for the Southern District of California sitting in the city and county of Los Angeles.

(c) **Waiver of Right to Trial by Jury**. Each Party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to this Assignment Agreement.

(d) **Waivers by PPA Buyer**. In the event that any of California Civil Code Sections 2815, 2787 to 2855 (inclusive), 2899, or 3433, or any common law principles or holdings regarding suretyship, may apply with respect to PPA Buyer's obligations hereunder, PPA Buyer hereby waives for the benefit of PPA Seller any and all surety defenses to the fullest extent permitted under applicable law, including all rights and defenses that are or may become available to PPA Buyer by reason of California Civil Code Sections 2787 to 2855, inclusive, 2899 and/or 3433, and any right to revoke this Assignment Agreement, including any such right arising under California Civil Code § 2815; *provided*, nothing in this Section 7(d) shall be deemed to be of waiver of, and PPA Buyer retains in full, any and all rights and defenses PPA Buyer has under the PPA, including at law and in equity.

(e) **Forward Contract**. The Parties acknowledge and agree that the delivery of the Assigned Products to Financing Party contemplated hereby is intended to constitute a "forward contract" and that the Parties are intended to constitute "forward contract merchants" within the meaning of the United States Bankruptcy Code.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the Parties have executed this Assignment Agreement effective as of the date first set forth above.

[PPA SELLER]

By: _____

Name: _____

Title: _____

CLEAN POWER ALLIANCE

By: _____

Name: _____

Title: _____

[FINANCING PARTY]

By: _____

Name:
Title:

Execution and delivery of the foregoing Assignment Agreement is hereby approved.

CALIFORNIA COMMUNITY CHOICE FINANCING AUTHORITY

By: _____

Name:
Title:

Appendix 1

Assigned Rights and Obligations

PPA: "**PPA**" means that certain Renewable Power Purchase Agreement (SunZia North) dated [____], by and between Clean Power Alliance and [____], a [____] limited liability company, as amended from time to time.

"**Assignment Period**" means the period beginning on [_____] and extending until [_____], provided that in no event shall the Assignment Period extend past the earlier of (i) the termination of the Assignment Period pursuant to Section 2 of the Assignment Agreement and (ii) the end of the Delivery Term under the PPA; provided that applicable provisions of this Agreement shall continue in effect after termination of the Assignment Period to the extent necessary to enforce or complete, duties, obligations or responsibilities of the Parties arising prior to the termination.

Assigned Product: "**Assigned Product**" includes (i) Energy and (ii) Green Attributes (including PCC1 RECs); provided, however, that the following are expressly excluded from the Assigned Product and any and all rights and obligations with respect to the following shall remain with Buyer: Ancillary Services; Capacity Attributes; Resource Adequacy Benefits.

Further Information: PPA Seller shall continue to transfer the WREGIS Certificates associated with all Renewable Energy Credits corresponding to all Facility Energy under the PPA pursuant to Section 4.7 of the PPA, provided that the transferee of such WREGIS Certificates may be changed from time to time in accordance with the written instructions of both Financing Party and Clean Power Alliance upon twenty (20) Business Days' notice, which change shall be effective as of the first day of the next calendar month, unless otherwise agreed. All Assigned Product delivered by PPA Seller to Financing Party shall be a sale made at wholesale, with Financing Party reselling all such Assigned Product.

Appendix 2

Assigned Prepay Quantity

[NOTE: To be set forth in a monthly volume schedule.]

Appendix 3

Form of Financing Party Parent Guaranty

EXHIBIT M

FORM OF GUARANTY

This Guaranty (this "Guaranty") is entered into as of [_____] (the "Effective Date") by and between [_____], a [_____] ("Guarantor"), and [____] (together with its successors and permitted assigns, "Buyer").

Recitals

A. Buyer and _____, a _____ ("Seller"), entered into that certain Renewable Power Purchase Agreement (SunZia North) (as amended, restated or otherwise modified from time to time, the "PPA") dated as of [____], 20___.

B. Guarantor is entering into this Guaranty as Performance Security to secure Seller's obligations under the PPA, as required by Section 8.8 of the PPA.

C. It is in the best interest of Guarantor to execute this Guaranty inasmuch as Guarantor will derive substantial direct and indirect benefits from the execution and delivery of the PPA.

D. Initially capitalized terms used but not defined herein have the meaning set forth in the PPA.

Agreement

1. Guaranty. For value received, Guarantor does hereby unconditionally, absolutely and irrevocably guarantee, as primary obligor and not as a surety, to Buyer the full, complete and prompt payment by Seller of any and all amounts and payment obligations now or hereafter owing from Seller to Buyer under the PPA, including, without limitation, compensation for penalties, the Termination Payment, indemnification payments or other damages, as and when required pursuant to the terms of the PPA (the "Guaranteed Amount"), provided, that Guarantor's aggregate liability under or arising out of this Guaranty shall not exceed the sum of _____ Dollars ($_____) plus reasonable costs incurred by Buyer in enforcing this Guaranty, if successful, up to Two-Hundred Thousand Dollars ($200,000) for an aggregate maximum liability of _____ Dollars ($_____) (the "Guarantee Limit"). The Parties understand and agree that any payment by Guarantor shall thereafter reduce the Guarantee Limit hereunder on a dollar-for-dollar basis. This Guaranty is an irrevocable, absolute, unconditional and continuing guarantee of the full and punctual payment and performance, and not of collection, of the Guaranteed Amount and, except as otherwise expressly addressed herein, is in no way conditioned upon any requirement that Buyer first attempt to collect the payment of the Guaranteed Amount from Seller, any other guarantor of the Guaranteed Amount or any other person or entity or resort to any other means of obtaining payment of the Guaranteed Amount. In the event Seller shall fail to duly, completely or punctually pay any Guaranteed Amount as required pursuant to the PPA, Guarantor shall promptly pay such amount as required herein.

2. Demand Notice. For avoidance of doubt, a payment shall be due for purposes of this Guaranty only when and if a payment is due and payable by Seller to Buyer under the terms and conditions of the Agreement. If Seller fails to pay any Guaranteed Amount as required pursuant to the PPA for five (5) Business Days following Seller's receipt of Buyer's written notice of such failure (the "Demand Notice"), then Buyer may elect to exercise its rights under this Guaranty and may make a demand upon Guarantor (a "Payment Demand") for such unpaid Guaranteed Amount. A Payment Demand shall be in writing and shall reasonably specify in what manner and what amount Seller has failed to pay and an explanation of why such payment is due and owing, with a specific statement that Buyer is requesting that Guarantor pay under this Guaranty. Guarantor shall, within five (5) Business Days following its receipt of the Payment Demand, pay the Guaranteed Amount to Buyer.

3. Scope and Duration of Guaranty. This Guaranty applies only to the Guaranteed Amount. This Guaranty shall continue in full force and effect from the Effective Date until the earlier of the following: (x) all Guaranteed Amounts have been paid in full (whether directly or indirectly through set-off or netting of amounts owed by Buyer to Seller), or (y) replacement Performance Security is provided in an amount and form required by the terms of the PPA. Further, this Guaranty (a) shall remain in full force and effect without regard to, and shall not be affected or impaired by any invalidity, irregularity or unenforceability in whole or in part of this Guaranty, and (b) subject to the preceding sentence, shall be discharged only by complete performance of the undertakings herein. Without limiting the generality of the foregoing, the obligations of the Guarantor hereunder shall not be released, discharged, or otherwise affected and this Guaranty shall not be invalidated or impaired or otherwise affected for the following reasons:

(i) the extension of time for the payment of any Guaranteed Amount, or

(ii) any amendment, modification or other alteration of the PPA, or

(iii) any indemnity agreement Seller may have from any Person, or

(iv) any insurance that may be available to cover any loss, except to the extent insurance proceeds are used to satisfy the Guaranteed Amount, or

(v) any voluntary or involuntary liquidation, dissolution, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of, or other similar proceeding affecting, Seller or any of its assets, including but not limited to any rejection or other discharge of Seller's obligations under the PPA imposed by any court, trustee or custodian or any similar official or imposed by any law, statue or regulation, in each such event in any such proceeding, or

(vi) the release, modification, waiver or failure to pursue or seek relief with respect to any other guaranty, pledge or security device whatsoever, or

(vii) any payment to Buyer by Seller that Buyer subsequently returns to Seller pursuant to court order in any bankruptcy or other debtor-relief proceeding, or

(viii) those defenses based upon (A) the legal incapacity or lack of power or authority of any person, including Seller and any representative of Seller to enter into the PPA or perform its obligations thereunder, (B) lack of due execution, delivery, validity or enforceability, including of the PPA, or (C) Seller's inability to pay any Guaranteed Amount or perform its obligations under the PPA, or

(ix) any other event or circumstance that may now or hereafter constitute a defense to payment of the Guaranteed Amount, including, without limitation, statute of frauds and accord and satisfaction;

provided that Guarantor reserves the right to assert for itself any defenses, setoffs or counterclaims that Seller is or may be entitled to assert against Buyer (except for such defenses, setoffs or counterclaims that may be asserted by Seller with respect to the PPA, but that are expressly waived under any provision of this Guaranty).

4. Waivers by Guarantor. Guarantor hereby unconditionally waives as a condition precedent to the performance of its obligations hereunder, with the exception of the requirements in Paragraph 2, (a) notice of acceptance, presentment or protest with respect to the Guaranteed Amounts and this Guaranty, (b) notice of any action taken or omitted to be taken by Buyer in reliance hereon, (c) any requirement that Buyer exhaust any right, power or remedy or proceed against Seller under the PPA, and (d) any event, occurrence or other circumstance which might otherwise constitute a legal or equitable discharge of a surety. Without limiting the generality of the foregoing waiver of surety defenses, it is agreed that the occurrence of any one or more of the following shall not affect the liability of Guarantor hereunder:

(i) at any time or from time to time, without notice to Guarantor, the time for payment of any Guaranteed Amount shall be extended, or such performance or compliance shall be waived;

(ii) the obligation to pay any Guaranteed Amount shall be modified, supplemented or amended in any respect in accordance with the terms of the PPA;

(iii) (a) sale, transfer or consolidation of Seller into or with any other entity, (b) sale of substantial assets by, or restructuring of the corporate existence of, Seller or (c) change in ownership of any membership interests of, or other ownership interests in, Seller; or

(iv) the failure by Buyer or any other person to create, preserve, validate, perfect or protect any security interest granted to, or in favor of, Buyer or any person.

5. Subrogation. Notwithstanding any payments that may be made hereunder by the Guarantor, Guarantor hereby agrees that until the earlier of payment in full of all Guaranteed Amounts or expiration of the Guaranty in accordance with Section 3, it shall not be entitled to, nor shall it seek to, exercise any right or remedy arising by reason of its payment of any Guaranteed Amount under this Guaranty, whether by subrogation or otherwise, against Seller or seek contribution or reimbursement of such payments from Seller.

6. Representations and Warranties. Guarantor hereby represents and warrants that (a) it has all necessary and appropriate limited liability company powers and authority and the legal right to execute and deliver, and perform its obligations under, this Guaranty, (b) this Guaranty constitutes its legal, valid and binding obligations enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium and other similar laws affecting enforcement of creditors' rights or general principles of equity, (c) the execution, delivery and performance of this Guaranty does not and will not contravene Guarantor's organizational documents, any applicable law or any contractual provisions binding on or affecting Guarantor, (d) there are no actions, suits or proceedings pending before any court, governmental agency or arbitrator, or, to the knowledge of the Guarantor, threatened, against or affecting Guarantor or any of its properties or revenues which may, in any one case or in the aggregate, adversely affect the ability of Guarantor to enter into or perform its obligations under this Guaranty, and (e) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or governmental authority, and no consent of any other Person (including, any stockholder or creditor of the Guarantor), that has not heretofore been obtained is required in connection with the execution, delivery, performance, validity or enforceability of this Guaranty by Guarantor.

7. Notices. Notices under this Guaranty shall be deemed received if sent to the address specified below: (i) on the day received if served by overnight express delivery, and (ii) four business days after mailing if sent by certified, first class mail, return receipt requested. If transmitted by facsimile, such notice shall be deemed received when the confirmation of transmission thereof is received by the party giving the notice. Any party may change its address or facsimile to which notice is given hereunder by providing notice of the same in accordance with this Paragraph 8.

If delivered to Buyer, to it at [____]
Attn: [____]
Fax: [____]

If delivered to Guarantor, to it at [____]
Attn: [____]
Fax: [____]

8. **Governing Law and Forum Selection**. This Guaranty shall be governed by, and interpreted and construed in accordance with, the laws of the United States and the State of California, excluding choice of law rules. The Parties agree that any suit, action or other legal proceeding by or against any party (or its affiliates or designees) with respect to or arising out of this Guaranty shall be brought in the federal courts of the United States sitting in the County of San Francisco, California.

9. Miscellaneous. This Guaranty shall be binding upon Guarantor and its successors and assigns and shall inure to the benefit of Buyer and its successors and permitted assigns pursuant to the PPA. No provision of this Guaranty may be amended or waived except by a written instrument executed by Guarantor and Buyer. This Guaranty is not assignable by Guarantor without the prior

written consent of Buyer. No provision of this Guaranty confers, nor is any provision intended to confer, upon any third party (other than Buyer's successors and permitted assigns) any benefit or right enforceable at the option of that third party. This Guaranty embodies the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings of the parties hereto, verbal or written, relating to the subject matter hereof. If any provision of this Guaranty is determined to be illegal or unenforceable (i) such provision shall be deemed restated in accordance with applicable Laws to reflect, as nearly as possible, the original intention of the parties hereto and (ii) such determination shall not affect any other provision of this Guaranty and all other provisions shall remain in full force and effect. This Guaranty may be executed in any number of separate counterparts, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. This Guaranty may be executed and delivered by electronic means with the same force and effect as if the same was a fully executed and delivered original manual counterpart.

10. WAIVER OF JURY TRIAL; JUDICIAL REFERENCE.

(a) JURY WAIVER. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTY HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

(b) JUDICIAL REFERENCE. IN THE EVENT ANY LEGAL PROCEEDING IS FILED IN A COURT OF THE STATE OF CALIFORNIA (THE "COURT") BY OR AGAINST ANY PARTY HERETO IN CONNECTION WITH ANY CONTROVERSY, DISPUTE OR CLAIM DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS GUARANTY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY) (EACH, A "CLAIM") AND THE WAIVER SET FORTH IN THE PRECEDING PARAGRAPH IS NOT ENFORCEABLE IN SUCH ACTION OR PROCEEDING, THE PARTIES HERETO AGREE AS FOLLOWS:

(i) ANY CLAIM (INCLUDING BUT NOT LIMITED TO ALL DISCOVERY AND LAW AND MOTION MATTERS, PRETRIAL MOTIONS, TRIAL MATTERS AND POST-TRIAL MOTIONS) WILL BE DETERMINED BY A GENERAL REFERENCE PROCEEDING IN ACCORDANCE WITH THE PROVISIONS OF CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 638 THROUGH 645.1. THE PARTIES INTEND THIS GENERAL REFERENCE AGREEMENT

TO BE SPECIFICALLY ENFORCEABLE IN ACCORDANCE WITH CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638.

(ii) UPON THE WRITTEN REQUEST OF ANY PARTY, THE PARTIES SHALL SELECT A SINGLE REFEREE, WHO SHALL BE A RETIRED JUDGE OR JUSTICE. IF THE PARTIES DO NOT AGREE UPON A REFEREE WITHIN TEN (10) DAYS OF SUCH WRITTEN REQUEST, THEN, ANY PARTY MAY REQUEST THE COURT TO APPOINT A REFEREE PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 640(B).

(iii) THE PARTIES RECOGNIZE AND AGREE THAT ALL CLAIMS RESOLVED IN A GENERAL REFERENCE PROCEEDING PURSUANT HERETO WILL BE DECIDED BY A REFEREE AND NOT BY A JURY.

(iv) THE PARTIES AGREE THAT THE COSTS OF THE REFEREE SHALL BE SHARED EQUALLY BY THE PARTIES.

(v) THE PARTIES AGREE THAT EACH PARTY SHALL BE RESPONSIBLE FOR ITS OWN COSTS AND EXPENSES, INCLUDING LEGAL FEES, IN CONNECTION WITH ANY GENERAL REFERENCE PROCEEDING.

IN WITNESS WHEREOF, the undersigned has caused this Guaranty to be duly executed and delivered by its duly authorized representative on the date first above written.

GUARANTOR:

[_____]

By:_____
Printed Name:
Title:

BUYER:

[_____]

By:_____
Printed Name:
Title:

By:_____
Printed Name:
Title:

EXHIBIT N

NOTICES

SUNZIA WIND NORTH LLC ("Seller")	**CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority** ("Buyer")
All Notices: Street: 1088 Sansome St. City: San Francisco, CA Attn: General Counsel Phone: [redacted] Email: [redacted]	**All Notices:** Street: 801 S Grand, Suite 400 City: Los Angeles CA, 90017 Attn: Chief Executive Officer Phone: (213) 269-5870 Email: tbardacke@cleanpoweralliance.org
Reference Numbers: Duns: [redacted] Federal Tax ID Number: [redacted]	**Reference Numbers:** Duns: Federal Tax ID Number:
Invoices: Attn: Pattern Energy Settlements Phone: [redacted] Email: [redacted]	**Invoices:** Attn: Vice President, Power Supply Phone: (213) 280-4011 E-mail: settlements@cleanpoweralliance.org
Scheduling: Attn: Manager 24/7 Operations Control Center [redacted] Email: [redacted] [redacted] Phone: [redacted] Facsimile: [redacted]	**Scheduling:** Attn: Operations 24/7 Desk Phone: (817) 462-1509 Email: TenaskaComm@tnsk.com
Confirmations: Attn: Pattern Energy Settlements Phone: [redacted] Email: [redacted]	**Confirmations:** Attn: Vice President, Power Supply Phone: (213) 280-4011 Email: ldescagnia@cleanpoweralliance.com Email CC: energycontracts@cleanpoweralliance.org
Payments: Attn: Pattern Energy Settlements Phone: [redacted] Email: [redacted]	**Payments:** Attn: Vice President, Power Supply Phone: (213) 280-4011 E-mail: settlements@cleanpoweralliance.org
Wire Transfer: BNK: [redacted] [redacted] ABA: [redacted]	**Wire Transfer:** BNK: River City Bank ABA: [redacted] ACCT: XXXXXX7557

SUNZIA WIND NORTH LLC ("Seller")	**CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority** ("Buyer")
ACCT: [redacted]	
Emergency Contact: Attn: 24/7 Operations Control Center Phone: [redacted] Email: [redacted]	**Emergency Contact:**

EXHIBIT O

SAMPLE CALCULATION OF GUARANTEED RA AMOUNT

Assumptions

Installed Capacity = PMax = 3,515,000 kW

Guaranteed Capacity: 575,000 kW

Excused Capacity Reduction: 0 kW

Installed Capacity not available: 515,000 kW

Deemed Delivered RA: 0 kW

Replacement RA: 0 kW

Buyer's Share: 575,000 kW / 3,515,000 kW = 16.3585%

CPM Soft Offer Cap: $7.34/kW-mo

CPM Adjustment Factor (January): [redacted]

RA Deficiency Cap (January): [redacted]

Seller included in its Supply Plan the Supply Plan Amount

Pre-Slice of Day Structure

ELCC (January): 34.0%

NQC = (PMax – Excused Capacity Reduction) x ELCC = (3,515,000 – 0) x 0.3400 = 1,195,100

Guaranteed RA Amount = NQC x Buyer's Share = 1,195,100 x 16.3585% = 195,500 kW

Supply Plan Amount = (Installed Capacity – Installed Capacity not available) x Buyer's Share x ELCC

Supply Plan Amount = (3,515,000 – 515,000) x 16.3585% x 0.3400 = 166,856 kW

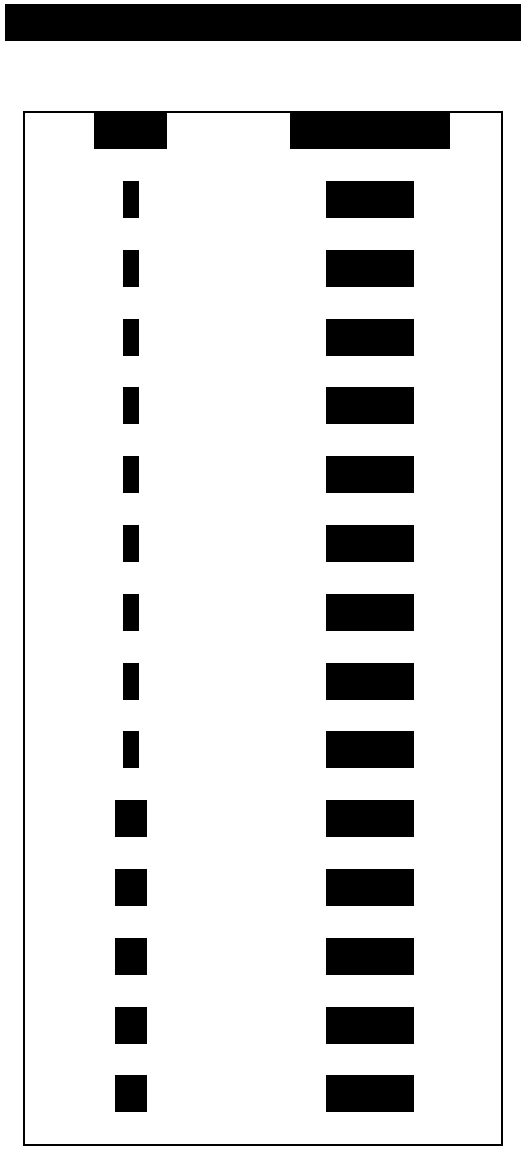
ELCC RA Amount = Supply Plan Amount = 166,856 kW

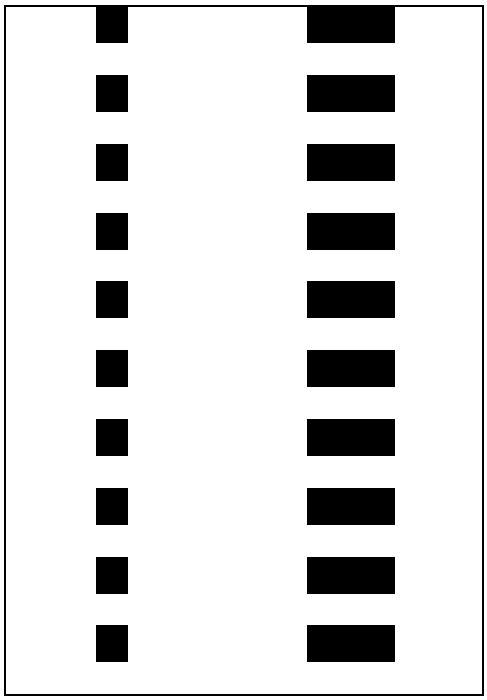
RA Shortfall Amount = Guaranteed RA Amount – ELCC RA Amount = 195,500 – 166,856 = 28,644 kW

RA Deficiency Amount = RA Shortfall Amount x MIN(CPM Soft Offer Cap x CPM Adjustment Factor, RA Deficiency Cap)

RA Deficiency Amount = 28,644 x MIN($7.34 x 50%, $15) = 28,644 x $3.67 = $105,122

Slice of Day Structure





[redacted]

[redacted]

[redacted]

Guaranteed RA Amount

[redacted]

[redacted]

Guaranteed RA Amount [redacted]

Supply Plan Amount [redacted]

[redacted]

[redacted]

[redacted]

Exceedance Profile RA Amount [redacted]

RA Shortfall Amount [redacted]

RA Deficiency Amount [redacted]

RA Deficiency Amount [redacted]

[redacted]

Month	[redacted]	[redacted]	[redacted]
Jan	[redacted]	[redacted]	[redacted]
Feb	[redacted]	[redacted]	[redacted]
Mar	[redacted]	[redacted]	[redacted]

Apr		[redacted]			[redacted]			[redacted]	
May									
Jun									
Jul									
Aug									
Sep									
Oct									
Nov									
Dec									

EXHIBIT P

CPM Adjustment Factors

Month	Multiplier
January	[redacted]
February	[redacted]
March	[redacted]
April	[redacted]
May	[redacted]
June	[redacted]
July	[redacted]
August	[redacted]
September	[redacted]
October	[redacted]
November	[redacted]
December	[redacted]

EXHIBIT Q

Supply Chain Code of Conduct

Buyer is committed to ensuring that the fundamental human rights of workers are protected, including addressing the potential risks of forced labor, child labor, servitude, human trafficking and slavery across our portfolio.

Our requirements and expectations for Seller's supply chain are detailed below in our Supply Chain Code of Conduct ("**Supply Chain Code**"). Seller must comply with all applicable Laws and this Supply Chain Code (subject to Section 2.3(b) of this Agreement), even when this Supply Chain Code exceeds the requirements of applicable Law.

These standards are derived from the United Nations Guiding Principles on Business and Human Rights, the Core Conventions of the International Labour Organization ("ILO"), including the ILO Declaration on Fundamental Principles and Rights at Work, and the Responsible Business Alliance Code of Conduct.

1. **Freely Chosen Employment**
   Forced, bonded (including debt bondage) or indentured labor, involuntary or exploitative prison labor, slavery or trafficking of persons is not permitted. This includes transporting, harboring, recruiting, transferring, or receiving persons by means of threat, force, coercion, abduction or fraud for labor or services. There shall be no unreasonable restrictions on workers' freedom of movement in the facility in addition to unreasonable restrictions on entering or exiting company provided facilities including, if applicable, workers' dormitories or living quarters. All work must be voluntary, and workers shall be free to leave work at any time or terminate their employment without penalty if reasonable notice is given as per worker's contract. Employers, agents, and sub-agents' may not hold or otherwise destroy, conceal, or confiscate identity or immigration documents, such as government-issued identification, passports, or work permits. Employers can only hold documentation if such holdings are required by law. In this case, at no time should workers be denied access to their documents. Workers shall not be required to pay employers' agents or sub-agents' recruitment fees or other related fees for their employment. If any such fees are found to have been paid by workers, such fees shall be repaid to the worker.

2. **Young Workers**
   Child labor is not to be used in any stage of manufacturing. The term "child" refers to any person under the age of 15, or under the age for completing compulsory education, or under the minimum age for employment in the country, whichever is greatest. Suppliers shall implement an appropriate mechanism to verify the age of workers. The use of legitimate workplace learning programs, which comply with all laws and regulations, is supported. Workers under the age of 18 shall not perform work that is likely to jeopardize their health or safety, including night shifts and overtime. Suppliers shall ensure proper management of student workers through proper maintenance of student records, rigorous due diligence of educational partners, and protection of students' rights in accordance with applicable laws and regulations. Suppliers shall provide appropriate support and training to all student

workers. In the absence of local law, the wage rate for student workers, interns, and apprentices shall be at least the same wage rate as other entry-level workers performing equal or similar tasks. If child labor is identified, assistance/remediation is provided.

3. **Working Hours**
Studies of business practices clearly link worker strain to reduced productivity, increased turnover, and increased injury and illness. Working hours are not to exceed the maximum set by local law. Further, suppliers shall use commercially reasonable efforts to limit a workweek to not more than 60 hours per week, including overtime. All overtime must be voluntary. Workers shall be allowed at least one day off every seven days.

4. **Wages and Benefits**
Compensation paid to workers shall comply with all applicable wage laws, including those relating to minimum wages, overtime hours and legally mandated benefits. In compliance with local laws, workers shall be compensated for overtime at pay rates greater than regular hourly rates. Deductions from wages as a disciplinary measure shall not be permitted. For each pay period, workers shall be provided with a timely and understandable wage statement that includes sufficient information to verify accurate compensation for work performed. All use of temporary, dispatch and outsourced labor will be within the limits of the local law.

5. **Humane Treatment**
There is to be no harsh or inhumane treatment including violence, gender-based violence, sexual harassment, sexual abuse, corporal punishment, mental or physical coercion, bullying, public shaming, or verbal abuse of workers; nor is there to be the threat of any such treatment. Disciplinary policies and procedures in support of these requirements shall be clearly defined and communicated to workers.

6. **Non-Discrimination/Non-Harassment**
Suppliers should be committed to a workplace free of harassment and unlawful discrimination. Companies shall not engage in discrimination or harassment based on race, color, age, gender, sexual orientation, gender identity and expression, ethnicity or national origin, disability, pregnancy, religion, political affiliation, union membership, covered veteran status, protected genetic information or marital status in hiring and employment practices such as wages, promotions, rewards, and access to training. Workers shall be provided with reasonable accommodation for religious practices. In addition, workers or potential workers should not be subjected to medical tests that could be used in a discriminatory way or otherwise in violation of applicable law. This was drafted in consideration of ILO Discrimination (Employment and Occupation) Convention (No.111).

7. **Freedom of Association**
In conformance with local law, Suppliers shall respect the right of all workers to form and join trade unions of their own choosing, to bargain collectively, and to engage in peaceful assembly as well as respect the right of workers to refrain from such activities. Workers and/or their representatives shall be able to openly communicate and share ideas and concerns with management regarding working conditions and management practices

without fear of discrimination, reprisal, intimidation, or harassment.

8. **Restricted Jurisdictions**
   Supplier shall not manufacture or produce products in the Xinjiang Uyghur Autonomous Region of China, or knowingly procure goods and services mined, produced or manufactured in the same.

EXHIBIT R

METERING DIAGRAM

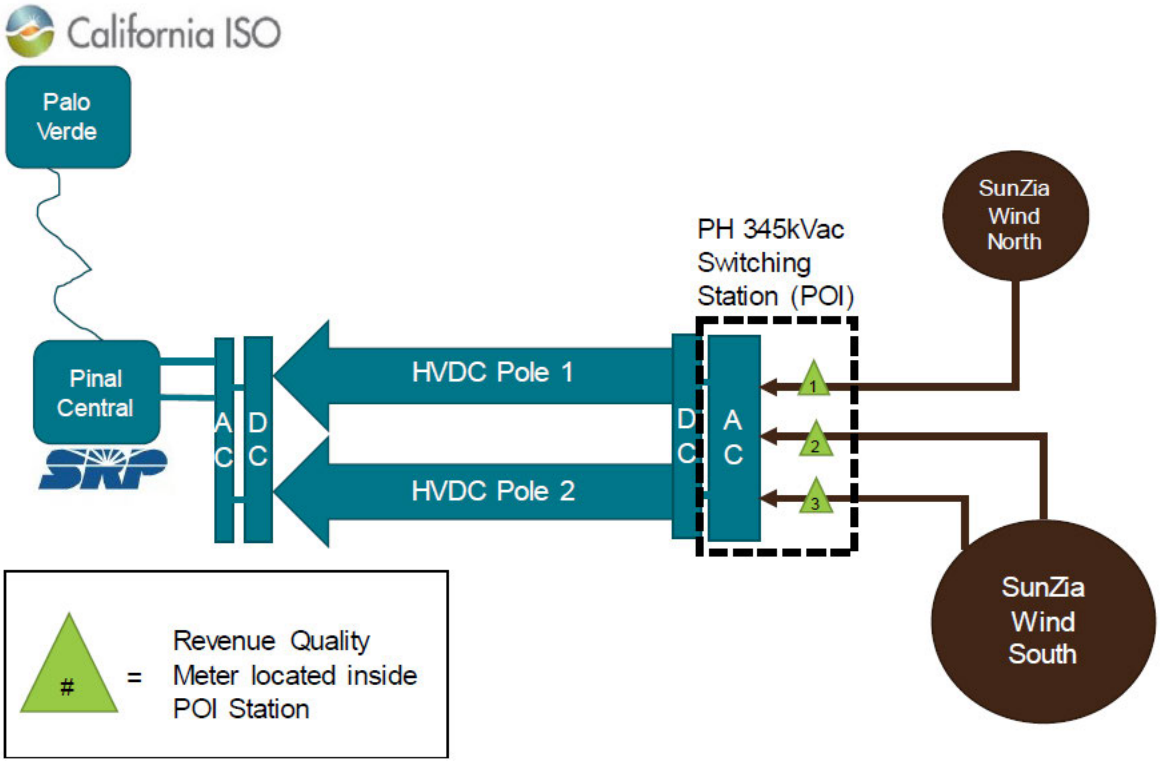


EXHIBIT S

MATERIAL PERMITS

No.	*Permits*

	SunZia Wind North LLC Material Permits
1.	N/A

EXHIBIT T

Force Majeure Event and/or Development Cure Period Claim Form

Instructions

A. Please review Article 10 and Exhibit B (if applicable) of the Renewable Power Purchase Agreement (SunZia North) prior to filling out the form.

B. Fill out the form completely and return to your assigned Contract Manager at CPA.

Seller: [Name] Project: [Name]

Guaranteed Commercial Operation Date: [Date]

New Guaranteed Commercial Operation Date (if Seller's claims are validated in full): [Date]

Seller hereby certifies and represents to Buyer the following:

1. Please describe the claimed Force Majeure Event or other event giving rise to the claimed Development Cure Period delay(s) (the "Claimed Event"), including its cause, date of commencement and date it ended or is anticipated to end, if known.

2. Please specify the extent of the delay or prevented performance, if known, caused by the Claimed Event, including the relief claimed thereby. Describe how the claimed relief was calculated/determined, accounting for individual developments causing such delay or prevented performance.

3. With respect to a Claimed Event other than a Force Majeure Event, please describe the commercially reasonable efforts taken by Seller, if any, to prevent such event or, if applicable, explain in reasonable detail why it was not possible to take such efforts.

4. Please describe the commercially reasonable efforts taken to mitigate the delays or nonperformance caused by the Claimed Event, if any, or, if applicable, explain in reasonable detail why it was not possible to take such efforts, and specify if such efforts, if any, reduced the delay days or nonperformance that would otherwise have occurred absent such mitigation.

5. Please attach supporting documentation, including (to the extent applicable and available):

- Force Majeure notices or other correspondence received from suppliers and/or contractors that describe the basis for and extentof the Claimed Event.
- Documentation, contracts, and/or correspondence with suppliers and/or contractors evidencing the claiming Party's mitigation efforts.
- Project schedule and/or GANNT charts that demonstrate the effect of the Claimed Event on the Guaranteed Commercial Operation Date.

By signing this Claim form, I attest and affirm that I am authorized to sign this form on behalf of the Seller.

[SELLER NAME]

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT U

OPERATING RESTRICTIONS

Operating Restrictions of the Facility are as follows:

- Interconnection Capacity (Maximum Injection Amount): 901.28 MW; *provided*, if the South Affiliate is not utilizing an amount of interconnection capacity equal to 3,021 MW *minus* 901.28 MW, Seller may have the right to additional interconnection capacity for the Facility up to an aggregate of 1,089 MW; [redacted]
- Minimum operating capacity: 0.0 MW
- Maximum number of start-ups per calendar day (if any such operational limitations exist): N/A
- Ramp Rate: The ramp rate accepted by CAISO in the Master File of the Facility.
- Minimum Down Time: N/A

From: rims-noreply@caiso.com <rims-noreply@caiso.com>
Sent: Monday, May 18, 2026 7:51 PM
To: Kelsey Gormley <kgormley@gridsme.com>; cweiler@gridsme.com <cweiler@gridsme.com>; Angela Leon <angela.leon@patternenergy.com>; Leo Peirick <Leo.Peirick@patternenergy.com>; lpate@gridsme.com <lpate@gridsme.com>; George E. Brown <george.brown@patternenergy.com>
Cc: nri@gridsme.com <nri@gridsme.com>; Deral Danis <deral.danis@patternenergy.com>; Leo Peirick <Leo.Peirick@patternenergy.com>; George E. Brown <george.brown@patternenergy.com>; Christina Gallegos <CGallegos@gridsme.com>; nri@caiso.com <nri@caiso.com>
Subject: [EXTERNAL] Notification of Commercial Operation (COD)- SunZia Wind North SZWDN_3_SZWX6

This Message Is From an External Sender
This message came from outside of Pattern. Be careful with links and attachments.

All,

The CAISO has received a request for SunZia Wind North stating that the resource has completed start-up testing and is available for commercial operations beginning, 05/19/2026. This resource of 1089.00 MW Wind is located in Torrance County, 25191 US Hwy 285 Clines Corners NM 87070.

NRI has received internal approval for the COD and have notified all relevant parties for:

Resource ID: SZWDN_3_SZWX6
POD: Pete Heinrich 345kV
SCID:
COD MW: 1089.00

Thank you for your efforts throughout the implementation process and for participating in the CAISO markets please let us know if there are any questions. If you have any feedback on the NRI process, please consider filling out our survey here: https://www.surveymonkey.com/r/PostCOD

Thank you,
New Resource Implementation

****
The foregoing electronic message, together with any attachments thereto, is confidential and may be legally privileged against disclosure other than to the intended recipient. It is intended solely for the addressee(s) and access to the message by anyone else is unauthorized. If you are not the intended recipient of this electronic message, you are hereby notified that any dissemination, distribution, or any action taken or omitted to be taken in reliance on it is strictly prohibited and may be unlawful. If you have received this electronic message in error, please delete and immediately notify the sender of this error.
****

CONFIDENTIAL

SUNZIA PPA
RENEWABLE ENERGY
EXECUTION VERSION

RENEWABLE POWER PURCHASE AGREEMENT (SUNZIA NORTH)

COVER SHEET

Seller: SunZia Wind North LLC, a Delaware limited liability company

Buyer: Clean Power Alliance of Southern California, a California joint powers authority

Description of Facility: A wind-powered electricity generating facility known as SunZia Wind North, with a nameplate capacity of up to 1,089.0 MW, as described in Exhibit A, as such facility may be modified under the terms of this Agreement.

Milestones:

Milestone	Expected Date for Completion
Executed Interconnection Agreement	Completed
Bureau of Land Management Record of Decision for SunZia Transmission Line	Completed
Evidence of Site Control	11/30/2023
Expected Financial Close	11/30/2023
Expected Construction Start Date	11/30/2023
Guaranteed Construction Start Date	9/1/2024
Expected Initial Synchronization	2/28/2026
Expected Commercial Operation Date	4/30/2026
Expected Date of CAISO Commercial Operation	4/30/2026
Guaranteed Commercial Operation Date	10/31/2026

Delivery Term: Fifteen (15) Contract Years

Delivery Term Expected Energy:

Contract Year	Expected Energy (MWh)
1-15	547,941 MWh, as such amount may be adjusted by Seller in accordance with the definition of "Expected Energy" below

Guaranteed Capacity: 171.5 MW of total Facility capacity

Renewable Rate:

Contract Year	Renewable Rate ($/MWh)
1 – 15	$[redacted]/MWh (flat) with no escalation; *provided*, prior to the RA Guarantee Date the Renewable Rate shall be equal to the $[redacted]/MWh.

Product

- ☒ Facility Energy
- ☒ Green Attributes (if Renewable Energy Credit, please check the applicable box below):
  - ☒ Portfolio Content Category 1
  - ☐ Portfolio Content Category 2
  - ☐ Portfolio Content Category 3
- ☒ Capacity Attributes

Scheduling Coordinator: Seller

Security Amounts:

Development Security: $[redacted]

Performance Security: $[redacted]

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RENEWABLE POWER PURCHASE AGREEMENT (SUNZIA NORTH)

This Renewable Power Purchase Agreement (SunZia North) ("**Agreement**") is entered into as of _____ (the "**Effective Date**"), between Buyer and Seller. Buyer and Seller are sometimes referred to herein individually as a "**Party**" and jointly as the "**Parties**". All capitalized terms used in this Agreement are used with the meanings ascribed to them in Article 1 to this Agreement.

RECITALS

WHEREAS, SunZia Wind PowerCo LLC ("**SunZia PowerCo**") and Buyer entered into that certain Renewable Power Purchase Agreement ("**Original Agreement**") dated as of November 3, 2023 ("**Original Effective Date**"), as amended and restated by that certain Amended and Restated Renewable Power Purchase Agreement, dated as of November 18, 2024 ("**First A&R Agreement**") to accommodate the entry of the Facility and the portion of the Transmission System providing transmission service to the Delivery Point into the CAISO Balancing Authority Area through the CAISO Subscriber Participating Transmission Owner ("**SPTO**") process;

WHEREAS, Buyer and SunZia PowerCo entered into that certain Second Amended and Restated Renewable Power Purchase Agreement, dated on or about the date hereof ("**Second A&R Agreement**"), to address the revised Resource Adequacy Requirements in compliance with Section 3.7(g) of the First A&R Agreement, including Slice-of-Day characteristics, which Second A&R Agreement completely superseded and replaced both the Original Agreement and the First A&R Agreement in every respect and became effective upon the Effective Date (as defined in the Second A&R Agreement);

WHEREAS, Buyer and SunZia PowerCo agreed, pursuant to Section 2.6 of the Second A&R Agreement, to (i) terminate the Second A&R Agreement, and (ii) cause each of Seller and SunZia Wind South LLC ("**South Affiliate**") to simultaneously enter into a Replacement PPA (as described in the Second A&R Agreement) with Buyer in respect of the portion of the Facility owned by such Owner (as defined in the Second A&R Agreement);

WHEREAS, Seller and Buyer acknowledge and agree that this Agreement constitutes a Replacement PPA (as described in the Second A&R Agreement) in respect of SunZia Wind North;

WHEREAS, Seller elected to increase the Guaranteed Capacity under the Second A&R Agreement by election of the South Turbine Uprate (as defined in the Second A&R Agreement) via Notice to Buyer, and such increased Guaranteed Capacity under the Second A&R Agreement is reflected in the Guaranteed Capacity under this Agreement;

WHEREAS, Seller intends to develop, design, construct, own, and operate the Facility; and

WHEREAS, Seller desires to sell, and Buyer desires to purchase, on the terms and conditions set forth in this Agreement, the Product;

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, and for other good and valuable consideration, the sufficiency and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1
DEFINITIONS

1.1 **Contract Definitions**. The following terms, when used herein with initial capitalization, shall have the meanings set forth below:

"**AC**" means alternating current.

"**Accepted Compliance Costs**" has the meaning set forth in Section 3.12(c).

"**Adjusted Energy Production**" has the meaning set forth in Exhibit G.

"**Affiliate**" means, with respect to any Person, each Person that directly or indirectly controls, is controlled by, or is under common control with such designated Person. For purposes of this definition and the definition of "Permitted Transferee", "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean (a) the direct or indirect right to cast at least fifty percent (50%) of the votes exercisable at an annual general meeting (or its equivalent) of such Person or, if there are no such rights, ownership of at least fifty percent (50%) of the equity or other ownership interest in such Person, or (b) the right to direct the policies or operations of such Person.

"**Agreement**" has the meaning set forth in the Preamble and includes the Cover Sheet and any Exhibits, schedules and any written supplements hereto.

"**Alternate Facility**" means that certain wind generating facility described in Exhibit A.

"**Alternative Delivery Point**" means a Scheduling Point other than the Delivery Point that is agreed upon by Buyer and Seller.

"**Approved Forecast Vendor**" means (a) [redacted] or (b) any other reputable third-party vendor that is registered to do business in California, experienced in providing and verifying wind energy generation forecasts, and not an Affiliate of Seller.

"**Assignment Agreement**" has the meaning set forth in Section 14.5(a).

"**Available Capacity**" means Buyer's Share of the Installed Capacity, expressed in whole MW, that is available to generate Energy.

"**Balancing Authority**" has the meaning set forth in the CAISO Tariff.

"**Balancing Authority Area**" has the meaning set forth in the CAISO Tariff.

"**Bankrupt**" or "**Bankruptcy**" means with respect to any entity, such entity that (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, (b) has any such petition filed or commenced against it which remains unstayed or undismissed for a period of ninety (90) days, (c) makes an assignment or any general arrangement for the benefit of creditors, (d) otherwise becomes bankrupt or insolvent (however evidenced), (e) 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 (f) is generally unable to pay its debts as they fall due.

"**Business Day**" means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday in California. A Business Day begins at 8:00 a.m. and ends 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 on the Cover Sheet.

"**Buyer Assignee**" has the meaning set forth in Section 14.5(a).

"**Buyer Default**" means an Event of Default of Buyer.

"**Buyer's Indemnified Parties**" has the meaning set forth in Section 18.2.

"**Buyer's Share**" means, (a) prior to the Commercial Operation Date, the percentage equal to (i) prior to the later of (x) the first date that the CAISO informs Seller in writing that Seller may deliver Energy to the CAISO and (y) the first date that the PTO informs Seller in writing that Seller has conditional or temporary permission to operate in parallel with the PTO's system, the quotient of (A) the Guaranteed Capacity *divided by* (B) the Expected Installed Capacity, or (ii) following the later of (x) the first date that the CAISO informs Seller in writing that Seller may deliver Energy to the CAISO and (y) the first date that the PTO informs Seller in writing that Seller has conditional or temporary permission to operate in parallel with the PTO's system, the product of (A) the quotient of (I) the Guaranteed Capacity *divided by* (II) the difference of (x) Expected Installed Capacity *minus* (y) the Guaranteed Installed Capacity, *multiplied by* (B) the quotient of (I) the difference of (x) the total nameplate capacity of the Facility in operation at the time, *minus* (y) the Guaranteed Installed Capacity, *divided by* (II) the total nameplate capacity of the Facility in operation at the time, as applicable, and (b) from and after the Commercial Operation Date, the percentage equal to the result of dividing the Guaranteed Capacity by the Installed Capacity, as such percentage may change from time to time with changes to the Installed Capacity; *provided*, in no event shall the Buyer's Share exceed 100% (whether before or after establishment of the final Installed Capacity).

"**Buyer's WREGIS Account**" has the meaning set forth in Section 4.8(a).

"**CAISO**" means the California Independent System Operator Corporation or any successor entity performing similar functions.

"**CAISO Certification**" means the certification and testing requirements for a generating unit set forth in the CAISO Tariff that are applicable to the Facility, including certification and testing for PMAX and PMIN (as each term is defined in the CAISO Tariff) associated with such generating units, that are applicable to the Facility.

"**CAISO Commercial Operation**" means that the CAISO has provided notification that the Energy generation from a portion of the Facility that is no smaller than the Guaranteed Installed Capacity may be scheduled into the CAISO markets on an unconditional basis in accordance with the CAISO Tariff and Business Practice Manual(s) as applicable, including the New Resource Implementation process.

"**CAISO Grid**" has the same meaning as "CAISO Controlled Grid" as defined in the CAISO Tariff.

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

"**California Renewables Portfolio Standard**" or "**RPS**" means the renewable energy program and policies established by California State Senate Bills 1038 (2002), 1078 (2002), 107 (2008), X-1 2 (2011), 350 (2015), and 100 (2018) as codified in, *inter alia*, California Public Utilities Code Sections 399.11 through 399.31 and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time.

"**Capacity Attribute**" means Buyer's Share of any current or future defined characteristic, certificate, tag, credit, or accounting construct associated with the amount of power that the Facility can generate and deliver to the Delivery Point at a particular moment and that can be purchased, sold or conveyed under CAISO or CPUC market rules, including Resource Adequacy Benefits.

"**CEC**" means the California Energy Commission or its successor agency.

"**CEC Certification and Verification**" means that the CEC has certified (or, with respect to periods before the date that CEC has provided final certification, that the CEC has pre-certified) that the Facility is an Eligible Renewable Energy Resource for purposes of the California Renewables Portfolio Standard and that all Facility Energy qualifies as generation from an Eligible Renewable Energy Resource.

"**CEC Precertification**" means that the CEC has issued a precertification for the Facility indicating that the planned operations of the Facility would comply with applicable CEC requirements for CEC Certification and Verification.

"**Change of Control**" means any circumstance in which Ultimate Parent ceases to own, directly or indirectly through one or more intermediate entities, at least fifty percent (50%) of the outstanding equity interests in Seller; *provided*, in calculating ownership percentages for all purposes of the foregoing:

(a) any ownership interest in Seller held by Ultimate Parent indirectly through one or more intermediate entities shall not be counted towards Ultimate Parent's ownership interest in Seller unless Ultimate Parent directly or indirectly owns at least fifty percent (50%) of the outstanding equity interests in each such intermediate entity; and

(b) ownership interests in Seller owned directly or indirectly by any Lender (including any tax equity provider) shall be excluded from the total outstanding equity interests in Seller.

"**CIRA Tool**" means the CAISO Customer Interface for Resource Adequacy, or any successor mechanism.

"**COD Certificate**" has the meaning set forth in Exhibit B.

"**COD Delay Damages Payment**" has the meaning set forth in Exhibit B.

"**Commercial Operation**" has the meaning set forth in Exhibit B.

"**Commercial Operation Date**" means the date Commercial Operation is achieved.

"**Commercial Operation Delay Damages**" means an amount equal to (a) the Development Security amount required hereunder, *divided by* (b) [redacted]

"**Compliance Actions**" has the meaning set forth in Section 3.12(a).

"**Compliance Expenditure Cap**" has the meaning set forth in Section 3.12.

"**Confidential Information**" has the meaning set forth in Section 18.1.

"**Construction Start**" has the meaning set forth in Exhibit B.

"**Construction Start Date**" has the meaning set forth in Exhibit B.

"**Contract Revenues**" has the meaning set forth in Section 4.4(b).

"**Contract Term**" has the meaning set forth in Section 2.1(a).

"**Contract Year**" means a period of twelve (12) consecutive months. The first Contract Year shall commence on the Commercial Operation Date and each subsequent Contract Year shall commence on the anniversary of the Commercial Operation Date.

"**Costs**" means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third-party transaction costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace the Agreement; and all reasonable attorneys' fees and expenses incurred by the Non-Defaulting Party in connection with terminating the Agreement.

"**Cover Sheet**" means the cover sheet to this Agreement, which is incorporated into this Agreement.

"**COVID-19**" means the pandemic disease designated COVID-19 and the related virus designated SARS-CoV-2 and any mutations thereof, and the efforts of a Governmental Authority to combat such disease.

"**CPM Adjustment Factor**" means, for any RA Shortfall Month, the percentage for the corresponding calendar month set forth in Exhibit P.

"**CPM Price**" has the meaning set forth in Section 3.8(b).

"**CPM Soft Offer Cap**" has the meaning set forth in the CAISO Tariff.

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

"**Credit Rating**" means, with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt obligations (not supported by third party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuer rating by S&P or Moody's. If ratings by S&P and Moody's are not equivalent, the lower rating shall apply.

"**Cure Plan**" has the meaning set forth in Section 11.1(b)(iii).

"**Curtailment Order**" means any of the following:

(a) CAISO orders, directs, alerts, or provides notice to a Party, including an Operating Instruction (as defined in the CAISO Tariff), to curtail deliveries of Facility Energy for the following reasons: (i) any System Emergency, (ii) any warning of an anticipated System Emergency, or warning of an imminent condition or situation, which jeopardizes CAISO's electric system integrity or the integrity of other systems to which CAISO is connected, or (iii) in response to an Energy oversupply or potential Energy oversupply, and Seller or the SC for the Facility submitted a Self-Schedule for the MWhs curtailed during the relevant time period;

(b) a curtailment ordered by a 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, including a System Emergency, or (ii) any warning, forecast or anticipation of conditions or situations that jeopardize a Transmission Provider's electric system integrity or the integrity of other systems to which a Transmission Provider is connected, including a System Emergency;

(c) a curtailment ordered by CAISO or a Transmission Provider due to a Transmission System Outage; or

(d) a curtailment in accordance with Seller's obligations under its Interconnection Agreement with the PTO.

"**Curtailment Period**" means the period of time, as measured using current Settlement Intervals, during which Seller reduces generation or deliveries of Facility Energy from the Facility pursuant to a Curtailment Order; *provided*, the Curtailment Period shall be inclusive of the time required for the Facility to ramp down and ramp up.

"**Daily Delay Damages**" means an amount equal to (a) the Development Security amount required hereunder, *divided by* (b) one hundred twenty (120).

"**Daily Delay Damages Payment**" has the meaning set forth in Exhibit B.

"**Damage Payment**" means the amount to be paid by the Defaulting Party to the Non-Defaulting Party after a Terminated Transaction occurring prior to the Commercial Operation Date, in a dollar amount as set forth in Section 11.3(a).

"**Day-Ahead Forecast**" means the amount of Energy expected to be generated by the Facility and delivered to Buyer at the Delivery Point, net of all Electrical Losses and subject to the Hourly Delivery Cap, for each hour of the immediately succeeding day in accordance with Seller's obligations under this Agreement, based on a forecast from the Approved Forecast Vendor using a forecasting methodology to determine the potential generation of the Facility as a function of Available Capacity, wind speed and direction, wind turbine power curves and other pertinent data (including data related to Curtailment Orders), for the period of time, consistent with Prudent Operating Practice; *provided*, a Day-Ahead Forecast provided in a day prior to any non-Business Day(s) shall include non-binding forecasts for the immediately succeeding day, each succeeding non-Business Day and the next Business Day.

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

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

"**Deemed Delivered Energy**" means the difference of (i) the Market Curtailment Max Energy, *minus* (ii) the amount of Facility Energy delivered to the Delivery Point during the Market Curtailment Period; *provided*, if the applicable difference is negative, the Deemed Delivered Energy shall be zero (0) MWh.

"**Deemed Delivered RA**" means, for any month, the amount of Resource Adequacy Benefits expressed in kW that Seller would have delivered to Buyer, but for Buyer's actions or inactions (including, until such time as the Facility receives a Deliverability Allocation from the CAISO, failure to obtain Import Capability sufficient to allow for the importation of such capacity into the CAISO). As of the Effective Date, the Parties agree that the Deemed Delivered RA shall be determined by calculating the quotient of (i) the sum of the following: for each hour of the twenty-four hour array applicable to such Showing Month, the amount of Resource Adequacy Benefits (in MW) that Seller would have delivered to Buyer, but for Buyer's actions or inactions (including, until such time as the Facility receives a Deliverability Allocation from the CAISO,

failure to obtain Import Capability sufficient to allow for the importation of such capacity into the CAISO, unless Buyer is prohibited by the CAISO Tariff from using Import Capability with respect to the Resource Adequacy Benefits and such prohibition is not due to the fault or negligence of Buyer and Buyer has used commercially reasonable efforts to avoid or mitigate such prohibition), *divided by* (ii) twenty four (24). If (i) Seller submits a Supply Plan to the CAISO in accordance with the requirements of this Agreement by the applicable Showing Deadline and is otherwise in compliance with Section 3.7, but (ii) the CIRA Tool shows that Seller's Supply Plan has not been accepted by the CAISO through no fault of Seller, and (iii) Seller uses commercially reasonable efforts to resolve any failure by the CAISO to approve such Supply Plan, then the Resource Adequacy Benefits included in such Supply Plan shall be considered Deemed Delivered RA; *provided*, if Buyer's inability to utilize any Resource Adequacy Benefits is the result of the CAISO Tariff disallowing Buyer from using Import Capability to obtain some or all of the Capacity Attributes from the Facility and such prohibition is not due to the fault or negligence of Buyer and Buyer has used commercially reasonable efforts to avoid or mitigate such prohibition, it shall not be considered Deemed Delivered RA.

"**Defaulting Party**" has the meaning set forth in Section 11.1(a).

"**Deficient Month**" has the meaning set forth in Section 4.8(e).

"**Delay Damages**" means Daily Delay Damages and Commercial Operation Delay Damages.

"**Deliverability Allocation**" means an allocation of Deliverability (as defined in the CAISO Tariff) to the Facility such that Buyer may receive all of the Resource Adequacy Benefits at the Delivery Point throughout the Delivery Term without any need to obtain an allocation of Maximum Import Capability or other import rights.

"**Delivery Point**" has the meaning set forth in Exhibit A.

"**Delivery Term**" shall mean the period of Contract Years set forth on the Cover Sheet beginning on the Commercial Operation Date, unless terminated earlier in accordance with the terms and conditions of this Agreement.

"**Development Cure Period**" has the meaning set forth in Exhibit B.

"**Development Security**" means, at Seller's option, (a) cash or (b) one or more Letters of Credit, in aggregate in the amount specified for the Development Security on the Cover Sheet.

"**Disclosing Party**" has the meaning set forth in Section18.2.

"**E-Tag**" has the meaning set forth in the CAISO Tariff.

"**Early Termination Date**" has the meaning set forth in Section 11.2(a).

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

"**Electrical Losses**" means all transmission or transformation losses between the Facility's Point of Interconnection to the PTO's Transmission System and the Delivery Point, expressed in MWh; *provided*, Electrical Losses shall not include losses that are replaced with Energy provided by one or more Transmission Providers and paid for by Seller (at Seller's sole expense) and that, when delivered to Buyer hereunder, meet the requirements for Product delivered hereunder, including PCC1 status.

"**Eligible Renewable Energy Resource**" has the meaning set forth in California Public Utilities Code Section 399.12(e) and California Public Resources Code Section 25741(a), as either code provision is amended or supplemented from time to time.

"**Energy**" means electrical energy, measured in kilowatt-hours, megawatt-hours, or multiple units thereof.

"**Energy Replacement Damages**" has the meaning set forth in Section 4.7(a).

"**EPC Contract**" means Seller's engineering, procurement and construction contract(s) for the Facility.

"**Event of Default**" has the meaning set forth in Section 11.1.

"**Exceedance Profile RA Amount**" means, as of the Effective Date, for a given Showing Month, the quotient of (i) the sum of the following: for each hour of the twenty-four hour array applicable to such Showing Month, the maximum amount of Resource Adequacy Benefits (in MW) that Buyer is able to receive in the relevant RA Compliance Template, based on the shape factor set forth for the applicable hour of the applicable Showing Month under tab "Resource Default Profiles" for New Mexico Wind, Cells E338-E625, on the CPUC website at https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/resource-adequacy-compliance-materials/guides-and-resources/rashowingtemplate_rev35.xlsm (as such may be updated or replaced by the CPUC from time to time) and assuming that Buyer's RA Plan in respect of the Facility matches the Supply Plan submitted by Seller for the Facility (provided Seller's Supply Plan does not reflect an amount in excess of the Guaranteed RA Amount), *divided by* (ii) twenty four (24).

"**Excess MWh**" has the meaning set forth in Exhibit C.

"**Excused Capacity Reduction**" means a reduction to the Capacity Attributes available from the Facility due to (a) System Emergency [redacted] (b) Curtailment Order [redacted] (c) Force Majeure Event, (d) Major Planned Outage, (e) Qualified Forced Facility Outage, or (f) Planned Outage; *provided*:

(x) [redacted]

[redacted]

(y) [redacted]

(z) [redacted] an Excused Capacity Reduction), or (ii) if such Qualified Forced Facility Outage occurs thirty (30) days or more before the RA Plan Showing Deadline for the applicable Showing Month and Seller has previously reached the Qualified Forced Facility Outage Limit or Seller does not elect to treat such Qualified Forced Facility Outage as an Excused Capacity Reduction (as described below). In the case of a Qualified Forced Facility Outage that occurs and as to which Notice was provided to Buyer thirty (30) days or more before the RA Plan Showing Deadline for the applicable Showing Month, Seller may elect to treat such Qualified Forced Facility Outage as a Planned Outage or Major Planned Outage for purposes of determining the treatment of such Qualified Forced Facility Outage as an Excused Capacity Reduction by including such election in its original Notice to Buyer of such Qualified Forced Facility Outage, and may change such

election via a subsequent Notice to Buyer on or before the date that is thirty (30) days prior to an applicable Showing Deadline and no more often than once per Showing Month.

"**Expected Commercial Operation Date**" has the meaning set forth on the Cover Sheet.

"**Expected Construction Start Date**" has the meaning set forth on the Cover Sheet.

"**Expected Energy**" means the quantity of Facility Energy (with associated Green Attributes) that Seller expects to be able to deliver to Buyer from the Facility during each Contract Year, which for each Contract Year is the quantity specified on the Cover Sheet; *provided*, (i) such amount shall be increased or decreased by Seller in a Notice to Buyer within sixty (60) days following the delivery by Seller of the final Installed Capacity Certificate in the form attached hereto as Exhibit I, and (ii) the amount of Expected Energy stated in such notice shall equal Buyer's Share of the P50 amount set forth in the most wind resource assessment from a Licensed Professional Engineer (adjusted as necessary to reflect the Hourly Delivery Cap), but in no event shall the adjusted annual Expected Energy amount be more than [redacted] higher or lower than the annual Expected Energy amount as set forth on the Cover Sheet; *provided further*, Seller shall use commercially reasonable efforts to notify Buyer of any change in the anticipated Expected Energy from the quantity specified on the Cover Sheet prior to the Commercial Operation Date.

"**Expected Installed Capacity**" the amount of Seller's anticipated Installed Capacity, which as of the Effective Date equals 1,089.0 MW, and which may be reduced upon Notice to Buyer from time to time.

"**Facility**" means the wind-powered electricity generating facility described on the Cover Sheet and in Exhibit A, installed at the Site pursuant to the terms of the EPC Contracts, and including mechanical equipment and associated facilities and equipment required to deliver Facility Energy to the Delivery Point; *provided*, the "Facility" does not include any Shared Facilities.

"**Facility Energy**" means, in any Settlement Interval or Settlement Period, as applicable, the amount of Energy generated by the Facility and delivered to Buyer at the Delivery Point in accordance with Seller's obligations under this Agreement, which such amount shall equal: (i) (a) Buyer's Share of the Energy produced by the Facility and delivered to the Point of Interconnection, as measured in MWh by the Facility Meter, as such amount may be reduced as a result of a Curtailment Order, net of all Electrical Losses (without duplication of losses programmed into the Facility Meter, if any) and Station Use, or (b) if the Facility output is reduced, at Seller's direction (and not, for example, as a result of a Forced Facility Outage) in any Settlement Interval or Settlement Period, as applicable, that is not during a Curtailment Period or Market Curtailment Period, then Facility Energy for such Settlement Interval or Settlement Period, as applicable, will instead be equal to Buyer's Share of the Energy that the Facility would have been able to produce and deliver to the Point of Interconnection, if the Facility output was not so reduced, or (c) if the Facility output is reduced, at Seller's direction in any Settlement Interval or Settlement Period, as applicable, during a Market Curtailment Period, then Facility Energy for such Settlement Interval or Settlement Period, as applicable, will instead be equal to the Market Curtailment Max Energy,

minus any of such Market Curtailment Max Energy that is actually curtailed in connection with such Market Curtailment Period, which amount of curtailed Energy shall be calculated by Seller in a manner consistent with Prudent Industry Practices and, upon request from Buyer, demonstrated to Buyer's reasonable satisfaction; and, in each case of (a), (b) and (c), subject to the Hourly Delivery Cap *multiplied by* the duration of the Settlement Interval or Settlement Period, as applicable, (as measured in hours); *plus* (ii) all Replacement Energy delivered as part of prospectively delivered Replacement Product pursuant to Section 4.7(b).

"**Facility Meter**" means one or more CAISO-approved revenue quality meters located inside the Facility's Point of Interconnection switching station, together with a CAISO-approved data processing gateway or remote intelligence gateway, telemetering equipment and data acquisition services sufficient for monitoring, recording and reporting, in real time, all Energy produced by the Facility net of Electrical Losses and Station Use.

"**FERC**" means the Federal Energy Regulatory Commission or any successor government agency.

"**Fifteen Minute Market**" or "**FMM**" has the meaning set forth in the CAISO Tariff.

"**Financial Close**" means Seller and/or one or more of its Affiliates has obtained debt and/or equity financing commitments from one or more Lenders sufficient to construct the Facility, including such financing commitments from Seller's owner(s).

"**First A&R Agreement**" has the meaning set forth in the Recitals hereto.

"**Fitch**" means Fitch Ratings, Inc., or its successor.

"**Floor Price**" means (a) for the period during which Seller is eligible to obtain PTCs and for that portion of the Facility Energy or Deemed Delivered Energy, as the case may be, to which PTC eligibility applies, the amount, on a dollar per MWh basis, equal to the Negative PTC Amount, or (b) for all other periods and portions of Facility Energy or Deemed Delivered Energy, zero dollars per MWh ($0/MWh), subject to clause (b)(ii) of Exhibit D. The Floor Price will be a single value. Subject to clause (b)(ii) of Exhibit D, the Floor Price shall be calculated as the average of the amounts determined pursuant to clauses (a) and (b) of this definition of "Floor Price", such average to be weighted based on the percentages of the Installed Capacity to which such amounts apply.

"**Force Majeure Event**" has the meaning set forth in Section 10.1.

"**Forced Facility Outage**" means (i) an unexpected failure of one or more components of the Facility (including subsequent outages to remediate such unexpected failure), or (ii) the unexpected removal from service of one or more components of the Facility, which removal from service is required to prevent or limit imminent harm to or loss of life or property, or prevent imminent loss of or damage to the Facility or the Transmission System, in each case that prevents Seller from generating Energy and/or making Energy from the Facility available at the Delivery Point, and that is not the result of a Force Majeure Event.

"**Forecasted Product**" has the meaning set forth in Section 4.3(b).

"**Future Environmental Attributes**" means any and all Green Attributes that become recognized under applicable Law after the Original Effective Date (and not before the Original Effective Date), notwithstanding the last sentence of the definition of "Green Attributes" herein. Future Environmental Attributes do not include Tax Credits associated with the construction or operation of the Facility, or other financial incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation.

"**Gains**" means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining the economic benefit to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., SP-15), all of which should be calculated for the remaining Contract Term, and includes the value of Green Attributes and Capacity Attributes.

"**Governmental Authority**" means any federal, state, provincial, local or municipal government, any political subdivision thereof or any other governmental, congressional or parliamentary, regulatory, or judicial instrumentality, authority, body, agency, department, bureau, or entity with authority to bind a Party at law, including CAISO, WREGIS, and the CPUC; *provided*, "Governmental Authority" shall not in any event include any Party.

"**Green Attributes**" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled (including under the RPS regulations and/or under any and all other international, federal, regional, state or other law, rule, regulation, bylaw, treaty or other intergovernmental compact, decision, administrative decision, program (including any voluntary compliance or membership program), competitive market or business method (including all credits, certificates, benefits, and emission measurements, reductions, offsets and allowances related thereto)), attributable to the generation from the Facility and its displacement of conventional energy generation. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (3) the reporting rights to such avoided emissions, such as Green Tag Reporting Rights. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Facility, (ii) Tax Credits associated with the construction or operation of

the Facility and other financial incentives in the form of credits, reductions, or allowances associated therewith, or (iii) emission reduction credits encumbered or used by the Facility for compliance with local, state, or federal operating and/or air quality permits. Green Attributes under the preceding definition are limited to Green Attributes that exist under applicable Law as of the Original Effective Date.

"**Green Tag Reporting Rights**" means the right of a purchaser of renewable energy to report ownership of accumulated Green Tags in compliance with and to the extent permitted by applicable Law and include, without limitation, rights under Section 1605(b) of the Energy Policy Act of 1992, and any present or future federal, state or local certification program or emissions trading program, including pursuant to the WREGIS Operating Rules.

"**Green Tags**" means a unit accumulated on a MWh basis where one (1) represents the Green Attributes associated with one (1) MWh of Facility Energy.

"**Green-e Certified**" means the Green Attributes provided to Buyer pursuant to this Agreement are certified under the Green-e Energy National Standard.

"**Green-e Energy National Standard**" means the Green-e Renewable Energy Standard for Canada and the United States (formerly Green-e Energy National Standard) version 4.2, updated April 27, 2023, as may be further amended from time to time.

"**Guaranteed Capacity**" means the portion of the generating capacity of the Facility, as measured in MW, that Seller commits to install pursuant to this Agreement, as set forth on the Cover Sheet.

"**Guaranteed Commercial Operation Date**" has the meaning set forth on the Cover Sheet, subject to extension pursuant to Exhibit B.

"**Guaranteed Construction Start Date**" has the meaning set forth on the Cover Sheet, subject to extension pursuant to Exhibit B.

"**Guaranteed Energy Production**" has the meaning set forth in Section 4.7(a).

"**Guaranteed Installed Capacity**" means, as of any date, the total installed generating nameplate capacity of the Facility, as measured in MW, with respect to which Seller has commenced and is obligated to continue deliveries of Energy (not including test energy) and associated Green Attributes and/or resource adequacy benefits produced by or associated with such generating nameplate capacity to purchasers under power purchase agreements or similar long-term offtake agreements with third parties; *provided* that (a) in determining whether each of CAISO Commercial Operation and Commercial Operation has occurred and (b) on and after the Commercial Operation Date, the Guaranteed Installed Capacity shall include the Guaranteed Capacity.

"**Guaranteed RA Amount**" means a guaranteed amount of Resource Adequacy Benefits for a given Showing Month, equal to the difference between (i) the maximum amount of Resource

Adequacy Benefits (in MW) that could be provided by the Facility under then-current Law, and (ii) Excused Capacity Reductions.

For the purposes of the definition of "Guaranteed RA Amount", the amount described in clause (i) above shall not be deemed reduced based on the calculation or determination, by the CAISO or the CPUC, of the Resource Adequacy Benefits (in MW) available from the Facility resulting from any performance of the Facility or any actions or inactions of Seller impacting the performance of the Facility, including due to Planned Outages, Major Planned Outages or Forced Facility Outages, as reasonably demonstrated by documentation prepared by the CAISO or the CPUC (but not including any cause external to the Facility, for example, a lack of wind resource, any outage of the Transmission System, or a Curtailment Order not caused by Seller), regardless of whether such outages result in Excused Capacity Reductions).

Subject to the foregoing, as of the Effective Date, the Parties agree that the Guaranteed RA Amount shall be the quotient of (a) the sum of the following: for each hour of the twenty-four hour array applicable to such Showing Month, the product of (w) the PMAX (as defined in the CAISO Tariff) of the Facility *minus* the capacity of the Facility (in MW) that is not available for purposes of compliance with the Resource Adequacy Requirements as a result of Excused Capacity Reductions, *multiplied by* (y) Buyer's Share, *multiplied by* (z) [redacted] on the CPUC website at https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/resource-adequacy-compliance-materials/guides-and-resources/rashowingtemplate_rev35.xlsm (as such may be updated or replaced by the CPUC from time to time), [redacted] An illustrative-only example of the calculation of the Guaranteed RA Amount as of the Effective Date is set forth in Exhibit O.

"**Guarantor**" means any Person that (a) is an Affiliate of Seller, or other third party reasonably acceptable to Buyer, (b) has a Credit Rating of BBB- or better from S&P or a Credit Rating of Baa3 or better from Moody's, (c) is incorporated or organized in a jurisdiction of the United States and is in good standing in such jurisdiction, and (d) executes and delivers a Guaranty for the benefit of Buyer.

"**Guaranty**" means a guaranty from a Guarantor provided for the benefit of Buyer substantially in the form attached as Exhibit M, or as reasonably acceptable to Buyer.

"**Hourly Delivery Cap**" means the maximum delivery rate of Energy and associated Renewable Energy Credits and Green Tags delivered to the Delivery Point and sold to Buyer in any given hour under this Agreement, which amount shall be equal to Buyer's Share *multiplied by* 636 MW.

"**Imbalance Energy**" means the amount of Energy in MWh, in any given Settlement Period or Settlement Interval, by which the amount of Facility Energy deviates from the amount of Scheduled Energy.

"**Import Capability**" means that portion of the Maximum Import Capability allocated by

the CAISO that is necessary to support the importation of Resource Adequacy Benefits from the Facility into the CAISO market in an amount equal to the Guaranteed RA Amount.

"**Indemnified Party**" has the meaning set forth in Section 16.1.

"**Indemnifying Party**" has the meaning set forth in Section 16.1.

"**Initial Synchronization**" means the commencement of Trial Operations (as defined in the CAISO Tariff).

"**Installed Capacity**" means the nameplate capacity of the Facility at the Point of Interconnection, as evidenced by a certificate from a Licensed Professional Engineer substantially in the form attached as Exhibit I hereto, as it may be updated from time to time by delivery of a subsequent certificate from a Licensed Professional Engineer substantially in the form attached as Exhibit I hereto solely as permitted pursuant to Section 2(a) of Exhibit B.

"**Inter-SC Trade**" has the meaning set forth in the CAISO Tariff.

"**Interconnection Agreement**" means the interconnection agreement entered into by Seller or an Affiliate pursuant to which the Facility will be interconnected with the PTO's Transmission System, and pursuant to which Seller's Interconnection Facilities and any other Interconnection Facilities will be constructed, operated and maintained during the Contract Term.

"**Interconnection Facilities**" means the interconnection facilities, control and protective devices and metering facilities required to connect the Facility with the PTO's Transmission System in accordance with the Interconnection Agreement.

"**Interest Rate**" has the meaning set forth in Section 8.2.

"**Intertie**" has the meaning set forth in the CAISO Tariff.

"**IP Indemnity Claim**" has the meaning set forth in Section 16.1(b).

"**ITC**" means the investment tax credit established pursuant to Section 48 of the United States Internal Revenue Code of 1986.

"**Joint Powers Act**" means the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.).

"**Joint Powers Agreement**" means that certain Joint Powers Agreement dated June 27, 2017, as amended from time to time, under which Buyer is organized as a Joint Powers Authority in accordance with the Joint Powers Act.

"**kW**" means kilowatts in alternating current, unless expressly stated in terms of direct current.

"**kWh**" means a kilowatt-hour measured in alternating current, unless expressly stated in

terms of direct current.

"**Law**" means any applicable law, statute, rule, regulation, decision, writ, order, decree or judgment, permit or any interpretation thereof, promulgated or issued by a Governmental Authority.

"**Lender**" means, collectively, any Person (a) providing senior or subordinated construction, interim, back leverage or long-term debt, equity or tax equity financing or refinancing for or in connection with the development, construction, purchase, installation or operation of the Facility, whether that financing or refinancing takes the form of private debt (including back-leverage debt), equity (including tax equity), public debt or any other form (including financing or refinancing provided to a member or other direct or indirect owner of Seller), including any equity or tax equity investor directly or indirectly providing financing or refinancing for the Facility or purchasing equity ownership interests of Seller and/or its Affiliates, and any trustee or agent or similar representative acting on their behalf, (b) providing interest rate or commodity protection under an agreement hedging or otherwise mitigating the cost of any of the foregoing obligations and/or (c) participating in a lease financing (including a sale leaseback or leveraged leasing structure) with respect to the Facility.

"**Letter(s) of Credit**" means one or more irrevocable, standby letters of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a Credit Rating of at least A- with an outlook designation of "stable" from S&P or A3 with an outlook designation of "stable" from Moody's, or from an issuer otherwise acceptable to Buyer in its sole discretion, in a form substantially similar to the letter of credit set forth in Exhibit K, or as reasonably acceptable to Buyer.

"**Licensed Professional Engineer**" means either (i) [redacted]., (ii) [redacted], (iii) the independent engineer retained by the Lenders, or on their behalf under customary terms and conditions, in connection with a financing of the Facility, which engineer, or employee or principal thereof (a) is licensed to practice engineering in New Mexico, (b) has training and experience in the power industry specific to the technology of the Facility, (c) is not a representative of a consultant, engineer, contractor, designer or other individual involved in the development of the Facility or of a manufacturer or supplier of any equipment installed at the Facility other than as the independent engineer for the Lenders, and (d) is licensed in an appropriate engineering discipline for the required certification being made, or (iv) a person acceptable to Buyer in its reasonable judgment.

"**Locational Marginal Price**" or "**LMP**" has the meaning set forth in the CAISO Tariff.

"**Losses**" means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining economic loss to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable

transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., SP-15), all of which should be calculated for the remaining Contract Term and must include the value of Green Attributes, Capacity Attributes, and Renewable Energy Incentives.

"**Lost Output**" has the meaning set forth in Section 4.7(a).

"**Major Equipment Failure**" means a failure of (i) one of the Facility's [redacted] (the procurement of which involves a similarly long lead time), or (ii) no less than [redacted] of the Facility's [redacted] or (iii) no less than [redacted] of the Facility's [redacted]

"**Major Planned Outage**" means a Planned Outage which results in a reduction of more than [redacted] to the amount of Resource Adequacy Benefits provided to Buyer from the Facility in any Showing Month.

"**Market Curtailment Max Energy**" means Buyer's Share of the total Energy the Facility would have been able to deliver to the Point of Interconnection during a Market Curtailment Period, subject to the Hourly Delivery Cap, if the output of the Facility was not reduced at Seller's direction, which amount shall be equal to the Real-Time Forecast (of the hourly expected Facility Energy) provided pursuant to Section 4.3(d) for the period of time during such Market Curtailment Period.

"**Market Curtailment Period**" means the period of time during a Settlement Interval or Settlement Period, as applicable, in which the LMP in the Day-Ahead Market and the Real-Time Market at the Delivery Point are less than the Floor Price; *provided*, if applicable, the Market Curtailment Period shall be inclusive of the time required for the Facility to ramp down to implement such curtailment (if any) and ramp up following such curtailment (if any) in accordance with the Operating Restrictions.

"**Material Permits**" means all permits required for Seller to commence construction that have not been obtained as of the Effective Date, as set forth on Exhibit S.

"**Maximum Import Capability**" has the meaning set forth in the CAISO Tariff, and includes any replacement or successor method implemented by the CAISO with respect to the ability of generating units that are external to the CAISO Balancing Authority Area to provide Resource Adequacy Benefits.

"**Milestones**" means the significant development activities and dates associated therewith set forth on the Cover Sheet.

"**Monthly Forecast**" has the meaning set forth in Section 4.3(b).

"**Moody's**" means Moody's Investors Service, Inc., or its successor.

"**MW**" means megawatts in alternating current, unless expressly stated in terms of direct current.

"**MWh**" means megawatt-hour measured in alternating current, unless expressly stated in terms of direct current.

"**Negative LMP**" means, in any Settlement Period or Settlement Interval, the LMP at the Delivery Point in the applicable CAISO market that is less than zero dollars per MWh ($0/MWh).

"**Negative PTC Amount**" means the amount, on a dollar per MWh basis, equal to the PTC Amount that Seller is eligible to earn in respect of Energy from the Facility at the time of calculation, *multiplied by* negative one (-1).

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

"**Net Qualifying Capacity**" has the meaning set forth in the CAISO Tariff.

"**Network Upgrades**" has the meaning set forth in the CAISO Tariff.

"**Non-Defaulting Party**" has the meaning set forth in Section 11.2.

"**Non-Summer Month**" means any month that is not a Summer Month, commencing as of the month in which the RA Guarantee Date occurs and throughout the Delivery Term.

"**Notice**" shall, unless otherwise specified in the Agreement, mean written communications by a Party to be delivered by hand delivery, United States mail, overnight courier service, or electronic messaging (e-mail).

"**Operating Restrictions**" means the operational characteristics of the Facility set forth in Exhibit U.

"**Original Effective Date**" has the meaning set forth in the Recitals hereto.

"**Original Agreement**" has the meaning set forth in the Recitals hereto.

"**Other Outages**" has the meaning set forth in Section 6.3.

"**Pacific Prevailing Time**" means the prevailing standard time or daylight savings time, as applicable, in the Pacific time zone.

"**Participating Transmission Owner**" or "**PTO**" means an entity that owns, operates and maintains the Transmission System or distribution lines and associated facilities and/or has entitlements to use certain transmission or distribution lines and associated facilities where the Facility is interconnected, as set forth in Exhibit A.

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

"**Performance Measurement Period**" means the prior 24-month period measured from the end of each Contract Year commencing in the second Contract Year.

"**Performance Security**" means (i) cash, (ii) one or more Letters of Credit, and/or (iii) a Guaranty, in aggregate in the amount specified for the Performance Security on the Cover Sheet.

"**Permitted Transferee**" means (i) any Affiliate of Seller or (ii) any entity that satisfies, or is controlled by another Person that satisfies, the following requirements:

(a) A tangible net worth plus Unfunded Capital Commitments of not less than [redacted] or a Credit Rating of at least BBB- from S&P, BBB- from Fitch, or Baa3 from Moody's; and

(b) At least two (2) years of experience in the ownership and operations of utility-scale wind-powered electricity generation facilities, or has retained a third-party with such experience to operate the Facility.

"**Person**" means any individual, sole proprietorship, corporation, limited liability company, limited or general partnership, joint venture, association, joint-stock company, trust, incorporated organization, institution, public benefit corporation, unincorporated organization, government entity or other entity.

"**Planned Outage**" means a period during which the Facility is either in whole or in part not capable of providing service due to planned maintenance that has been scheduled in advance in accordance with Sections 4.6(a) and 4.6(c).

"**Point of Interconnection**" has the meaning set forth in Exhibit A.

"**Portfolio Content Category**" means PCC1, PCC2 or PCC3, as applicable.

"**Portfolio Content Category 1**" or "**PCC1**" means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(1), as may be amended from time to time or as further defined or supplemented by Law.

"**Portfolio Content Category 2**" or "**PCC2**" means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(2), as may be amended from time to time or as further defined or supplemented by Law.

"**Portfolio Content Category 3**" or "**PCC3**" means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(3), as may be amended from time to time or as further defined or supplemented by Law.

"**Portfolio Financing**" means any debt incurred by an Affiliate of Seller that is secured only by a portfolio.

"**Portfolio Financing Entity**" means any Affiliate of Seller that incurs debt in connection with any Portfolio Financing.

"**Prevailing Wage**" has the meaning set forth in Section 13.4.

"**Product**" has the meaning set forth on the Cover Sheet.

"**Production Tax Credits**" or "**PTCs**" means production tax credit under Section 45 of the Internal Revenue Code as in effect from time-to-time throughout the Contract Term or any successor or other provision providing for a federal tax credit determined by reference to production of renewable energy for which Seller, as the owner of the Facility, is eligible.

"**Progress Report**" means a progress report including the items set forth in Exhibit E.

"**Prudent Operating Practice**" means (a) the applicable practices, methods and acts required by or consistent with applicable Laws and reliability criteria, and otherwise engaged in or approved by a significant portion of the electric industry during the relevant time period with respect to grid-interconnected, utility-scale wind-powered electricity generating facilities in the Western United States, and (b) any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Prudent Operating Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to acceptable practices, methods or acts generally accepted in the industry with respect to grid-interconnected, utility-scale wind-powered electricity generating facilities in the Western United States. Prudent Operating Practice shall include compliance with applicable Laws, applicable safety and reliability criteria, and the applicable criteria, rules and standards promulgated in the National Electric Safety Code and the National Electrical Code, as they may be amended or superseded from time to time, including the criteria, rules and standards of any successor organizations.

"**PTC Amount**" means the amount, on a dollar per MWh basis, equal to the Production Tax Credits that Seller would have earned in respect of Energy from the Facility at the time, grossed up on an after-tax basis at the then-highest marginal combined federal and New Mexico state corporate tax rate [redacted] in the aggregate), but failed to earn as a result of Market Curtailment Period, which amount will be calculated by reference to the amount of Deemed Delivered Energy and the number of the Facility's wind turbines that are eligible to receive Production Tax Credits at the time of determination.

"**Qualified Forced Facility Outage**" means a Forced Facility Outage with respect to which a Licensed Professional Engineer has certified: (i) that the conditions for a Forced Facility Outage have been met (*provided*, in the event of a removal from service of a component of the Facility as set forth in clause (ii) of the definition of "Forced Facility Outage", such removal from service must occur no later than [redacted] following the discovery by Seller of the

need for such removal), (ii) that such Forced Facility Outage was not caused by Seller's fault or negligence, including Seller's failure to follow Prudent Operating Practices, and (iii) the estimated duration of such Forced Facility Outage.

"**Qualified Forced Facility Outage Limit**" [redacted]

"**RA Compliance Showing**" means the RAR compliance or advisory showings (or similar or successor showings) an entity is required to make to the CAISO pursuant to the CAISO Tariff, to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the Resource Adequacy Rulings, or to any Governmental Authority.

"**RA Compliance Template**" means, as of the Effective Date, the tab titled "LSE Showing Complete" on the CPUC website at https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/resource-adequacy-compliance-materials/guides-and-resources/rashowingtemplate_rev35.xlsm, as such document may be updated or replaced by the CPUC from time to time.

"**RA Deficiency Amount**" means the liquidated damages payment that Seller shall pay to Buyer for an applicable RA Shortfall Amount as calculated in accordance with Section 3.8(b).

"**RA Deficiency Cap**" shall mean, for each Showing Month, the corresponding dollar amount set forth below:

RA Deficiency Cap	
Showing Month	**$/kW-month**
Jan	[redacted]
Feb	[redacted]
Mar	[redacted]
Apr	[redacted]
May	[redacted]
Jun	[redacted]
Jul	[redacted]
Aug	[redacted]
Sep	[redacted]
Oct	[redacted]
Nov	[redacted]
Dec	[redacted]

"**RA Guarantee Date**" means the Commercial Operation Date; *provided*, if the Facility is not delivering Resource Adequacy Benefits to Buyer for the Showing Month in which the Commercial Operation Date occurs, the RA Guarantee Date shall be the earlier of (i) the first day of the Showing Month in which the Facility is delivering Resource Adequacy Benefits to Buyer, and (ii) the first day of the Showing Month following the date that is [redacted] after the Commercial Operation Date.

"**RA Plan**" means each of (a) Buyer's monthly or annual "Resource Adequacy Plan" (as defined in the CAISO Tariff) filed with the CAISO, and (b) Buyer's monthly or annual resource adequacy plans filed with the CPUC.

"**RA Shortfall Amount**" has the meaning set forth in Section 3.8(b).

"**RA Shortfall Month**" means, for purposes of calculating an RA Deficiency Amount under Section 3.8(b), any Showing Month during which the RA Shortfall Amount is greater than zero (0) kW.

"**RA Substitute Capacity**" has the meaning set forth in the CAISO Tariff. As of the Effective Date, the Parties agree that the amount of RA Substitute Capacity delivered by Seller for a given Showing Month shall be determined by calculating the quotient of (i) the sum of the following: for each hour of the twenty-four hour array applicable to such Showing Month, the amount of RA Substitute Capacity (in MW) that Seller provided in accordance with the CAISO Tariff, *divided by* (ii) twenty four (24).

"**Real-Time Forecast**" has the meaning set forth in Section 4.3(d).

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

"**Real-Time Price**" means the Resource-Specific Settlement Interval LMP as defined in the CAISO Tariff. If there is more than one applicable Real-Time Price for the same period of time, Real-Time Price shall mean the price associated with the smallest time interval.

"**REC Price**" means the prevailing market price (expressed in $/MWh) for RECs meeting the RPS requirements for Portfolio Content Category 1, determined by averaging quotes provided by Buyer from three (3) unaffiliated brokers.

"**Receiving Party**" has the meaning set forth in Section 18.2.

"**Recurring Certificate Transfers**" has the meaning set forth in the WREGIS Operating Rules.

"**Remedial Action Plan**" has the meaning set forth in Section 2.4.

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

"**Renewable Energy Incentives**" means: (a) all federal, state, or local Tax credits or other Tax benefits associated with the construction, ownership, or production of electricity from the Facility (including credits under Sections 38, 45, 46 and 48 of the Internal Revenue Code of 1986, as amended); (b) any federal, state, or local grants, subsidies or other like benefits relating in any way to the Facility, including a cash grant available under Section 1603 of Division B of the American Recovery and Reinvestment Act of 2009, in lieu of federal Tax credits or any similar or substitute payment available under subsequently enacted federal legislation; and (c) any other form of incentive relating in any way to the Facility that is not a Green Attribute, Future Environmental Attribute, or Capacity Attribute.

"**Renewable Rate**" has the meaning set forth on the Cover Sheet.

"**Replacement Energy**" has the meaning set forth in Exhibit G.

"**Replacement Green Attributes**" has the meaning set forth in Exhibit G.

"**Replacement Product**" has the meaning set forth in Exhibit G.

"**Replacement RA**" means resource adequacy benefits from the Facility or from one or more resources (individually or in the aggregate), in each case that are reasonably comparable to the Resource Adequacy Benefits (including, if applicable under then-current Law, having MW values for each hour of the twenty-four (24) hour Slice-of-Day framework that are the same as or greater than those then applicable to the Facility) delivered to the Delivery Point or to another point within the CAISO grid and provided by Seller to Buyer in accordance with Section 3.7(e); *provided*, notwithstanding anything else herein, unless and until there is a change, after the Effective Date, to the manner of determining the resource adequacy benefits available from any wind facility located in New Mexico causing such resource adequacy benefits to be no longer comparable to the Resource Adequacy Benefits available from the Facility (including due to the performance of any particular wind facility), any resource adequacy benefits from any such wind facility which Seller provides to Buyer in accordance with Section 3.7(e) shall be deemed to satisfy the requirements of this definition of "Replacement RA". As of the Effective Date, the Parties agree that the amount of Replacement RA delivered by Seller for a given Showing Month shall be determined by calculating the quotient of (i) the sum of the following: for each hour of the twenty-four hour array applicable to such Showing Month, the resource adequacy benefits (in MW) that Buyer would receive, as set forth in the relevant RA Compliance Template, assuming that Buyer's RA Plan in respect of the Replacement RA matches the Supply Plan submitted by Seller in respect of the Replacement RA, *divided by* (ii) twenty four (24).

"**Requested Confidential Information**" has the meaning set forth in Section 18.2.

"**Resource Adequacy Benefits**" means the rights and privileges attached to Buyer's Share of the Capacity Attributes available from the Facility that satisfy any entity's resource adequacy obligations, as those obligations are set forth in any Resource Adequacy Rulings and shall include flexible capacity and any local, zonal or otherwise locational attributes associated with the Facility, if any.

"**Resource Adequacy Requirements**" or "**RAR**" means the resource adequacy requirements applicable to an entity as established by the CAISO pursuant to the CAISO Tariff, by the CPUC pursuant to the Resource Adequacy Rulings, or by any other Governmental Authority.

"**Resource Adequacy Rulings**" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-06-063, 16-06-045, 17-06-027, 18-06-030, 18-06-031, 19-02-022, 19-06-026, 19-10-021, 20-01-004, 20-03-016, 20-06-002, 20-06-028, 20-06-031, 20-12-006, 21-06-029, 21-07-014, 22-03-034, 22-06-050, 22-12-028, 22-08-039, 23-04-010, 24-06-004, and any other existing or subsequent ruling or decision, or any other resource adequacy laws, rules or regulations enacted, adopted or promulgated by any applicable Governmental Authority, however described, as such decisions, rulings, Laws, rules or regulations may be amended or modified from time-to-time throughout the Contract Term.

"**S&P**" means the Standard & Poor's Financial Services, LLC (a subsidiary of S&P Global Inc.) or its successor.

"**Schedule**" has the meaning set forth in the CAISO Tariff, and "**Scheduled**" and "**Scheduling**" have a corollary meaning.

"**Scheduled Energy**" means the Facility Energy scheduled by Seller that clears under the applicable CAISO market based on the final Day-Ahead Schedule, FMM Schedule (as defined in the CAISO Tariff), and/or any other financially binding Schedule, market instruction or dispatch for the Facility for a given period of time implemented in accordance with the CAISO Tariff.

"**Scheduling Coordinator**" or "**SC**" means an entity certified by the CAISO as qualifying as a Scheduling Coordinator pursuant to the CAISO Tariff for the purposes of undertaking the functions specified in "Responsibilities of a Scheduling Coordinator," of the CAISO Tariff, as amended from time to time.

"**Scheduling Point**" has the meaning set forth in the CAISO Tariff.

"**Second A&R Agreement**" has the meaning set forth in the Recitals hereto.

"**Security Interest**" has the meaning set forth in Section 8.9.

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

"**Seller**" has the meaning set forth on the Cover Sheet.

"**Seller's WREGIS Account**" has the meaning set forth in Section 4.8(a).

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

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

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

"**Settlement Period**" has the meaning set forth in the CAISO Tariff.

"**Shared Facilities**" means the gen-tie lines, transformers, substations, or other equipment, permits, contract rights, and other assets and property (real or personal), in each case, as necessary to enable delivery of Energy from the Facility (which is excluded from Shared Facilities) to the Point of Interconnection, including the Interconnection Agreement itself, that are used in common with third parties.

"**Shared Facilities Agreements**" has the meaning set forth in Section 6.3.

"**Showing Deadline**" means, for any Showing Month, the deadline for submitting a Supply Plan or RA Plan, as applicable, applicable to that Showing Month, as established by the CAISO.

"**Showing Month**" shall be the calendar month of the Delivery Term, commencing with the Showing Month that contains the RA Guarantee Date, that is the subject of the RA Compliance Showing, as set forth in the Resource Adequacy Rulings and outlined in the CAISO Tariff. For illustrative purposes only, pursuant to the CAISO Tariff and Resource Adequacy Rulings in effect as of the Original Effective Date, the monthly RA Compliance Showing made in June is for the Showing Month of August.

"**Site**" means the real property on which the Facility is or will be located, as further described in Exhibit A, and as shall be updated by Seller at the time Seller provides an executed Construction Start Date certificate in the form of Exhibit J to Buyer; *provided*, any such update to the Site that includes real property that was not originally contained within the Site boundaries described in Exhibit A shall be subject to Buyer's approval of such updates in its sole discretion.

"**Site Control**" means that Seller: (a) owns or has the option to purchase the Site; (b) is the lessee or has the option to lease the Site; or (c) is the holder of an easement or an option for an easement, right-of-way grant, or similar instrument with respect to the Site.

"**Slice-of-Day**" has the meaning set forth in the Resource Adequacy Rulings.

"**SOD Coefficient**" means the amount, for each Showing Month, set forth in the table below:

Month	SOD Coefficient
Jan	[redacted]
Feb	[redacted]
Mar	[redacted]
Apr	[redacted]

May		[redacted]	
Jun		[redacted]	
Jul		[redacted]	
Aug		[redacted]	
Sep		[redacted]	
Oct		[redacted]	
Nov		[redacted]	
Dec		[redacted]	

"**South Affiliate**" has the meaning set forth in the Recitals hereto.

"**SPTO**" has the meaning set forth in the Recitals hereto.

"**SP-15**" means the Existing Zone Generation Trading Hub for Existing Zone region SP15 as set forth in the CAISO Tariff.

"**Station Use**" means the Energy (including Energy produced by the Facility) that is used within the Facility to power the lights, motors, temperature control systems, control systems and other electrical loads that are necessary for operation of the Facility, and/or that is consumed within the Facility's electric energy distribution system as losses.

"**Summer Month**" means any of June, July, August September and October, commencing as of the month in which the RA Guarantee Date occurs and throughout the Delivery Term.

"**SunZia PowerCo**" has the meaning set forth in the Recitals hereto.

"SunZia Transmission Line" means that certain 3,000-MW high-voltage (+/-525-kV) transmission line originating at the Point of Interconnection in New Mexico and terminating near Phoenix, Arizona. The western terminus of the line will connect to the 500-kV Pinal Central Substation.

"**Supply Chain Code**" has the meaning in Exhibit Q.

"**Supply Plan**" has the meaning set forth in the CAISO Tariff, as applicable to the Guaranteed RA Amount from the Facility.

"**System Emergency**" means any condition that requires, as determined and declared by CAISO or a Transmission Provider, automatic or immediate action to (i) prevent or limit harm to or loss of life or property, (ii) prevent loss of transmission facilities or generation supply in the immediate vicinity of the Facility, or (iii) to preserve Transmission System reliability.

"**Tax**" or "**Taxes**" means all U.S. federal, state and local and any foreign taxes, levies, assessments, surcharges, duties and other fees and charges of any nature imposed by a Governmental Authority, whether currently in effect or adopted during the Contract Term, including ad valorem, excise, franchise, gross receipts, import/export, license, property, sales and

use, stamp, transfer, payroll, unemployment, income, and any and all items of withholding, deficiency, penalty, additions, interest or assessment related thereto.

"**Tax Credits**" means the PTC, ITC and any other state, local and/or federal production tax credit, depreciation benefit, tax deduction and/or investment tax credit specific to the production of renewable energy and/or investments in renewable energy facilities.

"**Terminated Transaction**" has the meaning set forth in Section 11.2(a).

"**Termination Payment**" has the meaning set forth in Section 11.3(b).

"**Test Energy**" means (1) the amount of Energy generated by the Facility and delivered to Buyer at the Delivery Point, equal to Buyer's Share of Energy delivered from the Facility to the Point of Interconnection, as measured in MWh by the Facility Meter, subject to the Hourly Delivery Cap, and as such amount may be reduced as a result of a Curtailment Order(a) commencing on the later of (i) the first date that the CAISO informs Seller in writing that Seller may deliver Energy to the CAISO and (ii) the first date that the PTO informs Seller in writing that Seller has conditional or temporary permission to operate in parallel with the PTO's system, and (b) ending upon the occurrence of the Commercial Operation Date, and (2) the associated Green Attributes, including RECs, that meet the RPS requirements for Portfolio Content Category 1.

"**Test Energy Rate**" has the meaning set forth in Section 3.6.

"**Testing Replacement Product**" has the meaning set forth in Section 6.3.

"**Transmission Provider**" means any entity that (i) owns, operates and maintains transmission or distribution lines and associated facilities and/or has entitlements to use certain transmission or distribution lines and associated facilities, and (ii) transmits or transports the Product on behalf of Seller or Buyer to or from the Delivery Point, including the Participating Transmission Owner.

"**Transmission System**" means the transmission facilities operated by the Transmission Providers, now or hereafter in existence, which provide energy transmission service upstream to or downstream from the Delivery Point.

"**Transmission System Outage**" means an outage on a Transmission System, other than a System Emergency, that prevents (i) Buyer from receiving, or (ii) Seller from delivering, Energy at the Delivery Point.

"**Ultimate Parent**" means Pattern Energy Group LP.

"**Unfunded Capital Commitments**" means as of any date of determination, the aggregate amount of all currently-available but undrawn capital obligated to be provided to a Person by investor(s) pursuant to binding, written agreements, not subject to the satisfaction of any conditions precedent to such funding outside the control of such Person.

"**Variable Energy Resource**" or "**VER**" has the meaning set forth in the CAISO Tariff.

"**WREGIS**" means the Western Renewable Energy Generation Information System or any successor renewable energy tracking program.

"**WREGIS Certificate Deficit**" has the meaning set forth in Section 4.8(e).

"**WREGIS Certificates**" has the same meaning as "Certificate" as defined by WREGIS in the WREGIS Operating Rules and are designated as eligible for complying with the California Renewables Portfolio Standard.

"**WREGIS Operating Rules**" means those operating rules and requirements adopted by WREGIS as of October 2022, as subsequently amended, supplemented or replaced (in whole or in part) from time to time.

1.2 **Rules of Interpretation**. In this Agreement, except as expressly stated otherwise or unless the context otherwise requires:

(a) headings and the rendering of text in bold and italics are for convenience and reference purposes only and do not affect the meaning or interpretation of this Agreement;

(b) words importing the singular include the plural and vice versa and the masculine, feminine and neuter genders include all genders;

(c) the words "hereof", "herein", and "hereunder" and words of similar import shall refer to this Agreement as a whole and not to any particular provision of this Agreement;

(d) a reference to an Article, Section, paragraph, clause, Party, or Exhibit is a reference to that Article, Section, paragraph, clause of, or that Party or Exhibit to, this Agreement unless otherwise specified;

(e) a reference to a document or agreement, including this Agreement shall mean such document, agreement or this Agreement including any amendment or supplement to, or replacement, novation or modification of this Agreement, but disregarding any amendment, supplement, replacement, novation or modification made in breach of such document, agreement or this Agreement;

(f) a reference to a Person includes that Person's successors and permitted assigns;

(g) the terms "include" and "including" mean "include or including (as applicable) without limitation" and any list of examples following such term shall in no way restrict or limit the generality of the word or provision in respect of which such examples are provided;

(h) references to any statute, code or statutory provision are to be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or

reenacted, and include references to all bylaws, instruments, orders and regulations for the time being made thereunder or deriving validity therefrom unless the context otherwise requires;

(i) in the event of a conflict, a mathematical formula or other precise description of a concept or a term shall prevail over words providing a more general description of a concept or a term;

(j) references to any amount of money shall mean a reference to the amount in United States Dollars;

(k) the expression "and/or" when used as a conjunction shall connote "any or all of";

(l) words, phrases or expressions not otherwise defined herein that (i) have a generally accepted meaning in Prudent Operating Practice shall have such meaning in this Agreement or (ii) do not have well known and generally accepted meaning in Prudent Operating Practice but that have well known and generally accepted technical or trade meanings, shall have such recognized meanings; and

(m) each Party acknowledges that it was represented by counsel in connection with this Agreement and that it or its counsel reviewed this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

ARTICLE 2
TERM; CONDITIONS PRECEDENT

2.1 **Contract Term**.

(a) Conditions Precedent to Contract Term. This Agreement shall become effective on the Effective Date, and shall remain in full force and effect until the conclusion of the Delivery Term, subject to any early termination provisions set forth herein ("**Contract Term**"); *provided*, subject to Buyer's obligations in Section 3.6, Buyer's obligations to pay for or accept any Product are subject to Seller's completion of the conditions precedent pursuant to Section 2.2.

(b) Continuing Provisions. Applicable provisions of this Agreement shall continue in effect after termination, including early termination, to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to termination. The confidentiality obligations of the Parties under Article 18 shall remain in full force and effect for two (2) years following the termination of this Agreement, and all indemnity and audit rights shall remain in full force and effect for one (1) year following the termination of this Agreement.

2.2 **Conditions Precedent to Delivery Term**. The Delivery Term shall not commence until Seller completes to Buyer's reasonable satisfaction each of the following conditions, which Buyer shall, if submitted by Seller within thirty (30) days of the expected Commercial Operation Date, review and either accept or provide Notice stating in reasonably detail the basis for Buyer's

rejection thereof within five (5) Business Days of receipt thereof. If there is a dispute between Buyer and Seller as to whether Commercial Operation has occurred, then either Party may elect to immediately refer the matter to the dispute resolution procedures set forth in Article 15, and all payments of Commercial Operation Delay Damages from and after the date such dispute is initiated shall be tolled until the dispute is resolved. If the dispute is resolved in favor of Seller, the Commercial Operation Date shall be the date proposed by Seller prior to such dispute and no Commercial Operation Delay Damages shall be owed from Seller from and after such date, and if the dispute is resolved in favor of Buyer, Commercial Operation Delay Damages (if any) shall be due as set forth in Exhibit B.

(a) Seller shall have delivered to Buyer certificates from a Licensed Professional Engineer substantially in the form of Exhibit H and Exhibit I;

(b) A Participating Generator Agreement (as defined in the CAISO Tariff) between Seller and CAISO and a Meter Service Agreement for CAISO Metered Entities (as defined in the CAISO Tariff) between CAISO and Seller (if, with respect to each such agreement, it is required under the CAISO Tariff or for Seller to meet its obligations under this Agreement), shall have been executed and delivered and be in full force and effect and a copy of such agreements delivered to Buyer;

(c) All applicable regulatory authorizations, approvals and permits necessary for the operation of the Facility have been obtained and all conditions thereof that are capable of being satisfied on the Commercial Operation Date have been satisfied and shall be in full force and effect;

(d) Seller has received CEC Precertification of the Facility (and reasonably expects to receive final CEC Certification and Verification for the Facility in no more than one hundred eighty (180) days from the Commercial Operation Date);

(e) Seller has obtained CAISO Certification for the Facility;

(f) Seller (with the reasonable participation of Buyer) shall have completed all applicable WREGIS registration requirements, including the completion and submittal of all applicable registration forms and supporting documentation, which may include applicable interconnection agreements, informational surveys related to the Facility, QRE service agreements, and other appropriate documentation required to effect Facility registration with WREGIS and to enable Renewable Energy Credit transfers related to the Facility within the WREGIS system;

(g) Seller has delivered the Performance Security to Buyer in accordance with Section 8.8

(h) Seller has delivered to Buyer an officer's certificate stating that Seller has not utilized any equipment or resources in connection with the construction, commissioning or testing of the Facility in violation of Section 2.3(b);

(i) Seller has paid Buyer for all amounts due and owing by Seller under this Agreement as of the Commercial Operation Date, if any, including Delay Damages.

2.3 **Development; Construction; Progress Reports**.

(a) Within fifteen (15) days after the close of (i) each calendar quarter from the first calendar quarter following the Original Effective Date until the Construction Start Date, and (ii) each calendar month from the first calendar month following the Construction Start Date until the Commercial Operation Date, Seller shall provide to Buyer a Progress Report and agree to regularly scheduled meetings between representatives of Buyer and Seller to review such reports and discuss Seller's construction progress. The form of the Progress Report is set forth in Exhibit E. Seller shall also provide Buyer with any reasonably requested documentation and additional information (subject to confidentiality restrictions) directly related to the achievement of Milestones within ten (10) Business Days of receipt of such request by Seller. Seller is solely responsible for the design and construction of the Facility, including the location of the Site, the Facility layout, and the selection and procurement of the equipment comprising the Facility.

(b) Seller shall use commercially reasonable efforts to ensure that all materials, products and components that are used in constructing, installing and operating the Facility throughout the Contract Term and provided by Seller and Seller's contractors and suppliers in direct contract with Seller or Seller's Affiliates shall be in compliance with the Supply Chain Code. Seller shall comprehensively implement due diligence procedures for its and its Affiliate's first-tier subcontractors and suppliers, and other subcontractors and suppliers to the extent reasonably practicable. Seller shall notify Buyer as soon as reasonably practicable if it becomes aware of any breach of its obligations under this Section 2.3(b).

(c) Buyer shall have the right, at Buyer's sole expense, to retain an independent auditor to audit Seller's compliance with the requirements of Section 2.3(b).

2.4 **Remedial Action Plan**. If Seller misses a Milestone by more than ninety (90) days with respect to any Milestone prior to the Guaranteed Construction Start Date, and thirty (30) days with respect to the Guaranteed Construction Start Date or any Milestone after the Guaranteed Construction Start Date, in each case except as the result of Force Majeure Event or Buyer Default, in addition to updates provided to Buyer via Progress Reports delivered pursuant to Section 2.3, Seller shall submit to Buyer, within ten (10) Business Days of the end of such ninety (90)- or thirty (30)-day period, as applicable, following the Milestone completion date, a remedial action plan ("**Remedial Action Plan**"), which will describe in detail any delays (actual or anticipated) beyond the scheduled Milestone dates, including the cause of the delay (e.g., governmental approvals, financing, property acquisition, design activities, equipment procurement, project construction, interconnection, or any other factor), Seller's detailed description of its proposed course of action to achieve the missed Milestones and all subsequent Milestones by the Guaranteed Commercial Operation Date, as it may be extended; *provided*, delivery of any Remedial Action Plan shall not relieve Seller of its obligation to provide Remedial Action Plans with respect to any subsequent Milestones and to achieve the Guaranteed Commercial Operation Date in accordance with the terms of this Agreement. Subject to the provisions of Exhibit B, so long as Seller complies with

its obligations under this Section 2.4, Seller shall not be considered in default of its obligations under this Agreement solely as a result of missing any Milestone.

2.5 **[Reserved]**.

2.6 **[Reserved]**.

ARTICLE 3
PURCHASE AND SALE

3.1 **Purchase and Sale of Product**. Subject to the terms and conditions of this Agreement, during the Delivery Term, Buyer shall purchase all the Product produced by or associated with the Facility at the Renewable Rate and in accordance with Exhibit C, and Seller shall supply and deliver to Buyer all the Product produced by or associated with the Facility. The sale by Seller and purchase by Buyer of Facility Energy hereunder shall be for resale; *provided*, no such re-sale or use shall relieve Buyer of any obligations hereunder. During the Delivery Term, Buyer shall have exclusive rights to offer, bid, or otherwise submit the Product, and/or any component thereof, from the Facility after the Delivery Point for resale in the market, and retain and receive any and all related revenues.

3.2 **Sale of Green Attributes**. During the Delivery Term, Seller shall sell and deliver to Buyer, and Buyer shall purchase from Seller, all Green Attributes attributable to the Facility Energy. Upon request of Buyer, Seller shall use commercially reasonable efforts to (a) submit, and receive approval from the Center for Resource Solutions (or any successor that administers the Green-e Certification process), for the Green-e tracking attestations and (b) support Buyer's efforts to qualify the Green Attributes transferred by Seller as Green-e Certified.

3.3 **Imbalance Energy**. Buyer and Seller recognize that in any given Settlement Period or Settlement Interval, as applicable, the amount of Facility Energy may deviate from the amounts thereof scheduled with the CAISO. Following the Commercial Operation Date, to the extent there are such deviations, any costs, liabilities or revenues from such imbalances shall be solely for the account of Seller as Scheduling Coordinator hereunder, except as expressly set forth in this Agreement.

3.4 **Ownership of Renewable Energy Incentives**. Seller shall have all right, title and interest in and to all Renewable Energy Incentives. Buyer acknowledges that any Renewable Energy Incentives belong to Seller. If any Renewable Energy Incentives, or values representing the same, are initially credited or paid to Buyer, Buyer shall cause such Renewable Energy Incentives or values relating to same to be assigned or transferred to Seller without delay. Buyer shall reasonably cooperate with Seller, at Seller's sole expense, in Seller's efforts to meet the requirements for any certification, registration, or reporting program relating to Renewable Energy Incentives.

3.5 **Future Environmental Attributes.**

(a) The Parties acknowledge and agree that as of the Original Effective Date, environmental attributes anticipated to be sold under this Agreement are restricted to Green Attributes; however, Future Environmental Attributes may be created by a Governmental Authority through Laws enacted after the Original Effective Date. Subject to the final sentence of this Section 3.5(a) and to Section 3.5(b), in such event, Buyer shall bear all costs associated with the transfer, qualification, verification, registration and ongoing compliance for such Future Environmental Attributes, but there shall be no increase in the Renewable Rate. Upon Seller's receipt of Notice from Buyer of Buyer's intent to claim such Future Environmental Attributes, the Parties shall determine the necessary actions and additional costs associated with such Future Environmental Attributes. Seller shall have no obligation to alter the Facility or the operation of the Facility unless the Parties have agreed on all necessary terms and conditions relating to such alteration or change in operation and Buyer has agreed to reimburse Seller for all costs, losses, and liabilities associated with such alteration or change in operation.

(b) If Buyer elects to receive Future Environmental Attributes pursuant to Section 3.5(a), the Parties agree to negotiate in good faith with respect to the development of further agreements and documentation necessary to effectuate the transfer of such Future Environmental Attributes, including agreement with respect to (i) appropriate transfer, delivery and risk of loss mechanisms, and (ii) appropriate allocation of any additional costs to Buyer, as set forth above; *provided*, the Parties acknowledge and agree that such terms are not intended to alter the other material terms of this Agreement.

3.6 **Test Energy**. No less than fourteen (14) days prior to the first day on which Test Energy is expected to be available from the Facility, Seller shall notify Buyer of the availability of the Test Energy. Seller shall sell, and Buyer shall purchase from Seller, all Test Energy on an as-available basis. As compensation for such Test Energy and associated Product, Buyer shall pay Seller an amount equal to (a) seventy-five percent (75%) of the Renewable Rate until the amount of Test Energy delivered to Buyer is equal to one Contract Year of Expected Energy, and (b) zero dollars ($0) per MWh thereafter (if applicable) (the "**Test Energy Rate**"). The conditions precedent in Section 2.2 are not applicable to the Parties' obligations under this Section 3.6.

3.7 **Capacity Attributes**.

(a) Throughout the Delivery Term and subject to Section 3.12, Seller grants, pledges, assigns and otherwise commits to Buyer all the Capacity Attributes from the Facility.

(b) Throughout the Delivery Term and subject to Section 3.7(d) and Section 3.12, Seller shall perform all commercially reasonable actions necessary to ensure that the Facility qualifies to provide all Resource Adequacy Benefits to Buyer at the Delivery Point. Throughout the Delivery Term, and subject to Section 3.7(d) and Section 3.12, Seller hereby covenants and agrees to transfer all Resource Adequacy Benefits to Buyer.

(c) For the duration of the Delivery Term, and subject to Section 3.12, Seller shall take all commercially reasonable actions, including complying with all applicable registration

and reporting requirements, and execute all documents or instruments that are reasonable and necessary to enable Buyer to use all of the Capacity Attributes committed by Seller to Buyer pursuant to this Agreement, including submitting Supply Plans in accordance with CAISO and CPUC requirements and the requirements of this Agreement. At least [redacted] prior to the CAISO submission deadline for each annual RA Plan, and at least [redacted] prior to the Showing Deadline for each monthly RA Plan [redacted] Seller shall provide a non-binding Notice to Buyer presenting the Resource Adequacy Benefits that Seller expects to include in such Supply Plan for the next calendar year or Showing Month, including any Replacement RA Seller commits to provide pursuant to Section 3.7(e), if applicable; *provided*, if Seller becomes aware of any change to the Resource Adequacy Benefits that Seller is able to include in any monthly Supply Plan after delivering any such Notice, Seller shall provide a Notice to Buyer of any such change as soon as reasonably practicable, [redacted]

(d) Buyer acknowledges that during some or all of the Delivery Term, it will be required to take certain actions and obtain certain rights at the Delivery Point in order to make use of the Capacity Attributes associated with the Product, including: (a) at least until such time as the Facility receives a Deliverability Allocation from the CAISO, maintaining Import Capability necessary to import the Guaranteed RA Amount into the CAISO at the Delivery Point, (b) timely filing its RA Plans as required by the CAISO and the CPUC, and (c) obtaining any other rights or capacities that Buyer is required to obtain, or take any other action that Buyer is required to take, in order for Seller to provide or Buyer to make use of the Capacity Attributes of the Facility, in each case as may be required under applicable Law and as may change from time to time. To the extent Buyer does not or cannot maintain Import Capability (solely until such time as the Facility receives a Deliverability Allocation from the CAISO) or any other rights or capacities necessary to support the importation of the Guaranteed RA Amount into the CAISO or otherwise receive or utilize the Capacity Attributes, for reasons other than a Seller failure under this Agreement, including Seller's failure to comply with applicable CPUC and CAISO requirements necessary to qualify the Facility as a Resource Adequacy Resource located within the CAISO Balancing Authority Area, the Capacity Attributes that are not delivered or that cannot be delivered (or that Buyer cannot make use of) shall constitute Deemed Delivered RA; *provided*, if Buyer is unable to obtain or utilize any portion of the Import Capability due to any allocation of Deliverability (as defined in the CAISO Tariff) to the Facility that is not a Deliverability Allocation and, as a result, Seller is unable to deliver to Buyer an amount of Resource Adequacy Benefits equal to the Guaranteed RA Amount, then such portion of the Capacity Attributes that are not delivered or that cannot be delivered (or that Buyer cannot make use of) shall not constitute Deemed Delivered RA but shall constitute a shortfall for which Seller owes to Buyer the RA Deficiency Amount.

(e) If Seller anticipates that it will have any RA Shortfall Amounts in a Showing Month from and after the RA Guarantee Date, Seller may provide Replacement RA in the amount of (X) Guaranteed RA Amount, minus (Y) the expected amount of Resource Adequacy Benefits

Seller includes in its Notice provided to Buyer pursuant to Section 3.7(c) with respect to such Showing Month.

(f) Seller shall provide RA Substitute Capacity in accordance with applicable CAISO requirements in connection with Facility outages. Seller acknowledges and agrees that any failure by Seller to provide such RA Substitute Capacity may result in CAISO rejecting or cancelling Seller's request for CAISO to approve such Facility outage.

(g) The Parties acknowledge that following the Effective Date there may be changes of Applicable Laws with respect to the rules for Resource Adequacy Benefits that in certain respects may be inconsistent with the provisions of this Agreement. The Parties shall negotiate in good faith to further amend this Agreement to resolve any such inconsistencies between this Agreement and such changes to Applicable Law; *provided*, the intent of the negotiations shall be to maintain the balance of the Parties' benefits, burdens, and obligations set forth in this Agreement as of the Effective Date ; *provided further*, any amendment to this Agreement pursuant to this Section 3.7(g) shall be subject to Lender consent.

3.8 **Resource Adequacy Failure**.

(a) RA Deficiency Determination. For each RA Shortfall Amount, Seller shall pay to Buyer the RA Deficiency Amount as liquidated damages, as the sole and exclusive remedy for the Capacity Attributes that Seller failed to convey to Buyer.

(b) RA Deficiency Amount Calculation. For any Showing Month from and after the RA Guarantee Date, the "**RA Deficiency Amount**" shall equal the product of (i) the difference, expressed in kW, of (A) the Guaranteed RA Amount, *minus* (B) [redacted] *minus* (C) Deemed Delivered RA in respect of such Showing Month, *minus* (D) Replacement RA delivered in respect of such Showing Month, *minus* (E) RA Substitute Capacity delivered in respect of such Showing Month (such difference, the "**RA Shortfall Amount**"), *multiplied by* (ii) the lesser of (A) the product of (X) the CPM Soft Offer Cap (or its successor) *multiplied by* (Y) the CPM Adjustment Factor ("**CPM Price**") *multiplied by* (Z) [redacted], and (B) the RA Deficiency Cap for the applicable Showing Month *multiplied by* [redacted] Notwithstanding anything else in this Section 3.8, [redacted]

3.9 **CEC Certification and Verification**. Subject to Section 3.12 and in accordance with the timing set forth in this Section 3.9, Seller shall take all necessary steps including, but not limited to, making or supporting timely filings with the CEC to obtain and maintain CEC Certification and Verification for the Facility throughout the Delivery Term, including compliance with all applicable requirements for certified facilities set forth in the current version of the *RPS Eligibility Guidebook* (or its successor). Seller shall obtain CEC Precertification by the

Commercial Operation Date. Within thirty (30) days after the Commercial Operation Date, Seller shall apply with the CEC for final CEC Certification and Verification. Within one hundred eighty (180) days after the Commercial Operation Date, Seller shall obtain and maintain throughout the remainder of the Delivery Term the final CEC Certification and Verification; *provided*, Seller's failure to obtain and/or maintain CEC Certification and Verification within one hundred eighty (180) days after the Commercial Operation Date shall not constitute a breach or default under this agreement so long as (i) Seller applies for CEC Certification and Verification for the Facility within thirty (30) days after Commercial Operation and thereafter uses commercially reasonable efforts to obtain CEC Certification and Verification as soon as reasonably practicable, (ii) Seller provides non-binding Notice to Buyer promptly upon learning of any reasonably expected delay in obtaining CEC Certification and Verification beyond one hundred eighty (180) days following the Commercial Operation Date, and (iii) Seller obtains final CEC Certification and Verification on or before two hundred seventy (270) days following the Commercial Operation Date. Seller must promptly notify Buyer and the CEC of any changes to the information included in Seller's application for CEC Certification and Verification for the Facility.

3.10 **Eligibility**. 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. [STC 6]

3.11 **California Renewables Portfolio Standard**. Subject to Section 3.12, Seller shall also take all other actions necessary to ensure that the Facility Energy is tracked for purposes of satisfying the California Renewables Portfolio Standard requirements, as may be amended or supplemented by the CPUC or CEC from time to time.

3.12 **Compliance Expenditure Cap.** If a change in Law occurring after the Original Effective Date has increased Seller's cost to comply with Seller's obligations under this Agreement with respect to obtaining, maintaining, conveying or effectuating Buyer's use of Green Attributes, Capacity Attributes, CEC Certification and Verification, and/or WREGIS Certificates (as applicable), then the Parties agree that the maximum aggregate amount of costs and expenses Seller shall be required to bear during the Delivery Term to comply with all of such obligations shall be capped at Twenty-Five Thousand Dollars ($25,000) per MW of Guaranteed Capacity ("**Compliance Expenditure Cap**").

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

(b) If Seller reasonably anticipates the need to incur out-of-pocket expenses in excess of the Compliance Expenditure Cap in order to take any Compliance Action, Seller shall

provide Notice to Buyer of such anticipated out-of-pocket expenses.

(c) Buyer will have sixty (60) days to evaluate such Notice (during which time period Seller is not obligated to take any Compliance Actions described in the Notice) and shall, within such time, either (1) agree to reimburse Seller for all or some portion of the costs that exceed the Compliance Expenditure Cap (such Buyer-agreed upon costs, the "**Accepted Compliance Costs**"), or (2) waive Seller's obligation to take such Compliance Actions, or any part thereof for which Buyer has not agreed to reimburse Seller. If Buyer does not respond to a Notice given by Seller under this Section 3.12 within sixty (60) days after Buyer's receipt of same, Buyer shall be deemed to have waived its rights to require Seller to take the Compliance Actions that are the subject of the Notice, and Seller shall have no further obligation to take, and no liability for any failure to take, such Compliance Actions until such time as Buyer agrees to pay such Accepted Compliance Costs.

(d) If Buyer agrees to reimburse Seller for the Accepted Compliance Costs, then Seller shall take such Compliance Actions covered by the Accepted Compliance Costs as agreed upon by the Parties and Buyer shall reimburse Seller for Seller's actual costs to effect the Compliance Actions, not to exceed the Accepted Compliance Costs, within sixty (60) days from the time that Buyer receives an invoice and documentation of such costs from Seller.

3.13 **Project Configuration**. In order to optimize the benefits of the Facility, Buyer and Seller each agree that if requested by the other Party, then Buyer and Seller shall discuss in good faith potential reconfiguration of the Facility or Interconnection Facilities, which discussion either Party may terminate in its sole discretion at any time; *provided*, neither Party shall be obligated to agree to any changes under this Agreement, or to incur any expense in connection with such changes, except under terms mutually acceptable to both Parties in the sole discretion of each as set forth in a written agreement.

ARTICLE 4
OBLIGATIONS AND DELIVERIES

4.1 **Delivery**.

(a) Energy. Subject to the provisions of this Agreement, commencing on the Commercial Operation Date through the end of the Contract Term, Seller shall supply and deliver the Product to Buyer at the Delivery Point, and Buyer shall take delivery of the Product and Replacement Product at the Delivery Point in accordance with the terms of this Agreement. Seller shall effectuate the delivery of Facility Energy and shall be responsible for securing such arrangements with CAISO, the PTO and any other Transmission Provider as are necessary in connection therewith. Seller shall be responsible for paying or satisfying when due any costs or charges (except as otherwise set forth in this Agreement) imposed in connection with the delivery of Facility Energy to the Delivery Point, including any operation and maintenance charges imposed by the Transmission Provider directly relating to the Facility's operations. Buyer shall be responsible for all costs, charges and penalties (except as otherwise set forth in this Agreement), if any, imposed in connection with the delivery of Facility Energy at and after the Delivery Point, including without limitation transmission costs and transmission line losses. The Facility Energy

will be scheduled with the CAISO by Seller (or Seller's designated Scheduling Coordinator) in accordance with Exhibit D.

(b) Green Attributes. All Green Attributes associated with Test Energy and the Facility Energy during the Delivery Term are exclusively dedicated to and vested in Buyer. Seller represents and warrants that Seller holds the rights to all Green Attributes from the Facility, and Seller agrees to convey and hereby conveys Buyer's Share of all such Green Attributes to Buyer as included in the delivery of the Product from the Facility.

(c) Energy Products. If, at any time during the Contract Term, Buyer requests Seller to provide any new or different Energy-related products or Ancillary Services that may become recognized from time to time in the CAISO market, and Seller is able to provide any such product from the Facility without material adverse effect (including any obligation to incur more than *de minimis* costs, expenses or liabilities, or any more than *de minimis* impacts on the operations of Seller, any of Seller's Affiliates, or the Facility) on Seller, Seller's Affiliates or the Facility or Seller's obligations or liabilities under this Agreement or any other agreement, then Seller shall use commercially reasonable efforts to coordinate with Buyer to provide such product. If provision of any such new product would have a material adverse effect (including any obligation to incur more than *de minimis* costs, expenses or liabilities, or any more than *de minimis* impacts on the operations of Seller, any of Seller's Affiliates, or the Facility) on Seller, Seller's Affiliates or the Facility or Seller's obligations or liabilities under this Agreement or any other agreement, then Seller shall be obligated to provide such product only if the Parties first execute an amendment to this Agreement with respect to such product that is mutually acceptable to both Parties.

4.2 **Title and Risk of Loss**.

(a) Energy. Title to and risk of loss related to the Facility Energy, shall pass and transfer from Seller to Buyer at the Delivery Point. Seller warrants that all Product delivered to Buyer is free and clear of all liens, security interests, claims and encumbrances of any kind.

(b) Green Attributes. Title to and risk of loss related to the Green Attributes shall pass and transfer from Seller to Buyer upon the transfer of such Green Attributes in accordance with WREGIS.

4.3 **Forecasting**. Seller shall provide the forecasts described below. Seller shall use commercially reasonable efforts to forecast accurately and to transmit such information in a format reasonably acceptable to Buyer (or Buyer's designee). Seller shall use reasonable efforts to provide forecasts that are consistent with the information known by Seller at the time the forecasts are submitted and, to the extent not inconsistent with the requirements of this Agreement, shall prepare such forecasts, or cause such forecasts to be prepared, in accordance with Prudent Operating Practice.

(a) Annual Forecast of Facility Energy. No less than forty-five (45) days before (i) the first day of the first Contract Year of the Delivery Term and (ii) the compliance deadline for the annual RA Plan (which is currently the last Business Day of October that is prior to

commencement of the year for the annual RA Plan) for every subsequent Contract Year during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of expected Facility Energy, by hour, for the following calendar year in a form substantially similar to the table found in Exhibit F-1, or as reasonably requested by Buyer.

(b) Monthly Forecast of Facility Energy and Available Capacity. No less than thirty (30) days before the beginning of Commercial Operation, and thereafter fifteen (15) days before the applicable RA Plan Showing Deadline for each Showing Month during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of the hourly expected (i) Available Capacity and (ii) Facility Energy (items (i)-(ii) collectively referred to as the "**Forecasted Product**"), for each day of the following month in a form substantially similar to Exhibits F-1 and F-2, as applicable ("**Monthly Forecast**").

(c) Day-Ahead Forecast. By 5:30 AM Pacific Prevailing Time on the Business Day immediately preceding the date of delivery of Facility Energy, Seller shall provide Buyer with a non-binding forecast of the hourly expected Available Capacity and the Day-Ahead Forecast.

(d) Real-Time Forecasts. During the Delivery Term, Seller shall, or shall cause its authorized representative to, notify Buyer of any changes from the Day-Ahead Forecast resulting from changes of fifteen (15) MW or more in Available Capacity or when the expected Facility Energy, net of all Electrical Losses, differs by more than fifteen (15) MWh, as applicable, of the amount set forth in the Day-Ahead Forecast, in each case whether due to a Forced Facility Outage, Force Majeure Event or other cause affecting the Available Capacity, as soon as reasonably possible, but no later than one (1) hour prior to the deadline for submitting schedules to the CAISO in accordance with the rules for participation in the Real-Time Market. Such updated forecast shall be deemed the "**Real-Time Forecast**"; *provided*, if there are no such changes from the Day-Ahead Forecast, the Day-Ahead Forecast for the applicable day shall be deemed the Real-Time Forecast. If the Available Capacity or, if applicable, the expected Facility Energy, changes by at least fifteen (15) MW or fifteen (15) MWh, as applicable, as of a time that is less than one (1) hour prior to the Real-Time Market deadline, but before such deadline, then Seller must notify Buyer as soon as reasonably possible. Such Real-Time Forecasts of Facility Energy shall be based on a forecast from the Approved Forecast Vendor and shall contain information regarding the beginning date and time of the event resulting in the change in Available Capacity or the expected Facility Energy, as applicable, the expected end date and time of such event, and any other information required by the CAISO or reasonably requested by Buyer. With respect to any Forced Facility Outage, Seller shall use commercially reasonable efforts to notify Buyer of such outage within ten (10) minutes of the commencement of the Forced Facility Outage. Seller shall use commercially reasonable efforts to inform Buyer of any developments that are reasonably likely to affect either the duration of such outage or the availability of the Facility during or after the end of such outage. Such Real-Time Forecasts shall be communicated in a method reasonably acceptable to Buyer, provided that Buyer specifies the method no later than sixty (60) days prior to the effective date of such requirement. In the event Buyer fails to provide Notice of an acceptable method for communications under this Section 4.3(d), then Seller shall send such communications by telephone and e-mail to Buyer.

(e) Meteorological Data.

(i) Commencing on the Commercial Operation Date, and continuing throughout the Delivery Term, Seller shall provide to Buyer records of meteorological measurements based on output from [redacted] reasonably representative meteorological stations installed at the Site, which shall be either [redacted], which measurements shall be provided by Seller to Buyer [redacted] (*provided*, Buyer shall have the option to elect, no more than once per calendar year, the method of delivery as set forth in subsections (x) or (y) above upon no less than [redacted] prior written Notice to Seller of such election), in each case including the following data points: (A) wind speed (and, if Seller elects to receive meteorological data as set forth in 4.3(e)(y) above, the highest 3-second wind gust within ten (10) minutes), (B) wind direction, (C) ambient air temperature, (D) precipitation (rain rate), (E) precipitation (running thirty (30)-day total), and (F) barometric pressure; *provided*, the method of data delivery and the foregoing data points specified under this Section 4.3(e) may be updated as reasonably agreed to by the Parties. Such updates may include modifications to or additions of data points as are reasonably necessary for Buyer's administration of this Agreement, to the extent that Seller can effectuate such updates through the use of commercially reasonable efforts.

(ii) All information provided to Buyer pursuant to this Section 4.3(e) shall constitute Confidential Information of Seller, and Buyer shall be prohibited from providing any such information to any other Person without Seller's express written prior consent (in Seller's sole discretion). Seller shall not be obligated to provide any assistance to Buyer with respect to using, interpreting or otherwise processing such data, but Seller shall respond to Buyer's reasonable requests for clarifying or correcting information.

4.4 **Dispatch Down/Curtailment**.

(a) General. Seller agrees to reduce the amount of Facility Energy produced by the Facility, by the amount and for the period set forth in any Curtailment Order; *provided*, Seller is not required to reduce such amount to the extent it is inconsistent with the limitations of the Facility set forth in the Operating Restrictions.

(b) Alternative Delivery Point/Third-Party Sales. In the event that, and for so long as, Seller is unable, despite using commercially reasonable efforts, to deliver all or a portion of the Product to Buyer at the Delivery Point, but is able to deliver Product to Buyer at one or more Alternative Delivery Points, such Alternative Delivery Points shall be considered the Delivery Point for all purposes under this Agreement. [redacted]

[redacted]

(c) Failure to Comply. Subject to Section 4.4(a), if Seller fails to comply with a Curtailment Order, then, for each MWh of Facility Energy that is delivered in excess of the Curtailment Order, Seller shall pay Buyer for each such MWh the amount, if any, paid to Seller by Buyer for delivery of such excess MWh.

(d) Seller Equipment Required for Operating Instruction Communications. Seller shall develop and install all communications systems necessary for the operation of the Facility in accordance with Prudent Operating Practice, including communications systems that provide for the receipt and following of automated dispatch instructions from the CAISO.

4.5 **Station Use**. Notwithstanding anything to the contrary in this Agreement, the Parties acknowledge (i) Seller is responsible for providing all Energy to serve Station Use (including paying the cost of any Energy used to serve Station Use), (ii) the supply of such Station Use shall not be deemed a violation of this Agreement, (*provided*, Seller shall indemnify and hold harmless Buyer from any and all costs, penalties, charges or other adverse consequences that result from Energy supplied for Station Use by any means other than retail service from the applicable utility, and shall take any additional measures to ensure Station Use is supplied by the applicable utility's retail service if necessary to avoid any such costs, penalties, charges or other adverse consequences), and (iii) Station Use may not be supplied from Facility Energy (*provided*, Seller may supply Station Use from Energy produced by the Facility so long no such Energy is recorded as Facility Energy by the Facility Meter, and subject to the other requirements of this Agreement).

4.6 **Facility Maintenance**. Without limiting Section 3.1 or Exhibit G:

(a) Seller shall provide to Buyer written schedules for Planned Outages for each calendar year no later than September 1 of the prior calendar year for each following calendar year. Buyer may provide comments no later than ten (10) days after receiving any such schedule, and Seller shall in good faith take into account any such comments. Seller shall promptly deliver to Buyer the final updated schedule of Planned Outages thereafter. Seller shall be permitted to reduce deliveries of Product during any period of such Planned Outages.

(b) If reasonably required in accordance with Prudent Operating Practices, Seller may perform maintenance at a different time than maintenance scheduled pursuant to Section 4.6(a). Seller shall be responsible, at no additional cost to Buyer, to provide any replacement Capacity Attributes required by the CAISO in connection with the CAISO's approval of any Seller request for a Planned Outage after the applicable Supply Plan has been submitted.

(c) Notwithstanding anything in this Agreement to the contrary, no Planned Outages of the Facility shall be scheduled or planned during any Summer Month during the Delivery Term that [redacted]

unless (i) such outage is required to avoid damage to the Transmission System, (ii) [redacted] (iv) such outage is reasonably required to maintain health and safety pursuant to Section 6.2, or (v) the Parties agree otherwise in writing. In the event that Seller has a previously Planned Outage that becomes coincident with a System Emergency that prevents Seller from reasonably performing the contemplated maintenance activities, Seller shall make commercially reasonable efforts to reschedule such Planned Outage.

(d) Seller shall be permitted to reduce deliveries of Product during any Forced Facility Outage. Seller shall promptly provide Buyer with Notice and expected duration (if known) of any Forced Facility Outage and shall keep Buyer informed of any developments that will affect either the duration of the outage or the availability of the Facility during or after the end of such outage.

(e) Seller shall be permitted to reduce deliveries of Product (i) during any period of System Emergency, (ii) pursuant to a Curtailment Order, (iii) during a Market Curtailment Period, (iv) during any Force Majeure Event, (v) due to Prudent Operating Practice or in compliance with applicable Law, or (vi) otherwise pursuant to the terms of this Agreement, the Interconnection Agreement or applicable tariff or as may be required under a Shared Facilities Agreement.

(f) Seller shall be permitted to reduce deliveries of Product as necessary to maintain health and safety pursuant to Section 6.2.

(g) Seller shall be permitted in its sole discretion to reduce Facility generation other than Buyer's Share of such Facility generation during any Settlement Interval or Settlement Period that is not during a Curtailment Period or Market Curtailment Period. During such curtailments, Seller shall deliver Facility Energy to Buyer in accordance with clause (b) of the definition of "Facility Energy".

(h) With respect to any (i) Major Planned Outage or (ii) Forced Facility Outage of [redacted] MW or more of Installed Capacity that persists for more than one [redacted] Seller shall provide reports to Buyer not less frequently than each month regarding Seller's progress toward completion of repairs, maintenance, equipment replacement and/or any other material aspect of returning the Facility to full operation, including information reasonably requested by Buyer.

4.7 **Guaranteed Energy Production**.

(a) During each Performance Measurement Period, Seller shall deliver to Buyer an amount of Facility Energy, not including any Excess MWh, equal to no less than the Guaranteed Energy Production (as defined below). "**Guaranteed Energy Production**" means an amount of Facility Energy, as measured in MWh, equal to [redacted] of the average annual Expected Energy for the two (2) Contract Years constituting such Performance

Measurement Period; *provided*, the Guaranteed Energy Production applicable to the first Performance Measurement Period of the Delivery Term shall be equal to one hundred forty percent (140%) of the average annual Expected Energy for the two (2) Contract Years constituting such Performance Measurement Period. For purposes of determining whether Seller has achieved the Guaranteed Energy Production, in addition to Facility Energy, Seller shall be deemed to have delivered to Buyer the sum of (a) any Deemed Delivered Energy, *plus* (b) Facility Energy in the amount it could reasonably have delivered to Buyer but was prevented from delivering to Buyer by reason of any (i) Force Majeure Events, (ii) Curtailment Period (excluding any Transmission System Outage due to the fault or negligence of Seller), (iii) System Emergency not caused by Seller, or (iv) Buyer Default or other Buyer failure to perform that prevents Seller from being able to deliver Facility Energy to the Delivery Point ("**Lost Output**"). If Seller fails to achieve the Guaranteed Energy Production amount in any Performance Measurement Period, Seller shall pay Buyer damages calculated in accordance with Exhibit G ("**Energy Replacement Damages**"); *provided*, Seller may, as an alternative, provide Replacement Product delivered retrospectively to Buyer at the Delivery Point or the SP 15 EZ Gen Hub.

(b) Seller shall be permitted to deliver Replacement Product (i) prospectively during any Performance Measurement Period if Seller reasonably anticipates that delivery of such Replacement Product is necessary to achieve the Guaranteed Energy Production for such Performance Measurement Period, or (ii) retrospectively during the Contract Year immediately following any Performance Measurement Period in accordance with Section 4.7(a) above; *provided,* Seller's right to deliver Replacement Product shall be subject to mutual agreement of the Parties (in the reasonable discretion of each) of the delivery schedule for such Replacement Product; *provided further*, the amount of Replacement Product delivered by Seller pursuant to (i) or (ii) shall not exceed ten percent (10%) of the Expected Energy for the Contract Year for which such Replacement Product is delivered. Seller shall provide Notice to Buyer of any proposed delivery of Replacement Product, including a proposed schedule of such deliveries, (i) no later than thirty (30) days prior to the proposed delivery of such Replacement Product in the case of prospectively delivered Replacement Product, and (ii) no later than thirty (30) days after the conclusion of any Performance Measurement Period with respect to which Seller proposes to deliver retroactive Replacement Product.

4.8 **WREGIS**. Seller shall, at its sole expense, but subject to Section 3.12, take all actions and execute all documents or instruments necessary to ensure that all WREGIS Certificates associated with all Renewable Energy Credits corresponding to all Facility Energy are issued and tracked for purposes of satisfying the requirements of the California Renewables Portfolio Standard and transferred in a timely manner to Buyer for Buyer's sole benefit. Seller shall transfer the Renewable Energy Credits to Buyer. Seller shall comply with all Laws, including the WREGIS Operating Rules, regarding the certification and transfer of such WREGIS Certificates to Buyer and Buyer shall be given sole title to all such WREGIS Certificates. Seller shall be deemed to have satisfied the warranty in Section 4.8(g), provided that Seller fulfills its obligations under Sections 4.8(a) through (g) below. In addition:

(a) Prior to the Commercial Operation Date, Seller shall register the Facility with WREGIS and establish an account with WREGIS ("**Seller's WREGIS Account**"), which

Seller shall maintain until the end of the Delivery Term. Seller shall transfer the WREGIS Certificates using Recurring Certificate Transfers (as described in the WREGIS Operating Rules) from Seller's WREGIS Account to the WREGIS account(s) of Buyer or the account(s) of a designee that Buyer identifies by Notice to Seller ("**Buyer's WREGIS Account**"). Seller shall be responsible for all expenses associated with registering the Facility with WREGIS, establishing and maintaining Seller's WREGIS Account, paying WREGIS Certificate issuance and transfer fees, and transferring WREGIS Certificates from Seller's WREGIS Account to Buyer's WREGIS Account.

(b) Seller shall cause Recurring Certificate Transfers to occur on a monthly basis in accordance with the certification procedure established by the WREGIS Operating Rules. Since WREGIS Certificates will only be created for whole MWh amounts of Facility Energy generated, any fractional MWh amounts (i.e., kWh) will be carried forward until sufficient generation is accumulated for the creation of a WREGIS Certificate.

(c) Seller shall, at its sole expense, ensure that the WREGIS Certificates for a given calendar month correspond with the Facility Energy for such calendar month as evidenced by the Facility's metered data.

(d) Buyer shall make an invoice payment for a given month in accordance with Section 8.2 before the WREGIS Certificates for such month are formally transferred to Buyer in accordance with the WREGIS Operating Rules and this Section 4.8. Notwithstanding this delay, Buyer shall have all right and title to all such WREGIS Certificates upon payment to Seller in accordance with Section 8.2.

(e) A "**WREGIS Certificate Deficit**" means any deficit or shortfall in WREGIS Certificates delivered to Buyer for a calendar month as compared to the Facility Energy for the same calendar month ("**Deficient Month**") caused by an error or omission of Seller. If any WREGIS Certificate Deficit is caused by, or is the result of any action or inaction of, Seller, then Seller shall either (x) resolve the associated WREGIS Certificate Deficit or (y) provide Replacement Green Attributes (as defined in Exhibit G) upon a schedule reasonably acceptable to Buyer (including in consideration of costs to Buyer), in each case no later than ninety (90) days following such Deficient Month; *provided*, Seller may offer to cure such WREGIS Certificate Deficit pursuant to clause (x) or (y) above after such ninety (90)-day period, [redacted] If and to the extent Seller fails to cure any WREGIS Certificate Deficit, as set forth in either clause (x) or (y) of the previous sentence, Buyer's payment obligation for Facility Energy associated with the uncured WREGIS Certificate Deficit shall be reduced by [redacted]

[redacted] Without limiting Seller's obligations under this Section 4.8, if a deficit or shortfall in WREGIS Certificates delivered to Buyer for a calendar month as compared to the Facility Energy for the same calendar month is caused solely by an error or omission of WREGIS, the Parties shall cooperate in good faith to cause WREGIS to correct its error or omission.

(f) If WREGIS changes the WREGIS Operating Rules after the Original Effective Date or applies the WREGIS Operating Rules in a manner inconsistent with this Section 4.8 after the Original Effective Date, the Parties promptly shall modify this Section 4.8 as reasonably required to cause and enable Seller to transfer to Buyer's WREGIS Account a quantity of WREGIS Certificates for each given calendar month that corresponds to the Facility Energy in the same calendar month.

(g) 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. [STC REC-1]

(h) 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. [STC REC-2]

(i) Seller's obligations under Sections 3.10, 4.8(g) and 4.8(h) shall be subject to Section 3.12, the term "Project" as used in Section 3.10 shall refer to the "Facility" as defined herein, the term "the contract" in Section 4.8(h) shall refer to "this Agreement" as defined herein, and the term "commercially reasonable efforts" as used in Section 3.10 and Section 4.10(g) means efforts consistent with and subject to Section 3.12.

[redacted]

ARTICLE 5
TAXES

5.1 **Allocation of Taxes and Charges**. Seller shall pay or cause to be paid all Taxes on or with respect to the Facility or on or with respect to the sale and making available of Product to Buyer, that are imposed on Product prior to its delivery to Buyer at the time and place contemplated under this Agreement. Buyer shall pay or cause to be paid all Taxes on or with respect to the delivery to and purchase by Buyer of Product that are imposed on Product at and after its delivery to Buyer at the time and place contemplated under this Agreement (other than withholding or other Taxes imposed on Seller's income, revenue, receipts or employees). If a Party is required to remit or pay Taxes that are the other Party's responsibility hereunder, such Party shall promptly pay the Taxes due and then seek and receive reimbursement from the other for such Taxes. In the event any sale of Product hereunder is exempt from or not subject to any particular Tax, Buyer shall provide Seller with all necessary documentation to evidence such exemption or exclusion within thirty (30) days after the date Buyer makes such claim. Buyer shall indemnify, defend, and hold Seller harmless from any liability with respect to Taxes for which Buyer is responsible hereunder and from which Buyer claims it is exempt.

5.2 **Cooperation**. Each Party shall use reasonable efforts to implement the provisions of and administer this Agreement in accordance with the intent of the Parties to minimize all Taxes, so long as no Party is materially adversely affected by such efforts. The Parties shall cooperate to minimize Tax exposure; *provided*, neither Party shall be obligated to incur any financial or operational burden to reduce Taxes for which the other Party is responsible hereunder without receiving due compensation therefor from the other Party. All Product delivered by Seller to Buyer hereunder shall be a sale made at wholesale, with Buyer reselling such Product.

ARTICLE 6
MAINTENANCE OF THE FACILITY

6.1 **Maintenance of the Facility**. Seller shall, as between Seller and Buyer, be solely responsible for the operation and maintenance of the Facility and the delivery of the Product and shall comply with Law and Prudent Operating Practice relating to the operation and maintenance of the Facility and the generation and sale of Product.

6.2 **Maintenance of Health and Safety**. Seller shall take reasonable safety precautions with respect to the operation, maintenance, repair and replacement of the Facility. If Seller becomes aware of any circumstances relating to the Facility that create an imminent risk of damage or injury to any Person or any Person's property, Seller shall take prompt, reasonable action to prevent such damage or injury and shall give Buyer's emergency contact identified in Exhibit N Notice of such condition as soon as practicable thereafter. Such action may include disconnecting and removing all or a portion of the Facility, or suspending the supply of Facility Energy to the Delivery Point.

6.3 **Shared Facilities** The Parties acknowledge and agree that certain of the Shared Facilities and Interconnection Facilities, and Seller's rights and obligations under the Interconnection Agreement, may be subject to certain shared facilities and/or co-tenancy

agreements ("**Shared Facilities Agreements**") to be entered into among two or more of Seller, the Participating Transmission Owner, Seller's Affiliates, and/or third parties pursuant to which certain Interconnection Facilities, interconnection service and/or transmission service may be subject to joint ownership and/or shared maintenance and operation arrangements; *provided*, such agreements shall (i) not preclude Seller from performing or satisfying, and shall not purport to limit, its obligations hereunder, including providing interconnection capacity for the Facility in an amount not less than 901.28 MW at the Point of Interconnection and transmission capacity for delivery of energy from the Facility to the Delivery Point in an amount not less than 636 MW (*provided*, that Seller may share its interconnection capacity rights and transmission rights for the Facility with the South Affiliate [redacted] solely if and to the extent that, and solely for the period of time that, the amount of Energy that the Facility is capable of generating and delivering is less than 901.28 MW at the Point of Interconnection with respect to interconnection capacity, and 636 MW at the Delivery Point with respect to transmission capacity),

[redacted]

[redacted]

ARTICLE 7
METERING

7.1 **Metering**. The Facility Meter shall be installed at the switching station adjacent to the SunZia East Converter Station and maintained at Seller's cost. If the Facility Meter is inaccurate, Seller will cause such meter to be promptly corrected in accordance with Prudent Operating Practice and CAISO requirements, as applicable. Seller shall be responsible for any costs, fines or penalties, including imbalance charges as a result of the inaccurate meter. The Facility Meter shall be kept under seal, such seals to be broken only when the meters are to be tested, adjusted, modified or relocated. In the event that Seller breaks a seal, Seller shall notify Buyer as soon as practicable. Seller shall, or shall cause its Scheduling Coordinator to, provide Buyer with read-only access to a real-time data feed of the generation of the Facility, and real-time Facility Meter reads. In addition, Seller hereby agrees to provide all Facility Meter data to Buyer in a form reasonably acceptable to Buyer on a read-only basis, and consents to Buyer obtaining

from the CAISO or the PTO, as applicable, the Facility Meter data applicable to the Facility and all inspection, testing and calibration data and reports. Seller, or Seller's Scheduling Coordinator, shall cooperate with Buyer to provide records, including invoices or settlement data from the CAISO, for the full Facility, for Buyer to verify the accuracy of all invoices, and to allow both Parties to retrieve the Facility Meter reads from the CAISO Market Results Interface – Settlements (MRIS-S) (or its successor) or from the Facility Meter at the Facility.

7.2 **Meter Verification**. Annually, if Seller has reason to believe there may be a meter malfunction, or upon Buyer's reasonable request, Seller shall test the Facility Meter. The tests shall be conducted by independent third parties qualified to conduct such tests. Buyer shall be notified seven (7) days in advance of such tests and have a right to be present during such tests. If a meter is inaccurate it shall be promptly repaired or replaced. If a meter is inaccurate by more than one percent (1%) and it is not known when the meter inaccuracy commenced (if such evidence exists, such date will be used to adjust prior invoices), then the invoices covering the period of time since the last meter test shall be adjusted for the amount of the inaccuracy on the assumption that the inaccuracy persisted during the second half of such period so long as such adjustments are accepted by CAISO and WREGIS; *provided*, such period may not exceed twelve (12) months.

ARTICLE 8
INVOICING AND PAYMENT; CREDIT

8.1 **Invoicing**. Seller shall use commercially reasonable efforts to deliver an invoice to Buyer for Product no later than the fifteen (15^{th}) day of each month for the previous calendar month. Each invoice shall (a) reflect records of metered data, including CAISO metering and transaction data sufficient to document and verify the amount of Product delivered by the Facility for any Settlement Period during the preceding month, including the amount of Facility Energy and Replacement Product delivered to Buyer (if any), the calculation of Deemed Delivered Energy and Adjusted Energy Production (if any), the LMP prices at the Delivery Point for each Settlement Period, and the Renewable Rate applicable to such Product in accordance with Exhibit C, and other relevant data for the prior month; and (b) be in a format reasonably acceptable to Buyer, covering the Product provided in the preceding month determined in accordance with the applicable provisions of this Agreement. Seller shall provide Buyer with all reasonable access (including, in real time, to the maximum extent reasonably possible) to any records, including invoices or settlement data from the CAISO, forecast data and other information, all as may be necessary from time to time for Buyer to verify the accuracy of all invoices.

8.2 **Payment**. Buyer shall make payment to Seller for Product (and any other amounts due) by wire transfer or ACH payment to the bank account provided on each monthly invoice. Buyer shall pay undisputed invoice amounts no later than thirty (30) days after Buyer's receipt of the invoice from Seller; *provided*, if such due date falls on a weekend or legal holiday, such due date shall be the next Business Day. Payments made after the due date will be considered late and will bear interest on the unpaid balance. If the amount due is not paid on or before the due date or if any other payment that is due and owing from one Party to another is not paid on or before its applicable due date, a late payment charge shall be applied to the unpaid balance and shall be added to the next billing statement. Such late payment charge shall be calculated based on an

annual Interest Rate equal to the prime rate published on the date of the invoice in The Wall Street Journal (or, if The Wall Street Journal is not published on that day, the next succeeding date of publication), *plus* two percent (2%) (the "**Interest Rate**"). If the due date occurs on a day that is not a Business Day, the late payment charge shall begin to accrue on the next succeeding Business Day.

8.3 **Books and Records**. To facilitate payment and verification, each Party shall maintain all books and records necessary for billing and payments, including copies of all invoices under this Agreement, for a period of at least two (2) years or as otherwise required by Law. Upon fifteen (15) days' Notice to the other Party, either Party shall be granted reasonable access to the accounting books and records within the possession or control of the other Party pertaining to all invoices generated pursuant to this Agreement. Seller acknowledges that in accordance with California Government Code Section 8546.7, Seller may be subject to audit by the California State Auditor with regard to Seller's performance of this Agreement, for a period of three (3) years following the last payment hereunder (or such longer period required by applicable Law), because the compensation under this Agreement exceeds $10,000.

8.4 **Payment Adjustments; Billing Errors**. Payment adjustments shall be made if Buyer or Seller discovers there have been good faith inaccuracies in invoicing that are not otherwise disputed under Section 8.5 or an adjustment to an amount previously invoiced or paid is required due to a correction of data by the CAISO, or there is determined to have been a meter inaccuracy sufficient to require a payment adjustment. If the required adjustment is in favor of Buyer, Buyer's next monthly payment shall be credited in an amount equal to the adjustment. If the required adjustment is in favor of Seller, Seller shall add the adjustment amount to Buyer's next monthly invoice. Adjustments in favor of either Buyer or Seller shall bear interest, until settled in full, in accordance with Section 8.2, accruing from the date on which the adjusted amount should have been due.

8.5 **Billing Disputes**. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within five (5) Business Days of such resolution along with interest accrued at the Interest Rate from and including the original due date to but excluding the date paid. Inadvertent overpayments shall be returned via adjustments in accordance with Section 8.4. Any dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section 8.5 within twelve (12) months after the invoice is rendered or subsequently adjusted, except to the extent any misinformation was from a third party not affiliated with any Party and such third party corrects its information after the twelve-month period. If an invoice is not rendered within twelve (12) months after the close of the month during which performance occurred, the right to payment for such performance is waived.

8.6 **Netting of Payments**. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all undisputed amounts owed by each Party to the other Party for the purchase and sale of Product during the monthly billing period under this Agreement or otherwise arising out of this Agreement, including any related damages calculated pursuant to Exhibits B and G, interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

8.7 **Seller's Development Security**. To secure its obligations under this Agreement, Seller shall have delivered the Development Security to Buyer on or before the Effective Date. Seller shall maintain the Development Security in full force and effect; *provided*, Seller shall have no obligation to replenish the Development Security following any draw thereupon by Buyer; *provided further*, Buyer shall not draw on the Development Security with respect to any payments due from and payable by Seller until after any required Notice and the expiration of all cure periods. Upon the earlier of (a) Seller's delivery of the Performance Security, or (b) sixty (60) days after termination of this Agreement, Buyer shall return the Development Security to Seller, less the amounts drawn in accordance with this Agreement. If the Development Security is provided in the form of more than one Letter of Credit, any draw on the Development Security by Buyer shall be made pro rata among each such Letter of Credit.

8.8 **Seller's Performance Security**. To secure its obligations under this Agreement, Seller shall deliver Performance Security to Buyer on or before the Commercial Operation Date. Seller shall maintain the Performance Security in full force and effect, and Seller shall within ten (10) Business Days after any draw thereon replenish the Performance Security in the event Buyer collects or draws down any portion of the Performance Security for any reason permitted under this Agreement other than to satisfy a Termination Payment, until the following have occurred: (a) the Delivery Term has expired or terminated early; and (b) all payment obligations of Seller due and payable under this Agreement, including compensation for penalties, Termination Payment, indemnification payments or other damages are paid in full (whether directly or indirectly such as through set-off or netting); *provided*, Buyer shall not draw on the Performance Security with respect to any payments due from and payable by Seller until after any required Notice and the expiration of all cure periods. Following the occurrence of both events listed in clauses (a) and (b) above, Buyer shall promptly return to Seller the unused portion of the Performance Security. If the Performance Security is provided in the form of more than one Letter of Credit, any draw on the Performance Security by Buyer shall be made pro rata among each such Letter of Credit.

8.9 **First Priority Security Interest in Cash or Cash Equivalent Collateral**. To secure its obligations under this Agreement, and until released as provided herein, Seller hereby 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 and Performance Security, to the extent the Development Security and/or Performance Security are provided in the form of cash collateral or cash equivalent collateral, any other cash collateral and cash equivalent collateral posted pursuant to Sections 8.7 and 8.8 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 all 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 an Event of Default caused by Seller, an Early Termination Date resulting from an Event of Default caused by Seller, or an occasion provided for in this Agreement where Buyer is authorized to retain all or a portion of the Development Security or Performance Security, Buyer may do any one or more of the following (in each case subject to the final sentence of this Section 8.9):

(a) Exercise any of its rights and remedies with respect to the Development Security and Performance Security, including any such rights and remedies under Law then in effect;

(b) Draw on any outstanding Letter(s) of Credit issued for its benefit and retain any cash held by Buyer as Development Security or Performance Security; and

(c) Liquidate all Development Security or Performance Security (as applicable) 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 remains 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.

8.10 **Financial Statements**.

(a) If a Guaranty is provided as Performance Security in lieu of cash or a Letter of Credit, Seller shall provide to Buyer, or cause the Guarantor to provide to Buyer, unaudited quarterly and annual audited financial statements of the Guarantor (including a balance sheet and statements of income and cash flows), all prepared in accordance with generally accepted accounting principles in the United States, consistently applied.

(b) Buyer shall provide to Seller (i) within one hundred twenty (120) days following the end of each fiscal year during the Contract Term, a copy of Buyer's annual report containing audited consolidated financial statements for such fiscal year and (ii) within sixty (60) days after the end of each of its first three fiscal quarters of each fiscal year during the Contract Term, a copy of Buyer's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles ("GAAP"); *provided*, should any such statements not be available on a timely basis due to a delay in preparation or certifications, such unavailability shall not be an Event of Default so long as Buyer diligently pursues the preparation, certification, and delivery of the statements. Buyer shall be deemed to have delivered such financial statements to Seller if such statements are made publicly available.

ARTICLE 9
NOTICES

9.1 **Addresses for the Delivery of Notices**. Any Notice required, permitted, or contemplated hereunder shall be in writing, shall be addressed to the Party to be notified at the address set forth in Exhibit N or at such other address or addresses as a Party may designate for itself from time to time by Notice hereunder.

9.2 **Acceptable Means of Delivering Notice**. Each Notice required, permitted, or contemplated hereunder shall be deemed to have been validly served, given or delivered as follows: (a) if sent by United States mail with proper first class postage prepaid, three (3) Business Days following the date of the postmark on the envelope in which such Notice was deposited in the United States mail; (b) if sent by a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement with such carrier made for the payment of such fees, the next Business Day after the same is delivered by the sending Party to such carrier; (c) if sent by electronic communication (including electronic mail or other electronic means) at the time indicated by the time stamp upon delivery and, if after 5 pm, on the next Business Day; or (d) if delivered in person, upon receipt by the receiving Party. Notwithstanding the foregoing, Notices of outages or other scheduling or dispatch information or requests, may be sent by electronic communication and shall be considered delivered upon successful completion of such transmission.

ARTICLE 10
FORCE MAJEURE

10.1 **Definition**.

(a) "**Force Majeure Event**" means any act or event that delays or prevents a Party from timely performing all or a portion of its obligations under this Agreement or from complying with all or a portion of the conditions under this Agreement if such act or event, despite the exercise of commercially reasonable efforts, cannot be avoided by and is beyond the reasonable control (whether direct or indirect) of the claiming Party*; provided*, a Force Majeure Event shall not excuse any such delay, nonperformance, or noncompliance to the extent the claiming Party's fault or negligence contributed thereto in scope or duration.

(b) Without limiting the generality of the foregoing, so long as the following events, despite the exercise of reasonable efforts, cannot be avoided by, and are beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance or noncompliance, a Force Majeure Event may include an act of God or the elements, such as flooding, lightning, hurricanes, tornadoes, or ice storms; explosion; fire; volcanic eruption; flood; epidemic or pandemic (including the COVID-19 pandemic, but only to the extent that new governmental rules or mandates related to COVID-19 are implemented that were not in place as of the Original Effective Date); landslide; mudslide; sabotage; terrorism; earthquake; or other cataclysmic events; an act of public enemy; war; blockade; civil insurrection; riot; civil disturbance; or strikes or other labor difficulties caused or suffered by a Party or any third party except as set forth below.

(c) Notwithstanding the foregoing, the term "**Force Majeure Event**" does not include (i) economic conditions or changes in Law that render a Party's performance of this Agreement at the Renewable Rate unprofitable or otherwise uneconomic (including an increase in component or compliance costs for any reason, including foreign or domestic tariffs, Buyer's ability to buy Product at a lower price, or Seller's ability to sell the Product, or any component thereof, at a higher price, than under this Agreement); (ii) Seller's inability to obtain permits or approvals of any type for the construction, operation, or maintenance of the Facility, except to the extent such inability is caused by a Force Majeure Event; (iii) the inability of a Party to make payments when due under this Agreement, unless the cause of such inability is an event that would otherwise constitute a Force Majeure Event as described above; (iv) a Curtailment Order, except to the extent that a Curtailment Order is caused by an event that otherwise qualifies as a Force Majeure Event; (v) Seller's inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Facility, including the lack of wind, sun or other fuel source of an inherently intermittent nature, except to the extent such inability is caused by a Force Majeure Event; (vi) a strike, work stoppage or labor dispute limited only to any one or more of Seller, Seller's Affiliates, Seller's contractors, their subcontractors thereof or any other third party employed by Seller to work on the Facility; (vii) any equipment failure except if such equipment failure is caused by a Force Majeure Event; or (viii) any action or inaction by any third party, including Transmission Provider, that delays or prevents the approval, construction or placement in service of any Interconnection Facilities or Network Upgrades, except to the extent caused by a Force Majeure Event.

10.2 **No Liability If a Force Majeure Event Occurs**. Except as provided in Section 4 of Exhibit B, neither Seller nor Buyer shall be liable to the other Party in the event it is prevented from performing its obligations hereunder in whole or in part due to a Force Majeure Event. The Party rendered unable to fulfill any obligation by reason of a Force Majeure Event shall take reasonable actions necessary to remove such inability with due speed and diligence. Nothing herein shall be construed as permitting that Party to continue to fail to perform after said cause has been removed. The obligation to use due speed and diligence shall not be interpreted to require resolution of labor disputes by acceding to demands of the opposition when such course is inadvisable in the discretion of the Party having such difficulty. Neither Party shall be considered in breach or default of this Agreement if and to the extent that any failure or delay in the Party's performance of one or more of its obligations hereunder is caused by a Force Majeure Event. The occurrence and continuation of a Force Majeure Event shall not suspend or excuse the obligation of a Party to make any payments due hereunder.

10.3 **Notice**. In order to claim a Force Majeure Event, the claiming Party, within fourteen (14) days of becoming aware that an event or series of events, as applicable, constitutes a Force Majeure Event, must give the other Party Notice describing the particulars of the occurrence in substantially the form set forth in Exhibit T, (b) provide timely evidence reasonably sufficient to establish that the occurrence constitutes Force Majeure as defined in this Agreement, and (c) notify the other Party in writing of the cessation or termination of such Force Majeure Event, all as known or estimated in good faith by the affected Party. Failure to provide timely Notice shall not affect such Party's ability to assert that a Force Majeure Event has occurred but shall preclude such Party from claiming a Force Majeure Event (including any Development Cure Period delays) or being

excused from any delay or nonperformance associated therewith with respect to the days prior to the date on Notice was actually given.

10.4 **Termination Following Force Majeure Event or Development Cure Period**.

(a) If the cumulative extensions granted under the Development Cure Period (other than the extensions granted pursuant to clause 4(d) in Exhibit B) plus the payment of Commercial Operation Delay Damages equal or exceed [redacted], and Seller has demonstrated to Buyer's reasonable satisfaction that Seller's failure to achieve COD by the Guaranteed Commercial Operation Date (as extended) was the result of delays that would have otherwise entitled to Seller to [redacted] of Development Cure Period delays but for the one hundred eighty (180)-day limitation, then Seller may terminate this Agreement upon Notice to Buyer. Upon such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Section 2.1(b), and Buyer shall promptly return to Seller any Development Security then held by Buyer plus the full amount of Commercial Operation Delay Damages paid by Seller, less any amounts drawn in accordance with this Agreement with respect to other amounts due from Seller, if any.

(b) If a Force Majeure Event has occurred after the Commercial Operation Date that has caused either Party to be wholly or partially unable to perform its obligations hereunder in any material respect, and the impacted Party has claimed and received relief from performance of its obligations for a consecutive twelve (12)-month period, then the non-claiming Party may terminate this Agreement upon Notice to the other Party; *provided*, if Seller is the Party claiming such Force Majeure Event and such Force Majeure Event cannot reasonably be cured within such twelve (12) month period, then Seller may provide a plan to Buyer, which must be acceptable to Buyer in its reasonable discretion, to cure such Force Majeure Event within an additional six (6) month period and Buyer may not terminate this Agreement due to such Force Majeure Event unless Seller has not resumed performance of its material obligations hereunder upon the expiration of such additional six (6)-month period; *provided further*, if the impacted Party has claimed and received relief from performance of its obligations due to such Force Majeure Event for a consecutive eighteen (18)-month period, then either Party may terminate this Agreement upon Notice to the other Party. Upon any such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Section 2.1(b), and Buyer shall promptly return to Seller any Performance Security then held by Buyer, less any amounts drawn in accordance with this Agreement.

ARTICLE 11
DEFAULTS; REMEDIES; TERMINATION

11.1 **Events of Default**. An "**Event of Default**" shall mean,

(a) with respect to a Party (the "**Defaulting Party**") that is subject to the Event of Default the occurrence of any of the following:

(i) the failure by such Party to make, when due, any payment required pursuant to this Agreement and such failure is not remedied within ten (10) Business Days after Notice thereof;

(ii) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated, and such default is not remedied within thirty (30) days after Notice thereof (or such longer additional period, not to exceed an additional sixty (60) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30)-day period despite exercising commercially reasonable efforts);

(iii) the failure by such Party to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default set forth in this Section 11.1 or for which an exclusive remedy is provided), and such failure is not remedied within thirty (30) days after Notice thereof (or such longer additional period, not to exceed an additional sixty (60) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30)-day period despite exercising commercially reasonable efforts);

(iv) such Party becomes Bankrupt;

(v) such Party assigns this Agreement or any of its rights hereunder other than in compliance with Article 14, if applicable;

(vi) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party; or

(vii) failure by either Party to satisfy the collateral requirements pursuant to Sections 8.7 or 8.8 (except, with respect to Seller, as set forth in Sections 11.1(b)(vi) and 11.1(b)(vii)) within five (5) Business Days after Notice from the other Party, including Seller's failure to replenish the Performance Security amount in accordance with this Agreement in the event Buyer draws against it for any reason other than to satisfy a Termination Payment;

(b) with respect to Seller as the Defaulting Party, the occurrence of any of the following:

(i) if at any time Seller delivers or attempts to deliver Energy to the Delivery Point for sale under this Agreement that was not generated or discharged by the Facility, except for Replacement Product;

(ii) the failure by Seller to achieve the Construction Start Date on or before the Guaranteed Construction Start Date or Commercial Operation on or before the Guaranteed Commercial Operation Date, as such dates may be extended by Seller's payment of

Daily Delay Damages, Commercial Operation Delay Damages and/or by Development Cure Period extensions;

(iii) if, in any consecutive six (6) month period, the Adjusted Energy Production amount (calculated in accordance with Exhibit G) for such period is not at least ten percent (10%) of the 6-month pro rata amount of Expected Energy for such period adjusted for seasonality proportionately to the monthly forecast provided annually by Seller under Section 4.3(a), and Seller fails to (x) deliver to Buyer within ten (10) Business Days after Notice from Buyer a plan or report developed by Seller that describes the cause of the failure to meet the ten percent (10%) threshold and the actions that Seller has taken, is taking, or proposes to take in an effort to cure such condition along with the written confirmation of a Licensed Professional Engineer that such plan or report is in accordance with Prudent Operating Practices and capable of cure within a reasonable period of time, not to exceed one hundred eighty (180) days, or such longer period if necessary to remedy a Major Equipment Failure, not to exceed a total of eighteen (18) months ("**Cure Plan**") and (y) complete such Cure Plan in all material respects as set forth therein, including within the timeframe set forth therein;

(iv) if at any time during the Delivery Term the Installed Capacity does not equal or exceed the Guaranteed Installed Capacity;

(v) Reserved;

(vi) with respect to any outstanding Letter of Credit provided for the benefit of Buyer that is not then required under this Agreement to be canceled or returned, the failure by Seller to provide for the benefit of Buyer either (1) cash, (2) a Letter of Credit from a different issuer meeting the criteria set forth in the definition of Letter of Credit, or (3) a replacement Guaranty from a Guarantor meeting the criteria set forth in the definition of Guarantor, in each case, in the amount required hereunder within ten (10) Business Days after Seller receives Notice of the occurrence of any of the following events:

(A) the issuer of the outstanding Letter of Credit shall fail to maintain a Credit Rating of at least A- by S&P or A3 by Moody's;

(B) the issuer of such Letter of Credit becomes Bankrupt;

(C) the issuer of the outstanding Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit and such failure shall be continuing after the lapse of any applicable grace period permitted under such Letter of Credit;

(D) the issuer of the outstanding Letter of Credit shall fail to honor a properly documented request to draw on such Letter of Credit;

(E) the issuer of the outstanding Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit;

(F) such Letter of Credit fails or ceases to be in full force and effect at any time;

(G) Seller shall fail to renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit and as provided in accordance with this Agreement, and in no event less than sixty (60) days prior to the expiration of the outstanding Letter of Credit;

(vii) with respect to any Guaranty provided for the benefit of Buyer, the failure by Seller to provide for the benefit of Buyer either (1) cash, (2) a replacement Guaranty from a different Guarantor meeting the criteria set forth in the definition of Guarantor, or (3) a replacement Letter of Credit from an issuer meeting the criteria set forth in the definition of Letter of Credit, in each case, in the amount required hereunder within ten (10) Business Days after Seller receives Notice of the occurrence of any of the following events:

(A) if any representation or warranty made by the Guarantor in connection with this Agreement is false or misleading in any material respect when made or when deemed made or repeated, and such representation or warranty is not remedied within thirty (30) days after Notice thereof;

(B) the failure of the Guarantor to make any payment required or to perform any other material covenant or obligation in any Guaranty;

(C) the Guarantor becomes Bankrupt;

(D) the Guarantor shall fail to meet the criteria for an acceptable Guarantor as set forth in the definition of Guarantor;

(E) the failure of the Guaranty to be in full force and effect (other than in accordance with its terms) prior to the indefeasible satisfaction of all obligations of Seller hereunder; or

(F) the Guarantor shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of any Guaranty.

11.2 **Remedies; Declaration of Early Termination Date**. If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party ("**Non-Defaulting Party**") shall have the following rights:

(a) to send Notice, designating a day, no earlier than the day such Notice is deemed to be received and no later than twenty (20) days after such Notice is deemed to be received, as an early termination date of this Agreement ("**Early Termination Date**") that terminates this Agreement (the "**Terminated Transaction**") and ends the Delivery Term effective as of the Early Termination Date;

(b) to accelerate all amounts owing between the Parties, and to collect as liquidated damages (i) the Damage Payment, or (ii) the Termination Payment, as applicable, in each case calculated in accordance with Section (b) below;

(c) to withhold any payments due to the Defaulting Party under this Agreement;

(d) to suspend performance; and

(e) to exercise any other right or remedy available at law or in equity, including specific performance or injunctive relief, except to the extent such remedies are expressly limited under this Agreement; *provided*, payment by the Defaulting Party of the Damage Payment or Termination Payment, as applicable, shall constitute liquidated damages and the Non-Defaulting Party's sole and exclusive remedy for any Terminated Transaction and the Event of Default related thereto.

11.3 **Damage Payment; Termination Payment**. If an Early Termination Date has been declared, the Non-Defaulting Party shall calculate, in a commercially reasonable manner, the Damage Payment or Termination Payment, as applicable, in accordance with this Section 11.3.

(a) Damage Payment Prior to Commercial Operation Date. If the Early Termination Date occurs before the Commercial Operation Date, then the Damage Payment shall be calculated in accordance with this Section 11.3(a).

(i) If Seller is the Defaulting Party, then the Damage Payment shall be owed to Buyer and shall be a dollar amount that equals the amount of the Development Security as set forth on the Cover Sheet plus, if the Development Security is posted as cash, any interest accrued thereon. Buyer shall be entitled to immediately retain for its own benefit those funds held as Development Security and any interest accrued thereon if the Development Security is posted as cash, and any amount of Development Security that Seller has not yet posted with Buyer shall be immediately due and payable by Seller to Buyer. There will be no amounts owed to Seller. The Parties agree that Buyer's damages in the event of an Early Termination Date prior to the Commercial Operation Date caused by Seller's default would be difficult or impossible to determine and that the damages set forth in this Section 11.3(a)(i) are a reasonable approximation of Buyer's harm or loss.

(ii) Except as set forth in Section 11.3(a)(iii), if Buyer is the Defaulting Party, then the Damage Payment shall be owed to Seller and shall equal Buyer's Share of the sum of the actual, documented and verifiable costs incurred by Seller between the Original Effective Date and the Early Termination Date in connection with the Facility, less the fair market value (determined in a commercially reasonable manner) of (A) all Seller's assets individually or (B) the entire Facility, whichever is greater on the Early Termination Date, regardless of whether or not any Seller asset or the entire Facility is actually sold or disposed of.

(iii) If Buyer is the Defaulting Party and such default arises in connection with: (A) Buyer's repudiation of this Agreement; (B) Buyer's bad faith; (C) Buyer's failure to comply with its obligations under Section 2.2 to, within five (5) Business Days after receipt

thereof, either accept or provide Notice stating in reasonable detail the basis for its reasonable rejection of Seller's evidence of completion of any condition to Commercial Operation set forth in Section 2.2 (provided that Seller submitted such evidence within thirty (30) days of the expected Commercial Operation Date); or (D) Buyer's failure to comply with its obligations under Section 2.6 to (x) within ten (10) Business Days of its receipt of Seller's Notice of a Project Bifurcation or Project Transition, provide Notice to Seller of any comments on the draft Replacement PPA(s) and termination agreement attached to such Notice, and (y) cooperate reasonably with Seller and the Owners to resolve any issues and enter into the Replacement PPA(s) and the termination agreement within thirty (30) days of Seller's Notice to Buyer of the same (*provided*, this clause (D) shall apply only if the draft Replacement PPA(s) are on the same terms and conditions as those set forth in this Agreement, except for those administrative changes that are necessary to effectuate the separation or transition of this Agreement into Replacement PPA(s) (including such changes as are set forth in Section 2.6(a) through Section 2.6(g), as applicable)), then the Damage Payment shall be owed to Seller and shall be equal to the Termination Payment determined in accordance with Section 11.3(b) below as of the Early Termination Date. There will be no amount owed to Buyer. The Parties agree that Seller's damages in the event of an Early Termination Date prior to the Commercial Operation Date caused by Buyer's default would be difficult or impossible to determine and that the damages set forth in Section 11.3(a)(ii) above or this Section 11.3(a)(iii), as applicable, are a reasonable approximation of Seller's harm or loss.

(b) Termination Payment On or After the Commercial Operation Date. The payment owed by the Defaulting Party to the Non-Defaulting Party for a Terminated Transaction occurring after the Commercial Operation Date ("**Termination Payment**") shall be the aggregate of all Settlement Amounts plus any and all other amounts due to or from the Non-Defaulting Party (as of the Early Termination Date) netted into a single amount. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for the Terminated Transaction as of the Early Termination Date. Third parties supplying information for purposes of the calculation of Gains or Losses may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. The Settlement Amount shall not include consequential, incidental, punitive, exemplary, indirect or business interruption damages. Without prejudice to the Non-Defaulting Party's duty to mitigate, the Non-Defaulting Party shall not have to enter into replacement transactions to establish a Settlement Amount. Each Party agrees and acknowledges that (i) the actual damages that the Non-Defaulting Party would incur in connection with a Terminated Transaction would be difficult or impossible to predict with certainty, (ii) the Termination Payment described in this Section 0(b) is a reasonable and appropriate approximation of such damages, and (iii) the Termination Payment described in this Section 0(b) is the exclusive remedy of the Non-Defaulting Party in connection with a Terminated Transaction but shall not otherwise act to limit any of the Non-Defaulting Party's rights or remedies if the Non-Defaulting Party does not elect a Terminated Transaction as its remedy for an Event of Default by the Defaulting Party.

11.4 **Notice of Payment of Termination Payment or Damage Payment**. As soon as practicable after a Terminated Transaction, but in no event later than sixty (60) days after the Early Termination Date, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Damage Payment or Termination Payment, as applicable, and whether the

Termination Payment or Damage Payment, as applicable, is due to or from the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount and the sources for such calculation. The Termination Payment or Damage Payment, as applicable, shall be made to or from the Non-Defaulting Party, as applicable, within ten (10) Business Days after such Notice is effective.

11.5 **Disputes With Respect to Termination Payment or Damage Payment**. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment or Damage Payment, as applicable, in whole or in part, the Defaulting Party shall, within five (5) Business Days of receipt of the Non-Defaulting Party's calculation of the Termination Payment or Damage Payment, as applicable, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. Disputes regarding the Termination Payment or Damage Payment, as applicable, shall be determined in accordance with Article 15.

11.6 **Limitation on Seller's Ability to Make or Agree to Third-Party Sales from the Facility after Early Termination Date**. If this Agreement is terminated prior to the Commercial Operation Date for any reason except due to Buyer's Event of Default, neither Seller nor Seller's Affiliates may sell, market or deliver any Product associated with or attributable to the Facility to a party other than Buyer for a period of [redacted] following such early termination date, unless prior to selling, marketing or delivering such Product, or entering into the agreement to sell, market or deliver such Product to a party other than Buyer, Seller or Seller's Affiliates provide Buyer with a written offer to sell the Product on terms and conditions materially similar to the terms and conditions contained in this Agreement and (a) Buyer fails to accept such offer within forty-five (45) days of Buyer's receipt thereof, or (b) Seller and Buyer fail to reach an agreement on the changes necessary to conform the new agreement on materially similar terms to this Agreement within ninety (90) days after Buyer's receipt of such offer, despite both Parties negotiating in good faith. Seller's or Seller's Affiliate's written offer to sell the Product pursuant to this Section 11.6 shall be at the Renewable Rate without increase or escalation; [redacted] Nothing in this Section 11.6 shall be construed to limit in any way Seller's right to market, sell, or deliver Energy, green attributes, capacity attributes, or other products generated by or associated with the Facility in excess of Buyer's Share of such Energy, green attributes, capacity attributes, or other products generated by or associated with the Facility.

Neither Seller nor Seller's Affiliates may sell or transfer the Facility, or any part thereof, or land rights or interests in the Site (including the interconnection queue position of the Facility) so long as the limitations contained in this Section 11.6 apply, unless the transferee agrees to be bound by the terms set forth in this Section 11.6 pursuant to a written agreement approved by Buyer.

Seller shall indemnify and hold Buyer harmless from all benefits lost and other damages sustained by Buyer as a result of any breach by Seller of its covenants contained within this Section 11.6.

11.7 **Rights And Remedies Are Cumulative**. Except where liquidated damages or other remedy are explicitly provided as the exclusive remedy, the rights and remedies of a Party pursuant to this Article 11 shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

11.8 **Mitigation**. Any Non-Defaulting Party shall be obligated to use commercially reasonable efforts to mitigate its Costs, Losses and damages resulting from any Event of Default of the other Party under this Agreement.

ARTICLE 12
LIMITATION OF LIABILITY AND EXCLUSION OF WARRANTIES.

12.1 **No Consequential Damages**. EXCEPT TO THE EXTENT PART OF (A) AN EXPRESS REMEDY OR MEASURE OF DAMAGES HEREIN, (B) AN IP INDEMNITY CLAIM, (C) AN ARTICLE 16 INDEMNITY CLAIM, (D) INCLUDED IN A LIQUIDATED DAMAGES CALCULATION, OR (E) RESULTING FROM A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, OR LOSSES OR DAMAGES FOR LOST REVENUE OR LOST PROFITS, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT, BY STATUTE, IN TORT OR CONTRACT.

12.2 **Waiver and Exclusion of Other Damages.** EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. ALL LIMITATIONS OF LIABILITY CONTAINED IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE PERTAINING TO SELLER'S LIMITATION OF LIABILITY AND THE PARTIES' WAIVER OF CONSEQUENTIAL DAMAGES, SHALL APPLY EVEN IF THE REMEDIES FOR BREACH OF WARRANTY PROVIDED IN THIS AGREEMENT ARE DEEMED TO "FAIL OF THEIR ESSENTIAL PURPOSE" OR ARE OTHERWISE HELD TO BE INVALID OR UNENFORCEABLE.

NOTWITHSTANDING ANYTHING ELSE HEREIN TO THE CONTRARY, SELLER'S AGGREGATE LIABILITY ARISING UNDER OR RELATED TO THIS AGREEMENT IN CONNECTION WITH ANY DELAY BY SELLER IN COMPLETING THE FACILITY OR ACHIEVING THE COMMERCIAL OPERATION DATE, INCLUDING FAILURE BY SELLER TO ACHIEVE THE MILESTONE DATES SET FORTH ON THE COVER SHEET AND ANY FAILURE BY SELLER TO SELL PRODUCT TO BUYER HEREUNDER AS A RESULT OF ANY SUCH DELAY OR FAILURE, SHALL NOT EXCEED THE SUM OF (A)

THE AMOUNT OWING OR PAID BY SELLER IN RESPECT OF DELAY DAMAGES, IF ANY, AND (B) THE AMOUNT OF THE DAMAGE PAYMENT OWED BY SELLER, IF ANY.

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS AND EXCLUSIVE REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES ONLY. THE VALUE OF ANY 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) AND AMOUNTS DUE IN CONNECTION WITH THE RECAPTURE OF ANY RENEWABLE ENERGY INCENTIVES, IF ANY, SHALL BE DEEMED TO BE DIRECT DAMAGES.

TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, INCLUDING UNDER SECTIONS 3.8, 4.7, 4.8, 11.2 AND 11.3, AND AS PROVIDED IN EXHIBIT B, EXHIBIT C, EXHIBIT G, AND EXHIBIT P, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT, AND THAT THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE ANTICIPATED HARM OR LOSS. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. THE PARTIES HEREBY WAIVE ANY RIGHT TO CONTEST SUCH PAYMENTS AS AN UNREASONABLE PENALTY.

THE PARTIES ACKNOWLEDGE AND AGREE THAT MONEY DAMAGES AND THE EXPRESS REMEDIES PROVIDED FOR HEREIN ARE AN ADEQUATE REMEDY FOR THE BREACH BY THE OTHER OF THE TERMS OF THIS AGREEMENT, AND EACH PARTY WAIVES ANY RIGHT IT MAY HAVE TO SPECIFIC PERFORMANCE WITH RESPECT TO ANY OBLIGATION OF THE OTHER PARTY UNDER THIS AGREEMENT.

ARTICLE 13
REPRESENTATIONS AND WARRANTIES; AUTHORITY

13.1 **Seller's Representations and Warranties**. As of the Effective Date, Seller represents and warrants as follows:

(a) Seller is a limited liability company, duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation, and is qualified to conduct

business in each jurisdiction where the failure to so qualify would have a material adverse effect on the business or financial condition of Seller.

(b) Seller has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Seller's performance under this Agreement. The execution, delivery and performance of this Agreement by Seller has been duly authorized by all necessary limited liability company action on the part of Seller and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Seller or any other party to any other agreement with Seller.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Seller with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Seller, subject to any permits that have not yet been obtained by Seller, the documents of formation of Seller or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other material agreement or instrument to which Seller is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Seller. This Agreement is a legal, valid and binding obligation of Seller enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) Seller and its Affiliates are developing the Facility to be located in New Mexico.

(f) Neither Seller nor its Affiliates have received notice from or been advised by any existing or potential supplier or service provider that COVID-19 has caused, or is reasonably likely to cause, a delay in the construction of the Facility or the delivery of materials necessary to complete the Facility, in each case that would cause the Construction Start Date to be later than the Guaranteed Construction Start Date or the Commercial Operation Date to be later than the Guaranteed Commercial Operation Date.

(g) Prior to the Construction Start Date, Seller or an Affiliate of Seller will enter into (or has already entered into as of the date hereof) (i) EPC Contracts that provide for the construction of the Facility as described in Exhibit A and (ii) turbine supply agreements that provide for the purchase of distinct turbines for the Facility and the facility known as SunZia South.

13.2 **Buyer's Representations and Warranties**. As of the Effective Date, Buyer represents and warrants as follows:

(a) Buyer is a joint powers authority and a validly existing community choice aggregator, duly organized, validly existing and in good standing under the laws of the State of California and the rules, regulations and orders of the California Public Utilities Commission, and

is qualified to conduct business in each jurisdiction of the Joint Powers Agreement members. All Persons making up the governing body of Buyer are the elected or appointed incumbents in their positions and hold their positions in good standing in accordance with the Joint Powers Agreement and other Law.

(b) Buyer has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Buyer's performance under this Agreement. The execution, delivery and performance of this Agreement by Buyer has been duly authorized by all necessary action on the part of Buyer and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Buyer or any other party to any other agreement with Buyer.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Buyer with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Buyer, including but not limited to community choice aggregation, the Joint Powers Act, competitive bidding, public notice, open meetings, election, referendum, or prior appropriation requirements, the documents of formation of Buyer or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Buyer is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Buyer. This Agreement is a legal, valid and binding obligation of Buyer enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) Buyer warrants and covenants that with respect to its contractual obligations under this Agreement, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (1) suit, (2) jurisdiction of court, (3) relief by way of injunction, order for specific performance or recovery of property, (4) attachment of assets, or (5) execution or enforcement of any judgment.

(f) Buyer is a "local public entity" as defined in Section 900.4 of the Government Code of the State of California.

(g) Buyer cannot assert sovereign immunity as a defense to the enforcement of its obligations under this Agreement.

13.3 **General Covenants**. Each Party covenants that commencing on the Effective Date and continuing throughout the Contract Term:

(a) It shall continue to be duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and to be qualified to conduct business in each

jurisdiction where the failure to so qualify would have a material adverse effect on its business or financial condition;

(b) It shall maintain (or obtain from time to time as required) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement; and

(c) It shall perform its obligations under this Agreement in compliance with all terms and conditions in its governing documents and in material compliance with any Law.

13.4 **Prevailing Wage**. Seller shall use commercially reasonable efforts to ensure that all employees hired by Seller (and its contractors and subcontractors) that will perform construction work or provide services at the Site related to construction of the Facility are paid wages at base rates not less than those prevailing for workers performing similar work in the locality as provided by applicable New Mexico Law, if any ("**Prevailing Wages**"). Within one hundred eighty (180) days after the Commercial Operation Date, Seller shall, at Seller's sole expense, provide either (a) a certificate [redacted] reasonably acceptable to Buyer, demonstrating that Seller (and its contractors and subcontractors) paid Prevailing Wages, or (b) a certificate from an officer of Seller certifying that Seller made commercially reasonable efforts to pay Prevailing Wages together [redacted] reasonably acceptable to Buyer of such efforts, and in either case including at a minimum (i) the Prevailing Wages pursuant to New Mexico Law for each applicable trade classification with respect to workers performing work or providing services at the Site, and (ii) the highest and the lowest annual base rate paid to such workers for the Facility in each such classification. Nothing herein shall require Seller, its contractors and subcontractors to comply with, or assume liability created by, other inapplicable provisions of any New Mexico labor laws. Buyer agrees that Seller's obligations under this Section 13.4 may be satisfied upon the execution of a project labor agreement with respect to construction of the Facility.

13.5 **Community Benefits Funding**. Seller shall (a) on or before the date that is thirty (30) days after the date of Financial Close, if such date occurs, pay to Buyer two hundred fifty thousand dollars ($250,000), and (b) on or before the Commercial Operation Date, if such date occurs, pay to Buyer seven hundred fifty thousand dollars ($750,000), both for Buyer to use for community benefits as determined by Buyer in its sole discretion. Any public statements regarding Seller's payments under this Section 13.5 and their direct connection to specific community benefits for which such payments are used shall be subject to Section 18.5.

13.6 **Supplier Diversity Reporting**. From the Original Effective Date until the Commercial Operation Date, upon request from Buyer and on a schedule to be reasonably agreed by the Parties, Seller shall provide a separate "Supplier Plan" setting forth (a) the plans and efforts of Seller to subcontract with businesses owned by women, minorities, disabled veterans, lesbian, gay, bisexual, or transgender persons, or persons with disabilities ("**Diverse Suppliers**"), as more fully defined under CPUC General Order 156 (*provided*, Persons shall qualify as Diverse Suppliers only to the extent such Persons are so certified with the Supplier Clearinghouse as set forth in CPUC General Order 156 or elect to voluntarily self-identify as such to Seller), and (b) the plans and efforts of Seller to subcontract with small, local, and diverse businesses, as more fully defined

under CPUC General Order 156 ("**Small Local Businesses**"); *provided*, such report shall be in a form reasonably acceptable to Buyer.

ARTICLE 14
ASSIGNMENT

14.1 **General Prohibition on Assignments**. Except as provided below in this Article 14, neither Party may voluntarily assign this Agreement or its rights or obligations under this Agreement, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Any 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 shall not be unreasonably withheld, conditioned or delayed; *provided*, a Change of Control of Seller shall not require Buyer's consent if the assignee or transferee is a Permitted Transferee. Any assignment made without the required written consent, or in violation of the conditions to assignment set out below, shall be null and void.

14.2 **Collateral Assignment**. Subject to the provisions of this Section 14.2, Seller has the right to assign this Agreement as collateral for any financing or refinancing (including any tax equity financing) of the Facility without the consent of Buyer. In connection with any financing or refinancing of the Facility by Seller, Buyer shall in good faith work with Seller and Lender to execute a customary and reasonable consent to collateral assignment of this Agreement, as reasonably agreed by Buyer, Seller and Lender; *provided*, Seller shall reimburse Buyer's reasonable and documented out-of-pocket legal fees in connection with negotiating such consent to collateral assignment.

14.3 **Permitted Assignment by Seller**. Seller may, without the prior written consent of Buyer, transfer or assign this Agreement to: (a) an Affiliate of Seller or (b) any Person succeeding to all or substantially all of the assets of Seller (whether voluntary or by operation of law); if, and only if:

(a) the assignee is a Permitted Transferee;

(b) Seller has given Buyer Notice at least fifteen (15) Business Days before the date of such proposed assignment to the extent permitted under applicable Law, and if prior Notice is not permitted because Seller or any other Person involved in the transaction, directly or indirectly, is a publicly traded company and applicable Laws prohibit prior disclosure to Buyer, then within ten (10) Business Days after the date of such assignment [redacted] and

(c) Seller (x) has, except in connection with a Change of Control, provided Buyer a written agreement signed by the Person to which Seller wishes to assign its interests that provides that such Person will assume all of Seller's obligations and liabilities under this Agreement upon such transfer or assignment and (y) certifies that such Person meets the definition of a Permitted Transferee.

Notwithstanding the foregoing, any assignment by Seller, its successors or assigns under this Section 14.3 shall be of no force and effect unless and until such Notice and agreement by the assignee have been received and accepted by Buyer.

14.4 **Shared Facilities; Portfolio Financing**. Buyer agrees and acknowledges that Seller may elect to finance all or any portion of the Facility or the Interconnection Facilities or the Shared Facilities (1) utilizing tax equity or cash equity investment, and/or (2) through a Portfolio Financing, which may include cross-collateralization or similar arrangements. In connection with any financing or refinancing of the Facility, the Interconnection Facilities or the Shared Facilities by Seller or any Portfolio Financing, Buyer, Seller, Portfolio Financing Entity (if any), and Lender shall execute and deliver such further consents, approvals and acknowledgments as may be reasonable and necessary to facilitate such transactions; *provided*, Buyer shall not be required to agree to any terms or conditions which are reasonably expected to have a material adverse effect on Buyer and all reasonable attorney's fees incurred by Buyer in connection therewith shall be borne by Seller.

14.5 **Buyer Financing Assignment.**

(a) Seller agrees that Buyer may assign a portion of its rights and obligations under this Agreement to a Person in connection with a municipal prepayment financing transaction ("**Buyer Assignee**") at any time upon not less than fifteen (15) Business Days' prior notice to Seller by delivering Notice of such assignment, which Notice must include a proposed assignment agreement substantially in the form attached hereto as Exhibit L ("**Assignment Agreement**"); *provided*, at the time of such assignment, such Buyer Assignee has a Credit Rating equal to Baa3 from Moody's and BBB- from S&P. As reasonably requested by Buyer Assignee, Seller shall (i) provide Buyer Assignee with reasonable information and documentation with respect to Seller, including but not limited to account opening information, information related to forecasted generation, Credit Rating, and compliance with anti-money laundering rules, the Dodd-Frank Act, the Commodity Exchange Act, the Patriot Act and similar rules, regulations, requirements and corresponding policies; and (ii) promptly execute such Assignment Agreement and implement such assignment as contemplated thereby, subject only to the countersignature of Buyer Assignee and Buyer, the requirements of this Section 14.5, and Lender consent. From and after any execution of an Assignment Agreement, Buyer shall remain primarily responsible for all its obligations under this Agreement and the Assignment Agreement, including (i) the obligation to pay for all Product and (ii) any and all damages, costs and expenses of Seller associated with Buyer Assignee's failure to take or pay for any such Product as contemplated by this Agreement. In no event shall any assignment by Buyer under this Section 14.5 purport to limit any rights of Seller under, or cause Seller to incur any additional obligations under, this Agreement other than *de minimis* administrative or ministerial obligations.

(b) Subject to the provisions of this Section 14.5(b), if Buyer proposes to use a financing structure other than the financing structure contemplated by the form attached hereto as Exhibit L, including modifying this Agreement to require Seller to deliver some or all of the Facility Energy using Inter-SC Trades or other structure that materially deviates from the terms of this Agreement or the form of Assignment Agreement, Seller agrees to use commercially

reasonable efforts to negotiate with Buyer an assignment agreement providing for such structure, starting from the form of Assignment Agreement attached hereto, as such form shall be modified at the request of Seller to ensure that Seller is satisfied in its reasonable discretion that (x) it will be made financially whole (including for the time value of money) with respect to its financial position under such proposed financing structure compared to Seller's financial position absent such proposed financing structure and the transactions contemplated thereby, including but not limited to with respect to Seller's cash flows and liquidity position, and (y) it will not be required to (i) change the manner in which the Facility is operated, (ii) change the Delivery Point or the transmission path to the Delivery Point, (iii) procure additional or alternative transmission capacity, or (iv) change the way that Energy is delivered (*provided*, such restriction shall not preclude Inter-SC Trades at a different transaction point, such as SP-15); *provided*, such form must include the express requirements that Buyer Assignee shall make timely payment of all amounts due from Buyer under this Agreement, and that Buyer shall remain primarily liable for all of Buyer's obligations under this Agreement and such agreement memorializing such proposed financing structure, including (i) the obligation to pay for all Product and (ii) any and all damages, costs and expenses of Seller associated with Buyer Assignee's failure to take or pay for any such Product as contemplated by this Agreement; *provided further*, Seller's execution of any such agreement memorializing such proposed financing structure shall be subject to Lender consent.

ARTICLE 15
DISPUTE RESOLUTION

15.1 **Governing Law**. This agreement and the rights and duties of the parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law. To the extent enforceable at such time, each party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this agreement. [STC – 17]

15.2 **Dispute Resolution**. In the event of any dispute arising under this Agreement, within ten (10) days following the receipt of a Notice from either Party identifying such dispute, the Parties shall meet, negotiate and attempt, in good faith, to resolve the dispute quickly, informally and inexpensively. If the Parties are unable to resolve a dispute arising hereunder within the earlier of either forty-five (45) days of initiating such discussions, or within sixty (60) days after Notice of the dispute, either Party may seek any and all remedies available to it at law or in equity, subject to the limitations set forth in this Agreement.

15.3 **Attorneys' Fees**. In any proceeding brought to enforce this Agreement or because of the breach by any Party of any covenant or condition herein contained, each Party shall bear its own respective costs, expenses and attorneys' fees in connection with said action.

15.4 **Venue**. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be the federal courts of the United States or, if such federal courts refuse jurisdiction notwithstanding the Parties' agreement, then in the courts of the State of California, in either case sitting in Los Angeles County, California, and the Parties hereto agree to and do hereby

submit to the jurisdiction of such court, and waive any claim or defense that such forum is not convenient or proper.

ARTICLE 16
INDEMNIFICATION

16.1 **Indemnification**.

(a) Each Party (the "**Indemnifying Party**") agrees to indemnify, defend and hold harmless the other Party and its Affiliates, directors, officers, employees and agents (collectively, the "**Indemnified Party**") from and against all claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees) (i) for personal injury or death to Persons and damage to the property of any third party to the extent arising out of, resulting from, or caused by the negligent or willful misconduct of the Indemnifying Party, its Affiliates, its directors, officers, employees, or agents, or (ii) for third-party claims resulting from the Indemnifying Party's breach (including inaccuracy of any representation of warranty made hereunder), performance or non-performance of its obligations under this Agreement.

(b) Seller shall indemnify, defend and hold harmless Buyer and its Affiliates, directors, officers, employees from and against all claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees) in connection with any claims of infringement upon or violation of any trade secret, trademark, trade name, copyright, patent, or other intellectual property rights of any third party by equipment, software, applications or programs (or any portion of same) used in connection with the Facility (an "**IP Indemnity Claim**").

(c) Nothing in this Section 16.1 shall enlarge or relieve Seller or Buyer of any liability to the other for any breach of this Agreement. Neither Party shall be indemnified for its damages resulting from its sole negligence, intentional acts or willful misconduct. These indemnity provisions shall not be construed to relieve any insurer of its obligation to pay claims consistent with the provisions of a valid insurance policy.

16.2 **Claims**. Promptly after receipt by a Party of any claim or Notice of the commencement of any action, administrative, or legal proceeding, or investigation as to which the indemnity provided for in this Article 16 may apply, the Indemnified Party shall notify the Indemnifying Party in writing of such fact. The Indemnifying Party shall assume the defense thereof with counsel designated by the Indemnifying Party and satisfactory to the Indemnified Party, *provided*, if the defendants in any such action include both the Indemnified Party and the Indemnifying Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, the Indemnified Party shall have the right to select and be represented by separate counsel, at the Indemnifying Party's expense, unless a liability insurer is willing to pay such costs. If the Indemnifying Party fails to assume the defense of a claim meriting indemnification, the Indemnified Party may at the expense of the Indemnifying Party contest, settle, or pay such claim; *provided*, settlement or full payment of any such claim may be made only following consent of the Indemnifying Party or, absent such consent, written opinion of the Indemnified Party's counsel that such claim is meritorious or warrants settlement. Except as

otherwise provided in this Article 16, in the event that a Party is obligated to indemnify and hold the other Party and its successors and assigns harmless under this Article 16, the amount owing to the Indemnified Party will be the amount of the Indemnified Party's damages net of any insurance proceeds received by the Indemnified Party following a reasonable effort by the Indemnified Party to obtain such insurance proceeds.

ARTICLE 17
INSURANCE

17.1 **Insurance.**

(a) General Liability. Seller shall maintain, or cause to be maintained at its sole expense, the following types and minimum limits of insurance with a carrier rated "A- VII" or higher by A.M. Best's Key Rating Guide: (i) commercial general liability insurance, including products and completed operations and personal injury (including bodily injury and death) and property damage insurance, with a minimum limit of liability of One Million Dollars ($1,000,000) per occurrence, and a general aggregate of not less than Two Million Dollars ($2,000,000) for combined bodily injury and property damage; and (ii) an umbrella insurance policy in a minimum limit of liability of Ten Million Dollars ($10,000,000). The amounts of liability insurance described in this Article 17 may be satisfied by primary insurance or by any combination of primary and excess/umbrella insurance. Such insurance shall contain standard cross-liability and severability of interest provisions such that each Person is protected in the same manner as though a separate policy has been issued to each but nothing therein shall operate to increase the insurance company's liability beyond the amount the insurance company would have been liable if only one Person or interest had been named as insured. The liability insurance policies referenced in this Article 17 shall (x) provide an endorsement waiving rights of subrogation against Buyer, (y) name Buyer as additional insured on all required liability insurance (except workers compensation), and (z) be primary to any insurance of Buyer that may apply to such occurrence, accident or claim and no "other insurance" provision shall be applicable to Buyer or any additional insureds, by virtue of having been named an additional insured under any policy of insurance.

(b) Workers Compensation and Employer's Liability Insurance. Employers' Liability insurance shall not be less than One Million Dollars ($1,000,000) providing statutory benefits as required by Law (if any exposure exists) for injury, sickness, disability or death of the employees.

(c) Business Auto Liability Insurance. Seller shall maintain at all times during the Contract Term business auto insurance for bodily injury and property damage with limits of One Million Dollars ($1,000,000) combined single limit. Such insurance shall cover liability arising out of Seller's use of all owned (if any), non-owned and hired motor vehicles in the performance of the Agreement.

(d) Property Insurance. Seller shall maintain or cause to be maintained property insurance (construction all-risk or operational all-risk as may be applicable) covering the Facility against physical loss or damage, including coverage for natural perils including but not limited to flood, earthquake, windstorm, severe convective storm and wildfire, all with limits in accordance

with industry standard recognizing that natural perils may be subject to a lower sublimit. Coverage will be on an "all-risk" basis including mechanical and electrical breakdown.

(e) Subcontractor Insurance. Seller shall require all of its tier-one subcontractors to carry: (i) comprehensive general liability insurance with a combined single limit of coverage not less than One Million Dollars ($1,000,000); (ii) workers' compensation insurance and employers' liability coverage in accordance with applicable requirements of Law; and (iii) business auto insurance for bodily injury and property damage with limits of one million dollars ($1,000,000) per occurrence. Seller shall use commercially reasonable efforts to cause all subcontractors shall name Seller as an additional insured to insurance carried pursuant to clauses (e)(i) and (e)(iii). Seller shall use commercially reasonable efforts to cause all subcontractors shall provide a primary endorsement and a waiver of subrogation to Seller for the required coverage pursuant to this Section 17.1(e).

(f) Evidence of Insurance. Within ten (10) days after execution of the Agreement and upon annual renewal thereafter, Seller shall deliver to Buyer certificates of insurance evidencing such coverage. Such certificates shall specify that Buyer shall be given at least thirty (30) days prior Notice by Seller in the event of any material modification, cancellation or termination of coverage. All insurance required herein shall be primary coverage without right of contribution from any insurance of Buyer, and such policies shall be endorsed with a waiver of subrogation in favor of Buyer for all work performed by Seller, its employees, agents and subcontractors and any subrogation rights which may pass to Seller's insurance carriers for the payment of any claims. Any other insurance maintained by Seller is for the exclusive benefit of Seller and shall not in any manner inure to the benefit of Buyer.

(g) Failure to Comply with Insurance Requirements. If Seller fails to comply with any of the provisions of this Article 17, Seller, among other things and without restricting Buyer's remedies under the Law or otherwise, shall, at its own cost and expense, comply with the terms and conditions of Article 16.

ARTICLE 18
CONFIDENTIAL INFORMATION

18.1 **Definition of Confidential Information**. The following constitutes "**Confidential Information**," whether oral or written which is delivered by Seller to Buyer or by Buyer to Seller including: (a) the terms and conditions of, and proposals and negotiations related to, this Agreement, and (b) information that either Seller or Buyer stamps or otherwise identifies as "confidential" or "proprietary" before disclosing it to the other. Confidential Information does not include (i) information that was publicly available at the time of the disclosure, other than as a result of a disclosure in breach of this Agreement; (ii) information that becomes publicly available through no fault of the recipient after the time of the delivery; (iii) information that was rightfully in the possession of the recipient (without confidential or proprietary restriction) at the time of delivery or that becomes available to the recipient from a source not subject to any restriction against disclosing such information to the recipient; and (iv) information that the recipient independently developed without a violation of this Agreement.

18.2 **Duty to Maintain Confidentiality**. The Party receiving Confidential Information (the "**Receiving Party**") from the other Party (the "**Disclosing Party**") shall not disclose Confidential Information to a third party (other than the Party's employees, lenders, counsel, accountants, directors or advisors, or any such representatives of a Party's Affiliates, who have a need to know such information and have agreed to keep such terms confidential) except in order to comply with any applicable Law, regulation, or any exchange, control area or independent system operator rule or in connection with any court or regulatory proceeding applicable to such Party or any of its Affiliates; *provided*, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation. The Parties agree and acknowledge that nothing in this Section 18.2 prohibits a Party from disclosing any one or more of the commercial terms of a transaction (other than the name of the other Party unless otherwise agreed to in writing by the Parties) to any industry price source for the purpose of aggregating and reporting such information in the form of a published energy price index.

The Parties acknowledge and agree that the Agreement and any transactions entered into in connection herewith are subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.). In order to designate information as confidential, the Disclosing Party must clearly stamp and identify the specific portion of the material designated with the word "Confidential." The Parties agree not to over-designate material as Confidential Information. Over-designation includes stamping whole agreements, entire pages or series of pages as "Confidential" that clearly contain information that is not Confidential Information.

Upon request or demand of any third person or entity not a Party hereto to Buyer pursuant to the California Public Records Act for production, inspection and/or copying of Confidential Information ("**Requested Confidential Information**"), Buyer shall as soon as practical, and no later than ten (10) Business Days after receipt, notify Seller in writing via email that such request has been made. Seller shall be solely responsible for taking at its sole expense whatever legal steps are necessary to prevent release of the Requested Confidential Information to the third party by Buyer. If Seller takes no such action after receiving the foregoing Notice from Buyer, Buyer shall, at its discretion, be permitted to comply with the third party's request or demand to the extent Buyer reasonably believes that disclosure is required under the California Public Records Act and is not required to defend against it. If Seller does take or attempt to take such action, Buyer shall provide timely and reasonable cooperation to Seller, if requested by Seller, and Seller agrees to indemnify and hold harmless Buyer, its officers, employees and agents ("**Buyer's Indemnified Parties**"), from any claims, liability, award of attorneys' fees, or damages, and to defend any action, claim or lawsuit brought against any of Buyer's Indemnified Parties for Buyer's refusal to disclose any Requested Confidential Information.

18.3 **Irreparable Injury; Remedies**. Receiving Party acknowledges that its obligations hereunder are necessary and reasonable in order to protect Disclosing Party and the business of Disclosing Party, and expressly acknowledges that monetary damages would be inadequate to compensate Disclosing Party for any breach or threatened breach by Receiving Party of any covenants and agreements set forth herein. Accordingly, Receiving Party acknowledges that any such breach or threatened breach will cause irreparable injury to Disclosing Party and that, in

addition to any other remedies that may be available, in law, in equity or otherwise, Disclosing Party will be entitled to obtain injunctive relief against the threatened breach of this Agreement or the continuation of any such breach, without the necessity of proving actual damages.

18.4 **Further Permitted Disclosure**. Notwithstanding anything to the contrary in this Article 18, Confidential Information may be disclosed by the Receiving Party to any of its agents, consultants, contractors, trustees, or actual or potential investors or financing parties (including, in the case of Seller, its Lender(s)), so long as such Person to whom Confidential Information is disclosed agrees in writing to be bound by confidentiality provisions that are at least as restrictive as this Article 18 to the same extent as if it were a Party.

18.5 **Press Releases**. Neither Party shall issue or make (or cause its Affiliates to issue or make) a written press release or written public statement regarding the transactions contemplated by this Agreement unless both Parties have agreed upon the contents of any such written press release or written public statement, which agreement shall not be unreasonably conditioned, withheld or delayed.

ARTICLE 19
MISCELLANEOUS

19.1 **Entire Agreement; Integration; Exhibits**. This Agreement, together with the Cover Sheet and Exhibits attached hereto constitutes the entire agreement and understanding between Seller and Buyer with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. The Exhibits attached hereto are integral parts hereof and are made a part of this Agreement by reference. The headings used herein are for convenience and reference purposes only. In the event of a conflict between the provisions of this Agreement and those of the Cover Sheet or any Exhibit, the provisions of first the Cover Sheet, and then this Agreement shall prevail, and such Exhibit shall be corrected accordingly. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.

19.2 **Amendments**. This Agreement may only be amended, modified or supplemented by an instrument in writing executed by duly authorized representatives of Seller and Buyer; *provided*, this Agreement may not be amended by electronic mail communications.

19.3 **No Waiver**. Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default.

19.4 **No Agency, Partnership, Joint Venture or Lease**. Seller and the agents and employees of Seller shall, in the performance of this Agreement, act in an independent capacity and not as officers or employees or agents of Buyer. Under this Agreement, Seller and Buyer intend to act as energy seller and energy purchaser, respectively, and do not intend to be treated as, and shall not act as, partners in, co-venturers in or lessor/lessee with respect to the Facility or any business related to the Facility. This Agreement shall not impart any rights enforceable by any

third party (other than a permitted successor or assignee bound to this Agreement) and/or, to the extent set forth herein, any Lender and/or Indemnified Party.

19.5 **Severability**. In the event that any provision of this Agreement is unenforceable or held to be unenforceable, the Parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby. The Parties shall, however, use their best endeavors to agree on the replacement of the void, illegal or unenforceable provision(s) with legally acceptable clauses which correspond as closely as possible to the sense and purpose of the affected provision and this Agreement as a whole.

19.6 **Mobile-Sierra**. Notwithstanding any other provision of this Agreement, neither Party shall seek, nor shall they support any third party 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 written 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 shall be the "public interest" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956). Changes proposed by a non-Party or FERC acting *sua sponte* shall be subject to the most stringent standard permissible under applicable Law.

19.7 **Counterparts**. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument and each of which shall be deemed an original.

19.8 **Electronic Delivery**. This Agreement may be duly executed and delivered by a Party by electronic format (including portable document format (.pdf)) delivery of the signature page of a counterpart to the other Party.

19.9 **Binding Effect**. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

19.10 **No Recourse to Members of Buyer**. Buyer is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to its Joint Powers Agreement and is a public entity separate from its constituent members. Buyer shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Seller shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Buyer's constituent members, or the employees, directors, officers, consultants or advisors of Buyer or its constituent members, in connection with this Agreement.

19.11 **Forward Contract**. The Parties acknowledge and agree that this Agreement constitutes a "forward contract" within the meaning of the U.S. Bankruptcy Code, and Buyer and Seller are "forward contract merchants" within the meaning of the U.S. Bankruptcy Code. Each Party further agrees that, for all purposes of this Agreement, each Party waives and agrees not to

assert the applicability of the provisions of 11 U.S.C. §366 in any Bankruptcy proceeding wherein such Party is a debtor. In any such proceeding, each Party further waives the right to assert that the other Party is a provider of last resort to the extent such term relates to 11 U.S.C. §366 or another provision of 11 U.S.C. §101-1532.

19.12 **Change in Electric Market Design**.

(a) If a change in the CAISO Tariff renders this Agreement or any provisions hereof incapable of being performed or administered, then any Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to make this Agreement capable of being performed and administered, while attempting to preserve to the maximum extent possible the benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, Buyer and Seller shall engage in such negotiations in good faith. If Buyer and Seller are unable, within sixty (60) days after delivery of such request, to agree upon changes to this Agreement or to resolve issues relating to changes to this Agreement, then any Party may submit issues pertaining to changes to this Agreement to the dispute resolution process set forth in Article 15. Notwithstanding the foregoing, (i) a change in cost shall not in and of itself be deemed to render this Agreement or any of the provisions hereof incapable of being performed or administered, and (ii) all of the unaffected provisions of this Agreement shall remain in full force and effect during any period of such negotiation or dispute resolution.

(b) If any of the Transmission Systems utilized to deliver Product to the Delivery Point under this Agreement are integrated into a new or existing regional transmission organization or independent system operator and such integration has a material and adverse impact on either Party's performance under this Agreement, including the costs of either Party to perform, then the affected Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to restore the balance of benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, Buyer and Seller shall engage in such negotiations in good faith; *provided*, neither Party shall be obligated to amend this Agreement if such amendment(s) would adversely affect, or could reasonably be expected to have or result in any adverse effect on, any of such Party's rights, benefits, costs, revenue, value of the Agreement, risks and/or obligations under this Agreement.

19.13 **Further Assurances**. Each of the Parties hereto agrees to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than or in addition to those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the Effective Date.

SUNZIA WIND NORTH LLC,
a Delaware limited liability company

By: Signed by: Lauren Haller C3DD8814383A4DB...
Name: Lauren Haller
Title: Authorized Signatory

CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA,
a California joint powers authority

By: Lindsay Descagnia
Name: Lindsay Descagnia
Title: VP, Power Supply

EXHIBIT A

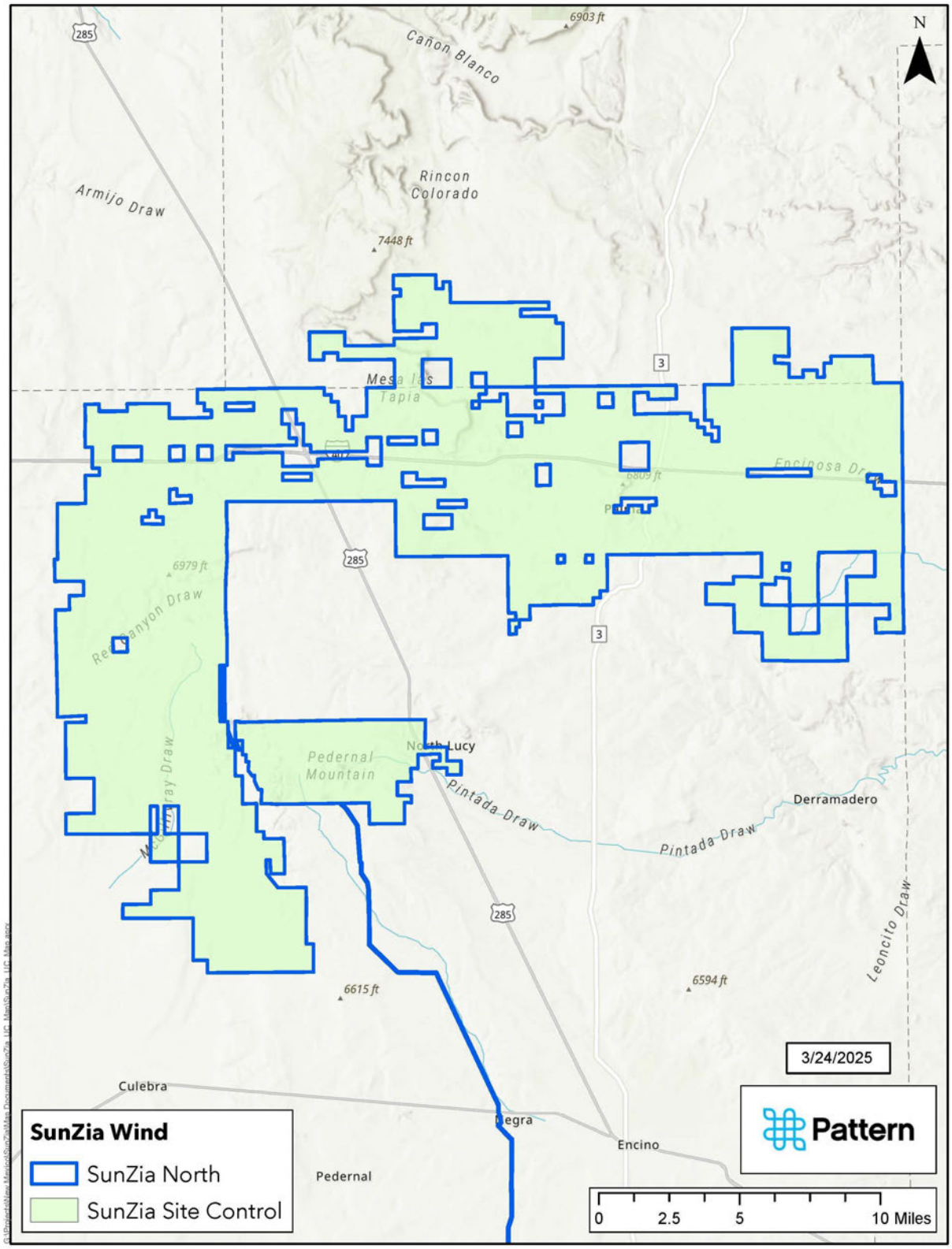
FACILITY DESCRIPTION

The Facility description provided herein reflects Seller's expectation for the Facility and the Site as of the Effective Date. Seller may, by Notice to Buyer prior to the Construction Start Date, modify the Site Name and Site Location within the counties set forth below. Except as otherwise provided in the Agreement, Seller shall not make any alteration or modification to the Facility which results in a change to the Guaranteed Capacity, Guaranteed RA Amount, or to the anticipated output of the Facility without Buyer's prior written consent; *provided*, Seller shall be permitted to repower the Facility after the tenth (10^{th}) Contract Year so long as Seller continues to be obligated to deliver Guaranteed Energy Production and Guaranteed RA Amount associated with the Guaranteed Capacity during such repower; upon any such repower that changes the Installed Capacity, Seller shall deliver an updated Installed Capacity Certificate in the form of Exhibit I.

Site Name: SunZia Wind North

Site Map:

[*Site Map shown on next page*]


N
Cañon Blanco
6903 ft
Armijo Draw
Rincon Colorado
7448 ft
Mesa las Tapia
Encinosa Draw
6809 ft
285
3
6979 ft
Red Canyon Draw
Pedernal Mountain
North Lucy
Pintada Draw
Derramadero
Leoncito Draw
6615 ft
6594 ft
Culebra
Negra
Encino
Pedernal
3/24/2025
Pattern
SunZia Wind
SunZia North
SunZia Site Control
0
2.5
5
10 Miles

Project	Anticipated Nameplate Capacity (MW)*	Wind Turbine Model(s)
SunZia Wind North	1,089.0	Vestas

* the "Anticipated Nameplate Capacity" listed above is the anticipated nameplate capacity for the Facility as of the Effective Date, which shall be subject to modification pursuant to the terms of this Agreement.

Site Location: San Miguel County, New Mexico

Delivery Point: CAISO Scheduling Point-Intertie combination at PALOVRDE_ASR-APND and PVWEST.

Point of Interconnection: the Pete Heinrich AC Switching Station.

Transmission Provider: SunZia Transmission, LLC; Salt River Project Agricultural Improvement and Power District; Tucson Electric Power Company; Desert Southwest Region of Western Area Power Administration; and such other Persons who meet the definition of a Transmission Provider hereunder from time to time.

Technology: Utility Scale Wind Technology

Guaranteed Capacity: 171.5 MW

State: New Mexico

Facility Metering Points: See Exhibit R, as may be updated by Seller from time to time upon Notice to Buyer, so long as such update does not have a materially adverse effect on Buyer, as determined by Buyer in its reasonable discretion.

Participating Transmission Owner: SunZia Transmission, LLC

Alternate Facility Descriptions: the Western Spirit Wind Complex, consisting of the below projects:

1. Clines Corners Wind Project: a 324 MW wind-powered electricity generating facility located in Torrance and Guadalupe Counties, in the State of New Mexico, with CAISO IDs CLINESCO_3_PVDYN and CLINESCO_3_WBDYN.

2. Duran Mesa Wind Project: a 105 MW wind-powered electricity generating facility located in Torrance County, in the State of New Mexico, with CAISO ID DURNMESA_3_WBDYN.

3. Tecolote Wind Project: a 272 MW wind-powered electricity generating facility located in

Torrance and Guadalupe Counties, in the State of New Mexico, with CAISO ID TECOLOTE_3_WBDYN.

EXHIBIT B

FACILITY CONSTRUCTION AND COMMERCIAL OPERATION

1. **Construction of the Facility**.

(a) "**Construction Start**" will occur upon Seller's acquisition of all applicable regulatory authorizations, approvals and permits for commencement of construction of the Facility following Seller's execution of an EPC Contract related to the Facility, and once Seller has issued a notice to proceed that authorizes the contractor to mobilize to Site and begin physical construction (including, at a minimum, excavation for foundations or the installation or erection of improvements) at the Site, and has ordered all essential equipment and supplies as, in each case, can reasonably be considered necessary so that physical construction of the Facility may begin and proceed to completion without foreseeable interruption of material duration. The date of Construction Start will be evidenced by Seller's delivery to Buyer of a certificate substantially in the form attached as Exhibit J hereto, and the date certified therein shall be the "**Construction Start Date**."

(b) Subject to Section 5 of this Exhibit B, Seller may extend the Guaranteed Construction Start Date by paying Daily Delay Damages to Buyer for each day Seller desires to extend the Guaranteed Construction Start Date, not to exceed a total of [redacted] days of extensions by such payment of Daily Delay Damages. On or before the date that is ten (10) days prior to the then-current Guaranteed Construction Start Date, Seller shall provide Notice and payment to Buyer of the Daily Delay Damages for the number of days of extension to the Guaranteed Construction Start Date ("**Daily Delay Damages Payment**"). If Seller achieves Construction Start prior to the Guaranteed Construction Start Date, as extended by the payment of Daily Delay Damages, Buyer shall refund to Seller the Daily Delay Damages for each day Seller achieves Construction Start prior to the Guaranteed Construction Start Date times the Daily Delay Damages, not to exceed the total amount of Daily Delay Damages paid by Seller pursuant to this Section 1(b); *provided* such Daily Delay Damages Payment may, at Seller's option, be in the form of cash or one or more Letter(s) of Credit, which Letter(s) of Credit Buyer may immediately draw on, on a pro rata basis, to receive such Daily Delay Damages Payment; *provided*, if Seller provides such Letter(s) of Credit to Buyer prior to providing Notice of the Daily Delay Damages Payment as set forth above, then Buyer shall not draw on such Letter(s) of Credit until Buyer receives such Notice from Seller. Additionally, if Seller achieves Commercial Operation on or before the Guaranteed Commercial Operation Date (not including any extensions to such date resulting from Seller's payment of Commercial Operation Delay Damages, but as may be extended pursuant to a Development Cure Period), then Buyer shall refund to Seller all Daily Delay Damages paid by Seller and not previously refunded by Buyer.

2. **Commercial Operation of the Facility**. "**Commercial Operation**" means the condition existing when Seller has fulfilled all of the conditions precedent as set forth in Section 2.2 of the Agreement and provided Notice to Buyer substantially in the form of Exhibit H (the "**COD Certificate**").

(a) Seller shall notify Buyer that it intends to achieve Commercial Operation at least sixty (60) days before the anticipated Commercial Operation Date. Seller may continue to increase the Installed Capacity of the Facility after the Commercial Operation Date and will notify Buyer from time to time of such increases by delivering a certificate from a Licensed Professional Engineer substantially in the form attached as Exhibit I hereto; when the Installed Capacity is complete, Seller shall include a statement to that effect in a Notice accompanying the final such certificate.

(b) Subject to Section 2.2 of the Agreement and Section 5 of this Exhibit B, if Seller does not achieve Commercial Operation by the Guaranteed Commercial Operation Date (as it may be otherwise extended hereunder), Seller may elect to extend the Guaranteed Commercial Operation Date by paying Commercial Operation Delay Damages to Buyer for each day Seller desires to extend the Guaranteed Commercial Operation Date, not to exceed a total of one hundred eighty (180) days of extensions by such payment of Commercial Operation Delay Damages. If Seller elects to extend the Guaranteed Commercial Operation Date, on or before the date that is five (5) Business Days prior to the then-current Guaranteed Commercial Operation Date, Seller shall provide Notice and payment to Buyer of the Commercial Operation Delay Damages for the number of days of extension to the Guaranteed Commercial Operation Date ("**COD Delay Damages Payment**"); *provided*, such COD Delay Damages Payment may, at Seller's option, be in the form of cash or one or more Letter(s) of Credit, which Letter(s) of Credit Buyer may immediately draw on, on a pro rata basis, to receive such COD Delay Damages Payment; *provided*, if Seller provides such Letter(s) of Credit to Buyer prior to providing Notice of the COD Delay Damages Payment as set forth above, then Buyer shall not draw on such Letter(s) of Credit until Buyer receives such Notice from Seller. If Seller achieves Commercial Operation prior to the Guaranteed Commercial Operation Date as extended by the payment of the COD Delay Damages Payment, Buyer shall refund to Seller in cash the Commercial Operation Delay Damages for each day Seller achieves Commercial Operation prior to the Guaranteed Commercial Operation Date, as extended, times the Commercial Operation Delay Damages, not to exceed the total amount of the COD Delay Damages Payment paid by Seller pursuant to this Section 2(b).

(c) If Seller is not eligible for a refund of all Daily Delay Damages paid by Seller pursuant to Section 1(b) of this Exhibit B but Seller achieves Commercial Operation within one hundred eighty (180) days after the Guaranteed Commercial Operation Date, Buyer shall refund to Seller an amount equal to the product of (i) the difference of (x) the total amount of Delay Damages paid by Seller, *minus* (y)

the product of (A) the number of days between the Commercial Operation Date and the Guaranteed Commercial Operation Date, *times* (B) the Commercial Operation Delay Damages amount (*provided*, if (x) minus (y) is a negative number, the amount shall be zero (0)); *multiplied by* (ii) the applicable percentage of Daily excess Damages set forth in the table below. Seller shall include a request for refund of such amount with the first invoice to Buyer after Commercial Operation.

Days between the Commercial Operation Date and the Guaranteed Commercial Operation Date	Percentage of excess Delay Damages to be refunded to Seller
1-30	90%
31-90	60%
91-180	40%

3. **Termination for Failure to Achieve Commercial Operation**. If the Facility has not achieved Commercial Operation on or before the Guaranteed Commercial Operation Date (as may be extended hereunder), Buyer may elect to terminate this Agreement in accordance with Sections 11.1(b)(ii) and 11.2. If the Facility has not achieved Commercial Operation on or before the Guaranteed Commercial Operation Date (as may be extended hereunder), and Buyer has not terminated this Agreement on or before the date that is sixty (60) days after the Guaranteed Commercial Operation Date (as may be extended hereunder) in accordance with Sections 11.1(b)(ii) and 11.2, Seller may elect to terminate this Agreement upon Notice to Buyer, it shall not be an Event of Default by either Party, and neither Party shall have any liability to the other Party, except for the payment by Seller, as liquidated damages, of the Damage Payment, and those obligations that survive termination as expressly described in Section 2.1(b) and Section 11.6.

4. **Extension of the Guaranteed Dates**. The Guaranteed Construction Start Date and the Guaranteed Commercial Operation Date shall, subject to notice and documentation requirements set forth below, be extended on a day-for-day basis (the "**Development Cure Period**") for the duration of any and all delays arising out of the following circumstances to the extent (i) the following circumstances are not the result of Seller's failure to take all commercially reasonable actions to meet its requirements and deadlines, and (ii) such delays could not be mitigated by Seller using commercially reasonable efforts to overcome the delays; *provided*, if such delays occur concurrently, the Guaranteed Construction Start Date and/or Guaranteed Commercial Operation Date, as applicable, shall only be extended by a single day for each such concurrent day of delay:

   (a) Seller has not acquired the Material Permits by the Guaranteed Construction Start Date, despite the exercise of diligent and commercially reasonable efforts by Seller; or

   (b) a Force Majeure Event occurs; or

(c) [redacted]

(d) Curtailment Orders (excluding any Transmission System Outage due to the fault or negligence of Seller) that prevent Seller from (i) achieving Initial Synchronization by the expected date for Initial Synchronization as set forth on the Cover Sheet, (ii) completing any condition to Commercial Operation as set forth in Sections 2.2(a) (except with respect to the Item 1 in Exhibit H), 2.2(c) and 2.2(e), the Guaranteed Commercial Operation Date, in each case despite the exercise of commercially reasonable efforts by Seller; or

(e) a delay caused by Buyer.

Seller shall submit any claim for Development Cure Period delays within (x) three (3) Business Days of the applicable milestone in the case of (a), (c) or (d) above, and (y) fourteen (14) days after the initial occurrence of the claimed Force Majeure Event in the case of (b) above, in substantially the form set forth in Exhibit T. Notwithstanding anything in this Agreement to the contrary, the cumulative extensions granted under the Development Cure Period (other than the extensions granted pursuant to clause 4(e) above) shall not exceed one hundred eighty (180) days, for any reason, including a Force Majeure Event, and the cumulative extensions granted to the Guaranteed Commercial Operation Date by the payment of Commercial Operation Delay Damages and any Development Cure Period(s) (other than the extensions granted pursuant to clause 4(e) above) shall not exceed [redacted]. Upon request from Buyer, Seller shall provide documentation demonstrating to Buyer's reasonable satisfaction that the delays described above did not result from Seller's actions or failure to take commercially reasonable actions.

5. [redacted]

EXHIBIT C

COMPENSATION

Buyer shall compensate Seller for the Product in accordance with this Exhibit C.

(a) Renewable Rate. During the Delivery Term, Buyer shall pay Seller the following amounts for each MWh of Facility Energy, retroactively delivered Replacement Energy delivered pursuant to Section 4.7, and Deemed Delivered Energy during each Contract Year:

(i) Facility Energy. For each MWh of Facility Energy and retroactively delivered Replacement Energy delivered pursuant to Section 4.7, in each Settlement Interval or Settlement Period, as applicable, the difference of (A) the Renewable Rate, *minus* (B) the Day-Ahead Market LMP applicable to the Delivery Point for such Settlement Interval or Settlement Period, as applicable; *provided*, (x) if the Day-Ahead Market LMP applicable to the Delivery Point for such Settlement Interval or Settlement Period, as applicable, is less than the Floor Price, (A) if the LMP in the Real-Time Market at the Delivery Point is greater than or equal to the Floor Price, Buyer shall pay the difference of (1) the Renewable Rate *minus* (2) the LMP in the Real-Time Market at the Delivery Point, or (B) if the LMP in the Real-Time Market at the Delivery Point is less than the Floor Price, then such LMP in the Day-Ahead Market will be deemed to be the Floor Price for purposes of this clause (a), and (y) if the result of the foregoing results in a negative value, then Seller shall pay Buyer the absolute value of such result (which payment may be applied as a credit to Buyer on Seller's monthly invoice); and

(ii) Deemed Delivered Energy. For each MWh of Deemed Delivered Energy in each Settlement Interval or Settlement Period, as applicable, Buyer shall pay Seller the Renewable Rate. In addition, during the period in which Seller is receiving the PTC for the Facility Energy, Buyer shall also pay the PTC Amount for all Deemed Delivered Energy; *provided*, *however*, Buyer shall not pay the PTC Amount for Deemed Delivered Energy that was generated by the Facility and sold to a third party during a Market Curtailment Period pursuant to Section 4.4(b). Notwithstanding the foregoing, Seller shall receive no compensation from Buyer, including for the PTC Amount, for Deemed Delivered Energy to the extent that Seller is required to reduce delivery of Facility Energy or would be required to reduce delivery of Deemed Delivered Energy as a result of any Curtailment Period.

(b) Excess Contract Year Deliveries Over 115%. Notwithstanding the foregoing, if at any point in a Contract Year the amount of Facility Energy *plus* Deemed Delivered Energy exceeds one hundred fifteen percent (115%) of the Expected Energy for such Contract Year, Seller shall provide Notice to Buyer thereof and Buyer shall have the right, but not the obligation, to purchase additional Product (which shall include the purchase of Replacement Energy and Deemed Delivered Energy) during such Contract Year. If Buyer elects not to purchase such additional Product for the remainder of such Contract Year, Buyer shall notify Seller thereof, and (i) Seller's obligation to deliver and Buyer's obligation to purchase Product will stop five (5) Business Days following the receipt of such notice by Seller, until the first day of the following Contract Year, and (ii) Seller may sell and deliver Product to any third party until the first day of the following

Contract Year. If Seller makes third-party sales in accordance with this paragraph, Seller shall be entitled to all revenues and shall bear all costs associated with such sales.

(c) Excess Settlement Interval Deliveries. If during any Settlement Interval or Settlement Period, as applicable, Seller delivers Facility Energy in excess of the product of (a) the Hourly Delivery Cap *multiplied by* (b) the duration of the Settlement Interval or Settlement Period, as applicable, expressed in hours ("**Excess MWh**"), then the price applicable to all such Excess MWh in such Settlement Interval shall be zero dollars ($0), and if there is a Negative LMP during such Settlement Interval, Seller shall pay to Buyer an amount equal to the absolute value of the Negative LMP times such Excess MWh.

(d) Test Energy. Test Energy is compensated in accordance with Section 3.6.

(e) Tax Credits. The Parties agree that the Renewable Rate is not subject to adjustment or amendment if Seller fails to receive any Tax Credits, or if any Tax Credits expire, are repealed or otherwise cease to apply to Seller or the Facility in whole or in part, or Seller or its investors are unable to benefit from any Tax Credits. Seller shall bear all risks, financial and otherwise, throughout the Contract Term, associated with Seller's or the Facility's eligibility to receive Tax Credits or to qualify for accelerated depreciation for Seller's accounting, reporting or Tax purposes. The obligations of the Parties hereunder, including those obligations set forth herein regarding the purchase and price for and Seller's obligation to deliver Facility Energy and Product, shall be effective regardless of whether construction of the Facility (or any portion thereof) or the sale of Facility Energy is eligible for, or receives Tax Credits during the Contract Term.

EXHIBIT D

SCHEDULING COORDINATOR RESPONSIBILITIES

(a) Seller as Scheduling Coordinator for the Facility. Seller shall act as the Scheduling Coordinator or designate a qualified third party to provide Scheduling Coordinator services with the CAISO for the Facility to Schedule and deliver Test Energy and the Product at the Delivery Point. Seller shall bid the Facility's generation into the applicable CAISO market pursuant clause (b) below. Each Party shall perform all scheduling activities in compliance with (i) the CAISO Tariff, (ii) WECC scheduling practices, and (iii) Prudent Operating Practice. As between Buyer and Seller hereunder, Seller shall be responsible for reporting the Facility Energy delivered to the CAISO in its FERC electronic quarterly reports. The Parties agree to communicate and cooperate as necessary in order to address any scheduling or settlement issues as they may arise, and to work together in good faith to resolve them in a manner consistent with the terms of the Agreement. To the extent required under the CAISO Tariff, Seller (as the Facility's SC) shall ensure that all Facility Energy is electronically tagged (E-Tagged) in accordance with Prudent Operating Practice, this Agreement, and the applicable CAISO Tariff protocols and Scheduling practices.

(b) CAISO Market Participation.

(i) (x) Seller shall, at Seller's election, submit either bids equal to or below the Floor Price, or Self-Schedules, in each case for the Day-Ahead Forecast into the Day-Ahead Market, and (y) Seller shall, at Seller's election, submit either bids equal to or below the Floor Price, or Self-Schedules, in each case into the Real-Time Market for any portion of the expected Facility Energy above the amount of the Day-Ahead Forecast that is awarded a Day-Ahead Schedule. Seller may, but is not required to, reduce deliveries of Product during periods in which the LMP in the Day-Ahead Market or Real-Time Market at the Delivery Point is less than the Floor Price, as applicable; *provided*, Seller shall not reduce deliveries of Product below the amount of the Day-Ahead Forecast that has been awarded a Day-Ahead Schedule during periods in which the LMP in the Real-Time Market at the Delivery Point is less than the Floor Price; *provided further*, if Seller does not reduce deliveries of Product during such periods, Seller shall be compensated for such Facility Energy pursuant to Section (a) in Exhibit C, and such Facility Energy shall not be considered to be Deemed Delivered Energy.

(ii) The Parties agree to use good faith efforts to work together to permit Buyer to set the Floor Price on a [redacted] basis upon not less than ten (10) Business Days' Notice to Seller; *provided*, *however*, that Buyer shall not have the right to set the Floor Price at a price that is greater than (i) for the period during which Seller is eligible to obtain PTCs for Facility Energy, the Negative PTC Amount, and (ii) after the period during which Seller is eligible to obtain PTCs for Facility Energy, zero dollars per MWh ($0/MWh).

(c) CAISO Costs and Revenues. As the Scheduling Coordinator for the Facility, Seller shall be responsible for all CAISO costs, including without limitation, all penalties, Imbalance Energy charges, and other charges, and shall be entitled to all CAISO revenues, including without limitation, credits, Imbalance Energy payments, and revenues associated with CAISO dispatches,

bid cost recovery, Inter-SC Trade credits, or other credits in respect of the Product scheduled or delivered from the Facility. Seller shall be responsible for all CAISO penalties resulting from any failure by Seller to abide by the CAISO Tariff. The Parties agree that any Availability Incentive Payments (as defined in the CAISO Tariff) are for the benefit of Seller and for Seller's account and that any Non-Availability Charges (as defined in the CAISO Tariff) are the responsibility of Seller and for Seller's account. In addition, if during the Delivery Term, the CAISO implements or has implemented any sanction or penalty related to scheduling, outage reporting, or generator operation, the cost of such sanctions or penalties arising from the scheduling, outage reporting, or generator operation of the Facility shall be Seller's responsibility.

(d) Master File and Resource Data Template. Seller shall provide the data to the CAISO (and to Buyer) that is required for the CAISO's Master File and Resource Data Template (or successor data systems) for the Facility consistent with this Agreement. Neither Party shall change such data without the other Party's prior written consent.

(e) Customer Market Results Interface Access. Seller shall provide to Buyer read-only access to Seller's (or its SC's) customer market results interface for the Facility.

EXHIBIT E

PROGRESS REPORTING FORM

Each Progress Report must include the following items:

1. Executive summary.

2. Current facility description.

3. Current Site plan of the Facility.

4. Description of any planned changes to the Facility or the Site from the previous Progress Report.

5. Gantt chart or schedule showing progress on achieving each of the Milestones.

6. Summary of activities during the previous calendar quarter or month, as applicable, including any OSHA labor hour reports.

7. Forecast of activities scheduled for the current calendar quarter or month, as applicable.

8. Written description about the progress relative to Seller's Milestones, including (i) whether Seller has met or is on target to meet the Milestones, and (ii) if a Milestone has been delayed, a description of the cause of the delay, potential courses of action to achieve such missed Milestone and all subsequent Milestones.

9. List of issues that could reasonably foreseeably affect Seller's Milestones.

10. A status report of start-up activities including a forecast of activities ongoing and after start-up, a report on Facility performance including performance projections for the next twelve (12) months.

11. Schedule of status of all major construction agreements, permits, financing agreements and major equipment purchase orders showing the start dates, anticipated completion dates, and completion percentages.

12. Schedule of all Material Permits obtained through the date of the Progress Report.

13. Pictures, in sufficient quantity and of appropriate detail, in order to document construction and startup progress of the Facility, the interconnection into the PTO's Transmission System and all other interconnection utility services.

EXHIBIT F-1

MONTHLY EXPECTED AVAILABLE CAPACITY

[MW Per Hour] – [*Insert Month*]

	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00
JAN																								
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MAR																								
APR																								
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SEP																								
OCT																								
NOV																								
DEC																								

The foregoing table is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement.

EXHIBIT F-2

MONTHLY EXPECTED FACILITY ENERGY

[MWh Per Hour] – [*Insert Month*]

	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00
JAN																								
FEB																								
MAR																								
APR																								
MAY																								
JUN																								
JUL																								
AUG																								
SEP																								
OCT																								
NOV																								
DEC																								

The foregoing table is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement.

EXHIBIT G

GUARANTEED ENERGY PRODUCTION DAMAGES CALCULATION

In accordance with Section 4.7, if Seller fails to achieve the Guaranteed Energy Production during any Performance Measurement Period, a liquidated damages payment shall be due from Seller to Buyer, calculated as follows:

[(A – B) * (C – D)] – (E + F)

where:

A = the Guaranteed Energy Production amount for the Performance Measurement Period, in MWh

B = the Adjusted Energy Production amount for the Performance Measurement Period, in MWh

C = Replacement price for the Performance Measurement Period, in $/MWh, which is the sum of (a) the simple average of the LMP in the Day-Ahead Market at the Delivery Point for all of the hours in the Performance Measurement Period, *plus* (b) the REC Price

D = the Renewable Rate, in $/MWh

E = The amount of Energy Replacement Damages paid by Seller with respect to the immediately preceding Performance Measurement Period

F = The product of (a) the amount of Replacement Product in MWhs delivered by Seller with respect to the immediately preceding Contract Year and (b) the price which is (C – D)

[redacted]

"**Adjusted Energy Production**" shall mean the sum of the following: Facility Energy + Deemed Delivered Energy + Lost Output.

"**Replacement Energy**" means Energy that is produced by the Facility or the Alternate Facility and provided by Seller to Buyer as Replacement Product, in an amount equal to the amount of Replacement Green Attributes provided by Seller as Replacement Product for the same Performance Measurement Period.

"**Replacement Green Attributes**" means Renewable Energy Credits that are of the same Portfolio Content Category (i.e., PCC1) as the Green Attributes portion of the Product, and that may be used in connection with the same compliance period applicable to Buyer under the RPS program as the Renewable Energy Credits that would have been generated by the Facility.

"**Replacement Product**" means (a) Replacement Energy, and (b) Replacement Green Attributes in an amount not to exceed ten percent (10%) of the Expected Energy for the Contract Year in connection with which such Replacement Product is delivered.

No payment shall be due if the calculation of (a) (A – B), (b) (C – D), or (c) [(A – B) * (C – D)] – (E + F), yields a negative number. In no event will Buyer owe any payment to Seller pursuant to this Exhibit G.

Within sixty (60) days after each Contract Year, Buyer shall send Seller Notice of the amount of damages owing, if any, which shall be payable to Buyer before the later of (a) thirty (30) days of such Notice and (b) ninety (90) days after each Performance Measurement Period; *provided*, the amount of damages owing shall be adjusted to account for Replacement Product, if any, delivered after each applicable Performance Measurement Period.

EXHIBIT H

FORM OF COMMERCIAL OPERATION DATE CERTIFICATE

This certification ("**Certification**") of Commercial Operation is delivered by the undersigned, a licensed professional engineer and duly authorized representative of _____ in its capacity as independent engineer ("**Engineer**") for purposes of this certification, to Clean Power Alliance of Southern California, a California joint powers authority **(**"**Buyer**"), pursuant to the [agreement between Seller and Engineer] and in connection with that certain Renewable Power Purchase Agreement (SunZia North) dated _____ ("**Agreement**") by and between [Pattern Entity] ("**Seller**") and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Engineer hereby certifies and represents to Buyer the following:

(1) Wind turbines with a nameplate capacity at least equal to at least 100% of the Guaranteed Installed Capacity have been installed at the Facility.

(2) Testing and commissioning of each wind turbine referred to in paragraph (1) above has been completed in accordance with the turbine supply agreement, and each such wind turbine has delivered electricity to the Point of Interconnection specified in the Interconnection Agreement.

(3) The Participating Transmission Owner has provided documentation supporting full unrestricted release of at least the Guaranteed Installed Capacity for Commercial Operation on _____[DATE]_____.

(4) the CAISO has provided notification that the Energy generation from a portion of the Facility that is no smaller than the Guaranteed Installed Capacity may be scheduled into the CAISO markets on an unconditional basis in accordance with the CAISO Tariff and Business Practice Manual(s) as applicable, including the New Resource Implementation process.

EXECUTED on this _____ day of _____, 20__.

Sincerely,

By:_____
[NAME], P.E.
[TITLE]
New Mexico License No. [##]

EXHIBIT I

FORM OF INSTALLED CAPACITY CERTIFICATE

This certification ("**Certification**") of Installed Capacity is delivered by the undersigned, a licensed professional engineer and duly authorized representative of _____ in its capacity as independent engineer ("**Engineer**") for purposes of this certification, to Clean Power Alliance of Southern California, a California joint powers authority ("**Buyer**"), pursuant to the [agreement between Seller and Engineer] and in connection with that certain Renewable Power Purchase Agreement (SunZia North) dated _____ ("**Agreement**") by and between [Pattern Entity] ("**Seller**") and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

As of the date set forth below, [___] wind turbines with an aggregate nameplate capacity of [__], which is the Installed Capacity as of the date hereof, have been installed at the Facility, and testing and commissioning of each such wind turbines has been completed in accordance with the turbine supply agreement and each such wind turbine has delivered electricity to the Point of Interconnection specified in the Interconnection Agreement.

EXECUTED on this _____ day of _____, 20__.

Sincerely,

By:_____
[NAME], P.E.
[TITLE]
New Mexico License No. [##]
Exp. [DATE]

EXHIBIT J

FORM OF CONSTRUCTION START DATE CERTIFICATE

This certification of Construction Start Date ("**Certification**") is delivered by [SELLER ENTITY] ("**Seller**") to Clean Power Alliance of Southern California, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Renewable Power Purchase Agreement (SunZia North) dated _____ ("**Agreement**") by and between Seller and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Seller hereby certifies and represents to Buyer the following:

(1) the EPC Contract related to the Facility was executed on _____;

(2) the notice to proceed with the construction of the Facility was issued on _____ (attached);

(3) the Construction Start Date (as defined in Exhibit B of the Agreement) has occurred as of _____; and

(4) the precise Site on which the Facility is located is (which must be within the boundaries of the previously identified Site):

_____

(such description shall amend the description of the Site in Exhibit A).

IN WITNESS WHEREOF, the undersigned has executed this Certification on behalf of Seller as of the ___ day of _____.

[SELLER ENTITY]

By:_____
Its:_____

Date:_____

EXHIBIT K

FORM OF LETTER OF CREDIT

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [●]

DATE: [●]

BENEFICIARY:

APPLICANT: SUNZIA WIND NORTH LLC

1088 SANSOME STREET, SAN FRANCISCO, CA 94111

EXPIRATION DATE: [●]

AMOUNT/CURRENCY: [●]

AT THE REQUEST OF AND FOR THE ACCOUNT OF APPLICANT, WE, [INSERT BANK NAME AND ADDRESS] ("ISSUER"), HEREBY ESTABLISH IN YOUR FAVOR IN RESPECT OF OBLIGATIONS OF APPLICANT OUR IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER [●] ("LETTER OF CREDIT") IN FAVOR OF CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, A CALIFORNIA JOINT POWERS AUTHORITY ("BENEFICIARY"), 801 S GRAND, SUITE 400, LOS ANGELES, CA 90017, WHEREBY, SUBJECT TO THE TERMS AND CONDITIONS CONTAINED HEREIN, BENEFICIARY IS HEREBY AUTHORIZED TO DRAW ON US, BY SIGHT, BY ITS DRAWING STATEMENT AS PROVIDED HEREIN, FOR AN AGGREGATE AMOUNT UP TO BUT NOT EXCEEDING [●] (THE "FACE AMOUNT").

WE ARE ADVISED THIS LETTER OF CREDIT IS IRREVOCABLE AND IS ESTABLISHED AS SECURITY PURSUANT TO THAT CERTAIN RENEWABLE POWER PURCHASE AGREEMENT (SUNZIA NORTH) DATED AS OF _____, 2025 BETWEEN APPLICANT AND BENEFICIARY (AS AMENDED, SUPPLEMENTED, OR RESTATED FROM TIME TO TIME, THE "AGREEMENT").

THIS LETTER OF CREDIT SHALL BE EFFECTIVE IMMEDIATELY AND SHALL EXPIRE ON [●], WHICH IS ONE YEAR AFTER THE ISSUE DATE OF THIS LETTER OF CREDIT, OR ANY EXPIRATION DATE EXTENDED IN ACCORDANCE WITH THE TERMS HEREOF (THE "EXPIRATION DATE").

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT SHALL BE AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR ADDITIONAL TWELVE (12) MONTH PERIODS FROM THE PRESENT OR EACH FUTURE EXPIRATION DATE, BUT IN NO EVENT TO AN EXPIRATION DATE LATER THAN [●] (THE "FINAL EXPIRATION DATE"), UNLESS AT LEAST NINETY (90) DAYS PRIOR TO THE EXPIRATION DATE WE SEND NOTICE IN WRITING TO YOU VIA HAND DELIVERY OR OVERNIGHT COURIER AT THE ABOVE ADDRESS, THAT WE ELECT NOT TO

AUTOMATICALLY EXTEND THIS LETTER OF CREDIT FOR ANY ADDITIONAL PERIOD.

ON OR BEFORE THE EXPIRATION DATE OF THIS LETTER OF CREDIT YOU MAY DRAW ON US HEREUNDER FOR UP TO THE FULL UNUTILIZED AMOUNT AVAILABLE AS OF THE DATE OF DRAWING ON THIS LETTER OF CREDIT.

PARTIAL AND MULTIPLE DRAWINGS ARE PERMITTED UNDER THIS LETTER OF CREDIT (PROVIDED THAT THE CUMULATIVE AGGREGATE AMOUNT THAT MAY BE DEMANDED UNDER THIS LETTER OF CREDIT SHALL NOT EXCEED THE FACE AMOUNT), AND THIS LETTER OF CREDIT SHALL REMAIN IN FULL FORCE AND EFFECT WITH RESPECT TO ANY CONTINUING BALANCE.

FUNDS UNDER THIS LETTER OF CREDIT SHALL BE AVAILABLE TO THE BENEFICIARY UPON PRESENTATION TO US OF A DATED DRAWING CERTIFICATE IN THE FORM OF EXHIBIT A HERETO (WHICH IS AN INTEGRAL PART OF THIS LETTER OF CREDIT) PURPORTEDLY SIGNED BY THE BENEFICIARY'S DULY AUTHORIZED REPRESENTATIVE.

THE DRAWING CERTIFICATE MAY BE PRESENTED BY (A) PHYSICAL DELIVERY TO [ADDRESS] OR (B) BY FACSIMILE TO FACSIMILE NUMBER [●] (EACH SUCH DRAWING, A "FAX DRAWING"); PROVIDED, HOWEVER, THAT A FAX DRAWING WILL NOT BE EFFECTIVELY PRESENTED UNTIL YOU CONFIRM BY TELEPHONE OUR RECEIPT OF SUCH FAX DRAWING BY CALLING US AT TELEPHONE NUMBER [●] OR YOU CONFIRM BY EMAIL AT: [●]. IF YOU PRESENT A FAX DRAWING UNDER THIS LETTER OF CREDIT YOU DO NOT NEED TO PRESENT THE ORIGINAL OF ANY DRAWING DOCUMENTS, AND IF WE RECEIVE ANY SUCH ORIGINAL DRAWING DOCUMENTS THEY WILL NOT BE EXAMINED BY US. IN THE EVENT OF A FULL AND FINAL DRAWING THE ORIGINAL STANDBY LETTER OF CREDIT MUST BE RETURNED TO US BY OVERNIGHT COURIER.

ALL PAYMENTS MADE UNDER THIS LETTER OF CREDIT SHALL BE MADE WITH ISSUER'S OWN IMMEDIATELY AVAILABLE FUNDS BY MEANS OF WIRE TRANSFER IN IMMEDIATELY AVAILABLE UNITED STATES DOLLARS TO BENEFICIARY'S ACCOUNT AS INDICATED BY BENEFICIARY IN ITS DRAWING CERTIFICATE OR IN A COMMUNICATION ACCOMPANYING ITS DRAWING CERTIFICATE.

WE HEREBY AGREE THAT THE DRAWING DOCUMENTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT WILL BE DULY HONORED BY US UPON DELIVERY OF THE ABOVE SPECIFIED DRAWING CERTIFICATE, IF PRESENTED ON OR BEFORE THE EXPIRATION DATE AS SPECIFIED HEREIN.

AS STIPULATED HEREIN, "BUSINESS DAY" SHALL MEAN ANY DAY OTHER THAN A SATURDAY, SUNDAY OR A DAY ON WHICH BANKING INSTITUTIONS IN THE STATE

OF _____ ARE AUTHORIZED OR REQUIRED BY LAW TO CLOSE. IF ANY DRAWING OR THE DOCUMENTATION PRESENTED IN CONNECTION THEREWITH, DOES NOT CONFORM TO THE TERMS AND CONDITIONS HEREOF, WE WILL ADVISE YOU OF THE SAME BY TELEPHONE OR FACSIMILE AND GIVE THE REASONS FOR SUCH NON-CONFORMANCE.

THIS LETTER OF CREDIT IS ISSUED SUBJECT TO THE RULES OF THE 'INTERNATIONAL STANDBY PRACTICES 1998', INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 590 ('ISP98') AND AS TO MATTERS NOT ADDRESSED BY ISP98 SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF STATE OF NEW YORK.

NOTWITHSTANDING ANY REFERENCE IN THIS LETTER OF CREDIT TO ANY OTHER DOCUMENTS, INSTRUMENTS OR AGREEMENTS (OTHER THAN AS SET FORTH IN THE IMMEDIATELY PRIOR PARAGRAPH), THIS LETTER OF CREDIT CONTAINS THE ENTIRE AGREEMENT BETWEEN BENEFICIARY AND ISSUER RELATING TO THE OBLIGATIONS OF ISSUER HEREUNDER.

OTHER THAN AS PROVIDED HEREIN, COMMUNICATIONS WITH RESPECT TO THIS LETTER OF CREDIT SHALL BE IN WRITING, SHALL SPECIFICALLY REFER TO BENEFICIARY AND TO OUR LETTER OF CREDIT NO. [●], AND SHALL BE ADDRESSED TO: [●] [ISSUING BANK'S NAME AND ADDRESS]

ALL NOTICES TO BENEFICIARY SHALL BE IN WRITING AND ARE REQUIRED TO BE SENT BY CERTIFIED LETTER, OVERNIGHT COURIER OR DELIVERED IN PERSON TO: [BENEFICIARY], ATTN: [BENEFICIARY ADDRESS]. ONLY NOTICES TO BENEFICIARY MEETING THE REQUIREMENTS OF THIS PARAGRAPH SHALL BE CONSIDERED VALID. ANY NOTICE TO BENEFICIARY WHICH IS NOT IN ACCORDANCE WITH THIS PARAGRAPH SHALL BE VOID AND OF NO FORCE OR EFFECT.

ALL COSTS RELATED TO THIS LETTER OF CREDIT SHALL BE PAID BY THE APPLICANT.

ALL PARTIES TO THIS LETTER OF CREDIT ARE ADVISED THAT THE U.S. AND CANADIAN GOVERNMENT HAS IN PLACE CERTAIN SANCTIONS AGAINST CERTAIN COUNTRIES, TERRITORIES, INDIVIDUALS, ENTITIES, AND VESSELS. ISSUER ENTITIES, INCLUDING BRANCHES AND, IN CERTAIN CIRCUMSTANCES, SUBSIDIARIES, ARE/WILL BE PROHIBITED FROM ENGAGING IN TRANSACTIONS OR OTHER ACTIVITIES WITHIN THE SCOPE OF APPLICABLE SANCTIONS.

THIS LETTER OF CREDIT MAY BE SIGNED BY THE ISSUING BANK WITH EITHER A DIGITAL OR ORIGINAL SIGNATURE, EITHER OF WHICH SHALL BE LEGALLY VALID AND ENFORCEABLE. THE ISSUING BANK MAY TRANSMIT THIS LETTER OF CREDIT TO THE BENEFICIARY BY MAIL, FAX OR ELECTRONIC TRANSMISSION. FOR THE AVOIDANCE OF DOUBT, ANY ELECTRONIC PDF VERSION OF THIS LETTER OF

CREDIT RECEIVED BY THE BENEFICIARY SHALL BE AN OPERATIVE INSTRUMENT AND MAY BE USED BY THE BENEFICIARY AS IT WOULD A HARDCOPY ORIGINAL.

EXHIBIT "A"

DRAWING CERTIFICATE

TO: [ISSUING BANK]

[ADDRESS]

RE: IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER [●] ISSUED BY [ISSUING BANK] TO [BENEFICIARY] ("LETTER OF CREDIT"); CAPITALIZED TERMS USED BUT NOT DEFINED IN THIS DRAWING CERTIFICATE HAVE THE MEANINGS ASCRIBED TO THEM IN THE LETTER OF CREDIT)

THIS IS A DRAWING CERTIFICATE UNDER THE ABOVE-MENTIONED LETTER OF CREDIT.

I,_____, AN AUTHORIZED REPRESENTATIVE OF [BENEFICIARY], DO HEREBY CERTIFY THAT:

APPLICANT AND BENEFICIARY ARE PARTY TO THAT CERTAIN RENEWABLE POWER PURCHASE AGREEMENT (SUNZIA NORTH) DATED AS OF _____, 2025 (AS AMENDED, SUPPLEMENTED, OR RESTATED FROM TIME TO TIME, THE "AGREEMENT").

THE DRAWING UNDER THIS LETTER OF CREDIT IS IN AN AMOUNT DETERMINED ON A PROPORTIONATE BASIS WITH RESPECT TO EACH OTHER OUTSTANDING LETTER OF CREDIT (OR OTHER FORM OF CREDIT SUPPORT) PROVIDED BY OR ON BEHALF OF THE APPLICANT TO BENEFICIARY IN SUPPORT OF THE AGREEMENT AS [DEVELOPMENT SECURITY] [PERFORMANCE SECURITY] [SECURITY FOR PAYMENT OF DAILY DELAY DAMAGES IN ACCORDANCE WITH EXHIBIT B OF THE AGREEMENT] [SECURITY FOR PAYMENT OF COMMERCIAL OPERATION DELAY DAMAGES IN ACCORDANCE WITH EXHIBIT B OF THE AGREEMENT], AND DOES NOT EXCEED A PRO RATA AMOUNT WITH RESPECT TO A CONCURRENT DRAWING UNDER EACH SUCH OTHER OUTSTANDING LETTER OF CREDIT (OR OTHER FORM OF CREDIT SUPPORT).

[CHOOSE ONLY ONE OF THE FOLLOWING]

(1) BENEFICIARY IS MAKING A DRAWING UNDER THIS LETTER OF CREDIT IN THE AMOUNT OF U.S. $_____ BECAUSE [AN EVENT OF DEFAULT (AS SUCH TERM IS DEFINED IN THE AGREEMENT) WITH RESPECT TO SELLER HAS OCCURRED OR OTHER OCCASION PROVIDED FOR IN THE AGREEMENT WHERE BENEFICIARY IS AUTHORIZED TO DRAW ON THE LETTER OF CREDIT HAS OCCURRED]

[OR] [A DAILY DELAY DAMAGES PAYMENT IS DUE UNDER THE AGREEMENT] [OR] [A COMMERCIAL OPERATION DELAY DAMAGES PAYMENT IS DUE UNDER THE AGREEMENT].

(2) BENEFICIARY IS MAKING A DRAWING UNDER THIS LETTER OF CREDIT IN THE AMOUNT OF U.S. $_____, WHICH EQUALS THE FULL AVAILABLE AMOUNT UNDER THE LETTER OF CREDIT, BECAUSE APPLICANT IS REQUIRED TO MAINTAIN THE LETTER OF CREDIT IN FORCE AND EFFECT BEYOND THE EXPIRATION DATE OF THE LETTER OF CREDIT BUT HAS FAILED TO PROVIDE BENEFICIARY WITH A REPLACEMENT LETTER OF CREDIT OR OTHER ACCEPTABLE INSTRUMENT WITHIN THIRTY (30) DAYS PRIOR TO SUCH EXPIRATION DATE.

IN ACCORDANCE WITH THE TERMS OF THE AGREEMENT, CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, A CALIFORNIA JOINT POWERS AUTHORITY IS ENTITLED TO AND HEREBY DEMANDS PAYMENT OF USD _____, SUCH AMOUNT TO BE PAID TO [BENEFICIARY] BY WIRE TRANSFER IN IMMEDIATELY AVAILABLE FUNDS TO: (INSERT WIRE INSTRUCTIONS),WHICH, CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA CERTIFIES IT IS ENTITLED TO UNDER THE AGREEMENT.

COMMUNICATIONS TO ME CONCERNING THIS DRAWING CERTIFICATE MAY BE MADE AT FOLLOWING TELEPHONE AND FACSIMILE NUMBERS: _____; _____.

IN WITNESS WHEREOF, [BENEFICIARY] THROUGH ITS AUTHORIZED REPRESENTATIVE HAS EXECUTED AND DELIVERED THIS DRAWING CERTIFICATE THIS DAY OF , 20 _.

[____]

BY:_____

NAME:_____

TITLE:_____.

EXHIBIT L

FORM OF LIMITED ASSIGNMENT AGREEMENT

FORM OF ASSIGNMENT SCHEDULE
[SELLER ENTITY]

Assigned Product: Energy and Green Attributes (PCC1)

Assigned Delivery Point: [__]

Assigned Prepay Quantity: As set forth in Appendix 2; provided that (i) all Assigned Products shall be delivered pursuant to the Limited Assignment Agreement during the Assignment Period as provided in Appendix 1 and (ii) the Assigned Prepay Quantity is defined for the convenience of PPA Buyer and [Financing Party] and shall have no impact on the obligations of the Parties under the Limited Assignment Agreement.

APC Contract Price: $[__]/MWh

Assignment Period: [__]

ANNEX I – FORM OF LIMITED ASSIGNMENT AGREEMENT

This Limited Assignment Agreement (this "**Assignment Agreement**" or "**Agreement**") is entered into as of [_____] by and among [PPA Seller], a [_____] ("**PPA Seller**"), Clean Power Alliance, a California joint powers authority ("**PPA Buyer**"), and [Financing Party], a [_____] ("**Financing Party**"), and relates to that certain power purchase agreement (the "**PPA**") between PPA Buyer and PPA Seller as defined in Appendix 1 hereto. Unless the context otherwise specifies or requires, capitalized terms used but not defined in this Agreement have the meanings set forth in the PPA.

In consideration of the premises above and the mutual covenants and agreements herein set forth, PPA Seller, PPA Buyer and Financing Party (the "**Parties**" hereto; each is a "**Party**") agree as follows:

1. Limited Assignment and Delegation.

(a) PPA Buyer hereby assigns, transfers, and conveys to Financing Party all right, title and interest in and to the rights of PPA Buyer under the PPA to receive delivery of, or have made available to it, the products described in Appendix 1 (collectively, the "**Assigned Product**") during the Assignment Period (as defined in Appendix 1), as such rights may be limited or further described in the "Further Information" section on Appendix 1 (the "**Assigned Product Rights**"). All Assigned Product shall be delivered pursuant to the terms and conditions of this Agreement during the Assignment Period as provided in Appendix 1. All other rights of PPA Buyer under the PPA are expressly reserved for PPA Buyer. The Parties agree that the assignment, transfer and/or conveyance of all or any portion of the Assigned Products in accordance with this Agreement and the Parties' performance of any obligation in accordance with this Agreement shall not constitute a failure to meet the requirements of the PPA, or a breach of any covenant, representation or warranty under the PPA (and in no event shall Seller be responsible for any failure of any portion of the Assigned Products to satisfy the requirements of the PPA, to the extent such failure results from the assignment, transfer and/or conveyance of such Assigned Products in accordance with this Agreement).

(b) PPA Buyer hereby delegates to Financing Party the obligation to pay for all Assigned Product that is actually delivered to Financing Party pursuant to the Assigned Product Rights during the Assignment Period (the "**Delivered Product Payment Obligation**" and together with the Assigned Product Rights, collectively the "**Assigned Rights and Obligations**"); provided that (i) all other obligations of PPA Buyer under the PPA are expressly retained by PPA Buyer and PPA Buyer shall be solely responsible for any amounts due to PPA Seller that are not directly related to Assigned Product; and (ii) the Parties acknowledge and agree that PPA Seller will only be obligated to deliver a single consolidated invoice during the Assignment Period (with a copy to Financing Party consistent with Section 1(d) hereof). To the extent Financing Party fails to pay the Delivered Product Payment Obligation by the due date for payment set forth in the PPA, notwithstanding anything in this Agreement to the contrary, PPA Buyer agrees that it shall remain responsible for payment of such Delivered Product Payment Obligation and that PPA Seller may declare an Event of Default pursuant to Section 11.1(a)(i) of the PPA if Buyer does not make such payment within five (5) Business Days of receiving Notice of such non-payment from PPA Seller, and that PPA Buyer shall remain liable for any and all damages, costs and expenses of Seller associated with Financing Party's failure to take or pay for any such Product as contemplated by this Agreement. The Parties acknowledge and agree that (i) the Assigned Rights and Obligations include only a

portion of PPA Buyer's rights and obligations under the PPA, and that all rights and obligations arising under the PPA that are not expressly included in the Assigned Rights and Obligations shall be "Retained Rights and Obligations" that are retained solely by PPA Buyer, and (ii) the Retained Rights and Obligations include all rights and obligations of PPA Buyer arising during the Assignment Period except the rights and obligations expressly included in the Assigned Rights and Obligations. Any claims arising or existing in connection with or related to the PPA, whether related to performance by PPA Seller, PPA Buyer or Financing Party, and whether arising before, during or after the Assignment Period, in each case excluding the Delivered Product Payment Obligation (provided, however, PPA Buyer still remains liable that all amounts due and owing under the PPA are timely paid), will be included in the Retained Rights and Obligations, and any such claim will be resolved exclusively between PPA Seller and PPA Buyer in accordance with the PPA.

(c) Financing Party hereby accepts and PPA Seller hereby consents and agrees to the assignment, transfer, conveyance, and delegation described in clauses (a) and (b) above.

(d) All scheduling of Assigned Product and other communications related to the PPA shall take place pursuant to the terms of the PPA; provided that during the Assignment Period (i) title to Assigned Product will pass from PPA Seller to Financing Party upon delivery or making available by PPA Seller of Assigned Product in accordance with the PPA; (ii) PPA Buyer will provide copies to Financing Party of any Notice of a Force Majeure Event or Event of Default or default, breach or other occurrence that, if not cured within the applicable grace period, could result in an Event of Default contemporaneously upon delivery thereof to PPA Seller and promptly after receipt thereof from PPA Seller; (iii) PPA Seller will provide copies to Financing Party of annual forecasts of Energy and monthly forecasts of available capacity and Energy provided pursuant to Section 4.3 of the PPA; (iv) PPA Seller will provide copies to Financing Party of all invoices and supporting data provided to PPA Buyer pursuant to Section 8.1, provided that any payment adjustments or subsequent reconciliations occurring after the date that is ten (10) days prior to the payment due date for a monthly invoice, including pursuant to Section 8.4, will be resolved solely between PPA Buyer and PPA Seller and therefore PPA Seller will not be obligated to deliver copies of any communications relating thereto to Financing Party; and (v) PPA Buyer and PPA Seller, as applicable, will provide copies to Financing Party of any other information reasonably requested by Financing Party relating to Assigned Product.

(e) PPA Seller acknowledges that (i) Financing Party intends to immediately transfer title to any Assigned Product received from PPA Seller through one or more intermediaries such that all Assigned Product will be re-delivered to PPA Buyer; and (ii) in the event that PPA Buyer fails to pay the relevant intermediary entity for any such Assigned Products, the receivables owed by PPA Buyer for such Assigned Products ("PPA Buyer Receivables") may be transferred to Financing Party. To the extent any such PPA Buyer Receivables are transferred to Financing Party, and PPA Buyer acknowledges in writing that such receivables are due and payable and waives any and all defences and counterclaims associated with such receivables for the undisputed amounts owed pursuant to the PPA, Financing Party may transfer such PPA Buyer Receivables to PPA Seller and apply the face amount thereof as a reduction to any Delivered Product Payment Obligation. Thereafter, PPA Seller shall be entitled to pursue collection on such PPA Buyer Receivables directly against PPA Buyer. Nothing in this Section 1(e) shall modify PPA Seller's right to declare an Event of Default pursuant to Section 11.1(a)(i) of the PPA in the event that any portion of the Delivered Product Payment Obligation remains unpaid by the due date for payment set forth in the PPA,

and such amount is not paid by Financing Party or PPA Buyer within five (5) Business Days of PPA Buyer receiving Notice of such non-payment from PPA Seller as provided in Section 1(b), above.

(f) On or before the commencement of the Assignment Period, [_____] ("**Guarantor**") will issue, in favor of PPA Seller, a guaranty of Financing Party's payment obligations under this Assignment Agreement substantially in the form of Appendix 3 attached hereto ("**Guaranty**"). PPA Seller may draw upon, apply, or make demand under the Guaranty to recover any unpaid amounts due from Financing Party and not timely paid as set forth herein; provided, however, that PPA Seller's rights under the Guaranty and this subsection (f) shall not reduce or affect PPA Buyer's obligation to render payments when due under the PPA or extend any deadlines in the PPA.

(g) All payments due to PPA Seller in respect of Sections 3.3 of the PPA will be paid (subject to Section 1(e), above) by Financing Party into the custodial account listed in Appendix 1, and all payments due to PPA Buyer in respect of Section 3.3 of the PPA will be paid by PPA Seller into the custodial account listed in Appendix 1, which custodial account is established under that certain Custodial Agreement of even date herewith that Financing Party, PPA Buyer and [Custodian] have entered into for the administration of payments due hereunder.

(h) The Assigned Prepay Quantity set forth in Appendix 2 relates to obligations by and between Financing Party and PPA Buyer and has no impact on PPA Seller's rights and obligations under the PPA.

(i) Except as expressly set forth in Section 1(a) of this Assignment Agreement with respect to the product delivery obligations, nothing in this Agreement modifies or amends any rights or obligations of PPA Buyer and PPA Seller under the PPA.

2. Assignment Early Termination.

(a) The Assignment Period may be terminated early upon the occurrence of any of the following:

(1) delivery of a written notice of termination specifying a termination date by either Financing Party or PPA Buyer to each of the other Parties;

(2) delivery of a written notice of termination specifying a termination date by PPA Seller to each of Financing Party and PPA Buyer following Financing Party's failure to pay when due any amounts owed to PPA Seller in respect of any Delivered Product Payment Obligation and such payment is not made by Financing Party within five (5) Business Days following receipt by Financing Party and PPA Buyer of written notice;

(3) delivery of a written notice by PPA Seller if any of the events described in the definition of Bankrupt in the PPA occurs with respect to Financing Party;

(4) delivery of a written notice by Financing Party if any of the events described in the definition of Bankrupt in the PPA occurs with respect to PPA Seller; or

(5) failure of the Guaranty provided by the Guarantor to PPA Seller hereunder to be in full force and effect (other than in accordance with its terms) prior to the indefeasible satisfaction of all obligations of Financing Party hereunder or if the Guarantor provides notice of termination of the Guaranty or otherwise repudiates, disaffirms, disclaims, or rejects, in whole or in part, or challenges the validity of the Guaranty.

(b) The Assignment Period will end at the end of last delivery hour on the date specified in the termination notice provided pursuant to Section 2(a), above, which date shall not be earlier than the end of the last day of the calendar month in which such notice is delivered if termination is pursuant to clause (1) or (2) of Section 2(a), above. All Assigned Rights and Obligations shall revert from Financing Party to PPA Buyer upon the expiration or early termination of the Assignment Period, provided that (i) Financing Party shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered or made available to Financing Party prior to the end of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the expiration or early termination of the Assignment Period.

(c) The Assignment Period will automatically terminate upon the expiration or early termination of the PPA. All Assigned Rights and Obligations shall revert from Financing Party to PPA Buyer upon the expiration of or early termination of the PPA, provided that (i) Financing Party shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered to Financing Party prior to the end of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the expiration or early termination of the Assignment Period.

3. Representations and Warranties. The PPA Seller and the PPA Buyer represent and warrant to Financing Party that (a) the PPA is in full force and effect; and (b) no event or circumstance exists (or would exist with the passage of time or the giving of notice) that would give either of them the right to terminate the PPA or suspend performance thereunder.

4. Notices. Any notice, demand, or request required or authorized by this Assignment Agreement to be given by one Party to another Party shall be delivered in accordance with Article 9 of the PPA and to the addresses of each of PPA Seller and PPA Buyer specified in the PPA. PPA Buyer agrees to notify Financing Party of any updates to such notice information, including any updates provided by PPA Seller to PPA Buyer. Notices to Financing Party shall be provided to the following address, as such address may be updated by Financing Party from time to time by notice to the other Parties:

Financing Party
_____
_____
Email: _____

5. Miscellaneous. Section 13.2 (Buyer's Representations and Warranties), Article 18 (Confidential Information), Sections 19.5 (Severability), 19.7 (Counterparts), 19.2 (Amendments), 19.4 (No Agency, Partnership, Joint Venture or Lease), 19.6 (Mobile-Sierra), 19.8 (Electronic Delivery), 19.9 (Binding Effect) and 19.10 (No Recourse to Members of

Buyer) of the PPA are incorporated by reference into this Agreement, *mutatis mutandis*, as if fully set forth herein.

6. U.S. Resolution Stay Provisions. The Parties agree that the terms of Section 1 and Section 2 and the related defined terms (together, the "**Bilateral Terms**") of the form of bilateral template entitled "Full-Length Omnibus (for use between U.S. G-SIBs and Corporate Groups)", published by ISDA on November 2, 2018 (currently available on the 2018 ISDA U.S. Resolution Stay Protocol page at www.isda.org), the effect of which is to amend the qualified financial contracts between the Parties thereto to conform with the requirements of the QFC Stay Rules, are hereby incorporated into and form a part of this Agreement, and for such purposes this Agreement shall be deemed a "Covered Agreement", Financing Party shall be deemed a "Covered Entity" and the Counterparty shall be deemed a "Counterparty Entity". In the event that, after the date of this Agreement, all Parties hereto become adhering Parties to the 2018 ISDA U.S. Resolution Say Protocol (the "**Protocol**"), the terms of the Protocol will replace the terms of this section. In the event of any inconsistencies between this Agreement and the terms of the Protocol or the Bilateral Terms (each, the "**QFC Stay Terms**"), as applicable, the QFC Stay Terms will govern. Terms used in this paragraph without definition shall have the meanings assigned to them under the QFC Stay Rules. For purposes of this paragraph, references to "this Agreement" include any related credit enhancements entered into between the Parties, directly or indirectly through an agent, or provided by one to the other.

"QFC Stay Rules" means the regulations codified at 12 C.F.R. 252.2, 252.81–8, 12 C.F.R. 382.1-7 and 12 C.F.R. 47.1-8, which, subject to limited exceptions, require an express recognition of the stay-and-transfer powers of the FDIC under the Federal Deposit Insurance Act and the Orderly Liquidation Authority under Title II of the Dodd Frank Wall Street Reform and Consumer Protection Act and the override of default rights related directly or indirectly to the entry of an affiliate into certain insolvency proceedings and any restrictions on the transfer of any covered affiliate credit enhancements.

7. Governing Law, Jurisdiction, Waiver of Jury Trial.

(a) **Governing Law**. This Assignment Agreement and the rights and duties of the Parties under this Assignment Agreement will be governed by and construed, enforced and performed in accordance with the laws of the State of California, without reference to any conflicts of law provisions that would direct the application of another jurisdiction's laws; provided, however, that the authority of PPA Buyer to enter into and perform its obligations under this Assignment Agreement shall be determined in accordance with the laws of the State of California.

(b) **Jurisdiction**. Each Party submits to the exclusive jurisdiction of the federal courts of the United States of America for the Southern District of California sitting in the city and county of Los Angeles.

(c) **Waiver of Right to Trial by Jury**. Each Party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to this Assignment Agreement.

(d) **Waivers by PPA Buyer**. In the event that any of California Civil Code Sections 2815, 2787 to 2855 (inclusive), 2899, or 3433, or any common law principles or holdings regarding suretyship, may apply with respect to PPA Buyer's obligations hereunder, PPA Buyer hereby waives for the benefit of PPA Seller any and all surety defenses to the fullest extent

permitted under applicable law, including all rights and defenses that are or may become available to PPA Buyer by reason of California Civil Code Sections 2787 to 2855, inclusive, 2899 and/or 3433, and any right to revoke this Assignment Agreement, including any such right arising under California Civil Code § 2815; *provided*, nothing in this Section 7(d) shall be deemed to be of waiver of, and PPA Buyer retains in full, any and all rights and defenses PPA Buyer has under the PPA, including at law and in equity.

(e) **Forward Contract**. The Parties acknowledge and agree that the delivery of the Assigned Products to Financing Party contemplated hereby is intended to constitute a "forward contract" and that the Parties are intended to constitute "forward contract merchants" within the meaning of the United States Bankruptcy Code.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the Parties have executed this Assignment Agreement effective as of the date first set forth above.

[PPA SELLER]

By: _____

Name: _____

Title: _____

CLEAN POWER ALLIANCE

By: _____

Name: _____

Title: _____

[FINANCING PARTY]

By: _____

Name:
Title:

Execution and delivery of the foregoing Assignment Agreement is hereby approved.

CALIFORNIA COMMUNITY CHOICE FINANCING AUTHORITY

By: _____

Name:
Title:

Appendix 1

Assigned Rights and Obligations

PPA: "**PPA**" means that certain Renewable Power Purchase Agreement (SunZia North) dated [____], by and between Clean Power Alliance and [____], a [____] limited liability company, as amended from time to time.

"**Assignment Period**" means the period beginning on [_____] and extending until [_____], provided that in no event shall the Assignment Period extend past the earlier of (i) the termination of the Assignment Period pursuant to Section 2 of the Assignment Agreement and (ii) the end of the Delivery Term under the PPA; provided that applicable provisions of this Agreement shall continue in effect after termination of the Assignment Period to the extent necessary to enforce or complete, duties, obligations or responsibilities of the Parties arising prior to the termination.

Assigned Product: "**Assigned Product**" includes (i) Energy and (ii) Green Attributes (including PCC1 RECs); provided, however, that the following are expressly excluded from the Assigned Product and any and all rights and obligations with respect to the following shall remain with Buyer: Ancillary Services; Capacity Attributes; Resource Adequacy Benefits.

Further Information: PPA Seller shall continue to transfer the WREGIS Certificates associated with all Renewable Energy Credits corresponding to all Facility Energy under the PPA pursuant to Section 4.7 of the PPA, provided that the transferee of such WREGIS Certificates may be changed from time to time in accordance with the written instructions of both Financing Party and Clean Power Alliance upon twenty (20) Business Days' notice, which change shall be effective as of the first day of the next calendar month, unless otherwise agreed. All Assigned Product delivered by PPA Seller to Financing Party shall be a sale made at wholesale, with Financing Party reselling all such Assigned Product.

Appendix 2

Assigned Prepay Quantity

[NOTE: To be set forth in a monthly volume schedule.]

Appendix 3

Form of Financing Party Parent Guaranty

EXHIBIT M

FORM OF GUARANTY

This Guaranty (this "Guaranty") is entered into as of [_____] (the "Effective Date") by and between [_____], a [_____] ("Guarantor"), and [____] (together with its successors and permitted assigns, "Buyer").

Recitals

A. Buyer and _____, a _____ ("Seller"), entered into that certain Renewable Power Purchase Agreement (SunZia North) (as amended, restated or otherwise modified from time to time, the "PPA") dated as of [____], 20___.

B. Guarantor is entering into this Guaranty as Performance Security to secure Seller's obligations under the PPA, as required by Section 8.8 of the PPA.

C. It is in the best interest of Guarantor to execute this Guaranty inasmuch as Guarantor will derive substantial direct and indirect benefits from the execution and delivery of the PPA.

D. Initially capitalized terms used but not defined herein have the meaning set forth in the PPA.

Agreement

1. Guaranty. For value received, Guarantor does hereby unconditionally, absolutely and irrevocably guarantee, as primary obligor and not as a surety, to Buyer the full, complete and prompt payment by Seller of any and all amounts and payment obligations now or hereafter owing from Seller to Buyer under the PPA, including, without limitation, compensation for penalties, the Termination Payment, indemnification payments or other damages, as and when required pursuant to the terms of the PPA (the "Guaranteed Amount"), provided, that Guarantor's aggregate liability under or arising out of this Guaranty shall not exceed the sum of _____ Dollars ($_____) plus reasonable costs incurred by Buyer in enforcing this Guaranty, if successful, up to Two-Hundred Thousand Dollars ($200,000) for an aggregate maximum liability of _____ Dollars ($_____) (the "Guarantee Limit"). The Parties understand and agree that any payment by Guarantor shall thereafter reduce the Guarantee Limit hereunder on a dollar-for-dollar basis. This Guaranty is an irrevocable, absolute, unconditional and continuing guarantee of the full and punctual payment and performance, and not of collection, of the Guaranteed Amount and, except as otherwise expressly addressed herein, is in no way conditioned upon any requirement that Buyer first attempt to collect the payment of the Guaranteed Amount from Seller, any other guarantor of the Guaranteed Amount or any other person or entity or resort to any other means of obtaining payment of the Guaranteed Amount. In the event Seller shall fail to duly, completely or punctually pay any Guaranteed Amount as required pursuant to the PPA, Guarantor shall promptly pay such amount as required herein.

2. Demand Notice. For avoidance of doubt, a payment shall be due for purposes of this Guaranty only when and if a payment is due and payable by Seller to Buyer under the terms and conditions of the Agreement. If Seller fails to pay any Guaranteed Amount as required pursuant to the PPA for five (5) Business Days following Seller's receipt of Buyer's written notice of such failure (the "Demand Notice"), then Buyer may elect to exercise its rights under this Guaranty and may make a demand upon Guarantor (a "Payment Demand") for such unpaid Guaranteed Amount. A Payment Demand shall be in writing and shall reasonably specify in what manner and what amount Seller has failed to pay and an explanation of why such payment is due and owing, with a specific statement that Buyer is requesting that Guarantor pay under this Guaranty. Guarantor shall, within five (5) Business Days following its receipt of the Payment Demand, pay the Guaranteed Amount to Buyer.

3. Scope and Duration of Guaranty. This Guaranty applies only to the Guaranteed Amount. This Guaranty shall continue in full force and effect from the Effective Date until the earlier of the following: (x) all Guaranteed Amounts have been paid in full (whether directly or indirectly through set-off or netting of amounts owed by Buyer to Seller), or (y) replacement Performance Security is provided in an amount and form required by the terms of the PPA. Further, this Guaranty (a) shall remain in full force and effect without regard to, and shall not be affected or impaired by any invalidity, irregularity or unenforceability in whole or in part of this Guaranty, and (b) subject to the preceding sentence, shall be discharged only by complete performance of the undertakings herein. Without limiting the generality of the foregoing, the obligations of the Guarantor hereunder shall not be released, discharged, or otherwise affected and this Guaranty shall not be invalidated or impaired or otherwise affected for the following reasons:

(i) the extension of time for the payment of any Guaranteed Amount, or

(ii) any amendment, modification or other alteration of the PPA, or

(iii) any indemnity agreement Seller may have from any Person, or

(iv) any insurance that may be available to cover any loss, except to the extent insurance proceeds are used to satisfy the Guaranteed Amount, or

(v) any voluntary or involuntary liquidation, dissolution, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of, or other similar proceeding affecting, Seller or any of its assets, including but not limited to any rejection or other discharge of Seller's obligations under the PPA imposed by any court, trustee or custodian or any similar official or imposed by any law, statue or regulation, in each such event in any such proceeding, or

(vi) the release, modification, waiver or failure to pursue or seek relief with respect to any other guaranty, pledge or security device whatsoever, or

(vii) any payment to Buyer by Seller that Buyer subsequently returns to Seller pursuant to court order in any bankruptcy or other debtor-relief proceeding, or

(viii) those defenses based upon (A) the legal incapacity or lack of power or authority of any person, including Seller and any representative of Seller to enter into the PPA or perform its obligations thereunder, (B) lack of due execution, delivery, validity or enforceability, including of the PPA, or (C) Seller's inability to pay any Guaranteed Amount or perform its obligations under the PPA, or

(ix) any other event or circumstance that may now or hereafter constitute a defense to payment of the Guaranteed Amount, including, without limitation, statute of frauds and accord and satisfaction;

provided that Guarantor reserves the right to assert for itself any defenses, setoffs or counterclaims that Seller is or may be entitled to assert against Buyer (except for such defenses, setoffs or counterclaims that may be asserted by Seller with respect to the PPA, but that are expressly waived under any provision of this Guaranty).

4. Waivers by Guarantor. Guarantor hereby unconditionally waives as a condition precedent to the performance of its obligations hereunder, with the exception of the requirements in Paragraph 2, (a) notice of acceptance, presentment or protest with respect to the Guaranteed Amounts and this Guaranty, (b) notice of any action taken or omitted to be taken by Buyer in reliance hereon, (c) any requirement that Buyer exhaust any right, power or remedy or proceed against Seller under the PPA, and (d) any event, occurrence or other circumstance which might otherwise constitute a legal or equitable discharge of a surety. Without limiting the generality of the foregoing waiver of surety defenses, it is agreed that the occurrence of any one or more of the following shall not affect the liability of Guarantor hereunder:

(i) at any time or from time to time, without notice to Guarantor, the time for payment of any Guaranteed Amount shall be extended, or such performance or compliance shall be waived;

(ii) the obligation to pay any Guaranteed Amount shall be modified, supplemented or amended in any respect in accordance with the terms of the PPA;

(iii) (a) sale, transfer or consolidation of Seller into or with any other entity, (b) sale of substantial assets by, or restructuring of the corporate existence of, Seller or (c) change in ownership of any membership interests of, or other ownership interests in, Seller; or

(iv) the failure by Buyer or any other person to create, preserve, validate, perfect or protect any security interest granted to, or in favor of, Buyer or any person.

5. Subrogation. Notwithstanding any payments that may be made hereunder by the Guarantor, Guarantor hereby agrees that until the earlier of payment in full of all Guaranteed Amounts or expiration of the Guaranty in accordance with Section 3, it shall not be entitled to, nor shall it seek to, exercise any right or remedy arising by reason of its payment of any Guaranteed Amount under this Guaranty, whether by subrogation or otherwise, against Seller or seek contribution or reimbursement of such payments from Seller.

6. Representations and Warranties. Guarantor hereby represents and warrants that (a) it has all necessary and appropriate limited liability company powers and authority and the legal right to execute and deliver, and perform its obligations under, this Guaranty, (b) this Guaranty constitutes its legal, valid and binding obligations enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium and other similar laws affecting enforcement of creditors' rights or general principles of equity, (c) the execution, delivery and performance of this Guaranty does not and will not contravene Guarantor's organizational documents, any applicable law or any contractual provisions binding on or affecting Guarantor, (d) there are no actions, suits or proceedings pending before any court, governmental agency or arbitrator, or, to the knowledge of the Guarantor, threatened, against or affecting Guarantor or any of its properties or revenues which may, in any one case or in the aggregate, adversely affect the ability of Guarantor to enter into or perform its obligations under this Guaranty, and (e) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or governmental authority, and no consent of any other Person (including, any stockholder or creditor of the Guarantor), that has not heretofore been obtained is required in connection with the execution, delivery, performance, validity or enforceability of this Guaranty by Guarantor.

7. Notices. Notices under this Guaranty shall be deemed received if sent to the address specified below: (i) on the day received if served by overnight express delivery, and (ii) four business days after mailing if sent by certified, first class mail, return receipt requested. If transmitted by facsimile, such notice shall be deemed received when the confirmation of transmission thereof is received by the party giving the notice. Any party may change its address or facsimile to which notice is given hereunder by providing notice of the same in accordance with this Paragraph 8.

If delivered to Buyer, to it at [____]
Attn: [____]
Fax: [____]

If delivered to Guarantor, to it at [____]
Attn: [____]
Fax: [____]

8. **Governing Law and Forum Selection**. This Guaranty shall be governed by, and interpreted and construed in accordance with, the laws of the United States and the State of California, excluding choice of law rules. The Parties agree that any suit, action or other legal proceeding by or against any party (or its affiliates or designees) with respect to or arising out of this Guaranty shall be brought in the federal courts of the United States sitting in the County of San Francisco, California.

9. Miscellaneous. This Guaranty shall be binding upon Guarantor and its successors and assigns and shall inure to the benefit of Buyer and its successors and permitted assigns pursuant to the PPA. No provision of this Guaranty may be amended or waived except by a written instrument executed by Guarantor and Buyer. This Guaranty is not assignable by Guarantor without the prior

written consent of Buyer. No provision of this Guaranty confers, nor is any provision intended to confer, upon any third party (other than Buyer's successors and permitted assigns) any benefit or right enforceable at the option of that third party. This Guaranty embodies the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings of the parties hereto, verbal or written, relating to the subject matter hereof. If any provision of this Guaranty is determined to be illegal or unenforceable (i) such provision shall be deemed restated in accordance with applicable Laws to reflect, as nearly as possible, the original intention of the parties hereto and (ii) such determination shall not affect any other provision of this Guaranty and all other provisions shall remain in full force and effect. This Guaranty may be executed in any number of separate counterparts, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. This Guaranty may be executed and delivered by electronic means with the same force and effect as if the same was a fully executed and delivered original manual counterpart.

10. WAIVER OF JURY TRIAL; JUDICIAL REFERENCE.

(a) JURY WAIVER. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTY HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

(b) JUDICIAL REFERENCE. IN THE EVENT ANY LEGAL PROCEEDING IS FILED IN A COURT OF THE STATE OF CALIFORNIA (THE "COURT") BY OR AGAINST ANY PARTY HERETO IN CONNECTION WITH ANY CONTROVERSY, DISPUTE OR CLAIM DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS GUARANTY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY) (EACH, A "CLAIM") AND THE WAIVER SET FORTH IN THE PRECEDING PARAGRAPH IS NOT ENFORCEABLE IN SUCH ACTION OR PROCEEDING, THE PARTIES HERETO AGREE AS FOLLOWS:

(i) ANY CLAIM (INCLUDING BUT NOT LIMITED TO ALL DISCOVERY AND LAW AND MOTION MATTERS, PRETRIAL MOTIONS, TRIAL MATTERS AND POST-TRIAL MOTIONS) WILL BE DETERMINED BY A GENERAL REFERENCE PROCEEDING IN ACCORDANCE WITH THE PROVISIONS OF CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 638 THROUGH 645.1. THE PARTIES INTEND THIS GENERAL REFERENCE AGREEMENT

TO BE SPECIFICALLY ENFORCEABLE IN ACCORDANCE WITH CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638.

(ii) UPON THE WRITTEN REQUEST OF ANY PARTY, THE PARTIES SHALL SELECT A SINGLE REFEREE, WHO SHALL BE A RETIRED JUDGE OR JUSTICE. IF THE PARTIES DO NOT AGREE UPON A REFEREE WITHIN TEN (10) DAYS OF SUCH WRITTEN REQUEST, THEN, ANY PARTY MAY REQUEST THE COURT TO APPOINT A REFEREE PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 640(B).

(iii) THE PARTIES RECOGNIZE AND AGREE THAT ALL CLAIMS RESOLVED IN A GENERAL REFERENCE PROCEEDING PURSUANT HERETO WILL BE DECIDED BY A REFEREE AND NOT BY A JURY.

(iv) THE PARTIES AGREE THAT THE COSTS OF THE REFEREE SHALL BE SHARED EQUALLY BY THE PARTIES.

(v) THE PARTIES AGREE THAT EACH PARTY SHALL BE RESPONSIBLE FOR ITS OWN COSTS AND EXPENSES, INCLUDING LEGAL FEES, IN CONNECTION WITH ANY GENERAL REFERENCE PROCEEDING.

IN WITNESS WHEREOF, the undersigned has caused this Guaranty to be duly executed and delivered by its duly authorized representative on the date first above written.

GUARANTOR:

[_____]

By:_____
Printed Name:
Title:

BUYER:

[_____]

By:_____
Printed Name:
Title:

By:_____

Printed Name:

Title:

EXHIBIT N

NOTICES

SUNZIA WIND NORTH LLC ("Seller")	**CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority** ("Buyer")
All Notices: Street: 1088 Sansome St. City: San Francisco, CA Attn: General Counsel Phone: [redacted] Email: [redacted]	**All Notices:** Street: 801 S Grand, Suite 400 City: Los Angeles CA, 90017 Attn: Chief Executive Officer Phone: (213) 269-5870 Email: tbardacke@cleanpoweralliance.org
Reference Numbers: Duns: [redacted] Federal Tax ID Number: [redacted]	**Reference Numbers:** Duns: Federal Tax ID Number:
Invoices: Attn: Pattern Energy Settlements Phone: [redacted] Email: [redacted]	**Invoices:** Attn: Vice President, Power Supply Phone: (213) 280-4011 E-mail: settlements@cleanpoweralliance.org
Scheduling: Attn: Manager 24/7 Operations Control Center [redacted] Phone: [redacted]	**Scheduling:** Attn: Operations 24/7 Desk Phone: (817) 462-1509 Email: TenaskaComm@tnsk.com
Confirmations: Attn: Pattern Energy Settlements Phone: [redacted] Email: [redacted]	**Confirmations:** Attn: Vice President, Power Supply Phone: (213) 280-4011 Email: ldescagnia@cleanpoweralliance.com Email CC: energycontracts@cleanpoweralliance.org
Payments: Attn: Pattern Energy Settlements Phone: [redacted] Email: [redacted]	**Payments:** Attn: Vice President, Power Supply Phone: (213) 280-4011 E-mail: settlements@cleanpoweralliance.org
Wire Transfer: BNK: [redacted]	**Wire Transfer:** BNK: River City Bank ABA: [redacted] ACCT: XXXXXX7557

SUNZIA WIND NORTH LLC ("Seller")	**CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority** ("Buyer")
ABA: [redacted] ACCT: [redacted]	
Emergency Contact: Attn: 24/7 Operations Control Center Phone: [redacted] Email: [redacted]	**Emergency Contact:**

EXHIBIT O

SAMPLE CALCULATION OF GUARANTEED RA AMOUNT

Assumptions

Installed Capacity = PMax = 3,515,000 kW

Guaranteed Capacity: 575,000 kW

Excused Capacity Reduction: 0 kW

Installed Capacity not available: 515,000 kW

Deemed Delivered RA: 0 kW

Replacement RA: 0 kW

Buyer's Share: 575,000 kW / 3,515,000 kW = 16.3585%

CPM Soft Offer Cap: $7.34/kW-mo

CPM Adjustment Factor (January): [redacted]

RA Deficiency Cap (January): [redacted]

Seller included in its Supply Plan the Supply Plan Amount

Pre-Slice of Day Structure

ELCC (January): 34.0%

NQC = (PMax – Excused Capacity Reduction) x ELCC = (3,515,000 – 0) x 0.3400 = 1,195,100

Guaranteed RA Amount = NQC x Buyer's Share = 1,195,100 x 16.3585% = 195,500 kW

Supply Plan Amount = (Installed Capacity – Installed Capacity not available) x Buyer's Share x ELCC

Supply Plan Amount = (3,515,000 – 515,000) x 16.3585% x 0.3400 = 166,856 kW

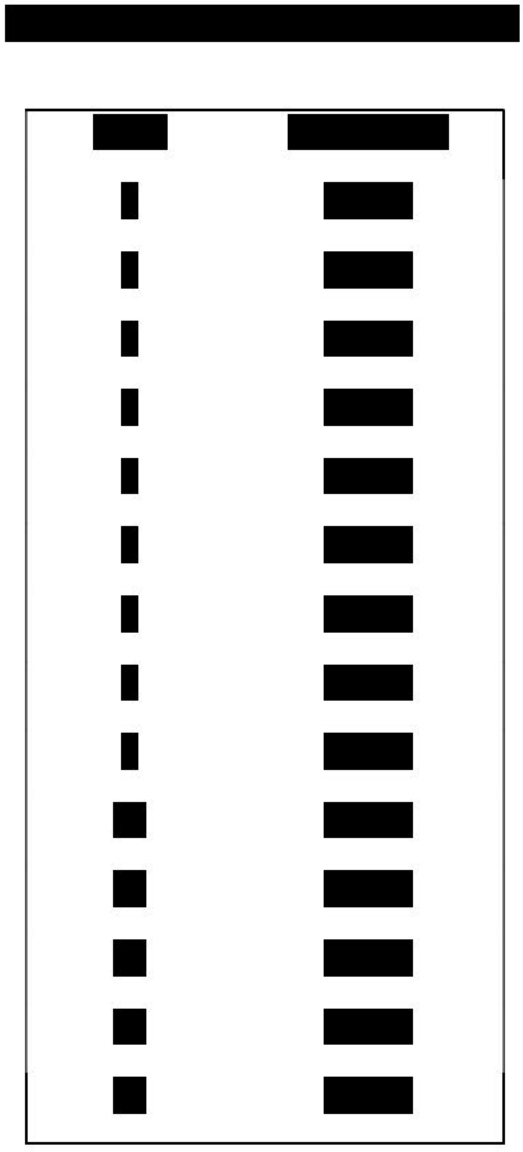
ELCC RA Amount = Supply Plan Amount = 166,856 kW

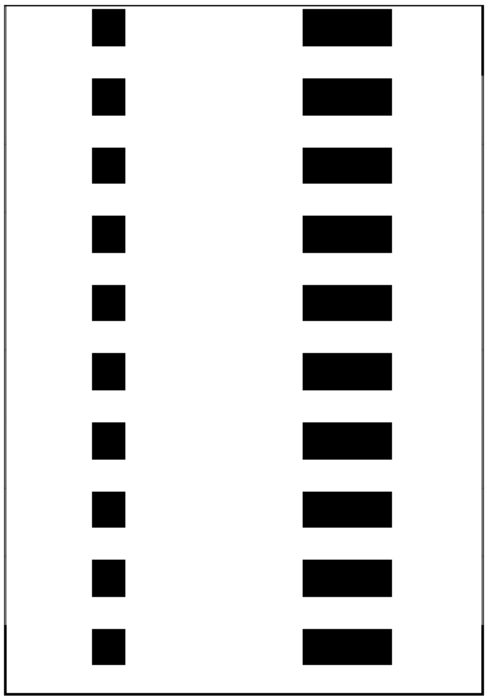
RA Shortfall Amount = Guaranteed RA Amount – ELCC RA Amount = 195,500 – 166,856 = 28,644 kW

RA Deficiency Amount = RA Shortfall Amount x MIN(CPM Soft Offer Cap x CPM Adjustment Factor, RA Deficiency Cap)

RA Deficiency Amount = 28,644 x MIN($7.34 x 50%, $15) = 28,644 x $3.67 = $105,122

Slice of Day Structure





[redacted]

[redacted]

[redacted]

Guaranteed RA Amount

[redacted]

Guaranteed RA Amount = [redacted]

Supply Plan Amount [redacted]

[redacted]

[redacted]

Exceedance Profile RA Amount = [redacted]

RA Shortfall Amount = [redacted]

RA Deficiency Amount [redacted]

RA Deficiency Amount [redacted]

Table 2: Slice of Day Coefficients (per definition of "SOD Coefficient")

Month	[redacted]	[redacted]	[redacted]
Jan	[redacted]	[redacted]	[redacted]
Feb	[redacted]	[redacted]	[redacted]
Mar	[redacted]	[redacted]	[redacted]

Apr		[redacted]			[redacted]			[redacted]	
May		[redacted]			[redacted]			[redacted]	
Jun		[redacted]			[redacted]			[redacted]	
Jul		[redacted]			[redacted]			[redacted]	
Aug		[redacted]			[redacted]			[redacted]	
Sep		[redacted]			[redacted]			[redacted]	
Oct		[redacted]			[redacted]			[redacted]	
Nov		[redacted]			[redacted]			[redacted]	
Dec		[redacted]			[redacted]			[redacted]	

EXHIBIT P

CPM Adjustment Factors

Month	Multiplier
January	[redacted]
February	[redacted]
March	[redacted]
April	[redacted]
May	[redacted]
June	[redacted]
July	[redacted]
August	[redacted]
September	[redacted]
October	[redacted]
November	[redacted]
December	[redacted]

EXHIBIT Q

Supply Chain Code of Conduct

Buyer is committed to ensuring that the fundamental human rights of workers are protected, including addressing the potential risks of forced labor, child labor, servitude, human trafficking and slavery across our portfolio.

Our requirements and expectations for Seller's supply chain are detailed below in our Supply Chain Code of Conduct ("**Supply Chain Code**"). Seller must comply with all applicable Laws and this Supply Chain Code (subject to Section 2.3(b) of this Agreement), even when this Supply Chain Code exceeds the requirements of applicable Law.

These standards are derived from the United Nations Guiding Principles on Business and Human Rights, the Core Conventions of the International Labour Organization ("ILO"), including the ILO Declaration on Fundamental Principles and Rights at Work, and the Responsible Business Alliance Code of Conduct.

1. **Freely Chosen Employment**
   Forced, bonded (including debt bondage) or indentured labor, involuntary or exploitative prison labor, slavery or trafficking of persons is not permitted. This includes transporting, harboring, recruiting, transferring, or receiving persons by means of threat, force, coercion, abduction or fraud for labor or services. There shall be no unreasonable restrictions on workers' freedom of movement in the facility in addition to unreasonable restrictions on entering or exiting company provided facilities including, if applicable, workers' dormitories or living quarters. All work must be voluntary, and workers shall be free to leave work at any time or terminate their employment without penalty if reasonable notice is given as per worker's contract. Employers, agents, and sub-agents' may not hold or otherwise destroy, conceal, or confiscate identity or immigration documents, such as government-issued identification, passports, or work permits. Employers can only hold documentation if such holdings are required by law. In this case, at no time should workers be denied access to their documents. Workers shall not be required to pay employers' agents or sub-agents' recruitment fees or other related fees for their employment. If any such fees are found to have been paid by workers, such fees shall be repaid to the worker.

2. **Young Workers**
   Child labor is not to be used in any stage of manufacturing. The term "child" refers to any person under the age of 15, or under the age for completing compulsory education, or under the minimum age for employment in the country, whichever is greatest. Suppliers shall implement an appropriate mechanism to verify the age of workers. The use of legitimate workplace learning programs, which comply with all laws and regulations, is supported. Workers under the age of 18 shall not perform work that is likely to jeopardize their health or safety, including night shifts and overtime. Suppliers shall ensure proper management of student workers through proper maintenance of student records, rigorous due diligence of educational partners, and protection of students' rights in accordance with applicable laws and regulations. Suppliers shall provide appropriate support and training to all student

workers. In the absence of local law, the wage rate for student workers, interns, and apprentices shall be at least the same wage rate as other entry-level workers performing equal or similar tasks. If child labor is identified, assistance/remediation is provided.

3. **Working Hours**
   Studies of business practices clearly link worker strain to reduced productivity, increased turnover, and increased injury and illness. Working hours are not to exceed the maximum set by local law. Further, suppliers shall use commercially reasonable efforts to limit a workweek to not more than 60 hours per week, including overtime. All overtime must be voluntary. Workers shall be allowed at least one day off every seven days.

4. **Wages and Benefits**
   Compensation paid to workers shall comply with all applicable wage laws, including those relating to minimum wages, overtime hours and legally mandated benefits. In compliance with local laws, workers shall be compensated for overtime at pay rates greater than regular hourly rates. Deductions from wages as a disciplinary measure shall not be permitted. For each pay period, workers shall be provided with a timely and understandable wage statement that includes sufficient information to verify accurate compensation for work performed. All use of temporary, dispatch and outsourced labor will be within the limits of the local law.

5. **Humane Treatment**
   There is to be no harsh or inhumane treatment including violence, gender-based violence, sexual harassment, sexual abuse, corporal punishment, mental or physical coercion, bullying, public shaming, or verbal abuse of workers; nor is there to be the threat of any such treatment. Disciplinary policies and procedures in support of these requirements shall be clearly defined and communicated to workers.

6. **Non-Discrimination/Non-Harassment**
   Suppliers should be committed to a workplace free of harassment and unlawful discrimination. Companies shall not engage in discrimination or harassment based on race, color, age, gender, sexual orientation, gender identity and expression, ethnicity or national origin, disability, pregnancy, religion, political affiliation, union membership, covered veteran status, protected genetic information or marital status in hiring and employment practices such as wages, promotions, rewards, and access to training. Workers shall be provided with reasonable accommodation for religious practices. In addition, workers or potential workers should not be subjected to medical tests that could be used in a discriminatory way or otherwise in violation of applicable law. This was drafted in consideration of ILO Discrimination (Employment and Occupation) Convention (No.111).

7. **Freedom of Association**
   In conformance with local law, Suppliers shall respect the right of all workers to form and join trade unions of their own choosing, to bargain collectively, and to engage in peaceful assembly as well as respect the right of workers to refrain from such activities. Workers and/or their representatives shall be able to openly communicate and share ideas and concerns with management regarding working conditions and management practices

without fear of discrimination, reprisal, intimidation, or harassment.

8. **Restricted Jurisdictions**
   Supplier shall not manufacture or produce products in the Xinjiang Uyghur Autonomous Region of China, or knowingly procure goods and services mined, produced or manufactured in the same.

EXHIBIT R

METERING DIAGRAM

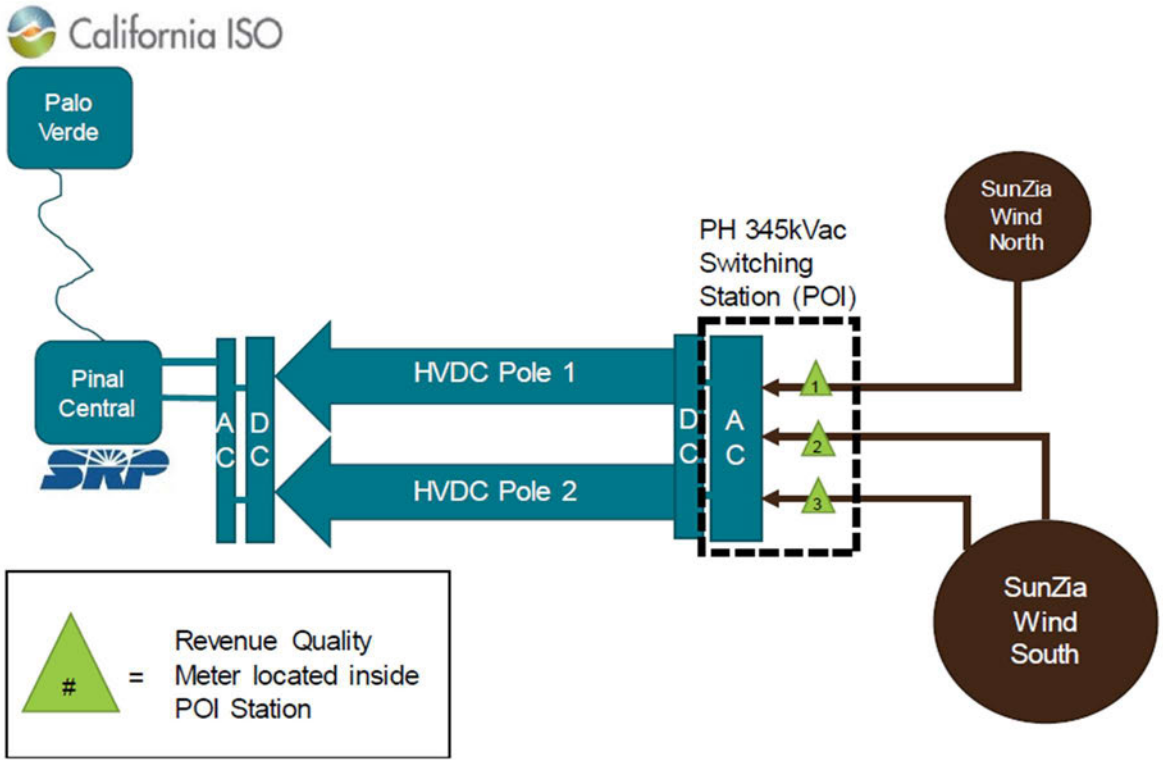


EXHIBIT S

MATERIAL PERMITS

No.	*Permits*
	SunZia Wind North Material Permits
1.	N/A

EXHIBIT T

Force Majeure Event and/or Development Cure Period Claim Form

Instructions

A. Please review Article 10 and Exhibit B (if applicable) of the Renewable Power Purchase Agreement (SunZia North) prior to filling out the form.

B. Fill out the form completely and return to your assigned Contract Manager at CPA.

Seller: [Name] Project: [Name]

Current Guaranteed Construction Start Date: [Date]

New Guaranteed Construction Start Date (if Seller's claims are validated in full): [Date]

Guaranteed Commercial Operation Date: [Date]

New Guaranteed Commercial Operation Date (if Seller's claims are validated in full): [Date]

Seller hereby certifies and represents to Buyer the following:

1. Please describe the claimed Force Majeure Event or other event giving rise to the claimed Development Cure Period delay(s) (the "Claimed Event"), including its cause, date of commencement and date it ended or is anticipated to end, if known.

2. Please specify the extent of the delay or prevented performance, if known, caused by the Claimed Event, including the relief claimed thereby. Describe how the claimed relief was calculated/determined, accounting for individual developments causing such delay or prevented performance.

3. With respect to a Claimed Event other than a Force Majeure Event, please describe the commercially reasonable efforts taken by Seller, if any, to prevent such event or, if applicable, explain in reasonable detail why it was not possible to take such efforts.

4. Please describe the commercially reasonable efforts taken to mitigate the delays or

nonperformance caused by the Claimed Event, if any, or, if applicable, explain in reasonable detail why it was not possible to take such efforts, and specify if such efforts, if any, reduced the delay days or nonperformance that would otherwise have occurred absent such mitigation.

5. Please attach supporting documentation, including (to the extent applicable and available):

- Force Majeure notices or other correspondence received from suppliers and/or contractors that describe the basis for and extentof the Claimed Event.
- Documentation, contracts, and/or correspondence with suppliers and/or contractors evidencing the claiming Party's mitigation efforts.
- Project schedule and/or GANNT charts that demonstrate the effect of the Claimed Event on the Guaranteed Commercial Operation Date.

By signing this Claim form, I attest and affirm that I am authorized to sign this form on behalf of the Seller.

[SELLER NAME]

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT U

OPERATING RESTRICTIONS

Operating Restrictions of the Facility are as follows:

- Interconnection Capacity (Maximum Injection Amount): 901.28 MW; *provided*, if the South Affiliate is not utilizing an amount of interconnection capacity equal to 3,021 MW *minus* 901.28 MW, Seller may have the right to additional interconnection capacity for the Facility up to an aggregate of 1089 MW; [redacted]
- Minimum operating capacity: 0.0 MW
- Maximum number of start-ups per calendar day (if any such operational limitations exist): N/A
- Ramp Rate: The ramp rate accepted by CAISO in the Master File of the Facility.
- Minimum Down Time: N/A

From: rims-noreply@caiso.com <rims-noreply@caiso.com>
Sent: Monday, May 18, 2026 7:49:29 PM
To: Kelsey Gormley <kgormley@gridsme.com>; cweiler@gridsme.com <cweiler@gridsme.com>; Angela Leon <angela.leon@patternenergy.com>; Leo Peirick <Leo.Peirick@patternenergy.com>; lpate@gridsme.com <lpate@gridsme.com>; George E. Brown <george.brown@patternenergy.com>
Cc: nri@gridsme.com <nri@gridsme.com>; Deral Danis <deral.danis@patternenergy.com>; Leo Peirick <Leo.Peirick@patternenergy.com>; George E. Brown <george.brown@patternenergy.com>; Christina Gallegos <CGallegos@gridsme.com>; nri@caiso.com <nri@caiso.com>
Subject: [EXTERNAL] Notification of Commercial Operation (COD)- SunZia Wind South SZWDS_3_SZWX14

All,

The CAISO has received a request for SunZia Wind South stating that the resource has completed start-up testing and is available for commercial operations beginning, 05/19/2026. This resource of 2561.20 MW Wind is located in Lincoln County, 201 State Highway 247 Corona NM 88318.

NRI has received internal approval for the COD and have notified all relevant parties for:

Resource ID: SZWDS_3_SZWX14
POD: Pete Heinrich 345kV
SCID:
COD MW: 2561.20

Thank you for your efforts throughout the implementation process and for participating in the CAISO markets please let us know if there are any questions. If you have any feedback on the NRI process, please consider filling out our survey here: https://www.surveymonkey.com/r/PostCOD

Thank you,
New Resource Implementation

****
The foregoing electronic message, together with any attachments thereto, is confidential and may be legally privileged against disclosure other than to the intended recipient. It is intended solely for the addressee(s) and access to the message by anyone else is unauthorized. If you are not the intended recipient of this electronic message, you are hereby notified that any dissemination, distribution, or any action taken or omitted to be taken in reliance on it is strictly prohibited and may be unlawful. If you have received this electronic message in error, please delete and immediately notify the sender of this error.
****

CONFIDENTIAL

SUNZIA (SOUTH) PPA
RENEWABLE ENERGY
EXECUTION VERSION

RENEWABLE POWER PURCHASE AGREEMENT (SUNZIA SOUTH)

COVER SHEET

Seller: SunZia Wind South LLC, a Delaware limited liability company

Buyer: Clean Power Alliance of Southern California, a California joint powers authority

Description of Facility: The wind-powered electricity generating facility known as SunZia Wind South, with a nameplate capacity of up to 2,561.2 MW located in Lincoln and Torrance Counties, New Mexico, as described in Exhibit A, as such facility may be modified under the terms of this Agreement

Milestones:

Milestone	Expected Date for Completion
Executed Interconnection Agreement	Completed
Bureau of Land Management Record of Decision for SunZia Transmission Line	Completed
Site Control	Completed
Financial Close	Completed
Construction Start Date	Completed
Expected Initial Synchronization	2/28/2026
Expected Commercial Operation Date	4/30/2026
Expected Date of CAISO Commercial Operation	4/30/2026
Guaranteed Commercial Operation Date	10/31/2026

Delivery Term: Fifteen (15) Contract Years

Delivery Term Expected Energy: 275,417 MWh per Contract Year, commencing on the Initial Energy Delivery Date, as such amount may be adjusted by Seller in accordance with the definition of "Expected Energy" below

Guaranteed Capacity: 87.7 MW of total Facility capacity

Contract Rate:

Contract Year	Contract Rate ($/MWh)
1 – 15	Prior to the Initial Energy Delivery Date:$[redacted]/kW-mo (flat) with no escalation From and after the Initial Energy Delivery Date: $[redacted]/MWh (flat) with no escalation

Product

- ☒ Facility Energy (from and after the Initial Energy Delivery Date)
- ☒ Green Attributes (from and after the Initial Energy Delivery Date):
  - ☒ Portfolio Content Category 1
  - ☐ Portfolio Content Category 2
  - ☐ Portfolio Content Category 3
- ☒ Capacity Attributes (from and after the RA Guarantee Date)

Scheduling Coordinator: Seller

Security Amounts:

Development Security: $[redacted]/kW of Guaranteed Capacity

Performance Security: $[redacted]/kW of Guaranteed Capacity

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RENEWABLE POWER PURCHASE AGREEMENT (SUNZIA SOUTH)

This Renewable Power Purchase Agreement (SunZia South) ("**Agreement**") is entered into as of _____ (the "**Effective Date**"), between Buyer and Seller. Buyer and Seller are sometimes referred to herein individually as a "**Party**" and jointly as the "**Parties**". All capitalized terms used in this Agreement are used with the meanings ascribed to them in Article 1 to this Agreement.

RECITALS

WHEREAS, Seller intends to develop, design, construct, own, and operate the Facility known as SunZia Wind South, with a nameplate capacity of up to 2,562 MW located in Lincoln and Torrance Counties, New Mexico;

WHEREAS, Seller desires to sell, and Buyer desires to purchase, on the terms and conditions set forth in this Agreement, the Product;

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, and for other good and valuable consideration, the sufficiency and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1
DEFINITIONS

Contract Definitions. The following terms, when used herein with initial capitalization, shall have the meanings set forth below:

"**AC**" means alternating current.

"**Accepted Compliance Costs**" has the meaning set forth in Section 3.12(c).

"**Adjusted Energy Production**" has the meaning set forth in Exhibit G.

"**Affiliate**" means, with respect to any Person, each Person that directly or indirectly controls, is controlled by, or is under common control with such designated Person. For purposes of this definition and the definition of "Permitted Transferee", "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean (a) the direct or indirect right to cast at least fifty percent (50%) of the votes exercisable at an annual general meeting (or its equivalent) of such Person or, if there are no such rights, ownership of at least fifty percent (50%) of the equity or other ownership interest in such Person, or (b) the right to direct the policies or operations of such Person.

"**Agreement**" has the meaning set forth in the Preamble and includes the Cover Sheet and any Exhibits, schedules and any written supplements hereto.

"**Alternate Facility**" means that certain wind generating facility described in Exhibit A.

"**Alternative Delivery Point**" means a Scheduling Point other than the Delivery Point that is agreed upon by Buyer and Seller.

"**Approved Forecast Vendor**" means (a) [redacted] or (b) any other reputable third-party vendor that is registered to do business in California, experienced in providing and verifying wind energy generation forecasts, and not an Affiliate of Seller.

"**Assignment Agreement**" has the meaning set forth in Section 14.5(a).

"**Available Capacity**" means Buyer's Share of the Installed Capacity, expressed in whole MW, that is available to generate Energy.

"**Balancing Authority**" has the meaning set forth in the CAISO Tariff.

"**Balancing Authority Area**" has the meaning set forth in the CAISO Tariff.

"**Bankrupt**" or "**Bankruptcy**" means with respect to any entity, such entity that (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, (b) has any such petition filed or commenced against it which remains unstayed or undismissed for a period of ninety (90) days, (c) makes an assignment or any general arrangement for the benefit of creditors, (d) otherwise becomes bankrupt or insolvent (however evidenced), (e) 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 (f) is generally unable to pay its debts as they fall due.

"**Business Day**" means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday in California. A Business Day begins at 8:00 a.m. and ends 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 on the Cover Sheet.

"**Buyer Assignee**" has the meaning set forth in Section 14.5(a).

"**Buyer Default**" means an Event of Default of Buyer.

"**Buyer's Indemnified Parties**" has the meaning set forth in Section 18.2.

"**Buyer's Share**" means the percentage equal to the result of dividing the Guaranteed Capacity by the Installed Capacity, as such percentage may change from time to time with changes to the Installed Capacity; *provided*, in no event shall the Buyer's Share exceed 100% (whether before or after establishment of the final Installed Capacity).

"**Buyer's WREGIS Account**" has the meaning set forth in Section 4.8(a).

"**CAISO**" means the California Independent System Operator Corporation or any successor entity performing similar functions.

"**CAISO Certification**" means the certification and testing requirements for a generating unit set forth in the CAISO Tariff that are applicable to the Facility, including certification and testing for PMAX and PMIN (as each term is defined in the CAISO Tariff) associated with such generating units, that are applicable to the Facility.

"**CAISO Commercial Operation**" means that the CAISO has provided notification that the Energy generation from a portion of the Facility that is no smaller than the Guaranteed Installed Capacity may be scheduled into the CAISO markets on an unconditional basis in accordance with the CAISO Tariff and Business Practice Manual(s) as applicable, including the New Resource Implementation process.

"**CAISO Grid**" has the same meaning as "CAISO Controlled Grid" as defined in the CAISO Tariff.

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

"**California Renewables Portfolio Standard**" or "**RPS**" means the renewable energy program and policies established by California State Senate Bills 1038 (2002), 1078 (2002), 107 (2008), X-1 2 (2011), 350 (2015), and 100 (2018) as codified in, *inter alia*, California Public Utilities Code Sections 399.11 through 399.31 and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time.

"**Capacity Attribute**" means Buyer's Share of any current or future defined characteristic, certificate, tag, credit, or accounting construct associated with the amount of power that the Facility can generate and deliver to the Delivery Point at a particular moment and that can be purchased, sold or conveyed under CAISO or CPUC market rules, including Resource Adequacy Benefits.

"**CEC**" means the California Energy Commission or its successor agency.

"**CEC Certification and Verification**" means that the CEC has certified that the Facility is an Eligible Renewable Energy Resource for purposes of the California Renewables Portfolio Standard and that all Facility Energy qualifies as generation from an Eligible Renewable Energy Resource.

"**Change of Control**" means any circumstance in which Ultimate Parent ceases to own, directly or indirectly through one or more intermediate entities, at least fifty percent (50%) of the outstanding equity interests in Seller; *provided*, in calculating ownership percentages for all purposes of the foregoing:

(a) any ownership interest in Seller held by Ultimate Parent indirectly through one or more intermediate entities shall not be counted towards Ultimate Parent's ownership interest in Seller unless Ultimate Parent directly or indirectly owns at least fifty percent (50%) of the outstanding equity interests in each such intermediate entity; and

(b) ownership interests in Seller owned directly or indirectly by any Lender (including any tax equity provider) shall be excluded from the total outstanding equity interests in Seller.

"**CIRA Tool**" means the CAISO Customer Interface for Resource Adequacy, or any successor mechanism.

"**COD Certificate**" has the meaning set forth in Exhibit B.

"**COD Delay Damages Payment**" has the meaning set forth in Exhibit B.

"**Commercial Operation**" has the meaning set forth in Exhibit B.

"**Commercial Operation Date**" means the date Commercial Operation is achieved.

"**Commercial Operation Delay Damages**" means an amount equal to (a) the Development Security amount required hereunder, *divided by* (b) [redacted]

"**Compliance Actions**" has the meaning set forth in Section 3.12(a).

"**Compliance Expenditure Cap**" has the meaning set forth in Section 3.12.

"**Confidential Information**" has the meaning set forth in Section 18.1.

"**Contract Rate**" has the meaning set forth on the Cover Sheet.

"**Contract Revenues**" has the meaning set forth in Section 4.4(b).

"**Contract Term**" has the meaning set forth in Section 2.1(a).

"**Contract Year**" means a period of twelve (12) consecutive months. The first Contract Year shall commence on the Commercial Operation Date and each subsequent Contract Year shall commence on the anniversary of the Commercial Operation Date.

"**Costs**" means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third-party transaction costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace the Agreement; and all reasonable attorneys' fees and expenses incurred by the Non-Defaulting Party in connection with terminating the Agreement.

"**Cover Sheet**" means the cover sheet to this Agreement, which is incorporated into this Agreement.

"**COVID-19**" means the pandemic disease designated COVID-19 and the related virus designated SARS-CoV-2 and any mutations thereof, and the efforts of a Governmental Authority to combat such disease.

"**CPM Adjustment Factor**" means, for any RA Shortfall Month, the percentage for the corresponding calendar month set forth in Exhibit P.

"**CPM Price**" has the meaning set forth in Section 3.8(b).

"**CPM Soft Offer Cap**" has the meaning set forth in the CAISO Tariff.

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

"**Credit Rating**" means, with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt obligations (not supported by third party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuer rating by S&P or Moody's. If ratings by S&P and Moody's are not equivalent, the lower rating shall apply.

"**Cure Plan**" has the meaning set forth in Section 11.1(b)(iii).

"**Curtailment Order**" means any of the following:

(a) CAISO orders, directs, alerts, or provides notice to a Party, including an Operating Instruction (as defined in the CAISO Tariff), to curtail deliveries of Facility Energy for the following reasons: (i) any System Emergency, (ii) any warning of an anticipated System Emergency, or warning of an imminent condition or situation, which jeopardizes CAISO's electric system integrity or the integrity of other systems to which CAISO is connected, or (iii) in response to an Energy oversupply or potential Energy oversupply, and Seller or the SC for the Facility submitted a Self-Schedule for the MWhs curtailed during the relevant time period;

(b) a curtailment ordered by a 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, including a System Emergency, or (ii) any warning, forecast or anticipation of conditions or situations that jeopardize a Transmission Provider's electric system integrity or the integrity of other systems to which a Transmission Provider is connected, including a System Emergency;

(c) a curtailment ordered by CAISO or a Transmission Provider due to a Transmission System Outage; or

(d) a curtailment in accordance with Seller's obligations under its Interconnection Agreement with the PTO.

"**Curtailment Period**" means the period of time, as measured using current Settlement Intervals, during which Seller reduces generation or deliveries of Facility Energy from the Facility pursuant to a Curtailment Order; *provided*, the Curtailment Period shall be inclusive of the time required for the Facility to ramp down and ramp up.

"**Damage Payment**" means the amount to be paid by the Defaulting Party to the Non-Defaulting Party after a Terminated Transaction occurring prior to the Commercial Operation Date, in a dollar amount as set forth in Section 11.3(a).

"**Day-Ahead Forecast**" means the amount of Energy expected to be generated by the Facility and delivered to Buyer at the Delivery Point, net of all Electrical Losses and subject to the Hourly Delivery Cap, for each hour of the immediately succeeding day in accordance with Seller's obligations under this Agreement, based on a forecast from the Approved Forecast Vendor using a forecasting methodology to determine the potential generation of the Facility as a function of Available Capacity, wind speed and direction, wind turbine power curves and other pertinent data (including data related to Curtailment Orders), for the period of time, consistent with Prudent Operating Practice; *provided*, a Day-Ahead Forecast provided in a day prior to any non-Business Day(s) shall include non-binding forecasts for the immediately succeeding day, each succeeding non-Business Day and the next Business Day.

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

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

"**Deemed Delivered Energy**" means the difference of (i) the Market Curtailment Max Energy, *minus* (ii) the amount of Facility Energy delivered to the Delivery Point during the Market Curtailment Period; *provided*, if the applicable difference is negative, the Deemed Delivered Energy shall be zero (0) MWh.

"**Deemed Delivered RA**" means, for any month, the amount of Resource Adequacy Benefits expressed in kW that Seller would have delivered to Buyer, but for Buyer's actions or inactions (including, until such time as the Facility receives a Deliverability Allocation from the CAISO, failure to obtain Import Capability sufficient to allow for the importation of such capacity into the CAISO). As of the Effective Date, the Parties agree that the Deemed Delivered RA shall be determined by calculating the quotient of (i) the sum of the following: for each hour of the twenty-four hour array applicable to such Showing Month, the amount of Resource Adequacy Benefits (in MW) that Seller would have delivered to Buyer, but for Buyer's actions or inactions (including, until such time as the Facility receives a Deliverability Allocation from the CAISO, failure to obtain Import Capability sufficient to allow for the importation of such capacity into the CAISO, unless Buyer is prohibited by the CAISO Tariff from using Import Capability with respect to the Resource Adequacy Benefits and such prohibition is not due to the fault or negligence of Buyer and Buyer has used commercially reasonable efforts to avoid or mitigate such prohibition), *divided by* (ii) twenty four (24). If (i) Seller submits a Supply Plan to the CAISO in accordance with the requirements of this Agreement by the applicable Showing Deadline and is otherwise in compliance with Section 3.7, but (ii) the CIRA Tool shows that Seller's Supply Plan has not been accepted by the CAISO through no fault of Seller, and (iii) Seller uses commercially reasonable efforts to resolve any failure by the CAISO to approve such Supply Plan, then the Resource Adequacy Benefits included in such Supply Plan shall be considered Deemed Delivered RA; *provided*, if Buyer's inability to utilize any Resource Adequacy Benefits is the result of the CAISO Tariff disallowing Buyer from using Import Capability to obtain some or all of the Capacity Attributes from the Facility and such prohibition is not due to the fault or negligence of Buyer and Buyer has used commercially reasonable efforts to avoid or mitigate such prohibition, it shall not be considered Deemed Delivered RA.

"**Defaulting Party**" has the meaning set forth in Section 11.1(a).

"**Deficient Month**" has the meaning set forth in Section 4.8(e).

"**Deliverability Allocation**" means an allocation of Deliverability (as defined in the CAISO Tariff) to the Facility such that Buyer may receive all of the Resource Adequacy Benefits at the Delivery Point throughout the Delivery Term without any need to obtain an allocation of Maximum Import Capability or other import rights.

"**Delivery Point**" has the meaning set forth in Exhibit A.

"**Delivery Term**" shall mean the period of Contract Years set forth on the Cover Sheet beginning on the Commercial Operation Date, unless terminated earlier in accordance with the terms and conditions of this Agreement.

"**Development Cure Period**" has the meaning set forth in Exhibit B.

"**Development Security**" means, at Seller's option, (a) cash or (b) one or more Letters of Credit, in aggregate in the amount specified for the Development Security on the Cover Sheet.

"**Disclosing Party**" has the meaning set forth in Section18.2.

"**E-Tag**" has the meaning set forth in the CAISO Tariff.

"**Early Termination Date**" has the meaning set forth in Section 11.2(a).

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

"**Electrical Losses**" means all transmission or transformation losses between the Facility's Point of Interconnection to the PTO's Transmission System and the Delivery Point, expressed in MWh; *provided*, Electrical Losses shall not include losses that are replaced with Energy provided by one or more Transmission Providers and paid for by Seller (at Seller's sole expense) and that, when delivered to Buyer hereunder, meet the requirements for Product delivered hereunder, including PCC1 status.

"**Eligible Renewable Energy Resource**" has the meaning set forth in California Public Utilities Code Section 399.12(e) and California Public Resources Code Section 25741(a), as either code provision is amended or supplemented from time to time.

"**Energy**" means electrical energy, measured in kilowatt-hours, megawatt-hours, or multiple units thereof.

"**Energy Replacement Damages**" has the meaning set forth in Section 4.7(a).

"**EPC Contract**" means Seller's engineering, procurement and construction contract(s) for the Facility.

"**Event of Default**" has the meaning set forth in Section 11.1.

"**Exceedance Profile RA Amount**" means, as of the Effective Date, for a given Showing Month, the quotient of (i) the sum of the following: for each hour of the twenty-four hour array applicable to such Showing Month, the maximum amount of Resource Adequacy Benefits (in MW) that Buyer is able to receive in the relevant RA Compliance Template, based on the shape factor set forth for the applicable hour of the applicable Showing Month under tab "Resource Default Profiles" for New Mexico Wind, Cells E338-E625, on the CPUC website at https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/resource-adequacy-compliance-materials/guides-and-resources/rashowingtemplate_rev35.xlsm (as such may be updated or replaced by the CPUC from time to time) and assuming that Buyer's RA Plan in respect of the Facility matches the Supply Plan submitted by Seller for the Facility (provided Seller's Supply Plan does not reflect an amount in excess of the Guaranteed RA Amount), *divided by* (ii) twenty four (24).

"**Excess MWh**" has the meaning set forth in Exhibit C.

"**Excused Capacity Reduction**" means a reduction to the Capacity Attributes available from the Facility due to (a) System Emergency [redacted], (b) Curtailment Order [redacted], (c) Force Majeure Event, (d) Major Planned Outage, (e) Qualified Forced Facility Outage, or (f) Planned Outage; *provided*:

(x) [redacted]

[redacted]

a Planned Outage or Major Planned Outage for purposes of determining the treatment of such Qualified Forced Facility Outage as an Excused Capacity Reduction by including such election in its original Notice to Buyer of such Qualified Forced Facility Outage, and may change such election via a subsequent Notice to Buyer on or before the date that is thirty (30) days prior to an applicable Showing Deadline and no more often than once per Showing Month.

"**Expected Commercial Operation Date**" has the meaning set forth on the Cover Sheet.

"**Expected Energy**" means the quantity of Facility Energy (with associated Green Attributes) that Seller expects to be able to deliver to Buyer from the Facility during each Contract Year, from and after the Initial Energy Delivery Date, which for each Contract Year is the quantity specified on the Cover Sheet and which shall be adjusted on a pro rata basis as appropriate for the Contract Year during which the Initial Energy Delivery Date occurs based on the number of days in such Contract Year; *provided*, (i) such amount shall be increased or decreased by Seller in a Notice to Buyer within sixty (60) days following the delivery by Seller of the final Installed Capacity Certificate in the form attached hereto as Exhibit I, and (ii) the amount of Expected Energy stated in such notice shall equal Buyer's Share of the P50 amount set forth in the most wind resource assessment from a Licensed Professional Engineer (adjusted as necessary to reflect the Hourly Delivery Cap), but in no event shall the adjusted annual Expected Energy amount be more than [redacted] higher or lower than the annual Expected Energy amount as set forth on the Cover Sheet; *provided further*, Seller shall use commercially reasonable efforts to notify Buyer of any change in the anticipated Expected Energy from the quantity specified on the Cover Sheet prior to the Commercial Operation Date.

"**Expected Installed Capacity**" the amount of Seller's anticipated Installed Capacity, which as of the Effective Date equals 2,561.2 MW, and which may be reduced upon Notice to Buyer from time to time.

"**Facility**" means the wind-powered electricity generating facility described on the Cover Sheet and in Exhibit A, installed at the Site pursuant to the terms of the EPC Contracts, and including mechanical equipment and associated facilities and equipment required to deliver Facility Energy to the Delivery Point; *provided*, the "Facility" does not include any Shared Facilities.

"**Facility Energy**" means, in any Settlement Interval or Settlement Period, as applicable, the amount of Energy generated by the Facility and delivered to Buyer at the Delivery Point in accordance with Seller's obligations under this Agreement, which such amount shall equal: (i) (a) Buyer's Share of the Energy produced by the Facility and delivered to the Point of Interconnection, as measured in MWh by the Facility Meter, as such amount may be reduced as a result of a Curtailment Order, net of all Electrical Losses (without duplication of losses programmed into the Facility Meter, if any) and Station Use, or (b) if the Facility output is reduced, at Seller's direction (and not, for example, as a result of a Forced Facility Outage) in any Settlement Interval or Settlement Period, as applicable, that is not during a Curtailment Period or Market Curtailment Period, then Facility Energy for such Settlement Interval or Settlement Period, as applicable, will instead be equal to Buyer's Share of the Energy that the Facility would have been able to produce and deliver to the Point of Interconnection, if the Facility output was not so reduced, or (c) if the Facility output is reduced, at Seller's direction in any Settlement Interval or Settlement Period, as applicable, during a Market Curtailment Period, then Facility Energy for such Settlement Interval or Settlement Period, as applicable, will instead be equal to the Market Curtailment Max Energy, *minus* any of such Market Curtailment Max Energy that is actually curtailed in connection with such Market Curtailment Period, which amount of curtailed Energy shall be calculated by Seller in a manner consistent with Prudent Industry Practices and, upon request from Buyer, demonstrated to Buyer's reasonable satisfaction; and, in each case of (a), (b) and (c), subject to the Hourly Delivery Cap *multiplied by* the duration of the Settlement Interval or Settlement Period, as applicable, (as measured in hours); *plus* (ii) all Replacement Energy delivered as part of prospectively delivered Replacement Product pursuant to Section 4.7(b).

"**Facility Meter**" means one or more CAISO-approved revenue quality meters located inside the Facility's Point of Interconnection switching station, together with a CAISO-approved data processing gateway or remote intelligence gateway, telemetering equipment and data acquisition services sufficient for monitoring, recording and reporting, in real time, all Energy produced by the Facility net of Electrical Losses and Station Use.

"**FERC**" means the Federal Energy Regulatory Commission or any successor government agency.

"**Fifteen Minute Market**" or "**FMM**" has the meaning set forth in the CAISO Tariff.

"**Financial Close**" means Seller and/or one or more of its Affiliates has obtained debt and/or equity financing commitments from one or more Lenders sufficient to construct the Facility, including such financing commitments from Seller's owner(s).

"**Fitch**" means Fitch Ratings, Inc., or its successor.

"**Floor Price**" means (a) for the period during which Seller is eligible to obtain PTCs and for that portion of the Facility Energy or Deemed Delivered Energy, as the case may be, to which PTC eligibility applies, the amount, on a dollar per MWh basis, equal to the Negative PTC Amount, or (b) for all other periods and portions of Facility Energy or Deemed Delivered Energy, zero dollars per MWh ($0/MWh), subject to clause (b)(ii) of Exhibit D. The Floor Price will be a single value. Subject to clause (b)(ii) of Exhibit D, the Floor Price shall be calculated as the average of the amounts determined pursuant to clauses (a) and (b) of this definition of "Floor Price", such average to be weighted based on the percentages of the Installed Capacity to which such amounts apply.

"**Force Majeure Event**" has the meaning set forth in Section 10.1.

"**Forced Facility Outage**" means (i) an unexpected failure of one or more components of the Facility (including subsequent outages to remediate such unexpected failure), or (ii) the unexpected removal from service of one or more components of the Facility, which removal from service is required to prevent or limit imminent harm to or loss of life or property, or prevent imminent loss of or damage to the Facility or the Transmission System, in each case that prevents Seller from generating Energy and/or making Energy from the Facility available at the Delivery Point, and that is not the result of a Force Majeure Event.

"**Forecasted Product**" has the meaning set forth in Section 4.3(b).

"**Future Environmental Attributes**" means any and all Green Attributes that become recognized under applicable Law after the Effective Date (and not before the Effective Date), notwithstanding the last sentence of the definition of "Green Attributes" herein. Future Environmental Attributes do not include Tax Credits associated with the construction or operation of the Facility, or other financial incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation.

"**Gains**" means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining the economic benefit to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., SP-15), all of which should be calculated for the remaining Contract Term, and includes the value of Green Attributes and Capacity Attributes.

"**Governmental Authority**" means any federal, state, provincial, local or municipal government, any political subdivision thereof or any other governmental, congressional or parliamentary, regulatory, or judicial instrumentality, authority, body, agency, department, bureau, or entity with authority to bind a Party at law, including CAISO, WREGIS, and the CPUC; *provided*, "Governmental Authority" shall not in any event include any Party.

"**Green Attributes**" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled (including under the RPS regulations and/or under any and all other international, federal, regional, state or other law, rule, regulation, bylaw, treaty or other intergovernmental compact, decision, administrative decision, program (including any voluntary compliance or membership program), competitive market or business method (including all credits, certificates, benefits, and emission measurements, reductions, offsets and allowances related thereto)), attributable to the generation from the Facility and its displacement of conventional energy generation. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (3) the reporting rights to such avoided emissions, such as Green Tag Reporting Rights. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Facility, (ii) Tax Credits associated with the construction or operation of the Facility and other financial incentives in the form of credits, reductions, or allowances associated therewith, or (iii) emission reduction credits encumbered or used by the Facility for compliance with local, state, or federal operating and/or air quality permits. Green Attributes under the preceding definition are limited to Green Attributes that exist under applicable Law as of the Effective Date.

"**Green Tag Reporting Rights**" means the right of a purchaser of renewable energy to report ownership of accumulated Green Tags in compliance with and to the extent permitted by applicable Law and include, without limitation, rights under Section 1605(b) of the Energy Policy Act of 1992, and any present or future federal, state or local certification program or emissions trading program, including pursuant to the WREGIS Operating Rules.

"**Green Tags**" means a unit accumulated on a MWh basis where one (1) represents the Green Attributes associated with one (1) MWh of Facility Energy.

"**Green-e Certified**" means the Green Attributes provided to Buyer pursuant to this Agreement are certified under the Green-e Energy National Standard.

"**Green-e Energy National Standard**" means the Green-e Renewable Energy Standard for Canada and the United States (formerly Green-e Energy National Standard) version 4.2, updated April 27, 2023, as may be further amended from time to time.

"**Guaranteed Capacity**" means the portion of the generating capacity of the Facility, as measured in MW, that Seller commits to install pursuant to this Agreement, as set forth on the Cover Sheet.

"**Guaranteed Commercial Operation Date**" has the meaning set forth on the Cover Sheet, subject to extension pursuant to Exhibit B.

"**Guaranteed Energy Production**" has the meaning set forth in Section 4.7(a).

"**Guaranteed Installed Capacity**" means, as of any date, the total installed generating nameplate capacity of the Facility, as measured in MW, with respect to which Seller has commenced and is obligated to continue deliveries of Energy (not including test energy) and associated Green Attributes and/or resource adequacy benefits produced by or associated with such generating nameplate capacity to purchasers under power purchase agreements or similar long-term offtake agreements with third parties; *provided* that (a) in determining whether each of CAISO Commercial Operation and Commercial Operation has occurred and (b) on and after the Commercial Operation Date, the Guaranteed Installed Capacity shall include the Guaranteed Capacity.

"**Guaranteed RA Amount**" means a guaranteed amount of Resource Adequacy Benefits for a given Showing Month, equal to the difference between (i) the maximum amount of Resource Adequacy Benefits (in MW) that could be provided by the Facility under then-current Law, and (ii) Excused Capacity Reductions.

For the purposes of the definition of "Guaranteed RA Amount", the amount described in clause (i) above shall not be deemed reduced based on the calculation or determination, by the CAISO or the CPUC, of the Resource Adequacy Benefits (in MW) available from the Facility resulting from any performance of the Facility or any actions or inactions of Seller impacting the performance of the Facility, including due to Planned Outages, Major Planned Outages or Forced Facility Outages, as reasonably demonstrated by documentation prepared by the CAISO or the CPUC (but not including any cause external to the Facility, for example, a lack of wind resource, any outage of the Transmission System, or a Curtailment Order not caused by Seller), regardless of whether such outages result in Excused Capacity Reductions).

Subject to the foregoing, as of the Effective Date, the Parties agree that the Guaranteed RA Amount shall be the quotient of (a) the sum of the following: for each hour of the twenty-four hour array applicable to such Showing Month, the product of (w) the PMAX (as defined in the CAISO Tariff) of the Facility *minus* the capacity of the Facility (in MW) that is not available for purposes of compliance with the Resource Adequacy Requirements as a result of Excused Capacity Reductions, *multiplied by* (y) Buyer's Share, *multiplied by* (z) [redacted], on the CPUC website at https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/resource-adequacy-compliance-materials/guides-and-resources/rashowingtemplate rev35.xlsm (as such may be updated or replaced by the CPUC from time to time), [redacted]. An

illustrative-only example of the calculation of the Guaranteed RA Amount as of the Effective Date is set forth in Exhibit O.

"**Guarantor**" means any Person that (a) is an Affiliate of Seller, or other third party reasonably acceptable to Buyer, (b) has a Credit Rating of BBB- or better from S&P or a Credit Rating of Baa3 or better from Moody's, (c) is incorporated or organized in a jurisdiction of the United States and is in good standing in such jurisdiction, and (d) executes and delivers a Guaranty for the benefit of Buyer.

"**Guaranty**" means a guaranty from a Guarantor provided for the benefit of Buyer substantially in the form attached as Exhibit M, or as reasonably acceptable to Buyer.

"**Hourly Delivery Cap**" means the maximum delivery rate of Energy and associated Renewable Energy Credits and Green Tags delivered to the Delivery Point and sold to Buyer in any given hour under this Agreement, which amount shall be equal to Buyer's Share *multiplied by* 1,495 MW.

"**Imbalance Energy**" means the amount of Energy in MWh, in any given Settlement Period or Settlement Interval, by which the amount of Facility Energy deviates from the amount of Scheduled Energy.

"**Import Capability**" means that portion of the Maximum Import Capability allocated by the CAISO that is necessary to support the importation of Resource Adequacy Benefits from the Facility into the CAISO market in an amount equal to the Guaranteed RA Amount.

"**Indemnified Party**" has the meaning set forth in Section 16.1.

"**Indemnifying Party**" has the meaning set forth in Section 16.1.

"**Initial Energy Delivery Date**" means the first date upon which Seller delivers Facility Energy and associated Green Attributes to Buyer, which shall occur on January 1, 2029.

"**Initial Synchronization**" means the commencement of Trial Operations (as defined in the CAISO Tariff).

"**Installed Capacity**" means the nameplate capacity of the Facility at the Point of Interconnection, as evidenced by a certificate from a Licensed Professional Engineer substantially in the form attached as Exhibit I hereto, as it may be updated from time to time by delivery of a subsequent certificate from a Licensed Professional Engineer substantially in the form attached as Exhibit I hereto solely as permitted pursuant to Section 2(a) of Exhibit B.

"**Inter-SC Trade**" has the meaning set forth in the CAISO Tariff.

"**Interconnection Agreement**" means the interconnection agreement entered into by Seller or an Affiliate pursuant to which the Facility will be interconnected with the PTO's Transmission System, and pursuant to which Seller's Interconnection Facilities and any other Interconnection Facilities will be constructed, operated and maintained during the Contract Term.

"**Interconnection Facilities**" means the interconnection facilities, control and protective devices and metering facilities required to connect the Facility with the PTO's Transmission System in accordance with the Interconnection Agreement.

"**Interest Rate**" has the meaning set forth in Section 8.2.

"**Intertie**" has the meaning set forth in the CAISO Tariff.

"**IP Indemnity Claim**" has the meaning set forth in Section 16.1(b).

"**ITC**" means the investment tax credit established pursuant to Section 48 of the United States Internal Revenue Code of 1986.

"**Joint Powers Act**" means the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.).

"**Joint Powers Agreement**" means that certain Joint Powers Agreement dated June 27, 2017, as amended from time to time, under which Buyer is organized as a Joint Powers Authority in accordance with the Joint Powers Act.

"**kW**" means kilowatts in alternating current, unless expressly stated in terms of direct current.

"**kWh**" means a kilowatt-hour measured in alternating current, unless expressly stated in terms of direct current.

"**Law**" means any applicable law, statute, rule, regulation, decision, writ, order, decree or judgment, permit or any interpretation thereof, promulgated or issued by a Governmental Authority.

"**Lender**" means, collectively, any Person (a) providing senior or subordinated construction, interim, back leverage or long-term debt, equity or tax equity financing or refinancing for or in connection with the development, construction, purchase, installation or operation of the Facility, whether that financing or refinancing takes the form of private debt (including back-leverage debt), equity (including tax equity), public debt or any other form (including financing or refinancing provided to a member or other direct or indirect owner of Seller), including any equity or tax equity investor directly or indirectly providing financing or refinancing for the Facility or purchasing equity ownership interests of Seller and/or its Affiliates, and any trustee or agent or similar representative acting on their behalf, (b) providing interest rate or commodity protection under an agreement hedging or otherwise mitigating the cost of any of the foregoing obligations and/or (c) participating in a lease financing (including a sale leaseback or leveraged leasing structure) with respect to the Facility.

"**Letter(s) of Credit**" means one or more irrevocable, standby letters of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a Credit Rating of at least A- with an outlook designation of "stable" from S&P or A3 with an outlook designation of "stable" from Moody's, or from an issuer otherwise acceptable to Buyer in its sole discretion,

in a form substantially similar to the letter of credit set forth in Exhibit K, or as reasonably acceptable to Buyer.

"**Licensed Professional Engineer**" means either (i) [redacted], (ii) [redacted], (iii) the independent engineer retained by the Lenders, or on their behalf under customary terms and conditions, in connection with a financing of the Facility, which engineer, or employee or principal thereof (a) is licensed to practice engineering in New Mexico, (b) has training and experience in the power industry specific to the technology of the Facility, (c) is not a representative of a consultant, engineer, contractor, designer or other individual involved in the development of the Facility or of a manufacturer or supplier of any equipment installed at the Facility other than as the independent engineer for the Lenders, and (d) is licensed in an appropriate engineering discipline for the required certification being made, or (iv) a person acceptable to Buyer in its reasonable judgment.

"**Locational Marginal Price**" or "**LMP**" has the meaning set forth in the CAISO Tariff.

"**Losses**" means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining economic loss to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., SP-15), all of which should be calculated for the remaining Contract Term and must include the value of Green Attributes, Capacity Attributes, and Renewable Energy Incentives.

"**Lost Output**" has the meaning set forth in Section 4.7(a).

"**Major Equipment Failure**" means a failure of (i) one of the Facility's [redacted] (the procurement of which involves a similarly long lead time), or (ii) no less than [redacted] of the Facility's [redacted] or (iii) no less than [redacted] of the Facility's [redacted]

"**Major Planned Outage**" means a Planned Outage which results in a reduction of more than [redacted] to the amount of Resource Adequacy Benefits provided to Buyer from the Facility in any Showing Month.

"**Market Curtailment Max Energy**" means Buyer's Share of the total Energy the Facility would have been able to deliver to the Point of Interconnection during a Market Curtailment Period, subject to the Hourly Delivery Cap, if the output of the Facility was not reduced at Seller's direction, which amount shall be equal to the Real-Time Forecast (of the hourly expected Facility Energy) provided pursuant to Section 4.3(d) for the period of time during such Market Curtailment Period.

"**Market Curtailment Period**" means the period of time during a Settlement Interval or Settlement Period, as applicable, in which the LMP in the Day-Ahead Market and the Real-Time Market at the Delivery Point are less than the Floor Price; *provided*, if applicable, the Market Curtailment Period shall be inclusive of the time required for the Facility to ramp down to implement such curtailment (if any) and ramp up following such curtailment (if any) in accordance with the Operating Restrictions.

"**Material Permits**" means all permits required for Seller to commence construction that have not been obtained as of the Effective Date, as set forth on Exhibit S.

"**Maximum Import Capability**" has the meaning set forth in the CAISO Tariff, and includes any replacement or successor method implemented by the CAISO with respect to the ability of generating units that are external to the CAISO Balancing Authority Area to provide Resource Adequacy Benefits.

"**Milestones**" means the significant development activities and dates associated therewith set forth on the Cover Sheet.

"**Monthly Forecast**" has the meaning set forth in Section 4.3(b).

"**Moody's**" means Moody's Investors Service, Inc., or its successor.

"**MW**" means megawatts in alternating current, unless expressly stated in terms of direct current.

"**MWh**" means megawatt-hour measured in alternating current, unless expressly stated in terms of direct current.

"**Negative LMP**" means, in any Settlement Period or Settlement Interval, the LMP at the Delivery Point in the applicable CAISO market that is less than zero dollars per MWh ($0/MWh).

"**Negative PTC Amount**" means the amount, on a dollar per MWh basis, equal to the PTC Amount that Seller is eligible to earn in respect of Energy from the Facility at the time of calculation, *multiplied by* negative one (-1).

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

"**Net Qualifying Capacity**" has the meaning set forth in the CAISO Tariff.

"**Network Upgrades**" has the meaning set forth in the CAISO Tariff.

"**Non-Defaulting Party**" has the meaning set forth in Section 11.2.

"**Non-Summer Month**" means any month that is not a Summer Month, commencing as of the month in which the RA Guarantee Date occurs and throughout the Delivery Term.

"**North Affiliate**" means SunZia Wind North LLC.

"**Notice**" shall, unless otherwise specified in the Agreement, mean written communications by a Party to be delivered by hand delivery, United States mail, overnight courier service, or electronic messaging (e-mail).

"**Operating Restrictions**" means the operational characteristics of the Facility set forth in Exhibit U.

"**Pacific Prevailing Time**" means the prevailing standard time or daylight savings time, as applicable, in the Pacific time zone.

"**Participating Transmission Owner**" or "**PTO**" means an entity that owns, operates and maintains the Transmission System or distribution lines and associated facilities and/or has entitlements to use certain transmission or distribution lines and associated facilities where the Facility is interconnected, as set forth in Exhibit A.

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

"**Performance Measurement Period**" means the prior 24-month period measured from the end of each Contract Year, commencing in the second full Contract Year following the Initial Energy Delivery Date; provided, the first Performance Measurement Period shall be extended to include any period between the Initial Energy Delivery Date and the first day of the first Contract Year of such Performance Measurement Period, and the amount of Expected Energy used in the calculation of the Guaranteed Energy Production for such extended first Performance Measurement Period shall be increased, pro-rata, based on the number of days in such Performance Measurement Period.

"**Performance Security**" means (i) cash, (ii) one or more Letters of Credit, and/or (iii) a Guaranty, in aggregate in the amount specified for the Performance Security on the Cover Sheet.

"**Permitted Transferee**" means (i) any Affiliate of Seller or (ii) any entity that satisfies, or is controlled by another Person that satisfies, the following requirements:

(a) A tangible net worth plus Unfunded Capital Commitments of not less than [redacted] or a Credit Rating of at least BBB- from S&P, BBB- from Fitch, or Baa3 from Moody's; and

(b) At least two (2) years of experience in the ownership and operations of utility-scale wind-powered electricity generation facilities, or has retained a third-party with such experience to operate the Facility.

"**Person**" means any individual, sole proprietorship, corporation, limited liability company, limited or general partnership, joint venture, association, joint-stock company, trust, incorporated organization, institution, public benefit corporation, unincorporated organization, government entity or other entity.

"**Planned Outage**" means a period during which the Facility is either in whole or in part not capable of providing service due to planned maintenance that has been scheduled in advance in accordance with Sections 4.6(a) and 4.6(c).

"**Point of Interconnection**" has the meaning set forth in Exhibit A.

"**Portfolio Content Category**" means PCC1, PCC2 or PCC3, as applicable.

"**Portfolio Content Category 1**" or "**PCC1**" means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(1), as may be amended from time to time or as further defined or supplemented by Law.

"**Portfolio Content Category 2**" or "**PCC2**" means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(2), as may be amended from time to time or as further defined or supplemented by Law.

"**Portfolio Content Category 3**" or "**PCC3**" means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(3), as may be amended from time to time or as further defined or supplemented by Law.

"**Portfolio Financing**" means any debt incurred by an Affiliate of Seller that is secured only by a portfolio.

"**Portfolio Financing Entity**" means any Affiliate of Seller that incurs debt in connection with any Portfolio Financing.

"**Prevailing Wage**" has the meaning set forth in Section 13.4.

"**Product**" has the meaning set forth on the Cover Sheet.

"**Production Tax Credits**" or "**PTCs**" means production tax credit under Section 45 of the Internal Revenue Code as in effect from time-to-time throughout the Contract Term or any successor or other provision providing for a federal tax credit determined by reference to production of renewable energy for which Seller, as the owner of the Facility, is eligible.

"**Progress Report**" means a progress report including the items set forth in Exhibit E.

"**Prudent Operating Practice**" means (a) the applicable practices, methods and acts required by or consistent with applicable Laws and reliability criteria, and otherwise engaged in or approved by a significant portion of the electric industry during the relevant time period with respect to grid-interconnected, utility-scale wind-powered electricity generating facilities in the Western United States, and (b) any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business

practices, reliability, safety and expedition. Prudent Operating Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to acceptable practices, methods or acts generally accepted in the industry with respect to grid-interconnected, utility-scale wind-powered electricity generating facilities in the Western United States. Prudent Operating Practice shall include compliance with applicable Laws, applicable safety and reliability criteria, and the applicable criteria, rules and standards promulgated in the National Electric Safety Code and the National Electrical Code, as they may be amended or superseded from time to time, including the criteria, rules and standards of any successor organizations.

"**PTC Amount**" means the amount, on a dollar per MWh basis, equal to the Production Tax Credits that Seller would have earned in respect of Energy from the Facility at the time, grossed up on an after-tax basis at the then-highest marginal combined federal and New Mexico state corporate tax rate [redacted] but failed to earn as a result of Market Curtailment Period, which amount will be calculated by reference to the amount of Deemed Delivered Energy and the number of the Facility's wind turbines that are eligible to receive Production Tax Credits at the time of determination.

"**Qualified Forced Facility Outage**" means a Forced Facility Outage with respect to which a Licensed Professional Engineer has certified: (i) that the conditions for a Forced Facility Outage have been met (*provided*, in the event of a removal from service of a component of the Facility as set forth in clause (ii) of the definition of "Forced Facility Outage", such removal from service must occur no later than [redacted] following the discovery by Seller of the need for such removal), (ii) that such Forced Facility Outage was not caused by Seller's fault or negligence, including Seller's failure to follow Prudent Operating Practices, and (iii) the estimated duration of such Forced Facility Outage.

"**Qualified Forced Facility Outage Limit**" means [redacted]

"**RA Compliance Showing**" means the RAR compliance or advisory showings (or similar or successor showings) an entity is required to make to the CAISO pursuant to the CAISO Tariff, to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the Resource Adequacy Rulings, or to any Governmental Authority.

"**RA Compliance Template**" means, as of the Effective Date, the tab titled "LSE Showing Complete" on the CPUC website at https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/resource-adequacy-compliance-materials/guides-and-resources/rashowingtemplate_rev35.xlsm, as such document may be updated or replaced by the CPUC from time to time.

"**RA Deficiency Amount**" means the liquidated damages payment that Seller shall pay to Buyer for an applicable RA Shortfall Amount as calculated in accordance with Section 3.8(b).

"**RA Deficiency Cap**" shall mean, for each Showing Month, the corresponding dollar amount set forth below:

RA Deficiency Cap	
Showing Month	**$/kW-month**
Jan	[redacted]
Feb	[redacted]
Mar	[redacted]
Apr	[redacted]
May	[redacted]
Jun	[redacted]
Jul	[redacted]
Aug	[redacted]
Sep	[redacted]
Oct	[redacted]
Nov	[redacted]
Dec	[redacted]

"**RA Guarantee Date**" means the Commercial Operation Date; *provided*, if the Facility is not delivering Resource Adequacy Benefits to Buyer for the Showing Month in which the Commercial Operation Date occurs, the RA Guarantee Date shall be the earlier of (i) the first day of the Showing Month in which the Facility is delivering Resource Adequacy Benefits to Buyer, and (ii) the first day of the Showing Month following the date that is [redacted] days after the Commercial Operation Date.

"**RA Plan**" means each of (a) Buyer's monthly or annual "Resource Adequacy Plan" (as defined in the CAISO Tariff) filed with the CAISO, and (b) Buyer's monthly or annual resource adequacy plans filed with the CPUC.

"**RA Shortfall Amount**" has the meaning set forth in Section 3.8(b).

"**RA Shortfall Month**" means, for purposes of calculating an RA Deficiency Amount under Section 3.8(b), any Showing Month during which the RA Shortfall Amount is greater than zero (0) kW.

"**RA Substitute Capacity**" has the meaning set forth in the CAISO Tariff. As of the Effective Date, the Parties agree that the amount of RA Substitute Capacity delivered by Seller for a given Showing Month shall be determined by calculating the quotient of (i) the sum of the following: for each hour of the twenty-four hour array applicable to such Showing Month, the amount of RA Substitute Capacity (in MW) that Seller provided in accordance with the CAISO Tariff, *divided by* (ii) twenty four (24).

"**Real-Time Forecast**" has the meaning set forth in Section 4.3(d).

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

"**Real-Time Price**" means the Resource-Specific Settlement Interval LMP as defined in the CAISO Tariff. If there is more than one applicable Real-Time Price for the same period of time, Real-Time Price shall mean the price associated with the smallest time interval.

"**REC Price**" means the prevailing market price (expressed in $/MWh) for RECs meeting the RPS requirements for Portfolio Content Category 1, determined by averaging quotes provided by Buyer from three (3) unaffiliated brokers.

"**Receiving Party**" has the meaning set forth in Section 18.2.

"**Recurring Certificate Transfers**" has the meaning set forth in the WREGIS Operating Rules.

"**Remedial Action Plan**" has the meaning set forth in Section 2.4.

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

"**Renewable Energy Incentives**" means: (a) all federal, state, or local Tax credits or other Tax benefits associated with the construction, ownership, or production of electricity from the Facility (including credits under Sections 38, 45, 46 and 48 of the Internal Revenue Code of 1986, as amended); (b) any federal, state, or local grants, subsidies or other like benefits relating in any way to the Facility, including a cash grant available under Section 1603 of Division B of the American Recovery and Reinvestment Act of 2009, in lieu of federal Tax credits or any similar or substitute payment available under subsequently enacted federal legislation; and (c) any other form of incentive relating in any way to the Facility that is not a Green Attribute, Future Environmental Attribute, or Capacity Attribute.

"**Replacement Energy**" has the meaning set forth in Exhibit G.

"**Replacement Green Attributes**" has the meaning set forth in Exhibit G.

"**Replacement Product**" has the meaning set forth in Exhibit G.

"**Replacement RA**" means resource adequacy benefits from the Facility or from one or more resources (individually or in the aggregate), in each case that are reasonably comparable to the Resource Adequacy Benefits (including, if applicable under then-current Law, having MW values for each hour of the twenty-four (24) hour Slice-of-Day framework that are the same as or greater than those then applicable to the Facility) delivered to the Delivery Point or to another point within the CAISO grid and provided by Seller to Buyer in accordance with Section 3.7(e); *provided*, notwithstanding anything else herein, unless and until there is a change, after the Effective Date, to the manner of determining the resource adequacy benefits available from any

wind facility located in New Mexico causing such resource adequacy benefits to be no longer comparable to the Resource Adequacy Benefits available from the Facility (including due to the performance of any particular wind facility), any resource adequacy benefits from any such wind facility which Seller provides to Buyer in accordance with Section 3.7(e) shall be deemed to satisfy the requirements of this definition of "Replacement RA". As of the Effective Date, the Parties agree that the amount of Replacement RA delivered by Seller for a given Showing Month shall be determined by calculating the quotient of (i) the sum of the following: for each hour of the twenty-four hour array applicable to such Showing Month, the resource adequacy benefits (in MW) that Buyer would receive, as set forth in the relevant RA Compliance Template, assuming that Buyer's RA Plan in respect of the Replacement RA matches the Supply Plan submitted by Seller in respect of the Replacement RA, *divided by* (ii) twenty four (24).

"**Requested Confidential Information**" has the meaning set forth in Section 18.2.

"**Resource Adequacy Benefits**" means the rights and privileges attached to Buyer's Share of the Capacity Attributes available from the Facility that satisfy any entity's resource adequacy obligations, as those obligations are set forth in any Resource Adequacy Rulings and shall include flexible capacity and any local, zonal or otherwise locational attributes associated with the Facility, if any.

"**Resource Adequacy Requirements**" or "**RAR**" means the resource adequacy requirements applicable to an entity as established by the CAISO pursuant to the CAISO Tariff, by the CPUC pursuant to the Resource Adequacy Rulings, or by any other Governmental Authority.

"**Resource Adequacy Rulings**" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-06-063, 16-06-045, 17-06-027, 18-06-030, 18-06-031, 19-02-022, 19-06-026, 19-10-021, 20-01-004, 20-03-016, 20-06-002, 20-06-028, 20-06-031, 20-12-006, 21-06-029, 21-07-014, 22-03-034, 22-06-050, 22-12-028, 22-08-039, 23-04-010, 24-06-004, and any other existing or subsequent ruling or decision, or any other resource adequacy laws, rules or regulations enacted, adopted or promulgated by any applicable Governmental Authority, however described, as such decisions, rulings, Laws, rules or regulations may be amended or modified from time-to-time throughout the Contract Term.

"**S&P**" means the Standard & Poor's Financial Services, LLC (a subsidiary of S&P Global Inc.) or its successor.

"**Schedule**" has the meaning set forth in the CAISO Tariff, and "**Scheduled**" and "**Scheduling**" have a corollary meaning.

"**Scheduled Energy**" means the Facility Energy scheduled by Seller that clears under the applicable CAISO market based on the final Day-Ahead Schedule, FMM Schedule (as defined in the CAISO Tariff), and/or any other financially binding Schedule, market instruction or dispatch for the Facility for a given period of time implemented in accordance with the CAISO Tariff.

"**Scheduling Coordinator**" or "**SC**" means an entity certified by the CAISO as qualifying as a Scheduling Coordinator pursuant to the CAISO Tariff for the purposes of undertaking the functions specified in "Responsibilities of a Scheduling Coordinator," of the CAISO Tariff, as amended from time to time.

"**Scheduling Point**" has the meaning set forth in the CAISO Tariff.

"**Second A&R Agreement**" has the meaning set forth in the Recitals hereto.

"**Security Interest**" has the meaning set forth in Section 8.9.

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

"**Seller**" has the meaning set forth on the Cover Sheet.

"**Seller's WREGIS Account**" has the meaning set forth in Section 4.8(a).

"**Settlement Amount**" means the Non-Defaulting Party's Costs and Losses, on the one hand, netted against its Gains, on the other. If the Non-Defaulting Party's Costs and Losses exceed its Gains, then the Settlement Amount shall be an amount owing to the Non-Defaulting Party. If the Non-Defaulting Party's Gains exceed its Costs and Losses, then the Settlement Amount shall be zero dollars ($0). The Settlement Amount does not include consequential, incidental, punitive, exemplary or indirect or business interruption damages.

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

"**Settlement Period**" has the meaning set forth in the CAISO Tariff.

"**Shared Facilities**" means the gen-tie lines, transformers, substations, or other equipment, permits, contract rights, and other assets and property (real or personal), in each case, as necessary to enable delivery of Energy from the Facility (which is excluded from Shared Facilities) to the Point of Interconnection, including the Interconnection Agreement itself, that are used in common with third parties.

"**Shared Facilities Agreements**" has the meaning set forth in Section 6.3.

"**Showing Deadline**" means, for any Showing Month, the deadline for submitting a Supply Plan or RA Plan, as applicable, applicable to that Showing Month, as established by the CAISO.

"**Showing Month**" shall be the calendar month of the Delivery Term, commencing with the Showing Month that contains the RA Guarantee Date, that is the subject of the RA Compliance Showing, as set forth in the Resource Adequacy Rulings and outlined in the CAISO Tariff. For illustrative purposes only, pursuant to the CAISO Tariff and Resource Adequacy Rulings in effect as of the Effective Date, the monthly RA Compliance Showing made in June is for the Showing Month of August.

"**Site**" means the real property on which the Facility is or will be located, as further described in Exhibit A,; *provided*, any such update to the Site that includes real property that was not originally contained within the Site boundaries described in Exhibit A shall be subject to Buyer's approval of such updates in its sole discretion.

"**Site Control**" means that Seller: (a) owns or has the option to purchase the Site; (b) is the lessee or has the option to lease the Site; or (c) is the holder of an easement or an option for an easement, right-of-way grant, or similar instrument with respect to the Site.

"**Slice-of-Day**" has the meaning set forth in the Resource Adequacy Rulings.

"**SOD Coefficient**" means the amount, for each Showing Month, set forth in the table below:

Month	SOD Coefficient
Jan	[redacted]
Feb	
Mar	
Apr	
May	
Jun	
Jul	
Aug	
Sep	
Oct	
Nov	
Dec	

"**SP-15**" means the Existing Zone Generation Trading Hub for Existing Zone region SP15 as set forth in the CAISO Tariff.

"**Station Use**" means the Energy (including Energy produced by the Facility) that is used within the Facility to power the lights, motors, temperature control systems, control systems and other electrical loads that are necessary for operation of the Facility, and/or that is consumed within the Facility's electric energy distribution system as losses.

"**Summer Month**" means any of June, July, August September and October, commencing as of the month in which the RA Guarantee Date occurs and throughout the Delivery Term.

"SunZia Transmission Line" means that certain 3,000-MW high-voltage (+/-525-kV) transmission line originating at the Point of Interconnection in New Mexico and terminating near Phoenix, Arizona. The western terminus of the line will connect to the 500-kV Pinal Central Substation.

"**Supply Chain Code**" has the meaning in Exhibit Q.

"**Supply Plan**" has the meaning set forth in the CAISO Tariff, as applicable to the Guaranteed RA Amount from the Facility.

"**System Emergency**" means any condition that requires, as determined and declared by CAISO or a Transmission Provider, automatic or immediate action to (i) prevent or limit harm to or loss of life or property, (ii) prevent loss of transmission facilities or generation supply in the immediate vicinity of the Facility, or (iii) to preserve Transmission System reliability.

"**Tax**" or "**Taxes**" means all U.S. federal, state and local and any foreign taxes, levies, assessments, surcharges, duties and other fees and charges of any nature imposed by a Governmental Authority, whether currently in effect or adopted during the Contract Term, including ad valorem, excise, franchise, gross receipts, import/export, license, property, sales and use, stamp, transfer, payroll, unemployment, income, and any and all items of withholding, deficiency, penalty, additions, interest or assessment related thereto.

"**Tax Credits**" means the PTC, ITC and any other state, local and/or federal production tax credit, depreciation benefit, tax deduction and/or investment tax credit specific to the production of renewable energy and/or investments in renewable energy facilities.

"**Terminated Transaction**" has the meaning set forth in Section 11.2(a).

"**Termination Payment**" has the meaning set forth in Section 11.3(b).

[redacted]

"**Transmission Provider**" means any entity that (i) owns, operates and maintains transmission or distribution lines and associated facilities and/or has entitlements to use certain transmission or distribution lines and associated facilities, and (ii) transmits or transports the Product on behalf of Seller or Buyer to or from the Delivery Point, including the Participating Transmission Owner.

"**Transmission System**" means the transmission facilities operated by the Transmission Providers, now or hereafter in existence, which provide energy transmission service upstream to or downstream from the Delivery Point.

"**Transmission System Outage**" means an outage on a Transmission System, other than a System Emergency, that prevents (i) Buyer from receiving, or (ii) Seller from delivering, Energy at the Delivery Point.

"**Ultimate Parent**" means Pattern Energy Group LP.

"**Unfunded Capital Commitments**" means as of any date of determination, the aggregate amount of all currently-available but undrawn capital obligated to be provided to a Person by investor(s) pursuant to binding, written agreements, not subject to the satisfaction of any conditions precedent to such funding outside the control of such Person.

"**Variable Energy Resource**" or "**VER**" has the meaning set forth in the CAISO Tariff.

"**WREGIS**" means the Western Renewable Energy Generation Information System or any successor renewable energy tracking program.

"**WREGIS Certificate Deficit**" has the meaning set forth in Section 4.8(e).

"**WREGIS Certificates**" has the same meaning as "Certificate" as defined by WREGIS in the WREGIS Operating Rules and are designated as eligible for complying with the California Renewables Portfolio Standard.

"**WREGIS Operating Rules**" means those operating rules and requirements adopted by WREGIS as of October 2022, as subsequently amended, supplemented or replaced (in whole or in part) from time to time.

Rules of Interpretation. In this Agreement, except as expressly stated otherwise or unless the context otherwise requires:

(a) headings and the rendering of text in bold and italics are for convenience and reference purposes only and do not affect the meaning or interpretation of this Agreement;

(b) words importing the singular include the plural and vice versa and the masculine, feminine and neuter genders include all genders;

(c) the words "hereof", "herein", and "hereunder" and words of similar import shall refer to this Agreement as a whole and not to any particular provision of this Agreement;

(d) a reference to an Article, Section, paragraph, clause, Party, or Exhibit is a reference to that Article, Section, paragraph, clause of, or that Party or Exhibit to, this Agreement unless otherwise specified;

(e) a reference to a document or agreement, including this Agreement shall mean such document, agreement or this Agreement including any amendment or supplement to, or replacement, novation or modification of this Agreement, but disregarding any amendment, supplement, replacement, novation or modification made in breach of such document, agreement or this Agreement;

(f) a reference to a Person includes that Person's successors and permitted assigns;

(g) the terms "include" and "including" mean "include or including (as applicable) without limitation" and any list of examples following such term shall in no way restrict or limit the generality of the word or provision in respect of which such examples are provided;

(h) references to any statute, code or statutory provision are to be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or reenacted, and include references to all bylaws, instruments, orders and regulations for the time being made thereunder or deriving validity therefrom unless the context otherwise requires;

(i) in the event of a conflict, a mathematical formula or other precise description of a concept or a term shall prevail over words providing a more general description of a concept or a term;

(j) references to any amount of money shall mean a reference to the amount in United States Dollars;

(k) the expression "and/or" when used as a conjunction shall connote "any or all of";

(l) words, phrases or expressions not otherwise defined herein that (i) have a generally accepted meaning in Prudent Operating Practice shall have such meaning in this Agreement or (ii) do not have well known and generally accepted meaning in Prudent Operating Practice but that have well known and generally accepted technical or trade meanings, shall have such recognized meanings; and

(m) each Party acknowledges that it was represented by counsel in connection with this Agreement and that it or its counsel reviewed this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

ARTICLE 2
TERM; CONDITIONS PRECEDENT

2.1 **Contract Term**.

(a) Conditions Precedent to Contract Term. This Agreement shall become effective on the Effective Date, and shall remain in full force and effect until the conclusion of the Delivery Term, subject to any early termination provisions set forth herein ("**Contract Term**"); *provided*, subject to Buyer's obligations in Section 3.6, Buyer's obligations to pay for or accept any Product are subject to Seller's completion of the conditions precedent pursuant to Section 2.2.

(b) Continuing Provisions. Applicable provisions of this Agreement shall continue in effect after termination, including early termination, to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to termination. The confidentiality obligations of the Parties under Article 18 shall remain in full force and effect for two (2) years following the termination of this Agreement, and all indemnity and audit rights shall remain in full force and effect for one (1) year following the termination of this Agreement.

Conditions Precedent to Delivery.

(a) The Delivery Term shall not commence until Seller completes to Buyer's reasonable satisfaction each of the following conditions, which Buyer shall, if submitted by Seller within thirty (30) days of the expected Commercial Operation Date, review and either accept or provide Notice stating in reasonably detail the basis for Buyer's rejection thereof within five (5) Business Days of receipt thereof. If there is a dispute between Buyer and Seller as to whether Commercial Operation has occurred, then either Party may elect to immediately refer the matter

to the dispute resolution procedures set forth in Article 15, and all payments of Commercial Operation Delay Damages from and after the date such dispute is initiated shall be tolled until the dispute is resolved. If the dispute is resolved in favor of Seller, the Commercial Operation Date shall be the date proposed by Seller prior to such dispute and no Commercial Operation Delay Damages shall be owed from Seller from and after such date, and if the dispute is resolved in favor of Buyer, Commercial Operation Delay Damages (if any) shall be due as set forth in Exhibit B.

(i) Seller shall have delivered to Buyer certificates from a Licensed Professional Engineer substantially in the form of Exhibit H and Exhibit I;

(ii) A Participating Generator Agreement (as defined in the CAISO Tariff) between Seller and CAISO and a Meter Service Agreement for CAISO Metered Entities (as defined in the CAISO Tariff) between CAISO and Seller (if, with respect to each such agreement, it is required under the CAISO Tariff or for Seller to meet its obligations under this Agreement), shall have been executed and delivered and be in full force and effect and a copy of such agreements delivered to Buyer;

(iii) All applicable regulatory authorizations, approvals and permits necessary for the operation of the Facility have been obtained and all conditions thereof that are capable of being satisfied on the Commercial Operation Date have been satisfied and shall be in full force and effect;

(iv) Seller has obtained CAISO Certification for the Facility;

(v) Seller has delivered the Performance Security to Buyer in accordance with Section 8.8;

(vi) Seller has delivered to Buyer an officer's certificate stating that Seller has not utilized any equipment or resources in connection with the construction, commissioning or testing of the Facility in violation of Section 2.3(b); and

(vii) Seller has paid Buyer for all amounts due and owing by Seller under this Agreement as of the Commercial Operation Date, if any, including Delay Damages.

(b) The Initial Energy Delivery Date shall not occur until Seller completes to Buyer's reasonable satisfaction each of the following conditions, which Buyer shall, if submitted by Seller within thirty (30) days of the expected Initial Energy Delivery Date, review and either accept or provide Notice stating in reasonably detail the basis for Buyer's rejection thereof within five (5) Business Days of receipt thereof. If there is a dispute between Buyer and Seller as to whether the Initial Energy Delivery Date has occurred, then either Party may elect to immediately refer the matter to the dispute resolution procedures set forth in Article 15. If the dispute is resolved in favor of Seller, the Initial Energy Delivery Date shall be the date proposed by Seller prior to such dispute, and if the dispute is resolved in favor of Buyer, the Initial Energy Delivery Date shall be deemed not to have occurred upon the date claimed by Seller.

(i) Seller has received final CEC Certification and Verification for the Facility; and

(ii) Seller (with the reasonable participation of Buyer) shall have completed all applicable WREGIS registration requirements, including the completion and submittal of all applicable registration forms and supporting documentation, which may include applicable interconnection agreements, informational surveys related to the Facility, QRE service agreements, and other appropriate documentation required to effect Facility registration with WREGIS and to enable Renewable Energy Credit transfers related to the Facility within the WREGIS system.

Development; Construction; Progress Reports.

(a) Within fifteen (15) days after the close of each calendar month from the first calendar month following the Effective Date until the Commercial Operation Date, Seller shall provide to Buyer a Progress Report and agree to regularly scheduled meetings between representatives of Buyer and Seller to review such reports and discuss Seller's construction progress. The form of the Progress Report is set forth in Exhibit E. Seller shall also provide Buyer with any reasonably requested documentation and additional information (subject to confidentiality restrictions) directly related to the achievement of Milestones within ten (10) Business Days of receipt of such request by Seller. Seller is solely responsible for the design and construction of the Facility, including the location of the Site, the Facility layout, and the selection and procurement of the equipment comprising the Facility.

(b) Seller shall use commercially reasonable efforts to ensure that all materials, products and components that are used in constructing, installing and operating the Facility throughout the Contract Term and provided by Seller and Seller's contractors and suppliers in direct contract with Seller or Seller's Affiliates shall be in compliance with the Supply Chain Code. Seller shall comprehensively implement due diligence procedures for its and its Affiliate's first-tier subcontractors and suppliers, and other subcontractors and suppliers to the extent reasonably practicable. Seller shall notify Buyer as soon as reasonably practicable if it becomes aware of any breach of its obligations under this Section 2.3(b).

(c) Buyer shall have the right, at Buyer's sole expense, to retain an independent auditor to audit Seller's compliance with the requirements of Section 2.3(b).

Remedial Action Plan. If Seller misses a Milestone by more than thirty (30) days, except as the result of Force Majeure Event or Buyer Default, in addition to updates provided to Buyer via Progress Reports delivered pursuant to Section 2.3, Seller shall submit to Buyer, within ten (10) Business Days of the end of such thirty (30)-day period following the Milestone completion date, a remedial action plan ("**Remedial Action Plan**"), which will describe in detail any delays (actual or anticipated) beyond the scheduled Milestone dates, including the cause of the delay (e.g., governmental approvals, financing, property acquisition, design activities, equipment procurement, project construction, interconnection, or any other factor), Seller's detailed description of its proposed course of action to achieve the missed Milestones and all subsequent Milestones by the Guaranteed Commercial Operation Date, as it may be extended; *provided*, delivery of any Remedial Action Plan shall not relieve Seller of its obligation to provide Remedial Action Plans with respect to any subsequent Milestones and to achieve the Guaranteed Commercial Operation Date in accordance with the terms of this Agreement. Subject to the

provisions of Exhibit B, so long as Seller complies with its obligations under this Section 2.4, Seller shall not be considered in default of its obligations under this Agreement solely as a result of missing any Milestone.

ARTICLE 3
PURCHASE AND SALE

Purchase and Sale of Product. Subject to the terms and conditions of this Agreement, during the Delivery Term, Buyer shall purchase all the Product produced by or associated with the Facility at the Contract Rate and in accordance with Exhibit C, and Seller shall supply and deliver to Buyer all the Product produced by or associated with the Facility; provided, prior to the Initial Energy Delivery Date the Product shall be limited to Capacity Attributes and Resource Adequacy Benefits. The sale by Seller and purchase by Buyer of Facility Energy hereunder shall be for resale; *provided*, no such re-sale or use shall relieve Buyer of any obligations hereunder. During the Delivery Term, Buyer shall have exclusive rights to offer, bid, or otherwise submit the Product, and/or any component thereof, from the Facility after the Delivery Point for resale in the market, and retain and receive any and all related revenues.

Sale of Green Attributes. During the Delivery Term, on and after the Initial Energy Delivery Date, Seller shall sell and deliver to Buyer, and Buyer shall purchase from Seller, all Green Attributes attributable to the Facility Energy. Upon request of Buyer, Seller shall use commercially reasonable efforts to (a) submit, and receive approval from the Center for Resource Solutions (or any successor that administers the Green-e Certification process), for the Green-e tracking attestations and (b) support Buyer's efforts to qualify the Green Attributes transferred by Seller as Green-e Certified, in each case with respect to the portion of the Delivery Term on and after the Initial Energy Delivery Date.

Imbalance Energy. Buyer and Seller recognize that in any given Settlement Period or Settlement Interval, as applicable, the amount of Facility Energy may deviate from the amounts thereof scheduled with the CAISO. To the extent there are such deviations, any costs, liabilities or revenues from such imbalances shall be solely for the account of Seller as Scheduling Coordinator hereunder, except as expressly set forth in this Agreement.

Ownership of Renewable Energy Incentives. Seller shall have all right, title and interest in and to all Renewable Energy Incentives. Buyer acknowledges that any Renewable Energy Incentives belong to Seller. If any Renewable Energy Incentives, or values representing the same, are initially credited or paid to Buyer, Buyer shall cause such Renewable Energy Incentives or values relating to same to be assigned or transferred to Seller without delay. Buyer shall reasonably cooperate with Seller, at Seller's sole expense, in Seller's efforts to meet the requirements for any certification, registration, or reporting program relating to Renewable Energy Incentives.

3.5 **Future Environmental Attributes.**

(a) The Parties acknowledge and agree that as of the Effective Date, environmental attributes anticipated to be sold under this Agreement are restricted to Green Attributes; however, Future Environmental Attributes may be created by a Governmental Authority through Laws enacted after the Effective Date. Subject to the final sentence of this Section 3.5(a) and to Section 3.5(b), in such event, Buyer shall bear all costs associated with the transfer, qualification, verification, registration and ongoing compliance for such Future Environmental Attributes, but there shall be no increase in the Contract Rate. Upon Seller's receipt of Notice from Buyer of Buyer's intent to claim such Future Environmental Attributes, the Parties shall determine the necessary actions and additional costs associated with such Future Environmental Attributes. Seller shall have no obligation to alter the Facility or the operation of the Facility unless the Parties have agreed on all necessary terms and conditions relating to such alteration or change in operation and Buyer has agreed to reimburse Seller for all costs, losses, and liabilities associated with such alteration or change in operation.

(b) If Buyer elects to receive Future Environmental Attributes pursuant to Section 3.5(a), the Parties agree to negotiate in good faith with respect to the development of further agreements and documentation necessary to effectuate the transfer of such Future Environmental Attributes, including agreement with respect to (i) appropriate transfer, delivery and risk of loss mechanisms, and (ii) appropriate allocation of any additional costs to Buyer, as set forth above; *provided*, the Parties acknowledge and agree that such terms are not intended to alter the other material terms of this Agreement.

[Reserved].

Capacity Attributes.

(a) Throughout the Delivery Term and subject to Section 3.12, Seller grants, pledges, assigns and otherwise commits to Buyer all the Capacity Attributes from the Facility.

(b) Throughout the Delivery Term and subject to Section 3.7(d) and Section 3.12, Seller shall perform all commercially reasonable actions necessary to ensure that the Facility qualifies to provide all Resource Adequacy Benefits to Buyer at the Delivery Point. Throughout the Delivery Term, and subject to Section 3.7(d) and Section 3.12, Seller hereby covenants and agrees to transfer all Resource Adequacy Benefits to Buyer.

(c) For the duration of the Delivery Term, and subject to Section 3.12, Seller shall take all commercially reasonable actions, including complying with all applicable registration and reporting requirements, and execute all documents or instruments that are reasonable and necessary to enable Buyer to use all of the Capacity Attributes committed by Seller to Buyer pursuant to this Agreement, including submitting Supply Plans in accordance with CAISO and CPUC requirements and the requirements of this Agreement. At least [redacted] prior to the CAISO submission deadline for each annual RA Plan, and at least [redacted] prior to the Showing Deadline for each monthly RA Plan ([redacted]), Seller shall provide a non-binding Notice to Buyer presenting the Resource Adequacy Benefits that Seller expects to include in such Supply Plan for the next calendar year or Showing Month, including any Replacement RA Seller commits to provide pursuant to Section 3.7(e), if

applicable; *provided*, if Seller becomes aware of any change to the Resource Adequacy Benefits that Seller is able to include in any monthly Supply Plan after delivering any such Notice, Seller shall provide a Notice to Buyer of any such change as soon as reasonably practicable [redacted]

(d) Buyer acknowledges that during some or all of the Delivery Term, it will be required to take certain actions and obtain certain rights at the Delivery Point in order to make use of the Capacity Attributes associated with the Product, including: (a) at least until such time as the Facility receives a Deliverability Allocation from the CAISO, maintaining Import Capability necessary to import the Guaranteed RA Amount into the CAISO at the Delivery Point, (b) timely filing its RA Plans as required by the CAISO and the CPUC, and (c) obtaining any other rights or capacities that Buyer is required to obtain, or take any other action that Buyer is required to take, in order for Seller to provide or Buyer to make use of the Capacity Attributes of the Facility, in each case as may be required under applicable Law and as may change from time to time. To the extent Buyer does not or cannot maintain Import Capability (solely until such time as the Facility receives a Deliverability Allocation from the CAISO) or any other rights or capacities necessary to support the importation of the Guaranteed RA Amount into the CAISO or otherwise receive or utilize the Capacity Attributes, for reasons other than a Seller failure under this Agreement, including Seller's failure to comply with applicable CPUC and CAISO requirements necessary to qualify the Facility as a Resource Adequacy Resource located within the CAISO Balancing Authority Area, the Capacity Attributes that are not delivered or that cannot be delivered (or that Buyer cannot make use of) shall constitute Deemed Delivered RA; *provided*, if Buyer is unable to obtain or utilize any portion of the Import Capability due to any allocation of Deliverability (as defined in the CAISO Tariff) to the Facility that is not a Deliverability Allocation and, as a result, Seller is unable to deliver to Buyer an amount of Resource Adequacy Benefits equal to the Guaranteed RA Amount, then such portion of the Capacity Attributes that are not delivered or that cannot be delivered (or that Buyer cannot make use of) shall not constitute Deemed Delivered RA but shall constitute a shortfall for which Seller owes to Buyer the RA Deficiency Amount.

(e) If Seller anticipates that it will have any RA Shortfall Amounts in a Showing Month from and after the RA Guarantee Date, Seller may provide Replacement RA in the amount of (X) Guaranteed RA Amount, minus (Y) the expected amount of Resource Adequacy Benefits Seller includes in its Notice provided to Buyer pursuant to Section 3.7(c) with respect to such Showing Month.

(f) Seller shall provide RA Substitute Capacity in accordance with applicable CAISO requirements in connection with Facility outages. Seller acknowledges and agrees that any failure by Seller to provide such RA Substitute Capacity may result in CAISO rejecting or cancelling Seller's request for CAISO to approve such Facility outage.

(g) The Parties acknowledge that following the Effective Date there may be changes of Applicable Laws with respect to the rules for Resource Adequacy Benefits that in certain respects may be inconsistent with the provisions of this Agreement. The Parties shall

negotiate in good faith to further amend this Agreement to resolve any such inconsistencies between this Agreement and such changes to Applicable Law; *provided*, the intent of the negotiations shall be to maintain the balance of the Parties' benefits, burdens, and obligations set forth in this Agreement as of the Effective Date ; *provided further*, any amendment to this Agreement pursuant to this Section 3.7(g) shall be subject to Lender consent.

Resource Adequacy Failure.

(a) RA Deficiency Determination. For each RA Shortfall Amount, Seller shall pay to Buyer the RA Deficiency Amount as liquidated damages, as the sole and exclusive remedy for the Capacity Attributes that Seller failed to convey to Buyer.

(b) RA Deficiency Amount Calculation. For any Showing Month from and after the RA Guarantee Date, the "**RA Deficiency Amount**" shall equal the product of (i) the difference, expressed in kW, of (A) the Guaranteed RA Amount, *minus* [redacted], *minus* (C) Deemed Delivered RA in respect of such Showing Month, *minus* (D) Replacement RA delivered in respect of such Showing Month, *minus* (E) RA Substitute Capacity delivered in respect of such Showing Month (such difference, the "**RA Shortfall Amount**"), *multiplied by* (ii) the lesser of (A) the product of (X) the CPM Soft Offer Cap (or its successor) *multiplied by* (Y) the CPM Adjustment Factor ("**CPM Price**") *multiplied by* [redacted], and (B) the RA Deficiency Cap for the applicable Showing Month *multiplied by* [redacted] Notwithstanding anything else in this Section 3.8, [redacted]

CEC Certification and Verification. Subject to Section 3.12 and in accordance with the timing set forth in this Section 3.9, Seller shall take all necessary steps including, but not limited to, making or supporting timely filings with the CEC to obtain and maintain CEC Certification and Verification for the Facility on and after the Initial Energy Delivery Date, including compliance with all applicable requirements for certified facilities set forth in the current version of the *RPS Eligibility Guidebook* (or its successor). Seller shall obtain final CEC Certification and Verification for the Facility on or before the Initial Energy Delivery Date and shall maintain final CEC Certification and Verification for the remainder of the Delivery Term. Seller must promptly notify Buyer and the CEC of any changes to the information included in Seller's application for CEC Certification and Verification for the Facility.

Eligibility. 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. [STC 6]

California Renewables Portfolio Standard. Subject to Section 3.12, on and after the Initial Energy Delivery Date, Seller shall also take all other actions necessary to ensure that the Facility Energy is tracked for purposes of satisfying the California Renewables Portfolio Standard requirements, as may be amended or supplemented by the CPUC or CEC from time to time.

Compliance Expenditure Cap. If a change in Law occurring after the Effective Date has increased Seller's cost to comply with Seller's obligations under this Agreement with respect to obtaining, maintaining, conveying or effectuating Buyer's use of Green Attributes, Capacity Attributes, CEC Certification and Verification, and/or WREGIS Certificates (as applicable), then the Parties agree that the maximum aggregate amount of costs and expenses Seller shall be required to bear during the Delivery Term to comply with all of such obligations shall be capped at Twenty-Five Thousand Dollars ($25,000) per MW of Guaranteed Capacity ("**Compliance Expenditure Cap**").

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

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

(c) Buyer will have sixty (60) days to evaluate such Notice (during which time period Seller is not obligated to take any Compliance Actions described in the Notice) and shall, within such time, either (1) agree to reimburse Seller for all or some portion of the costs that exceed the Compliance Expenditure Cap (such Buyer-agreed upon costs, the "**Accepted Compliance Costs**"), or (2) waive Seller's obligation to take such Compliance Actions, or any part thereof for which Buyer has not agreed to reimburse Seller. If Buyer does not respond to a Notice given by Seller under this Section 3.12 within sixty (60) days after Buyer's receipt of same, Buyer shall be deemed to have waived its rights to require Seller to take the Compliance Actions that are the subject of the Notice, and Seller shall have no further obligation to take, and no liability for any failure to take, such Compliance Actions until such time as Buyer agrees to pay such Accepted Compliance Costs.

(d) If Buyer agrees to reimburse Seller for the Accepted Compliance Costs, then Seller shall take such Compliance Actions covered by the Accepted Compliance Costs as agreed upon by the Parties and Buyer shall reimburse Seller for Seller's actual costs to effect the Compliance Actions, not to exceed the Accepted Compliance Costs, within sixty (60) days from the time that Buyer receives an invoice and documentation of such costs from Seller.

Project Configuration. In order to optimize the benefits of the Facility, Buyer and Seller each agree that if requested by the other Party, then Buyer and Seller shall discuss in good faith potential reconfiguration of the Facility or Interconnection Facilities, which discussion either Party may

terminate in its sole discretion at any time; *provided*, neither Party shall be obligated to agree to any changes under this Agreement, or to incur any expense in connection with such changes, except under terms mutually acceptable to both Parties in the sole discretion of each as set forth in a written agreement.

ARTICLE 4
OBLIGATIONS AND DELIVERIES

Delivery.

(a) Energy. Subject to the provisions of this Agreement, commencing on the Initial Energy Delivery Date through the end of the Contract Term, Seller shall supply and deliver the Facility Energy and associated Green Attributes to Buyer at the Delivery Point, and Buyer shall take delivery of the Facility Energy and associated Green Attributes, and Replacement Product, at the Delivery Point in accordance with the terms of this Agreement. Seller shall effectuate the delivery of Facility Energy and shall be responsible for securing such arrangements with CAISO, the PTO and any other Transmission Provider as are necessary in connection therewith. Seller shall be responsible for paying or satisfying when due any costs or charges (except as otherwise set forth in this Agreement) imposed in connection with the delivery of Facility Energy to the Delivery Point, including any operation and maintenance charges imposed by the Transmission Provider directly relating to the Facility's operations. Buyer shall be responsible for all costs, charges and penalties (except as otherwise set forth in this Agreement), if any, imposed in connection with the delivery of Facility Energy at and after the Delivery Point, including without limitation transmission costs and transmission line losses. The Facility Energy will be scheduled with the CAISO by Seller (or Seller's designated Scheduling Coordinator) in accordance with Exhibit D.

(b) Green Attributes. All Green Attributes associated with the Facility Energy during the Delivery Term, on and after the Initial Energy Delivery Date are exclusively dedicated to and vested in Buyer. Seller represents and warrants that Seller holds the rights to all Green Attributes from the Facility, and Seller agrees to convey and hereby conveys Buyer's Share of all such Green Attributes to Buyer as included in the delivery of the Product from the Facility.

(c) Energy Products. If, at any time during the Contract Term following the Initial Energy Delivery Date, Buyer requests Seller to provide any new or different Energy-related products or Ancillary Services that may become recognized from time to time in the CAISO market, and Seller is able to provide any such product from the Facility without material adverse effect (including any obligation to incur more than *de minimis* costs, expenses or liabilities, or any more than *de minimis* impacts on the operations of Seller, any of Seller's Affiliates, or the Facility) on Seller, Seller's Affiliates or the Facility or Seller's obligations or liabilities under this Agreement or any other agreement, then Seller shall use commercially reasonable efforts to coordinate with Buyer to provide such product. If provision of any such new product would have a material adverse effect (including any obligation to incur more than *de minimis* costs, expenses or liabilities, or any more than *de minimis* impacts on the operations of Seller, any of Seller's Affiliates, or the Facility) on Seller, Seller's Affiliates or the Facility or Seller's obligations or liabilities under this Agreement or any other agreement, then Seller shall be obligated to provide

such product only if the Parties first execute an amendment to this Agreement with respect to such product that is mutually acceptable to both Parties.

4.2 **Title and Risk of Loss**.

(a) Energy. Title to and risk of loss related to the Facility Energy, shall pass and transfer from Seller to Buyer at the Delivery Point. Seller warrants that all Product delivered to Buyer is free and clear of all liens, security interests, claims and encumbrances of any kind.

(b) Green Attributes. Title to and risk of loss related to the Green Attributes shall pass and transfer from Seller to Buyer upon the transfer of such Green Attributes in accordance with WREGIS.

Forecasting. Seller shall provide the forecasts described below. Seller shall use commercially reasonable efforts to forecast accurately and to transmit such information in a format reasonably acceptable to Buyer (or Buyer's designee). Seller shall use reasonable efforts to provide forecasts that are consistent with the information known by Seller at the time the forecasts are submitted and, to the extent not inconsistent with the requirements of this Agreement, shall prepare such forecasts, or cause such forecasts to be prepared, in accordance with Prudent Operating Practice.

(a) Annual Forecast of Facility Energy. No less than forty-five (45) days before (i) the first day of the first Contract Year of the Delivery Term and (ii) the compliance deadline for the annual RA Plan (which is currently the last Business Day of October that is prior to commencement of the year for the annual RA Plan) for every subsequent Contract Year during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of expected Facility Energy, by hour, for the following calendar year in a form substantially similar to the table found in Exhibit F-1, or as reasonably requested by Buyer.

(b) Monthly Forecast of Facility Energy and Available Capacity. No less than thirty (30) days before the beginning of Commercial Operation, and thereafter fifteen (15) days before the applicable RA Plan Showing Deadline for each Showing Month during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of the hourly expected (i) Available Capacity and (ii) Facility Energy (only with respect to the period on and after the Initial Energy Delivery Date) (items (i)-(ii) collectively referred to as the "**Forecasted Product**"), for each day of the following month in a form substantially similar to Exhibits F-1 and F-2, as applicable ("**Monthly Forecast**").

(c) Day-Ahead Forecast. On and after the Initial Energy Delivery Date, by 5:30 AM Pacific Prevailing Time on the Business Day immediately preceding the date of delivery of Facility Energy, Seller shall provide Buyer with a non-binding forecast of the hourly expected Available Capacity and the Day-Ahead Forecast.

(d) Real-Time Forecasts. On and after the Initial Energy Delivery Date, Seller shall, or shall cause its authorized representative to, notify Buyer of any changes from the Day-Ahead Forecast resulting from changes of fifteen (15) MW or more in Available Capacity or when the expected Facility Energy, net of all Electrical Losses, differs by more than fifteen (15) MWh,

as applicable, of the amount set forth in the Day-Ahead Forecast, in each case whether due to a Forced Facility Outage, Force Majeure Event or other cause affecting the Available Capacity, as soon as reasonably possible, but no later than one (1) hour prior to the deadline for submitting schedules to the CAISO in accordance with the rules for participation in the Real-Time Market. Such updated forecast shall be deemed the "**Real-Time Forecast**"; *provided*, if there are no such changes from the Day-Ahead Forecast, the Day-Ahead Forecast for the applicable day shall be deemed the Real-Time Forecast. If the Available Capacity or, if applicable, the expected Facility Energy, changes by at least fifteen (15) MW or fifteen (15) MWh, as applicable, as of a time that is less than one (1) hour prior to the Real-Time Market deadline, but before such deadline, then Seller must notify Buyer as soon as reasonably possible. Such Real-Time Forecasts of Facility Energy shall be based on a forecast from the Approved Forecast Vendor and shall contain information regarding the beginning date and time of the event resulting in the change in Available Capacity or the expected Facility Energy, as applicable, the expected end date and time of such event, and any other information required by the CAISO or reasonably requested by Buyer. With respect to any Forced Facility Outage, Seller shall use commercially reasonable efforts to notify Buyer of such outage within ten (10) minutes of the commencement of the Forced Facility Outage. Seller shall use commercially reasonable efforts to inform Buyer of any developments that are reasonably likely to affect either the duration of such outage or the availability of the Facility during or after the end of such outage. Such Real-Time Forecasts shall be communicated in a method reasonably acceptable to Buyer, provided that Buyer specifies the method no later than sixty (60) days prior to the effective date of such requirement. In the event Buyer fails to provide Notice of an acceptable method for communications under this Section 4.3(d), then Seller shall send such communications by telephone and e-mail to Buyer.

(e) Meteorological Data.

(i) Commencing on the Initial Energy Delivery Date, and continuing throughout the Delivery Term, Seller shall provide to Buyer records of meteorological measurements based on output from [redacted] reasonably representative meteorological stations installed at the Site, which shall be either [redacted], which measurements shall be provided by Seller to Buyer [redacted] (*provided*, Buyer shall have the option to elect, no more than once per calendar year, the method of delivery as set forth in subsections (x) or (y) above upon no less than [redacted] prior written Notice to Seller of such election), in each case including the following data points: (A) wind speed (and, if Seller elects to receive meteorological data as set forth in 4.3(e)(y) above, the highest 3-second wind gust within ten (10) minutes), (B) wind direction, (C) ambient air temperature, (D) precipitation (rain rate), (E) precipitation (running thirty (30)-day total), and (F) barometric pressure; *provided*, the method of data delivery and the foregoing data points specified under this Section 4.3(e) may be updated as reasonably agreed to by the Parties. Such updates may include modifications to or additions of data points as are reasonably necessary for Buyer's administration of this Agreement, to the extent that Seller can effectuate such updates through the use of commercially reasonable efforts.

(ii) All information provided to Buyer pursuant to this Section 4.3(e) shall constitute Confidential Information of Seller, and Buyer shall be prohibited from providing any such information to any other Person without Seller's express written prior consent (in Seller's sole discretion). Seller shall not be obligated to provide any assistance to Buyer with respect to using, interpreting or otherwise processing such data, but Seller shall respond to Buyer's reasonable requests for clarifying or correcting information.

4.4 **Dispatch Down/Curtailment**.

(a) General. On and after the Initial Energy Delivery Date, Seller agrees to reduce the amount of Facility Energy produced by the Facility, by the amount and for the period set forth in any Curtailment Order; *provided*, Seller is not required to reduce such amount to the extent it is inconsistent with the limitations of the Facility set forth in the Operating Restrictions.

(b) Alternative Delivery Point/Third-Party Sales. In the event that, and for so long as, at any point on and after the Initial Energy Delivery Date, Seller is unable, despite using commercially reasonable efforts, to deliver all or a portion of the Product to Buyer at the Delivery Point, but is able to deliver Product to Buyer at one or more Alternative Delivery Points, such Alternative Delivery Points shall be considered the Delivery Point for all purposes under this Agreement. [redacted]

(c) Failure to Comply. Subject to Section 4.4(a), if Seller fails to comply with a Curtailment Order on and after the Initial Energy Delivery Date,, then, for each MWh of Facility Energy that is delivered in excess of the Curtailment Order, Seller shall pay Buyer for each such MWh the amount, if any, paid to Seller by Buyer for delivery of such excess MWh.

(d) Seller Equipment Required for Operating Instruction Communications. Seller shall develop and install all communications systems necessary for the operation of the Facility in accordance with Prudent Operating Practice, including communications systems that provide for the receipt and following of automated dispatch instructions from the CAISO.

Station Use. Notwithstanding anything to the contrary in this Agreement, the Parties acknowledge (i) Seller is responsible for providing all Energy to serve Station Use (including paying the cost of any Energy used to serve Station Use), (ii) the supply of such Station Use shall not be deemed a violation of this Agreement, (*provided*, Seller shall indemnify and hold harmless Buyer from any and all costs, penalties, charges or other adverse consequences that result from Energy supplied for Station Use by any means other than retail service from the applicable utility, and shall take

any additional measures to ensure Station Use is supplied by the applicable utility's retail service if necessary to avoid any such costs, penalties, charges or other adverse consequences), and (iii) Station Use may not be supplied from Facility Energy (*provided*, Seller may supply Station Use from Energy produced by the Facility so long no such Energy is recorded as Facility Energy by the Facility Meter, and subject to the other requirements of this Agreement).

Facility Maintenance. Without limiting Section 3.1 or Exhibit G:

(a) Seller shall provide to Buyer written schedules for Planned Outages for each calendar year no later than September 1 of the prior calendar year for each following calendar year. Buyer may provide comments no later than ten (10) days after receiving any such schedule, and Seller shall in good faith take into account any such comments. Seller shall promptly deliver to Buyer the final updated schedule of Planned Outages thereafter. Seller shall be permitted to reduce deliveries of Product during any period of such Planned Outages.

(b) If reasonably required in accordance with Prudent Operating Practices, Seller may perform maintenance at a different time than maintenance scheduled pursuant to Section 4.6(a). Seller shall be responsible, at no additional cost to Buyer, to provide any replacement Capacity Attributes required by the CAISO in connection with the CAISO's approval of any Seller request for a Planned Outage after the applicable Supply Plan has been submitted.

(c) Notwithstanding anything in this Agreement to the contrary, no Planned Outages of the Facility shall be scheduled or planned during any Summer Month during the Delivery Term [redacted] unless (i) such outage is required to avoid damage to the Transmission System, (ii) [redacted], (iv) such outage is reasonably required to maintain health and safety pursuant to Section 6.2, or (v) the Parties agree otherwise in writing. In the event that Seller has a previously Planned Outage that becomes coincident with a System Emergency that prevents Seller from reasonably performing the contemplated maintenance activities, Seller shall make commercially reasonable efforts to reschedule such Planned Outage.

(d) Seller shall be permitted to reduce deliveries of Product during any Forced Facility Outage. Seller shall promptly provide Buyer with Notice and expected duration (if known) of any Forced Facility Outage and shall keep Buyer informed of any developments that will affect either the duration of the outage or the availability of the Facility during or after the end of such outage.

(e) Seller shall be permitted to reduce deliveries of Product (i) during any period of System Emergency, (ii) pursuant to a Curtailment Order, (iii) during a Market Curtailment Period, (iv) during any Force Majeure Event, (v) due to Prudent Operating Practice or in compliance with applicable Law, or (vi) otherwise pursuant to the terms of this Agreement, the Interconnection Agreement or applicable tariff or as may be required under a Shared Facilities Agreement.

(f) Seller shall be permitted to reduce deliveries of Product as necessary to maintain health and safety pursuant to Section 6.2.

(g) Seller shall be permitted in its sole discretion to reduce Facility generation other than Buyer's Share of such Facility generation during any Settlement Interval or Settlement Period that is not during a Curtailment Period or Market Curtailment Period. On and after the Initial Energy Delivery Date, during such curtailments, Seller shall deliver Facility Energy to Buyer in accordance with clause (b) of the definition of "Facility Energy".

(h) With respect to any (i) Major Planned Outage or (ii) Forced Facility Outage of [redacted] or more of Installed Capacity that persists for more than one [redacted], Seller shall provide reports to Buyer not less frequently than each month regarding Seller's progress toward completion of repairs, maintenance, equipment replacement and/or any other material aspect of returning the Facility to full operation, including information reasonably requested by Buyer.

Guaranteed Energy Production.

(a) On and after the Initial Energy Delivery Date, during each Performance Measurement Period, Seller shall deliver to Buyer an amount of Facility Energy, not including any Excess MWh, equal to no less than the Guaranteed Energy Production (as defined below). "**Guaranteed Energy Production**" means an amount of Facility Energy, as measured in MWh, equal to [redacted] of the average annual Expected Energy for the two (2) Contract Years constituting such Performance Measurement Period. For purposes of determining whether Seller has achieved the Guaranteed Energy Production, in addition to Facility Energy, Seller shall be deemed to have delivered to Buyer the sum of (a) any Deemed Delivered Energy, *plus* (b) Facility Energy in the amount it could reasonably have delivered to Buyer but was prevented from delivering to Buyer by reason of any (i) Force Majeure Events, (ii) Curtailment Period (excluding any Transmission System Outage due to the fault or negligence of Seller), (iii) System Emergency not caused by Seller, or (iv) Buyer Default or other Buyer failure to perform that prevents Seller from being able to deliver Facility Energy to the Delivery Point ("**Lost Output**"). If Seller fails to achieve the Guaranteed Energy Production amount in any Performance Measurement Period on and after the Initial Energy Delivery Date, Seller shall pay Buyer damages calculated in accordance with Exhibit G ("**Energy Replacement Damages**"); *provided*, Seller may, as an alternative, provide Replacement Product delivered retrospectively to Buyer at the Delivery Point or the SP 15 EZ Gen Hub.

(b) Seller shall be permitted to deliver Replacement Product (i) prospectively during any Performance Measurement Period if Seller reasonably anticipates that delivery of such Replacement Product is necessary to achieve the Guaranteed Energy Production for such Performance Measurement Period, or (ii) retrospectively during the Contract Year immediately following any Performance Measurement Period in accordance with Section 4.7(a) above; *provided,* Seller's right to deliver Replacement Product shall be subject to mutual agreement of the Parties (in the reasonable discretion of each) of the delivery schedule for such Replacement Product; *provided further*, the amount of Replacement Product delivered by Seller pursuant to (i) or (ii) shall not exceed ten percent (10%) of the Expected Energy for the Contract Year for which

such Replacement Product is delivered. Seller shall provide Notice to Buyer of any proposed delivery of Replacement Product, including a proposed schedule of such deliveries, (i) no later than thirty (30) days prior to the proposed delivery of such Replacement Product in the case of prospectively delivered Replacement Product, and (ii) no later than thirty (30) days after the conclusion of any Performance Measurement Period with respect to which Seller proposes to deliver retroactive Replacement Product.

(a) **WREGIS**. On and after the Initial Energy Delivery Date, Seller shall, at its sole expense, but subject to Section 3.12, take all actions and execute all documents or instruments necessary to ensure that all WREGIS Certificates associated with all Renewable Energy Credits corresponding to all Facility Energy are issued and tracked for purposes of satisfying the requirements of the California Renewables Portfolio Standard and transferred in a timely manner to Buyer for Buyer's sole benefit. On and after the Initial Energy Delivery Date Seller shall transfer the Renewable Energy Credits to Buyer. On and after the Initial Energy Delivery Date Seller shall comply with all Laws, including the WREGIS Operating Rules, regarding the certification and transfer of such WREGIS Certificates to Buyer and Buyer shall be given sole title to all such WREGIS Certificates. Seller shall be deemed to have satisfied the warranty in Section 4.8(g), provided that Seller fulfills its obligations under Sections 4.8(a) through (g) below. In addition:

(a) Prior to the Initial Energy Delivery Date, Seller shall register the Facility with WREGIS and establish an account with WREGIS ("**Seller's WREGIS Account**"), which Seller shall maintain until the end of the Delivery Term. Seller shall transfer the WREGIS Certificates using Recurring Certificate Transfers (as described in the WREGIS Operating Rules) from Seller's WREGIS Account to the WREGIS account(s) of Buyer or the account(s) of a designee that Buyer identifies by Notice to Seller ("**Buyer's WREGIS Account**"). Seller shall be responsible for all expenses associated with registering the Facility with WREGIS, establishing and maintaining Seller's WREGIS Account, paying WREGIS Certificate issuance and transfer fees, and transferring WREGIS Certificates from Seller's WREGIS Account to Buyer's WREGIS Account.

(b) Seller shall cause Recurring Certificate Transfers to occur on a monthly basis in accordance with the certification procedure established by the WREGIS Operating Rules. Since WREGIS Certificates will only be created for whole MWh amounts of Facility Energy generated, any fractional MWh amounts (i.e., kWh) will be carried forward until sufficient generation is accumulated for the creation of a WREGIS Certificate.

(c) Seller shall, at its sole expense, ensure that the WREGIS Certificates for a given calendar month correspond with the Facility Energy for such calendar month as evidenced by the Facility's metered data.

(d) Buyer shall make an invoice payment for a given month in accordance with Section 8.2 before the WREGIS Certificates for such month are formally transferred to Buyer in accordance with the WREGIS Operating Rules and this Section 4.8. Notwithstanding this delay, Buyer shall have all right and title to all such WREGIS Certificates upon payment to Seller in accordance with Section 8.2.

(e) A "**WREGIS Certificate Deficit**" means any deficit or shortfall in WREGIS Certificates delivered to Buyer for a calendar month as compared to the Facility Energy for the same calendar month ("**Deficient Month**") caused by an error or omission of Seller. If any WREGIS Certificate Deficit is caused by, or is the result of any action or inaction of, Seller, then Seller shall either (x) resolve the associated WREGIS Certificate Deficit or (y) provide Replacement Green Attributes (as defined in Exhibit G) upon a schedule reasonably acceptable to Buyer (including in consideration of costs to Buyer), in each case no later than ninety (90) days following such Deficient Month; *provided*, Seller may offer to cure such WREGIS Certificate Deficit pursuant to clause (x) or (y) above after such ninety (90)-day period, which cure Buyer may accept or reject in its sole discretion; *provided further*, (1) if Buyer rejects Seller's proffered cure following such ninety (90)-day period, [redacted]. If and to the extent Seller fails to cure any WREGIS Certificate Deficit, as set forth in either clause (x) or (y) of the previous sentence, Buyer's payment obligation for Facility Energy associated with the uncured WREGIS Certificate Deficit shall be reduced by (i) [redacted]. Without limiting Seller's obligations under this Section 4.8, if a deficit or shortfall in WREGIS Certificates delivered to Buyer for a calendar month as compared to the Facility Energy for the same calendar month is caused solely by an error or omission of WREGIS, the Parties shall cooperate in good faith to cause WREGIS to correct its error or omission.

(f) If WREGIS changes the WREGIS Operating Rules after the Effective Date or applies the WREGIS Operating Rules in a manner inconsistent with this Section 4.8 after the Effective Date, the Parties promptly shall modify this Section 4.8 as reasonably required to cause and enable Seller to transfer to Buyer's WREGIS Account a quantity of WREGIS Certificates for each given calendar month that corresponds to the Facility Energy in the same calendar month.

(g) 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. [STC REC-1]

(h) 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. [STC REC-2]

(i) Seller's obligations under Sections 3.10, 4.8(g) and 4.8(h) shall be subject to Section 3.12, the term "Project" as used in Section 3.10 shall refer to the "Facility" as defined herein, the term "the contract" in Section 4.8(h) shall refer to "this Agreement" as defined herein, the term "commercially reasonable efforts" as used in Section 3.10 and Section 4.10(g) means efforts consistent with and subject to Section 3.12, and the Parties agree and acknowledge that no Energy, Green Attributes, or WREGIS Certificates shall be sold or delivered from Seller to Buyer prior to the Initial Energy Delivery Date.

ARTICLE 5
TAXES

Allocation of Taxes and Charges. Seller shall pay or cause to be paid all Taxes on or with respect to the Facility or on or with respect to the sale and making available of Product to Buyer, that are imposed on Product prior to its delivery to Buyer at the time and place contemplated under this Agreement. Buyer shall pay or cause to be paid all Taxes on or with respect to the delivery to and purchase by Buyer of Product that are imposed on Product at and after its delivery to Buyer at the time and place contemplated under this Agreement (other than withholding or other Taxes imposed on Seller's income, revenue, receipts or employees). If a Party is required to remit or pay Taxes that are the other Party's responsibility hereunder, such Party shall promptly pay the Taxes due and then seek and receive reimbursement from the other for such Taxes. In the event any sale of Product hereunder is exempt from or not subject to any particular Tax, Buyer shall provide Seller with all necessary documentation to evidence such exemption or exclusion within thirty (30) days after the date Buyer makes such claim. Buyer shall indemnify, defend, and hold Seller harmless from any liability with respect to Taxes for which Buyer is responsible hereunder and from which Buyer claims it is exempt.

Cooperation. Each Party shall use reasonable efforts to implement the provisions of and administer this Agreement in accordance with the intent of the Parties to minimize all Taxes, so long as no Party is materially adversely affected by such efforts. The Parties shall cooperate to minimize Tax exposure; *provided*, neither Party shall be obligated to incur any financial or operational burden to reduce Taxes for which the other Party is responsible hereunder without receiving due compensation therefor from the other Party. All Product delivered by Seller to Buyer hereunder shall be a sale made at wholesale, with Buyer reselling such Product.

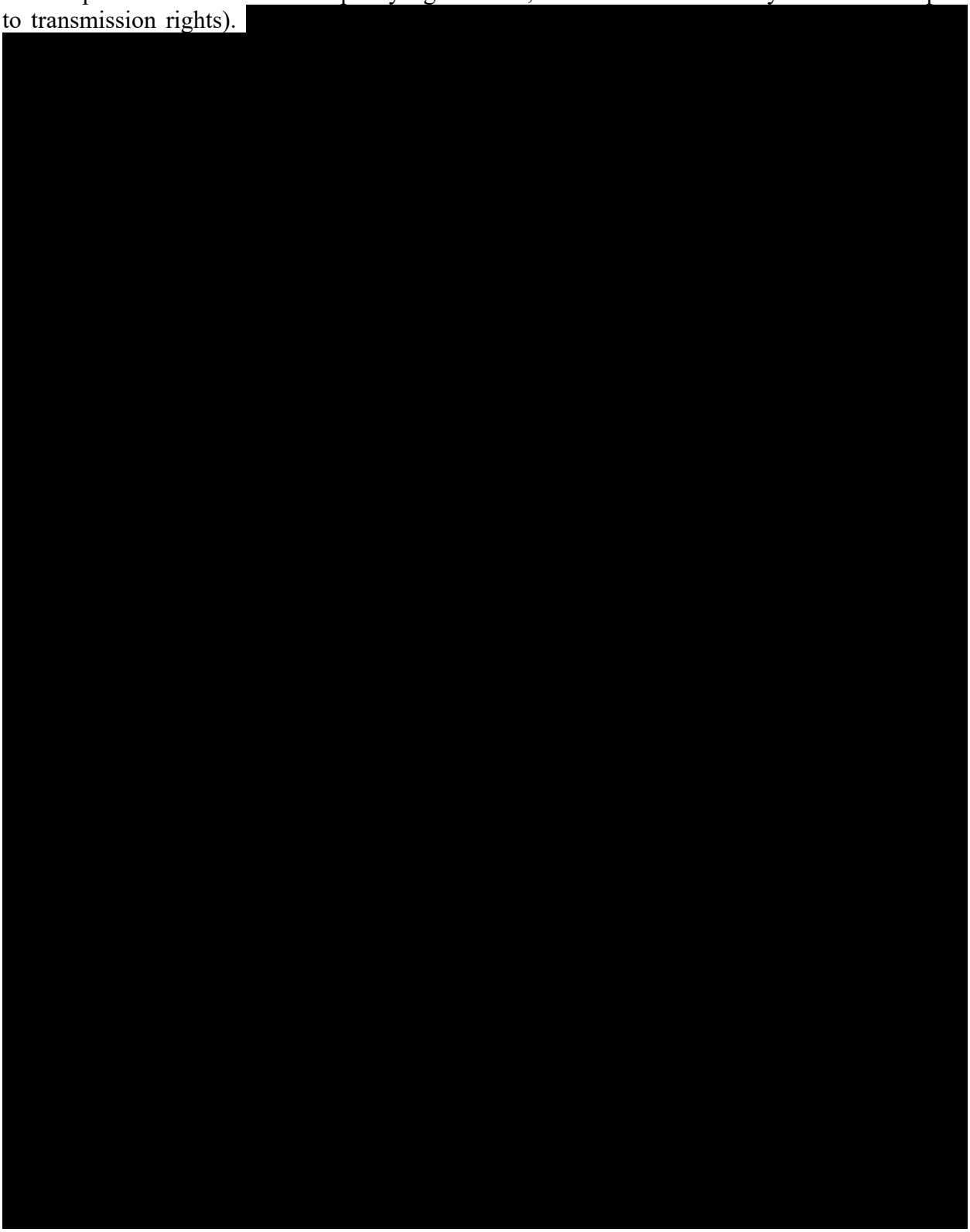
ARTICLE 6
MAINTENANCE OF THE FACILITY

Maintenance of the Facility. Seller shall, as between Seller and Buyer, be solely responsible for the operation and maintenance of the Facility and the delivery of the Product and shall comply with Law and Prudent Operating Practice relating to the operation and maintenance of the Facility and the generation and sale of Product.

Maintenance of Health and Safety. Seller shall take reasonable safety precautions with respect to the operation, maintenance, repair and replacement of the Facility. If Seller becomes aware of any circumstances relating to the Facility that create an imminent risk of damage or injury to any Person or any Person's property, Seller shall take prompt, reasonable action to prevent such damage or injury and shall give Buyer's emergency contact identified in Exhibit N Notice of such condition as soon as practicable thereafter. Such action may include disconnecting and removing all or a portion of the Facility, or suspending the supply of Facility Energy to the Delivery Point.

Shared Facilities The Parties acknowledge and agree that certain of the Shared Facilities and Interconnection Facilities, and Seller's rights and obligations under the Interconnection Agreement, may be subject to certain shared facilities and/or co-tenancy agreements ("**Shared Facilities Agreements**") to be entered into among two or more of Seller, the Participating Transmission Owner, Seller's Affiliates, and/or third parties pursuant to which certain Interconnection Facilities, interconnection service and/or transmission service may be subject to joint ownership and/or shared maintenance and operation arrangements; *provided*, such agreements shall (i) not preclude Seller from performing or satisfying, and shall not purport to limit, its obligations hereunder, including providing interconnection capacity for the Facility in an amount not less than 2,119.72 MW at the Point of Interconnection and transmission capacity for delivery of energy from the Facility to the Delivery Point in an amount not less than 1,495 MW (*provided*, that Seller may share its interconnection capacity rights and transmission rights for the Facility with the North Affiliate [redacted], solely if and to the extent that, and solely for the period of time that, the amount of Energy that the Facility is capable of generating and delivering is less than 2,119.72 MW at the Point of Interconnection with respect to interconnection capacity, and 1,495 MW at the Delivery Point with respect to transmission capacity), (ii) provide for separate metering of the Facility, (iii) provide that any other generating or energy storage facilities not included in the Facility but using Shared Facilities shall not be included within the Facility's CAISO Resource ID, and (iv) provide that any curtailment that is not specific to one or more CAISO Resource IDs of output from generating or energy storage facilities using the Shared Facilities shall not be allocated to the Facility more than its pro rata portion of the total capacity of all generating or energy storage facilities using the Shared Facilities, unless such curtailment of Shared Facilities was attributable to the Facility or caused by Seller. Seller shall not, and shall not permit any Affiliate to, allocate to other parties a share of the total interconnection capacity under the Interconnection Agreements in excess of an amount equal to the total interconnection capacity under the Interconnection Agreements *minus* 2,119.72 MW at the Point of Interconnection or a share of total transmission rights in excess of 1,495 MW at the Delivery Point MW (*provided*, Seller may share its interconnection capacity rights and/or transmission rights for the Facility with the North Affiliate [redacted], solely if and to the extent that, and solely for the period of time that, the amount of Energy that the Facility

is capable of generating and delivering is less than 2,119.72 MW at the Point of Interconnection with respect to interconnection capacity rights and 1,495 MW at the Delivery Point with respect to transmission rights).



[redacted]

ARTICLE 7
METERING

Metering. The Facility Meter shall be installed at the switching station adjacent to the SunZia East Converter Station and maintained at Seller's cost. If the Facility Meter is inaccurate, Seller will cause such meter to be promptly corrected in accordance with Prudent Operating Practice and CAISO requirements, as applicable. Seller shall be responsible for any costs, fines or penalties, including imbalance charges as a result of the inaccurate meter. The Facility Meter shall be kept under seal, such seals to be broken only when the meters are to be tested, adjusted, modified or relocated. In the event that Seller breaks a seal, Seller shall notify Buyer as soon as practicable. On and after the Initial Energy Delivery Date, Seller shall, or shall cause its Scheduling Coordinator to, provide Buyer with read-only access to a real-time data feed of the generation of the Facility, and real-time Facility Meter reads. In addition, on and after the Initial Energy Delivery Date, Seller hereby agrees to provide all Facility Meter data to Buyer in a form reasonably acceptable to Buyer on a read-only basis, and consents to Buyer obtaining from the CAISO or the PTO, as applicable, the Facility Meter data applicable to the Facility and all inspection, testing and calibration data and reports. On and after the Initial Energy Delivery Date, Seller, or Seller's Scheduling Coordinator, shall cooperate with Buyer to provide records, including invoices or settlement data from the CAISO, for the full Facility, for Buyer to verify the accuracy of all invoices, and to allow both Parties to retrieve the Facility Meter reads from the CAISO Market Results Interface – Settlements (MRIS-S) (or its successor) or from the Facility Meter at the Facility.

ARTICLE 8Meter Verification. On and after the Initial Energy Delivery Date, annually, if **ARTICLE 8**Seller has reason to believe there may be a meter malfunction, or upon Buyer's **ARTICLE 8**reasonable request, Seller shall test the Facility Meter. The tests shall be conducted **ARTICLE 8**by independent third parties qualified to conduct such tests. Buyer shall be notified **ARTICLE 8**seven (7) days in advance of such tests and have a right to be present during such **ARTICLE 8**tests. If a meter is inaccurate it shall be promptly repaired or replaced. If a meter is **ARTICLE 8**inaccurate by more than one percent (1%) and it is not known when the meter **ARTICLE 8**inaccuracy commenced (if such evidence exists, such date will be used to adjust **ARTICLE 8**prior invoices), then the invoices covering the period of time since the last meter **ARTICLE 8**test shall be adjusted for the amount of the inaccuracy on the assumption that the **ARTICLE 8**inaccuracy persisted during the second half of such period so long as such **ARTICLE 8**adjustments are accepted by CAISO and WREGIS; *provided*, such period may not **ARTICLE 8**exceed twelve (12) months.

INVOICING AND PAYMENT; CREDIT

Invoicing. Seller shall use commercially reasonable efforts to deliver an invoice to Buyer for Product no later than the fifteen (15^{th}) day of each month for the previous calendar month. Each invoice shall (a) state the Contract Rate applicable to such Product in accordance with Exhibit C, reflect records of metered data, including CAISO metering and transaction data sufficient to

document and verify the amount of Product delivered by the Facility for any Settlement Period during the preceding month, including (on and after the Initial Energy Delivery Date) the amount of Facility Energy and Replacement Product delivered to Buyer (if any), the calculation of Deemed Delivered Energy and Adjusted Energy Production (if any), the LMP prices at the Delivery Point for each Settlement Period, and shall include other relevant data for the prior month; and (b) be in a format reasonably acceptable to Buyer, covering the Product provided in the preceding month determined in accordance with the applicable provisions of this Agreement. Seller shall provide Buyer with all reasonable access (including, in real time, to the maximum extent reasonably possible) to any records, including invoices or settlement data from the CAISO, forecast data and other information, all as may be necessary from time to time for Buyer to verify the accuracy of all invoices.

Payment. Buyer shall make payment to Seller for Product (and any other amounts due) by wire transfer or ACH payment to the bank account provided on each monthly invoice. Buyer shall pay undisputed invoice amounts no later than thirty (30) days after Buyer's receipt of the invoice from Seller; *provided*, if such due date falls on a weekend or legal holiday, such due date shall be the next Business Day. Payments made after the due date will be considered late and will bear interest on the unpaid balance. If the amount due is not paid on or before the due date or if any other payment that is due and owing from one Party to another is not paid on or before its applicable due date, a late payment charge shall be applied to the unpaid balance and shall be added to the next billing statement. Such late payment charge shall be calculated based on an annual Interest Rate equal to the prime rate published on the date of the invoice in The Wall Street Journal (or, if The Wall Street Journal is not published on that day, the next succeeding date of publication), *plus* two percent (2%) (the "**Interest Rate**"). If the due date occurs on a day that is not a Business Day, the late payment charge shall begin to accrue on the next succeeding Business Day.

Books and Records. To facilitate payment and verification, each Party shall maintain all books and records necessary for billing and payments, including copies of all invoices under this Agreement, for a period of at least two (2) years or as otherwise required by Law. Upon fifteen (15) days' Notice to the other Party, either Party shall be granted reasonable access to the accounting books and records within the possession or control of the other Party pertaining to all invoices generated pursuant to this Agreement. Seller acknowledges that in accordance with California Government Code Section 8546.7, Seller may be subject to audit by the California State Auditor with regard to Seller's performance of this Agreement, for a period of three (3) years following the last payment hereunder (or such longer period required by applicable Law), because the compensation under this Agreement exceeds $10,000.

Payment Adjustments; Billing Errors. Payment adjustments shall be made if Buyer or Seller discovers there have been good faith inaccuracies in invoicing that are not otherwise disputed under Section 8.5 or an adjustment to an amount previously invoiced or paid is required due to a correction of data by the CAISO, or there is determined to have been a meter inaccuracy sufficient to require a payment adjustment. If the required adjustment is in favor of Buyer, Buyer's next monthly payment shall be credited in an amount equal to the adjustment. If the required adjustment is in favor of Seller, Seller shall add the adjustment amount to Buyer's next monthly invoice. Adjustments in favor of either Buyer or Seller shall bear interest, until settled in full, in accordance with Section 8.2, accruing from the date on which the adjusted amount should have been due.

Billing Disputes. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within five (5) Business Days of such resolution along with interest accrued at the Interest Rate from and including the original due date to but excluding the date paid. Inadvertent overpayments shall be returned via adjustments in accordance with Section 8.4. Any dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section 8.5 within twelve (12) months after the invoice is rendered or subsequently adjusted, except to the extent any misinformation was from a third party not affiliated with any Party and such third party corrects its information after the twelve-month period. If an invoice is not rendered within twelve (12) months after the close of the month during which performance occurred, the right to payment for such performance is waived.

Netting of Payments. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all undisputed amounts owed by each Party to the other Party for the purchase and sale of Product during the monthly billing period under this Agreement or otherwise arising out of this Agreement, including any related damages calculated pursuant to Exhibits B and G, interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

Seller's Development Security. To secure its obligations under this Agreement, Seller shall have delivered the Development Security to Buyer on or before the Effective Date. Seller shall maintain the Development Security in full force and effect; *provided*, Seller shall have no obligation to replenish the Development Security following any draw thereupon by Buyer; *provided further*, Buyer shall not draw on the Development Security with respect to any payments due from and payable by Seller until after any required Notice and the expiration of all cure periods. Upon the earlier of (a) Seller's delivery of the Performance Security, or (b) sixty (60) days after termination of this Agreement, Buyer shall return the Development Security to Seller, less the amounts drawn in accordance with this Agreement. If the Development Security is provided in the form of more than one Letter of Credit, any draw on the Development Security by Buyer shall be made pro rata among each such Letter of Credit.

Seller's Performance Security. To secure its obligations under this Agreement, Seller shall deliver Performance Security to Buyer on or before the Commercial Operation Date. Seller shall maintain the Performance Security in full force and effect, and Seller shall within ten (10) Business Days after any draw thereon replenish the Performance Security in the event Buyer collects or draws down any portion of the Performance Security for any reason permitted under this Agreement other than to satisfy a Termination Payment, until the following have occurred: (a) the Delivery Term has expired or terminated early; and (b) all payment obligations of Seller due and payable under this Agreement, including compensation for penalties, Termination Payment,

indemnification payments or other damages are paid in full (whether directly or indirectly such as through set-off or netting); *provided*, Buyer shall not draw on the Performance Security with respect to any payments due from and payable by Seller until after any required Notice and the expiration of all cure periods. Following the occurrence of both events listed in clauses (a) and (b) above, Buyer shall promptly return to Seller the unused portion of the Performance Security. If the Performance Security is provided in the form of more than one Letter of Credit, any draw on the Performance Security by Buyer shall be made pro rata among each such Letter of Credit.

First Priority Security Interest in Cash or Cash Equivalent Collateral. To secure its obligations under this Agreement, and until released as provided herein, Seller hereby 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 and Performance Security, to the extent the Development Security and/or Performance Security are provided in the form of cash collateral or cash equivalent collateral, any other cash collateral and cash equivalent collateral posted pursuant to Sections 8.7 and 8.8 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 all 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 an Event of Default caused by Seller, an Early Termination Date resulting from an Event of Default caused by Seller, or an occasion provided for in this Agreement where Buyer is authorized to retain all or a portion of the Development Security or Performance Security, Buyer may do any one or more of the following (in each case subject to the final sentence of this Section 8.9):

(a) Exercise any of its rights and remedies with respect to the Development Security and Performance Security, including any such rights and remedies under Law then in effect;

(b) Draw on any outstanding Letter(s) of Credit issued for its benefit and retain any cash held by Buyer as Development Security or Performance Security; and

(c) Liquidate all Development Security or Performance Security (as applicable) 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 remains 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.

8.10 **Financial Statements**.

(a) If a Guaranty is provided as Performance Security in lieu of cash or a Letter of Credit, Seller shall provide to Buyer, or cause the Guarantor to provide to Buyer, unaudited

quarterly and annual audited financial statements of the Guarantor (including a balance sheet and statements of income and cash flows), all prepared in accordance with generally accepted accounting principles in the United States, consistently applied.

(b) Buyer shall provide to Seller (i) within one hundred twenty (120) days following the end of each fiscal year during the Contract Term, a copy of Buyer's annual report containing audited consolidated financial statements for such fiscal year and (ii) within sixty (60) days after the end of each of its first three fiscal quarters of each fiscal year during the Contract Term, a copy of Buyer's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles ("GAAP"); *provided*, should any such statements not be available on a timely basis due to a delay in preparation or certifications, such unavailability shall not be an Event of Default so long as Buyer diligently pursues the preparation, certification, and delivery of the statements. Buyer shall be deemed to have delivered such financial statements to Seller if such statements are made publicly available.

ARTICLE 9
NOTICES

Addresses for the Delivery of Notices. Any Notice required, permitted, or contemplated hereunder shall be in writing, shall be addressed to the Party to be notified at the address set forth in Exhibit N or at such other address or addresses as a Party may designate for itself from time to time by Notice hereunder.

Acceptable Means of Delivering Notice. Each Notice required, permitted, or contemplated hereunder shall be deemed to have been validly served, given or delivered as follows: (a) if sent by United States mail with proper first class postage prepaid, three (3) Business Days following the date of the postmark on the envelope in which such Notice was deposited in the United States mail; (b) if sent by a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement with such carrier made for the payment of such fees, the next Business Day after the same is delivered by the sending Party to such carrier; (c) if sent by electronic communication (including electronic mail or other electronic means) at the time indicated by the time stamp upon delivery and, if after 5 pm, on the next Business Day; or (d) if delivered in person, upon receipt by the receiving Party. Notwithstanding the foregoing, Notices of outages or other scheduling or dispatch information or requests, may be sent by electronic communication and shall be considered delivered upon successful completion of such transmission.

ARTICLE 10
FORCE MAJEURE

Definition.

(a) "**Force Majeure Event**" means any act or event that delays or prevents a Party from timely performing all or a portion of its obligations under this Agreement or from complying with all or a portion of the conditions under this Agreement if such act or event, despite the exercise of commercially reasonable efforts, cannot be avoided by and is beyond the reasonable

control (whether direct or indirect) of the claiming Party*; provided*, a Force Majeure Event shall not excuse any such delay, nonperformance, or noncompliance to the extent the claiming Party's fault or negligence contributed thereto in scope or duration.

(b) Without limiting the generality of the foregoing, so long as the following events, despite the exercise of reasonable efforts, cannot be avoided by, and are beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance or noncompliance, a Force Majeure Event may include an act of God or the elements, such as flooding, lightning, hurricanes, tornadoes, or ice storms; explosion; fire; volcanic eruption; flood; epidemic or pandemic (including the COVID-19 pandemic, but only to the extent that new governmental rules or mandates related to COVID-19 are implemented that were not in place as of the Effective Date); landslide; mudslide; sabotage; terrorism; earthquake; or other cataclysmic events; an act of public enemy; war; blockade; civil insurrection; riot; civil disturbance; or strikes or other labor difficulties caused or suffered by a Party or any third party except as set forth below.

(c) Notwithstanding the foregoing, the term "**Force Majeure Event**" does not include (i) economic conditions or changes in Law that render a Party's performance of this Agreement at the Contract Rate unprofitable or otherwise uneconomic (including an increase in component or compliance costs for any reason, including foreign or domestic tariffs, Buyer's ability to buy Product at a lower price, or Seller's ability to sell the Product, or any component thereof, at a higher price, than under this Agreement); (ii) Seller's inability to obtain permits or approvals of any type for the construction, operation, or maintenance of the Facility, except to the extent such inability is caused by a Force Majeure Event; (iii) the inability of a Party to make payments when due under this Agreement, unless the cause of such inability is an event that would otherwise constitute a Force Majeure Event as described above; (iv) a Curtailment Order, except to the extent that a Curtailment Order is caused by an event that otherwise qualifies as a Force Majeure Event; (v) Seller's inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Facility, including the lack of wind, sun or other fuel source of an inherently intermittent nature, except to the extent such inability is caused by a Force Majeure Event; (vi) a strike, work stoppage or labor dispute limited only to any one or more of Seller, Seller's Affiliates, Seller's contractors, their subcontractors thereof or any other third party employed by Seller to work on the Facility; (vii) any equipment failure except if such equipment failure is caused by a Force Majeure Event; or (viii) any action or inaction by any third party, including Transmission Provider, that delays or prevents the approval, construction or placement in service of any Interconnection Facilities or Network Upgrades, except to the extent caused by a Force Majeure Event.

No Liability If a Force Majeure Event Occurs. Except as provided in Section 4 of Exhibit B, neither Seller nor Buyer shall be liable to the other Party in the event it is prevented from performing its obligations hereunder in whole or in part due to a Force Majeure Event. The Party rendered unable to fulfill any obligation by reason of a Force Majeure Event shall take reasonable actions necessary to remove such inability with due speed and diligence. Nothing herein shall be construed as permitting that Party to continue to fail to perform after said cause has been removed. The obligation to use due speed and diligence shall not be interpreted to require resolution of labor disputes by acceding to demands of the opposition when such course is inadvisable in the

discretion of the Party having such difficulty. Neither Party shall be considered in breach or default of this Agreement if and to the extent that any failure or delay in the Party's performance of one or more of its obligations hereunder is caused by a Force Majeure Event. The occurrence and continuation of a Force Majeure Event shall not suspend or excuse the obligation of a Party to make any payments due hereunder.

Notice. In order to claim a Force Majeure Event, the claiming Party, within fourteen (14) days of becoming aware that an event or series of events, as applicable, constitutes a Force Majeure Event, must give the other Party Notice describing the particulars of the occurrence in substantially the form set forth in Exhibit T, (b) provide timely evidence reasonably sufficient to establish that the occurrence constitutes Force Majeure as defined in this Agreement, and (c) notify the other Party in writing of the cessation or termination of such Force Majeure Event, all as known or estimated in good faith by the affected Party. Failure to provide timely Notice shall not affect such Party's ability to assert that a Force Majeure Event has occurred but shall preclude such Party from claiming a Force Majeure Event (including any Development Cure Period delays) or being excused from any delay or nonperformance associated therewith with respect to the days prior to the date on Notice was actually given.

Termination Following Force Majeure Event or Development Cure Period.

(a) If the cumulative extensions granted under the Development Cure Period (other than the extensions granted pursuant to clause 4(d) in Exhibit B) plus the payment of Commercial Operation Delay Damages equal or exceed [redacted], and Seller has demonstrated to Buyer's reasonable satisfaction that Seller's failure to achieve COD by the Guaranteed Commercial Operation Date (as extended) was the result of delays that would have otherwise entitled to Seller to [redacted] of Development Cure Period delays but for the one hundred eighty (180)-day limitation, then Seller may terminate this Agreement upon Notice to Buyer. Upon such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Section 2.1(b), and Buyer shall promptly return to Seller any Development Security then held by Buyer plus the full amount of Commercial Operation Delay Damages paid by Seller, less any amounts drawn in accordance with this Agreement with respect to other amounts due from Seller, if any.

(b) If a Force Majeure Event has occurred after the Commercial Operation Date that has caused either Party to be wholly or partially unable to perform its obligations hereunder in any material respect, and the impacted Party has claimed and received relief from performance of its obligations for a consecutive twelve (12)-month period, then the non-claiming Party may terminate this Agreement upon Notice to the other Party; *provided*, if Seller is the Party claiming such Force Majeure Event and such Force Majeure Event cannot reasonably be cured within such twelve (12) month period, then Seller may provide a plan to Buyer, which must be acceptable to Buyer in its reasonable discretion, to cure such Force Majeure Event within an additional six (6) month period and Buyer may not terminate this Agreement due to such Force Majeure Event unless Seller has not resumed performance of its material obligations hereunder upon the expiration of such additional six (6)-month period; *provided further*, if the impacted Party has claimed and received relief from performance of its obligations due to such Force Majeure Event for a consecutive eighteen (18)-month period, then either Party may terminate this Agreement upon

Notice to the other Party. Upon any such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Section 2.1(b), and Buyer shall promptly return to Seller any Performance Security then held by Buyer, less any amounts drawn in accordance with this Agreement.

ARTICLE 11
DEFAULTS; REMEDIES; TERMINATION

Events of Default. An "**Event of Default**" shall mean,

(a) with respect to a Party (the "**Defaulting Party**") that is subject to the Event of Default the occurrence of any of the following:

(i) the failure by such Party to make, when due, any payment required pursuant to this Agreement and such failure is not remedied within ten (10) Business Days after Notice thereof;

(ii) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated, and such default is not remedied within thirty (30) days after Notice thereof (or such longer additional period, not to exceed an additional sixty (60) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30)-day period despite exercising commercially reasonable efforts);

(iii) the failure by such Party to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default set forth in this Section 11.1 or for which an exclusive remedy is provided), and such failure is not remedied within thirty (30) days after Notice thereof (or such longer additional period, not to exceed an additional sixty (60) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30)-day period despite exercising commercially reasonable efforts);

(iv) such Party becomes Bankrupt;

(v) such Party assigns this Agreement or any of its rights hereunder other than in compliance with Article 14, if applicable;

(vi) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party; or

(vii) failure by either Party to satisfy the collateral requirements pursuant to Sections 8.7 or 8.8 (except, with respect to Seller, as set forth in Sections 11.1(b)(vi) and 11.1(b)(vii)) within five (5) Business Days after Notice from the other Party, including Seller's failure to replenish the Performance Security amount in accordance with this Agreement in the event Buyer draws against it for any reason other than to satisfy a Termination Payment;

(b) with respect to Seller as the Defaulting Party, the occurrence of any of the following:

(i) if at any time Seller delivers or attempts to deliver Energy to the Delivery Point for sale under this Agreement that was not generated or discharged by the Facility, except for Replacement Product;

(ii) the failure by Seller to achieve Commercial Operation on or before the Guaranteed Commercial Operation Date, as such date may be extended by Seller's payment of Commercial Operation Delay Damages and/or by Development Cure Period extensions, or the failure by Seller to begin selling Facility Energy and associated Green Attributes to Buyer on or before the Initial Energy Delivery Date;

(iii) if, in any consecutive six (6) month period after the Initial Energy Delivery Date, the Adjusted Energy Production amount (calculated in accordance with Exhibit G) for such period is not at least ten percent (10%) of the 6-month pro rata amount of Expected Energy for such period adjusted for seasonality proportionately to the monthly forecast provided annually by Seller under Section 4.3(a), and Seller fails to (x) deliver to Buyer within ten (10) Business Days after Notice from Buyer a plan or report developed by Seller that describes the cause of the failure to meet the ten percent (10%) threshold and the actions that Seller has taken, is taking, or proposes to take in an effort to cure such condition along with the written confirmation of a Licensed Professional Engineer that such plan or report is in accordance with Prudent Operating Practices and capable of cure within a reasonable period of time, not to exceed one hundred eighty (180) days, or such longer period if necessary to remedy a Major Equipment Failure, not to exceed a total of eighteen (18) months ("**Cure Plan**") and (y) complete such Cure Plan in all material respects as set forth therein, including within the timeframe set forth therein;

(iv) if at any time during the Delivery Term the Installed Capacity does not equal or exceed the Guaranteed Installed Capacity;

(v) Reserved;

(vi) with respect to any outstanding Letter of Credit provided for the benefit of Buyer that is not then required under this Agreement to be canceled or returned, the failure by Seller to provide for the benefit of Buyer either (1) cash, (2) a Letter of Credit from a different issuer meeting the criteria set forth in the definition of Letter of Credit, or (3) a replacement Guaranty from a Guarantor meeting the criteria set forth in the definition of Guarantor, in each case, in the amount required hereunder within ten (10) Business Days after Seller receives Notice of the occurrence of any of the following events:

(A) the issuer of the outstanding Letter of Credit shall fail to maintain a Credit Rating of at least A- by S&P or A3 by Moody's;

(B) the issuer of such Letter of Credit becomes Bankrupt;

(C) the issuer of the outstanding Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit and such failure shall be continuing after the lapse of any applicable grace period permitted under such Letter of Credit;

(D) the issuer of the outstanding Letter of Credit shall fail to honor a properly documented request to draw on such Letter of Credit;

(E) the issuer of the outstanding Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit;

(F) such Letter of Credit fails or ceases to be in full force and effect at any time;

(G) Seller shall fail to renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit and as provided in accordance with this Agreement, and in no event less than sixty (60) days prior to the expiration of the outstanding Letter of Credit;

(vii) with respect to any Guaranty provided for the benefit of Buyer, the failure by Seller to provide for the benefit of Buyer either (1) cash, (2) a replacement Guaranty from a different Guarantor meeting the criteria set forth in the definition of Guarantor, or (3) a replacement Letter of Credit from an issuer meeting the criteria set forth in the definition of Letter of Credit, in each case, in the amount required hereunder within ten (10) Business Days after Seller receives Notice of the occurrence of any of the following events:

(A) if any representation or warranty made by the Guarantor in connection with this Agreement is false or misleading in any material respect when made or when deemed made or repeated, and such representation or warranty is not remedied within thirty (30) days after Notice thereof;

(B) the failure of the Guarantor to make any payment required or to perform any other material covenant or obligation in any Guaranty;

(C) the Guarantor becomes Bankrupt;

(D) the Guarantor shall fail to meet the criteria for an acceptable Guarantor as set forth in the definition of Guarantor;

(E) the failure of the Guaranty to be in full force and effect (other than in accordance with its terms) prior to the indefeasible satisfaction of all obligations of Seller hereunder; or

(F) the Guarantor shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of any Guaranty.

Remedies; Declaration of Early Termination Date. If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party ("**Non-Defaulting Party**")

shall have the following rights:

(a) to send Notice, designating a day, no earlier than the day such Notice is deemed to be received and no later than twenty (20) days after such Notice is deemed to be received, as an early termination date of this Agreement ("**Early Termination Date**") that terminates this Agreement (the "**Terminated Transaction**") and ends the Delivery Term effective as of the Early Termination Date;

(b) to accelerate all amounts owing between the Parties, and to collect as liquidated damages (i) the Damage Payment, or (ii) the Termination Payment, as applicable, in each case calculated in accordance with Section 11.3 below;

(c) to withhold any payments due to the Defaulting Party under this Agreement;

(d) to suspend performance; and

(e) to exercise any other right or remedy available at law or in equity, including specific performance or injunctive relief, except to the extent such remedies are expressly limited under this Agreement; *provided*, payment by the Defaulting Party of the Damage Payment or Termination Payment, as applicable, shall constitute liquidated damages and the Non-Defaulting Party's sole and exclusive remedy for any Terminated Transaction and the Event of Default related thereto.

Damage Payment; Termination Payment. If an Early Termination Date has been declared, the Non-Defaulting Party shall calculate, in a commercially reasonable manner, the Damage Payment or Termination Payment, as applicable, in accordance with this Section 11.3.

(a) Damage Payment Prior to Commercial Operation Date. If the Early Termination Date occurs before the Commercial Operation Date, then the Damage Payment shall be calculated in accordance with this Section 11.3(a).

(i) If Seller is the Defaulting Party, then the Damage Payment shall be owed to Buyer and shall be a dollar amount that equals the amount of the Development Security as set forth on the Cover Sheet plus, if the Development Security is posted as cash, any interest accrued thereon. Buyer shall be entitled to immediately retain for its own benefit those funds held as Development Security and any interest accrued thereon if the Development Security is posted as cash, and any amount of Development Security that Seller has not yet posted with Buyer shall be immediately due and payable by Seller to Buyer. There will be no amounts owed to Seller. The Parties agree that Buyer's damages in the event of an Early Termination Date prior to the Commercial Operation Date caused by Seller's default would be difficult or impossible to determine and that the damages set forth in this Section 11.3(a)(i) are a reasonable approximation of Buyer's harm or loss.

(ii) Except as set forth in Section 11.3(a)(iii), if Buyer is the Defaulting Party, then the Damage Payment shall be owed to Seller and shall equal Buyer's Share of the sum of the actual, documented and verifiable costs incurred by Seller between the Effective Date and the Early Termination Date in connection with the Facility, less the fair market value (determined

in a commercially reasonable manner) of (A) all Seller's assets individually or (B) the entire Facility, whichever is greater on the Early Termination Date, regardless of whether or not any Seller asset or the entire Facility is actually sold or disposed of.

(iii) If Buyer is the Defaulting Party and such default arises in connection with: (A) Buyer's repudiation of this Agreement; (B) Buyer's bad faith; (C) Buyer's failure to comply with its obligations under Section 2.2(a) to, within five (5) Business Days after receipt thereof, either accept or provide Notice stating in reasonable detail the basis for its reasonable rejection of Seller's evidence of completion of any condition to Commercial Operation set forth in Section 2.2(a) (provided that Seller submitted such evidence within thirty (30) days of the expected Commercial Operation Date); or (D) Buyer's failure to comply with its obligations under Section 2.6 to (x) within ten (10) Business Days of its receipt of Seller's Notice of a Project Bifurcation or Project Transition, provide Notice to Seller of any comments on the draft Replacement PPA(s) and termination agreement attached to such Notice, and (y) cooperate reasonably with Seller and the Owners to resolve any issues and enter into the Replacement PPA(s) and the termination agreement within thirty (30) days of Seller's Notice to Buyer of the same (*provided*, this clause (D) shall apply only if the draft Replacement PPA(s) are on the same terms and conditions as those set forth in this Agreement, except for those administrative changes that are necessary to effectuate the separation or transition of this Agreement into Replacement PPA(s) (including such changes as are set forth in Section 2.6(a) through Section 2.6(g), as applicable)), then the Damage Payment shall be owed to Seller and shall be equal to the Termination Payment determined in accordance with Section 11.3(b) below as of the Early Termination Date. There will be no amount owed to Buyer. The Parties agree that Seller's damages in the event of an Early Termination Date prior to the Commercial Operation Date caused by Buyer's default would be difficult or impossible to determine and that the damages set forth in Section 11.3(a)(ii) above or this Section 11.3(a)(iii), as applicable, are a reasonable approximation of Seller's harm or loss.

(b) Termination Payment On or After the Commercial Operation Date. The payment owed by the Defaulting Party to the Non-Defaulting Party for a Terminated Transaction occurring after the Commercial Operation Date ("**Termination Payment**") shall be the aggregate of all Settlement Amounts plus any and all other amounts due to or from the Non-Defaulting Party (as of the Early Termination Date) netted into a single amount. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for the Terminated Transaction as of the Early Termination Date. Third parties supplying information for purposes of the calculation of Gains or Losses may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. The Settlement Amount shall not include consequential, incidental, punitive, exemplary, indirect or business interruption damages. Without prejudice to the Non-Defaulting Party's duty to mitigate, the Non-Defaulting Party shall not have to enter into replacement transactions to establish a Settlement Amount. Each Party agrees and acknowledges that (i) the actual damages that the Non-Defaulting Party would incur in connection with a Terminated Transaction would be difficult or impossible to predict with certainty, (ii) the Termination Payment described in this Section 11.3(b) is a reasonable and appropriate approximation of such damages, and (iii) the Termination Payment described in this Section 11.3(b) is the exclusive remedy of the Non-Defaulting Party in connection with a Terminated Transaction but shall not otherwise act to limit any of the Non-

Defaulting Party's rights or remedies if the Non-Defaulting Party does not elect a Terminated Transaction as its remedy for an Event of Default by the Defaulting Party.

Notice of Payment of Termination Payment or Damage Payment. As soon as practicable after a Terminated Transaction, but in no event later than sixty (60) days after the Early Termination Date, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Damage Payment or Termination Payment, as applicable, and whether the Termination Payment or Damage Payment, as applicable, is due to or from the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount and the sources for such calculation. The Termination Payment or Damage Payment, as applicable, shall be made to or from the Non-Defaulting Party, as applicable, within ten (10) Business Days after such Notice is effective.

Disputes With Respect to Termination Payment or Damage Payment. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment or Damage Payment, as applicable, in whole or in part, the Defaulting Party shall, within five (5) Business Days of receipt of the Non-Defaulting Party's calculation of the Termination Payment or Damage Payment, as applicable, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. Disputes regarding the Termination Payment or Damage Payment, as applicable, shall be determined in accordance with Article 15.

Limitation on Seller's Ability to Make or Agree to Third-Party Sales from the Facility after Early Termination Date. If this Agreement is terminated prior to the Commercial Operation Date for any reason except due to Buyer's Event of Default, neither Seller nor Seller's Affiliates may sell, market or deliver any Product associated with or attributable to the Facility to a party other than Buyer for a period of [redacted] following such early termination date, unless prior to selling, marketing or delivering such Product, or entering into the agreement to sell, market or deliver such Product to a party other than Buyer, Seller or Seller's Affiliates provide Buyer with a written offer to sell the Product on terms and conditions materially similar to the terms and conditions contained in this Agreement and (a) Buyer fails to accept such offer within forty-five (45) days of Buyer's receipt thereof, or (b) Seller and Buyer fail to reach an agreement on the changes necessary to conform the new agreement on materially similar terms to this Agreement within ninety (90) days after Buyer's receipt of such offer, despite both Parties negotiating in good faith. Seller's or Seller's Affiliate's written offer to sell the Product pursuant to this Section 11.6 shall be at the Contract Rate without increase or escalation; [redacted]. Nothing in this Section 11.6 shall be construed to limit in any way Seller's right to market, sell, or deliver Energy, green attributes, capacity attributes, or other products generated by or associated with the Facility in excess of Buyer's Share of such Energy, green attributes, capacity attributes, or other products generated by or associated with the Facility.

Neither Seller nor Seller's Affiliates may sell or transfer the Facility, or any part thereof, or land rights or interests in the Site (including the interconnection queue position of the Facility) so long as the limitations contained in this Section 11.6 apply, unless the transferee agrees to be bound by the terms set forth in this Section 11.6 pursuant to a written agreement approved by Buyer.

Seller shall indemnify and hold Buyer harmless from all benefits lost and other damages sustained by Buyer as a result of any breach by Seller of its covenants contained within this Section 11.6.

Rights And Remedies Are Cumulative. Except where liquidated damages or other remedy are explicitly provided as the exclusive remedy, the rights and remedies of a Party pursuant to this Article 11 shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

Mitigation. Any Non-Defaulting Party shall be obligated to use commercially reasonable efforts to mitigate its Costs, Losses and damages resulting from any Event of Default of the other Party under this Agreement.

LIMITATION OF LIABILITY AND EXCLUSION OF WARRANTIES.

No Consequential Damages. EXCEPT TO THE EXTENT PART OF (A) AN EXPRESS REMEDY OR MEASURE OF DAMAGES HEREIN, (B) AN IP INDEMNITY CLAIM, (C) AN ARTICLE 16 INDEMNITY CLAIM, (D) INCLUDED IN A LIQUIDATED DAMAGES CALCULATION, OR (E) RESULTING FROM A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, OR LOSSES OR DAMAGES FOR LOST REVENUE OR LOST PROFITS, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT, BY STATUTE, IN TORT OR CONTRACT.

Waiver and Exclusion of Other Damages. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. ALL LIMITATIONS OF LIABILITY CONTAINED IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE PERTAINING TO SELLER'S LIMITATION OF LIABILITY AND THE PARTIES' WAIVER OF CONSEQUENTIAL DAMAGES, SHALL APPLY EVEN IF THE REMEDIES FOR BREACH OF WARRANTY PROVIDED IN THIS AGREEMENT ARE DEEMED TO "FAIL OF THEIR ESSENTIAL PURPOSE" OR ARE OTHERWISE HELD TO BE INVALID OR UNENFORCEABLE.

NOTWITHSTANDING ANYTHING ELSE HEREIN TO THE CONTRARY, SELLER'S AGGREGATE LIABILITY ARISING UNDER OR RELATED TO THIS AGREEMENT IN CONNECTION WITH ANY DELAY BY SELLER IN COMPLETING THE FACILITY OR ACHIEVING THE COMMERCIAL OPERATION DATE, INCLUDING FAILURE BY

SELLER TO ACHIEVE THE MILESTONE DATES SET FORTH ON THE COVER SHEET AND ANY FAILURE BY SELLER TO SELL PRODUCT TO BUYER HEREUNDER AS A RESULT OF ANY SUCH DELAY OR FAILURE, SHALL NOT EXCEED THE SUM OF (A) THE AMOUNT OWING OR PAID BY SELLER IN RESPECT OF DELAY DAMAGES, IF ANY, AND (B) THE AMOUNT OF THE DAMAGE PAYMENT OWED BY SELLER, IF ANY.

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS AND EXCLUSIVE REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES ONLY. THE VALUE OF ANY 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) AND AMOUNTS DUE IN CONNECTION WITH THE RECAPTURE OF ANY RENEWABLE ENERGY INCENTIVES, IF ANY, SHALL BE DEEMED TO BE DIRECT DAMAGES.

TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, INCLUDING UNDER SECTIONS 3.8, 4.7, 4.8, 11.2 AND 11.3, AND AS PROVIDED IN EXHIBIT B, EXHIBIT C, EXHIBIT G, AND EXHIBIT P, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT, AND THAT THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE ANTICIPATED HARM OR LOSS. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. THE PARTIES HEREBY WAIVE ANY RIGHT TO CONTEST SUCH PAYMENTS AS AN UNREASONABLE PENALTY.

THE PARTIES ACKNOWLEDGE AND AGREE THAT MONEY DAMAGES AND THE EXPRESS REMEDIES PROVIDED FOR HEREIN ARE AN ADEQUATE REMEDY FOR THE BREACH BY THE OTHER OF THE TERMS OF THIS AGREEMENT, AND EACH PARTY WAIVES ANY RIGHT IT MAY HAVE TO SPECIFIC PERFORMANCE WITH RESPECT TO ANY OBLIGATION OF THE OTHER PARTY UNDER THIS AGREEMENT.

ARTICLE 13
REPRESENTATIONS AND WARRANTIES; AUTHORITY

Seller's Representations and Warranties. As of the Effective Date, Seller represents and warrants as follows:

(a) Seller is a limited liability company, duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation, and is qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on the business or financial condition of Seller.

(b) Seller has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Seller's performance under this Agreement. The execution, delivery and performance of this Agreement by Seller has been duly authorized by all necessary limited liability company action on the part of Seller and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Seller or any other party to any other agreement with Seller.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Seller with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Seller, subject to any permits that have not yet been obtained by Seller, the documents of formation of Seller or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other material agreement or instrument to which Seller is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Seller. This Agreement is a legal, valid and binding obligation of Seller enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) Seller and its Affiliates are developing the Facility to be located in New Mexico.

(f) Neither Seller nor its Affiliates have received notice from or been advised by any existing or potential supplier or service provider that COVID-19 has caused, or is reasonably likely to cause, a delay in the construction of the Facility or the delivery of materials necessary to complete the Facility, in each case that would cause the Commercial Operation Date to be later than the Guaranteed Commercial Operation Date.

Buyer's Representations and Warranties. As of the Effective Date, Buyer represents and warrants as follows:

(a) Buyer is a joint powers authority and a validly existing community choice aggregator, duly organized, validly existing and in good standing under the laws of the State of California and the rules, regulations and orders of the California Public Utilities Commission, and is qualified to conduct business in each jurisdiction of the Joint Powers Agreement members. All Persons making up the governing body of Buyer are the elected or appointed incumbents in their positions and hold their positions in good standing in accordance with the Joint Powers Agreement and other Law.

(b) Buyer has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Buyer's performance under this Agreement. The execution, delivery and performance of this Agreement by Buyer has been duly authorized by all necessary action on the part of Buyer and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Buyer or any other party to any other agreement with Buyer.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Buyer with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Buyer, including but not limited to community choice aggregation, the Joint Powers Act, competitive bidding, public notice, open meetings, election, referendum, or prior appropriation requirements, the documents of formation of Buyer or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Buyer is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Buyer. This Agreement is a legal, valid and binding obligation of Buyer enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) Buyer warrants and covenants that with respect to its contractual obligations under this Agreement, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (1) suit, (2) jurisdiction of court, (3) relief by way of injunction, order for specific performance or recovery of property, (4) attachment of assets, or (5) execution or enforcement of any judgment.

(f) Buyer is a "local public entity" as defined in Section 900.4 of the Government Code of the State of California.

(g) Buyer cannot assert sovereign immunity as a defense to the enforcement of its obligations under this Agreement.

General Covenants. Each Party covenants that commencing on the Effective Date and continuing throughout the Contract Term:

(a) It shall continue to be duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and to be qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on its business or financial condition;

(b) It shall maintain (or obtain from time to time as required) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement; and

(c) It shall perform its obligations under this Agreement in compliance with all terms and conditions in its governing documents and in material compliance with any Law.

Prevailing Wage. Seller shall use commercially reasonable efforts to ensure that all employees hired by Seller (and its contractors and subcontractors) that will perform construction work or provide services at the Site related to construction of the Facility are paid wages at base rates not less than those prevailing for workers performing similar work in the locality as provided by applicable New Mexico Law, if any ("**Prevailing Wages**"). Within one hundred eighty (180) days after the Commercial Operation Date, Seller shall, at Seller's sole expense, provide either (a) a certificate [redacted] reasonably acceptable to Buyer, demonstrating that Seller (and its contractors and subcontractors) paid Prevailing Wages, or (b) a certificate from an officer of Seller certifying that Seller made commercially reasonable efforts to pay Prevailing Wages together [redacted] reasonably acceptable to Buyer of such efforts, and in either case including at a minimum (i) the Prevailing Wages pursuant to New Mexico Law for each applicable trade classification with respect to workers performing work or providing services at the Site, and (ii) the highest and the lowest annual base rate paid to such workers for the Facility in each such classification. Nothing herein shall require Seller, its contractors and subcontractors to comply with, or assume liability created by, other inapplicable provisions of any New Mexico labor laws. Buyer agrees that Seller's obligations under this Section 13.4 may be satisfied upon the execution of a project labor agreement with respect to construction of the Facility.

[Reserved].

Supplier Diversity Reporting. From the Effective Date until the Commercial Operation Date, upon request from Buyer and on a schedule to be reasonably agreed by the Parties, Seller shall provide a separate "Supplier Plan" setting forth (a) the plans and efforts of Seller to subcontract with businesses owned by women, minorities, disabled veterans, lesbian, gay, bisexual, or transgender persons, or persons with disabilities ("**Diverse Suppliers**"), as more fully defined under CPUC General Order 156 (*provided*, Persons shall qualify as Diverse Suppliers only to the extent such Persons are so certified with the Supplier Clearinghouse as set forth in CPUC General Order 156 or elect to voluntarily self-identify as such to Seller), and (b) the plans and efforts of Seller to subcontract with small, local, and diverse businesses, as more fully defined under CPUC General Order 156 ("**Small Local Businesses**"); *provided*, such report shall be in a form reasonably acceptable to Buyer.

ARTICLE 14
ASSIGNMENT

General Prohibition on Assignments. Except as provided below in this Article 14, neither Party may voluntarily assign this Agreement or its rights or obligations under this Agreement, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Any 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 shall not be unreasonably withheld, conditioned or delayed; *provided*, a Change of Control of Seller shall not require Buyer's consent if the assignee or transferee is a Permitted Transferee. Any assignment made without the required written consent, or in violation of the conditions to

assignment set out below, shall be null and void.

Collateral Assignment. Subject to the provisions of this Section 14.2, Seller has the right to assign this Agreement as collateral for any financing or refinancing (including any tax equity financing) of the Facility without the consent of Buyer. In connection with any financing or refinancing of the Facility by Seller, Buyer shall in good faith work with Seller and Lender to execute a customary and reasonable consent to collateral assignment of this Agreement and deliver a customary and reasonable estoppel to the Lender, as reasonably agreed by Buyer, Seller and Lender; *provided*, Seller shall reimburse Buyer's reasonable and documented out-of-pocket legal fees in connection with negotiating such consent to collateral assignment.

Permitted Assignment by Seller. Seller may, without the prior written consent of Buyer, transfer or assign this Agreement to: (a) an Affiliate of Seller or (b) any Person succeeding to all or substantially all of the assets of Seller (whether voluntary or by operation of law); if, and only if:

(a) the assignee is a Permitted Transferee;

(b) Seller has given Buyer Notice at least fifteen (15) Business Days before the date of such proposed assignment to the extent permitted under applicable Law, and if prior Notice is not permitted because Seller or any other Person involved in the transaction, directly or indirectly, is a publicly traded company and applicable Laws prohibit prior disclosure to Buyer, then within ten (10) Business Days after the date of such assignment [redacted]; and

(c) Seller (x) has, except in connection with a Change of Control, provided Buyer a written agreement signed by the Person to which Seller wishes to assign its interests that provides that such Person will assume all of Seller's obligations and liabilities under this Agreement upon such transfer or assignment and (y) certifies that such Person meets the definition of a Permitted Transferee.

Notwithstanding the foregoing, any assignment by Seller, its successors or assigns under this Section 14.3 shall be of no force and effect unless and until such Notice and agreement by the assignee have been received and accepted by Buyer.

Shared Facilities; Portfolio Financing. Buyer agrees and acknowledges that Seller may elect to finance all or any portion of the Facility or the Interconnection Facilities or the Shared Facilities (1) utilizing tax equity or cash equity investment, and/or (2) through a Portfolio Financing, which may include cross-collateralization or similar arrangements. In connection with any financing or refinancing of the Facility, the Interconnection Facilities or the Shared Facilities by Seller or any Portfolio Financing, Buyer, Seller, Portfolio Financing Entity (if any), and Lender shall execute and deliver such further consents, approvals and acknowledgments as may be reasonable and necessary to facilitate such transactions; *provided*, Buyer shall not be required to agree to any terms or conditions which are reasonably expected to have a material adverse effect on Buyer and all reasonable attorney's fees incurred by Buyer in connection therewith shall be borne by Seller.

14.5 **Buyer Financing Assignment.**

(a) Seller agrees that Buyer may assign a portion of its rights and obligations under this Agreement to a Person in connection with a municipal prepayment financing transaction ("**Buyer Assignee**") at any time upon not less than fifteen (15) Business Days' prior notice to Seller by delivering Notice of such assignment, which Notice must include a proposed assignment agreement substantially in the form attached hereto as Exhibit L ("**Assignment Agreement**"); *provided*, at the time of such assignment, such Buyer Assignee has a Credit Rating equal to Baa3 from Moody's and BBB- from S&P. As reasonably requested by Buyer Assignee, Seller shall (i) provide Buyer Assignee with reasonable information and documentation with respect to Seller, including but not limited to account opening information, information related to forecasted generation, Credit Rating, and compliance with anti-money laundering rules, the Dodd-Frank Act, the Commodity Exchange Act, the Patriot Act and similar rules, regulations, requirements and corresponding policies; and (ii) promptly execute such Assignment Agreement and implement such assignment as contemplated thereby, subject only to the countersignature of Buyer Assignee and Buyer, the requirements of this Section 14.5, and Lender consent. From and after any execution of an Assignment Agreement, Buyer shall remain primarily responsible for all its obligations under this Agreement and the Assignment Agreement, including (i) the obligation to pay for all Product and (ii) any and all damages, costs and expenses of Seller associated with Buyer Assignee's failure to take or pay for any such Product as contemplated by this Agreement. In no event shall any assignment by Buyer under this Section 14.5 purport to limit any rights of Seller under, or cause Seller to incur any additional obligations under, this Agreement other than *de minimis* administrative or ministerial obligations.

(b) Subject to the provisions of this Section 14.5(b), if Buyer proposes to use a financing structure other than the financing structure contemplated by the form attached hereto as Exhibit L, including modifying this Agreement to require Seller to deliver some or all of the Facility Energy using Inter-SC Trades or other structure that materially deviates from the terms of this Agreement or the form of Assignment Agreement, Seller agrees to use commercially reasonable efforts to negotiate with Buyer an assignment agreement providing for such structure, starting from the form of Assignment Agreement attached hereto, as such form shall be modified at the request of Seller to ensure that Seller is satisfied in its reasonable discretion that (x) it will be made financially whole (including for the time value of money) with respect to its financial position under such proposed financing structure compared to Seller's financial position absent such proposed financing structure and the transactions contemplated thereby, including but not limited to with respect to Seller's cash flows and liquidity position, and (y) it will not be required to (i) change the manner in which the Facility is operated, (ii) change the Delivery Point or the transmission path to the Delivery Point, (iii) procure additional or alternative transmission capacity, or (iv) change the way that Energy is delivered (*provided*, such restriction shall not preclude Inter-SC Trades at a different transaction point, such as SP-15); *provided*, such form must include the express requirements that Buyer Assignee shall make timely payment of all amounts due from Buyer under this Agreement, and that Buyer shall remain primarily liable for all of Buyer's obligations under this Agreement and such agreement memorializing such proposed financing structure, including (i) the obligation to pay for all Product and (ii) any and all damages, costs and expenses of Seller associated with Buyer Assignee's failure to take or pay for any such Product as contemplated by this Agreement; *provided further*, Seller's execution of any such agreement memorializing such proposed financing structure shall be subject to Lender consent.

ARTICLE 15
DISPUTE RESOLUTION

Governing Law. This agreement and the rights and duties of the parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law. To the extent enforceable at such time, each party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this agreement. [STC – 17]

Dispute Resolution. In the event of any dispute arising under this Agreement, within ten (10) days following the receipt of a Notice from either Party identifying such dispute, the Parties shall meet, negotiate and attempt, in good faith, to resolve the dispute quickly, informally and inexpensively. If the Parties are unable to resolve a dispute arising hereunder within the earlier of either forty-five (45) days of initiating such discussions, or within sixty (60) days after Notice of the dispute, either Party may seek any and all remedies available to it at law or in equity, subject to the limitations set forth in this Agreement.

Attorneys' Fees. In any proceeding brought to enforce this Agreement or because of the breach by any Party of any covenant or condition herein contained, each Party shall bear its own respective costs, expenses and attorneys' fees in connection with said action.

Venue. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be the federal courts of the United States or, if such federal courts refuse jurisdiction notwithstanding the Parties' agreement, then in the courts of the State of California, in either case sitting in Los Angeles County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, and waive any claim or defense that such forum is not convenient or proper.

ARTICLE 16
INDEMNIFICATION

16.1 **Indemnification**.

(a) Each Party (the "**Indemnifying Party**") agrees to indemnify, defend and hold harmless the other Party and its Affiliates, directors, officers, employees and agents (collectively, the "**Indemnified Party**") from and against all claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees) (i) for personal injury or death to Persons and damage to the property of any third party to the extent arising out of, resulting from, or caused by the negligent or willful misconduct of the Indemnifying Party, its Affiliates, its directors, officers, employees, or agents, or (ii) for third-party claims resulting from the Indemnifying Party's breach (including inaccuracy of any representation of warranty made hereunder), performance or non-performance of its obligations under this Agreement.

(b) Seller shall indemnify, defend and hold harmless Buyer and its Affiliates, directors, officers, employees from and against all claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees) in connection with any claims of infringement

upon or violation of any trade secret, trademark, trade name, copyright, patent, or other intellectual property rights of any third party by equipment, software, applications or programs (or any portion of same) used in connection with the Facility (an "**IP Indemnity Claim**").

(c) Nothing in this Section 16.1 shall enlarge or relieve Seller or Buyer of any liability to the other for any breach of this Agreement. Neither Party shall be indemnified for its damages resulting from its sole negligence, intentional acts or willful misconduct. These indemnity provisions shall not be construed to relieve any insurer of its obligation to pay claims consistent with the provisions of a valid insurance policy.

Claims. Promptly after receipt by a Party of any claim or Notice of the commencement of any action, administrative, or legal proceeding, or investigation as to which the indemnity provided for in this Article 16 may apply, the Indemnified Party shall notify the Indemnifying Party in writing of such fact. The Indemnifying Party shall assume the defense thereof with counsel designated by the Indemnifying Party and satisfactory to the Indemnified Party, *provided*, if the defendants in any such action include both the Indemnified Party and the Indemnifying Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, the Indemnified Party shall have the right to select and be represented by separate counsel, at the Indemnifying Party's expense, unless a liability insurer is willing to pay such costs. If the Indemnifying Party fails to assume the defense of a claim meriting indemnification, the Indemnified Party may at the expense of the Indemnifying Party contest, settle, or pay such claim; *provided*, settlement or full payment of any such claim may be made only following consent of the Indemnifying Party or, absent such consent, written opinion of the Indemnified Party's counsel that such claim is meritorious or warrants settlement. Except as otherwise provided in this Article 16, in the event that a Party is obligated to indemnify and hold the other Party and its successors and assigns harmless under this Article 16, the amount owing to the Indemnified Party will be the amount of the Indemnified Party's damages net of any insurance proceeds received by the Indemnified Party following a reasonable effort by the Indemnified Party to obtain such insurance proceeds.

ARTICLE 17
INSURANCE

Insurance.

(a) General Liability. Seller shall maintain, or cause to be maintained at its sole expense, the following types and minimum limits of insurance with a carrier rated "A- VII" or higher by A.M. Best's Key Rating Guide: (i) commercial general liability insurance, including products and completed operations and personal injury (including bodily injury and death) and property damage insurance, with a minimum limit of liability of One Million Dollars ($1,000,000) per occurrence, and a general aggregate of not less than Two Million Dollars ($2,000,000) for combined bodily injury and property damage; and (ii) an umbrella insurance policy in a minimum limit of liability of Ten Million Dollars ($10,000,000). The amounts of liability insurance described in this Article 17 may be satisfied by primary insurance or by any combination of primary and excess/umbrella insurance. Such insurance shall contain standard cross-liability and

severability of interest provisions such that each Person is protected in the same manner as though a separate policy has been issued to each but nothing therein shall operate to increase the insurance company's liability beyond the amount the insurance company would have been liable if only one Person or interest had been named as insured. The liability insurance policies referenced in this Article 17 shall (x) provide an endorsement waiving rights of subrogation against Buyer, (y) name Buyer as additional insured on all required liability insurance (except workers compensation), and (z) be primary to any insurance of Buyer that may apply to such occurrence, accident or claim and no "other insurance" provision shall be applicable to Buyer or any additional insureds, by virtue of having been named an additional insured under any policy of insurance.

(b) Workers Compensation and Employer's Liability Insurance. Employers' Liability insurance shall not be less than One Million Dollars ($1,000,000) providing statutory benefits as required by Law (if any exposure exists) for injury, sickness, disability or death of the employees.

(c) Business Auto Liability Insurance. Seller shall maintain at all times during the Contract Term business auto insurance for bodily injury and property damage with limits of One Million Dollars ($1,000,000) combined single limit. Such insurance shall cover liability arising out of Seller's use of all owned (if any), non-owned and hired motor vehicles in the performance of the Agreement.

(d) Property Insurance. Seller shall maintain or cause to be maintained property insurance (construction all-risk or operational all-risk as may be applicable) covering the Facility against physical loss or damage, including coverage for natural perils including but not limited to flood, earthquake, windstorm, severe convective storm and wildfire, all with limits in accordance with industry standard recognizing that natural perils may be subject to a lower sublimit. Coverage will be on an "all-risk" basis including mechanical and electrical breakdown.

(e) Subcontractor Insurance. Seller shall require all of its tier-one subcontractors to carry: (i) comprehensive general liability insurance with a combined single limit of coverage not less than One Million Dollars ($1,000,000); (ii) workers' compensation insurance and employers' liability coverage in accordance with applicable requirements of Law; and (iii) business auto insurance for bodily injury and property damage with limits of one million dollars ($1,000,000) per occurrence. Seller shall use commercially reasonable efforts to cause all subcontractors shall name Seller as an additional insured to insurance carried pursuant to clauses (e)(i) and (e)(iii). Seller shall use commercially reasonable efforts to cause all subcontractors shall provide a primary endorsement and a waiver of subrogation to Seller for the required coverage pursuant to this Section 17.1(e).

(f) Evidence of Insurance. Within ten (10) days after execution of the Agreement and upon annual renewal thereafter, Seller shall deliver to Buyer certificates of insurance evidencing such coverage. Such certificates shall specify that Buyer shall be given at least thirty (30) days prior Notice by Seller in the event of any material modification, cancellation or termination of coverage. All insurance required herein shall be primary coverage without right of contribution from any insurance of Buyer, and such policies shall be endorsed with a waiver of subrogation in favor of Buyer for all work performed by Seller, its employees, agents and

subcontractors and any subrogation rights which may pass to Seller's insurance carriers for the payment of any claims. Any other insurance maintained by Seller is for the exclusive benefit of Seller and shall not in any manner inure to the benefit of Buyer.

(g) Failure to Comply with Insurance Requirements. If Seller fails to comply with any of the provisions of this Article 17, Seller, among other things and without restricting Buyer's remedies under the Law or otherwise, shall, at its own cost and expense, comply with the terms and conditions of Article 16.

ARTICLE 18
CONFIDENTIAL INFORMATION

Definition of Confidential Information. The following constitutes "**Confidential Information**," whether oral or written which is delivered by Seller to Buyer or by Buyer to Seller including: (a) the terms and conditions of, and proposals and negotiations related to, this Agreement, and (b) information that either Seller or Buyer stamps or otherwise identifies as "confidential" or "proprietary" before disclosing it to the other. Confidential Information does not include (i) information that was publicly available at the time of the disclosure, other than as a result of a disclosure in breach of this Agreement; (ii) information that becomes publicly available through no fault of the recipient after the time of the delivery; (iii) information that was rightfully in the possession of the recipient (without confidential or proprietary restriction) at the time of delivery or that becomes available to the recipient from a source not subject to any restriction against disclosing such information to the recipient; and (iv) information that the recipient independently developed without a violation of this Agreement.

Duty to Maintain Confidentiality. The Party receiving Confidential Information (the "**Receiving Party**") from the other Party (the "**Disclosing Party**") shall not disclose Confidential Information to a third party (other than the Party's employees, lenders, counsel, accountants, directors or advisors, or any such representatives of a Party's Affiliates, who have a need to know such information and have agreed to keep such terms confidential) except in order to comply with any applicable Law, regulation, or any exchange, control area or independent system operator rule or in connection with any court or regulatory proceeding applicable to such Party or any of its Affiliates; *provided*, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation. The Parties agree and acknowledge that nothing in this Section 18.2 prohibits a Party from disclosing any one or more of the commercial terms of a transaction (other than the name of the other Party unless otherwise agreed to in writing by the Parties) to any industry price source for the purpose of aggregating and reporting such information in the form of a published energy price index.

The Parties acknowledge and agree that the Agreement and any transactions entered into in connection herewith are subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.). In order to designate information as confidential, the Disclosing Party must clearly stamp and identify the specific portion of the material designated with the word "Confidential." The Parties agree not to over-designate material as Confidential

Information. Over-designation includes stamping whole agreements, entire pages or series of pages as "Confidential" that clearly contain information that is not Confidential Information.

Upon request or demand of any third person or entity not a Party hereto to Buyer pursuant to the California Public Records Act for production, inspection and/or copying of Confidential Information ("**Requested Confidential Information**"), Buyer shall as soon as practical, and no later than ten (10) Business Days after receipt, notify Seller in writing via email that such request has been made. Seller shall be solely responsible for taking at its sole expense whatever legal steps are necessary to prevent release of the Requested Confidential Information to the third party by Buyer. If Seller takes no such action after receiving the foregoing Notice from Buyer, Buyer shall, at its discretion, be permitted to comply with the third party's request or demand to the extent Buyer reasonably believes that disclosure is required under the California Public Records Act and is not required to defend against it. If Seller does take or attempt to take such action, Buyer shall provide timely and reasonable cooperation to Seller, if requested by Seller, and Seller agrees to indemnify and hold harmless Buyer, its officers, employees and agents ("**Buyer's Indemnified Parties**"), from any claims, liability, award of attorneys' fees, or damages, and to defend any action, claim or lawsuit brought against any of Buyer's Indemnified Parties for Buyer's refusal to disclose any Requested Confidential Information.

Irreparable Injury; Remedies. Receiving Party acknowledges that its obligations hereunder are necessary and reasonable in order to protect Disclosing Party and the business of Disclosing Party, and expressly acknowledges that monetary damages would be inadequate to compensate Disclosing Party for any breach or threatened breach by Receiving Party of any covenants and agreements set forth herein. Accordingly, Receiving Party acknowledges that any such breach or threatened breach will cause irreparable injury to Disclosing Party and that, in addition to any other remedies that may be available, in law, in equity or otherwise, Disclosing Party will be entitled to obtain injunctive relief against the threatened breach of this Agreement or the continuation of any such breach, without the necessity of proving actual damages.

Further Permitted Disclosure. Notwithstanding anything to the contrary in this Article 18, Confidential Information may be disclosed by the Receiving Party to any of its agents, consultants, contractors, trustees, or actual or potential investors or financing parties (including, in the case of Seller, its Lender(s)), so long as such Person to whom Confidential Information is disclosed agrees in writing to be bound by confidentiality provisions that are at least as restrictive as this Article 18 to the same extent as if it were a Party.

Press Releases. Neither Party shall issue or make (or cause its Affiliates to issue or make) a written press release or written public statement regarding the transactions contemplated by this Agreement unless both Parties have agreed upon the contents of any such written press release or written public statement, which agreement shall not be unreasonably conditioned, withheld or delayed.

ARTICLE 19
MISCELLANEOUS

Entire Agreement; Integration; Exhibits. This Agreement, together with the Cover Sheet and Exhibits attached hereto constitutes the entire agreement and understanding between Seller and Buyer with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. The Exhibits attached hereto are integral parts hereof and are made a part of this Agreement by reference. The headings used herein are for convenience and reference purposes only. In the event of a conflict between the provisions of this Agreement and those of the Cover Sheet or any Exhibit, the provisions of first the Cover Sheet, and then this Agreement shall prevail, and such Exhibit shall be corrected accordingly. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.

Amendments. This Agreement may only be amended, modified or supplemented by an instrument in writing executed by duly authorized representatives of Seller and Buyer; *provided*, this Agreement may not be amended by electronic mail communications.

No Waiver. Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default.

No Agency, Partnership, Joint Venture or Lease. Seller and the agents and employees of Seller shall, in the performance of this Agreement, act in an independent capacity and not as officers or employees or agents of Buyer. Under this Agreement, Seller and Buyer intend to act as energy seller and energy purchaser, respectively, and do not intend to be treated as, and shall not act as, partners in, co-venturers in or lessor/lessee with respect to the Facility or any business related to the Facility. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement) and/or, to the extent set forth herein, any Lender and/or Indemnified Party.

Severability. In the event that any provision of this Agreement is unenforceable or held to be unenforceable, the Parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby. The Parties shall, however, use their best endeavors to agree on the replacement of the void, illegal or unenforceable provision(s) with legally acceptable clauses which correspond as closely as possible to the sense and purpose of the affected provision and this Agreement as a whole.

Mobile-Sierra. Notwithstanding any other provision of this Agreement, neither Party shall seek, nor shall they support any third party 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 written 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 shall be the "public interest" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp.,

350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956). Changes proposed by a non-Party or FERC acting *sua sponte* shall be subject to the most stringent standard permissible under applicable Law.

Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument and each of which shall be deemed an original.

Electronic Delivery. This Agreement may be duly executed and delivered by a Party by electronic format (including portable document format (.pdf)) delivery of the signature page of a counterpart to the other Party.

Binding Effect. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

No Recourse to Members of Buyer. Buyer is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to its Joint Powers Agreement and is a public entity separate from its constituent members. Buyer shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Seller shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Buyer's constituent members, or the employees, directors, officers, consultants or advisors of Buyer or its constituent members, in connection with this Agreement.

Forward Contract. The Parties acknowledge and agree that this Agreement constitutes a "forward contract" within the meaning of the U.S. Bankruptcy Code, and Buyer and Seller are "forward contract merchants" within the meaning of the U.S. Bankruptcy Code. Each Party further agrees that, for all purposes of this Agreement, each Party waives and agrees not to assert the applicability of the provisions of 11 U.S.C. §366 in any Bankruptcy proceeding wherein such Party is a debtor. In any such proceeding, each Party further waives the right to assert that the other Party is a provider of last resort to the extent such term relates to 11 U.S.C. §366 or another provision of 11 U.S.C. §101-1532.

Change in Electric Market Design.

(a) If a change in the CAISO Tariff renders this Agreement or any provisions hereof incapable of being performed or administered, then any Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to make this Agreement capable of being performed and administered, while attempting to preserve to the maximum extent possible the benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, Buyer and Seller shall engage in such negotiations in good faith. If Buyer and Seller are unable, within sixty (60) days after delivery of such request, to agree upon changes to this Agreement or to resolve issues relating to changes to this Agreement, then any Party may submit issues pertaining to changes to this Agreement to the dispute resolution process set forth in Article 15. Notwithstanding the foregoing, (i) a change in cost shall not in and of itself be deemed to render this Agreement or any of the provisions hereof

incapable of being performed or administered, and (ii) all of the unaffected provisions of this Agreement shall remain in full force and effect during any period of such negotiation or dispute resolution.

(b) If any of the Transmission Systems utilized to deliver Product to the Delivery Point under this Agreement are integrated into a new or existing regional transmission organization or independent system operator and such integration has a material and adverse impact on either Party's performance under this Agreement, including the costs of either Party to perform, then the affected Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to restore the balance of benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, Buyer and Seller shall engage in such negotiations in good faith; *provided*, neither Party shall be obligated to amend this Agreement if such amendment(s) would adversely affect, or could reasonably be expected to have or result in any adverse effect on, any of such Party's rights, benefits, costs, revenue, value of the Agreement, risks and/or obligations under this Agreement.

Further Assurances. Each of the Parties hereto agrees to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than or in addition to those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the Effective Date.

SunZia Wind South LLC a Delaware limited liability company

By: _____
Name: _____
Title: _____

CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA,
a California joint powers authority

By: _____
Name: _____
Title: _____

EXHIBIT A

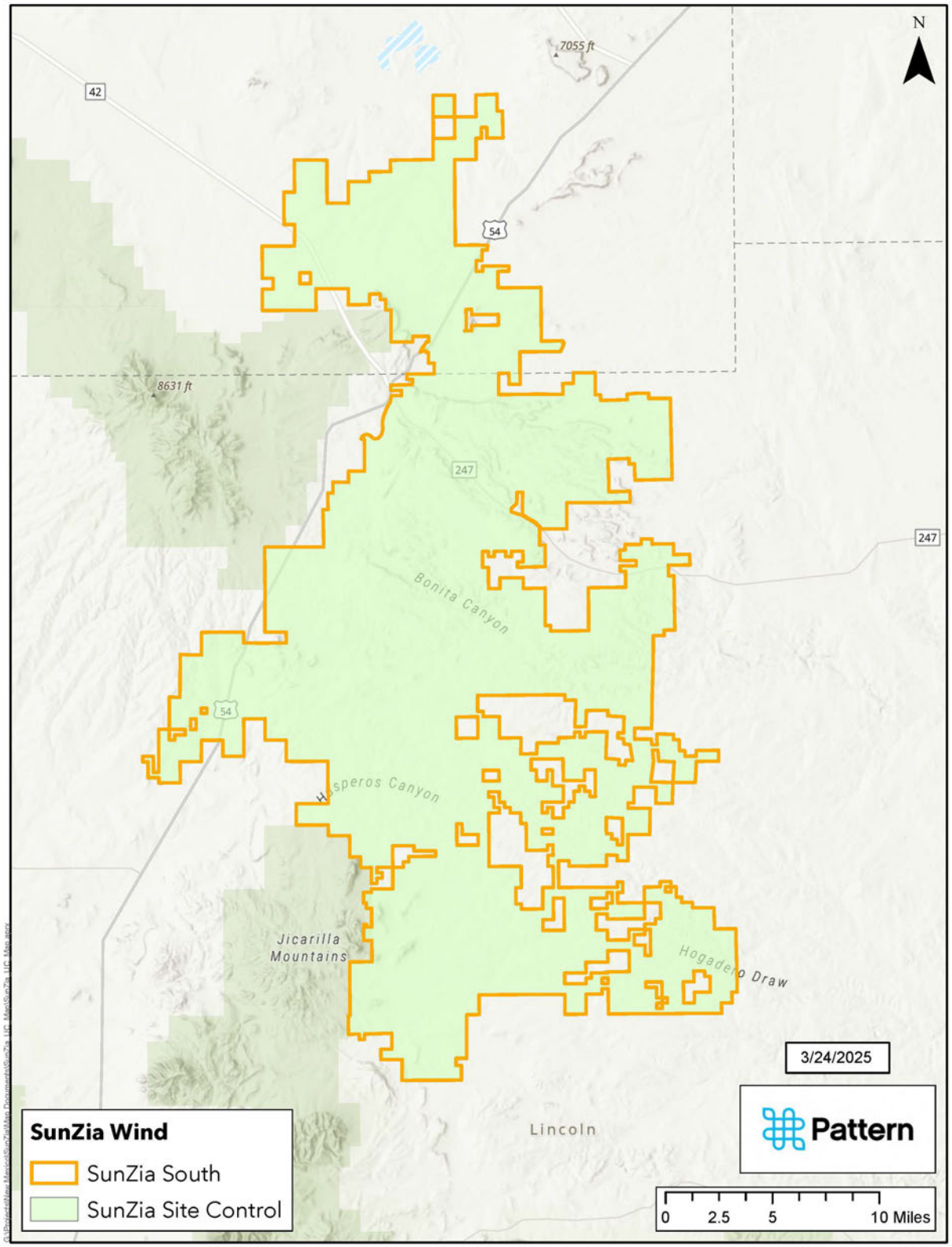
FACILITY DESCRIPTION

The Facility description provided herein reflects Seller's expectation for the Facility and the Site as of the Effective Date. Except as otherwise provided in the Agreement, Seller shall not make any alteration or modification to the Facility which results in a change to the Guaranteed Capacity, Guaranteed RA Amount, or to the anticipated output of the Facility without Buyer's prior written consent; *provided*, Seller shall be permitted to repower the Facility after the tenth (10^{th}) Contract Year so long as Seller continues to be obligated to deliver Guaranteed Energy Production and Guaranteed RA Amount associated with the Guaranteed Capacity during such repower; upon any such repower that changes the Installed Capacity, Seller shall deliver an updated Installed Capacity Certificate in the form of Exhibit I.

Site Name: SunZia Wind South LLC

Site Map:

[*Site Map shown on next page*]


N
7055 ft
42
54
8631 ft
247
247
Bonita Canyon
54
Hesperos Canyon
Jicarilla Mountains
Hogadero Draw
Lincoln
3/24/2025
Pattern
SunZia Wind
SunZia South
SunZia Site Control
0 2.5 5 10 Miles

Project	Anticipated Nameplate Capacity (MW)*	Wind Turbine Model(s)
SunZia Wind South LLC]	2,561.2 MW	General Electric

* the "Anticipated Nameplate Capacity" listed above is the anticipated nameplate capacity for the Facility as of the Effective Date, which shall be subject to modification pursuant to the terms of this Agreement.

Site Location: Lincoln and Torrance Counties, New Mexico

Delivery Point: CAISO Scheduling Point-Intertie combination at PALOVRDE_ASR-APND and PVWEST.

Point of Interconnection: the Pete Heinrich AC Switching Station.

Transmission Provider: SunZia Transmission, LLC; Salt River Project Agricultural Improvement and Power District; Tucson Electric Power Company; Desert Southwest Region of Western Area Power Administration; and such other Persons who meet the definition of a Transmission Provider hereunder from time to time.

Technology: Utility Scale Wind Technology

Guaranteed Capacity: 87.7 MW

State: New Mexico

Facility Metering Points: See Exhibit R, as may be updated by Seller from time to time upon Notice to Buyer, so long as such update does not have a materially adverse effect on Buyer, as determined by Buyer in its reasonable discretion.

Participating Transmission Owner: SunZia Transmission, LLC

Alternate Facility Descriptions: the Western Spirit Wind Complex, consisting of the below projects:

1. Clines Corners Wind Project: a 324 MW wind-powered electricity generating facility located in Torrance and Guadalupe Counties, in the State of New Mexico, with CAISO IDs CLINESCO_3_PVDYN and CLINESCO_3_WBDYN.

2. Duran Mesa Wind Project: a 105 MW wind-powered electricity generating facility located in Torrance County, in the State of New Mexico, with CAISO ID DURNMESA_3_WBDYN.

3. Tecolote Wind Project: a 272 MW wind-powered electricity generating facility located in Torrance and Guadalupe Counties, in the State of New Mexico, with CAISO ID TECOLOTE_3_WBDYN.

EXHIBIT B

FACILITY CONSTRUCTION AND COMMERCIAL OPERATION

1. **[Reserved]**.

2. **Commercial Operation of the Facility**. "**Commercial Operation**" means the condition existing when Seller has fulfilled all of the conditions precedent as set forth in Section 2.2(a) of the Agreement and provided Notice to Buyer substantially in the form of Exhibit H (the "**COD Certificate**").

   (a) Seller shall notify Buyer that it intends to achieve Commercial Operation at least sixty (60) days before the anticipated Commercial Operation Date. Seller may continue to increase the Installed Capacity of the Facility after the Commercial Operation Date and will notify Buyer from time to time of such increases by delivering a certificate from a Licensed Professional Engineer substantially in the form attached as Exhibit I hereto; when the Installed Capacity is complete, Seller shall include a statement to that effect in a Notice accompanying the final such certificate.

   (b) Subject to Section 2.2(a) of the Agreement and Section 5 of this Exhibit B, if Seller does not achieve Commercial Operation by the Guaranteed Commercial Operation Date (as it may be otherwise extended hereunder), Seller may elect to extend the Guaranteed Commercial Operation Date by paying Commercial Operation Delay Damages to Buyer for each day Seller desires to extend the Guaranteed Commercial Operation Date, not to exceed a total of [redacted] days of extensions by such payment of Commercial Operation Delay Damages. If Seller elects to extend the Guaranteed Commercial Operation Date, on or before the date that is five (5) Business Days prior to the then-current Guaranteed Commercial Operation Date, Seller shall provide Notice and payment to Buyer of the Commercial Operation Delay Damages for the number of days of extension to the Guaranteed Commercial Operation Date ("**COD Delay Damages Payment**"); *provided*, such COD Delay Damages Payment may, at Seller's option, be in the form of cash or one or more Letter(s) of Credit, which Letter(s) of Credit Buyer may immediately draw on, on a pro rata basis, to receive such COD Delay Damages Payment; *provided*, if Seller provides such Letter(s) of Credit to Buyer prior to providing Notice of the COD Delay Damages Payment as set forth above, then Buyer shall not draw on such Letter(s) of Credit until Buyer receives such Notice from Seller. If Seller achieves Commercial Operation prior to the Guaranteed Commercial Operation Date as extended by the payment of the COD Delay Damages Payment, Buyer shall refund to Seller in cash the Commercial Operation Delay Damages for each day Seller achieves Commercial Operation prior to the Guaranteed Commercial Operation Date, as extended, times the Commercial Operation Delay Damages, not to exceed the total amount of the COD Delay Damages Payment paid by Seller pursuant to this Section 2(b).

3. **Termination for Failure to Achieve Commercial Operation**. If the Facility has not achieved Commercial Operation on or before the Guaranteed Commercial Operation Date (as may be extended hereunder), Buyer may elect to terminate this Agreement in accordance with Sections 11.1(b)(ii) and 11.2. If the Facility has not achieved Commercial Operation on or before the Guaranteed Commercial Operation Date (as may be extended hereunder), and Buyer has not terminated this Agreement on or before the date that is sixty (60) days after the Guaranteed Commercial Operation Date (as may be extended hereunder) in accordance with Sections 11.1(b)(ii) and 11.2, Seller may elect to terminate this Agreement upon Notice to Buyer, it shall not be an Event of Default by either Party, and neither Party shall have any liability to the other Party, except for the payment by Seller, as liquidated damages, of the Damage Payment, and those obligations that survive termination as expressly described in Section 2.1(b) and Section 11.6.

4. **Extension of the Guaranteed Dates**. The Guaranteed Commercial Operation Date shall, subject to notice and documentation requirements set forth below, be extended on a day-for-day basis (the "**Development Cure Period**") for the duration of any and all delays arising out of the following circumstances to the extent (i) the following circumstances are not the result of Seller's failure to take all commercially reasonable actions to meet its requirements and deadlines, and (ii) such delays could not be mitigated by Seller using commercially reasonable efforts to overcome the delays; *provided*, if such delays occur concurrently, the Guaranteed Commercial Operation Date, as applicable, shall only be extended by a single day for each such concurrent day of delay:

   (a) a Force Majeure Event occurs; or

   (b) the Interconnection Facilities or the SunZia Transmission Line are not complete and ready for the Facility to achieve Initial Synchronization by the expected date for Initial Synchronization as set forth on the Cover Sheet, despite the exercise of commercially reasonable efforts by Seller;

   (c) [redacted]

   (d) a delay caused by Buyer.

   Seller shall submit any claim for Development Cure Period delays within (x) three (3) Business Days of the applicable milestone in the case of (b) or (d) above, and (y) fourteen (14) days after the initial occurrence of the claimed Force Majeure Event in the case of (a) above, in substantially the form set forth in Exhibit T. Notwithstanding anything in this

Agreement to the contrary, the cumulative extensions granted under the Development Cure Period (other than the extensions granted pursuant to clause 4(d) above) shall not exceed one hundred eighty (180) days, for any reason, including a Force Majeure Event, and the cumulative extensions granted to the Guaranteed Commercial Operation Date by the payment of Commercial Operation Delay Damages and any Development Cure Period(s) (other than the extensions granted pursuant to clause 4(d) above) shall not exceed [redacted]. Upon request from Buyer, Seller shall provide documentation demonstrating to Buyer's reasonable satisfaction that the delays described above did not result from Seller's actions or failure to take commercially reasonable actions.

5. [redacted].

EXHIBIT C

COMPENSATION

Buyer shall compensate Seller for the Product in accordance with this Exhibit C.

(a) Contract Rate.

(i) During the Delivery Term, starting on the RA Guarantee Date and continuing until the day prior to the Initial Energy Delivery Date, Buyer shall pay Seller on a monthly basis an amount equal to (i) the Contract Rate, *multiplied by* (ii) the Guaranteed RA Amount.

(ii) On and after the Initial Energy Delivery Date, , Buyer shall pay Seller the following amounts for each MWh of Facility Energy, retroactively delivered Replacement Energy delivered pursuant to Section 4.7, and Deemed Delivered Energy during each Contract Year:

(A) Facility Energy. For each MWh of Facility Energy and retroactively delivered Replacement Energy delivered pursuant to Section 4.7, in each Settlement Interval or Settlement Period, as applicable, the difference of (A) the Contract Rate, *minus* (B) the Day-Ahead Market LMP applicable to the Delivery Point for such Settlement Interval or Settlement Period, as applicable; *provided*, (x) if the Day-Ahead Market LMP applicable to the Delivery Point for such Settlement Interval or Settlement Period, as applicable, is less than the Floor Price, (A) if the LMP in the Real-Time Market at the Delivery Point is greater than or equal to the Floor Price, Buyer shall pay the difference of (1) the Contract Rate *minus* (2) the LMP in the Real-Time Market at the Delivery Point, or (B) if the LMP in the Real-Time Market at the Delivery Point is less than the Floor Price, then such LMP in the Day-Ahead Market will be deemed to be the Floor Price for purposes of this clause (a), and (y) if the result of the foregoing results in a negative value, then Seller shall pay Buyer the absolute value of such result (which payment may be applied as a credit to Buyer on Seller's monthly invoice); and

(B) Deemed Delivered Energy. On and after the Initial Energy Delivery Date, for each MWh of Deemed Delivered Energy in each Settlement Interval or Settlement Period, as applicable, Buyer shall pay Seller the Contract Rate. In addition, on and after the Initial Energy Delivery Date, during the period in which Seller is receiving the PTC for the Facility Energy, Buyer shall also pay the PTC Amount for all Deemed Delivered Energy; *provided*, *however*, Buyer shall not pay the PTC Amount for Deemed Delivered Energy that was generated by the Facility and sold to a third party during a Market Curtailment Period pursuant to Section 4.4(b). Notwithstanding the foregoing, Seller shall receive no compensation from Buyer, including for the PTC Amount, for Deemed Delivered Energy to the extent that Seller is required to reduce delivery of Facility Energy or would be required to reduce delivery of Deemed Delivered Energy as a result of any Curtailment Period.

(b) Excess Contract Year Deliveries Over 115%. Notwithstanding the foregoing, if at any point in a Contract Year, starting with the first full Contract Year following the Initial Energy Delivery Date, the amount of Facility Energy *plus* Deemed Delivered Energy exceeds one hundred fifteen percent (115%) of the Expected Energy for such Contract Year, Seller shall provide Notice to Buyer thereof and Buyer shall have the right, but not the obligation, to purchase additional Product (which shall include the purchase of Replacement Energy and Deemed Delivered Energy) during such Contract Year. If Buyer elects not to purchase such additional Product for the remainder of such Contract Year, Buyer shall notify Seller thereof, and (i) Seller's obligation to deliver and Buyer's obligation to purchase Product will stop five (5) Business Days following the receipt of such notice by Seller, until the first day of the following Contract Year, and (ii) Seller may sell and deliver Product to any third party until the first day of the following Contract Year. If Seller makes third-party sales in accordance with this paragraph, Seller shall be entitled to all revenues and shall bear all costs associated with such sales.

(c) Excess Settlement Interval Deliveries. On and after the Initial Energy Delivery Date, if during any Settlement Interval or Settlement Period, as applicable, Seller delivers Facility Energy in excess of the product of (a) the Hourly Delivery Cap *multiplied by* (b) the duration of the Settlement Interval or Settlement Period, as applicable, expressed in hours ("**Excess MWh**"), then the price applicable to all such Excess MWh in such Settlement Interval shall be zero dollars ($0), and if there is a Negative LMP during such Settlement Interval, Seller shall pay to Buyer an amount equal to the absolute value of the Negative LMP times such Excess MWh.

(d) [Reserved].

(e) Tax Credits. The Parties agree that the Contract Rate is not subject to adjustment or amendment if Seller fails to receive any Tax Credits, or if any Tax Credits expire, are repealed or otherwise cease to apply to Seller or the Facility in whole or in part, or Seller or its investors are unable to benefit from any Tax Credits. Seller shall bear all risks, financial and otherwise, throughout the Contract Term, associated with Seller's or the Facility's eligibility to receive Tax Credits or to qualify for accelerated depreciation for Seller's accounting, reporting or Tax purposes. The obligations of the Parties hereunder, including those obligations set forth herein regarding the purchase and price for and Seller's obligation to deliver Facility Energy and Product, shall be effective regardless of whether construction of the Facility (or any portion thereof) or the sale of Facility Energy is eligible for, or receives Tax Credits during the Contract Term.

EXHIBIT D

SCHEDULING COORDINATOR RESPONSIBILITIES

(a) Seller as Scheduling Coordinator for the Facility. Seller shall act as the Scheduling Coordinator or designate a qualified third party to provide Scheduling Coordinator services with the CAISO for the Facility to Schedule and deliver the Product at the Delivery Point. On and after the Initial Energy Delivery Date, Seller shall bid the Facility's generation into the applicable CAISO market pursuant clause (b) below. Each Party shall perform all scheduling activities in compliance with (i) the CAISO Tariff, (ii) WECC scheduling practices, and (iii) Prudent Operating Practice. As between Buyer and Seller hereunder, Seller shall be responsible for reporting the Facility Energy delivered to the CAISO in its FERC electronic quarterly reports. The Parties agree to communicate and cooperate as necessary in order to address any scheduling or settlement issues as they may arise, and to work together in good faith to resolve them in a manner consistent with the terms of the Agreement. To the extent required under the CAISO Tariff, on and after the Initial Energy Delivery Date, Seller (as the Facility's SC) shall ensure that all Facility Energy is electronically tagged (E-Tagged) in accordance with Prudent Operating Practice, this Agreement, and the applicable CAISO Tariff protocols and Scheduling practices.

(b) CAISO Market Participation. On and after the Initial Energy Delivery Date:

(i) (x) Seller shall, at Seller's election, submit either bids equal to or below the Floor Price, or Self-Schedules, in each case for the Day-Ahead Forecast into the Day-Ahead Market, and (y) Seller shall, at Seller's election, submit either bids equal to or below the Floor Price, or Self-Schedules, in each case into the Real-Time Market for any portion of the expected Facility Energy above the amount of the Day-Ahead Forecast that is awarded a Day-Ahead Schedule. Seller may, but is not required to, reduce deliveries of Product during periods in which the LMP in the Day-Ahead Market or Real-Time Market at the Delivery Point is less than the Floor Price, as applicable; *provided*, Seller shall not reduce deliveries of Product below the amount of the Day-Ahead Forecast that has been awarded a Day-Ahead Schedule during periods in which the LMP in the Real-Time Market at the Delivery Point is less than the Floor Price; *provided further*, if Seller does not reduce deliveries of Product during such periods, Seller shall be compensated for such Facility Energy pursuant to Section (a) in Exhibit C, and such Facility Energy shall not be considered to be Deemed Delivered Energy.

(ii) The Parties agree to use good faith efforts to work together to permit Buyer to set the Floor Price on a [redacted] basis upon not less than ten (10) Business Days' Notice to Seller; *provided*, *however*, that Buyer shall not have the right to set the Floor Price at a price that is greater than (i) for the period during which Seller is eligible to obtain PTCs for Facility Energy, the Negative PTC Amount, and (ii) after the period during which Seller is eligible to obtain PTCs for Facility Energy, zero dollars per MWh ($0/MWh).

(c) CAISO Costs and Revenues. As the Scheduling Coordinator for the Facility, Seller shall be responsible for all CAISO costs, including without limitation, all penalties, Imbalance Energy charges, and other charges, and shall be entitled to all CAISO revenues, including without

limitation, credits, Imbalance Energy payments, and revenues associated with CAISO dispatches, bid cost recovery, Inter-SC Trade credits, or other credits in respect of the Product scheduled or delivered from the Facility. Seller shall be responsible for all CAISO penalties resulting from any failure by Seller to abide by the CAISO Tariff. The Parties agree that any Availability Incentive Payments (as defined in the CAISO Tariff) are for the benefit of Seller and for Seller's account and that any Non-Availability Charges (as defined in the CAISO Tariff) are the responsibility of Seller and for Seller's account. In addition, if during the Delivery Term, the CAISO implements or has implemented any sanction or penalty related to scheduling, outage reporting, or generator operation, the cost of such sanctions or penalties arising from the scheduling, outage reporting, or generator operation of the Facility shall be Seller's responsibility.

(d) Master File and Resource Data Template. Seller shall provide the data to the CAISO (and to Buyer) that is required for the CAISO's Master File and Resource Data Template (or successor data systems) for the Facility consistent with this Agreement. Neither Party shall change such data without the other Party's prior written consent.

(e) Customer Market Results Interface Access. On and after the Initial Energy Delivery Date, Seller shall provide to Buyer read-only access to Seller's (or its SC's) customer market results interface for the Facility.

EXHIBIT E

PROGRESS REPORTING FORM

Each Progress Report must include the following items:

1. Executive summary.

2. Current facility description.

3. Current Site plan of the Facility.

4. Description of any planned changes to the Facility or the Site from the previous Progress Report.

5. Gantt chart or schedule showing progress on achieving each of the Milestones.

6. Summary of activities during the previous calendar quarter or month, as applicable, including any OSHA labor hour reports.

7. Forecast of activities scheduled for the current calendar quarter or month, as applicable.

8. Written description about the progress relative to Seller's Milestones, including (i) whether Seller has met or is on target to meet the Milestones, and (ii) if a Milestone has been delayed, a description of the cause of the delay, potential courses of action to achieve such missed Milestone and all subsequent Milestones.

9. List of issues that could reasonably foreseeably affect Seller's Milestones.

10. A status report of start-up activities including a forecast of activities ongoing and after start-up, a report on Facility performance including performance projections for the next twelve (12) months.

11. Schedule of status of all major construction agreements, permits, financing agreements and major equipment purchase orders showing the start dates, anticipated completion dates, and completion percentages.

12. Schedule of all Material Permits obtained through the date of the Progress Report.

13. Pictures, in sufficient quantity and of appropriate detail, in order to document construction and startup progress of the Facility, the interconnection into the PTO's Transmission System and all other interconnection utility services.

EXHIBIT F-1

MONTHLY EXPECTED AVAILABLE CAPACITY

[MW Per Hour] – [*Insert Month*]

	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00
JAN																								
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The foregoing table is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement.

EXHIBIT F-2

MONTHLY EXPECTED FACILITY ENERGY

[MWh Per Hour] – [*Insert Month*]

	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00
JAN																								
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The foregoing table is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement.

EXHIBIT G

GUARANTEED ENERGY PRODUCTION DAMAGES CALCULATION

In accordance with Section 4.7, if Seller fails to achieve the Guaranteed Energy Production during any Performance Measurement Period commencing after the Initial Energy Delivery Date, a liquidated damages payment shall be due from Seller to Buyer, calculated as follows:

$$[(A - B) * (C - D)] - (E + F)$$

where:

A = the Guaranteed Energy Production amount for the Performance Measurement Period, in MWh

B = the Adjusted Energy Production amount for the Performance Measurement Period, in MWh

C = Replacement price for the Performance Measurement Period, in $/MWh, which is the sum of (a) the simple average of the LMP in the Day-Ahead Market at the Delivery Point for all of the hours in the Performance Measurement Period, *plus* (b) the REC Price

D = the Contract Rate, in $/MWh

E = The amount of Energy Replacement Damages paid by Seller with respect to the immediately preceding Performance Measurement Period

F = The product of (a) the amount of Replacement Product in MWhs delivered by Seller with respect to the immediately preceding Contract Year and (b) the price which is (C – D)

[redacted]

"**Adjusted Energy Production**" shall mean the sum of the following: Facility Energy + Deemed Delivered Energy + Lost Output.

"**Replacement Energy**" means Energy that is produced by the Facility or the Alternate Facility and provided by Seller to Buyer as Replacement Product, in an amount equal to the amount of Replacement Green Attributes provided by Seller as Replacement Product for the same Performance Measurement Period.

"**Replacement Green Attributes**" means Renewable Energy Credits that are of the same Portfolio Content Category (i.e., PCC1) and greenhouse gas characteristics with respect to categorization under Buyer's power content label as the Green Attributes portion of the Product,

and that may be used in connection with the same compliance period applicable to Buyer under the RPS program as the Renewable Energy Credits that would have been generated by the Facility.

"**Replacement Product**" means (a) Replacement Energy, and (b) Replacement Green Attributes in an amount not to exceed ten percent (10%) of the Expected Energy for the Contract Year in connection with which such Replacement Product is delivered.

No payment shall be due if the calculation of (a) (A – B), (b) (C – D), or (c) [(A – B) * (C – D)] – (E + F), yields a negative number. In no event will Buyer owe any payment to Seller pursuant to this Exhibit G.

Within sixty (60) days after each Contract Year, Buyer shall send Seller Notice of the amount of damages owing, if any, which shall be payable to Buyer before the later of (a) thirty (30) days of such Notice and (b) ninety (90) days after each Performance Measurement Period; *provided*, the amount of damages owing shall be adjusted to account for Replacement Product, if any, delivered after each applicable Performance Measurement Period.

EXHIBIT H

FORM OF COMMERCIAL OPERATION DATE CERTIFICATE

This certification ("**Certification**") of Commercial Operation is delivered by the undersigned, a licensed professional engineer and duly authorized representative of _____ in its capacity as independent engineer ("**Engineer**") for purposes of this certification, to Clean Power Alliance of Southern California, a California joint powers authority **(**"**Buyer**"), pursuant to the [agreement between Seller and Engineer] and in connection with that certain Renewable Power Purchase Agreement (SunZia South) dated _____ ("**Agreement**") by and between [Pattern Entity] ("**Seller**") and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Engineer hereby certifies and represents to Buyer the following:

(1) Wind turbines with a nameplate capacity at least equal to at least 100% of the Guaranteed Installed Capacity have been installed at the Facility.

(2) Testing and commissioning of each wind turbine referred to in paragraph (1) above has been completed in accordance with the turbine supply agreement, and each such wind turbine has delivered electricity to the Point of Interconnection specified in the Interconnection Agreement.

(3) The Participating Transmission Owner has provided documentation supporting full unrestricted release of at least the Guaranteed Installed Capacity for Commercial Operation on _____[DATE]_____.

(4) the CAISO has provided notification that the Energy generation from a portion of the Facility that is no smaller than the Guaranteed Installed Capacity may be scheduled into the CAISO markets on an unconditional basis in accordance with the CAISO Tariff and Business Practice Manual(s) as applicable, including the New Resource Implementation process.

EXECUTED on this _____ day of _____, 20__.

Sincerely,

By:_____
[NAME], P.E.
[TITLE]
New Mexico License No. [##]

EXHIBIT I

FORM OF INSTALLED CAPACITY CERTIFICATE

This certification ("**Certification**") of Installed Capacity is delivered by the undersigned, a licensed professional engineer and duly authorized representative of _____ in its capacity as independent engineer ("**Engineer**") for purposes of this certification, to Clean Power Alliance of Southern California, a California joint powers authority ("**Buyer**"), pursuant to the [agreement between Seller and Engineer] and in connection with that certain Renewable Power Purchase Agreement (SunZia South) dated _____ ("**Agreement**") by and between [Pattern Entity] ("**Seller**") and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

As of the date set forth below, [___] wind turbines with an aggregate nameplate capacity of [__], which is the Installed Capacity as of the date hereof, have been installed at the Facility, and testing and commissioning of each such wind turbines has been completed in accordance with the turbine supply agreement and each such wind turbine has delivered electricity to the Point of Interconnection specified in the Interconnection Agreement.

EXECUTED on this _____ day of _____, 20__.

Sincerely,

By:_____
[NAME], P.E.
[TITLE]
New Mexico License No. [##]
Exp. [DATE]

EXHIBIT J

[RESERVED]

EXHIBIT K

FORM OF LETTER OF CREDIT

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [●]

DATE: [●]

BENEFICIARY:

APPLICANT: SUNZIA WIND SOUTH LLC

1088 SANSOME STREET, SAN FRANCISCO, CA 94111

EXPIRATION DATE: [●]

AMOUNT/CURRENCY: [●]

AT THE REQUEST OF AND FOR THE ACCOUNT OF APPLICANT, WE, [INSERT BANK NAME AND ADDRESS] ("ISSUER"), HEREBY ESTABLISH IN YOUR FAVOR IN RESPECT OF OBLIGATIONS OF APPLICANT OUR IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER [●] ("LETTER OF CREDIT") IN FAVOR OF CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, A CALIFORNIA JOINT POWERS AUTHORITY ("BENEFICIARY"), 801 S GRAND, SUITE 400, LOS ANGELES, CA 90017, WHEREBY, SUBJECT TO THE TERMS AND CONDITIONS CONTAINED HEREIN, BENEFICIARY IS HEREBY AUTHORIZED TO DRAW ON US, BY SIGHT, BY ITS DRAWING STATEMENT AS PROVIDED HEREIN, FOR AN AGGREGATE AMOUNT UP TO BUT NOT EXCEEDING [●] (THE "FACE AMOUNT").

WE ARE ADVISED THIS LETTER OF CREDIT IS IRREVOCABLE AND IS ESTABLISHED AS SECURITY PURSUANT TO THAT CERTAIN RENEWABLE POWER PURCHASE AGREEMENT (SUNZIA SOUTH) DATED AS OF _____, 2025 BETWEEN APPLICANT AND BENEFICIARY (AS AMENDED, SUPPLEMENTED, OR RESTATED FROM TIME TO TIME, THE "AGREEMENT").

THIS LETTER OF CREDIT SHALL BE EFFECTIVE IMMEDIATELY AND SHALL EXPIRE ON [●], WHICH IS ONE YEAR AFTER THE ISSUE DATE OF THIS LETTER OF CREDIT, OR ANY EXPIRATION DATE EXTENDED IN ACCORDANCE WITH THE TERMS HEREOF (THE "EXPIRATION DATE").

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT SHALL BE AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR ADDITIONAL TWELVE (12) MONTH PERIODS FROM THE PRESENT OR EACH FUTURE EXPIRATION DATE, BUT IN NO EVENT TO AN EXPIRATION DATE LATER THAN [●] (THE "FINAL EXPIRATION DATE"), UNLESS AT LEAST NINETY (90) DAYS PRIOR TO THE EXPIRATION DATE WE SEND NOTICE IN WRITING TO YOU VIA HAND DELIVERY OR OVERNIGHT COURIER AT THE ABOVE ADDRESS, THAT WE ELECT NOT TO

AUTOMATICALLY EXTEND THIS LETTER OF CREDIT FOR ANY ADDITIONAL PERIOD.

ON OR BEFORE THE EXPIRATION DATE OF THIS LETTER OF CREDIT YOU MAY DRAW ON US HEREUNDER FOR UP TO THE FULL UNUTILIZED AMOUNT AVAILABLE AS OF THE DATE OF DRAWING ON THIS LETTER OF CREDIT.

PARTIAL AND MULTIPLE DRAWINGS ARE PERMITTED UNDER THIS LETTER OF CREDIT (PROVIDED THAT THE CUMULATIVE AGGREGATE AMOUNT THAT MAY BE DEMANDED UNDER THIS LETTER OF CREDIT SHALL NOT EXCEED THE FACE AMOUNT), AND THIS LETTER OF CREDIT SHALL REMAIN IN FULL FORCE AND EFFECT WITH RESPECT TO ANY CONTINUING BALANCE.

FUNDS UNDER THIS LETTER OF CREDIT SHALL BE AVAILABLE TO THE BENEFICIARY UPON PRESENTATION TO US OF A DATED DRAWING CERTIFICATE IN THE FORM OF EXHIBIT A HERETO (WHICH IS AN INTEGRAL PART OF THIS LETTER OF CREDIT) PURPORTEDLY SIGNED BY THE BENEFICIARY'S DULY AUTHORIZED REPRESENTATIVE.

THE DRAWING CERTIFICATE MAY BE PRESENTED BY (A) PHYSICAL DELIVERY TO [ADDRESS] OR (B) BY FACSIMILE TO FACSIMILE NUMBER [●] (EACH SUCH DRAWING, A "FAX DRAWING"); PROVIDED, HOWEVER, THAT A FAX DRAWING WILL NOT BE EFFECTIVELY PRESENTED UNTIL YOU CONFIRM BY TELEPHONE OUR RECEIPT OF SUCH FAX DRAWING BY CALLING US AT TELEPHONE NUMBER [●] OR YOU CONFIRM BY EMAIL AT: [●]. IF YOU PRESENT A FAX DRAWING UNDER THIS LETTER OF CREDIT YOU DO NOT NEED TO PRESENT THE ORIGINAL OF ANY DRAWING DOCUMENTS, AND IF WE RECEIVE ANY SUCH ORIGINAL DRAWING DOCUMENTS THEY WILL NOT BE EXAMINED BY US.

ALL PAYMENTS MADE UNDER THIS LETTER OF CREDIT SHALL BE MADE WITH ISSUER'S OWN IMMEDIATELY AVAILABLE FUNDS BY MEANS OF WIRE TRANSFER IN IMMEDIATELY AVAILABLE UNITED STATES DOLLARS TO BENEFICIARY'S ACCOUNT AS INDICATED BY BENEFICIARY IN ITS DRAWING CERTIFICATE OR IN A COMMUNICATION ACCOMPANYING ITS DRAWING CERTIFICATE.

WE HEREBY AGREE THAT THE DRAWING DOCUMENTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT WILL BE DULY HONORED BY US UPON DELIVERY OF THE ABOVE SPECIFIED DRAWING CERTIFICATE, IF PRESENTED ON OR BEFORE THE EXPIRATION DATE AS SPECIFIED HEREIN.

AS STIPULATED HEREIN, "BUSINESS DAY" SHALL MEAN ANY DAY OTHER THAN A SATURDAY, SUNDAY OR A DAY ON WHICH BANKING INSTITUTIONS IN THE STATE OF _____ ARE AUTHORIZED OR REQUIRED BY LAW TO CLOSE. IF ANY DRAWING OR THE DOCUMENTATION PRESENTED IN CONNECTION THEREWITH, DOES NOT

CONFORM TO THE TERMS AND CONDITIONS HEREOF, WE WILL ADVISE YOU OF THE SAME BY TELEPHONE OR FACSIMILE AND GIVE THE REASONS FOR SUCH NON-CONFORMANCE.

THIS LETTER OF CREDIT IS ISSUED SUBJECT TO THE RULES OF THE 'INTERNATIONAL STANDBY PRACTICES 1998', INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 590 ('ISP98') AND AS TO MATTERS NOT ADDRESSED BY ISP98 SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF STATE OF NEW YORK.

NOTWITHSTANDING ANY REFERENCE IN THIS LETTER OF CREDIT TO ANY OTHER DOCUMENTS, INSTRUMENTS OR AGREEMENTS (OTHER THAN AS SET FORTH IN THE IMMEDIATELY PRIOR PARAGRAPH), THIS LETTER OF CREDIT CONTAINS THE ENTIRE AGREEMENT BETWEEN BENEFICIARY AND ISSUER RELATING TO THE OBLIGATIONS OF ISSUER HEREUNDER.

OTHER THAN AS PROVIDED HEREIN, COMMUNICATIONS WITH RESPECT TO THIS LETTER OF CREDIT SHALL BE IN WRITING, SHALL SPECIFICALLY REFER TO BENEFICIARY AND TO OUR LETTER OF CREDIT NO. [●], AND SHALL BE ADDRESSED TO: [●] [ISSUING BANK'S NAME AND ADDRESS]

ALL NOTICES TO BENEFICIARY SHALL BE IN WRITING AND ARE REQUIRED TO BE SENT BY CERTIFIED LETTER, OVERNIGHT COURIER OR DELIVERED IN PERSON TO: [BENEFICIARY], ATTN: [BENEFICIARY ADDRESS]. ONLY NOTICES TO BENEFICIARY MEETING THE REQUIREMENTS OF THIS PARAGRAPH SHALL BE CONSIDERED VALID. ANY NOTICE TO BENEFICIARY WHICH IS NOT IN ACCORDANCE WITH THIS PARAGRAPH SHALL BE VOID AND OF NO FORCE OR EFFECT.

ALL COSTS RELATED TO THIS LETTER OF CREDIT SHALL BE PAID BY THE APPLICANT.

ALL PARTIES TO THIS LETTER OF CREDIT ARE ADVISED THAT THE U.S. AND CANADIAN GOVERNMENT HAS IN PLACE CERTAIN SANCTIONS AGAINST CERTAIN COUNTRIES, TERRITORIES, INDIVIDUALS, ENTITIES, AND VESSELS. ISSUER ENTITIES, INCLUDING BRANCHES AND, IN CERTAIN CIRCUMSTANCES, SUBSIDIARIES, ARE/WILL BE PROHIBITED FROM ENGAGING IN TRANSACTIONS OR OTHER ACTIVITIES WITHIN THE SCOPE OF APPLICABLE SANCTIONS.

THIS LETTER OF CREDIT MAY BE SIGNED BY THE ISSUING BANK WITH EITHER A DIGITAL OR ORIGINAL SIGNATURE, EITHER OF WHICH SHALL BE LEGALLY VALID AND ENFORCEABLE. THE ISSUING BANK MAY TRANSMIT THIS LETTER OF CREDIT TO THE BENEFICIARY BY MAIL, FAX OR ELECTRONIC TRANSMISSION. FOR THE AVOIDANCE OF DOUBT, ANY ELECTRONIC PDF VERSION OF THIS LETTER OF CREDIT RECEIVED BY THE BENEFICIARY SHALL BE AN OPERATIVE INSTRUMENT AND MAY BE USED BY THE BENEFICIARY AS IT WOULD A HARDCOPY ORIGINAL.

EXHIBIT "A"

DRAWING CERTIFICATE

TO: [ISSUING BANK]

[ADDRESS]

RE: IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER [●] ISSUED BY [ISSUING BANK] TO [BENEFICIARY] ("LETTER OF CREDIT"); CAPITALIZED TERMS USED BUT NOT DEFINED IN THIS DRAWING CERTIFICATE HAVE THE MEANINGS ASCRIBED TO THEM IN THE LETTER OF CREDIT)

THIS IS A DRAWING CERTIFICATE UNDER THE ABOVE-MENTIONED LETTER OF CREDIT.

I,_____, AN AUTHORIZED REPRESENTATIVE OF [BENEFICIARY], DO HEREBY CERTIFY THAT:

APPLICANT AND BENEFICIARY ARE PARTY TO THAT CERTAIN RENEWABLE POWER PURCHASE AGREEMENT (SUNZIA SOUTH) DATED AS OF _____, 2025 (AS AMENDED, SUPPLEMENTED, OR RESTATED FROM TIME TO TIME, THE "AGREEMENT").

THE DRAWING UNDER THIS LETTER OF CREDIT IS IN AN AMOUNT DETERMINED ON A PROPORTIONATE BASIS WITH RESPECT TO EACH OTHER OUTSTANDING LETTER OF CREDIT (OR OTHER FORM OF CREDIT SUPPORT) PROVIDED BY OR ON BEHALF OF THE APPLICANT TO BENEFICIARY IN SUPPORT OF THE AGREEMENT AS [DEVELOPMENT SECURITY] [PERFORMANCE SECURITY] [SECURITY FOR PAYMENT OF COMMERCIAL OPERATION DELAY DAMAGES IN ACCORDANCE WITH EXHIBIT B OF THE AGREEMENT], AND DOES NOT EXCEED A PRO RATA AMOUNT WITH RESPECT TO A CONCURRENT DRAWING UNDER EACH SUCH OTHER OUTSTANDING LETTER OF CREDIT (OR OTHER FORM OF CREDIT SUPPORT).

[CHOOSE ONLY ONE OF THE FOLLOWING]

(1) BENEFICIARY IS MAKING A DRAWING UNDER THIS LETTER OF CREDIT IN THE AMOUNT OF U.S. $_____ BECAUSE [AN EVENT OF DEFAULT (AS SUCH TERM IS DEFINED IN THE AGREEMENT) WITH RESPECT TO SELLER HAS OCCURRED OR OTHER OCCASION PROVIDED FOR IN THE AGREEMENT WHERE BENEFICIARY IS AUTHORIZED TO DRAW ON THE LETTER OF CREDIT HAS OCCURRED] [OR] [A COMMERCIAL OPERATION DELAY DAMAGES PAYMENT IS DUE UNDER THE AGREEMENT].

(2) BENEFICIARY IS MAKING A DRAWING UNDER THIS LETTER OF CREDIT IN THE AMOUNT OF U.S. $_____, WHICH EQUALS THE FULL AVAILABLE AMOUNT UNDER THE LETTER OF CREDIT, BECAUSE APPLICANT IS REQUIRED TO MAINTAIN THE LETTER OF CREDIT IN FORCE AND EFFECT BEYOND THE EXPIRATION DATE OF THE LETTER OF CREDIT BUT HAS FAILED TO PROVIDE BENEFICIARY WITH A REPLACEMENT LETTER OF CREDIT OR OTHER ACCEPTABLE INSTRUMENT WITHIN THIRTY (30) DAYS PRIOR TO SUCH EXPIRATION DATE.

IN ACCORDANCE WITH THE TERMS OF THE AGREEMENT, CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, A CALIFORNIA JOINT POWERS AUTHORITY IS ENTITLED TO AND HEREBY DEMANDS PAYMENT OF USD _____, SUCH AMOUNT TO BE PAID TO [BENEFICIARY] BY WIRE TRANSFER IN IMMEDIATELY AVAILABLE FUNDS TO: (INSERT WIRE INSTRUCTIONS),WHICH, CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA CERTIFIES IT IS ENTITLED TO UNDER THE AGREEMENT.

COMMUNICATIONS TO ME CONCERNING THIS DRAWING CERTIFICATE MAY BE MADE AT FOLLOWING TELEPHONE AND FACSIMILE NUMBERS: _____; _____.

IN WITNESS WHEREOF, [BENEFICIARY] THROUGH ITS AUTHORIZED REPRESENTATIVE HAS EXECUTED AND DELIVERED THIS DRAWING CERTIFICATE THIS DAY OF , 20 _.

[____]

BY:_____

NAME:_____

TITLE:_____

EXHIBIT L

FORM OF LIMITED ASSIGNMENT AGREEMENT

FORM OF ASSIGNMENT SCHEDULE
[SELLER ENTITY]

Assigned Product: Energy and Green Attributes (PCC1)

Assigned Delivery Point: [__]

Assigned Prepay Quantity: As set forth in Appendix 2; provided that (i) all Assigned Products shall be delivered pursuant to the Limited Assignment Agreement during the Assignment Period as provided in Appendix 1 and (ii) the Assigned Prepay Quantity is defined for the convenience of PPA Buyer and [Financing Party] and shall have no impact on the obligations of the Parties under the Limited Assignment Agreement.

APC Contract Price: $[__]/MWh

Assignment Period: [__]

ANNEX I – FORM OF LIMITED ASSIGNMENT AGREEMENT

This Limited Assignment Agreement (this "**Assignment Agreement**" or "**Agreement**") is entered into as of [_____] by and among [PPA Seller], a [_____] ("**PPA Seller**"), Clean Power Alliance, a California joint powers authority ("**PPA Buyer**"), and [Financing Party], a [_____] ("**Financing Party**"), and relates to that certain power purchase agreement (the "**PPA**") between PPA Buyer and PPA Seller as defined in Appendix 1 hereto. Unless the context otherwise specifies or requires, capitalized terms used but not defined in this Agreement have the meanings set forth in the PPA.

In consideration of the premises above and the mutual covenants and agreements herein set forth, PPA Seller, PPA Buyer and Financing Party (the "**Parties**" hereto; each is a "**Party**") agree as follows:

1. Limited Assignment and Delegation.

(a) PPA Buyer hereby assigns, transfers, and conveys to Financing Party all right, title and interest in and to the rights of PPA Buyer under the PPA to receive delivery of, or have made available to it, the products described in Appendix 1 (collectively, the "**Assigned Product**") during the Assignment Period (as defined in Appendix 1), as such rights may be limited or further described in the "Further Information" section on Appendix 1 (the "**Assigned Product Rights**"). All Assigned Product shall be delivered pursuant to the terms and conditions of this Agreement during the Assignment Period as provided in Appendix 1. All other rights of PPA Buyer under the PPA are expressly reserved for PPA Buyer. The Parties agree that the assignment, transfer and/or conveyance of all or any portion of the Assigned Products in accordance with this Agreement and the Parties' performance of any obligation in accordance with this Agreement shall not constitute a failure to meet the requirements of the PPA, or a breach of any covenant, representation or warranty under the PPA (and in no event shall Seller be responsible for any failure of any portion of the Assigned Products to satisfy the requirements of the PPA, to the extent such failure results from the assignment, transfer and/or conveyance of such Assigned Products in accordance with this Agreement).

(b) PPA Buyer hereby delegates to Financing Party the obligation to pay for all Assigned Product that is actually delivered to Financing Party pursuant to the Assigned Product Rights during the Assignment Period (the "**Delivered Product Payment Obligation**" and together with the Assigned Product Rights, collectively the "**Assigned Rights and Obligations**"); provided that (i) all other obligations of PPA Buyer under the PPA are expressly retained by PPA Buyer and PPA Buyer shall be solely responsible for any amounts due to PPA Seller that are not directly related to Assigned Product; and (ii) the Parties acknowledge and agree that PPA Seller will only be obligated to deliver a single consolidated invoice during the Assignment Period (with a copy to Financing Party consistent with Section 1(d) hereof). To the extent Financing Party fails to pay the Delivered Product Payment Obligation by the due date for payment set forth in the PPA, notwithstanding anything in this Agreement to the contrary, PPA Buyer agrees that it shall remain responsible for payment of such Delivered Product Payment Obligation and that PPA Seller may declare an Event of Default pursuant to Section 11.1(a)(i) of the PPA if Buyer does not make such payment within five (5) Business Days of receiving Notice of such non-payment from PPA Seller, and that PPA Buyer shall remain liable for any and all damages, costs and expenses of Seller associated with Financing Party's failure to take or pay for any such Product as contemplated by this Agreement. The Parties acknowledge and agree that (i) the Assigned Rights and Obligations include only a portion of PPA Buyer's rights and obligations under the PPA, and that all rights and obligations arising under the PPA that are not expressly included in the Assigned Rights and Obligations

shall be "Retained Rights and Obligations" that are retained solely by PPA Buyer, and (ii) the Retained Rights and Obligations include all rights and obligations of PPA Buyer arising during the Assignment Period except the rights and obligations expressly included in the Assigned Rights and Obligations. Any claims arising or existing in connection with or related to the PPA, whether related to performance by PPA Seller, PPA Buyer or Financing Party, and whether arising before, during or after the Assignment Period, in each case excluding the Delivered Product Payment Obligation (provided, however, PPA Buyer still remains liable that all amounts due and owing under the PPA are timely paid), will be included in the Retained Rights and Obligations, and any such claim will be resolved exclusively between PPA Seller and PPA Buyer in accordance with the PPA.

(c) Financing Party hereby accepts and PPA Seller hereby consents and agrees to the assignment, transfer, conveyance, and delegation described in clauses (a) and (b) above.

(d) All scheduling of Assigned Product and other communications related to the PPA shall take place pursuant to the terms of the PPA; provided that during the Assignment Period (i) title to Assigned Product will pass from PPA Seller to Financing Party upon delivery or making available by PPA Seller of Assigned Product in accordance with the PPA; (ii) PPA Buyer will provide copies to Financing Party of any Notice of a Force Majeure Event or Event of Default or default, breach or other occurrence that, if not cured within the applicable grace period, could result in an Event of Default contemporaneously upon delivery thereof to PPA Seller and promptly after receipt thereof from PPA Seller; (iii) PPA Seller will provide copies to Financing Party of annual forecasts of Energy and monthly forecasts of available capacity and Energy provided pursuant to Section 4.3 of the PPA; (iv) PPA Seller will provide copies to Financing Party of all invoices and supporting data provided to PPA Buyer pursuant to Section 8.1, provided that any payment adjustments or subsequent reconciliations occurring after the date that is ten (10) days prior to the payment due date for a monthly invoice, including pursuant to Section 8.4, will be resolved solely between PPA Buyer and PPA Seller and therefore PPA Seller will not be obligated to deliver copies of any communications relating thereto to Financing Party; and (v) PPA Buyer and PPA Seller, as applicable, will provide copies to Financing Party of any other information reasonably requested by Financing Party relating to Assigned Product.

(e) PPA Seller acknowledges that (i) Financing Party intends to immediately transfer title to any Assigned Product received from PPA Seller through one or more intermediaries such that all Assigned Product will be re-delivered to PPA Buyer; and (ii) in the event that PPA Buyer fails to pay the relevant intermediary entity for any such Assigned Products, the receivables owed by PPA Buyer for such Assigned Products ("PPA Buyer Receivables") may be transferred to Financing Party. To the extent any such PPA Buyer Receivables are transferred to Financing Party, and PPA Buyer acknowledges in writing that such receivables are due and payable and waives any and all defences and counterclaims associated with such receivables for the undisputed amounts owed pursuant to the PPA, Financing Party may transfer such PPA Buyer Receivables to PPA Seller and apply the face amount thereof as a reduction to any Delivered Product Payment Obligation. Thereafter, PPA Seller shall be entitled to pursue collection on such PPA Buyer Receivables directly against PPA Buyer. Nothing in this Section 1(e) shall modify PPA Seller's right to declare an Event of Default pursuant to Section 11.1(a)(i) of the PPA in the event that any portion of the Delivered Product Payment Obligation remains unpaid by the due date for payment set forth in the PPA, and such amount is not paid by Financing Party or PPA Buyer within five (5) Business Days of PPA Buyer receiving Notice of such non-payment from PPA Seller as provided in Section 1(b), above.

(f) On or before the commencement of the Assignment Period, [_____] ("**Guarantor**") will issue, in favor of PPA Seller, a guaranty of Financing Party's payment obligations under this Assignment Agreement substantially in the form of Appendix 3 attached hereto ("**Guaranty**"). PPA Seller may draw upon, apply, or make demand under the Guaranty to recover any unpaid amounts due from Financing Party and not timely paid as set forth herein; provided, however, that PPA Seller's rights under the Guaranty and this subsection (f) shall not reduce or affect PPA Buyer's obligation to render payments when due under the PPA or extend any deadlines in the PPA.

(g) All payments due to PPA Seller in respect of Sections 3.3 of the PPA will be paid (subject to Section 1(e), above) by Financing Party into the custodial account listed in Appendix 1, and all payments due to PPA Buyer in respect of Section 3.3 of the PPA will be paid by PPA Seller into the custodial account listed in Appendix 1, which custodial account is established under that certain Custodial Agreement of even date herewith that Financing Party, PPA Buyer and [Custodian] have entered into for the administration of payments due hereunder.

(h) The Assigned Prepay Quantity set forth in Appendix 2 relates to obligations by and between Financing Party and PPA Buyer and has no impact on PPA Seller's rights and obligations under the PPA.

(i) Except as expressly set forth in Section 1(a) of this Assignment Agreement with respect to the product delivery obligations, nothing in this Agreement modifies or amends any rights or obligations of PPA Buyer and PPA Seller under the PPA.

2. Assignment Early Termination.

(a) The Assignment Period may be terminated early upon the occurrence of any of the following:

(1) delivery of a written notice of termination specifying a termination date by either Financing Party or PPA Buyer to each of the other Parties;

(2) delivery of a written notice of termination specifying a termination date by PPA Seller to each of Financing Party and PPA Buyer following Financing Party's failure to pay when due any amounts owed to PPA Seller in respect of any Delivered Product Payment Obligation and such payment is not made by Financing Party within five (5) Business Days following receipt by Financing Party and PPA Buyer of written notice;

(3) delivery of a written notice by PPA Seller if any of the events described in the definition of Bankrupt in the PPA occurs with respect to Financing Party;

(4) delivery of a written notice by Financing Party if any of the events described in the definition of Bankrupt in the PPA occurs with respect to PPA Seller; or

(5) failure of the Guaranty provided by the Guarantor to PPA Seller hereunder to be in full force and effect (other than in accordance with its terms) prior to the indefeasible satisfaction of all obligations of Financing Party hereunder or if the Guarantor provides notice of termination of the Guaranty or otherwise repudiates, disaffirms, disclaims, or rejects, in whole or in part, or challenges the validity of the Guaranty.

(b) The Assignment Period will end at the end of last delivery hour on the date specified in the termination notice provided pursuant to Section 2(a), above, which date shall not be earlier than the end of the last day of the calendar month in which such notice is delivered if termination is pursuant to clause (1) or (2) of Section 2(a), above. All Assigned Rights and Obligations shall revert from Financing Party to PPA Buyer upon the expiration or early termination of the Assignment Period, provided that (i) Financing Party shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered or made available to Financing Party prior to the end of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the expiration or early termination of the Assignment Period.

(c) The Assignment Period will automatically terminate upon the expiration or early termination of the PPA. All Assigned Rights and Obligations shall revert from Financing Party to PPA Buyer upon the expiration of or early termination of the PPA, provided that (i) Financing Party shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered to Financing Party prior to the end of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the expiration or early termination of the Assignment Period.

3. Representations and Warranties. The PPA Seller and the PPA Buyer represent and warrant to Financing Party that (a) the PPA is in full force and effect; and (b) no event or circumstance exists (or would exist with the passage of time or the giving of notice) that would give either of them the right to terminate the PPA or suspend performance thereunder.

4. Notices. Any notice, demand, or request required or authorized by this Assignment Agreement to be given by one Party to another Party shall be delivered in accordance with Article 9 of the PPA and to the addresses of each of PPA Seller and PPA Buyer specified in the PPA. PPA Buyer agrees to notify Financing Party of any updates to such notice information, including any updates provided by PPA Seller to PPA Buyer. Notices to Financing Party shall be provided to the following address, as such address may be updated by Financing Party from time to time by notice to the other Parties:

Financing Party

_____

_____

Email: _____

5. Miscellaneous. Section 13.2 (Buyer's Representations and Warranties), Article 18 (Confidential Information), Sections 19.5 (Severability), 19.7 (Counterparts), 19.2 (Amendments), 19.4 (No Agency, Partnership, Joint Venture or Lease), 19.6 (Mobile-Sierra), 19.8 (Electronic Delivery), 19.9 (Binding Effect) and 19.10 (No Recourse to Members of Buyer) of the PPA are incorporated by reference into this Agreement, *mutatis mutandis*, as if fully set forth herein.

6. U.S. Resolution Stay Provisions. The Parties agree that the terms of Section 1 and Section 2 and the related defined terms (together, the "**Bilateral Terms**") of the form of bilateral template entitled "Full-Length Omnibus (for use between U.S. G-SIBs and Corporate Groups)", published by ISDA on November 2, 2018 (currently available on the 2018 ISDA U.S. Resolution Stay Protocol page at www.isda.org), the effect of which is to amend the qualified financial contracts between the Parties thereto to conform with the requirements of

the QFC Stay Rules, are hereby incorporated into and form a part of this Agreement, and for such purposes this Agreement shall be deemed a "Covered Agreement", Financing Party shall be deemed a "Covered Entity" and the Counterparty shall be deemed a "Counterparty Entity". In the event that, after the date of this Agreement, all Parties hereto become adhering Parties to the 2018 ISDA U.S. Resolution Say Protocol (the "**Protocol**"), the terms of the Protocol will replace the terms of this section. In the event of any inconsistencies between this Agreement and the terms of the Protocol or the Bilateral Terms (each, the "**QFC Stay Terms**"), as applicable, the QFC Stay Terms will govern. Terms used in this paragraph without definition shall have the meanings assigned to them under the QFC Stay Rules. For purposes of this paragraph, references to "this Agreement" include any related credit enhancements entered into between the Parties, directly or indirectly through an agent, or provided by one to the other.

"QFC Stay Rules" means the regulations codified at 12 C.F.R. 252.2, 252.81–8, 12 C.F.R. 382.1-7 and 12 C.F.R. 47.1-8, which, subject to limited exceptions, require an express recognition of the stay-and-transfer powers of the FDIC under the Federal Deposit Insurance Act and the Orderly Liquidation Authority under Title II of the Dodd Frank Wall Street Reform and Consumer Protection Act and the override of default rights related directly or indirectly to the entry of an affiliate into certain insolvency proceedings and any restrictions on the transfer of any covered affiliate credit enhancements.

7. Governing Law, Jurisdiction, Waiver of Jury Trial.

(a) **Governing Law**. This Assignment Agreement and the rights and duties of the Parties under this Assignment Agreement will be governed by and construed, enforced and performed in accordance with the laws of the State of California, without reference to any conflicts of law provisions that would direct the application of another jurisdiction's laws; provided, however, that the authority of PPA Buyer to enter into and perform its obligations under this Assignment Agreement shall be determined in accordance with the laws of the State of California.

(b) **Jurisdiction**. Each Party submits to the exclusive jurisdiction of the federal courts of the United States of America for the Southern District of California sitting in the city and county of Los Angeles.

(c) **Waiver of Right to Trial by Jury**. Each Party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to this Assignment Agreement.

(d) **Waivers by PPA Buyer**. In the event that any of California Civil Code Sections 2815, 2787 to 2855 (inclusive), 2899, or 3433, or any common law principles or holdings regarding suretyship, may apply with respect to PPA Buyer's obligations hereunder, PPA Buyer hereby waives for the benefit of PPA Seller any and all surety defenses to the fullest extent permitted under applicable law, including all rights and defenses that are or may become available to PPA Buyer by reason of California Civil Code Sections 2787 to 2855, inclusive, 2899 and/or 3433, and any right to revoke this Assignment Agreement, including any such right arising under California Civil Code § 2815; *provided*, nothing in this Section 7(d) shall be deemed to be of waiver of, and PPA Buyer retains in full, any and all rights and defenses PPA Buyer has under the PPA, including at law and in equity.

(e) **Forward Contract**. The Parties acknowledge and agree that the delivery of the Assigned Products to Financing Party contemplated hereby is intended to constitute a "forward contract" and that the Parties are intended to constitute "forward contract merchants" within the meaning of the United States Bankruptcy Code.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the Parties have executed this Assignment Agreement effective as of the date first set forth above.

[PPA SELLER]

By: _____

Name: _____

Title: _____

CLEAN POWER ALLIANCE

By: _____

Name: _____

Title: _____

[FINANCING PARTY]

By: _____

Name:
Title:

Execution and delivery of the foregoing Assignment Agreement is hereby approved.

CALIFORNIA COMMUNITY CHOICE FINANCING AUTHORITY

By: _____

Name:
Title:

Appendix 1

Assigned Rights and Obligations

PPA: "**PPA**" means that certain Renewable Power Purchase Agreement (SunZia South) dated [____], by and between Clean Power Alliance and [____], a [____] limited liability company, as amended from time to time.

"**Assignment Period**" means the period beginning on [_____] and extending until [_____], provided that in no event shall the Assignment Period extend past the earlier of (i) the termination of the Assignment Period pursuant to Section 2 of the Assignment Agreement and (ii) the end of the Delivery Term under the PPA; provided that applicable provisions of this Agreement shall continue in effect after termination of the Assignment Period to the extent necessary to enforce or complete, duties, obligations or responsibilities of the Parties arising prior to the termination.

Assigned Product: "**Assigned Product**" includes (i) Energy and (ii) Green Attributes (including PCC1 RECs); provided, however, that the following are expressly excluded from the Assigned Product and any and all rights and obligations with respect to the following shall remain with Buyer: Ancillary Services; Capacity Attributes; Resource Adequacy Benefits.

Further Information: PPA Seller shall continue to transfer the WREGIS Certificates associated with all Renewable Energy Credits corresponding to all Facility Energy under the PPA pursuant to Section 4.7 of the PPA, provided that the transferee of such WREGIS Certificates may be changed from time to time in accordance with the written instructions of both Financing Party and Clean Power Alliance upon twenty (20) Business Days' notice, which change shall be effective as of the first day of the next calendar month, unless otherwise agreed. All Assigned Product delivered by PPA Seller to Financing Party shall be a sale made at wholesale, with Financing Party reselling all such Assigned Product.

Appendix 2

Assigned Prepay Quantity

[NOTE: To be set forth in a monthly volume schedule.]

Appendix 3

Form of Financing Party Parent Guaranty

EXHIBIT M

FORM OF GUARANTY

This Guaranty (this "Guaranty") is entered into as of [_____] (the "Effective Date") by and between [_____], a [_____] ("Guarantor"), and [____] (together with its successors and permitted assigns, "Buyer").

Recitals

A. Buyer and _____, a _____ ("Seller"), entered into that certain Renewable Power Purchase Agreement (SunZia South) (as amended, restated or otherwise modified from time to time, the "PPA") dated as of [____], 20___.

B. Guarantor is entering into this Guaranty as Performance Security to secure Seller's obligations under the PPA, as required by Section 8.8 of the PPA.

C. It is in the best interest of Guarantor to execute this Guaranty inasmuch as Guarantor will derive substantial direct and indirect benefits from the execution and delivery of the PPA.

D. Initially capitalized terms used but not defined herein have the meaning set forth in the PPA.

Agreement

1. Guaranty. For value received, Guarantor does hereby unconditionally, absolutely and irrevocably guarantee, as primary obligor and not as a surety, to Buyer the full, complete and prompt payment by Seller of any and all amounts and payment obligations now or hereafter owing from Seller to Buyer under the PPA, including, without limitation, compensation for penalties, the Termination Payment, indemnification payments or other damages, as and when required pursuant to the terms of the PPA (the "Guaranteed Amount"), provided, that Guarantor's aggregate liability under or arising out of this Guaranty shall not exceed the sum of _____ Dollars ($_____) plus reasonable costs incurred by Buyer in enforcing this Guaranty, if successful, up to Two-Hundred Thousand Dollars ($200,000) for an aggregate maximum liability of _____ Dollars ($_____) (the "Guarantee Limit"). The Parties understand and agree that any payment by Guarantor shall thereafter reduce the Guarantee Limit hereunder on a dollar-for-dollar basis. This Guaranty is an irrevocable, absolute, unconditional and continuing guarantee of the full and punctual payment and performance, and not of collection, of the Guaranteed Amount and, except as otherwise expressly addressed herein, is in no way conditioned upon any requirement that Buyer first attempt to collect the payment of the Guaranteed Amount from Seller, any other guarantor of the Guaranteed Amount or any other person or entity or resort to any other means of obtaining payment of the Guaranteed Amount. In the event Seller shall fail to duly, completely or punctually pay any Guaranteed Amount as required pursuant to the PPA, Guarantor shall promptly pay such amount as required herein.

2. Demand Notice. For avoidance of doubt, a payment shall be due for purposes of this Guaranty only when and if a payment is due and payable by Seller to Buyer under the terms and conditions of the Agreement. If Seller fails to pay any Guaranteed Amount as required pursuant to the PPA for five (5) Business Days following Seller's receipt of Buyer's written notice of such failure (the "Demand Notice"), then Buyer may elect to exercise its rights under this Guaranty and may make a demand upon Guarantor (a "Payment Demand") for such unpaid Guaranteed Amount. A Payment Demand shall be in writing and shall reasonably specify in what manner and what amount Seller has failed to pay and an explanation of why such payment is due and owing, with a specific statement that Buyer is requesting that Guarantor pay under this Guaranty. Guarantor shall, within five (5) Business Days following its receipt of the Payment Demand, pay the Guaranteed Amount to Buyer.

3. Scope and Duration of Guaranty. This Guaranty applies only to the Guaranteed Amount. This Guaranty shall continue in full force and effect from the Effective Date until the earlier of the following: (x) all Guaranteed Amounts have been paid in full (whether directly or indirectly through set-off or netting of amounts owed by Buyer to Seller), or (y) replacement Performance Security is provided in an amount and form required by the terms of the PPA. Further, this Guaranty (a) shall remain in full force and effect without regard to, and shall not be affected or impaired by any invalidity, irregularity or unenforceability in whole or in part of this Guaranty, and (b) subject to the preceding sentence, shall be discharged only by complete performance of the undertakings herein. Without limiting the generality of the foregoing, the obligations of the Guarantor hereunder shall not be released, discharged, or otherwise affected and this Guaranty shall not be invalidated or impaired or otherwise affected for the following reasons:

(i) the extension of time for the payment of any Guaranteed Amount, or

(ii) any amendment, modification or other alteration of the PPA, or

(iii) any indemnity agreement Seller may have from any Person, or

(iv) any insurance that may be available to cover any loss, except to the extent insurance proceeds are used to satisfy the Guaranteed Amount, or

(v) any voluntary or involuntary liquidation, dissolution, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of, or other similar proceeding affecting, Seller or any of its assets, including but not limited to any rejection or other discharge of Seller's obligations under the PPA imposed by any court, trustee or custodian or any similar official or imposed by any law, statue or regulation, in each such event in any such proceeding, or

(vi) the release, modification, waiver or failure to pursue or seek relief with respect to any other guaranty, pledge or security device whatsoever, or

(vii) any payment to Buyer by Seller that Buyer subsequently returns to Seller pursuant to court order in any bankruptcy or other debtor-relief proceeding, or

(viii) those defenses based upon (A) the legal incapacity or lack of power or authority of any person, including Seller and any representative of Seller to enter into the PPA or perform its obligations thereunder, (B) lack of due execution, delivery, validity or enforceability, including of the PPA, or (C) Seller's inability to pay any Guaranteed Amount or perform its obligations under the PPA, or

(ix) any other event or circumstance that may now or hereafter constitute a defense to payment of the Guaranteed Amount, including, without limitation, statute of frauds and accord and satisfaction;

provided that Guarantor reserves the right to assert for itself any defenses, setoffs or counterclaims that Seller is or may be entitled to assert against Buyer (except for such defenses, setoffs or counterclaims that may be asserted by Seller with respect to the PPA, but that are expressly waived under any provision of this Guaranty).

4. Waivers by Guarantor. Guarantor hereby unconditionally waives as a condition precedent to the performance of its obligations hereunder, with the exception of the requirements in Paragraph 2, (a) notice of acceptance, presentment or protest with respect to the Guaranteed Amounts and this Guaranty, (b) notice of any action taken or omitted to be taken by Buyer in reliance hereon, (c) any requirement that Buyer exhaust any right, power or remedy or proceed against Seller under the PPA, and (d) any event, occurrence or other circumstance which might otherwise constitute a legal or equitable discharge of a surety. Without limiting the generality of the foregoing waiver of surety defenses, it is agreed that the occurrence of any one or more of the following shall not affect the liability of Guarantor hereunder:

(i) at any time or from time to time, without notice to Guarantor, the time for payment of any Guaranteed Amount shall be extended, or such performance or compliance shall be waived;

(ii) the obligation to pay any Guaranteed Amount shall be modified, supplemented or amended in any respect in accordance with the terms of the PPA;

(iii) (a) sale, transfer or consolidation of Seller into or with any other entity, (b) sale of substantial assets by, or restructuring of the corporate existence of, Seller or (c) change in ownership of any membership interests of, or other ownership interests in, Seller; or

(iv) the failure by Buyer or any other person to create, preserve, validate, perfect or protect any security interest granted to, or in favor of, Buyer or any person.

5. Subrogation. Notwithstanding any payments that may be made hereunder by the Guarantor, Guarantor hereby agrees that until the earlier of payment in full of all Guaranteed Amounts or expiration of the Guaranty in accordance with Section 3, it shall not be entitled to, nor shall it seek to, exercise any right or remedy arising by reason of its payment of any Guaranteed Amount under this Guaranty, whether by subrogation or otherwise, against Seller or seek contribution or reimbursement of such payments from Seller.

6. Representations and Warranties. Guarantor hereby represents and warrants that (a) it has all necessary and appropriate limited liability company powers and authority and the legal right to execute and deliver, and perform its obligations under, this Guaranty, (b) this Guaranty constitutes its legal, valid and binding obligations enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium and other similar laws affecting enforcement of creditors' rights or general principles of equity, (c) the execution, delivery and performance of this Guaranty does not and will not contravene Guarantor's organizational documents, any applicable law or any contractual provisions binding on or affecting Guarantor, (d) there are no actions, suits or proceedings pending before any court, governmental agency or arbitrator, or, to the knowledge of the Guarantor, threatened, against or affecting Guarantor or any of its properties or revenues which may, in any one case or in the aggregate, adversely affect the ability of Guarantor to enter into or perform its obligations under this Guaranty, and (e) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or governmental authority, and no consent of any other Person (including, any stockholder or creditor of the Guarantor), that has not heretofore been obtained is required in connection with the execution, delivery, performance, validity or enforceability of this Guaranty by Guarantor.

7. Notices. Notices under this Guaranty shall be deemed received if sent to the address specified below: (i) on the day received if served by overnight express delivery, and (ii) four business days after mailing if sent by certified, first class mail, return receipt requested. If transmitted by facsimile, such notice shall be deemed received when the confirmation of transmission thereof is received by the party giving the notice. Any party may change its address or facsimile to which notice is given hereunder by providing notice of the same in accordance with this Paragraph 8.

If delivered to Buyer, to it at [____]
Attn: [____]
Fax: [____]

If delivered to Guarantor, to it at [____]
Attn: [____]
Fax: [____]

8. **Governing Law and Forum Selection**. This Guaranty shall be governed by, and interpreted and construed in accordance with, the laws of the United States and the State of California, excluding choice of law rules. The Parties agree that any suit, action or other legal proceeding by or against any party (or its affiliates or designees) with respect to or arising out of this Guaranty shall be brought in the federal courts of the United States sitting in the County of San Francisco, California.

9. Miscellaneous. This Guaranty shall be binding upon Guarantor and its successors and assigns and shall inure to the benefit of Buyer and its successors and permitted assigns pursuant to the PPA. No provision of this Guaranty may be amended or waived except by a written instrument executed by Guarantor and Buyer. This Guaranty is not assignable by Guarantor without the prior

written consent of Buyer. No provision of this Guaranty confers, nor is any provision intended to confer, upon any third party (other than Buyer's successors and permitted assigns) any benefit or right enforceable at the option of that third party. This Guaranty embodies the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings of the parties hereto, verbal or written, relating to the subject matter hereof. If any provision of this Guaranty is determined to be illegal or unenforceable (i) such provision shall be deemed restated in accordance with applicable Laws to reflect, as nearly as possible, the original intention of the parties hereto and (ii) such determination shall not affect any other provision of this Guaranty and all other provisions shall remain in full force and effect. This Guaranty may be executed in any number of separate counterparts, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. This Guaranty may be executed and delivered by electronic means with the same force and effect as if the same was a fully executed and delivered original manual counterpart.

10. WAIVER OF JURY TRIAL; JUDICIAL REFERENCE.

(a) JURY WAIVER. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTY HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

(b) JUDICIAL REFERENCE. IN THE EVENT ANY LEGAL PROCEEDING IS FILED IN A COURT OF THE STATE OF CALIFORNIA (THE "COURT") BY OR AGAINST ANY PARTY HERETO IN CONNECTION WITH ANY CONTROVERSY, DISPUTE OR CLAIM DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS GUARANTY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY) (EACH, A "CLAIM") AND THE WAIVER SET FORTH IN THE PRECEDING PARAGRAPH IS NOT ENFORCEABLE IN SUCH ACTION OR PROCEEDING, THE PARTIES HERETO AGREE AS FOLLOWS:

(i) ANY CLAIM (INCLUDING BUT NOT LIMITED TO ALL DISCOVERY AND LAW AND MOTION MATTERS, PRETRIAL MOTIONS, TRIAL MATTERS AND POST-TRIAL MOTIONS) WILL BE DETERMINED BY A GENERAL REFERENCE PROCEEDING IN ACCORDANCE WITH THE PROVISIONS OF CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 638 THROUGH 645.1. THE PARTIES INTEND THIS GENERAL REFERENCE AGREEMENT

TO BE SPECIFICALLY ENFORCEABLE IN ACCORDANCE WITH CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638.

(ii) UPON THE WRITTEN REQUEST OF ANY PARTY, THE PARTIES SHALL SELECT A SINGLE REFEREE, WHO SHALL BE A RETIRED JUDGE OR JUSTICE. IF THE PARTIES DO NOT AGREE UPON A REFEREE WITHIN TEN (10) DAYS OF SUCH WRITTEN REQUEST, THEN, ANY PARTY MAY REQUEST THE COURT TO APPOINT A REFEREE PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 640(B).

(iii) THE PARTIES RECOGNIZE AND AGREE THAT ALL CLAIMS RESOLVED IN A GENERAL REFERENCE PROCEEDING PURSUANT HERETO WILL BE DECIDED BY A REFEREE AND NOT BY A JURY.

(iv) THE PARTIES AGREE THAT THE COSTS OF THE REFEREE SHALL BE SHARED EQUALLY BY THE PARTIES.

(v) THE PARTIES AGREE THAT EACH PARTY SHALL BE RESPONSIBLE FOR ITS OWN COSTS AND EXPENSES, INCLUDING LEGAL FEES, IN CONNECTION WITH ANY GENERAL REFERENCE PROCEEDING.

IN WITNESS WHEREOF, the undersigned has caused this Guaranty to be duly executed and delivered by its duly authorized representative on the date first above written.

GUARANTOR:

[_____]

By:_____
Printed Name:
Title:

BUYER:

[_____]

By:_____
Printed Name:
Title:

By:_____
Printed Name:
Title:

EXHIBIT N

NOTICES

SUNZIA WIND SOUTH LLC ("Seller")	**CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority** ("Buyer")
All Notices: Street: 1088 Sansome St. City: San Francisco, CA Attn: General Counsel Phone: [redacted] Email: [redacted]	**All Notices:** Street: 801 S Grand, Suite 400 City: Los Angeles CA, 90017 Attn: Chief Executive Officer Phone: (213) 269-5870 Email: tbardacke@cleanpoweralliance.org
Reference Numbers: Duns: [redacted] Federal Tax ID Number: [redacted]	**Reference Numbers:** Duns: Federal Tax ID Number:
Invoices: Attn: Pattern Energy Settlements Phone: [redacted] Email: [redacted]	**Invoices:** Attn: Vice President, Power Supply Phone: (213) 280-4011 E-mail: settlements@cleanpoweralliance.org
Scheduling: Attn: Manager 24/7 Operations Control Center [redacted] Email: [redacted] [redacted] Phone: [redacted] Facsimile: [redacted]	**Scheduling:** Attn: Operations 24/7 Desk Phone: (817) 462-1509 Email: TenaskaComm@tnsk.com
Confirmations: Attn: Pattern Energy Settlements Phone: [redacted] Email: [redacted]	**Confirmations:** Attn: Vice President, Power Supply Phone: (213) 280-4011 Email: ldescagnia@cleanpoweralliance.com Email CC: energycontracts@cleanpoweralliance.org
Payments: Attn: Pattern Energy Settlements Phone: [redacted] Email: [redacted]	**Payments:** Attn: Vice President, Power Supply Phone: (213) 280-4011 E-mail: settlements@cleanpoweralliance.org
Wire Transfer: BNK: [redacted] [redacted] ABA: [redacted]	**Wire Transfer:** BNK: River City Bank ABA: [redacted] ACCT: XXXXXX7557

SUNZIA WIND SOUTH LLC ("Seller")	**CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority** ("Buyer")
ACCT: [redacted]	
Emergency Contact: Attn: 24/7 Operations Control Center Phone: [redacted] Email: [redacted]	**Emergency Contact:**

EXHIBIT O

SAMPLE CALCULATION OF GUARANTEED RA AMOUNT

Assumptions

Installed Capacity = PMax = 3,515,000 kW

Guaranteed Capacity: 575,000 kW

Excused Capacity Reduction: 0 kW

Installed Capacity not available: 515,000 kW

Deemed Delivered RA: 0 kW

Replacement RA: 0 kW

Buyer's Share: 575,000 kW / 3,515,000 kW = 16.3585%

CPM Soft Offer Cap: $7.34/kW-mo

CPM Adjustment Factor (January): [redacted]

RA Deficiency Cap (January): $[redacted]

Seller included in its Supply Plan the Supply Plan Amount

Pre-Slice of Day Structure

ELCC (January): 34.0%

NQC = (PMax – Excused Capacity Reduction) x ELCC = (3,515,000 – 0) x 0.3400 = 1,195,100

Guaranteed RA Amount = NQC x Buyer's Share = 1,195,100 x 16.3585% = 195,500 kW

Supply Plan Amount = (Installed Capacity – Installed Capacity not available) x Buyer's Share x ELCC

Supply Plan Amount = (3,515,000 – 515,000) x 16.3585% x 0.3400 = 166,856 kW

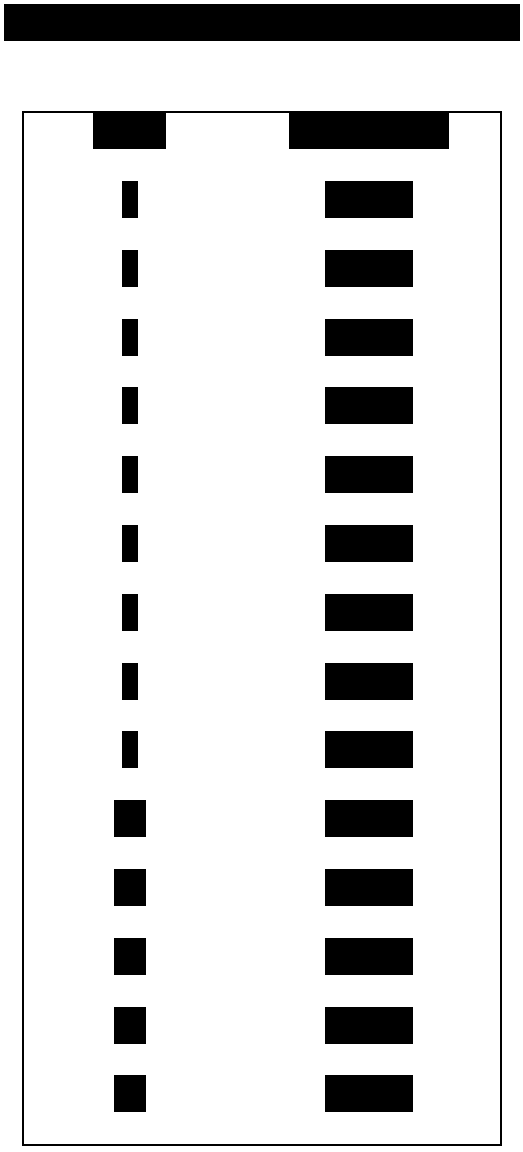
ELCC RA Amount = Supply Plan Amount = 166,856 kW

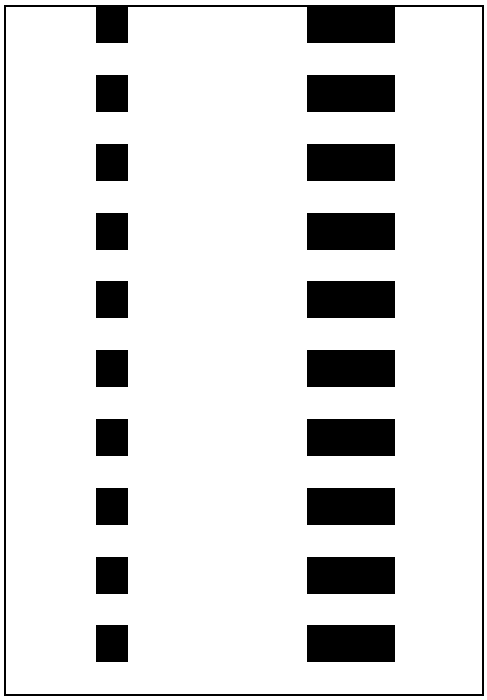
RA Shortfall Amount = Guaranteed RA Amount – ELCC RA Amount = 195,500 – 166,856 = 28,644 kW

RA Deficiency Amount = RA Shortfall Amount x MIN(CPM Soft Offer Cap x CPM Adjustment Factor, RA Deficiency Cap)

RA Deficiency Amount = 28,644 x MIN($7.34 x 50%, $15) = 28,644 x $3.67 = $105,122

Slice of Day Structure





[redacted]

[redacted]

[redacted]

Guaranteed RA Amount

[redacted]

[redacted]

Guaranteed RA Amount = [redacted]

Supply Plan Amount [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

RA Shortfall Amount [redacted]

RA Deficiency Amount [redacted]

RA Deficiency Amount [redacted]

[redacted]

Month	[redacted]	[redacted]	[redacted]
Jan	[redacted]	[redacted]	[redacted]
Feb	[redacted]	[redacted]	[redacted]
Mar	[redacted]	[redacted]	[redacted]

Apr		[redacted]			[redacted]			[redacted]	
May									
Jun									
Jul									
Aug									
Sep									
Oct									
Nov									
Dec									

EXHIBIT P

CPM Adjustment Factors

Month	Multiplier
January	[redacted]
February	[redacted]
March	[redacted]
April	[redacted]
May	[redacted]
June	[redacted]
July	[redacted]
August	[redacted]
September	[redacted]
October	[redacted]
November	[redacted]
December	[redacted]

EXHIBIT Q

Supply Chain Code of Conduct

Buyer is committed to ensuring that the fundamental human rights of workers are protected, including addressing the potential risks of forced labor, child labor, servitude, human trafficking and slavery across our portfolio.

Our requirements and expectations for Seller's supply chain are detailed below in our Supply Chain Code of Conduct ("**Supply Chain Code**"). Seller must comply with all applicable Laws and this Supply Chain Code (subject to Section 2.3(b) of this Agreement), even when this Supply Chain Code exceeds the requirements of applicable Law.

These standards are derived from the United Nations Guiding Principles on Business and Human Rights, the Core Conventions of the International Labour Organization ("ILO"), including the ILO Declaration on Fundamental Principles and Rights at Work, and the Responsible Business Alliance Code of Conduct.

1. **Freely Chosen Employment**
   Forced, bonded (including debt bondage) or indentured labor, involuntary or exploitative prison labor, slavery or trafficking of persons is not permitted. This includes transporting, harboring, recruiting, transferring, or receiving persons by means of threat, force, coercion, abduction or fraud for labor or services. There shall be no unreasonable restrictions on workers' freedom of movement in the facility in addition to unreasonable restrictions on entering or exiting company provided facilities including, if applicable, workers' dormitories or living quarters. All work must be voluntary, and workers shall be free to leave work at any time or terminate their employment without penalty if reasonable notice is given as per worker's contract. Employers, agents, and sub-agents' may not hold or otherwise destroy, conceal, or confiscate identity or immigration documents, such as government-issued identification, passports, or work permits. Employers can only hold documentation if such holdings are required by law. In this case, at no time should workers be denied access to their documents. Workers shall not be required to pay employers' agents or sub-agents' recruitment fees or other related fees for their employment. If any such fees are found to have been paid by workers, such fees shall be repaid to the worker.

2. **Young Workers**
   Child labor is not to be used in any stage of manufacturing. The term "child" refers to any person under the age of 15, or under the age for completing compulsory education, or under the minimum age for employment in the country, whichever is greatest. Suppliers shall implement an appropriate mechanism to verify the age of workers. The use of legitimate workplace learning programs, which comply with all laws and regulations, is supported. Workers under the age of 18 shall not perform work that is likely to jeopardize their health or safety, including night shifts and overtime. Suppliers shall ensure proper management of student workers through proper maintenance of student records, rigorous due diligence of educational partners, and protection of students' rights in accordance with applicable laws and regulations. Suppliers shall provide appropriate support and training to all student

workers. In the absence of local law, the wage rate for student workers, interns, and apprentices shall be at least the same wage rate as other entry-level workers performing equal or similar tasks. If child labor is identified, assistance/remediation is provided.

3. **Working Hours**
   Studies of business practices clearly link worker strain to reduced productivity, increased turnover, and increased injury and illness. Working hours are not to exceed the maximum set by local law. Further, suppliers shall use commercially reasonable efforts to limit a workweek to not more than 60 hours per week, including overtime. All overtime must be voluntary. Workers shall be allowed at least one day off every seven days.

4. **Wages and Benefits**
   Compensation paid to workers shall comply with all applicable wage laws, including those relating to minimum wages, overtime hours and legally mandated benefits. In compliance with local laws, workers shall be compensated for overtime at pay rates greater than regular hourly rates. Deductions from wages as a disciplinary measure shall not be permitted. For each pay period, workers shall be provided with a timely and understandable wage statement that includes sufficient information to verify accurate compensation for work performed. All use of temporary, dispatch and outsourced labor will be within the limits of the local law.

5. **Humane Treatment**
   There is to be no harsh or inhumane treatment including violence, gender-based violence, sexual harassment, sexual abuse, corporal punishment, mental or physical coercion, bullying, public shaming, or verbal abuse of workers; nor is there to be the threat of any such treatment. Disciplinary policies and procedures in support of these requirements shall be clearly defined and communicated to workers.

6. **Non-Discrimination/Non-Harassment**
   Suppliers should be committed to a workplace free of harassment and unlawful discrimination. Companies shall not engage in discrimination or harassment based on race, color, age, gender, sexual orientation, gender identity and expression, ethnicity or national origin, disability, pregnancy, religion, political affiliation, union membership, covered veteran status, protected genetic information or marital status in hiring and employment practices such as wages, promotions, rewards, and access to training. Workers shall be provided with reasonable accommodation for religious practices. In addition, workers or potential workers should not be subjected to medical tests that could be used in a discriminatory way or otherwise in violation of applicable law. This was drafted in consideration of ILO Discrimination (Employment and Occupation) Convention (No.111).

7. **Freedom of Association**
   In conformance with local law, Suppliers shall respect the right of all workers to form and join trade unions of their own choosing, to bargain collectively, and to engage in peaceful assembly as well as respect the right of workers to refrain from such activities. Workers and/or their representatives shall be able to openly communicate and share ideas and concerns with management regarding working conditions and management practices

without fear of discrimination, reprisal, intimidation, or harassment.

8. **Restricted Jurisdictions**
   Supplier shall not manufacture or produce products in the Xinjiang Uyghur Autonomous Region of China, or knowingly procure goods and services mined, produced or manufactured in the same.

EXHIBIT R

METERING DIAGRAM

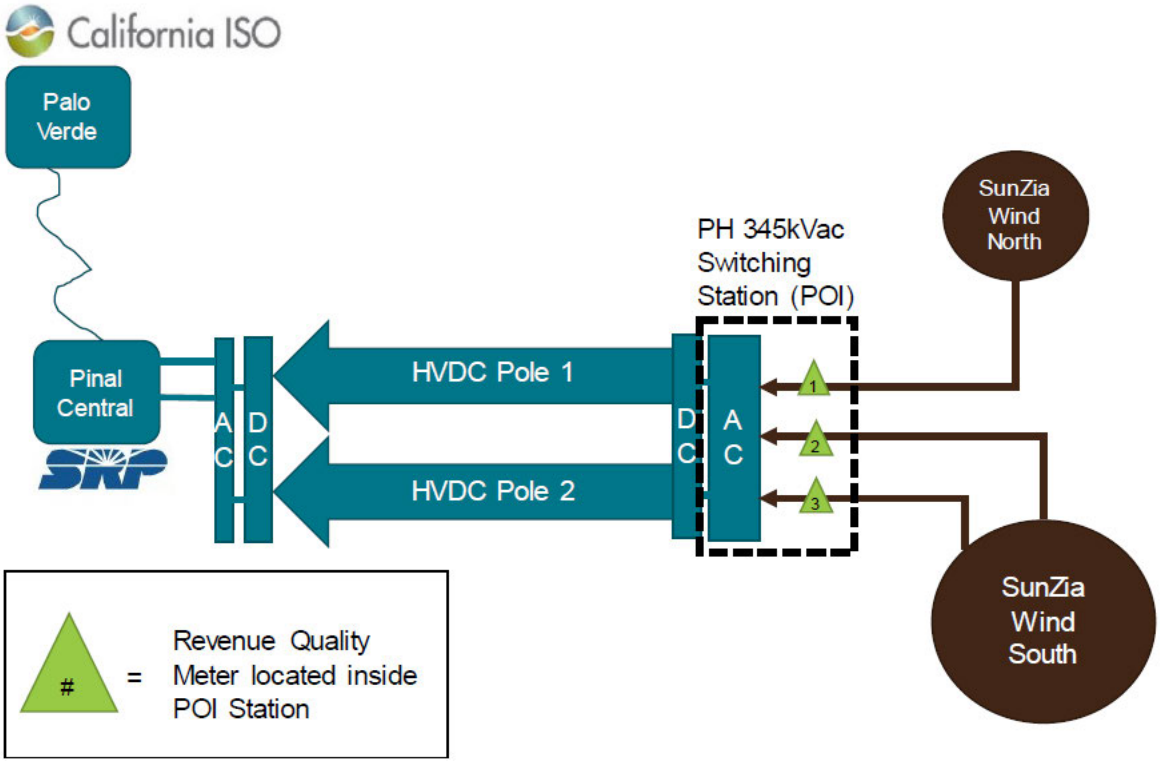


EXHIBIT S

MATERIAL PERMITS

No.	*Permits*

	SunZia Wind South LLC Material Permits
1.	N/A

EXHIBIT T

Force Majeure Event and/or Development Cure Period Claim Form

Instructions

A. Please review Article 10 and Exhibit B (if applicable) of the Renewable Power Purchase Agreement (SunZia South) prior to filling out the form.

B. Fill out the form completely and return to your assigned Contract Manager at CPA.

Seller: [Name] Project: [Name]

Guaranteed Commercial Operation Date: [Date]

New Guaranteed Commercial Operation Date (if Seller's claims are validated in full): [Date]

Seller hereby certifies and represents to Buyer the following:

1. Please describe the claimed Force Majeure Event or other event giving rise to the claimed Development Cure Period delay(s) (the "Claimed Event"), including its cause, date of commencement and date it ended or is anticipated to end, if known.

2. Please specify the extent of the delay or prevented performance, if known, caused by the Claimed Event, including the relief claimed thereby. Describe how the claimed relief was calculated/determined, accounting for individual developments causing such delay or prevented performance.

3. With respect to a Claimed Event other than a Force Majeure Event, please describe the commercially reasonable efforts taken by Seller, if any, to prevent such event or, if applicable, explain in reasonable detail why it was not possible to take such efforts.

4. Please describe the commercially reasonable efforts taken to mitigate the delays or nonperformance caused by the Claimed Event, if any, or, if applicable, explain in reasonable detail why it was not possible to take such efforts, and specify if such efforts, if any, reduced the delay days or nonperformance that would otherwise have occurred absent such mitigation.

5. Please attach supporting documentation, including (to the extent applicable and available):

- Force Majeure notices or other correspondence received from suppliers and/or contractors that describe the basis for and extentof the Claimed Event.
- Documentation, contracts, and/or correspondence with suppliers and/or contractors evidencing the claiming Party's mitigation efforts.
- Project schedule and/or GANNT charts that demonstrate the effect of the Claimed Event on the Guaranteed Commercial Operation Date.

By signing this Claim form, I attest and affirm that I am authorized to sign this form on behalf of the Seller.

[SELLER NAME]

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT U

OPERATING RESTRICTIONS

Operating Restrictions of the Facility are as follows:

- Interconnection Capacity (Maximum Injection Amount): 2,119.72 MW; *provided*, if the North Affiliate is not utilizing an amount of interconnection capacity equal to 3,021 MW *minus* 2,119.72 MW, Seller may have the right to additional interconnection capacity for the Facility up to an aggregate of 2561.2 MW; [redacted]
- Minimum operating capacity: 0.0 MW
- Maximum number of start-ups per calendar day (if any such operational limitations exist): N/A
- Ramp Rate: The ramp rate accepted by CAISO in the Master File of the Facility.
- Minimum Down Time: N/A

From: rims-noreply@caiso.com <rims-noreply@caiso.com>
Sent: Monday, May 18, 2026 7:49:29 PM
To: Kelsey Gormley <kgormley@gridsme.com>; cweiler@gridsme.com <cweiler@gridsme.com>; Angela Leon <angela.leon@patternenergy.com>; Leo Peirick <Leo.Peirick@patternenergy.com>; lpate@gridsme.com <lpate@gridsme.com>; George E. Brown <george.brown@patternenergy.com>
Cc: nri@gridsme.com <nri@gridsme.com>; Deral Danis <deral.danis@patternenergy.com>; Leo Peirick <Leo.Peirick@patternenergy.com>; George E. Brown <george.brown@patternenergy.com>; Christina Gallegos <CGallegos@gridsme.com>; nri@caiso.com <nri@caiso.com>
Subject: [EXTERNAL] Notification of Commercial Operation (COD)- SunZia Wind South SZWDS_3_SZWX14

All,

The CAISO has received a request for SunZia Wind South stating that the resource has completed start-up testing and is available for commercial operations beginning, 05/19/2026. This resource of 2561.20 MW Wind is located in Lincoln County, 201 State Highway 247 Corona NM 88318.

NRI has received internal approval for the COD and have notified all relevant parties for:

Resource ID: SZWDS_3_SZWX14
POD: Pete Heinrich 345kV
SCID:
COD MW: 2561.20

Thank you for your efforts throughout the implementation process and for participating in the CAISO markets please let us know if there are any questions. If you have any feedback on the NRI process, please consider filling out our survey here: https://www.surveymonkey.com/r/PostCOD

Thank you,
New Resource Implementation

****
The foregoing electronic message, together with any attachments thereto, is confidential and may be legally privileged against disclosure other than to the intended recipient. It is intended solely for the addressee(s) and access to the message by anyone else is unauthorized. If you are not the intended recipient of this electronic message, you are hereby notified that any dissemination, distribution, or any action taken or omitted to be taken in reliance on it is strictly prohibited and may be unlawful. If you have received this electronic message in error, please delete and immediately notify the sender of this error.
****

CONFIDENTIAL

SUNZIA PPA
RENEWABLE ENERGY
EXECUTION VERSION

RENEWABLE POWER PURCHASE AGREEMENT (SUNZIA SOUTH)

COVER SHEET

Seller: SunZia Wind South LLC, a Delaware limited liability company

Buyer: Clean Power Alliance of Southern California, a California joint powers authority

Description of Facility: A wind-powered electricity generating facility known as SunZia Wind South, with a nameplate capacity of up to 2,561.2 MW, as described in Exhibit A, as such facility may be modified under the terms of this Agreement.

Milestones:

Milestone	Expected Date for Completion
Executed Interconnection Agreement	Completed
Bureau of Land Management Record of Decision for SunZia Transmission Line	Completed
Evidence of Site Control	11/30/2023
Expected Financial Close	11/30/2023
Expected Construction Start Date	11/30/2023
Guaranteed Construction Start Date	9/1/2024
Expected Initial Synchronization	2/28/2026
Expected Commercial Operation Date	4/30/2026
Expected Date of CAISO Commercial Operation	4/30/2026
Guaranteed Commercial Operation Date	10/31/2026

Delivery Term: Fifteen (15) Contract Years

Delivery Term Expected Energy:

Contract Year	Expected Energy (MWh)
1-15	1,267,171 MWh, as such amount may be adjusted by Seller in accordance with the definition of "Expected Energy" below

Guaranteed Capacity: 403.5 MW of total Facility capacity

Renewable Rate:

Contract Year	Renewable Rate ($/MWh)
1 – 15	$[redacted]/MWh (flat) with no escalation; *provided*, prior to the RA Guarantee Date the Renewable Rate shall be equal to the $[redacted]/MWh.

Product

- ☒ Facility Energy
- ☒ Green Attributes (if Renewable Energy Credit, please check the applicable box below):
  - ☒ Portfolio Content Category 1
  - ☐ Portfolio Content Category 2
  - ☐ Portfolio Content Category 3
- ☒ Capacity Attributes

Scheduling Coordinator: Seller

Security Amounts:

Development Security: $[redacted]

Performance Security: $[redacted]

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RENEWABLE POWER PURCHASE AGREEMENT (SUNZIA SOUTH)

This Renewable Power Purchase Agreement (SunZia South) ("**Agreement**") is entered into as of _____ (the "**Effective Date**"), between Buyer and Seller. Buyer and Seller are sometimes referred to herein individually as a "**Party**" and jointly as the "**Parties**". All capitalized terms used in this Agreement are used with the meanings ascribed to them in Article 1 to this Agreement.

RECITALS

WHEREAS, SunZia Wind PowerCo LLC ("**SunZia PowerCo**") and Buyer entered into that certain Renewable Power Purchase Agreement ("**Original Agreement**") dated as of November 3, 2023 ("**Original Effective Date**"), as amended and restated by that certain Amended and Restated Renewable Power Purchase Agreement, dated as of November 18, 2024 ("**First A&R Agreement**") to accommodate the entry of the Facility and the portion of the Transmission System providing transmission service to the Delivery Point into the CAISO Balancing Authority Area through the CAISO Subscriber Participating Transmission Owner ("**SPTO**") process;

WHEREAS, Buyer and SunZia PowerCo entered into that certain Second Amended and Restated Renewable Power Purchase Agreement, dated on or about the date hereof ("**Second A&R Agreement**"), to address the revised Resource Adequacy Requirements in compliance with Section 3.7(g) of the First A&R Agreement, including Slice-of-Day characteristics, which Second A&R Agreement completely superseded and replaced both the Original Agreement and the First A&R Agreement in every respect and became effective upon the Effective Date (as defined in the Second A&R Agreement);

WHEREAS, Buyer and SunZia PowerCo agreed, pursuant to Section 2.6 of the Second A&R Agreement, to (i) terminate the Second A&R Agreement, and (ii) cause each of Seller and SunZia Wind North LLC ("**North Affiliate**") to simultaneously enter into a Replacement PPA (as described in the Second A&R Agreement) with Buyer in respect of the portion of the Facility owned by such Owner (as defined in the Second A&R Agreement);

WHEREAS, Seller and Buyer acknowledge and agree that this Agreement constitutes a Replacement PPA (as described in the Second A&R Agreement) in respect of SunZia Wind South;

WHEREAS, Seller elected to increase the Guaranteed Capacity under the Second A&R Agreement by election of the South Turbine Uprate (as defined in the Second A&R Agreement) via Notice to Buyer, and such increased Guaranteed Capacity under the Second A&R Agreement is reflected in the Guaranteed Capacity under this Agreement;

WHEREAS, Seller intends to develop, design, construct, own, and operate the Facility; and

WHEREAS, Seller desires to sell, and Buyer desires to purchase, on the terms and conditions set forth in this Agreement, the Product;

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, and for other good and valuable consideration, the sufficiency and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1
DEFINITIONS

1.1 **Contract Definitions**. The following terms, when used herein with initial capitalization, shall have the meanings set forth below:

"**AC**" means alternating current.

"**Accepted Compliance Costs**" has the meaning set forth in Section 3.12(c).

"**Adjusted Energy Production**" has the meaning set forth in Exhibit G.

"**Affiliate**" means, with respect to any Person, each Person that directly or indirectly controls, is controlled by, or is under common control with such designated Person. For purposes of this definition and the definition of "Permitted Transferee", "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean (a) the direct or indirect right to cast at least fifty percent (50%) of the votes exercisable at an annual general meeting (or its equivalent) of such Person or, if there are no such rights, ownership of at least fifty percent (50%) of the equity or other ownership interest in such Person, or (b) the right to direct the policies or operations of such Person.

"**Agreement**" has the meaning set forth in the Preamble and includes the Cover Sheet and any Exhibits, schedules and any written supplements hereto.

"**Alternate Facility**" means that certain wind generating facility described in Exhibit A.

"**Alternative Delivery Point**" means a Scheduling Point other than the Delivery Point that is agreed upon by Buyer and Seller.

"**Approved Forecast Vendor**" means (a) [redacted] or (b) any other reputable third-party vendor that is registered to do business in California, experienced in providing and verifying wind energy generation forecasts, and not an Affiliate of Seller.

"**Assignment Agreement**" has the meaning set forth in Section 14.5(a).

"**Available Capacity**" means Buyer's Share of the Installed Capacity, expressed in whole MW, that is available to generate Energy.

"**Balancing Authority**" has the meaning set forth in the CAISO Tariff.

"**Balancing Authority Area**" has the meaning set forth in the CAISO Tariff.

"**Bankrupt**" or "**Bankruptcy**" means with respect to any entity, such entity that (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, (b) has any such petition filed or commenced against it which remains unstayed or undismissed for a period of ninety (90) days, (c) makes an assignment or any general arrangement for the benefit of creditors, (d) otherwise becomes bankrupt or insolvent (however evidenced), (e) 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 (f) is generally unable to pay its debts as they fall due.

"**Business Day**" means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday in California. A Business Day begins at 8:00 a.m. and ends 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 on the Cover Sheet.

"**Buyer Assignee**" has the meaning set forth in Section 14.5(a).

"**Buyer Default**" means an Event of Default of Buyer.

"**Buyer's Indemnified Parties**" has the meaning set forth in Section 18.2.

"**Buyer's Share**" means, (a) prior to the Commercial Operation Date, the percentage equal to (i) prior to the later of (x) the first date that the CAISO informs Seller in writing that Seller may deliver Energy to the CAISO and (y) the first date that the PTO informs Seller in writing that Seller has conditional or temporary permission to operate in parallel with the PTO's system, the quotient of (A) the Guaranteed Capacity *divided by* (B) the Expected Installed Capacity, or (ii) following the later of (x) the first date that the CAISO informs Seller in writing that Seller may deliver Energy to the CAISO and (y) the first date that the PTO informs Seller in writing that Seller has conditional or temporary permission to operate in parallel with the PTO's system, the product of (A) the quotient of (I) the Guaranteed Capacity *divided by* (II) the difference of (x) Expected Installed Capacity *minus* (y) the Guaranteed Installed Capacity, *multiplied by* (B) the quotient of (I) the difference of (x) the total nameplate capacity of the Facility in operation at the time, *minus* (y) the Guaranteed Installed Capacity, *divided by* (II) the total nameplate capacity of the Facility in operation at the time, as applicable, and (b) from and after the Commercial Operation Date, the percentage equal to the result of dividing the Guaranteed Capacity by the Installed Capacity, as such percentage may change from time to time with changes to the Installed Capacity; *provided*, in no event shall the Buyer's Share exceed 100% (whether before or after establishment of the final Installed Capacity).

"**Buyer's WREGIS Account**" has the meaning set forth in Section 4.8(a).

"**CAISO**" means the California Independent System Operator Corporation or any successor entity performing similar functions.

"**CAISO Certification**" means the certification and testing requirements for a generating unit set forth in the CAISO Tariff that are applicable to the Facility, including certification and testing for PMAX and PMIN (as each term is defined in the CAISO Tariff) associated with such generating units, that are applicable to the Facility.

"**CAISO Commercial Operation**" means that the CAISO has provided notification that the Energy generation from a portion of the Facility that is no smaller than the Guaranteed Installed Capacity may be scheduled into the CAISO markets on an unconditional basis in accordance with the CAISO Tariff and Business Practice Manual(s) as applicable, including the New Resource Implementation process.

"**CAISO Grid**" has the same meaning as "CAISO Controlled Grid" as defined in the CAISO Tariff.

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

"**California Renewables Portfolio Standard**" or "**RPS**" means the renewable energy program and policies established by California State Senate Bills 1038 (2002), 1078 (2002), 107 (2008), X-1 2 (2011), 350 (2015), and 100 (2018) as codified in, *inter alia*, California Public Utilities Code Sections 399.11 through 399.31 and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time.

"**Capacity Attribute**" means Buyer's Share of any current or future defined characteristic, certificate, tag, credit, or accounting construct associated with the amount of power that the Facility can generate and deliver to the Delivery Point at a particular moment and that can be purchased, sold or conveyed under CAISO or CPUC market rules, including Resource Adequacy Benefits.

"**CEC**" means the California Energy Commission or its successor agency.

"**CEC Certification and Verification**" means that the CEC has certified (or, with respect to periods before the date that CEC has provided final certification, that the CEC has pre-certified) that the Facility is an Eligible Renewable Energy Resource for purposes of the California Renewables Portfolio Standard and that all Facility Energy qualifies as generation from an Eligible Renewable Energy Resource.

"**CEC Precertification**" means that the CEC has issued a precertification for the Facility indicating that the planned operations of the Facility would comply with applicable CEC requirements for CEC Certification and Verification.

"**Change of Control**" means any circumstance in which Ultimate Parent ceases to own, directly or indirectly through one or more intermediate entities, at least fifty percent (50%) of the outstanding equity interests in Seller; *provided*, in calculating ownership percentages for all purposes of the foregoing:

(a) any ownership interest in Seller held by Ultimate Parent indirectly through one or more intermediate entities shall not be counted towards Ultimate Parent's ownership interest in Seller unless Ultimate Parent directly or indirectly owns at least fifty percent (50%) of the outstanding equity interests in each such intermediate entity; and

(b) ownership interests in Seller owned directly or indirectly by any Lender (including any tax equity provider) shall be excluded from the total outstanding equity interests in Seller.

"**CIRA Tool**" means the CAISO Customer Interface for Resource Adequacy, or any successor mechanism.

"**COD Certificate**" has the meaning set forth in Exhibit B.

"**COD Delay Damages Payment**" has the meaning set forth in Exhibit B.

"**Commercial Operation**" has the meaning set forth in Exhibit B.

"**Commercial Operation Date**" means the date Commercial Operation is achieved.

"**Commercial Operation Delay Damages**" means an amount equal to (a) the Development Security amount required hereunder, *divided by* (b) [redacted]).

"**Compliance Actions**" has the meaning set forth in Section 3.12(a).

"**Compliance Expenditure Cap**" has the meaning set forth in Section 3.12.

"**Confidential Information**" has the meaning set forth in Section 18.1.

"**Construction Start**" has the meaning set forth in Exhibit B.

"**Construction Start Date**" has the meaning set forth in Exhibit B.

"**Contract Revenues**" has the meaning set forth in Section 4.4(b).

"**Contract Term**" has the meaning set forth in Section 2.1(a).

"**Contract Year**" means a period of twelve (12) consecutive months. The first Contract Year shall commence on the Commercial Operation Date and each subsequent Contract Year shall commence on the anniversary of the Commercial Operation Date.

"**Costs**" means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third-party transaction costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace the Agreement; and all reasonable attorneys' fees and expenses incurred by the Non-Defaulting Party in connection with terminating the Agreement.

"**Cover Sheet**" means the cover sheet to this Agreement, which is incorporated into this Agreement.

"**COVID-19**" means the pandemic disease designated COVID-19 and the related virus designated SARS-CoV-2 and any mutations thereof, and the efforts of a Governmental Authority to combat such disease.

"**CPM Adjustment Factor**" means, for any RA Shortfall Month, the percentage for the corresponding calendar month set forth in Exhibit P.

"**CPM Price**" has the meaning set forth in Section 3.8(b).

"**CPM Soft Offer Cap**" has the meaning set forth in the CAISO Tariff.

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

"**Credit Rating**" means, with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt obligations (not supported by third party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuer rating by S&P or Moody's. If ratings by S&P and Moody's are not equivalent, the lower rating shall apply.

"**Cure Plan**" has the meaning set forth in Section 11.1(b)(iii).

"**Curtailment Order**" means any of the following:

(a) CAISO orders, directs, alerts, or provides notice to a Party, including an Operating Instruction (as defined in the CAISO Tariff), to curtail deliveries of Facility Energy for the following reasons: (i) any System Emergency, (ii) any warning of an anticipated System Emergency, or warning of an imminent condition or situation, which jeopardizes CAISO's electric system integrity or the integrity of other systems to which CAISO is connected, or (iii) in response to an Energy oversupply or potential Energy oversupply, and Seller or the SC for the Facility submitted a Self-Schedule for the MWhs curtailed during the relevant time period;

(b) a curtailment ordered by a 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, including a System Emergency, or (ii) any warning, forecast or anticipation of conditions or situations that jeopardize a Transmission Provider's electric system integrity or the integrity of other systems to which a Transmission Provider is connected, including a System Emergency;

(c) a curtailment ordered by CAISO or a Transmission Provider due to a Transmission System Outage; or

(d) a curtailment in accordance with Seller's obligations under its Interconnection Agreement with the PTO.

"**Curtailment Period**" means the period of time, as measured using current Settlement Intervals, during which Seller reduces generation or deliveries of Facility Energy from the Facility pursuant to a Curtailment Order; *provided*, the Curtailment Period shall be inclusive of the time required for the Facility to ramp down and ramp up.

"**Daily Delay Damages**" means an amount equal to (a) the Development Security amount required hereunder, *divided by* (b) one hundred twenty (120).

"**Daily Delay Damages Payment**" has the meaning set forth in Exhibit B.

"**Damage Payment**" means the amount to be paid by the Defaulting Party to the Non-Defaulting Party after a Terminated Transaction occurring prior to the Commercial Operation Date, in a dollar amount as set forth in Section 11.3(a).

"**Day-Ahead Forecast**" means the amount of Energy expected to be generated by the Facility and delivered to Buyer at the Delivery Point, net of all Electrical Losses and subject to the Hourly Delivery Cap, for each hour of the immediately succeeding day in accordance with Seller's obligations under this Agreement, based on a forecast from the Approved Forecast Vendor using a forecasting methodology to determine the potential generation of the Facility as a function of Available Capacity, wind speed and direction, wind turbine power curves and other pertinent data (including data related to Curtailment Orders), for the period of time, consistent with Prudent Operating Practice; *provided*, a Day-Ahead Forecast provided in a day prior to any non-Business Day(s) shall include non-binding forecasts for the immediately succeeding day, each succeeding non-Business Day and the next Business Day.

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

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

"**Deemed Delivered Energy**" means the difference of (i) the Market Curtailment Max Energy, *minus* (ii) the amount of Facility Energy delivered to the Delivery Point during the Market Curtailment Period; *provided*, if the applicable difference is negative, the Deemed Delivered Energy shall be zero (0) MWh.

"**Deemed Delivered RA**" means, for any month, the amount of Resource Adequacy Benefits expressed in kW that Seller would have delivered to Buyer, but for Buyer's actions or inactions (including, until such time as the Facility receives a Deliverability Allocation from the CAISO, failure to obtain Import Capability sufficient to allow for the importation of such capacity into the CAISO). As of the Effective Date, the Parties agree that the Deemed Delivered RA shall be determined by calculating the quotient of (i) the sum of the following: for each hour of the twenty-four hour array applicable to such Showing Month, the amount of Resource Adequacy Benefits (in MW) that Seller would have delivered to Buyer, but for Buyer's actions or inactions (including, until such time as the Facility receives a Deliverability Allocation from the CAISO,

failure to obtain Import Capability sufficient to allow for the importation of such capacity into the CAISO, unless Buyer is prohibited by the CAISO Tariff from using Import Capability with respect to the Resource Adequacy Benefits and such prohibition is not due to the fault or negligence of Buyer and Buyer has used commercially reasonable efforts to avoid or mitigate such prohibition), *divided by* (ii) twenty four (24). If (i) Seller submits a Supply Plan to the CAISO in accordance with the requirements of this Agreement by the applicable Showing Deadline and is otherwise in compliance with Section 3.7, but (ii) the CIRA Tool shows that Seller's Supply Plan has not been accepted by the CAISO through no fault of Seller, and (iii) Seller uses commercially reasonable efforts to resolve any failure by the CAISO to approve such Supply Plan, then the Resource Adequacy Benefits included in such Supply Plan shall be considered Deemed Delivered RA; *provided*, if Buyer's inability to utilize any Resource Adequacy Benefits is the result of the CAISO Tariff disallowing Buyer from using Import Capability to obtain some or all of the Capacity Attributes from the Facility and such prohibition is not due to the fault or negligence of Buyer and Buyer has used commercially reasonable efforts to avoid or mitigate such prohibition, it shall not be considered Deemed Delivered RA.

"**Defaulting Party**" has the meaning set forth in Section 11.1(a).

"**Deficient Month**" has the meaning set forth in Section 4.8(e).

"**Delay Damages**" means Daily Delay Damages and Commercial Operation Delay Damages.

"**Deliverability Allocation**" means an allocation of Deliverability (as defined in the CAISO Tariff) to the Facility such that Buyer may receive all of the Resource Adequacy Benefits at the Delivery Point throughout the Delivery Term without any need to obtain an allocation of Maximum Import Capability or other import rights.

"**Delivery Point**" has the meaning set forth in Exhibit A.

"**Delivery Term**" shall mean the period of Contract Years set forth on the Cover Sheet beginning on the Commercial Operation Date, unless terminated earlier in accordance with the terms and conditions of this Agreement.

"**Development Cure Period**" has the meaning set forth in Exhibit B.

"**Development Security**" means, at Seller's option, (a) cash or (b) one or more Letters of Credit, in aggregate in the amount specified for the Development Security on the Cover Sheet.

"**Disclosing Party**" has the meaning set forth in Section18.2.

"**E-Tag**" has the meaning set forth in the CAISO Tariff.

"**Early Termination Date**" has the meaning set forth in Section 11.2(a).

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

"**Electrical Losses**" means all transmission or transformation losses between the Facility's Point of Interconnection to the PTO's Transmission System and the Delivery Point, expressed in MWh; *provided*, Electrical Losses shall not include losses that are replaced with Energy provided by one or more Transmission Providers and paid for by Seller (at Seller's sole expense) and that, when delivered to Buyer hereunder, meet the requirements for Product delivered hereunder, including PCC1 status.

"**Eligible Renewable Energy Resource**" has the meaning set forth in California Public Utilities Code Section 399.12(e) and California Public Resources Code Section 25741(a), as either code provision is amended or supplemented from time to time.

"**Energy**" means electrical energy, measured in kilowatt-hours, megawatt-hours, or multiple units thereof.

"**Energy Replacement Damages**" has the meaning set forth in Section 4.7(a).

"**EPC Contract**" means Seller's engineering, procurement and construction contract(s) for the Facility.

"**Event of Default**" has the meaning set forth in Section 11.1.

"**Exceedance Profile RA Amount**" means, as of the Effective Date, for a given Showing Month, the quotient of (i) the sum of the following: for each hour of the twenty-four hour array applicable to such Showing Month, the maximum amount of Resource Adequacy Benefits (in MW) that Buyer is able to receive in the relevant RA Compliance Template, based on the shape factor set forth for the applicable hour of the applicable Showing Month under tab "Resource Default Profiles" for New Mexico Wind, Cells E338-E625, on the CPUC website at https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/resource-adequacy-compliance-materials/guides-and-resources/rashowingtemplate_rev35.xlsm (as such may be updated or replaced by the CPUC from time to time) and assuming that Buyer's RA Plan in respect of the Facility matches the Supply Plan submitted by Seller for the Facility (provided Seller's Supply Plan does not reflect an amount in excess of the Guaranteed RA Amount), *divided by* (ii) twenty four (24).

"**Excess MWh**" has the meaning set forth in Exhibit C.

"**Excused Capacity Reduction**" means a reduction to the Capacity Attributes available from the Facility due to (a) System Emergency [redacted], (b) Curtailment Order [redacted], (c) Force Majeure Event, (d) Major Planned Outage, (e) Qualified Forced Facility Outage, or (f) Planned Outage; *provided*:

[redacted]

[redacted]

[redacted]

[redacted] an Excused Capacity Reduction), or (ii) if such Qualified Forced Facility Outage occurs thirty (30) days or more before the RA Plan Showing Deadline for the applicable Showing Month and Seller has previously reached the Qualified Forced Facility Outage Limit or Seller does not elect to treat such Qualified Forced Facility Outage as an Excused Capacity Reduction (as described below). In the case of a Qualified Forced Facility Outage that occurs and as to which Notice was provided to Buyer thirty (30) days or more before the RA Plan Showing Deadline for the applicable Showing Month, Seller may elect to treat such Qualified Forced Facility Outage as a Planned Outage or Major Planned Outage for purposes of determining the treatment of such Qualified Forced Facility Outage as an Excused Capacity Reduction by including such election in its original Notice to Buyer of such Qualified Forced Facility Outage, and may change such

election via a subsequent Notice to Buyer on or before the date that is thirty (30) days prior to an applicable Showing Deadline and no more often than once per Showing Month.

"**Expected Commercial Operation Date**" has the meaning set forth on the Cover Sheet.

"**Expected Construction Start Date**" has the meaning set forth on the Cover Sheet.

"**Expected Energy**" means the quantity of Facility Energy (with associated Green Attributes) that Seller expects to be able to deliver to Buyer from the Facility during each Contract Year, which for each Contract Year is the quantity specified on the Cover Sheet; *provided*, (i) such amount shall be increased or decreased by Seller in a Notice to Buyer within sixty (60) days following the delivery by Seller of the final Installed Capacity Certificate in the form attached hereto as Exhibit I, and (ii) the amount of Expected Energy stated in such notice shall equal Buyer's Share of the P50 amount set forth in the most wind resource assessment from a Licensed Professional Engineer (adjusted as necessary to reflect the Hourly Delivery Cap), but in no event shall the adjusted annual Expected Energy amount be more than [redacted] higher or lower than the annual Expected Energy amount as set forth on the Cover Sheet; *provided further*, Seller shall use commercially reasonable efforts to notify Buyer of any change in the anticipated Expected Energy from the quantity specified on the Cover Sheet prior to the Commercial Operation Date.

"**Expected Installed Capacity**" the amount of Seller's anticipated Installed Capacity, which as of the Effective Date equals 2,651.2 MW, and which may be reduced upon Notice to Buyer from time to time.

"**Facility**" means the wind-powered electricity generating facility described on the Cover Sheet and in Exhibit A, installed at the Site pursuant to the terms of the EPC Contracts, and including mechanical equipment and associated facilities and equipment required to deliver Facility Energy to the Delivery Point; *provided*, the "Facility" does not include any Shared Facilities.

"**Facility Energy**" means, in any Settlement Interval or Settlement Period, as applicable, the amount of Energy generated by the Facility and delivered to Buyer at the Delivery Point in accordance with Seller's obligations under this Agreement, which such amount shall equal: (i) (a) Buyer's Share of the Energy produced by the Facility and delivered to the Point of Interconnection, as measured in MWh by the Facility Meter, as such amount may be reduced as a result of a Curtailment Order, net of all Electrical Losses (without duplication of losses programmed into the Facility Meter, if any) and Station Use, or (b) if the Facility output is reduced, at Seller's direction (and not, for example, as a result of a Forced Facility Outage) in any Settlement Interval or Settlement Period, as applicable, that is not during a Curtailment Period or Market Curtailment Period, then Facility Energy for such Settlement Interval or Settlement Period, as applicable, will instead be equal to Buyer's Share of the Energy that the Facility would have been able to produce and deliver to the Point of Interconnection, if the Facility output was not so reduced, or (c) if the Facility output is reduced, at Seller's direction in any Settlement Interval or Settlement Period, as applicable, during a Market Curtailment Period, then Facility Energy for such Settlement Interval or Settlement Period, as applicable, will instead be equal to the Market Curtailment Max Energy,

minus any of such Market Curtailment Max Energy that is actually curtailed in connection with such Market Curtailment Period, which amount of curtailed Energy shall be calculated by Seller in a manner consistent with Prudent Industry Practices and, upon request from Buyer, demonstrated to Buyer's reasonable satisfaction; and, in each case of (a), (b) and (c), subject to the Hourly Delivery Cap *multiplied by* the duration of the Settlement Interval or Settlement Period, as applicable, (as measured in hours); *plus* (ii) all Replacement Energy delivered as part of prospectively delivered Replacement Product pursuant to Section 4.7(b).

"**Facility Meter**" means one or more CAISO-approved revenue quality meters located inside the Facility's Point of Interconnection switching station, together with a CAISO-approved data processing gateway or remote intelligence gateway, telemetering equipment and data acquisition services sufficient for monitoring, recording and reporting, in real time, all Energy produced by the Facility net of Electrical Losses and Station Use.

"**FERC**" means the Federal Energy Regulatory Commission or any successor government agency.

"**Fifteen Minute Market**" or "**FMM**" has the meaning set forth in the CAISO Tariff.

"**Financial Close**" means Seller and/or one or more of its Affiliates has obtained debt and/or equity financing commitments from one or more Lenders sufficient to construct the Facility, including such financing commitments from Seller's owner(s).

"**First A&R Agreement**" has the meaning set forth in the Recitals hereto.

"**Fitch**" means Fitch Ratings, Inc., or its successor.

"**Floor Price**" means (a) for the period during which Seller is eligible to obtain PTCs and for that portion of the Facility Energy or Deemed Delivered Energy, as the case may be, to which PTC eligibility applies, the amount, on a dollar per MWh basis, equal to the Negative PTC Amount, or (b) for all other periods and portions of Facility Energy or Deemed Delivered Energy, zero dollars per MWh ($0/MWh), subject to clause (b)(ii) of Exhibit D. The Floor Price will be a single value. Subject to clause (b)(ii) of Exhibit D, the Floor Price shall be calculated as the average of the amounts determined pursuant to clauses (a) and (b) of this definition of "Floor Price", such average to be weighted based on the percentages of the Installed Capacity to which such amounts apply.

"**Force Majeure Event**" has the meaning set forth in Section 10.1.

"**Forced Facility Outage**" means (i) an unexpected failure of one or more components of the Facility (including subsequent outages to remediate such unexpected failure), or (ii) the unexpected removal from service of one or more components of the Facility, which removal from service is required to prevent or limit imminent harm to or loss of life or property, or prevent imminent loss of or damage to the Facility or the Transmission System, in each case that prevents Seller from generating Energy and/or making Energy from the Facility available at the Delivery Point, and that is not the result of a Force Majeure Event.

"**Forecasted Product**" has the meaning set forth in Section 4.3(b).

"**Future Environmental Attributes**" means any and all Green Attributes that become recognized under applicable Law after the Original Effective Date (and not before the Original Effective Date), notwithstanding the last sentence of the definition of "Green Attributes" herein. Future Environmental Attributes do not include Tax Credits associated with the construction or operation of the Facility, or other financial incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation.

"**Gains**" means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining the economic benefit to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., SP-15), all of which should be calculated for the remaining Contract Term, and includes the value of Green Attributes and Capacity Attributes.

"**Governmental Authority**" means any federal, state, provincial, local or municipal government, any political subdivision thereof or any other governmental, congressional or parliamentary, regulatory, or judicial instrumentality, authority, body, agency, department, bureau, or entity with authority to bind a Party at law, including CAISO, WREGIS, and the CPUC; *provided*, "Governmental Authority" shall not in any event include any Party.

"**Green Attributes**" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled (including under the RPS regulations and/or under any and all other international, federal, regional, state or other law, rule, regulation, bylaw, treaty or other intergovernmental compact, decision, administrative decision, program (including any voluntary compliance or membership program), competitive market or business method (including all credits, certificates, benefits, and emission measurements, reductions, offsets and allowances related thereto)), attributable to the generation from the Facility and its displacement of conventional energy generation. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (3) the reporting rights to such avoided emissions, such as Green Tag Reporting Rights. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Facility, (ii) Tax Credits associated with the construction or operation of

the Facility and other financial incentives in the form of credits, reductions, or allowances associated therewith, or (iii) emission reduction credits encumbered or used by the Facility for compliance with local, state, or federal operating and/or air quality permits. Green Attributes under the preceding definition are limited to Green Attributes that exist under applicable Law as of the Original Effective Date.

"**Green Tag Reporting Rights**" means the right of a purchaser of renewable energy to report ownership of accumulated Green Tags in compliance with and to the extent permitted by applicable Law and include, without limitation, rights under Section 1605(b) of the Energy Policy Act of 1992, and any present or future federal, state or local certification program or emissions trading program, including pursuant to the WREGIS Operating Rules.

"**Green Tags**" means a unit accumulated on a MWh basis where one (1) represents the Green Attributes associated with one (1) MWh of Facility Energy.

"**Green-e Certified**" means the Green Attributes provided to Buyer pursuant to this Agreement are certified under the Green-e Energy National Standard.

"**Green-e Energy National Standard**" means the Green-e Renewable Energy Standard for Canada and the United States (formerly Green-e Energy National Standard) version 4.2, updated April 27, 2023, as may be further amended from time to time.

"**Guaranteed Capacity**" means the portion of the generating capacity of the Facility, as measured in MW, that Seller commits to install pursuant to this Agreement, as set forth on the Cover Sheet.

"**Guaranteed Commercial Operation Date**" has the meaning set forth on the Cover Sheet, subject to extension pursuant to Exhibit B.

"**Guaranteed Construction Start Date**" has the meaning set forth on the Cover Sheet, subject to extension pursuant to Exhibit B.

"**Guaranteed Energy Production**" has the meaning set forth in Section 4.7(a).

"**Guaranteed Installed Capacity**" means, as of any date, the total installed generating nameplate capacity of the Facility, as measured in MW, with respect to which Seller has commenced and is obligated to continue deliveries of Energy (not including test energy) and associated Green Attributes and/or resource adequacy benefits produced by or associated with such generating nameplate capacity to purchasers under power purchase agreements or similar long-term offtake agreements with third parties; *provided* that (a) in determining whether each of CAISO Commercial Operation and Commercial Operation has occurred and (b) on and after the Commercial Operation Date, the Guaranteed Installed Capacity shall include the Guaranteed Capacity.

"**Guaranteed RA Amount**" means a guaranteed amount of Resource Adequacy Benefits for a given Showing Month, equal to the difference between (i) the maximum amount of Resource

Adequacy Benefits (in MW) that could be provided by the Facility under then-current Law, and (ii) Excused Capacity Reductions.

For the purposes of the definition of "Guaranteed RA Amount", the amount described in clause (i) above shall not be deemed reduced based on the calculation or determination, by the CAISO or the CPUC, of the Resource Adequacy Benefits (in MW) available from the Facility resulting from any performance of the Facility or any actions or inactions of Seller impacting the performance of the Facility, including due to Planned Outages, Major Planned Outages or Forced Facility Outages, as reasonably demonstrated by documentation prepared by the CAISO or the CPUC (but not including any cause external to the Facility, for example, a lack of wind resource, any outage of the Transmission System, or a Curtailment Order not caused by Seller), regardless of whether such outages result in Excused Capacity Reductions).

Subject to the foregoing, as of the Effective Date, the Parties agree that the Guaranteed RA Amount shall be the quotient of (a) the sum of the following: for each hour of the twenty-four hour array applicable to such Showing Month, the product of (w) the PMAX (as defined in the CAISO Tariff) of the Facility *minus* the capacity of the Facility (in MW) that is not available for purposes of compliance with the Resource Adequacy Requirements as a result of Excused Capacity Reductions, *multiplied by* (y) Buyer's Share, *multiplied by* (z) [redacted], on the CPUC website at https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/resource-adequacy-compliance-materials/guides-and-resources/rashowingtemplate_rev35.xlsm (as such may be updated or replaced by the CPUC from time to time), [redacted] An illustrative-only example of the calculation of the Guaranteed RA Amount as of the Effective Date is set forth in Exhibit O.

"**Guarantor**" means any Person that (a) is an Affiliate of Seller, or other third party reasonably acceptable to Buyer, (b) has a Credit Rating of BBB- or better from S&P or a Credit Rating of Baa3 or better from Moody's, (c) is incorporated or organized in a jurisdiction of the United States and is in good standing in such jurisdiction, and (d) executes and delivers a Guaranty for the benefit of Buyer.

"**Guaranty**" means a guaranty from a Guarantor provided for the benefit of Buyer substantially in the form attached as Exhibit M, or as reasonably acceptable to Buyer.

"**Hourly Delivery Cap**" means the maximum delivery rate of Energy and associated Renewable Energy Credits and Green Tags delivered to the Delivery Point and sold to Buyer in any given hour under this Agreement, which amount shall be equal to Buyer's Share *multiplied by* 1,495 MW.

"**Imbalance Energy**" means the amount of Energy in MWh, in any given Settlement Period or Settlement Interval, by which the amount of Facility Energy deviates from the amount of Scheduled Energy.

"**Import Capability**" means that portion of the Maximum Import Capability allocated by

the CAISO that is necessary to support the importation of Resource Adequacy Benefits from the Facility into the CAISO market in an amount equal to the Guaranteed RA Amount.

"**Indemnified Party**" has the meaning set forth in Section 16.1.

"**Indemnifying Party**" has the meaning set forth in Section 16.1.

"**Initial Synchronization**" means the commencement of Trial Operations (as defined in the CAISO Tariff).

"**Installed Capacity**" means the nameplate capacity of the Facility at the Point of Interconnection, as evidenced by a certificate from a Licensed Professional Engineer substantially in the form attached as Exhibit I hereto, as it may be updated from time to time by delivery of a subsequent certificate from a Licensed Professional Engineer substantially in the form attached as Exhibit I hereto solely as permitted pursuant to Section 2(a) of Exhibit B.

"**Inter-SC Trade**" has the meaning set forth in the CAISO Tariff.

"**Interconnection Agreement**" means the interconnection agreement entered into by Seller or an Affiliate pursuant to which the Facility will be interconnected with the PTO's Transmission System, and pursuant to which Seller's Interconnection Facilities and any other Interconnection Facilities will be constructed, operated and maintained during the Contract Term.

"**Interconnection Facilities**" means the interconnection facilities, control and protective devices and metering facilities required to connect the Facility with the PTO's Transmission System in accordance with the Interconnection Agreement.

"**Interest Rate**" has the meaning set forth in Section 8.2.

"**Intertie**" has the meaning set forth in the CAISO Tariff.

"**IP Indemnity Claim**" has the meaning set forth in Section 16.1(b).

"**ITC**" means the investment tax credit established pursuant to Section 48 of the United States Internal Revenue Code of 1986.

"**Joint Powers Act**" means the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.).

"**Joint Powers Agreement**" means that certain Joint Powers Agreement dated June 27, 2017, as amended from time to time, under which Buyer is organized as a Joint Powers Authority in accordance with the Joint Powers Act.

"**kW**" means kilowatts in alternating current, unless expressly stated in terms of direct current.

"**kWh**" means a kilowatt-hour measured in alternating current, unless expressly stated in

terms of direct current.

"**Law**" means any applicable law, statute, rule, regulation, decision, writ, order, decree or judgment, permit or any interpretation thereof, promulgated or issued by a Governmental Authority.

"**Lender**" means, collectively, any Person (a) providing senior or subordinated construction, interim, back leverage or long-term debt, equity or tax equity financing or refinancing for or in connection with the development, construction, purchase, installation or operation of the Facility, whether that financing or refinancing takes the form of private debt (including back-leverage debt), equity (including tax equity), public debt or any other form (including financing or refinancing provided to a member or other direct or indirect owner of Seller), including any equity or tax equity investor directly or indirectly providing financing or refinancing for the Facility or purchasing equity ownership interests of Seller and/or its Affiliates, and any trustee or agent or similar representative acting on their behalf, (b) providing interest rate or commodity protection under an agreement hedging or otherwise mitigating the cost of any of the foregoing obligations and/or (c) participating in a lease financing (including a sale leaseback or leveraged leasing structure) with respect to the Facility.

"**Letter(s) of Credit**" means one or more irrevocable, standby letters of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a Credit Rating of at least A- with an outlook designation of "stable" from S&P or A3 with an outlook designation of "stable" from Moody's, or from an issuer otherwise acceptable to Buyer in its sole discretion, in a form substantially similar to the letter of credit set forth in Exhibit K, or as reasonably acceptable to Buyer.

"**Licensed Professional Engineer**" means either (i) [redacted]., (ii) [redacted] (iii) the independent engineer retained by the Lenders, or on their behalf under customary terms and conditions, in connection with a financing of the Facility, which engineer, or employee or principal thereof (a) is licensed to practice engineering in New Mexico, (b) has training and experience in the power industry specific to the technology of the Facility, (c) is not a representative of a consultant, engineer, contractor, designer or other individual involved in the development of the Facility or of a manufacturer or supplier of any equipment installed at the Facility other than as the independent engineer for the Lenders, and (d) is licensed in an appropriate engineering discipline for the required certification being made, or (iv) a person acceptable to Buyer in its reasonable judgment.

"**Locational Marginal Price**" or "**LMP**" has the meaning set forth in the CAISO Tariff.

"**Losses**" means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining economic loss to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable

transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., SP-15), all of which should be calculated for the remaining Contract Term and must include the value of Green Attributes, Capacity Attributes, and Renewable Energy Incentives.

"**Lost Output**" has the meaning set forth in Section 4.7(a).

"**Major Equipment Failure**" means a failure of (i) one of the Facility's [redacted] (the procurement of which involves a similarly long lead time), or (ii) no less than [redacted] of the Facility's [redacted] or (iii) no less than [redacted] of the Facility's [redacted]

"**Major Planned Outage**" means a Planned Outage which results in a reduction of more than [redacted] to the amount of Resource Adequacy Benefits provided to Buyer from the Facility in any Showing Month.

"**Market Curtailment Max Energy**" means Buyer's Share of the total Energy the Facility would have been able to deliver to the Point of Interconnection during a Market Curtailment Period, subject to the Hourly Delivery Cap, if the output of the Facility was not reduced at Seller's direction, which amount shall be equal to the Real-Time Forecast (of the hourly expected Facility Energy) provided pursuant to Section 4.3(d) for the period of time during such Market Curtailment Period.

"**Market Curtailment Period**" means the period of time during a Settlement Interval or Settlement Period, as applicable, in which the LMP in the Day-Ahead Market and the Real-Time Market at the Delivery Point are less than the Floor Price; *provided*, if applicable, the Market Curtailment Period shall be inclusive of the time required for the Facility to ramp down to implement such curtailment (if any) and ramp up following such curtailment (if any) in accordance with the Operating Restrictions.

"**Material Permits**" means all permits required for Seller to commence construction that have not been obtained as of the Effective Date, as set forth on Exhibit S.

"**Maximum Import Capability**" has the meaning set forth in the CAISO Tariff, and includes any replacement or successor method implemented by the CAISO with respect to the ability of generating units that are external to the CAISO Balancing Authority Area to provide Resource Adequacy Benefits.

"**Milestones**" means the significant development activities and dates associated therewith set forth on the Cover Sheet.

"**Monthly Forecast**" has the meaning set forth in Section 4.3(b).

"**Moody's**" means Moody's Investors Service, Inc., or its successor.

"**MW**" means megawatts in alternating current, unless expressly stated in terms of direct current.

"**MWh**" means megawatt-hour measured in alternating current, unless expressly stated in terms of direct current.

"**Negative LMP**" means, in any Settlement Period or Settlement Interval, the LMP at the Delivery Point in the applicable CAISO market that is less than zero dollars per MWh ($0/MWh).

"**Negative PTC Amount**" means the amount, on a dollar per MWh basis, equal to the PTC Amount that Seller is eligible to earn in respect of Energy from the Facility at the time of calculation, *multiplied by* negative one (-1).

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

"**Net Qualifying Capacity**" has the meaning set forth in the CAISO Tariff.

"**Network Upgrades**" has the meaning set forth in the CAISO Tariff.

"**Non-Defaulting Party**" has the meaning set forth in Section 11.2.

"**Non-Summer Month**" means any month that is not a Summer Month, commencing as of the month in which the RA Guarantee Date occurs and throughout the Delivery Term.

"**North Affiliate**" has the meaning set forth in the Recitals.

"**Notice**" shall, unless otherwise specified in the Agreement, mean written communications by a Party to be delivered by hand delivery, United States mail, overnight courier service, or electronic messaging (e-mail).

"**Operating Restrictions**" means the operational characteristics of the Facility set forth in Exhibit U.

"**Original Effective Date**" has the meaning set forth in the Recitals hereto.

"**Original Agreement**" has the meaning set forth in the Recitals hereto.

"**Other Outages**" has the meaning set forth in Section 6.3.

"**Pacific Prevailing Time**" means the prevailing standard time or daylight savings time, as applicable, in the Pacific time zone.

"**Participating Transmission Owner**" or "**PTO**" means an entity that owns, operates and maintains the Transmission System or distribution lines and associated facilities and/or has entitlements to use certain transmission or distribution lines and associated facilities where the Facility is interconnected, as set forth in Exhibit A.

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

"**Performance Measurement Period**" means the prior 24-month period measured from the end of each Contract Year commencing in the second Contract Year.

"**Performance Security**" means (i) cash, (ii) one or more Letters of Credit, and/or (iii) a Guaranty, in aggregate in the amount specified for the Performance Security on the Cover Sheet.

"**Permitted Transferee**" means (i) any Affiliate of Seller or (ii) any entity that satisfies, or is controlled by another Person that satisfies, the following requirements:

(a) A tangible net worth plus Unfunded Capital Commitments of not less than [redacted] or a Credit Rating of at least BBB- from S&P, BBB- from Fitch, or Baa3 from Moody's; and

(b) At least two (2) years of experience in the ownership and operations of utility-scale wind-powered electricity generation facilities, or has retained a third-party with such experience to operate the Facility.

"**Person**" means any individual, sole proprietorship, corporation, limited liability company, limited or general partnership, joint venture, association, joint-stock company, trust, incorporated organization, institution, public benefit corporation, unincorporated organization, government entity or other entity.

"**Planned Outage**" means a period during which the Facility is either in whole or in part not capable of providing service due to planned maintenance that has been scheduled in advance in accordance with Sections 4.6(a) and 4.6(c).

"**Point of Interconnection**" has the meaning set forth in Exhibit A.

"**Portfolio Content Category**" means PCC1, PCC2 or PCC3, as applicable.

"**Portfolio Content Category 1**" or "**PCC1**" means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(1), as may be amended from time to time or as further defined or supplemented by Law.

"**Portfolio Content Category 2**" or "**PCC2**" means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(2), as may be amended from time to time or as further defined or supplemented by Law.

"**Portfolio Content Category 3**" or "**PCC3**" means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(3), as may be amended from time to time or as further defined or supplemented by Law.

"**Portfolio Financing**" means any debt incurred by an Affiliate of Seller that is secured only by a portfolio.

"**Portfolio Financing Entity**" means any Affiliate of Seller that incurs debt in connection with any Portfolio Financing.

"**Prevailing Wage**" has the meaning set forth in Section 13.4.

"**Product**" has the meaning set forth on the Cover Sheet.

"**Production Tax Credits**" or "**PTCs**" means production tax credit under Section 45 of the Internal Revenue Code as in effect from time-to-time throughout the Contract Term or any successor or other provision providing for a federal tax credit determined by reference to production of renewable energy for which Seller, as the owner of the Facility, is eligible.

"**Progress Report**" means a progress report including the items set forth in Exhibit E.

"**Prudent Operating Practice**" means (a) the applicable practices, methods and acts required by or consistent with applicable Laws and reliability criteria, and otherwise engaged in or approved by a significant portion of the electric industry during the relevant time period with respect to grid-interconnected, utility-scale wind-powered electricity generating facilities in the Western United States, and (b) any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Prudent Operating Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to acceptable practices, methods or acts generally accepted in the industry with respect to grid-interconnected, utility-scale wind-powered electricity generating facilities in the Western United States. Prudent Operating Practice shall include compliance with applicable Laws, applicable safety and reliability criteria, and the applicable criteria, rules and standards promulgated in the National Electric Safety Code and the National Electrical Code, as they may be amended or superseded from time to time, including the criteria, rules and standards of any successor organizations.

"**PTC Amount**" means the amount, on a dollar per MWh basis, equal to the Production Tax Credits that Seller would have earned in respect of Energy from the Facility at the time, grossed up on an after-tax basis at the then-highest marginal combined federal and New Mexico state corporate tax rate [redacted] in the aggregate), but failed to earn as a result of Market Curtailment Period, which amount will be calculated by reference to the amount of Deemed Delivered Energy and the number of the Facility's wind turbines that are eligible to receive Production Tax Credits at the time of determination.

"**Qualified Forced Facility Outage**" means a Forced Facility Outage with respect to which a Licensed Professional Engineer has certified: (i) that the conditions for a Forced Facility Outage have been met (*provided*, in the event of a removal from service of a component of the Facility as set forth in clause (ii) of the definition of "Forced Facility Outage", such removal from service must occur no later than [redacted] following the discovery by Seller of the

need for such removal), (ii) that such Forced Facility Outage was not caused by Seller's fault or negligence, including Seller's failure to follow Prudent Operating Practices, and (iii) the estimated duration of such Forced Facility Outage.

"**Qualified Forced Facility Outage Limit**" [redacted]

"**RA Compliance Showing**" means the RAR compliance or advisory showings (or similar or successor showings) an entity is required to make to the CAISO pursuant to the CAISO Tariff, to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the Resource Adequacy Rulings, or to any Governmental Authority.

"**RA Compliance Template**" means, as of the Effective Date, the tab titled "LSE Showing Complete" on the CPUC website at https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/resource-adequacy-homepage/resource-adequacy-compliance-materials/guides-and-resources/rashowingtemplate_rev35.xlsm, as such document may be updated or replaced by the CPUC from time to time.

"**RA Deficiency Amount**" means the liquidated damages payment that Seller shall pay to Buyer for an applicable RA Shortfall Amount as calculated in accordance with Section 3.8(b).

"**RA Deficiency Cap**" shall mean, for each Showing Month, the corresponding dollar amount set forth below:

RA Deficiency Cap	
Showing Month	**$/kW-month**
Jan	[redacted]
Feb	[redacted]
Mar	[redacted]
Apr	[redacted]
May	[redacted]
Jun	[redacted]
Jul	[redacted]
Aug	[redacted]
Sep	[redacted]
Oct	[redacted]
Nov	[redacted]
Dec	[redacted]

"**RA Guarantee Date**" means the Commercial Operation Date; *provided*, if the Facility is not delivering Resource Adequacy Benefits to Buyer for the Showing Month in which the Commercial Operation Date occurs, the RA Guarantee Date shall be the earlier of (i) the first day of the Showing Month in which the Facility is delivering Resource Adequacy Benefits to Buyer, and (ii) the first day of the Showing Month following the date that is [redacted] after the Commercial Operation Date.

"**RA Plan**" means each of (a) Buyer's monthly or annual "Resource Adequacy Plan" (as defined in the CAISO Tariff) filed with the CAISO, and (b) Buyer's monthly or annual resource adequacy plans filed with the CPUC.

"**RA Shortfall Amount**" has the meaning set forth in Section 3.8(b).

"**RA Shortfall Month**" means, for purposes of calculating an RA Deficiency Amount under Section 3.8(b), any Showing Month during which the RA Shortfall Amount is greater than zero (0) kW.

"**RA Substitute Capacity**" has the meaning set forth in the CAISO Tariff. As of the Effective Date, the Parties agree that the amount of RA Substitute Capacity delivered by Seller for a given Showing Month shall be determined by calculating the quotient of (i) the sum of the following: for each hour of the twenty-four hour array applicable to such Showing Month, the amount of RA Substitute Capacity (in MW) that Seller provided in accordance with the CAISO Tariff, *divided by* (ii) twenty four (24).

"**Real-Time Forecast**" has the meaning set forth in Section 4.3(d).

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

"**Real-Time Price**" means the Resource-Specific Settlement Interval LMP as defined in the CAISO Tariff. If there is more than one applicable Real-Time Price for the same period of time, Real-Time Price shall mean the price associated with the smallest time interval.

"**REC Price**" means the prevailing market price (expressed in $/MWh) for RECs meeting the RPS requirements for Portfolio Content Category 1, determined by averaging quotes provided by Buyer from three (3) unaffiliated brokers.

"**Receiving Party**" has the meaning set forth in Section 18.2.

"**Recurring Certificate Transfers**" has the meaning set forth in the WREGIS Operating Rules.

"**Remedial Action Plan**" has the meaning set forth in Section 2.4.

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

"**Renewable Energy Incentives**" means: (a) all federal, state, or local Tax credits or other Tax benefits associated with the construction, ownership, or production of electricity from the Facility (including credits under Sections 38, 45, 46 and 48 of the Internal Revenue Code of 1986, as amended); (b) any federal, state, or local grants, subsidies or other like benefits relating in any way to the Facility, including a cash grant available under Section 1603 of Division B of the American Recovery and Reinvestment Act of 2009, in lieu of federal Tax credits or any similar or substitute payment available under subsequently enacted federal legislation; and (c) any other form of incentive relating in any way to the Facility that is not a Green Attribute, Future Environmental Attribute, or Capacity Attribute.

"**Renewable Rate**" has the meaning set forth on the Cover Sheet.

"**Replacement Energy**" has the meaning set forth in Exhibit G.

"**Replacement Green Attributes**" has the meaning set forth in Exhibit G.

"**Replacement Product**" has the meaning set forth in Exhibit G.

"**Replacement RA**" means resource adequacy benefits from the Facility or from one or more resources (individually or in the aggregate), in each case that are reasonably comparable to the Resource Adequacy Benefits (including, if applicable under then-current Law, having MW values for each hour of the twenty-four (24) hour Slice-of-Day framework that are the same as or greater than those then applicable to the Facility) delivered to the Delivery Point or to another point within the CAISO grid and provided by Seller to Buyer in accordance with Section 3.7(e); *provided*, notwithstanding anything else herein, unless and until there is a change, after the Effective Date, to the manner of determining the resource adequacy benefits available from any wind facility located in New Mexico causing such resource adequacy benefits to be no longer comparable to the Resource Adequacy Benefits available from the Facility (including due to the performance of any particular wind facility), any resource adequacy benefits from any such wind facility which Seller provides to Buyer in accordance with Section 3.7(e) shall be deemed to satisfy the requirements of this definition of "Replacement RA". As of the Effective Date, the Parties agree that the amount of Replacement RA delivered by Seller for a given Showing Month shall be determined by calculating the quotient of (i) the sum of the following: for each hour of the twenty-four hour array applicable to such Showing Month, the resource adequacy benefits (in MW) that Buyer would receive, as set forth in the relevant RA Compliance Template, assuming that Buyer's RA Plan in respect of the Replacement RA matches the Supply Plan submitted by Seller in respect of the Replacement RA, *divided by* (ii) twenty four (24).

"**Requested Confidential Information**" has the meaning set forth in Section 18.2.

"**Resource Adequacy Benefits**" means the rights and privileges attached to Buyer's Share of the Capacity Attributes available from the Facility that satisfy any entity's resource adequacy obligations, as those obligations are set forth in any Resource Adequacy Rulings and shall include flexible capacity and any local, zonal or otherwise locational attributes associated with the Facility, if any.

"**Resource Adequacy Requirements**" or "**RAR**" means the resource adequacy requirements applicable to an entity as established by the CAISO pursuant to the CAISO Tariff, by the CPUC pursuant to the Resource Adequacy Rulings, or by any other Governmental Authority.

"**Resource Adequacy Rulings**" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-06-063, 16-06-045, 17-06-027, 18-06-030, 18-06-031, 19-02-022, 19-06-026, 19-10-021, 20-01-004, 20-03-016, 20-06-002, 20-06-028, 20-06-031, 20-12-006, 21-06-029, 21-07-014, 22-03-034, 22-06-050, 22-12-028, 22-08-039, 23-04-010, 24-06-004, and any other existing or subsequent ruling or decision, or any other resource adequacy laws, rules or regulations enacted, adopted or promulgated by any applicable Governmental Authority, however described, as such decisions, rulings, Laws, rules or regulations may be amended or modified from time-to-time throughout the Contract Term.

"**S&P**" means the Standard & Poor's Financial Services, LLC (a subsidiary of S&P Global Inc.) or its successor.

"**Schedule**" has the meaning set forth in the CAISO Tariff, and "**Scheduled**" and "**Scheduling**" have a corollary meaning.

"**Scheduled Energy**" means the Facility Energy scheduled by Seller that clears under the applicable CAISO market based on the final Day-Ahead Schedule, FMM Schedule (as defined in the CAISO Tariff), and/or any other financially binding Schedule, market instruction or dispatch for the Facility for a given period of time implemented in accordance with the CAISO Tariff.

"**Scheduling Coordinator**" or "**SC**" means an entity certified by the CAISO as qualifying as a Scheduling Coordinator pursuant to the CAISO Tariff for the purposes of undertaking the functions specified in "Responsibilities of a Scheduling Coordinator," of the CAISO Tariff, as amended from time to time.

"**Scheduling Point**" has the meaning set forth in the CAISO Tariff.

"**Second A&R Agreement**" has the meaning set forth in the Recitals hereto.

"**Security Interest**" has the meaning set forth in Section 8.9.

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

"**Seller**" has the meaning set forth on the Cover Sheet.

"**Seller's WREGIS Account**" has the meaning set forth in Section 4.8(a).

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

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

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

"**Settlement Period**" has the meaning set forth in the CAISO Tariff.

"**Shared Facilities**" means the gen-tie lines, transformers, substations, or other equipment, permits, contract rights, and other assets and property (real or personal), in each case, as necessary to enable delivery of Energy from the Facility (which is excluded from Shared Facilities) to the Point of Interconnection, including the Interconnection Agreement itself, that are used in common with third parties.

"**Shared Facilities Agreements**" has the meaning set forth in Section 6.3.

"**Showing Deadline**" means, for any Showing Month, the deadline for submitting a Supply Plan or RA Plan, as applicable, applicable to that Showing Month, as established by the CAISO.

"**Showing Month**" shall be the calendar month of the Delivery Term, commencing with the Showing Month that contains the RA Guarantee Date, that is the subject of the RA Compliance Showing, as set forth in the Resource Adequacy Rulings and outlined in the CAISO Tariff. For illustrative purposes only, pursuant to the CAISO Tariff and Resource Adequacy Rulings in effect as of the Original Effective Date, the monthly RA Compliance Showing made in June is for the Showing Month of August.

"**Site**" means the real property on which the Facility is or will be located, as further described in Exhibit A, and as shall be updated by Seller at the time Seller provides an executed Construction Start Date certificate in the form of Exhibit J to Buyer; *provided*, any such update to the Site that includes real property that was not originally contained within the Site boundaries described in Exhibit A shall be subject to Buyer's approval of such updates in its sole discretion.

"**Site Control**" means that Seller: (a) owns or has the option to purchase the Site; (b) is the lessee or has the option to lease the Site; or (c) is the holder of an easement or an option for an easement, right-of-way grant, or similar instrument with respect to the Site.

"**Slice-of-Day**" has the meaning set forth in the Resource Adequacy Rulings.

"**SOD Coefficient**" means the amount, for each Showing Month, set forth in the table below:

Month	SOD Coefficient
Jan	[redacted]
Feb	[redacted]
Mar	[redacted]
Apr	[redacted]

May		[redacted]	
Jun		[redacted]	
Jul		[redacted]	
Aug		[redacted]	
Sep		[redacted]	
Oct		[redacted]	
Nov		[redacted]	
Dec		[redacted]	

"**SPTO**" has the meaning set forth in the Recitals hereto.

"**SP-15**" means the Existing Zone Generation Trading Hub for Existing Zone region SP15 as set forth in the CAISO Tariff.

"**Station Use**" means the Energy (including Energy produced by the Facility) that is used within the Facility to power the lights, motors, temperature control systems, control systems and other electrical loads that are necessary for operation of the Facility, and/or that is consumed within the Facility's electric energy distribution system as losses.

"**Summer Month**" means any of June, July, August September and October, commencing as of the month in which the RA Guarantee Date occurs and throughout the Delivery Term.

"**SunZia PowerCo**" has the meaning set forth in the Recitals hereto.

"SunZia Transmission Line" means that certain 3,000-MW high-voltage (+/-525-kV) transmission line originating at the Point of Interconnection in New Mexico and terminating near Phoenix, Arizona. The western terminus of the line will connect to the 500-kV Pinal Central Substation.

"**Supply Chain Code**" has the meaning in Exhibit Q.

"**Supply Plan**" has the meaning set forth in the CAISO Tariff, as applicable to the Guaranteed RA Amount from the Facility.

"**System Emergency**" means any condition that requires, as determined and declared by CAISO or a Transmission Provider, automatic or immediate action to (i) prevent or limit harm to or loss of life or property, (ii) prevent loss of transmission facilities or generation supply in the immediate vicinity of the Facility, or (iii) to preserve Transmission System reliability.

"**Tax**" or "**Taxes**" means all U.S. federal, state and local and any foreign taxes, levies, assessments, surcharges, duties and other fees and charges of any nature imposed by a Governmental Authority, whether currently in effect or adopted during the Contract Term, including ad valorem, excise, franchise, gross receipts, import/export, license, property, sales and use, stamp, transfer, payroll, unemployment, income, and any and all items of withholding, deficiency, penalty, additions, interest or assessment related thereto.

"**Tax Credits**" means the PTC, ITC and any other state, local and/or federal production tax credit, depreciation benefit, tax deduction and/or investment tax credit specific to the production of renewable energy and/or investments in renewable energy facilities.

"**Terminated Transaction**" has the meaning set forth in Section 11.2(a).

"**Termination Payment**" has the meaning set forth in Section 11.3(b).

"**Test Energy**" means (1) the amount of Energy generated by the Facility and delivered to Buyer at the Delivery Point, equal to Buyer's Share of Energy delivered from the Facility to the Point of Interconnection, as measured in MWh by the Facility Meter, subject to the Hourly Delivery Cap, and as such amount may be reduced as a result of a Curtailment Order(a) commencing on the later of (i) the first date that the CAISO informs Seller in writing that Seller may deliver Energy to the CAISO and (ii) the first date that the PTO informs Seller in writing that Seller has conditional or temporary permission to operate in parallel with the PTO's system, and (b) ending upon the occurrence of the Commercial Operation Date, and (2) the associated Green Attributes, including RECs, that meet the RPS requirements for Portfolio Content Category 1.

"**Test Energy Rate**" has the meaning set forth in Section 3.6.

"**Testing Replacement Product**" has the meaning set forth in Section 6.3.

"**Transmission Provider**" means any entity that (i) owns, operates and maintains transmission or distribution lines and associated facilities and/or has entitlements to use certain transmission or distribution lines and associated facilities, and (ii) transmits or transports the Product on behalf of Seller or Buyer to or from the Delivery Point, including the Participating Transmission Owner.

"**Transmission System**" means the transmission facilities operated by the Transmission Providers, now or hereafter in existence, which provide energy transmission service upstream to or downstream from the Delivery Point.

"**Transmission System Outage**" means an outage on a Transmission System, other than a System Emergency, that prevents (i) Buyer from receiving, or (ii) Seller from delivering, Energy at the Delivery Point.

"**Ultimate Parent**" means Pattern Energy Group LP.

"**Unfunded Capital Commitments**" means as of any date of determination, the aggregate amount of all currently-available but undrawn capital obligated to be provided to a Person by investor(s) pursuant to binding, written agreements, not subject to the satisfaction of any conditions precedent to such funding outside the control of such Person.

"**Variable Energy Resource**" or "**VER**" has the meaning set forth in the CAISO Tariff.

"**WREGIS**" means the Western Renewable Energy Generation Information System or any successor renewable energy tracking program.

"**WREGIS Certificate Deficit**" has the meaning set forth in Section 4.8(e).

"**WREGIS Certificates**" has the same meaning as "Certificate" as defined by WREGIS in the WREGIS Operating Rules and are designated as eligible for complying with the California Renewables Portfolio Standard.

"**WREGIS Operating Rules**" means those operating rules and requirements adopted by WREGIS as of October 2022, as subsequently amended, supplemented or replaced (in whole or in part) from time to time.

1.2 **Rules of Interpretation**. In this Agreement, except as expressly stated otherwise or unless the context otherwise requires:

(a) headings and the rendering of text in bold and italics are for convenience and reference purposes only and do not affect the meaning or interpretation of this Agreement;

(b) words importing the singular include the plural and vice versa and the masculine, feminine and neuter genders include all genders;

(c) the words "hereof", "herein", and "hereunder" and words of similar import shall refer to this Agreement as a whole and not to any particular provision of this Agreement;

(d) a reference to an Article, Section, paragraph, clause, Party, or Exhibit is a reference to that Article, Section, paragraph, clause of, or that Party or Exhibit to, this Agreement unless otherwise specified;

(e) a reference to a document or agreement, including this Agreement shall mean such document, agreement or this Agreement including any amendment or supplement to, or replacement, novation or modification of this Agreement, but disregarding any amendment, supplement, replacement, novation or modification made in breach of such document, agreement or this Agreement;

(f) a reference to a Person includes that Person's successors and permitted assigns;

(g) the terms "include" and "including" mean "include or including (as applicable) without limitation" and any list of examples following such term shall in no way restrict or limit the generality of the word or provision in respect of which such examples are provided;

(h) references to any statute, code or statutory provision are to be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or

reenacted, and include references to all bylaws, instruments, orders and regulations for the time being made thereunder or deriving validity therefrom unless the context otherwise requires;

(i) in the event of a conflict, a mathematical formula or other precise description of a concept or a term shall prevail over words providing a more general description of a concept or a term;

(j) references to any amount of money shall mean a reference to the amount in United States Dollars;

(k) the expression "and/or" when used as a conjunction shall connote "any or all of";

(l) words, phrases or expressions not otherwise defined herein that (i) have a generally accepted meaning in Prudent Operating Practice shall have such meaning in this Agreement or (ii) do not have well known and generally accepted meaning in Prudent Operating Practice but that have well known and generally accepted technical or trade meanings, shall have such recognized meanings; and

(m) each Party acknowledges that it was represented by counsel in connection with this Agreement and that it or its counsel reviewed this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

ARTICLE 2
TERM; CONDITIONS PRECEDENT

2.1 **Contract Term**.

(a) Conditions Precedent to Contract Term. This Agreement shall become effective on the Effective Date, and shall remain in full force and effect until the conclusion of the Delivery Term, subject to any early termination provisions set forth herein ("**Contract Term**"); *provided*, subject to Buyer's obligations in Section 3.6, Buyer's obligations to pay for or accept any Product are subject to Seller's completion of the conditions precedent pursuant to Section 2.2.

(b) Continuing Provisions. Applicable provisions of this Agreement shall continue in effect after termination, including early termination, to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to termination. The confidentiality obligations of the Parties under Article 18 shall remain in full force and effect for two (2) years following the termination of this Agreement, and all indemnity and audit rights shall remain in full force and effect for one (1) year following the termination of this Agreement.

2.2 **Conditions Precedent to Delivery Term**. The Delivery Term shall not commence until Seller completes to Buyer's reasonable satisfaction each of the following conditions, which Buyer shall, if submitted by Seller within thirty (30) days of the expected Commercial Operation Date, review and either accept or provide Notice stating in reasonably detail the basis for Buyer's

rejection thereof within five (5) Business Days of receipt thereof. If there is a dispute between Buyer and Seller as to whether Commercial Operation has occurred, then either Party may elect to immediately refer the matter to the dispute resolution procedures set forth in Article 15, and all payments of Commercial Operation Delay Damages from and after the date such dispute is initiated shall be tolled until the dispute is resolved. If the dispute is resolved in favor of Seller, the Commercial Operation Date shall be the date proposed by Seller prior to such dispute and no Commercial Operation Delay Damages shall be owed from Seller from and after such date, and if the dispute is resolved in favor of Buyer, Commercial Operation Delay Damages (if any) shall be due as set forth in Exhibit B.

(a) Seller shall have delivered to Buyer certificates from a Licensed Professional Engineer substantially in the form of Exhibit H and Exhibit I;

(b) A Participating Generator Agreement (as defined in the CAISO Tariff) between Seller and CAISO and a Meter Service Agreement for CAISO Metered Entities (as defined in the CAISO Tariff) between CAISO and Seller (if, with respect to each such agreement, it is required under the CAISO Tariff or for Seller to meet its obligations under this Agreement), shall have been executed and delivered and be in full force and effect and a copy of such agreements delivered to Buyer;

(c) All applicable regulatory authorizations, approvals and permits necessary for the operation of the Facility have been obtained and all conditions thereof that are capable of being satisfied on the Commercial Operation Date have been satisfied and shall be in full force and effect;

(d) Seller has received CEC Precertification of the Facility (and reasonably expects to receive final CEC Certification and Verification for the Facility in no more than one hundred eighty (180) days from the Commercial Operation Date);

(e) Seller has obtained CAISO Certification for the Facility;

(f) Seller (with the reasonable participation of Buyer) shall have completed all applicable WREGIS registration requirements, including the completion and submittal of all applicable registration forms and supporting documentation, which may include applicable interconnection agreements, informational surveys related to the Facility, QRE service agreements, and other appropriate documentation required to effect Facility registration with WREGIS and to enable Renewable Energy Credit transfers related to the Facility within the WREGIS system;

(g) Seller has delivered the Performance Security to Buyer in accordance with Section 8.8

(h) Seller has delivered to Buyer an officer's certificate stating that Seller has not utilized any equipment or resources in connection with the construction, commissioning or testing of the Facility in violation of Section 2.3(b);

(i) Seller has paid Buyer for all amounts due and owing by Seller under this Agreement as of the Commercial Operation Date, if any, including Delay Damages.

2.3 **Development; Construction; Progress Reports**.

(a) Within fifteen (15) days after the close of (i) each calendar quarter from the first calendar quarter following the Original Effective Date until the Construction Start Date, and (ii) each calendar month from the first calendar month following the Construction Start Date until the Commercial Operation Date, Seller shall provide to Buyer a Progress Report and agree to regularly scheduled meetings between representatives of Buyer and Seller to review such reports and discuss Seller's construction progress. The form of the Progress Report is set forth in Exhibit E. Seller shall also provide Buyer with any reasonably requested documentation and additional information (subject to confidentiality restrictions) directly related to the achievement of Milestones within ten (10) Business Days of receipt of such request by Seller. Seller is solely responsible for the design and construction of the Facility, including the location of the Site, the Facility layout, and the selection and procurement of the equipment comprising the Facility.

(b) Seller shall use commercially reasonable efforts to ensure that all materials, products and components that are used in constructing, installing and operating the Facility throughout the Contract Term and provided by Seller and Seller's contractors and suppliers in direct contract with Seller or Seller's Affiliates shall be in compliance with the Supply Chain Code. Seller shall comprehensively implement due diligence procedures for its and its Affiliate's first-tier subcontractors and suppliers, and other subcontractors and suppliers to the extent reasonably practicable. Seller shall notify Buyer as soon as reasonably practicable if it becomes aware of any breach of its obligations under this Section 2.3(b).

(c) Buyer shall have the right, at Buyer's sole expense, to retain an independent auditor to audit Seller's compliance with the requirements of Section 2.3(b).

2.4 **Remedial Action Plan**. If Seller misses a Milestone by more than ninety (90) days with respect to any Milestone prior to the Guaranteed Construction Start Date, and thirty (30) days with respect to the Guaranteed Construction Start Date or any Milestone after the Guaranteed Construction Start Date, in each case except as the result of Force Majeure Event or Buyer Default, in addition to updates provided to Buyer via Progress Reports delivered pursuant to Section 2.3, Seller shall submit to Buyer, within ten (10) Business Days of the end of such ninety (90)- or thirty (30)-day period, as applicable, following the Milestone completion date, a remedial action plan ("**Remedial Action Plan**"), which will describe in detail any delays (actual or anticipated) beyond the scheduled Milestone dates, including the cause of the delay (e.g., governmental approvals, financing, property acquisition, design activities, equipment procurement, project construction, interconnection, or any other factor), Seller's detailed description of its proposed course of action to achieve the missed Milestones and all subsequent Milestones by the Guaranteed Commercial Operation Date, as it may be extended; *provided*, delivery of any Remedial Action Plan shall not relieve Seller of its obligation to provide Remedial Action Plans with respect to any subsequent Milestones and to achieve the Guaranteed Commercial Operation Date in accordance with the terms of this Agreement. Subject to the provisions of Exhibit B, so long as Seller complies with

its obligations under this Section 2.4, Seller shall not be considered in default of its obligations under this Agreement solely as a result of missing any Milestone.

2.5 **[Reserved]**.

2.6 **[Reserved]**

ARTICLE 3
PURCHASE AND SALE

3.1 **Purchase and Sale of Product**. Subject to the terms and conditions of this Agreement, during the Delivery Term, Buyer shall purchase all the Product produced by or associated with the Facility at the Renewable Rate and in accordance with Exhibit C, and Seller shall supply and deliver to Buyer all the Product produced by or associated with the Facility. The sale by Seller and purchase by Buyer of Facility Energy hereunder shall be for resale; *provided*, no such re-sale or use shall relieve Buyer of any obligations hereunder. During the Delivery Term, Buyer shall have exclusive rights to offer, bid, or otherwise submit the Product, and/or any component thereof, from the Facility after the Delivery Point for resale in the market, and retain and receive any and all related revenues.

3.2 **Sale of Green Attributes**. During the Delivery Term, Seller shall sell and deliver to Buyer, and Buyer shall purchase from Seller, all Green Attributes attributable to the Facility Energy. Upon request of Buyer, Seller shall use commercially reasonable efforts to (a) submit, and receive approval from the Center for Resource Solutions (or any successor that administers the Green-e Certification process), for the Green-e tracking attestations and (b) support Buyer's efforts to qualify the Green Attributes transferred by Seller as Green-e Certified.

3.3 **Imbalance Energy**. Buyer and Seller recognize that in any given Settlement Period or Settlement Interval, as applicable, the amount of Facility Energy may deviate from the amounts thereof scheduled with the CAISO. Following the Commercial Operation Date, to the extent there are such deviations, any costs, liabilities or revenues from such imbalances shall be solely for the account of Seller as Scheduling Coordinator hereunder, except as expressly set forth in this Agreement.

3.4 **Ownership of Renewable Energy Incentives**. Seller shall have all right, title and interest in and to all Renewable Energy Incentives. Buyer acknowledges that any Renewable Energy Incentives belong to Seller. If any Renewable Energy Incentives, or values representing the same, are initially credited or paid to Buyer, Buyer shall cause such Renewable Energy Incentives or values relating to same to be assigned or transferred to Seller without delay. Buyer shall reasonably cooperate with Seller, at Seller's sole expense, in Seller's efforts to meet the requirements for any certification, registration, or reporting program relating to Renewable Energy Incentives.

3.5 **Future Environmental Attributes.**

(a) The Parties acknowledge and agree that as of the Original Effective Date, environmental attributes anticipated to be sold under this Agreement are restricted to Green Attributes; however, Future Environmental Attributes may be created by a Governmental Authority through Laws enacted after the Original Effective Date. Subject to the final sentence of this Section 3.5(a) and to Section 3.5(b), in such event, Buyer shall bear all costs associated with the transfer, qualification, verification, registration and ongoing compliance for such Future Environmental Attributes, but there shall be no increase in the Renewable Rate. Upon Seller's receipt of Notice from Buyer of Buyer's intent to claim such Future Environmental Attributes, the Parties shall determine the necessary actions and additional costs associated with such Future Environmental Attributes. Seller shall have no obligation to alter the Facility or the operation of the Facility unless the Parties have agreed on all necessary terms and conditions relating to such alteration or change in operation and Buyer has agreed to reimburse Seller for all costs, losses, and liabilities associated with such alteration or change in operation.

(b) If Buyer elects to receive Future Environmental Attributes pursuant to Section 3.5(a), the Parties agree to negotiate in good faith with respect to the development of further agreements and documentation necessary to effectuate the transfer of such Future Environmental Attributes, including agreement with respect to (i) appropriate transfer, delivery and risk of loss mechanisms, and (ii) appropriate allocation of any additional costs to Buyer, as set forth above; *provided*, the Parties acknowledge and agree that such terms are not intended to alter the other material terms of this Agreement.

3.6 **Test Energy**. No less than fourteen (14) days prior to the first day on which Test Energy is expected to be available from the Facility, Seller shall notify Buyer of the availability of the Test Energy. Seller shall sell, and Buyer shall purchase from Seller, all Test Energy on an as-available basis. As compensation for such Test Energy and associated Product, Buyer shall pay Seller an amount equal to (a) seventy-five percent (75%) of the Renewable Rate until the amount of Test Energy delivered to Buyer is equal to one Contract Year of Expected Energy, and (b) zero dollars ($0) per MWh thereafter (if applicable) (the "**Test Energy Rate**"). The conditions precedent in Section 2.2 are not applicable to the Parties' obligations under this Section 3.6.

3.7 **Capacity Attributes**.

(a) Throughout the Delivery Term and subject to Section 3.12, Seller grants, pledges, assigns and otherwise commits to Buyer all the Capacity Attributes from the Facility.

(b) Throughout the Delivery Term and subject to Section 3.7(d) and Section 3.12, Seller shall perform all commercially reasonable actions necessary to ensure that the Facility qualifies to provide all Resource Adequacy Benefits to Buyer at the Delivery Point. Throughout the Delivery Term, and subject to Section 3.7(d) and Section 3.12, Seller hereby covenants and agrees to transfer all Resource Adequacy Benefits to Buyer.

(c) For the duration of the Delivery Term, and subject to Section 3.12, Seller shall take all commercially reasonable actions, including complying with all applicable registration and reporting requirements, and execute all documents or instruments that are reasonable and necessary to enable Buyer to use all of the Capacity Attributes committed by Seller to Buyer

pursuant to this Agreement, including submitting Supply Plans in accordance with CAISO and CPUC requirements and the requirements of this Agreement. At least [redacted] prior to the CAISO submission deadline for each annual RA Plan, and at least [redacted] prior to the Showing Deadline for each monthly RA Plan [redacted] Seller shall provide a non-binding Notice to Buyer presenting the Resource Adequacy Benefits that Seller expects to include in such Supply Plan for the next calendar year or Showing Month, including any Replacement RA Seller commits to provide pursuant to Section 3.7(e), if applicable; *provided*, if Seller becomes aware of any change to the Resource Adequacy Benefits that Seller is able to include in any monthly Supply Plan after delivering any such Notice, Seller shall provide a Notice to Buyer of any such change as soon as reasonably practicable, [redacted]

(d) Buyer acknowledges that during some or all of the Delivery Term, it will be required to take certain actions and obtain certain rights at the Delivery Point in order to make use of the Capacity Attributes associated with the Product, including: (a) at least until such time as the Facility receives a Deliverability Allocation from the CAISO, maintaining Import Capability necessary to import the Guaranteed RA Amount into the CAISO at the Delivery Point, (b) timely filing its RA Plans as required by the CAISO and the CPUC, and (c) obtaining any other rights or capacities that Buyer is required to obtain, or take any other action that Buyer is required to take, in order for Seller to provide or Buyer to make use of the Capacity Attributes of the Facility, in each case as may be required under applicable Law and as may change from time to time. To the extent Buyer does not or cannot maintain Import Capability (solely until such time as the Facility receives a Deliverability Allocation from the CAISO) or any other rights or capacities necessary to support the importation of the Guaranteed RA Amount into the CAISO or otherwise receive or utilize the Capacity Attributes, for reasons other than a Seller failure under this Agreement, including Seller's failure to comply with applicable CPUC and CAISO requirements necessary to qualify the Facility as a Resource Adequacy Resource located within the CAISO Balancing Authority Area, the Capacity Attributes that are not delivered or that cannot be delivered (or that Buyer cannot make use of) shall constitute Deemed Delivered RA; *provided*, if Buyer is unable to obtain or utilize any portion of the Import Capability due to any allocation of Deliverability (as defined in the CAISO Tariff) to the Facility that is not a Deliverability Allocation and, as a result, Seller is unable to deliver to Buyer an amount of Resource Adequacy Benefits equal to the Guaranteed RA Amount, then such portion of the Capacity Attributes that are not delivered or that cannot be delivered (or that Buyer cannot make use of) shall not constitute Deemed Delivered RA but shall constitute a shortfall for which Seller owes to Buyer the RA Deficiency Amount.

(e) If Seller anticipates that it will have any RA Shortfall Amounts in a Showing Month from and after the RA Guarantee Date, Seller may provide Replacement RA in the amount of (X) Guaranteed RA Amount, minus (Y) the expected amount of Resource Adequacy Benefits Seller includes in its Notice provided to Buyer pursuant to Section 3.7(c) with respect to such Showing Month.

(f) Seller shall provide RA Substitute Capacity in accordance with applicable CAISO requirements in connection with Facility outages. Seller acknowledges and agrees that any failure by Seller to provide such RA Substitute Capacity may result in CAISO rejecting or cancelling Seller's request for CAISO to approve such Facility outage.

(g) The Parties acknowledge that following the Effective Date there may be changes of Applicable Laws with respect to the rules for Resource Adequacy Benefits that in certain respects may be inconsistent with the provisions of this Agreement. The Parties shall negotiate in good faith to further amend this Agreement to resolve any such inconsistencies between this Agreement and such changes to Applicable Law; *provided*, the intent of the negotiations shall be to maintain the balance of the Parties' benefits, burdens, and obligations set forth in this Agreement as of the Effective Date ; *provided further*, any amendment to this Agreement pursuant to this Section 3.7(g) shall be subject to Lender consent.

3.8 **Resource Adequacy Failure**.

(a) RA Deficiency Determination. For each RA Shortfall Amount, Seller shall pay to Buyer the RA Deficiency Amount as liquidated damages, as the sole and exclusive remedy for the Capacity Attributes that Seller failed to convey to Buyer.

(b) RA Deficiency Amount Calculation. For any Showing Month from and after the RA Guarantee Date, the "**RA Deficiency Amount**" shall equal the product of (i) the difference, expressed in kW, of (A) the Guaranteed RA Amount, *minus* (B) [redacted] *minus* (C) Deemed Delivered RA in respect of such Showing Month, *minus* (D) Replacement RA delivered in respect of such Showing Month, *minus* (E) RA Substitute Capacity delivered in respect of such Showing Month (such difference, the "**RA Shortfall Amount**"), *multiplied by* (ii) the lesser of (A) the product of (X) the CPM Soft Offer Cap (or its successor) *multiplied by* (Y) the CPM Adjustment Factor ("**CPM Price**") *multiplied by* (Z) [redacted], and (B) the RA Deficiency Cap for the applicable Showing Month *multiplied by* [redacted] Notwithstanding anything else in this Section 3.8, [redacted]

3.9 **CEC Certification and Verification**. Subject to Section 3.12 and in accordance with the timing set forth in this Section 3.9, Seller shall take all necessary steps including, but not limited to, making or supporting timely filings with the CEC to obtain and maintain CEC Certification and Verification for the Facility throughout the Delivery Term, including compliance with all applicable requirements for certified facilities set forth in the current version of the *RPS Eligibility Guidebook* (or its successor). Seller shall obtain CEC Precertification by the Commercial Operation Date. Within thirty (30) days after the Commercial Operation Date, Seller shall apply with the CEC for final CEC Certification and Verification. Within one hundred eighty

(180) days after the Commercial Operation Date, Seller shall obtain and maintain throughout the remainder of the Delivery Term the final CEC Certification and Verification; *provided*, Seller's failure to obtain and/or maintain CEC Certification and Verification within one hundred eighty (180) days after the Commercial Operation Date shall not constitute a breach or default under this agreement so long as (i) Seller applies for CEC Certification and Verification for the Facility within thirty (30) days after Commercial Operation and thereafter uses commercially reasonable efforts to obtain CEC Certification and Verification as soon as reasonably practicable, (ii) Seller provides non-binding Notice to Buyer promptly upon learning of any reasonably expected delay in obtaining CEC Certification and Verification beyond one hundred eighty (180) days following the Commercial Operation Date, and (iii) Seller obtains final CEC Certification and Verification on or before two hundred seventy (270) days following the Commercial Operation Date. Seller must promptly notify Buyer and the CEC of any changes to the information included in Seller's application for CEC Certification and Verification for the Facility.

3.10 **Eligibility**. 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. [STC 6]

3.11 **California Renewables Portfolio Standard**. Subject to Section 3.12, Seller shall also take all other actions necessary to ensure that the Facility Energy is tracked for purposes of satisfying the California Renewables Portfolio Standard requirements, as may be amended or supplemented by the CPUC or CEC from time to time.

3.12 **Compliance Expenditure Cap.** If a change in Law occurring after the Original Effective Date has increased Seller's cost to comply with Seller's obligations under this Agreement with respect to obtaining, maintaining, conveying or effectuating Buyer's use of Green Attributes, Capacity Attributes, CEC Certification and Verification, and/or WREGIS Certificates (as applicable), then the Parties agree that the maximum aggregate amount of costs and expenses Seller shall be required to bear during the Delivery Term to comply with all of such obligations shall be capped at Twenty-Five Thousand Dollars ($25,000) per MW of Guaranteed Capacity ("**Compliance Expenditure Cap**").

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

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

(c) Buyer will have sixty (60) days to evaluate such Notice (during which time

period Seller is not obligated to take any Compliance Actions described in the Notice) and shall, within such time, either (1) agree to reimburse Seller for all or some portion of the costs that exceed the Compliance Expenditure Cap (such Buyer-agreed upon costs, the "**Accepted Compliance Costs**"), or (2) waive Seller's obligation to take such Compliance Actions, or any part thereof for which Buyer has not agreed to reimburse Seller. If Buyer does not respond to a Notice given by Seller under this Section 3.12 within sixty (60) days after Buyer's receipt of same, Buyer shall be deemed to have waived its rights to require Seller to take the Compliance Actions that are the subject of the Notice, and Seller shall have no further obligation to take, and no liability for any failure to take, such Compliance Actions until such time as Buyer agrees to pay such Accepted Compliance Costs.

(d) If Buyer agrees to reimburse Seller for the Accepted Compliance Costs, then Seller shall take such Compliance Actions covered by the Accepted Compliance Costs as agreed upon by the Parties and Buyer shall reimburse Seller for Seller's actual costs to effect the Compliance Actions, not to exceed the Accepted Compliance Costs, within sixty (60) days from the time that Buyer receives an invoice and documentation of such costs from Seller.

3.13 **Project Configuration**. In order to optimize the benefits of the Facility, Buyer and Seller each agree that if requested by the other Party, then Buyer and Seller shall discuss in good faith potential reconfiguration of the Facility or Interconnection Facilities, which discussion either Party may terminate in its sole discretion at any time; *provided*, neither Party shall be obligated to agree to any changes under this Agreement, or to incur any expense in connection with such changes, except under terms mutually acceptable to both Parties in the sole discretion of each as set forth in a written agreement.

ARTICLE 4
OBLIGATIONS AND DELIVERIES

4.1 **Delivery**.

(a) Energy. Subject to the provisions of this Agreement, commencing on the Commercial Operation Date through the end of the Contract Term, Seller shall supply and deliver the Product to Buyer at the Delivery Point, and Buyer shall take delivery of the Product and Replacement Product at the Delivery Point in accordance with the terms of this Agreement. Seller shall effectuate the delivery of Facility Energy and shall be responsible for securing such arrangements with CAISO, the PTO and any other Transmission Provider as are necessary in connection therewith. Seller shall be responsible for paying or satisfying when due any costs or charges (except as otherwise set forth in this Agreement) imposed in connection with the delivery of Facility Energy to the Delivery Point, including any operation and maintenance charges imposed by the Transmission Provider directly relating to the Facility's operations. Buyer shall be responsible for all costs, charges and penalties (except as otherwise set forth in this Agreement), if any, imposed in connection with the delivery of Facility Energy at and after the Delivery Point, including without limitation transmission costs and transmission line losses. The Facility Energy will be scheduled with the CAISO by Seller (or Seller's designated Scheduling Coordinator) in accordance with Exhibit D.

(b) Green Attributes. All Green Attributes associated with Test Energy and the Facility Energy during the Delivery Term are exclusively dedicated to and vested in Buyer. Seller represents and warrants that Seller holds the rights to all Green Attributes from the Facility, and Seller agrees to convey and hereby conveys Buyer's Share of all such Green Attributes to Buyer as included in the delivery of the Product from the Facility.

(c) Energy Products. If, at any time during the Contract Term, Buyer requests Seller to provide any new or different Energy-related products or Ancillary Services that may become recognized from time to time in the CAISO market, and Seller is able to provide any such product from the Facility without material adverse effect (including any obligation to incur more than *de minimis* costs, expenses or liabilities, or any more than *de minimis* impacts on the operations of Seller, any of Seller's Affiliates, or the Facility) on Seller, Seller's Affiliates or the Facility or Seller's obligations or liabilities under this Agreement or any other agreement, then Seller shall use commercially reasonable efforts to coordinate with Buyer to provide such product. If provision of any such new product would have a material adverse effect (including any obligation to incur more than *de minimis* costs, expenses or liabilities, or any more than *de minimis* impacts on the operations of Seller, any of Seller's Affiliates, or the Facility) on Seller, Seller's Affiliates or the Facility or Seller's obligations or liabilities under this Agreement or any other agreement, then Seller shall be obligated to provide such product only if the Parties first execute an amendment to this Agreement with respect to such product that is mutually acceptable to both Parties.

4.2 **Title and Risk of Loss**.

(a) Energy. Title to and risk of loss related to the Facility Energy, shall pass and transfer from Seller to Buyer at the Delivery Point. Seller warrants that all Product delivered to Buyer is free and clear of all liens, security interests, claims and encumbrances of any kind.

(b) Green Attributes. Title to and risk of loss related to the Green Attributes shall pass and transfer from Seller to Buyer upon the transfer of such Green Attributes in accordance with WREGIS.

4.3 **Forecasting**. Seller shall provide the forecasts described below. Seller shall use commercially reasonable efforts to forecast accurately and to transmit such information in a format reasonably acceptable to Buyer (or Buyer's designee). Seller shall use reasonable efforts to provide forecasts that are consistent with the information known by Seller at the time the forecasts are submitted and, to the extent not inconsistent with the requirements of this Agreement, shall prepare such forecasts, or cause such forecasts to be prepared, in accordance with Prudent Operating Practice.

(a) Annual Forecast of Facility Energy. No less than forty-five (45) days before (i) the first day of the first Contract Year of the Delivery Term and (ii) the compliance deadline for the annual RA Plan (which is currently the last Business Day of October that is prior to commencement of the year for the annual RA Plan) for every subsequent Contract Year during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of expected Facility Energy,

by hour, for the following calendar year in a form substantially similar to the table found in Exhibit F-1, or as reasonably requested by Buyer.

(b) Monthly Forecast of Facility Energy and Available Capacity. No less than thirty (30) days before the beginning of Commercial Operation, and thereafter fifteen (15) days before the applicable RA Plan Showing Deadline for each Showing Month during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of the hourly expected (i) Available Capacity and (ii) Facility Energy (items (i)-(ii) collectively referred to as the "**Forecasted Product**"), for each day of the following month in a form substantially similar to Exhibits F-1 and F-2, as applicable ("**Monthly Forecast**").

(c) Day-Ahead Forecast. By 5:30 AM Pacific Prevailing Time on the Business Day immediately preceding the date of delivery of Facility Energy, Seller shall provide Buyer with a non-binding forecast of the hourly expected Available Capacity and the Day-Ahead Forecast.

(d) Real-Time Forecasts. During the Delivery Term, Seller shall, or shall cause its authorized representative to, notify Buyer of any changes from the Day-Ahead Forecast resulting from changes of fifteen (15) MW or more in Available Capacity or when the expected Facility Energy, net of all Electrical Losses, differs by more than fifteen (15) MWh, as applicable, of the amount set forth in the Day-Ahead Forecast, in each case whether due to a Forced Facility Outage, Force Majeure Event or other cause affecting the Available Capacity, as soon as reasonably possible, but no later than one (1) hour prior to the deadline for submitting schedules to the CAISO in accordance with the rules for participation in the Real-Time Market. Such updated forecast shall be deemed the "**Real-Time Forecast**"; *provided*, if there are no such changes from the Day-Ahead Forecast, the Day-Ahead Forecast for the applicable day shall be deemed the Real-Time Forecast. If the Available Capacity or, if applicable, the expected Facility Energy, changes by at least fifteen (15) MW or fifteen (15) MWh, as applicable, as of a time that is less than one (1) hour prior to the Real-Time Market deadline, but before such deadline, then Seller must notify Buyer as soon as reasonably possible. Such Real-Time Forecasts of Facility Energy shall be based on a forecast from the Approved Forecast Vendor and shall contain information regarding the beginning date and time of the event resulting in the change in Available Capacity or the expected Facility Energy, as applicable, the expected end date and time of such event, and any other information required by the CAISO or reasonably requested by Buyer. With respect to any Forced Facility Outage, Seller shall use commercially reasonable efforts to notify Buyer of such outage within ten (10) minutes of the commencement of the Forced Facility Outage. Seller shall use commercially reasonable efforts to inform Buyer of any developments that are reasonably likely to affect either the duration of such outage or the availability of the Facility during or after the end of such outage. Such Real-Time Forecasts shall be communicated in a method reasonably acceptable to Buyer, provided that Buyer specifies the method no later than sixty (60) days prior to the effective date of such requirement. In the event Buyer fails to provide Notice of an acceptable method for communications under this Section 4.3(d), then Seller shall send such communications by telephone and e-mail to Buyer.

(e) Meteorological Data.

(i) Commencing on the Commercial Operation Date, and continuing throughout the Delivery Term, Seller shall provide to Buyer records of meteorological measurements based on output from [redacted] reasonably representative meteorological stations installed at the Site, which shall be either [redacted], which measurements shall be provided by Seller to Buyer [redacted] (*provided*, Buyer shall have the option to elect, no more than once per calendar year, the method of delivery as set forth in subsections (x) or (y) above upon no less than [redacted]' prior written Notice to Seller of such election), in each case including the following data points: (A) wind speed (and, if Seller elects to receive meteorological data as set forth in 4.3(e)(y) above, the highest 3-second wind gust within ten (10) minutes), (B) wind direction, (C) ambient air temperature, (D) precipitation (rain rate), (E) precipitation (running thirty (30)-day total), and (F) barometric pressure; *provided*, the method of data delivery and the foregoing data points specified under this Section 4.3(e) may be updated as reasonably agreed to by the Parties. Such updates may include modifications to or additions of data points as are reasonably necessary for Buyer's administration of this Agreement, to the extent that Seller can effectuate such updates through the use of commercially reasonable efforts.

(ii) All information provided to Buyer pursuant to this Section 4.3(e) shall constitute Confidential Information of Seller, and Buyer shall be prohibited from providing any such information to any other Person without Seller's express written prior consent (in Seller's sole discretion). Seller shall not be obligated to provide any assistance to Buyer with respect to using, interpreting or otherwise processing such data, but Seller shall respond to Buyer's reasonable requests for clarifying or correcting information.

4.4 **Dispatch Down/Curtailment**.

(a) General. Seller agrees to reduce the amount of Facility Energy produced by the Facility, by the amount and for the period set forth in any Curtailment Order; *provided*, Seller is not required to reduce such amount to the extent it is inconsistent with the limitations of the Facility set forth in the Operating Restrictions.

(b) Alternative Delivery Point/Third-Party Sales. In the event that, and for so long as, Seller is unable, despite using commercially reasonable efforts, to deliver all or a portion of the Product to Buyer at the Delivery Point, but is able to deliver Product to Buyer at one or more Alternative Delivery Points, such Alternative Delivery Points shall be considered the Delivery Point for all purposes under this Agreement. [redacted]

[redacted]

(c) Failure to Comply. Subject to Section 4.4(a), if Seller fails to comply with a Curtailment Order, then, for each MWh of Facility Energy that is delivered in excess of the Curtailment Order, Seller shall pay Buyer for each such MWh the amount, if any, paid to Seller by Buyer for delivery of such excess MWh.

(d) Seller Equipment Required for Operating Instruction Communications. Seller shall develop and install all communications systems necessary for the operation of the Facility in accordance with Prudent Operating Practice, including communications systems that provide for the receipt and following of automated dispatch instructions from the CAISO.

4.5 **Station Use**. Notwithstanding anything to the contrary in this Agreement, the Parties acknowledge (i) Seller is responsible for providing all Energy to serve Station Use (including paying the cost of any Energy used to serve Station Use), (ii) the supply of such Station Use shall not be deemed a violation of this Agreement, (*provided*, Seller shall indemnify and hold harmless Buyer from any and all costs, penalties, charges or other adverse consequences that result from Energy supplied for Station Use by any means other than retail service from the applicable utility, and shall take any additional measures to ensure Station Use is supplied by the applicable utility's retail service if necessary to avoid any such costs, penalties, charges or other adverse consequences), and (iii) Station Use may not be supplied from Facility Energy (*provided*, Seller may supply Station Use from Energy produced by the Facility so long no such Energy is recorded as Facility Energy by the Facility Meter, and subject to the other requirements of this Agreement).

4.6 **Facility Maintenance**. Without limiting Section 3.1 or Exhibit G:

(a) Seller shall provide to Buyer written schedules for Planned Outages for each calendar year no later than September 1 of the prior calendar year for each following calendar year. Buyer may provide comments no later than ten (10) days after receiving any such schedule, and Seller shall in good faith take into account any such comments. Seller shall promptly deliver to Buyer the final updated schedule of Planned Outages thereafter. Seller shall be permitted to reduce deliveries of Product during any period of such Planned Outages.

(b) If reasonably required in accordance with Prudent Operating Practices, Seller may perform maintenance at a different time than maintenance scheduled pursuant to Section 4.6(a). Seller shall be responsible, at no additional cost to Buyer, to provide any replacement Capacity Attributes required by the CAISO in connection with the CAISO's approval of any Seller request for a Planned Outage after the applicable Supply Plan has been submitted.

(c) Notwithstanding anything in this Agreement to the contrary, no Planned Outages of the Facility shall be scheduled or planned during any Summer Month during the Delivery Term that [redacted] unless (i) such outage is required to avoid damage to the Transmission System, (ii) [redacted]

[redacted], (iv) such outage is reasonably required to maintain health and safety pursuant to Section 6.2, or (v) the Parties agree otherwise in writing. In the event that Seller has a previously Planned Outage that becomes coincident with a System Emergency that prevents Seller from reasonably performing the contemplated maintenance activities, Seller shall make commercially reasonable efforts to reschedule such Planned Outage.

(d) Seller shall be permitted to reduce deliveries of Product during any Forced Facility Outage. Seller shall promptly provide Buyer with Notice and expected duration (if known) of any Forced Facility Outage and shall keep Buyer informed of any developments that will affect either the duration of the outage or the availability of the Facility during or after the end of such outage.

(e) Seller shall be permitted to reduce deliveries of Product (i) during any period of System Emergency, (ii) pursuant to a Curtailment Order, (iii) during a Market Curtailment Period, (iv) during any Force Majeure Event, (v) due to Prudent Operating Practice or in compliance with applicable Law, or (vi) otherwise pursuant to the terms of this Agreement, the Interconnection Agreement or applicable tariff or as may be required under a Shared Facilities Agreement.

(f) Seller shall be permitted to reduce deliveries of Product as necessary to maintain health and safety pursuant to Section 6.2.

(g) Seller shall be permitted in its sole discretion to reduce Facility generation other than Buyer's Share of such Facility generation during any Settlement Interval or Settlement Period that is not during a Curtailment Period or Market Curtailment Period. During such curtailments, Seller shall deliver Facility Energy to Buyer in accordance with clause (b) of the definition of "Facility Energy".

(h) With respect to any (i) Major Planned Outage or (ii) Forced Facility Outage of [redacted] MW or more of Installed Capacity that persists for more than one [redacted], Seller shall provide reports to Buyer not less frequently than each month regarding Seller's progress toward completion of repairs, maintenance, equipment replacement and/or any other material aspect of returning the Facility to full operation, including information reasonably requested by Buyer.

4.7 **Guaranteed Energy Production**.

(a) During each Performance Measurement Period, Seller shall deliver to Buyer an amount of Facility Energy, not including any Excess MWh, equal to no less than the Guaranteed Energy Production (as defined below). "**Guaranteed Energy Production**" means an amount of Facility Energy, as measured in MWh, equal to [redacted] of the average annual Expected Energy for the two (2) Contract Years constituting such Performance Measurement Period; *provided*, the Guaranteed Energy Production applicable to the first Performance Measurement Period of the Delivery Term shall be equal to one hundred forty percent

[redacted]

(140%) of the average annual Expected Energy for the two (2) Contract Years constituting such Performance Measurement Period. For purposes of determining whether Seller has achieved the Guaranteed Energy Production, in addition to Facility Energy, Seller shall be deemed to have delivered to Buyer the sum of (a) any Deemed Delivered Energy, *plus* (b) Facility Energy in the amount it could reasonably have delivered to Buyer but was prevented from delivering to Buyer by reason of any (i) Force Majeure Events, (ii) Curtailment Period (excluding any Transmission System Outage due to the fault or negligence of Seller), (iii) System Emergency not caused by Seller, or (iv) Buyer Default or other Buyer failure to perform that prevents Seller from being able to deliver Facility Energy to the Delivery Point ("**Lost Output**"). If Seller fails to achieve the Guaranteed Energy Production amount in any Performance Measurement Period, Seller shall pay Buyer damages calculated in accordance with Exhibit G ("**Energy Replacement Damages**"); *provided*, Seller may, as an alternative, provide Replacement Product delivered retrospectively to Buyer at the Delivery Point or the SP 15 EZ Gen Hub.

(b) Seller shall be permitted to deliver Replacement Product (i) prospectively during any Performance Measurement Period if Seller reasonably anticipates that delivery of such Replacement Product is necessary to achieve the Guaranteed Energy Production for such Performance Measurement Period, or (ii) retrospectively during the Contract Year immediately following any Performance Measurement Period in accordance with Section 4.7(a) above; *provided,* Seller's right to deliver Replacement Product shall be subject to mutual agreement of the Parties (in the reasonable discretion of each) of the delivery schedule for such Replacement Product; *provided further*, the amount of Replacement Product delivered by Seller pursuant to (i) or (ii) shall not exceed ten percent (10%) of the Expected Energy for the Contract Year for which such Replacement Product is delivered. Seller shall provide Notice to Buyer of any proposed delivery of Replacement Product, including a proposed schedule of such deliveries, (i) no later than thirty (30) days prior to the proposed delivery of such Replacement Product in the case of prospectively delivered Replacement Product, and (ii) no later than thirty (30) days after the conclusion of any Performance Measurement Period with respect to which Seller proposes to deliver retroactive Replacement Product.

4.8 **WREGIS**. Seller shall, at its sole expense, but subject to Section 3.12, take all actions and execute all documents or instruments necessary to ensure that all WREGIS Certificates associated with all Renewable Energy Credits corresponding to all Facility Energy are issued and tracked for purposes of satisfying the requirements of the California Renewables Portfolio Standard and transferred in a timely manner to Buyer for Buyer's sole benefit. Seller shall transfer the Renewable Energy Credits to Buyer. Seller shall comply with all Laws, including the WREGIS Operating Rules, regarding the certification and transfer of such WREGIS Certificates to Buyer and Buyer shall be given sole title to all such WREGIS Certificates. Seller shall be deemed to have satisfied the warranty in Section 4.8(g), provided that Seller fulfills its obligations under Sections 4.8(a) through (g) below. In addition:

(a) Prior to the Commercial Operation Date, Seller shall register the Facility with WREGIS and establish an account with WREGIS ("**Seller's WREGIS Account**"), which Seller shall maintain until the end of the Delivery Term. Seller shall transfer the WREGIS Certificates using Recurring Certificate Transfers (as described in the WREGIS Operating Rules)

from Seller's WREGIS Account to the WREGIS account(s) of Buyer or the account(s) of a designee that Buyer identifies by Notice to Seller ("**Buyer's WREGIS Account**"). Seller shall be responsible for all expenses associated with registering the Facility with WREGIS, establishing and maintaining Seller's WREGIS Account, paying WREGIS Certificate issuance and transfer fees, and transferring WREGIS Certificates from Seller's WREGIS Account to Buyer's WREGIS Account.

(b) Seller shall cause Recurring Certificate Transfers to occur on a monthly basis in accordance with the certification procedure established by the WREGIS Operating Rules. Since WREGIS Certificates will only be created for whole MWh amounts of Facility Energy generated, any fractional MWh amounts (i.e., kWh) will be carried forward until sufficient generation is accumulated for the creation of a WREGIS Certificate.

(c) Seller shall, at its sole expense, ensure that the WREGIS Certificates for a given calendar month correspond with the Facility Energy for such calendar month as evidenced by the Facility's metered data.

(d) Buyer shall make an invoice payment for a given month in accordance with Section 8.2 before the WREGIS Certificates for such month are formally transferred to Buyer in accordance with the WREGIS Operating Rules and this Section 4.8. Notwithstanding this delay, Buyer shall have all right and title to all such WREGIS Certificates upon payment to Seller in accordance with Section 8.2.

(e) A "**WREGIS Certificate Deficit**" means any deficit or shortfall in WREGIS Certificates delivered to Buyer for a calendar month as compared to the Facility Energy for the same calendar month ("**Deficient Month**") caused by an error or omission of Seller. If any WREGIS Certificate Deficit is caused by, or is the result of any action or inaction of, Seller, then Seller shall either (x) resolve the associated WREGIS Certificate Deficit or (y) provide Replacement Green Attributes (as defined in Exhibit G) upon a schedule reasonably acceptable to Buyer (including in consideration of costs to Buyer), in each case no later than ninety (90) days following such Deficient Month; *provided*, Seller may offer to cure such WREGIS Certificate Deficit pursuant to clause (x) or (y) above after such ninety (90)-day period, [redacted] If and to the extent Seller fails to cure any WREGIS Certificate Deficit, as set forth in either clause (x) or (y) of the previous sentence, Buyer's payment obligation for Facility Energy associated with the uncured WREGIS Certificate Deficit shall be reduced by [redacted]

[redacted]. Without limiting Seller's obligations under this Section 4.8, if a deficit or shortfall in WREGIS Certificates delivered to Buyer for a calendar month as compared to the Facility Energy for the same calendar month is caused solely by an error or omission of WREGIS, the Parties shall cooperate in good faith to cause WREGIS to correct its error or omission.

(f) If WREGIS changes the WREGIS Operating Rules after the Original Effective Date or applies the WREGIS Operating Rules in a manner inconsistent with this Section 4.8 after the Original Effective Date, the Parties promptly shall modify this Section 4.8 as reasonably required to cause and enable Seller to transfer to Buyer's WREGIS Account a quantity of WREGIS Certificates for each given calendar month that corresponds to the Facility Energy in the same calendar month.

(g) 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. [STC REC-1]

(h) 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. [STC REC-2]

(i) Seller's obligations under Sections 3.10, 4.8(g) and 4.8(h) shall be subject to Section 3.12, the term "Project" as used in Section 3.10 shall refer to the "Facility" as defined herein, the term "the contract" in Section 4.8(h) shall refer to "this Agreement" as defined herein, and the term "commercially reasonable efforts" as used in Section 3.10 and Section 4.10(g) means efforts consistent with and subject to Section 3.12.

[redacted]

ARTICLE 5
TAXES

5.1 **Allocation of Taxes and Charges**. Seller shall pay or cause to be paid all Taxes on or with respect to the Facility or on or with respect to the sale and making available of Product to Buyer, that are imposed on Product prior to its delivery to Buyer at the time and place contemplated under this Agreement. Buyer shall pay or cause to be paid all Taxes on or with respect to the delivery to and purchase by Buyer of Product that are imposed on Product at and after its delivery to Buyer at the time and place contemplated under this Agreement (other than withholding or other Taxes imposed on Seller's income, revenue, receipts or employees). If a Party is required to remit or pay Taxes that are the other Party's responsibility hereunder, such Party shall promptly pay the Taxes due and then seek and receive reimbursement from the other for such Taxes. In the event any sale of Product hereunder is exempt from or not subject to any particular Tax, Buyer shall provide Seller with all necessary documentation to evidence such exemption or exclusion within thirty (30) days after the date Buyer makes such claim. Buyer shall indemnify, defend, and hold Seller harmless from any liability with respect to Taxes for which Buyer is responsible hereunder and from which Buyer claims it is exempt.

5.2 **Cooperation**. Each Party shall use reasonable efforts to implement the provisions of and administer this Agreement in accordance with the intent of the Parties to minimize all Taxes, so long as no Party is materially adversely affected by such efforts. The Parties shall cooperate to minimize Tax exposure; *provided*, neither Party shall be obligated to incur any financial or operational burden to reduce Taxes for which the other Party is responsible hereunder without receiving due compensation therefor from the other Party. All Product delivered by Seller to Buyer hereunder shall be a sale made at wholesale, with Buyer reselling such Product.

ARTICLE 6
MAINTENANCE OF THE FACILITY

6.1 **Maintenance of the Facility**. Seller shall, as between Seller and Buyer, be solely responsible for the operation and maintenance of the Facility and the delivery of the Product and shall comply with Law and Prudent Operating Practice relating to the operation and maintenance of the Facility and the generation and sale of Product.

6.2 **Maintenance of Health and Safety**. Seller shall take reasonable safety precautions with respect to the operation, maintenance, repair and replacement of the Facility. If Seller becomes aware of any circumstances relating to the Facility that create an imminent risk of damage or injury to any Person or any Person's property, Seller shall take prompt, reasonable action to prevent such damage or injury and shall give Buyer's emergency contact identified in Exhibit N Notice of such condition as soon as practicable thereafter. Such action may include disconnecting and removing all or a portion of the Facility, or suspending the supply of Facility Energy to the Delivery Point.

6.3 **Shared Facilities** The Parties acknowledge and agree that certain of the Shared Facilities and Interconnection Facilities, and Seller's rights and obligations under the Interconnection Agreement, may be subject to certain shared facilities and/or co-tenancy

agreements ("**Shared Facilities Agreements**") to be entered into among two or more of Seller, the Participating Transmission Owner, Seller's Affiliates, and/or third parties pursuant to which certain Interconnection Facilities, interconnection service and/or transmission service may be subject to joint ownership and/or shared maintenance and operation arrangements; *provided*, such agreements shall (i) not preclude Seller from performing or satisfying, and shall not purport to limit, its obligations hereunder, including providing interconnection capacity for the Facility in an amount not less than 2,119.72 MW at the Point of Interconnection and transmission capacity for delivery of energy from the Facility to the Delivery Point in an amount not less than 1,495 MW (*provided*, that Seller may share its interconnection capacity rights and transmission rights for the Facility with the North Affiliate [redacted], solely if and to the extent that, and solely for the period of time that, the amount of Energy that the Facility is capable of generating and delivering is less than 2,119.72 MW at the Point of Interconnection with respect to interconnection capacity, and 1,495 MW at the Delivery Point with respect to transmission capacity), [redacted]

[redacted]

ARTICLE 7
METERING

7.1 **Metering**. The Facility Meter shall be installed at the switching station adjacent to the SunZia East Converter Station and maintained at Seller's cost. If the Facility Meter is inaccurate, Seller will cause such meter to be promptly corrected in accordance with Prudent Operating Practice and CAISO requirements, as applicable. Seller shall be responsible for any costs, fines or penalties, including imbalance charges as a result of the inaccurate meter. The Facility Meter shall be kept under seal, such seals to be broken only when the meters are to be tested, adjusted, modified or relocated. In the event that Seller breaks a seal, Seller shall notify Buyer as soon as practicable. Seller shall, or shall cause its Scheduling Coordinator to, provide Buyer with read-only access to a real-time data feed of the generation of the Facility, and real-time Facility Meter reads. In addition, Seller hereby agrees to provide all Facility Meter data to Buyer in a form reasonably acceptable to Buyer on a read-only basis, and consents to Buyer obtaining

from the CAISO or the PTO, as applicable, the Facility Meter data applicable to the Facility and all inspection, testing and calibration data and reports. Seller, or Seller's Scheduling Coordinator, shall cooperate with Buyer to provide records, including invoices or settlement data from the CAISO, for the full Facility, for Buyer to verify the accuracy of all invoices, and to allow both Parties to retrieve the Facility Meter reads from the CAISO Market Results Interface – Settlements (MRIS-S) (or its successor) or from the Facility Meter at the Facility.

7.2 **Meter Verification**. Annually, if Seller has reason to believe there may be a meter malfunction, or upon Buyer's reasonable request, Seller shall test the Facility Meter. The tests shall be conducted by independent third parties qualified to conduct such tests. Buyer shall be notified seven (7) days in advance of such tests and have a right to be present during such tests. If a meter is inaccurate it shall be promptly repaired or replaced. If a meter is inaccurate by more than one percent (1%) and it is not known when the meter inaccuracy commenced (if such evidence exists, such date will be used to adjust prior invoices), then the invoices covering the period of time since the last meter test shall be adjusted for the amount of the inaccuracy on the assumption that the inaccuracy persisted during the second half of such period so long as such adjustments are accepted by CAISO and WREGIS; *provided*, such period may not exceed twelve (12) months.

ARTICLE 8
INVOICING AND PAYMENT; CREDIT

8.1 **Invoicing**. Seller shall use commercially reasonable efforts to deliver an invoice to Buyer for Product no later than the fifteen (15^{th}) day of each month for the previous calendar month. Each invoice shall (a) reflect records of metered data, including CAISO metering and transaction data sufficient to document and verify the amount of Product delivered by the Facility for any Settlement Period during the preceding month, including the amount of Facility Energy and Replacement Product delivered to Buyer (if any), the calculation of Deemed Delivered Energy and Adjusted Energy Production (if any), the LMP prices at the Delivery Point for each Settlement Period, and the Renewable Rate applicable to such Product in accordance with Exhibit C, and other relevant data for the prior month; and (b) be in a format reasonably acceptable to Buyer, covering the Product provided in the preceding month determined in accordance with the applicable provisions of this Agreement. Seller shall provide Buyer with all reasonable access (including, in real time, to the maximum extent reasonably possible) to any records, including invoices or settlement data from the CAISO, forecast data and other information, all as may be necessary from time to time for Buyer to verify the accuracy of all invoices.

8.2 **Payment**. Buyer shall make payment to Seller for Product (and any other amounts due) by wire transfer or ACH payment to the bank account provided on each monthly invoice. Buyer shall pay undisputed invoice amounts no later than thirty (30) days after Buyer's receipt of the invoice from Seller; *provided*, if such due date falls on a weekend or legal holiday, such due date shall be the next Business Day. Payments made after the due date will be considered late and will bear interest on the unpaid balance. If the amount due is not paid on or before the due date or if any other payment that is due and owing from one Party to another is not paid on or before its applicable due date, a late payment charge shall be applied to the unpaid balance and shall be added to the next billing statement. Such late payment charge shall be calculated based on an

annual Interest Rate equal to the prime rate published on the date of the invoice in The Wall Street Journal (or, if The Wall Street Journal is not published on that day, the next succeeding date of publication), *plus* two percent (2%) (the "**Interest Rate**"). If the due date occurs on a day that is not a Business Day, the late payment charge shall begin to accrue on the next succeeding Business Day.

8.3 **Books and Records**. To facilitate payment and verification, each Party shall maintain all books and records necessary for billing and payments, including copies of all invoices under this Agreement, for a period of at least two (2) years or as otherwise required by Law. Upon fifteen (15) days' Notice to the other Party, either Party shall be granted reasonable access to the accounting books and records within the possession or control of the other Party pertaining to all invoices generated pursuant to this Agreement. Seller acknowledges that in accordance with California Government Code Section 8546.7, Seller may be subject to audit by the California State Auditor with regard to Seller's performance of this Agreement, for a period of three (3) years following the last payment hereunder (or such longer period required by applicable Law), because the compensation under this Agreement exceeds $10,000.

8.4 **Payment Adjustments; Billing Errors**. Payment adjustments shall be made if Buyer or Seller discovers there have been good faith inaccuracies in invoicing that are not otherwise disputed under Section 8.5 or an adjustment to an amount previously invoiced or paid is required due to a correction of data by the CAISO, or there is determined to have been a meter inaccuracy sufficient to require a payment adjustment. If the required adjustment is in favor of Buyer, Buyer's next monthly payment shall be credited in an amount equal to the adjustment. If the required adjustment is in favor of Seller, Seller shall add the adjustment amount to Buyer's next monthly invoice. Adjustments in favor of either Buyer or Seller shall bear interest, until settled in full, in accordance with Section 8.2, accruing from the date on which the adjusted amount should have been due.

8.5 **Billing Disputes**. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within five (5) Business Days of such resolution along with interest accrued at the Interest Rate from and including the original due date to but excluding the date paid. Inadvertent overpayments shall be returned via adjustments in accordance with Section 8.4. Any dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section 8.5 within twelve (12) months after the invoice is rendered or subsequently adjusted, except to the extent any misinformation was from a third party not affiliated with any Party and such third party corrects its information after the twelve-month period. If an invoice is not rendered within twelve (12) months after the close of the month during which performance occurred, the right to payment for such performance is waived.

8.6 **Netting of Payments**. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all undisputed amounts owed by each Party to the other Party for the purchase and sale of Product during the monthly billing period under this Agreement or otherwise arising out of this Agreement, including any related damages calculated pursuant to Exhibits B and G, interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

8.7 **Seller's Development Security**. To secure its obligations under this Agreement, Seller shall have delivered the Development Security to Buyer on or before the Effective Date. Seller shall maintain the Development Security in full force and effect; *provided*, Seller shall have no obligation to replenish the Development Security following any draw thereupon by Buyer; *provided further*, Buyer shall not draw on the Development Security with respect to any payments due from and payable by Seller until after any required Notice and the expiration of all cure periods. Upon the earlier of (a) Seller's delivery of the Performance Security, or (b) sixty (60) days after termination of this Agreement, Buyer shall return the Development Security to Seller, less the amounts drawn in accordance with this Agreement. If the Development Security is provided in the form of more than one Letter of Credit, any draw on the Development Security by Buyer shall be made pro rata among each such Letter of Credit.

8.8 **Seller's Performance Security**. To secure its obligations under this Agreement, Seller shall deliver Performance Security to Buyer on or before the Commercial Operation Date. Seller shall maintain the Performance Security in full force and effect, and Seller shall within ten (10) Business Days after any draw thereon replenish the Performance Security in the event Buyer collects or draws down any portion of the Performance Security for any reason permitted under this Agreement other than to satisfy a Termination Payment, until the following have occurred: (a) the Delivery Term has expired or terminated early; and (b) all payment obligations of Seller due and payable under this Agreement, including compensation for penalties, Termination Payment, indemnification payments or other damages are paid in full (whether directly or indirectly such as through set-off or netting); *provided*, Buyer shall not draw on the Performance Security with respect to any payments due from and payable by Seller until after any required Notice and the expiration of all cure periods. Following the occurrence of both events listed in clauses (a) and (b) above, Buyer shall promptly return to Seller the unused portion of the Performance Security. If the Performance Security is provided in the form of more than one Letter of Credit, any draw on the Performance Security by Buyer shall be made pro rata among each such Letter of Credit.

8.9 **First Priority Security Interest in Cash or Cash Equivalent Collateral**. To secure its obligations under this Agreement, and until released as provided herein, Seller hereby 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 and Performance Security, to the extent the Development Security and/or Performance Security are provided in the form of cash collateral or cash equivalent collateral, any other cash collateral and cash equivalent collateral posted pursuant to Sections 8.7 and 8.8 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 all 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 an Event of Default caused by Seller, an Early Termination Date resulting from an Event of Default caused by Seller, or an occasion provided for in this Agreement where Buyer is authorized to retain all or a portion of the Development Security or Performance Security, Buyer may do any one or more of the following (in each case subject to the final sentence of this Section 8.9):

(a) Exercise any of its rights and remedies with respect to the Development Security and Performance Security, including any such rights and remedies under Law then in effect;

(b) Draw on any outstanding Letter(s) of Credit issued for its benefit and retain any cash held by Buyer as Development Security or Performance Security; and

(c) Liquidate all Development Security or Performance Security (as applicable) 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 remains 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.

8.10 **Financial Statements**.

(a) If a Guaranty is provided as Performance Security in lieu of cash or a Letter of Credit, Seller shall provide to Buyer, or cause the Guarantor to provide to Buyer, unaudited quarterly and annual audited financial statements of the Guarantor (including a balance sheet and statements of income and cash flows), all prepared in accordance with generally accepted accounting principles in the United States, consistently applied.

(b) Buyer shall provide to Seller (i) within one hundred twenty (120) days following the end of each fiscal year during the Contract Term, a copy of Buyer's annual report containing audited consolidated financial statements for such fiscal year and (ii) within sixty (60) days after the end of each of its first three fiscal quarters of each fiscal year during the Contract Term, a copy of Buyer's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles ("GAAP"); *provided*, should any such statements not be available on a timely basis due to a delay in preparation or certifications, such unavailability shall not be an Event of Default so long as Buyer diligently pursues the preparation, certification, and delivery of the statements. Buyer shall be deemed to have delivered such financial statements to Seller if such statements are made publicly available.

ARTICLE 9
NOTICES

9.1 **Addresses for the Delivery of Notices**. Any Notice required, permitted, or contemplated hereunder shall be in writing, shall be addressed to the Party to be notified at the address set forth in Exhibit N or at such other address or addresses as a Party may designate for itself from time to time by Notice hereunder.

9.2 **Acceptable Means of Delivering Notice**. Each Notice required, permitted, or contemplated hereunder shall be deemed to have been validly served, given or delivered as follows: (a) if sent by United States mail with proper first class postage prepaid, three (3) Business Days following the date of the postmark on the envelope in which such Notice was deposited in the United States mail; (b) if sent by a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement with such carrier made for the payment of such fees, the next Business Day after the same is delivered by the sending Party to such carrier; (c) if sent by electronic communication (including electronic mail or other electronic means) at the time indicated by the time stamp upon delivery and, if after 5 pm, on the next Business Day; or (d) if delivered in person, upon receipt by the receiving Party. Notwithstanding the foregoing, Notices of outages or other scheduling or dispatch information or requests, may be sent by electronic communication and shall be considered delivered upon successful completion of such transmission.

ARTICLE 10
FORCE MAJEURE

10.1 **Definition**.

(a) "**Force Majeure Event**" means any act or event that delays or prevents a Party from timely performing all or a portion of its obligations under this Agreement or from complying with all or a portion of the conditions under this Agreement if such act or event, despite the exercise of commercially reasonable efforts, cannot be avoided by and is beyond the reasonable control (whether direct or indirect) of the claiming Party*; provided*, a Force Majeure Event shall not excuse any such delay, nonperformance, or noncompliance to the extent the claiming Party's fault or negligence contributed thereto in scope or duration.

(b) Without limiting the generality of the foregoing, so long as the following events, despite the exercise of reasonable efforts, cannot be avoided by, and are beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance or noncompliance, a Force Majeure Event may include an act of God or the elements, such as flooding, lightning, hurricanes, tornadoes, or ice storms; explosion; fire; volcanic eruption; flood; epidemic or pandemic (including the COVID-19 pandemic, but only to the extent that new governmental rules or mandates related to COVID-19 are implemented that were not in place as of the Original Effective Date); landslide; mudslide; sabotage; terrorism; earthquake; or other cataclysmic events; an act of public enemy; war; blockade; civil insurrection; riot; civil disturbance; or strikes or other labor difficulties caused or suffered by a Party or any third party except as set forth below.

(c) Notwithstanding the foregoing, the term "**Force Majeure Event**" does not include (i) economic conditions or changes in Law that render a Party's performance of this Agreement at the Renewable Rate unprofitable or otherwise uneconomic (including an increase in component or compliance costs for any reason, including foreign or domestic tariffs, Buyer's ability to buy Product at a lower price, or Seller's ability to sell the Product, or any component thereof, at a higher price, than under this Agreement); (ii) Seller's inability to obtain permits or approvals of any type for the construction, operation, or maintenance of the Facility, except to the extent such inability is caused by a Force Majeure Event; (iii) the inability of a Party to make payments when due under this Agreement, unless the cause of such inability is an event that would otherwise constitute a Force Majeure Event as described above; (iv) a Curtailment Order, except to the extent that a Curtailment Order is caused by an event that otherwise qualifies as a Force Majeure Event; (v) Seller's inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Facility, including the lack of wind, sun or other fuel source of an inherently intermittent nature, except to the extent such inability is caused by a Force Majeure Event; (vi) a strike, work stoppage or labor dispute limited only to any one or more of Seller, Seller's Affiliates, Seller's contractors, their subcontractors thereof or any other third party employed by Seller to work on the Facility; (vii) any equipment failure except if such equipment failure is caused by a Force Majeure Event; or (viii) any action or inaction by any third party, including Transmission Provider, that delays or prevents the approval, construction or placement in service of any Interconnection Facilities or Network Upgrades, except to the extent caused by a Force Majeure Event.

10.2 **No Liability If a Force Majeure Event Occurs**. Except as provided in Section 4 of Exhibit B, neither Seller nor Buyer shall be liable to the other Party in the event it is prevented from performing its obligations hereunder in whole or in part due to a Force Majeure Event. The Party rendered unable to fulfill any obligation by reason of a Force Majeure Event shall take reasonable actions necessary to remove such inability with due speed and diligence. Nothing herein shall be construed as permitting that Party to continue to fail to perform after said cause has been removed. The obligation to use due speed and diligence shall not be interpreted to require resolution of labor disputes by acceding to demands of the opposition when such course is inadvisable in the discretion of the Party having such difficulty. Neither Party shall be considered in breach or default of this Agreement if and to the extent that any failure or delay in the Party's performance of one or more of its obligations hereunder is caused by a Force Majeure Event. The occurrence and continuation of a Force Majeure Event shall not suspend or excuse the obligation of a Party to make any payments due hereunder.

10.3 **Notice**. In order to claim a Force Majeure Event, the claiming Party, within fourteen (14) days of becoming aware that an event or series of events, as applicable, constitutes a Force Majeure Event, must give the other Party Notice describing the particulars of the occurrence in substantially the form set forth in Exhibit T, (b) provide timely evidence reasonably sufficient to establish that the occurrence constitutes Force Majeure as defined in this Agreement, and (c) notify the other Party in writing of the cessation or termination of such Force Majeure Event, all as known or estimated in good faith by the affected Party. Failure to provide timely Notice shall not affect such Party's ability to assert that a Force Majeure Event has occurred but shall preclude such Party from claiming a Force Majeure Event (including any Development Cure Period delays) or being

excused from any delay or nonperformance associated therewith with respect to the days prior to the date on Notice was actually given.

10.4 **Termination Following Force Majeure Event or Development Cure Period**.

(a) If the cumulative extensions granted under the Development Cure Period (other than the extensions granted pursuant to clause 4(d) in Exhibit B) plus the payment of Commercial Operation Delay Damages equal or exceed [redacted], and Seller has demonstrated to Buyer's reasonable satisfaction that Seller's failure to achieve COD by the Guaranteed Commercial Operation Date (as extended) was the result of delays that would have otherwise entitled to Seller to [redacted] of Development Cure Period delays but for the one hundred eighty (180)-day limitation, then Seller may terminate this Agreement upon Notice to Buyer. Upon such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Section 2.1(b), and Buyer shall promptly return to Seller any Development Security then held by Buyer plus the full amount of Commercial Operation Delay Damages paid by Seller, less any amounts drawn in accordance with this Agreement with respect to other amounts due from Seller, if any.

(b) If a Force Majeure Event has occurred after the Commercial Operation Date that has caused either Party to be wholly or partially unable to perform its obligations hereunder in any material respect, and the impacted Party has claimed and received relief from performance of its obligations for a consecutive twelve (12)-month period, then the non-claiming Party may terminate this Agreement upon Notice to the other Party; *provided*, if Seller is the Party claiming such Force Majeure Event and such Force Majeure Event cannot reasonably be cured within such twelve (12) month period, then Seller may provide a plan to Buyer, which must be acceptable to Buyer in its reasonable discretion, to cure such Force Majeure Event within an additional six (6) month period and Buyer may not terminate this Agreement due to such Force Majeure Event unless Seller has not resumed performance of its material obligations hereunder upon the expiration of such additional six (6)-month period; *provided further*, if the impacted Party has claimed and received relief from performance of its obligations due to such Force Majeure Event for a consecutive eighteen (18)-month period, then either Party may terminate this Agreement upon Notice to the other Party. Upon any such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Section 2.1(b), and Buyer shall promptly return to Seller any Performance Security then held by Buyer, less any amounts drawn in accordance with this Agreement.

ARTICLE 11
DEFAULTS; REMEDIES; TERMINATION

11.1 **Events of Default**. An "**Event of Default**" shall mean,

(a) with respect to a Party (the "**Defaulting Party**") that is subject to the Event of Default the occurrence of any of the following:

(i) the failure by such Party to make, when due, any payment required pursuant to this Agreement and such failure is not remedied within ten (10) Business Days after Notice thereof;

(ii) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated, and such default is not remedied within thirty (30) days after Notice thereof (or such longer additional period, not to exceed an additional sixty (60) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30)-day period despite exercising commercially reasonable efforts);

(iii) the failure by such Party to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default set forth in this Section 11.1 or for which an exclusive remedy is provided), and such failure is not remedied within thirty (30) days after Notice thereof (or such longer additional period, not to exceed an additional sixty (60) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30)-day period despite exercising commercially reasonable efforts);

(iv) such Party becomes Bankrupt;

(v) such Party assigns this Agreement or any of its rights hereunder other than in compliance with Article 14, if applicable;

(vi) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party; or

(vii) failure by either Party to satisfy the collateral requirements pursuant to Sections 8.7 or 8.8 (except, with respect to Seller, as set forth in Sections 11.1(b)(vi) and 11.1(b)(vii)) within five (5) Business Days after Notice from the other Party, including Seller's failure to replenish the Performance Security amount in accordance with this Agreement in the event Buyer draws against it for any reason other than to satisfy a Termination Payment;

(b) with respect to Seller as the Defaulting Party, the occurrence of any of the following:

(i) if at any time Seller delivers or attempts to deliver Energy to the Delivery Point for sale under this Agreement that was not generated or discharged by the Facility, except for Replacement Product;

(ii) the failure by Seller to achieve the Construction Start Date on or before the Guaranteed Construction Start Date or Commercial Operation on or before the Guaranteed Commercial Operation Date, as such dates may be extended by Seller's payment of

Daily Delay Damages, Commercial Operation Delay Damages and/or by Development Cure Period extensions;

(iii) if, in any consecutive six (6) month period, the Adjusted Energy Production amount (calculated in accordance with Exhibit G) for such period is not at least ten percent (10%) of the 6-month pro rata amount of Expected Energy for such period adjusted for seasonality proportionately to the monthly forecast provided annually by Seller under Section 4.3(a), and Seller fails to (x) deliver to Buyer within ten (10) Business Days after Notice from Buyer a plan or report developed by Seller that describes the cause of the failure to meet the ten percent (10%) threshold and the actions that Seller has taken, is taking, or proposes to take in an effort to cure such condition along with the written confirmation of a Licensed Professional Engineer that such plan or report is in accordance with Prudent Operating Practices and capable of cure within a reasonable period of time, not to exceed one hundred eighty (180) days, or such longer period if necessary to remedy a Major Equipment Failure, not to exceed a total of eighteen (18) months ("**Cure Plan**") and (y) complete such Cure Plan in all material respects as set forth therein, including within the timeframe set forth therein;

(iv) if at any time during the Delivery Term the Installed Capacity does not equal or exceed the Guaranteed Installed Capacity;

(v) Reserved;

(vi) with respect to any outstanding Letter of Credit provided for the benefit of Buyer that is not then required under this Agreement to be canceled or returned, the failure by Seller to provide for the benefit of Buyer either (1) cash, (2) a Letter of Credit from a different issuer meeting the criteria set forth in the definition of Letter of Credit, or (3) a replacement Guaranty from a Guarantor meeting the criteria set forth in the definition of Guarantor, in each case, in the amount required hereunder within ten (10) Business Days after Seller receives Notice of the occurrence of any of the following events:

(A) the issuer of the outstanding Letter of Credit shall fail to maintain a Credit Rating of at least A- by S&P or A3 by Moody's;

(B) the issuer of such Letter of Credit becomes Bankrupt;

(C) the issuer of the outstanding Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit and such failure shall be continuing after the lapse of any applicable grace period permitted under such Letter of Credit;

(D) the issuer of the outstanding Letter of Credit shall fail to honor a properly documented request to draw on such Letter of Credit;

(E) the issuer of the outstanding Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit;

(F) such Letter of Credit fails or ceases to be in full force and effect at any time;

(G) Seller shall fail to renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit and as provided in accordance with this Agreement, and in no event less than sixty (60) days prior to the expiration of the outstanding Letter of Credit;

(vii) with respect to any Guaranty provided for the benefit of Buyer, the failure by Seller to provide for the benefit of Buyer either (1) cash, (2) a replacement Guaranty from a different Guarantor meeting the criteria set forth in the definition of Guarantor, or (3) a replacement Letter of Credit from an issuer meeting the criteria set forth in the definition of Letter of Credit, in each case, in the amount required hereunder within ten (10) Business Days after Seller receives Notice of the occurrence of any of the following events:

(A) if any representation or warranty made by the Guarantor in connection with this Agreement is false or misleading in any material respect when made or when deemed made or repeated, and such representation or warranty is not remedied within thirty (30) days after Notice thereof;

(B) the failure of the Guarantor to make any payment required or to perform any other material covenant or obligation in any Guaranty;

(C) the Guarantor becomes Bankrupt;

(D) the Guarantor shall fail to meet the criteria for an acceptable Guarantor as set forth in the definition of Guarantor;

(E) the failure of the Guaranty to be in full force and effect (other than in accordance with its terms) prior to the indefeasible satisfaction of all obligations of Seller hereunder; or

(F) the Guarantor shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of any Guaranty.

11.2 **Remedies; Declaration of Early Termination Date**. If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party ("**Non-Defaulting Party**") shall have the following rights:

(a) to send Notice, designating a day, no earlier than the day such Notice is deemed to be received and no later than twenty (20) days after such Notice is deemed to be received, as an early termination date of this Agreement ("**Early Termination Date**") that terminates this Agreement (the "**Terminated Transaction**") and ends the Delivery Term effective as of the Early Termination Date;

(b) to accelerate all amounts owing between the Parties, and to collect as liquidated damages (i) the Damage Payment, or (ii) the Termination Payment, as applicable, in each case calculated in accordance with Section (b) below;

(c) to withhold any payments due to the Defaulting Party under this Agreement;

(d) to suspend performance; and

(e) to exercise any other right or remedy available at law or in equity, including specific performance or injunctive relief, except to the extent such remedies are expressly limited under this Agreement; *provided*, payment by the Defaulting Party of the Damage Payment or Termination Payment, as applicable, shall constitute liquidated damages and the Non-Defaulting Party's sole and exclusive remedy for any Terminated Transaction and the Event of Default related thereto.

11.3 **Damage Payment; Termination Payment**. If an Early Termination Date has been declared, the Non-Defaulting Party shall calculate, in a commercially reasonable manner, the Damage Payment or Termination Payment, as applicable, in accordance with this Section 11.3.

(a) Damage Payment Prior to Commercial Operation Date. If the Early Termination Date occurs before the Commercial Operation Date, then the Damage Payment shall be calculated in accordance with this Section 11.3(a).

(i) If Seller is the Defaulting Party, then the Damage Payment shall be owed to Buyer and shall be a dollar amount that equals the amount of the Development Security as set forth on the Cover Sheet plus, if the Development Security is posted as cash, any interest accrued thereon. Buyer shall be entitled to immediately retain for its own benefit those funds held as Development Security and any interest accrued thereon if the Development Security is posted as cash, and any amount of Development Security that Seller has not yet posted with Buyer shall be immediately due and payable by Seller to Buyer. There will be no amounts owed to Seller. The Parties agree that Buyer's damages in the event of an Early Termination Date prior to the Commercial Operation Date caused by Seller's default would be difficult or impossible to determine and that the damages set forth in this Section 11.3(a)(i) are a reasonable approximation of Buyer's harm or loss.

(ii) Except as set forth in Section 11.3(a)(iii), if Buyer is the Defaulting Party, then the Damage Payment shall be owed to Seller and shall equal Buyer's Share of the sum of the actual, documented and verifiable costs incurred by Seller between the Original Effective Date and the Early Termination Date in connection with the Facility, less the fair market value (determined in a commercially reasonable manner) of (A) all Seller's assets individually or (B) the entire Facility, whichever is greater on the Early Termination Date, regardless of whether or not any Seller asset or the entire Facility is actually sold or disposed of.

(iii) If Buyer is the Defaulting Party and such default arises in connection with: (A) Buyer's repudiation of this Agreement; (B) Buyer's bad faith; (C) Buyer's failure to comply with its obligations under Section 2.2 to, within five (5) Business Days after receipt

thereof, either accept or provide Notice stating in reasonable detail the basis for its reasonable rejection of Seller's evidence of completion of any condition to Commercial Operation set forth in Section 2.2 (provided that Seller submitted such evidence within thirty (30) days of the expected Commercial Operation Date); or (D) Buyer's failure to comply with its obligations under Section 2.6 to (x) within ten (10) Business Days of its receipt of Seller's Notice of a Project Bifurcation or Project Transition, provide Notice to Seller of any comments on the draft Replacement PPA(s) and termination agreement attached to such Notice, and (y) cooperate reasonably with Seller and the Owners to resolve any issues and enter into the Replacement PPA(s) and the termination agreement within thirty (30) days of Seller's Notice to Buyer of the same (*provided*, this clause (D) shall apply only if the draft Replacement PPA(s) are on the same terms and conditions as those set forth in this Agreement, except for those administrative changes that are necessary to effectuate the separation or transition of this Agreement into Replacement PPA(s) (including such changes as are set forth in Section 2.6(a) through Section 2.6(g), as applicable)), then the Damage Payment shall be owed to Seller and shall be equal to the Termination Payment determined in accordance with Section 11.3(b) below as of the Early Termination Date. There will be no amount owed to Buyer. The Parties agree that Seller's damages in the event of an Early Termination Date prior to the Commercial Operation Date caused by Buyer's default would be difficult or impossible to determine and that the damages set forth in Section 11.3(a)(ii) above or this Section 11.3(a)(iii), as applicable, are a reasonable approximation of Seller's harm or loss.

(b) Termination Payment On or After the Commercial Operation Date. The payment owed by the Defaulting Party to the Non-Defaulting Party for a Terminated Transaction occurring after the Commercial Operation Date ("**Termination Payment**") shall be the aggregate of all Settlement Amounts plus any and all other amounts due to or from the Non-Defaulting Party (as of the Early Termination Date) netted into a single amount. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for the Terminated Transaction as of the Early Termination Date. Third parties supplying information for purposes of the calculation of Gains or Losses may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. The Settlement Amount shall not include consequential, incidental, punitive, exemplary, indirect or business interruption damages. Without prejudice to the Non-Defaulting Party's duty to mitigate, the Non-Defaulting Party shall not have to enter into replacement transactions to establish a Settlement Amount. Each Party agrees and acknowledges that (i) the actual damages that the Non-Defaulting Party would incur in connection with a Terminated Transaction would be difficult or impossible to predict with certainty, (ii) the Termination Payment described in this Section 0(b) is a reasonable and appropriate approximation of such damages, and (iii) the Termination Payment described in this Section 0(b) is the exclusive remedy of the Non-Defaulting Party in connection with a Terminated Transaction but shall not otherwise act to limit any of the Non-Defaulting Party's rights or remedies if the Non-Defaulting Party does not elect a Terminated Transaction as its remedy for an Event of Default by the Defaulting Party.

11.4 **Notice of Payment of Termination Payment or Damage Payment**. As soon as practicable after a Terminated Transaction, but in no event later than sixty (60) days after the Early Termination Date, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Damage Payment or Termination Payment, as applicable, and whether the

Termination Payment or Damage Payment, as applicable, is due to or from the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount and the sources for such calculation. The Termination Payment or Damage Payment, as applicable, shall be made to or from the Non-Defaulting Party, as applicable, within ten (10) Business Days after such Notice is effective.

11.5 **Disputes With Respect to Termination Payment or Damage Payment**. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment or Damage Payment, as applicable, in whole or in part, the Defaulting Party shall, within five (5) Business Days of receipt of the Non-Defaulting Party's calculation of the Termination Payment or Damage Payment, as applicable, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. Disputes regarding the Termination Payment or Damage Payment, as applicable, shall be determined in accordance with Article 15.

11.6 **Limitation on Seller's Ability to Make or Agree to Third-Party Sales from the Facility after Early Termination Date**. If this Agreement is terminated prior to the Commercial Operation Date for any reason except due to Buyer's Event of Default, neither Seller nor Seller's Affiliates may sell, market or deliver any Product associated with or attributable to the Facility to a party other than Buyer for a period of [redacted] following such early termination date, unless prior to selling, marketing or delivering such Product, or entering into the agreement to sell, market or deliver such Product to a party other than Buyer, Seller or Seller's Affiliates provide Buyer with a written offer to sell the Product on terms and conditions materially similar to the terms and conditions contained in this Agreement and (a) Buyer fails to accept such offer within forty-five (45) days of Buyer's receipt thereof, or (b) Seller and Buyer fail to reach an agreement on the changes necessary to conform the new agreement on materially similar terms to this Agreement within ninety (90) days after Buyer's receipt of such offer, despite both Parties negotiating in good faith. Seller's or Seller's Affiliate's written offer to sell the Product pursuant to this Section 11.6 shall be at the Renewable Rate without increase or escalation; [redacted] Nothing in this Section 11.6 shall be construed to limit in any way Seller's right to market, sell, or deliver Energy, green attributes, capacity attributes, or other products generated by or associated with the Facility in excess of Buyer's Share of such Energy, green attributes, capacity attributes, or other products generated by or associated with the Facility.

Neither Seller nor Seller's Affiliates may sell or transfer the Facility, or any part thereof, or land rights or interests in the Site (including the interconnection queue position of the Facility) so long as the limitations contained in this Section 11.6 apply, unless the transferee agrees to be bound by the terms set forth in this Section 11.6 pursuant to a written agreement approved by Buyer.

Seller shall indemnify and hold Buyer harmless from all benefits lost and other damages sustained by Buyer as a result of any breach by Seller of its covenants contained within this Section 11.6.

11.7 **Rights And Remedies Are Cumulative**. Except where liquidated damages or other remedy are explicitly provided as the exclusive remedy, the rights and remedies of a Party pursuant to this Article 11 shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

11.8 **Mitigation**. Any Non-Defaulting Party shall be obligated to use commercially reasonable efforts to mitigate its Costs, Losses and damages resulting from any Event of Default of the other Party under this Agreement.

ARTICLE 12
LIMITATION OF LIABILITY AND EXCLUSION OF WARRANTIES.

12.1 **No Consequential Damages**. EXCEPT TO THE EXTENT PART OF (A) AN EXPRESS REMEDY OR MEASURE OF DAMAGES HEREIN, (B) AN IP INDEMNITY CLAIM, (C) AN ARTICLE 16 INDEMNITY CLAIM, (D) INCLUDED IN A LIQUIDATED DAMAGES CALCULATION, OR (E) RESULTING FROM A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, OR LOSSES OR DAMAGES FOR LOST REVENUE OR LOST PROFITS, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT, BY STATUTE, IN TORT OR CONTRACT.

12.2 **Waiver and Exclusion of Other Damages.** EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. ALL LIMITATIONS OF LIABILITY CONTAINED IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE PERTAINING TO SELLER'S LIMITATION OF LIABILITY AND THE PARTIES' WAIVER OF CONSEQUENTIAL DAMAGES, SHALL APPLY EVEN IF THE REMEDIES FOR BREACH OF WARRANTY PROVIDED IN THIS AGREEMENT ARE DEEMED TO "FAIL OF THEIR ESSENTIAL PURPOSE" OR ARE OTHERWISE HELD TO BE INVALID OR UNENFORCEABLE.

NOTWITHSTANDING ANYTHING ELSE HEREIN TO THE CONTRARY, SELLER'S AGGREGATE LIABILITY ARISING UNDER OR RELATED TO THIS AGREEMENT IN CONNECTION WITH ANY DELAY BY SELLER IN COMPLETING THE FACILITY OR ACHIEVING THE COMMERCIAL OPERATION DATE, INCLUDING FAILURE BY SELLER TO ACHIEVE THE MILESTONE DATES SET FORTH ON THE COVER SHEET AND ANY FAILURE BY SELLER TO SELL PRODUCT TO BUYER HEREUNDER AS A RESULT OF ANY SUCH DELAY OR FAILURE, SHALL NOT EXCEED THE SUM OF (A)

THE AMOUNT OWING OR PAID BY SELLER IN RESPECT OF DELAY DAMAGES, IF ANY, AND (B) THE AMOUNT OF THE DAMAGE PAYMENT OWED BY SELLER, IF ANY.

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS AND EXCLUSIVE REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES ONLY. THE VALUE OF ANY 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) AND AMOUNTS DUE IN CONNECTION WITH THE RECAPTURE OF ANY RENEWABLE ENERGY INCENTIVES, IF ANY, SHALL BE DEEMED TO BE DIRECT DAMAGES.

TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, INCLUDING UNDER SECTIONS 3.8, 4.7, 4.8, 11.2 AND 11.3, AND AS PROVIDED IN EXHIBIT B, EXHIBIT C, EXHIBIT G, AND EXHIBIT P, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT, AND THAT THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE ANTICIPATED HARM OR LOSS. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. THE PARTIES HEREBY WAIVE ANY RIGHT TO CONTEST SUCH PAYMENTS AS AN UNREASONABLE PENALTY.

THE PARTIES ACKNOWLEDGE AND AGREE THAT MONEY DAMAGES AND THE EXPRESS REMEDIES PROVIDED FOR HEREIN ARE AN ADEQUATE REMEDY FOR THE BREACH BY THE OTHER OF THE TERMS OF THIS AGREEMENT, AND EACH PARTY WAIVES ANY RIGHT IT MAY HAVE TO SPECIFIC PERFORMANCE WITH RESPECT TO ANY OBLIGATION OF THE OTHER PARTY UNDER THIS AGREEMENT.

ARTICLE 13
REPRESENTATIONS AND WARRANTIES; AUTHORITY

13.1 **Seller's Representations and Warranties**. As of the Effective Date, Seller represents and warrants as follows:

(a) Seller is a limited liability company, duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation, and is qualified to conduct

business in each jurisdiction where the failure to so qualify would have a material adverse effect on the business or financial condition of Seller.

(b) Seller has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Seller's performance under this Agreement. The execution, delivery and performance of this Agreement by Seller has been duly authorized by all necessary limited liability company action on the part of Seller and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Seller or any other party to any other agreement with Seller.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Seller with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Seller, subject to any permits that have not yet been obtained by Seller, the documents of formation of Seller or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other material agreement or instrument to which Seller is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Seller. This Agreement is a legal, valid and binding obligation of Seller enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) Seller and its Affiliates are developing the Facility to be located in New Mexico.

(f) Neither Seller nor its Affiliates have received notice from or been advised by any existing or potential supplier or service provider that COVID-19 has caused, or is reasonably likely to cause, a delay in the construction of the Facility or the delivery of materials necessary to complete the Facility, in each case that would cause the Construction Start Date to be later than the Guaranteed Construction Start Date or the Commercial Operation Date to be later than the Guaranteed Commercial Operation Date.

(g) Prior to the Construction Start Date, Seller or an Affiliate of Seller will enter into (or has already entered into as of the date hereof) (i) EPC Contracts that provide for the construction of the Facility as described in Exhibit A and (ii) turbine supply agreements that provide for the purchase of distinct turbines for the Facility and the facility known as SunZia North.

13.2 **Buyer's Representations and Warranties**. As of the Effective Date, Buyer represents and warrants as follows:

(a) Buyer is a joint powers authority and a validly existing community choice aggregator, duly organized, validly existing and in good standing under the laws of the State of California and the rules, regulations and orders of the California Public Utilities Commission, and

is qualified to conduct business in each jurisdiction of the Joint Powers Agreement members. All Persons making up the governing body of Buyer are the elected or appointed incumbents in their positions and hold their positions in good standing in accordance with the Joint Powers Agreement and other Law.

(b) Buyer has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Buyer's performance under this Agreement. The execution, delivery and performance of this Agreement by Buyer has been duly authorized by all necessary action on the part of Buyer and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Buyer or any other party to any other agreement with Buyer.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Buyer with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Buyer, including but not limited to community choice aggregation, the Joint Powers Act, competitive bidding, public notice, open meetings, election, referendum, or prior appropriation requirements, the documents of formation of Buyer or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Buyer is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Buyer. This Agreement is a legal, valid and binding obligation of Buyer enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) Buyer warrants and covenants that with respect to its contractual obligations under this Agreement, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (1) suit, (2) jurisdiction of court, (3) relief by way of injunction, order for specific performance or recovery of property, (4) attachment of assets, or (5) execution or enforcement of any judgment.

(f) Buyer is a "local public entity" as defined in Section 900.4 of the Government Code of the State of California.

(g) Buyer cannot assert sovereign immunity as a defense to the enforcement of its obligations under this Agreement.

13.3 **General Covenants**. Each Party covenants that commencing on the Effective Date and continuing throughout the Contract Term:

(a) It shall continue to be duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and to be qualified to conduct business in each

jurisdiction where the failure to so qualify would have a material adverse effect on its business or financial condition;

(b) It shall maintain (or obtain from time to time as required) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement; and

(c) It shall perform its obligations under this Agreement in compliance with all terms and conditions in its governing documents and in material compliance with any Law.

13.4 **Prevailing Wage**. Seller shall use commercially reasonable efforts to ensure that all employees hired by Seller (and its contractors and subcontractors) that will perform construction work or provide services at the Site related to construction of the Facility are paid wages at base rates not less than those prevailing for workers performing similar work in the locality as provided by applicable New Mexico Law, if any ("**Prevailing Wages**"). Within one hundred eighty (180) days after the Commercial Operation Date, Seller shall, at Seller's sole expense, provide either (a) a certificate [redacted] reasonably acceptable to Buyer, demonstrating that Seller (and its contractors and subcontractors) paid Prevailing Wages, or (b) a certificate from an officer of Seller certifying that Seller made commercially reasonable efforts to pay Prevailing Wages together [redacted] reasonably acceptable to Buyer of such efforts, and in either case including at a minimum (i) the Prevailing Wages pursuant to New Mexico Law for each applicable trade classification with respect to workers performing work or providing services at the Site, and (ii) the highest and the lowest annual base rate paid to such workers for the Facility in each such classification. Nothing herein shall require Seller, its contractors and subcontractors to comply with, or assume liability created by, other inapplicable provisions of any New Mexico labor laws. Buyer agrees that Seller's obligations under this Section 13.4 may be satisfied upon the execution of a project labor agreement with respect to construction of the Facility.

13.5 **Community Benefits Funding**. Seller shall (a) on or before the date that is thirty (30) days after the date of Financial Close, if such date occurs, pay to Buyer two hundred fifty thousand dollars ($250,000), and (b) on or before the Commercial Operation Date, if such date occurs, pay to Buyer seven hundred fifty thousand dollars ($750,000), both for Buyer to use for community benefits as determined by Buyer in its sole discretion. Any public statements regarding Seller's payments under this Section 13.5 and their direct connection to specific community benefits for which such payments are used shall be subject to Section 18.5.

13.6 **Supplier Diversity Reporting**. From the Original Effective Date until the Commercial Operation Date, upon request from Buyer and on a schedule to be reasonably agreed by the Parties, Seller shall provide a separate "Supplier Plan" setting forth (a) the plans and efforts of Seller to subcontract with businesses owned by women, minorities, disabled veterans, lesbian, gay, bisexual, or transgender persons, or persons with disabilities ("**Diverse Suppliers**"), as more fully defined under CPUC General Order 156 (*provided*, Persons shall qualify as Diverse Suppliers only to the extent such Persons are so certified with the Supplier Clearinghouse as set forth in CPUC General Order 156 or elect to voluntarily self-identify as such to Seller), and (b) the plans and efforts of Seller to subcontract with small, local, and diverse businesses, as more fully defined

under CPUC General Order 156 ("**Small Local Businesses**"); *provided*, such report shall be in a form reasonably acceptable to Buyer.

ARTICLE 14
ASSIGNMENT

14.1 **General Prohibition on Assignments**. Except as provided below in this Article 14, neither Party may voluntarily assign this Agreement or its rights or obligations under this Agreement, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Any 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 shall not be unreasonably withheld, conditioned or delayed; *provided*, a Change of Control of Seller shall not require Buyer's consent if the assignee or transferee is a Permitted Transferee. Any assignment made without the required written consent, or in violation of the conditions to assignment set out below, shall be null and void.

14.2 **Collateral Assignment**. Subject to the provisions of this Section 14.2, Seller has the right to assign this Agreement as collateral for any financing or refinancing (including any tax equity financing) of the Facility without the consent of Buyer. In connection with any financing or refinancing of the Facility by Seller, Buyer shall in good faith work with Seller and Lender to execute a customary and reasonable consent to collateral assignment of this Agreement, as reasonably agreed by Buyer, Seller and Lender; *provided*, Seller shall reimburse Buyer's reasonable and documented out-of-pocket legal fees in connection with negotiating such consent to collateral assignment.

14.3 **Permitted Assignment by Seller**. Seller may, without the prior written consent of Buyer, transfer or assign this Agreement to: (a) an Affiliate of Seller or (b) any Person succeeding to all or substantially all of the assets of Seller (whether voluntary or by operation of law); if, and only if:

(a) the assignee is a Permitted Transferee;

(b) Seller has given Buyer Notice at least fifteen (15) Business Days before the date of such proposed assignment to the extent permitted under applicable Law, and if prior Notice is not permitted because Seller or any other Person involved in the transaction, directly or indirectly, is a publicly traded company and applicable Laws prohibit prior disclosure to Buyer, then within ten (10) Business Days after the date of such assignment [redacted] and

(c) Seller (x) has, except in connection with a Change of Control, provided Buyer a written agreement signed by the Person to which Seller wishes to assign its interests that provides that such Person will assume all of Seller's obligations and liabilities under this Agreement upon such transfer or assignment and (y) certifies that such Person meets the definition of a Permitted Transferee.

Notwithstanding the foregoing, any assignment by Seller, its successors or assigns under this Section 14.3 shall be of no force and effect unless and until such Notice and agreement by the assignee have been received and accepted by Buyer.

14.4 **Shared Facilities; Portfolio Financing**. Buyer agrees and acknowledges that Seller may elect to finance all or any portion of the Facility or the Interconnection Facilities or the Shared Facilities (1) utilizing tax equity or cash equity investment, and/or (2) through a Portfolio Financing, which may include cross-collateralization or similar arrangements. In connection with any financing or refinancing of the Facility, the Interconnection Facilities or the Shared Facilities by Seller or any Portfolio Financing, Buyer, Seller, Portfolio Financing Entity (if any), and Lender shall execute and deliver such further consents, approvals and acknowledgments as may be reasonable and necessary to facilitate such transactions; *provided*, Buyer shall not be required to agree to any terms or conditions which are reasonably expected to have a material adverse effect on Buyer and all reasonable attorney's fees incurred by Buyer in connection therewith shall be borne by Seller.

14.5 **Buyer Financing Assignment.**

(a) Seller agrees that Buyer may assign a portion of its rights and obligations under this Agreement to a Person in connection with a municipal prepayment financing transaction ("**Buyer Assignee**") at any time upon not less than fifteen (15) Business Days' prior notice to Seller by delivering Notice of such assignment, which Notice must include a proposed assignment agreement substantially in the form attached hereto as Exhibit L ("**Assignment Agreement**"); *provided*, at the time of such assignment, such Buyer Assignee has a Credit Rating equal to Baa3 from Moody's and BBB- from S&P. As reasonably requested by Buyer Assignee, Seller shall (i) provide Buyer Assignee with reasonable information and documentation with respect to Seller, including but not limited to account opening information, information related to forecasted generation, Credit Rating, and compliance with anti-money laundering rules, the Dodd-Frank Act, the Commodity Exchange Act, the Patriot Act and similar rules, regulations, requirements and corresponding policies; and (ii) promptly execute such Assignment Agreement and implement such assignment as contemplated thereby, subject only to the countersignature of Buyer Assignee and Buyer, the requirements of this Section 14.5, and Lender consent. From and after any execution of an Assignment Agreement, Buyer shall remain primarily responsible for all its obligations under this Agreement and the Assignment Agreement, including (i) the obligation to pay for all Product and (ii) any and all damages, costs and expenses of Seller associated with Buyer Assignee's failure to take or pay for any such Product as contemplated by this Agreement. In no event shall any assignment by Buyer under this Section 14.5 purport to limit any rights of Seller under, or cause Seller to incur any additional obligations under, this Agreement other than *de minimis* administrative or ministerial obligations.

(b) Subject to the provisions of this Section 14.5(b), if Buyer proposes to use a financing structure other than the financing structure contemplated by the form attached hereto as Exhibit L, including modifying this Agreement to require Seller to deliver some or all of the Facility Energy using Inter-SC Trades or other structure that materially deviates from the terms of this Agreement or the form of Assignment Agreement, Seller agrees to use commercially

reasonable efforts to negotiate with Buyer an assignment agreement providing for such structure, starting from the form of Assignment Agreement attached hereto, as such form shall be modified at the request of Seller to ensure that Seller is satisfied in its reasonable discretion that (x) it will be made financially whole (including for the time value of money) with respect to its financial position under such proposed financing structure compared to Seller's financial position absent such proposed financing structure and the transactions contemplated thereby, including but not limited to with respect to Seller's cash flows and liquidity position, and (y) it will not be required to (i) change the manner in which the Facility is operated, (ii) change the Delivery Point or the transmission path to the Delivery Point, (iii) procure additional or alternative transmission capacity, or (iv) change the way that Energy is delivered (*provided*, such restriction shall not preclude Inter-SC Trades at a different transaction point, such as SP-15); *provided*, such form must include the express requirements that Buyer Assignee shall make timely payment of all amounts due from Buyer under this Agreement, and that Buyer shall remain primarily liable for all of Buyer's obligations under this Agreement and such agreement memorializing such proposed financing structure, including (i) the obligation to pay for all Product and (ii) any and all damages, costs and expenses of Seller associated with Buyer Assignee's failure to take or pay for any such Product as contemplated by this Agreement; *provided further*, Seller's execution of any such agreement memorializing such proposed financing structure shall be subject to Lender consent.

ARTICLE 15
DISPUTE RESOLUTION

15.1 **Governing Law**. This agreement and the rights and duties of the parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law. To the extent enforceable at such time, each party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this agreement. [STC – 17]

15.2 **Dispute Resolution**. In the event of any dispute arising under this Agreement, within ten (10) days following the receipt of a Notice from either Party identifying such dispute, the Parties shall meet, negotiate and attempt, in good faith, to resolve the dispute quickly, informally and inexpensively. If the Parties are unable to resolve a dispute arising hereunder within the earlier of either forty-five (45) days of initiating such discussions, or within sixty (60) days after Notice of the dispute, either Party may seek any and all remedies available to it at law or in equity, subject to the limitations set forth in this Agreement.

15.3 **Attorneys' Fees**. In any proceeding brought to enforce this Agreement or because of the breach by any Party of any covenant or condition herein contained, each Party shall bear its own respective costs, expenses and attorneys' fees in connection with said action.

15.4 **Venue**. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be the federal courts of the United States or, if such federal courts refuse jurisdiction notwithstanding the Parties' agreement, then in the courts of the State of California, in either case sitting in Los Angeles County, California, and the Parties hereto agree to and do hereby

submit to the jurisdiction of such court, and waive any claim or defense that such forum is not convenient or proper.

ARTICLE 16
INDEMNIFICATION

16.1 **Indemnification**.

(a) Each Party (the "**Indemnifying Party**") agrees to indemnify, defend and hold harmless the other Party and its Affiliates, directors, officers, employees and agents (collectively, the "**Indemnified Party**") from and against all claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees) (i) for personal injury or death to Persons and damage to the property of any third party to the extent arising out of, resulting from, or caused by the negligent or willful misconduct of the Indemnifying Party, its Affiliates, its directors, officers, employees, or agents, or (ii) for third-party claims resulting from the Indemnifying Party's breach (including inaccuracy of any representation of warranty made hereunder), performance or non-performance of its obligations under this Agreement.

(b) Seller shall indemnify, defend and hold harmless Buyer and its Affiliates, directors, officers, employees from and against all claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees) in connection with any claims of infringement upon or violation of any trade secret, trademark, trade name, copyright, patent, or other intellectual property rights of any third party by equipment, software, applications or programs (or any portion of same) used in connection with the Facility (an "**IP Indemnity Claim**").

(c) Nothing in this Section 16.1 shall enlarge or relieve Seller or Buyer of any liability to the other for any breach of this Agreement. Neither Party shall be indemnified for its damages resulting from its sole negligence, intentional acts or willful misconduct. These indemnity provisions shall not be construed to relieve any insurer of its obligation to pay claims consistent with the provisions of a valid insurance policy.

16.2 **Claims**. Promptly after receipt by a Party of any claim or Notice of the commencement of any action, administrative, or legal proceeding, or investigation as to which the indemnity provided for in this Article 16 may apply, the Indemnified Party shall notify the Indemnifying Party in writing of such fact. The Indemnifying Party shall assume the defense thereof with counsel designated by the Indemnifying Party and satisfactory to the Indemnified Party, *provided*, if the defendants in any such action include both the Indemnified Party and the Indemnifying Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, the Indemnified Party shall have the right to select and be represented by separate counsel, at the Indemnifying Party's expense, unless a liability insurer is willing to pay such costs. If the Indemnifying Party fails to assume the defense of a claim meriting indemnification, the Indemnified Party may at the expense of the Indemnifying Party contest, settle, or pay such claim; *provided*, settlement or full payment of any such claim may be made only following consent of the Indemnifying Party or, absent such consent, written opinion of the Indemnified Party's counsel that such claim is meritorious or warrants settlement. Except as

otherwise provided in this Article 16, in the event that a Party is obligated to indemnify and hold the other Party and its successors and assigns harmless under this Article 16, the amount owing to the Indemnified Party will be the amount of the Indemnified Party's damages net of any insurance proceeds received by the Indemnified Party following a reasonable effort by the Indemnified Party to obtain such insurance proceeds.

ARTICLE 17
INSURANCE

17.1 **Insurance.**

(a) General Liability. Seller shall maintain, or cause to be maintained at its sole expense, the following types and minimum limits of insurance with a carrier rated "A- VII" or higher by A.M. Best's Key Rating Guide: (i) commercial general liability insurance, including products and completed operations and personal injury (including bodily injury and death) and property damage insurance, with a minimum limit of liability of One Million Dollars ($1,000,000) per occurrence, and a general aggregate of not less than Two Million Dollars ($2,000,000) for combined bodily injury and property damage; and (ii) an umbrella insurance policy in a minimum limit of liability of Ten Million Dollars ($10,000,000). The amounts of liability insurance described in this Article 17 may be satisfied by primary insurance or by any combination of primary and excess/umbrella insurance. Such insurance shall contain standard cross-liability and severability of interest provisions such that each Person is protected in the same manner as though a separate policy has been issued to each but nothing therein shall operate to increase the insurance company's liability beyond the amount the insurance company would have been liable if only one Person or interest had been named as insured. The liability insurance policies referenced in this Article 17 shall (x) provide an endorsement waiving rights of subrogation against Buyer, (y) name Buyer as additional insured on all required liability insurance (except workers compensation), and (z) be primary to any insurance of Buyer that may apply to such occurrence, accident or claim and no "other insurance" provision shall be applicable to Buyer or any additional insureds, by virtue of having been named an additional insured under any policy of insurance.

(b) Workers Compensation and Employer's Liability Insurance. Employers' Liability insurance shall not be less than One Million Dollars ($1,000,000) providing statutory benefits as required by Law (if any exposure exists) for injury, sickness, disability or death of the employees.

(c) Business Auto Liability Insurance. Seller shall maintain at all times during the Contract Term business auto insurance for bodily injury and property damage with limits of One Million Dollars ($1,000,000) combined single limit. Such insurance shall cover liability arising out of Seller's use of all owned (if any), non-owned and hired motor vehicles in the performance of the Agreement.

(d) Property Insurance. Seller shall maintain or cause to be maintained property insurance (construction all-risk or operational all-risk as may be applicable) covering the Facility against physical loss or damage, including coverage for natural perils including but not limited to flood, earthquake, windstorm, severe convective storm and wildfire, all with limits in accordance

with industry standard recognizing that natural perils may be subject to a lower sublimit. Coverage will be on an "all-risk" basis including mechanical and electrical breakdown.

(e) Subcontractor Insurance. Seller shall require all of its tier-one subcontractors to carry: (i) comprehensive general liability insurance with a combined single limit of coverage not less than One Million Dollars ($1,000,000); (ii) workers' compensation insurance and employers' liability coverage in accordance with applicable requirements of Law; and (iii) business auto insurance for bodily injury and property damage with limits of one million dollars ($1,000,000) per occurrence. Seller shall use commercially reasonable efforts to cause all subcontractors shall name Seller as an additional insured to insurance carried pursuant to clauses (e)(i) and (e)(iii). Seller shall use commercially reasonable efforts to cause all subcontractors shall provide a primary endorsement and a waiver of subrogation to Seller for the required coverage pursuant to this Section 17.1(e).

(f) Evidence of Insurance. Within ten (10) days after execution of the Agreement and upon annual renewal thereafter, Seller shall deliver to Buyer certificates of insurance evidencing such coverage. Such certificates shall specify that Buyer shall be given at least thirty (30) days prior Notice by Seller in the event of any material modification, cancellation or termination of coverage. All insurance required herein shall be primary coverage without right of contribution from any insurance of Buyer, and such policies shall be endorsed with a waiver of subrogation in favor of Buyer for all work performed by Seller, its employees, agents and subcontractors and any subrogation rights which may pass to Seller's insurance carriers for the payment of any claims. Any other insurance maintained by Seller is for the exclusive benefit of Seller and shall not in any manner inure to the benefit of Buyer.

(g) Failure to Comply with Insurance Requirements. If Seller fails to comply with any of the provisions of this Article 17, Seller, among other things and without restricting Buyer's remedies under the Law or otherwise, shall, at its own cost and expense, comply with the terms and conditions of Article 16.

ARTICLE 18
CONFIDENTIAL INFORMATION

18.1 **Definition of Confidential Information**. The following constitutes "**Confidential Information**," whether oral or written which is delivered by Seller to Buyer or by Buyer to Seller including: (a) the terms and conditions of, and proposals and negotiations related to, this Agreement, and (b) information that either Seller or Buyer stamps or otherwise identifies as "confidential" or "proprietary" before disclosing it to the other. Confidential Information does not include (i) information that was publicly available at the time of the disclosure, other than as a result of a disclosure in breach of this Agreement; (ii) information that becomes publicly available through no fault of the recipient after the time of the delivery; (iii) information that was rightfully in the possession of the recipient (without confidential or proprietary restriction) at the time of delivery or that becomes available to the recipient from a source not subject to any restriction against disclosing such information to the recipient; and (iv) information that the recipient independently developed without a violation of this Agreement.

18.2 **Duty to Maintain Confidentiality**. The Party receiving Confidential Information (the "**Receiving Party**") from the other Party (the "**Disclosing Party**") shall not disclose Confidential Information to a third party (other than the Party's employees, lenders, counsel, accountants, directors or advisors, or any such representatives of a Party's Affiliates, who have a need to know such information and have agreed to keep such terms confidential) except in order to comply with any applicable Law, regulation, or any exchange, control area or independent system operator rule or in connection with any court or regulatory proceeding applicable to such Party or any of its Affiliates; *provided*, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation. The Parties agree and acknowledge that nothing in this Section 18.2 prohibits a Party from disclosing any one or more of the commercial terms of a transaction (other than the name of the other Party unless otherwise agreed to in writing by the Parties) to any industry price source for the purpose of aggregating and reporting such information in the form of a published energy price index.

The Parties acknowledge and agree that the Agreement and any transactions entered into in connection herewith are subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.). In order to designate information as confidential, the Disclosing Party must clearly stamp and identify the specific portion of the material designated with the word "Confidential." The Parties agree not to over-designate material as Confidential Information. Over-designation includes stamping whole agreements, entire pages or series of pages as "Confidential" that clearly contain information that is not Confidential Information.

Upon request or demand of any third person or entity not a Party hereto to Buyer pursuant to the California Public Records Act for production, inspection and/or copying of Confidential Information ("**Requested Confidential Information**"), Buyer shall as soon as practical, and no later than ten (10) Business Days after receipt, notify Seller in writing via email that such request has been made. Seller shall be solely responsible for taking at its sole expense whatever legal steps are necessary to prevent release of the Requested Confidential Information to the third party by Buyer. If Seller takes no such action after receiving the foregoing Notice from Buyer, Buyer shall, at its discretion, be permitted to comply with the third party's request or demand to the extent Buyer reasonably believes that disclosure is required under the California Public Records Act and is not required to defend against it. If Seller does take or attempt to take such action, Buyer shall provide timely and reasonable cooperation to Seller, if requested by Seller, and Seller agrees to indemnify and hold harmless Buyer, its officers, employees and agents ("**Buyer's Indemnified Parties**"), from any claims, liability, award of attorneys' fees, or damages, and to defend any action, claim or lawsuit brought against any of Buyer's Indemnified Parties for Buyer's refusal to disclose any Requested Confidential Information.

18.3 **Irreparable Injury; Remedies**. Receiving Party acknowledges that its obligations hereunder are necessary and reasonable in order to protect Disclosing Party and the business of Disclosing Party, and expressly acknowledges that monetary damages would be inadequate to compensate Disclosing Party for any breach or threatened breach by Receiving Party of any covenants and agreements set forth herein. Accordingly, Receiving Party acknowledges that any such breach or threatened breach will cause irreparable injury to Disclosing Party and that, in

addition to any other remedies that may be available, in law, in equity or otherwise, Disclosing Party will be entitled to obtain injunctive relief against the threatened breach of this Agreement or the continuation of any such breach, without the necessity of proving actual damages.

18.4 **Further Permitted Disclosure**. Notwithstanding anything to the contrary in this Article 18, Confidential Information may be disclosed by the Receiving Party to any of its agents, consultants, contractors, trustees, or actual or potential investors or financing parties (including, in the case of Seller, its Lender(s)), so long as such Person to whom Confidential Information is disclosed agrees in writing to be bound by confidentiality provisions that are at least as restrictive as this Article 18 to the same extent as if it were a Party.

18.5 **Press Releases**. Neither Party shall issue or make (or cause its Affiliates to issue or make) a written press release or written public statement regarding the transactions contemplated by this Agreement unless both Parties have agreed upon the contents of any such written press release or written public statement, which agreement shall not be unreasonably conditioned, withheld or delayed.

ARTICLE 19
MISCELLANEOUS

19.1 **Entire Agreement; Integration; Exhibits**. This Agreement, together with the Cover Sheet and Exhibits attached hereto constitutes the entire agreement and understanding between Seller and Buyer with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. The Exhibits attached hereto are integral parts hereof and are made a part of this Agreement by reference. The headings used herein are for convenience and reference purposes only. In the event of a conflict between the provisions of this Agreement and those of the Cover Sheet or any Exhibit, the provisions of first the Cover Sheet, and then this Agreement shall prevail, and such Exhibit shall be corrected accordingly. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.

19.2 **Amendments**. This Agreement may only be amended, modified or supplemented by an instrument in writing executed by duly authorized representatives of Seller and Buyer; *provided*, this Agreement may not be amended by electronic mail communications.

19.3 **No Waiver**. Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default.

19.4 **No Agency, Partnership, Joint Venture or Lease**. Seller and the agents and employees of Seller shall, in the performance of this Agreement, act in an independent capacity and not as officers or employees or agents of Buyer. Under this Agreement, Seller and Buyer intend to act as energy seller and energy purchaser, respectively, and do not intend to be treated as, and shall not act as, partners in, co-venturers in or lessor/lessee with respect to the Facility or any business related to the Facility. This Agreement shall not impart any rights enforceable by any

third party (other than a permitted successor or assignee bound to this Agreement) and/or, to the extent set forth herein, any Lender and/or Indemnified Party.

19.5 **Severability**. In the event that any provision of this Agreement is unenforceable or held to be unenforceable, the Parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby. The Parties shall, however, use their best endeavors to agree on the replacement of the void, illegal or unenforceable provision(s) with legally acceptable clauses which correspond as closely as possible to the sense and purpose of the affected provision and this Agreement as a whole.

19.6 **Mobile-Sierra**. Notwithstanding any other provision of this Agreement, neither Party shall seek, nor shall they support any third party 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 written 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 shall be the "public interest" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956). Changes proposed by a non-Party or FERC acting *sua sponte* shall be subject to the most stringent standard permissible under applicable Law.

19.7 **Counterparts**. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument and each of which shall be deemed an original.

19.8 **Electronic Delivery**. This Agreement may be duly executed and delivered by a Party by electronic format (including portable document format (.pdf)) delivery of the signature page of a counterpart to the other Party.

19.9 **Binding Effect**. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

19.10 **No Recourse to Members of Buyer**. Buyer is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to its Joint Powers Agreement and is a public entity separate from its constituent members. Buyer shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Seller shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Buyer's constituent members, or the employees, directors, officers, consultants or advisors of Buyer or its constituent members, in connection with this Agreement.

19.11 **Forward Contract**. The Parties acknowledge and agree that this Agreement constitutes a "forward contract" within the meaning of the U.S. Bankruptcy Code, and Buyer and Seller are "forward contract merchants" within the meaning of the U.S. Bankruptcy Code. Each Party further agrees that, for all purposes of this Agreement, each Party waives and agrees not to

assert the applicability of the provisions of 11 U.S.C. §366 in any Bankruptcy proceeding wherein such Party is a debtor. In any such proceeding, each Party further waives the right to assert that the other Party is a provider of last resort to the extent such term relates to 11 U.S.C. §366 or another provision of 11 U.S.C. §101-1532.

19.12 **Change in Electric Market Design**.

(a) If a change in the CAISO Tariff renders this Agreement or any provisions hereof incapable of being performed or administered, then any Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to make this Agreement capable of being performed and administered, while attempting to preserve to the maximum extent possible the benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, Buyer and Seller shall engage in such negotiations in good faith. If Buyer and Seller are unable, within sixty (60) days after delivery of such request, to agree upon changes to this Agreement or to resolve issues relating to changes to this Agreement, then any Party may submit issues pertaining to changes to this Agreement to the dispute resolution process set forth in Article 15. Notwithstanding the foregoing, (i) a change in cost shall not in and of itself be deemed to render this Agreement or any of the provisions hereof incapable of being performed or administered, and (ii) all of the unaffected provisions of this Agreement shall remain in full force and effect during any period of such negotiation or dispute resolution.

(b) If any of the Transmission Systems utilized to deliver Product to the Delivery Point under this Agreement are integrated into a new or existing regional transmission organization or independent system operator and such integration has a material and adverse impact on either Party's performance under this Agreement, including the costs of either Party to perform, then the affected Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to restore the balance of benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, Buyer and Seller shall engage in such negotiations in good faith; *provided*, neither Party shall be obligated to amend this Agreement if such amendment(s) would adversely affect, or could reasonably be expected to have or result in any adverse effect on, any of such Party's rights, benefits, costs, revenue, value of the Agreement, risks and/or obligations under this Agreement.

19.13 **Further Assurances**. Each of the Parties hereto agrees to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than or in addition to those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the Effective Date.

SUNZIA WIND SOUTH LLC,
a Delaware limited liability company

By: Signed by: Lauren Haller C3DD8814383A4DB...
Name: Lauren Haller
Title: Authorized Signatory

CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA,
a California joint powers authority

By: Lindsay Deseagnia
Name: Lindsay Deseagnia
Title: VP, Power Supply

EXHIBIT A

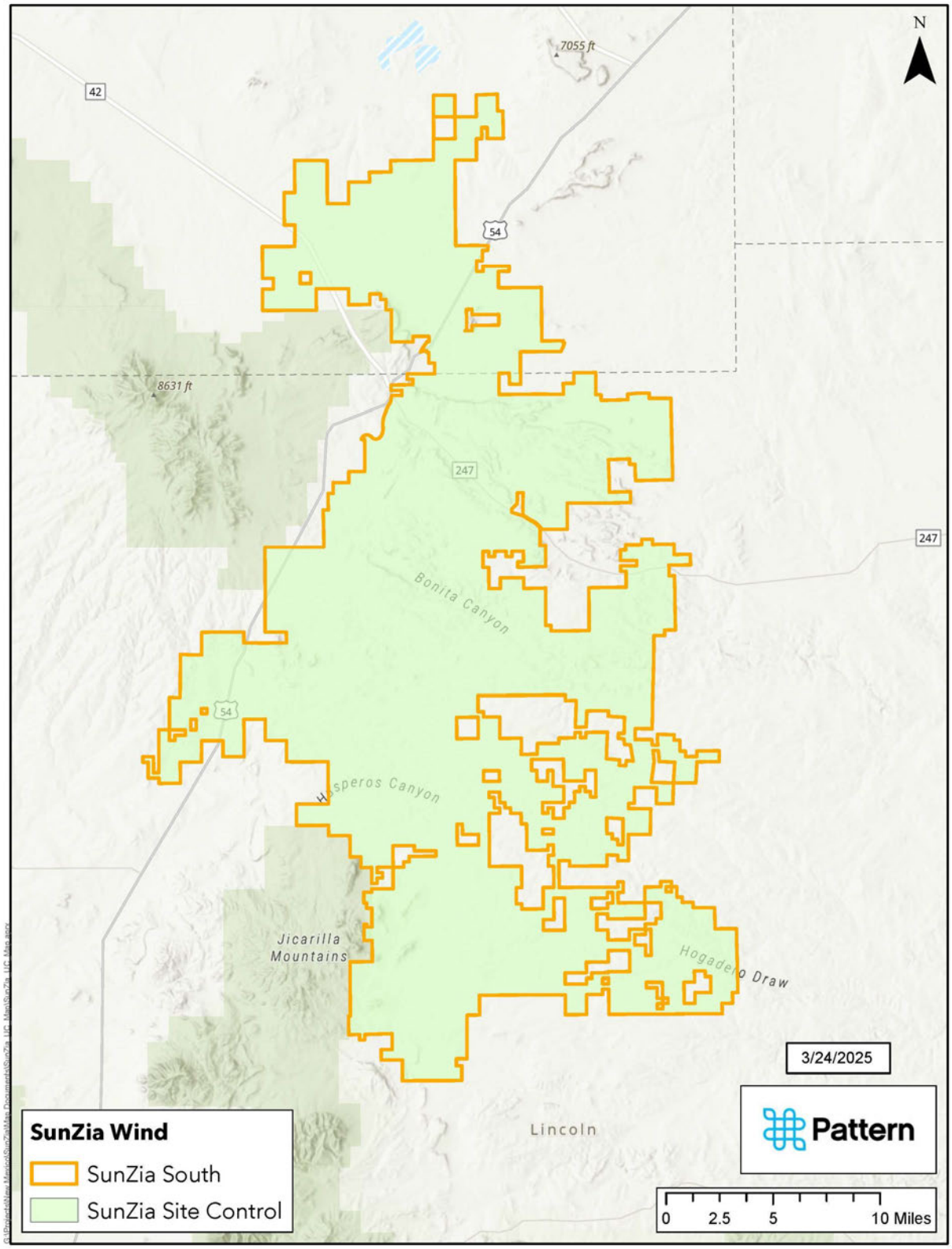
FACILITY DESCRIPTION

The Facility description provided herein reflects Seller's expectation for the Facility and the Site as of the Effective Date. Seller may, by Notice to Buyer prior to the Construction Start Date, modify the Site Name and Site Location within the counties set forth below. Except as otherwise provided in the Agreement, Seller shall not make any alteration or modification to the Facility which results in a change to the Guaranteed Capacity, Guaranteed RA Amount, or to the anticipated output of the Facility without Buyer's prior written consent; *provided*, Seller shall be permitted to repower the Facility after the tenth (10^{th}) Contract Year so long as Seller continues to be obligated to deliver Guaranteed Energy Production and Guaranteed RA Amount associated with the Guaranteed Capacity during such repower; upon any such repower that changes the Installed Capacity, Seller shall deliver an updated Installed Capacity Certificate in the form of Exhibit I.

Site Name: SunZia Wind South

Site Map:

[*Site Map shown on next page*]


N
7055 ft
42
54
8631 ft
247
247
Bonita Canyon
54
Hesperos Canyon
Jicarilla Mountains
Hogadero Draw
Lincoln
3/24/2025
Pattern
SunZia Wind
SunZia South
SunZia Site Control
0 2.5 5 10 Miles

Project	Anticipated Nameplate Capacity (MW)*	Wind Turbine Model(s)
SunZia Wind South	2,561.2	General Electric

* the "Anticipated Nameplate Capacity" listed above is the anticipated nameplate capacity for the Facility as of the Effective Date, which shall be subject to modification pursuant to the terms of this Agreement.

Site Location: Lincoln and Torrance Counties, New Mexico

Delivery Point: CAISO Scheduling Point-Intertie combination at PALOVRDE_ASR-APND and PVWEST.

Point of Interconnection: the Pete Heinrich AC Switching Station.

Transmission Provider: SunZia Transmission, LLC; Salt River Project Agricultural Improvement and Power District; Tucson Electric Power Company; Desert Southwest Region of Western Area Power Administration; and such other Persons who meet the definition of a Transmission Provider hereunder from time to time.

Technology: Utility Scale Wind Technology

Guaranteed Capacity: 403.5 MW

State: New Mexico

Facility Metering Points: See Exhibit R, as may be updated by Seller from time to time upon Notice to Buyer, so long as such update does not have a materially adverse effect on Buyer, as determined by Buyer in its reasonable discretion.

Participating Transmission Owner: SunZia Transmission, LLC

Alternate Facility Descriptions: the Western Spirit Wind Complex, consisting of the below projects:

1. Clines Corners Wind Project: a 324 MW wind-powered electricity generating facility located in Torrance and Guadalupe Counties, in the State of New Mexico, with CAISO IDs CLINESCO_3_PVDYN and CLINESCO_3_WBDYN.

2. Duran Mesa Wind Project: a 105 MW wind-powered electricity generating facility located in Torrance County, in the State of New Mexico, with CAISO ID DURNMESA_3_WBDYN.

3. Tecolote Wind Project: a 272 MW wind-powered electricity generating facility located in

Torrance and Guadalupe Counties, in the State of New Mexico, with CAISO ID TECOLOTE_3_WBDYN.

EXHIBIT B

FACILITY CONSTRUCTION AND COMMERCIAL OPERATION

1. **Construction of the Facility**.

(a) "**Construction Start**" will occur upon Seller's acquisition of all applicable regulatory authorizations, approvals and permits for commencement of construction of the Facility following Seller's execution of an EPC Contract related to the Facility, and once Seller has issued a notice to proceed that authorizes the contractor to mobilize to Site and begin physical construction (including, at a minimum, excavation for foundations or the installation or erection of improvements) at the Site, and has ordered all essential equipment and supplies as, in each case, can reasonably be considered necessary so that physical construction of the Facility may begin and proceed to completion without foreseeable interruption of material duration. The date of Construction Start will be evidenced by Seller's delivery to Buyer of a certificate substantially in the form attached as Exhibit J hereto, and the date certified therein shall be the "**Construction Start Date**."

(b) Subject to Section 5 of this Exhibit B, Seller may extend the Guaranteed Construction Start Date by paying Daily Delay Damages to Buyer for each day Seller desires to extend the Guaranteed Construction Start Date, not to exceed a total of [redacted] days of extensions by such payment of Daily Delay Damages. On or before the date that is ten (10) days prior to the then-current Guaranteed Construction Start Date, Seller shall provide Notice and payment to Buyer of the Daily Delay Damages for the number of days of extension to the Guaranteed Construction Start Date ("**Daily Delay Damages Payment**"). If Seller achieves Construction Start prior to the Guaranteed Construction Start Date, as extended by the payment of Daily Delay Damages, Buyer shall refund to Seller the Daily Delay Damages for each day Seller achieves Construction Start prior to the Guaranteed Construction Start Date times the Daily Delay Damages, not to exceed the total amount of Daily Delay Damages paid by Seller pursuant to this Section 1(b); *provided* such Daily Delay Damages Payment may, at Seller's option, be in the form of cash or one or more Letter(s) of Credit, which Letter(s) of Credit Buyer may immediately draw on, on a pro rata basis, to receive such Daily Delay Damages Payment; *provided*, if Seller provides such Letter(s) of Credit to Buyer prior to providing Notice of the Daily Delay Damages Payment as set forth above, then Buyer shall not draw on such Letter(s) of Credit until Buyer receives such Notice from Seller. Additionally, if Seller achieves Commercial Operation on or before the Guaranteed Commercial Operation Date (not including any extensions to such date resulting from Seller's payment of Commercial Operation Delay Damages, but as may be extended pursuant to a Development Cure Period), then Buyer shall refund to Seller all Daily Delay Damages paid by Seller and not previously refunded by Buyer.

2. **Commercial Operation of the Facility**. "**Commercial Operation**" means the condition existing when Seller has fulfilled all of the conditions precedent as set forth in Section 2.2 of the Agreement and provided Notice to Buyer substantially in the form of Exhibit H (the "**COD Certificate**").

(a) Seller shall notify Buyer that it intends to achieve Commercial Operation at least sixty (60) days before the anticipated Commercial Operation Date. Seller may continue to increase the Installed Capacity of the Facility after the Commercial Operation Date and will notify Buyer from time to time of such increases by delivering a certificate from a Licensed Professional Engineer substantially in the form attached as Exhibit I hereto; when the Installed Capacity is complete, Seller shall include a statement to that effect in a Notice accompanying the final such certificate.

(b) Subject to Section 2.2 of the Agreement and Section 5 of this Exhibit B, if Seller does not achieve Commercial Operation by the Guaranteed Commercial Operation Date (as it may be otherwise extended hereunder), Seller may elect to extend the Guaranteed Commercial Operation Date by paying Commercial Operation Delay Damages to Buyer for each day Seller desires to extend the Guaranteed Commercial Operation Date, not to exceed a total of one hundred eighty (180) days of extensions by such payment of Commercial Operation Delay Damages. If Seller elects to extend the Guaranteed Commercial Operation Date, on or before the date that is five (5) Business Days prior to the then-current Guaranteed Commercial Operation Date, Seller shall provide Notice and payment to Buyer of the Commercial Operation Delay Damages for the number of days of extension to the Guaranteed Commercial Operation Date ("**COD Delay Damages Payment**"); *provided*, such COD Delay Damages Payment may, at Seller's option, be in the form of cash or one or more Letter(s) of Credit, which Letter(s) of Credit Buyer may immediately draw on, on a pro rata basis, to receive such COD Delay Damages Payment; *provided*, if Seller provides such Letter(s) of Credit to Buyer prior to providing Notice of the COD Delay Damages Payment as set forth above, then Buyer shall not draw on such Letter(s) of Credit until Buyer receives such Notice from Seller. If Seller achieves Commercial Operation prior to the Guaranteed Commercial Operation Date as extended by the payment of the COD Delay Damages Payment, Buyer shall refund to Seller in cash the Commercial Operation Delay Damages for each day Seller achieves Commercial Operation prior to the Guaranteed Commercial Operation Date, as extended, times the Commercial Operation Delay Damages, not to exceed the total amount of the COD Delay Damages Payment paid by Seller pursuant to this Section 2(b).

(c) If Seller is not eligible for a refund of all Daily Delay Damages paid by Seller pursuant to Section 1(b) of this Exhibit B but Seller achieves Commercial Operation within one hundred eighty (180) days after the Guaranteed Commercial Operation Date, Buyer shall refund to Seller an amount equal to the product of (i) the difference of (x) the total amount of Delay Damages paid by Seller, *minus* (y)

the product of (A) the number of days between the Commercial Operation Date and the Guaranteed Commercial Operation Date, *times* (B) the Commercial Operation Delay Damages amount (*provided*, if (x) minus (y) is a negative number, the amount shall be zero (0)); *multiplied by* (ii) the applicable percentage of Daily excess Damages set forth in the table below. Seller shall include a request for refund of such amount with the first invoice to Buyer after Commercial Operation.

Days between the Commercial Operation Date and the Guaranteed Commercial Operation Date	Percentage of excess Delay Damages to be refunded to Seller
1-30	90%
31-90	60%
91-180	40%

3. **Termination for Failure to Achieve Commercial Operation**. If the Facility has not achieved Commercial Operation on or before the Guaranteed Commercial Operation Date (as may be extended hereunder), Buyer may elect to terminate this Agreement in accordance with Sections 11.1(b)(ii) and 11.2. If the Facility has not achieved Commercial Operation on or before the Guaranteed Commercial Operation Date (as may be extended hereunder), and Buyer has not terminated this Agreement on or before the date that is sixty (60) days after the Guaranteed Commercial Operation Date (as may be extended hereunder) in accordance with Sections 11.1(b)(ii) and 11.2, Seller may elect to terminate this Agreement upon Notice to Buyer, it shall not be an Event of Default by either Party, and neither Party shall have any liability to the other Party, except for the payment by Seller, as liquidated damages, of the Damage Payment, and those obligations that survive termination as expressly described in Section 2.1(b) and Section 11.6.

4. **Extension of the Guaranteed Dates**. The Guaranteed Construction Start Date and the Guaranteed Commercial Operation Date shall, subject to notice and documentation requirements set forth below, be extended on a day-for-day basis (the "**Development Cure Period**") for the duration of any and all delays arising out of the following circumstances to the extent (i) the following circumstances are not the result of Seller's failure to take all commercially reasonable actions to meet its requirements and deadlines, and (ii) such delays could not be mitigated by Seller using commercially reasonable efforts to overcome the delays; *provided*, if such delays occur concurrently, the Guaranteed Construction Start Date and/or Guaranteed Commercial Operation Date, as applicable, shall only be extended by a single day for each such concurrent day of delay:

   (a) Seller has not acquired the Material Permits by the Guaranteed Construction Start Date, despite the exercise of diligent and commercially reasonable efforts by Seller; or

   (b) a Force Majeure Event occurs; or

(c) [redacted]

(d) Curtailment Orders (excluding any Transmission System Outage due to the fault or negligence of Seller) that prevent Seller from (i) achieving Initial Synchronization by the expected date for Initial Synchronization as set forth on the Cover Sheet, (ii) completing any condition to Commercial Operation as set forth in Sections 2.2(a) (except with respect to the Item 1 in Exhibit H), 2.2(c) and 2.2(e), the Guaranteed Commercial Operation Date, in each case despite the exercise of commercially reasonable efforts by Seller; or

(e) a delay caused by Buyer.

Seller shall submit any claim for Development Cure Period delays within (x) three (3) Business Days of the applicable milestone in the case of (a), (c) or (d) above, and (y) fourteen (14) days after the initial occurrence of the claimed Force Majeure Event in the case of (b) above, in substantially the form set forth in Exhibit T. Notwithstanding anything in this Agreement to the contrary, the cumulative extensions granted under the Development Cure Period (other than the extensions granted pursuant to clause 4(e) above) shall not exceed one hundred eighty (180) days, for any reason, including a Force Majeure Event, and the cumulative extensions granted to the Guaranteed Commercial Operation Date by the payment of Commercial Operation Delay Damages and any Development Cure Period(s) (other than the extensions granted pursuant to clause 4(e) above) shall not exceed [redacted] days. Upon request from Buyer, Seller shall provide documentation demonstrating to Buyer's reasonable satisfaction that the delays described above did not result from Seller's actions or failure to take commercially reasonable actions.

5. [redacted].

EXHIBIT C

COMPENSATION

Buyer shall compensate Seller for the Product in accordance with this Exhibit C.

(a) Renewable Rate. During the Delivery Term, Buyer shall pay Seller the following amounts for each MWh of Facility Energy, retroactively delivered Replacement Energy delivered pursuant to Section 4.7, and Deemed Delivered Energy during each Contract Year:

(i) Facility Energy. For each MWh of Facility Energy and retroactively delivered Replacement Energy delivered pursuant to Section 4.7, in each Settlement Interval or Settlement Period, as applicable, the difference of (A) the Renewable Rate, *minus* (B) the Day-Ahead Market LMP applicable to the Delivery Point for such Settlement Interval or Settlement Period, as applicable; *provided*, (x) if the Day-Ahead Market LMP applicable to the Delivery Point for such Settlement Interval or Settlement Period, as applicable, is less than the Floor Price, (A) if the LMP in the Real-Time Market at the Delivery Point is greater than or equal to the Floor Price, Buyer shall pay the difference of (1) the Renewable Rate *minus* (2) the LMP in the Real-Time Market at the Delivery Point, or (B) if the LMP in the Real-Time Market at the Delivery Point is less than the Floor Price, then such LMP in the Day-Ahead Market will be deemed to be the Floor Price for purposes of this clause (a), and (y) if the result of the foregoing results in a negative value, then Seller shall pay Buyer the absolute value of such result (which payment may be applied as a credit to Buyer on Seller's monthly invoice); and

(ii) Deemed Delivered Energy. For each MWh of Deemed Delivered Energy in each Settlement Interval or Settlement Period, as applicable, Buyer shall pay Seller the Renewable Rate. In addition, during the period in which Seller is receiving the PTC for the Facility Energy, Buyer shall also pay the PTC Amount for all Deemed Delivered Energy; *provided*, *however*, Buyer shall not pay the PTC Amount for Deemed Delivered Energy that was generated by the Facility and sold to a third party during a Market Curtailment Period pursuant to Section 4.4(b). Notwithstanding the foregoing, Seller shall receive no compensation from Buyer, including for the PTC Amount, for Deemed Delivered Energy to the extent that Seller is required to reduce delivery of Facility Energy or would be required to reduce delivery of Deemed Delivered Energy as a result of any Curtailment Period.

(b) Excess Contract Year Deliveries Over 115%. Notwithstanding the foregoing, if at any point in a Contract Year the amount of Facility Energy *plus* Deemed Delivered Energy exceeds one hundred fifteen percent (115%) of the Expected Energy for such Contract Year, Seller shall provide Notice to Buyer thereof and Buyer shall have the right, but not the obligation, to purchase additional Product (which shall include the purchase of Replacement Energy and Deemed Delivered Energy) during such Contract Year. If Buyer elects not to purchase such additional Product for the remainder of such Contract Year, Buyer shall notify Seller thereof, and (i) Seller's obligation to deliver and Buyer's obligation to purchase Product will stop five (5) Business Days following the receipt of such notice by Seller, until the first day of the following Contract Year, and (ii) Seller may sell and deliver Product to any third party until the first day of the following

Contract Year. If Seller makes third-party sales in accordance with this paragraph, Seller shall be entitled to all revenues and shall bear all costs associated with such sales.

(c) Excess Settlement Interval Deliveries. If during any Settlement Interval or Settlement Period, as applicable, Seller delivers Facility Energy in excess of the product of (a) the Hourly Delivery Cap *multiplied by* (b) the duration of the Settlement Interval or Settlement Period, as applicable, expressed in hours ("**Excess MWh**"), then the price applicable to all such Excess MWh in such Settlement Interval shall be zero dollars ($0), and if there is a Negative LMP during such Settlement Interval, Seller shall pay to Buyer an amount equal to the absolute value of the Negative LMP times such Excess MWh.

(d) Test Energy. Test Energy is compensated in accordance with Section 3.6.

(e) Tax Credits. The Parties agree that the Renewable Rate is not subject to adjustment or amendment if Seller fails to receive any Tax Credits, or if any Tax Credits expire, are repealed or otherwise cease to apply to Seller or the Facility in whole or in part, or Seller or its investors are unable to benefit from any Tax Credits. Seller shall bear all risks, financial and otherwise, throughout the Contract Term, associated with Seller's or the Facility's eligibility to receive Tax Credits or to qualify for accelerated depreciation for Seller's accounting, reporting or Tax purposes. The obligations of the Parties hereunder, including those obligations set forth herein regarding the purchase and price for and Seller's obligation to deliver Facility Energy and Product, shall be effective regardless of whether construction of the Facility (or any portion thereof) or the sale of Facility Energy is eligible for, or receives Tax Credits during the Contract Term.

EXHIBIT D

SCHEDULING COORDINATOR RESPONSIBILITIES

(a) Seller as Scheduling Coordinator for the Facility. Seller shall act as the Scheduling Coordinator or designate a qualified third party to provide Scheduling Coordinator services with the CAISO for the Facility to Schedule and deliver Test Energy and the Product at the Delivery Point. Seller shall bid the Facility's generation into the applicable CAISO market pursuant clause (b) below. Each Party shall perform all scheduling activities in compliance with (i) the CAISO Tariff, (ii) WECC scheduling practices, and (iii) Prudent Operating Practice. As between Buyer and Seller hereunder, Seller shall be responsible for reporting the Facility Energy delivered to the CAISO in its FERC electronic quarterly reports. The Parties agree to communicate and cooperate as necessary in order to address any scheduling or settlement issues as they may arise, and to work together in good faith to resolve them in a manner consistent with the terms of the Agreement. To the extent required under the CAISO Tariff, Seller (as the Facility's SC) shall ensure that all Facility Energy is electronically tagged (E-Tagged) in accordance with Prudent Operating Practice, this Agreement, and the applicable CAISO Tariff protocols and Scheduling practices.

(b) CAISO Market Participation.

(i) (x) Seller shall, at Seller's election, submit either bids equal to or below the Floor Price, or Self-Schedules, in each case for the Day-Ahead Forecast into the Day-Ahead Market, and (y) Seller shall, at Seller's election, submit either bids equal to or below the Floor Price, or Self-Schedules, in each case into the Real-Time Market for any portion of the expected Facility Energy above the amount of the Day-Ahead Forecast that is awarded a Day-Ahead Schedule. Seller may, but is not required to, reduce deliveries of Product during periods in which the LMP in the Day-Ahead Market or Real-Time Market at the Delivery Point is less than the Floor Price, as applicable; *provided*, Seller shall not reduce deliveries of Product below the amount of the Day-Ahead Forecast that has been awarded a Day-Ahead Schedule during periods in which the LMP in the Real-Time Market at the Delivery Point is less than the Floor Price; *provided further*, if Seller does not reduce deliveries of Product during such periods, Seller shall be compensated for such Facility Energy pursuant to Section (a) in Exhibit C, and such Facility Energy shall not be considered to be Deemed Delivered Energy.

(ii) The Parties agree to use good faith efforts to work together to permit Buyer to set the Floor Price on a [redacted] basis upon not less than ten (10) Business Days' Notice to Seller; *provided*, *however*, that Buyer shall not have the right to set the Floor Price at a price that is greater than (i) for the period during which Seller is eligible to obtain PTCs for Facility Energy, the Negative PTC Amount, and (ii) after the period during which Seller is eligible to obtain PTCs for Facility Energy, zero dollars per MWh ($0/MWh).

(c) CAISO Costs and Revenues. As the Scheduling Coordinator for the Facility, Seller shall be responsible for all CAISO costs, including without limitation, all penalties, Imbalance Energy charges, and other charges, and shall be entitled to all CAISO revenues, including without limitation, credits, Imbalance Energy payments, and revenues associated with CAISO dispatches,

bid cost recovery, Inter-SC Trade credits, or other credits in respect of the Product scheduled or delivered from the Facility. Seller shall be responsible for all CAISO penalties resulting from any failure by Seller to abide by the CAISO Tariff. The Parties agree that any Availability Incentive Payments (as defined in the CAISO Tariff) are for the benefit of Seller and for Seller's account and that any Non-Availability Charges (as defined in the CAISO Tariff) are the responsibility of Seller and for Seller's account. In addition, if during the Delivery Term, the CAISO implements or has implemented any sanction or penalty related to scheduling, outage reporting, or generator operation, the cost of such sanctions or penalties arising from the scheduling, outage reporting, or generator operation of the Facility shall be Seller's responsibility.

(d) Master File and Resource Data Template. Seller shall provide the data to the CAISO (and to Buyer) that is required for the CAISO's Master File and Resource Data Template (or successor data systems) for the Facility consistent with this Agreement. Neither Party shall change such data without the other Party's prior written consent.

(e) Customer Market Results Interface Access. Seller shall provide to Buyer read-only access to Seller's (or its SC's) customer market results interface for the Facility.

EXHIBIT E

PROGRESS REPORTING FORM

Each Progress Report must include the following items:

1. Executive summary.

2. Current facility description.

3. Current Site plan of the Facility.

4. Description of any planned changes to the Facility or the Site from the previous Progress Report.

5. Gantt chart or schedule showing progress on achieving each of the Milestones.

6. Summary of activities during the previous calendar quarter or month, as applicable, including any OSHA labor hour reports.

7. Forecast of activities scheduled for the current calendar quarter or month, as applicable.

8. Written description about the progress relative to Seller's Milestones, including (i) whether Seller has met or is on target to meet the Milestones, and (ii) if a Milestone has been delayed, a description of the cause of the delay, potential courses of action to achieve such missed Milestone and all subsequent Milestones.

9. List of issues that could reasonably foreseeably affect Seller's Milestones.

10. A status report of start-up activities including a forecast of activities ongoing and after start-up, a report on Facility performance including performance projections for the next twelve (12) months.

11. Schedule of status of all major construction agreements, permits, financing agreements and major equipment purchase orders showing the start dates, anticipated completion dates, and completion percentages.

12. Schedule of all Material Permits obtained through the date of the Progress Report.

13. Pictures, in sufficient quantity and of appropriate detail, in order to document construction and startup progress of the Facility, the interconnection into the PTO's Transmission System and all other interconnection utility services.

EXHIBIT F-1

MONTHLY EXPECTED AVAILABLE CAPACITY

[MW Per Hour] – [*Insert Month*]

	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00
JAN																								
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The foregoing table is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement.

EXHIBIT F-2

MONTHLY EXPECTED FACILITY ENERGY

[MWh Per Hour] – [*Insert Month*]

	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00
JAN																								
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The foregoing table is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement.

EXHIBIT G

GUARANTEED ENERGY PRODUCTION DAMAGES CALCULATION

In accordance with Section 4.7, if Seller fails to achieve the Guaranteed Energy Production during any Performance Measurement Period, a liquidated damages payment shall be due from Seller to Buyer, calculated as follows:

[(A – B) * (C – D)] – (E + F)

where:

A = the Guaranteed Energy Production amount for the Performance Measurement Period, in MWh

B = the Adjusted Energy Production amount for the Performance Measurement Period, in MWh

C = Replacement price for the Performance Measurement Period, in $/MWh, which is the sum of (a) the simple average of the LMP in the Day-Ahead Market at the Delivery Point for all of the hours in the Performance Measurement Period, *plus* (b) the REC Price

D = the Renewable Rate, in $/MWh

E = The amount of Energy Replacement Damages paid by Seller with respect to the immediately preceding Performance Measurement Period

F = The product of (a) the amount of Replacement Product in MWhs delivered by Seller with respect to the immediately preceding Contract Year and (b) the price which is (C – D)

[redacted]

"**Adjusted Energy Production**" shall mean the sum of the following: Facility Energy + Deemed Delivered Energy + Lost Output.

"**Replacement Energy**" means Energy that is produced by the Facility or the Alternate Facility and provided by Seller to Buyer as Replacement Product, in an amount equal to the amount of Replacement Green Attributes provided by Seller as Replacement Product for the same Performance Measurement Period.

"**Replacement Green Attributes**" means Renewable Energy Credits that are of the same Portfolio Content Category (i.e., PCC1) as the Green Attributes portion of the Product, and that may be used in connection with the same compliance period applicable to Buyer under the RPS program as the Renewable Energy Credits that would have been generated by the Facility.

"**Replacement Product**" means (a) Replacement Energy, and (b) Replacement Green Attributes in an amount not to exceed ten percent (10%) of the Expected Energy for the Contract Year in connection with which such Replacement Product is delivered.

No payment shall be due if the calculation of (a) (A – B), (b) (C – D), or (c) [(A – B) * (C – D)] – (E + F), yields a negative number. In no event will Buyer owe any payment to Seller pursuant to this Exhibit G.

Within sixty (60) days after each Contract Year, Buyer shall send Seller Notice of the amount of damages owing, if any, which shall be payable to Buyer before the later of (a) thirty (30) days of such Notice and (b) ninety (90) days after each Performance Measurement Period; *provided*, the amount of damages owing shall be adjusted to account for Replacement Product, if any, delivered after each applicable Performance Measurement Period.

EXHIBIT H

FORM OF COMMERCIAL OPERATION DATE CERTIFICATE

This certification ("**Certification**") of Commercial Operation is delivered by the undersigned, a licensed professional engineer and duly authorized representative of _____ in its capacity as independent engineer ("**Engineer**") for purposes of this certification, to Clean Power Alliance of Southern California, a California joint powers authority **(**"**Buyer**"), pursuant to the [agreement between Seller and Engineer] and in connection with that certain Renewable Power Purchase Agreement (SunZia South) dated _____ ("**Agreement**") by and between [Pattern Entity] ("**Seller**") and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Engineer hereby certifies and represents to Buyer the following:

(1) Wind turbines with a nameplate capacity at least equal to at least 100% of the Guaranteed Installed Capacity have been installed at the Facility.

(2) Testing and commissioning of each wind turbine referred to in paragraph (1) above has been completed in accordance with the turbine supply agreement, and each such wind turbine has delivered electricity to the Point of Interconnection specified in the Interconnection Agreement.

(3) The Participating Transmission Owner has provided documentation supporting full unrestricted release of at least the Guaranteed Installed Capacity for Commercial Operation on _____[DATE]_____.

(4) the CAISO has provided notification that the Energy generation from a portion of the Facility that is no smaller than the Guaranteed Installed Capacity may be scheduled into the CAISO markets on an unconditional basis in accordance with the CAISO Tariff and Business Practice Manual(s) as applicable, including the New Resource Implementation process.

EXECUTED on this _____ day of _____, 20__.

Sincerely,

By:_____
[NAME], P.E.
[TITLE]
New Mexico License No. [##]

EXHIBIT I

FORM OF INSTALLED CAPACITY CERTIFICATE

This certification ("**Certification**") of Installed Capacity is delivered by the undersigned, a licensed professional engineer and duly authorized representative of _____ in its capacity as independent engineer ("**Engineer**") for purposes of this certification, to Clean Power Alliance of Southern California, a California joint powers authority ("**Buyer**"), pursuant to the [agreement between Seller and Engineer] and in connection with that certain Renewable Power Purchase Agreement (SunZia South) dated _____ ("**Agreement**") by and between [Pattern Entity] ("**Seller**") and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

As of the date set forth below, [___] wind turbines with an aggregate nameplate capacity of [__], which is the Installed Capacity as of the date hereof, have been installed at the Facility, and testing and commissioning of each such wind turbines has been completed in accordance with the turbine supply agreement and each such wind turbine has delivered electricity to the Point of Interconnection specified in the Interconnection Agreement.

EXECUTED on this _____ day of _____, 20__.

Sincerely,

By:_____
[NAME], P.E.
[TITLE]
New Mexico License No. [##]
Exp. [DATE]

EXHIBIT J

FORM OF CONSTRUCTION START DATE CERTIFICATE

This certification of Construction Start Date ("**Certification**") is delivered by [SELLER ENTITY] ("**Seller**") to Clean Power Alliance of Southern California, a California joint powers authority ("**Buyer**") in accordance with the terms of that certain Renewable Power Purchase Agreement (SunZia South) dated _____ ("**Agreement**") by and between Seller and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Seller hereby certifies and represents to Buyer the following:

(1) the EPC Contract related to the Facility was executed on _____;

(2) the notice to proceed with the construction of the Facility was issued on _____ (attached);

(3) the Construction Start Date (as defined in Exhibit B of the Agreement) has occurred as of _____; and

(4) the precise Site on which the Facility is located is (which must be within the boundaries of the previously identified Site):

_____
(such description shall amend the description of the Site in Exhibit A).

IN WITNESS WHEREOF, the undersigned has executed this Certification on behalf of Seller as of the ___ day of _____.

[SELLER ENTITY]

By:_____
Its:_____

Date:_____

EXHIBIT K

FORM OF LETTER OF CREDIT

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [●]

DATE: [●]

BENEFICIARY:

APPLICANT: SUNZIA WIND SOUTH LLC

1088 SANSOME STREET, SAN FRANCISCO, CA 94111

EXPIRATION DATE: [●]

AMOUNT/CURRENCY: [●]

AT THE REQUEST OF AND FOR THE ACCOUNT OF APPLICANT, WE, [INSERT BANK NAME AND ADDRESS] ("ISSUER"), HEREBY ESTABLISH IN YOUR FAVOR IN RESPECT OF OBLIGATIONS OF APPLICANT OUR IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER [●] ("LETTER OF CREDIT") IN FAVOR OF CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, A CALIFORNIA JOINT POWERS AUTHORITY ("BENEFICIARY"), 801 S GRAND, SUITE 400, LOS ANGELES, CA 90017, WHEREBY, SUBJECT TO THE TERMS AND CONDITIONS CONTAINED HEREIN, BENEFICIARY IS HEREBY AUTHORIZED TO DRAW ON US, BY SIGHT, BY ITS DRAWING STATEMENT AS PROVIDED HEREIN, FOR AN AGGREGATE AMOUNT UP TO BUT NOT EXCEEDING [●] (THE "FACE AMOUNT").

WE ARE ADVISED THIS LETTER OF CREDIT IS IRREVOCABLE AND IS ESTABLISHED AS SECURITY PURSUANT TO THAT CERTAIN RENEWABLE POWER PURCHASE AGREEMENT (SUNZIA SOUTH) DATED AS OF _____, 2025 BETWEEN APPLICANT AND BENEFICIARY (AS AMENDED, SUPPLEMENTED, OR RESTATED FROM TIME TO TIME, THE "AGREEMENT").

THIS LETTER OF CREDIT SHALL BE EFFECTIVE IMMEDIATELY AND SHALL EXPIRE ON [●], WHICH IS ONE YEAR AFTER THE ISSUE DATE OF THIS LETTER OF CREDIT, OR ANY EXPIRATION DATE EXTENDED IN ACCORDANCE WITH THE TERMS HEREOF (THE "EXPIRATION DATE").

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT SHALL BE AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR ADDITIONAL TWELVE (12) MONTH PERIODS FROM THE PRESENT OR EACH FUTURE EXPIRATION DATE, BUT IN NO EVENT TO AN EXPIRATION DATE LATER THAN [●] (THE "FINAL EXPIRATION DATE"), UNLESS AT LEAST NINETY (90) DAYS PRIOR TO THE EXPIRATION DATE WE SEND NOTICE IN WRITING TO YOU VIA HAND DELIVERY OR OVERNIGHT COURIER AT THE ABOVE ADDRESS, THAT WE ELECT NOT TO

AUTOMATICALLY EXTEND THIS LETTER OF CREDIT FOR ANY ADDITIONAL PERIOD.

ON OR BEFORE THE EXPIRATION DATE OF THIS LETTER OF CREDIT YOU MAY DRAW ON US HEREUNDER FOR UP TO THE FULL UNUTILIZED AMOUNT AVAILABLE AS OF THE DATE OF DRAWING ON THIS LETTER OF CREDIT.

PARTIAL AND MULTIPLE DRAWINGS ARE PERMITTED UNDER THIS LETTER OF CREDIT (PROVIDED THAT THE CUMULATIVE AGGREGATE AMOUNT THAT MAY BE DEMANDED UNDER THIS LETTER OF CREDIT SHALL NOT EXCEED THE FACE AMOUNT), AND THIS LETTER OF CREDIT SHALL REMAIN IN FULL FORCE AND EFFECT WITH RESPECT TO ANY CONTINUING BALANCE.

FUNDS UNDER THIS LETTER OF CREDIT SHALL BE AVAILABLE TO THE BENEFICIARY UPON PRESENTATION TO US OF A DATED DRAWING CERTIFICATE IN THE FORM OF EXHIBIT A HERETO (WHICH IS AN INTEGRAL PART OF THIS LETTER OF CREDIT) PURPORTEDLY SIGNED BY THE BENEFICIARY'S DULY AUTHORIZED REPRESENTATIVE.

THE DRAWING CERTIFICATE MAY BE PRESENTED BY (A) PHYSICAL DELIVERY TO [ADDRESS] OR (B) BY FACSIMILE TO FACSIMILE NUMBER [●] (EACH SUCH DRAWING, A "FAX DRAWING"); PROVIDED, HOWEVER, THAT A FAX DRAWING WILL NOT BE EFFECTIVELY PRESENTED UNTIL YOU CONFIRM BY TELEPHONE OUR RECEIPT OF SUCH FAX DRAWING BY CALLING US AT TELEPHONE NUMBER [●] OR YOU CONFIRM BY EMAIL AT: [●]. IF YOU PRESENT A FAX DRAWING UNDER THIS LETTER OF CREDIT YOU DO NOT NEED TO PRESENT THE ORIGINAL OF ANY DRAWING DOCUMENTS, AND IF WE RECEIVE ANY SUCH ORIGINAL DRAWING DOCUMENTS THEY WILL NOT BE EXAMINED BY US. IN THE EVENT OF A FULL AND FINAL DRAWING THE ORIGINAL STANDBY LETTER OF CREDIT MUST BE RETURNED TO US BY OVERNIGHT COURIER.

ALL PAYMENTS MADE UNDER THIS LETTER OF CREDIT SHALL BE MADE WITH ISSUER'S OWN IMMEDIATELY AVAILABLE FUNDS BY MEANS OF WIRE TRANSFER IN IMMEDIATELY AVAILABLE UNITED STATES DOLLARS TO BENEFICIARY'S ACCOUNT AS INDICATED BY BENEFICIARY IN ITS DRAWING CERTIFICATE OR IN A COMMUNICATION ACCOMPANYING ITS DRAWING CERTIFICATE.

WE HEREBY AGREE THAT THE DRAWING DOCUMENTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT WILL BE DULY HONORED BY US UPON DELIVERY OF THE ABOVE SPECIFIED DRAWING CERTIFICATE, IF PRESENTED ON OR BEFORE THE EXPIRATION DATE AS SPECIFIED HEREIN.

AS STIPULATED HEREIN, "BUSINESS DAY" SHALL MEAN ANY DAY OTHER THAN A SATURDAY, SUNDAY OR A DAY ON WHICH BANKING INSTITUTIONS IN THE STATE

OF _____ ARE AUTHORIZED OR REQUIRED BY LAW TO CLOSE. IF ANY DRAWING OR THE DOCUMENTATION PRESENTED IN CONNECTION THEREWITH, DOES NOT CONFORM TO THE TERMS AND CONDITIONS HEREOF, WE WILL ADVISE YOU OF THE SAME BY TELEPHONE OR FACSIMILE AND GIVE THE REASONS FOR SUCH NON-CONFORMANCE.

THIS LETTER OF CREDIT IS ISSUED SUBJECT TO THE RULES OF THE 'INTERNATIONAL STANDBY PRACTICES 1998', INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 590 ('ISP98') AND AS TO MATTERS NOT ADDRESSED BY ISP98 SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF STATE OF NEW YORK.

NOTWITHSTANDING ANY REFERENCE IN THIS LETTER OF CREDIT TO ANY OTHER DOCUMENTS, INSTRUMENTS OR AGREEMENTS (OTHER THAN AS SET FORTH IN THE IMMEDIATELY PRIOR PARAGRAPH), THIS LETTER OF CREDIT CONTAINS THE ENTIRE AGREEMENT BETWEEN BENEFICIARY AND ISSUER RELATING TO THE OBLIGATIONS OF ISSUER HEREUNDER.

OTHER THAN AS PROVIDED HEREIN, COMMUNICATIONS WITH RESPECT TO THIS LETTER OF CREDIT SHALL BE IN WRITING, SHALL SPECIFICALLY REFER TO BENEFICIARY AND TO OUR LETTER OF CREDIT NO. [●], AND SHALL BE ADDRESSED TO: [●] [ISSUING BANK'S NAME AND ADDRESS]

ALL NOTICES TO BENEFICIARY SHALL BE IN WRITING AND ARE REQUIRED TO BE SENT BY CERTIFIED LETTER, OVERNIGHT COURIER OR DELIVERED IN PERSON TO: [BENEFICIARY], ATTN: [BENEFICIARY ADDRESS]. ONLY NOTICES TO BENEFICIARY MEETING THE REQUIREMENTS OF THIS PARAGRAPH SHALL BE CONSIDERED VALID. ANY NOTICE TO BENEFICIARY WHICH IS NOT IN ACCORDANCE WITH THIS PARAGRAPH SHALL BE VOID AND OF NO FORCE OR EFFECT.

ALL COSTS RELATED TO THIS LETTER OF CREDIT SHALL BE PAID BY THE APPLICANT.

ALL PARTIES TO THIS LETTER OF CREDIT ARE ADVISED THAT THE U.S. AND CANADIAN GOVERNMENT HAS IN PLACE CERTAIN SANCTIONS AGAINST CERTAIN COUNTRIES, TERRITORIES, INDIVIDUALS, ENTITIES, AND VESSELS. ISSUER ENTITIES, INCLUDING BRANCHES AND, IN CERTAIN CIRCUMSTANCES, SUBSIDIARIES, ARE/WILL BE PROHIBITED FROM ENGAGING IN TRANSACTIONS OR OTHER ACTIVITIES WITHIN THE SCOPE OF APPLICABLE SANCTIONS.

THIS LETTER OF CREDIT MAY BE SIGNED BY THE ISSUING BANK WITH EITHER A DIGITAL OR ORIGINAL SIGNATURE, EITHER OF WHICH SHALL BE LEGALLY VALID AND ENFORCEABLE. THE ISSUING BANK MAY TRANSMIT THIS LETTER OF CREDIT TO THE BENEFICIARY BY MAIL, FAX OR ELECTRONIC TRANSMISSION. FOR THE AVOIDANCE OF DOUBT, ANY ELECTRONIC PDF VERSION OF THIS LETTER OF

CREDIT RECEIVED BY THE BENEFICIARY SHALL BE AN OPERATIVE INSTRUMENT AND MAY BE USED BY THE BENEFICIARY AS IT WOULD A HARDCOPY ORIGINAL.

EXHIBIT "A"

DRAWING CERTIFICATE

TO: [ISSUING BANK]

[ADDRESS]

RE: IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER [●] ISSUED BY [ISSUING BANK] TO [BENEFICIARY] ("LETTER OF CREDIT"); CAPITALIZED TERMS USED BUT NOT DEFINED IN THIS DRAWING CERTIFICATE HAVE THE MEANINGS ASCRIBED TO THEM IN THE LETTER OF CREDIT)

THIS IS A DRAWING CERTIFICATE UNDER THE ABOVE-MENTIONED LETTER OF CREDIT.

I,_____, AN AUTHORIZED REPRESENTATIVE OF [BENEFICIARY], DO HEREBY CERTIFY THAT:

APPLICANT AND BENEFICIARY ARE PARTY TO THAT CERTAIN RENEWABLE POWER PURCHASE AGREEMENT (SUNZIA SOUTH) DATED AS OF _____, 2025 (AS AMENDED, SUPPLEMENTED, OR RESTATED FROM TIME TO TIME, THE "AGREEMENT").

THE DRAWING UNDER THIS LETTER OF CREDIT IS IN AN AMOUNT DETERMINED ON A PROPORTIONATE BASIS WITH RESPECT TO EACH OTHER OUTSTANDING LETTER OF CREDIT (OR OTHER FORM OF CREDIT SUPPORT) PROVIDED BY OR ON BEHALF OF THE APPLICANT TO BENEFICIARY IN SUPPORT OF THE AGREEMENT AS [DEVELOPMENT SECURITY] [PERFORMANCE SECURITY] [SECURITY FOR PAYMENT OF DAILY DELAY DAMAGES IN ACCORDANCE WITH EXHIBIT B OF THE AGREEMENT] [SECURITY FOR PAYMENT OF COMMERCIAL OPERATION DELAY DAMAGES IN ACCORDANCE WITH EXHIBIT B OF THE AGREEMENT], AND DOES NOT EXCEED A PRO RATA AMOUNT WITH RESPECT TO A CONCURRENT DRAWING UNDER EACH SUCH OTHER OUTSTANDING LETTER OF CREDIT (OR OTHER FORM OF CREDIT SUPPORT).

[CHOOSE ONLY ONE OF THE FOLLOWING]

(1) BENEFICIARY IS MAKING A DRAWING UNDER THIS LETTER OF CREDIT IN THE AMOUNT OF U.S. $_____ BECAUSE [AN EVENT OF DEFAULT (AS SUCH TERM IS DEFINED IN THE AGREEMENT) WITH RESPECT TO SELLER HAS OCCURRED OR OTHER OCCASION PROVIDED FOR IN THE AGREEMENT WHERE BENEFICIARY IS AUTHORIZED TO DRAW ON THE LETTER OF CREDIT HAS OCCURRED]

[OR] [A DAILY DELAY DAMAGES PAYMENT IS DUE UNDER THE AGREEMENT] [OR] [A COMMERCIAL OPERATION DELAY DAMAGES PAYMENT IS DUE UNDER THE AGREEMENT].

(2) BENEFICIARY IS MAKING A DRAWING UNDER THIS LETTER OF CREDIT IN THE AMOUNT OF U.S. $_____, WHICH EQUALS THE FULL AVAILABLE AMOUNT UNDER THE LETTER OF CREDIT, BECAUSE APPLICANT IS REQUIRED TO MAINTAIN THE LETTER OF CREDIT IN FORCE AND EFFECT BEYOND THE EXPIRATION DATE OF THE LETTER OF CREDIT BUT HAS FAILED TO PROVIDE BENEFICIARY WITH A REPLACEMENT LETTER OF CREDIT OR OTHER ACCEPTABLE INSTRUMENT WITHIN THIRTY (30) DAYS PRIOR TO SUCH EXPIRATION DATE.

IN ACCORDANCE WITH THE TERMS OF THE AGREEMENT, CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, A CALIFORNIA JOINT POWERS AUTHORITY IS ENTITLED TO AND HEREBY DEMANDS PAYMENT OF USD _____, SUCH AMOUNT TO BE PAID TO [BENEFICIARY] BY WIRE TRANSFER IN IMMEDIATELY AVAILABLE FUNDS TO: (INSERT WIRE INSTRUCTIONS),WHICH, CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA CERTIFIES IT IS ENTITLED TO UNDER THE AGREEMENT.

COMMUNICATIONS TO ME CONCERNING THIS DRAWING CERTIFICATE MAY BE MADE AT FOLLOWING TELEPHONE AND FACSIMILE NUMBERS: _____; _____.

IN WITNESS WHEREOF, [BENEFICIARY] THROUGH ITS AUTHORIZED REPRESENTATIVE HAS EXECUTED AND DELIVERED THIS DRAWING CERTIFICATE THIS DAY OF , 20 _.

[____]

BY:_____

NAME:_____

TITLE:_____.

EXHIBIT L

FORM OF LIMITED ASSIGNMENT AGREEMENT

FORM OF ASSIGNMENT SCHEDULE
[SELLER ENTITY]

Assigned Product: Energy and Green Attributes (PCC1)

Assigned Delivery Point: [__]

Assigned Prepay Quantity: As set forth in Appendix 2; provided that (i) all Assigned Products shall be delivered pursuant to the Limited Assignment Agreement during the Assignment Period as provided in Appendix 1 and (ii) the Assigned Prepay Quantity is defined for the convenience of PPA Buyer and [Financing Party] and shall have no impact on the obligations of the Parties under the Limited Assignment Agreement.

APC Contract Price: $[__]/MWh

Assignment Period: [__]

ANNEX I – FORM OF LIMITED ASSIGNMENT AGREEMENT

This Limited Assignment Agreement (this "**Assignment Agreement**" or "**Agreement**") is entered into as of [_____] by and among [PPA Seller], a [_____] ("**PPA Seller**"), Clean Power Alliance, a California joint powers authority ("**PPA Buyer**"), and [Financing Party], a [_____] ("**Financing Party**"), and relates to that certain power purchase agreement (the "**PPA**") between PPA Buyer and PPA Seller as defined in Appendix 1 hereto. Unless the context otherwise specifies or requires, capitalized terms used but not defined in this Agreement have the meanings set forth in the PPA.

In consideration of the premises above and the mutual covenants and agreements herein set forth, PPA Seller, PPA Buyer and Financing Party (the "**Parties**" hereto; each is a "**Party**") agree as follows:

1. Limited Assignment and Delegation.

(a) PPA Buyer hereby assigns, transfers, and conveys to Financing Party all right, title and interest in and to the rights of PPA Buyer under the PPA to receive delivery of, or have made available to it, the products described in Appendix 1 (collectively, the "**Assigned Product**") during the Assignment Period (as defined in Appendix 1), as such rights may be limited or further described in the "Further Information" section on Appendix 1 (the "**Assigned Product Rights**"). All Assigned Product shall be delivered pursuant to the terms and conditions of this Agreement during the Assignment Period as provided in Appendix 1. All other rights of PPA Buyer under the PPA are expressly reserved for PPA Buyer. The Parties agree that the assignment, transfer and/or conveyance of all or any portion of the Assigned Products in accordance with this Agreement and the Parties' performance of any obligation in accordance with this Agreement shall not constitute a failure to meet the requirements of the PPA, or a breach of any covenant, representation or warranty under the PPA (and in no event shall Seller be responsible for any failure of any portion of the Assigned Products to satisfy the requirements of the PPA, to the extent such failure results from the assignment, transfer and/or conveyance of such Assigned Products in accordance with this Agreement).

(b) PPA Buyer hereby delegates to Financing Party the obligation to pay for all Assigned Product that is actually delivered to Financing Party pursuant to the Assigned Product Rights during the Assignment Period (the "**Delivered Product Payment Obligation**" and together with the Assigned Product Rights, collectively the "**Assigned Rights and Obligations**"); provided that (i) all other obligations of PPA Buyer under the PPA are expressly retained by PPA Buyer and PPA Buyer shall be solely responsible for any amounts due to PPA Seller that are not directly related to Assigned Product; and (ii) the Parties acknowledge and agree that PPA Seller will only be obligated to deliver a single consolidated invoice during the Assignment Period (with a copy to Financing Party consistent with Section 1(d) hereof). To the extent Financing Party fails to pay the Delivered Product Payment Obligation by the due date for payment set forth in the PPA, notwithstanding anything in this Agreement to the contrary, PPA Buyer agrees that it shall remain responsible for payment of such Delivered Product Payment Obligation and that PPA Seller may declare an Event of Default pursuant to Section 11.1(a)(i) of the PPA if Buyer does not make such payment within five (5) Business Days of receiving Notice of such non-payment from PPA Seller, and that PPA Buyer shall remain liable for any and all damages, costs and expenses of Seller associated with Financing Party's failure to take or pay for any such Product as contemplated by this Agreement. The Parties acknowledge and agree that (i) the Assigned Rights and Obligations include only a

portion of PPA Buyer's rights and obligations under the PPA, and that all rights and obligations arising under the PPA that are not expressly included in the Assigned Rights and Obligations shall be "Retained Rights and Obligations" that are retained solely by PPA Buyer, and (ii) the Retained Rights and Obligations include all rights and obligations of PPA Buyer arising during the Assignment Period except the rights and obligations expressly included in the Assigned Rights and Obligations. Any claims arising or existing in connection with or related to the PPA, whether related to performance by PPA Seller, PPA Buyer or Financing Party, and whether arising before, during or after the Assignment Period, in each case excluding the Delivered Product Payment Obligation (provided, however, PPA Buyer still remains liable that all amounts due and owing under the PPA are timely paid), will be included in the Retained Rights and Obligations, and any such claim will be resolved exclusively between PPA Seller and PPA Buyer in accordance with the PPA.

(c) Financing Party hereby accepts and PPA Seller hereby consents and agrees to the assignment, transfer, conveyance, and delegation described in clauses (a) and (b) above.

(d) All scheduling of Assigned Product and other communications related to the PPA shall take place pursuant to the terms of the PPA; provided that during the Assignment Period (i) title to Assigned Product will pass from PPA Seller to Financing Party upon delivery or making available by PPA Seller of Assigned Product in accordance with the PPA; (ii) PPA Buyer will provide copies to Financing Party of any Notice of a Force Majeure Event or Event of Default or default, breach or other occurrence that, if not cured within the applicable grace period, could result in an Event of Default contemporaneously upon delivery thereof to PPA Seller and promptly after receipt thereof from PPA Seller; (iii) PPA Seller will provide copies to Financing Party of annual forecasts of Energy and monthly forecasts of available capacity and Energy provided pursuant to Section 4.3 of the PPA; (iv) PPA Seller will provide copies to Financing Party of all invoices and supporting data provided to PPA Buyer pursuant to Section 8.1, provided that any payment adjustments or subsequent reconciliations occurring after the date that is ten (10) days prior to the payment due date for a monthly invoice, including pursuant to Section 8.4, will be resolved solely between PPA Buyer and PPA Seller and therefore PPA Seller will not be obligated to deliver copies of any communications relating thereto to Financing Party; and (v) PPA Buyer and PPA Seller, as applicable, will provide copies to Financing Party of any other information reasonably requested by Financing Party relating to Assigned Product.

(e) PPA Seller acknowledges that (i) Financing Party intends to immediately transfer title to any Assigned Product received from PPA Seller through one or more intermediaries such that all Assigned Product will be re-delivered to PPA Buyer; and (ii) in the event that PPA Buyer fails to pay the relevant intermediary entity for any such Assigned Products, the receivables owed by PPA Buyer for such Assigned Products ("PPA Buyer Receivables") may be transferred to Financing Party. To the extent any such PPA Buyer Receivables are transferred to Financing Party, and PPA Buyer acknowledges in writing that such receivables are due and payable and waives any and all defences and counterclaims associated with such receivables for the undisputed amounts owed pursuant to the PPA, Financing Party may transfer such PPA Buyer Receivables to PPA Seller and apply the face amount thereof as a reduction to any Delivered Product Payment Obligation. Thereafter, PPA Seller shall be entitled to pursue collection on such PPA Buyer Receivables directly against PPA Buyer. Nothing in this Section 1(e) shall modify PPA Seller's right to declare an Event of Default pursuant to Section 11.1(a)(i) of the PPA in the event that any portion of the Delivered Product Payment Obligation remains unpaid by the due date for payment set forth in the PPA,

and such amount is not paid by Financing Party or PPA Buyer within five (5) Business Days of PPA Buyer receiving Notice of such non-payment from PPA Seller as provided in Section 1(b), above.

(f) On or before the commencement of the Assignment Period, [_____] ("**Guarantor**") will issue, in favor of PPA Seller, a guaranty of Financing Party's payment obligations under this Assignment Agreement substantially in the form of Appendix 3 attached hereto ("**Guaranty**"). PPA Seller may draw upon, apply, or make demand under the Guaranty to recover any unpaid amounts due from Financing Party and not timely paid as set forth herein; provided, however, that PPA Seller's rights under the Guaranty and this subsection (f) shall not reduce or affect PPA Buyer's obligation to render payments when due under the PPA or extend any deadlines in the PPA.

(g) All payments due to PPA Seller in respect of Sections 3.3 of the PPA will be paid (subject to Section 1(e), above) by Financing Party into the custodial account listed in Appendix 1, and all payments due to PPA Buyer in respect of Section 3.3 of the PPA will be paid by PPA Seller into the custodial account listed in Appendix 1, which custodial account is established under that certain Custodial Agreement of even date herewith that Financing Party, PPA Buyer and [Custodian] have entered into for the administration of payments due hereunder.

(h) The Assigned Prepay Quantity set forth in Appendix 2 relates to obligations by and between Financing Party and PPA Buyer and has no impact on PPA Seller's rights and obligations under the PPA.

(i) Except as expressly set forth in Section 1(a) of this Assignment Agreement with respect to the product delivery obligations, nothing in this Agreement modifies or amends any rights or obligations of PPA Buyer and PPA Seller under the PPA.

2. Assignment Early Termination.

(a) The Assignment Period may be terminated early upon the occurrence of any of the following:

(1) delivery of a written notice of termination specifying a termination date by either Financing Party or PPA Buyer to each of the other Parties;

(2) delivery of a written notice of termination specifying a termination date by PPA Seller to each of Financing Party and PPA Buyer following Financing Party's failure to pay when due any amounts owed to PPA Seller in respect of any Delivered Product Payment Obligation and such payment is not made by Financing Party within five (5) Business Days following receipt by Financing Party and PPA Buyer of written notice;

(3) delivery of a written notice by PPA Seller if any of the events described in the definition of Bankrupt in the PPA occurs with respect to Financing Party;

(4) delivery of a written notice by Financing Party if any of the events described in the definition of Bankrupt in the PPA occurs with respect to PPA Seller; or

(5) failure of the Guaranty provided by the Guarantor to PPA Seller hereunder to be in full force and effect (other than in accordance with its terms) prior to the indefeasible satisfaction of all obligations of Financing Party hereunder or if the Guarantor provides notice of termination of the Guaranty or otherwise repudiates, disaffirms, disclaims, or rejects, in whole or in part, or challenges the validity of the Guaranty.

(b) The Assignment Period will end at the end of last delivery hour on the date specified in the termination notice provided pursuant to Section 2(a), above, which date shall not be earlier than the end of the last day of the calendar month in which such notice is delivered if termination is pursuant to clause (1) or (2) of Section 2(a), above. All Assigned Rights and Obligations shall revert from Financing Party to PPA Buyer upon the expiration or early termination of the Assignment Period, provided that (i) Financing Party shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered or made available to Financing Party prior to the end of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the expiration or early termination of the Assignment Period.

(c) The Assignment Period will automatically terminate upon the expiration or early termination of the PPA. All Assigned Rights and Obligations shall revert from Financing Party to PPA Buyer upon the expiration of or early termination of the PPA, provided that (i) Financing Party shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered to Financing Party prior to the end of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the expiration or early termination of the Assignment Period.

3. Representations and Warranties. The PPA Seller and the PPA Buyer represent and warrant to Financing Party that (a) the PPA is in full force and effect; and (b) no event or circumstance exists (or would exist with the passage of time or the giving of notice) that would give either of them the right to terminate the PPA or suspend performance thereunder.

4. Notices. Any notice, demand, or request required or authorized by this Assignment Agreement to be given by one Party to another Party shall be delivered in accordance with Article 9 of the PPA and to the addresses of each of PPA Seller and PPA Buyer specified in the PPA. PPA Buyer agrees to notify Financing Party of any updates to such notice information, including any updates provided by PPA Seller to PPA Buyer. Notices to Financing Party shall be provided to the following address, as such address may be updated by Financing Party from time to time by notice to the other Parties:

Financing Party
_____
_____
Email: _____

5. Miscellaneous. Section 13.2 (Buyer's Representations and Warranties), Article 18 (Confidential Information), Sections 19.5 (Severability), 19.7 (Counterparts), 19.2 (Amendments), 19.4 (No Agency, Partnership, Joint Venture or Lease), 19.6 (Mobile-Sierra), 19.8 (Electronic Delivery), 19.9 (Binding Effect) and 19.10 (No Recourse to Members of

Buyer) of the PPA are incorporated by reference into this Agreement, *mutatis mutandis*, as if fully set forth herein.

6. U.S. Resolution Stay Provisions. The Parties agree that the terms of Section 1 and Section 2 and the related defined terms (together, the "**Bilateral Terms**") of the form of bilateral template entitled "Full-Length Omnibus (for use between U.S. G-SIBs and Corporate Groups)", published by ISDA on November 2, 2018 (currently available on the 2018 ISDA U.S. Resolution Stay Protocol page at www.isda.org), the effect of which is to amend the qualified financial contracts between the Parties thereto to conform with the requirements of the QFC Stay Rules, are hereby incorporated into and form a part of this Agreement, and for such purposes this Agreement shall be deemed a "Covered Agreement", Financing Party shall be deemed a "Covered Entity" and the Counterparty shall be deemed a "Counterparty Entity". In the event that, after the date of this Agreement, all Parties hereto become adhering Parties to the 2018 ISDA U.S. Resolution Say Protocol (the "**Protocol**"), the terms of the Protocol will replace the terms of this section. In the event of any inconsistencies between this Agreement and the terms of the Protocol or the Bilateral Terms (each, the "**QFC Stay Terms**"), as applicable, the QFC Stay Terms will govern. Terms used in this paragraph without definition shall have the meanings assigned to them under the QFC Stay Rules. For purposes of this paragraph, references to "this Agreement" include any related credit enhancements entered into between the Parties, directly or indirectly through an agent, or provided by one to the other.

"QFC Stay Rules" means the regulations codified at 12 C.F.R. 252.2, 252.81–8, 12 C.F.R. 382.1-7 and 12 C.F.R. 47.1-8, which, subject to limited exceptions, require an express recognition of the stay-and-transfer powers of the FDIC under the Federal Deposit Insurance Act and the Orderly Liquidation Authority under Title II of the Dodd Frank Wall Street Reform and Consumer Protection Act and the override of default rights related directly or indirectly to the entry of an affiliate into certain insolvency proceedings and any restrictions on the transfer of any covered affiliate credit enhancements.

7. Governing Law, Jurisdiction, Waiver of Jury Trial.

(a) **Governing Law**. This Assignment Agreement and the rights and duties of the Parties under this Assignment Agreement will be governed by and construed, enforced and performed in accordance with the laws of the State of California, without reference to any conflicts of law provisions that would direct the application of another jurisdiction's laws; provided, however, that the authority of PPA Buyer to enter into and perform its obligations under this Assignment Agreement shall be determined in accordance with the laws of the State of California.

(b) **Jurisdiction**. Each Party submits to the exclusive jurisdiction of the federal courts of the United States of America for the Southern District of California sitting in the city and county of Los Angeles.

(c) **Waiver of Right to Trial by Jury**. Each Party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to this Assignment Agreement.

(d) **Waivers by PPA Buyer**. In the event that any of California Civil Code Sections 2815, 2787 to 2855 (inclusive), 2899, or 3433, or any common law principles or holdings regarding suretyship, may apply with respect to PPA Buyer's obligations hereunder, PPA Buyer hereby waives for the benefit of PPA Seller any and all surety defenses to the fullest extent

permitted under applicable law, including all rights and defenses that are or may become available to PPA Buyer by reason of California Civil Code Sections 2787 to 2855, inclusive, 2899 and/or 3433, and any right to revoke this Assignment Agreement, including any such right arising under California Civil Code § 2815; *provided*, nothing in this Section 7(d) shall be deemed to be of waiver of, and PPA Buyer retains in full, any and all rights and defenses PPA Buyer has under the PPA, including at law and in equity.

(e) **Forward Contract**. The Parties acknowledge and agree that the delivery of the Assigned Products to Financing Party contemplated hereby is intended to constitute a "forward contract" and that the Parties are intended to constitute "forward contract merchants" within the meaning of the United States Bankruptcy Code.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the Parties have executed this Assignment Agreement effective as of the date first set forth above.

[PPA SELLER]

By: _____

Name: _____

Title: _____

CLEAN POWER ALLIANCE

By: _____

Name: _____

Title: _____

[FINANCING PARTY]

By: _____

Name:
Title:

Execution and delivery of the foregoing Assignment Agreement is hereby approved.

CALIFORNIA COMMUNITY CHOICE FINANCING AUTHORITY

By: _____

Name:
Title:

Appendix 1

Assigned Rights and Obligations

PPA: "**PPA**" means that certain Renewable Power Purchase Agreement (SunZia South) dated [____], by and between Clean Power Alliance and [____], a [____] limited liability company, as amended from time to time.

"**Assignment Period**" means the period beginning on [_____] and extending until [_____], provided that in no event shall the Assignment Period extend past the earlier of (i) the termination of the Assignment Period pursuant to Section 2 of the Assignment Agreement and (ii) the end of the Delivery Term under the PPA; provided that applicable provisions of this Agreement shall continue in effect after termination of the Assignment Period to the extent necessary to enforce or complete, duties, obligations or responsibilities of the Parties arising prior to the termination.

Assigned Product: "**Assigned Product**" includes (i) Energy and (ii) Green Attributes (including PCC1 RECs); provided, however, that the following are expressly excluded from the Assigned Product and any and all rights and obligations with respect to the following shall remain with Buyer: Ancillary Services; Capacity Attributes; Resource Adequacy Benefits.

Further Information: PPA Seller shall continue to transfer the WREGIS Certificates associated with all Renewable Energy Credits corresponding to all Facility Energy under the PPA pursuant to Section 4.7 of the PPA, provided that the transferee of such WREGIS Certificates may be changed from time to time in accordance with the written instructions of both Financing Party and Clean Power Alliance upon twenty (20) Business Days' notice, which change shall be effective as of the first day of the next calendar month, unless otherwise agreed. All Assigned Product delivered by PPA Seller to Financing Party shall be a sale made at wholesale, with Financing Party reselling all such Assigned Product.

Appendix 2

Assigned Prepay Quantity

[NOTE: To be set forth in a monthly volume schedule.]

Appendix 3

Form of Financing Party Parent Guaranty

EXHIBIT M

FORM OF GUARANTY

This Guaranty (this "Guaranty") is entered into as of [_____] (the "Effective Date") by and between [_____], a [_____] ("Guarantor"), and [____] (together with its successors and permitted assigns, "Buyer").

Recitals

A. Buyer and _____, a _____ ("Seller"), entered into that certain Renewable Power Purchase Agreement (SunZia South) (as amended, restated or otherwise modified from time to time, the "PPA") dated as of [____], 20___.

B. Guarantor is entering into this Guaranty as Performance Security to secure Seller's obligations under the PPA, as required by Section 8.8 of the PPA.

C. It is in the best interest of Guarantor to execute this Guaranty inasmuch as Guarantor will derive substantial direct and indirect benefits from the execution and delivery of the PPA.

D. Initially capitalized terms used but not defined herein have the meaning set forth in the PPA.

Agreement

1. Guaranty. For value received, Guarantor does hereby unconditionally, absolutely and irrevocably guarantee, as primary obligor and not as a surety, to Buyer the full, complete and prompt payment by Seller of any and all amounts and payment obligations now or hereafter owing from Seller to Buyer under the PPA, including, without limitation, compensation for penalties, the Termination Payment, indemnification payments or other damages, as and when required pursuant to the terms of the PPA (the "Guaranteed Amount"), provided, that Guarantor's aggregate liability under or arising out of this Guaranty shall not exceed the sum of _____ Dollars ($_____) plus reasonable costs incurred by Buyer in enforcing this Guaranty, if successful, up to Two-Hundred Thousand Dollars ($200,000) for an aggregate maximum liability of _____ Dollars ($_____) (the "Guarantee Limit"). The Parties understand and agree that any payment by Guarantor shall thereafter reduce the Guarantee Limit hereunder on a dollar-for-dollar basis. This Guaranty is an irrevocable, absolute, unconditional and continuing guarantee of the full and punctual payment and performance, and not of collection, of the Guaranteed Amount and, except as otherwise expressly addressed herein, is in no way conditioned upon any requirement that Buyer first attempt to collect the payment of the Guaranteed Amount from Seller, any other guarantor of the Guaranteed Amount or any other person or entity or resort to any other means of obtaining payment of the Guaranteed Amount. In the event Seller shall fail to duly, completely or punctually pay any Guaranteed Amount as required pursuant to the PPA, Guarantor shall promptly pay such amount as required herein.

2. Demand Notice. For avoidance of doubt, a payment shall be due for purposes of this Guaranty only when and if a payment is due and payable by Seller to Buyer under the terms and conditions of the Agreement. If Seller fails to pay any Guaranteed Amount as required pursuant to the PPA for five (5) Business Days following Seller's receipt of Buyer's written notice of such failure (the "Demand Notice"), then Buyer may elect to exercise its rights under this Guaranty and may make a demand upon Guarantor (a "Payment Demand") for such unpaid Guaranteed Amount. A Payment Demand shall be in writing and shall reasonably specify in what manner and what amount Seller has failed to pay and an explanation of why such payment is due and owing, with a specific statement that Buyer is requesting that Guarantor pay under this Guaranty. Guarantor shall, within five (5) Business Days following its receipt of the Payment Demand, pay the Guaranteed Amount to Buyer.

3. Scope and Duration of Guaranty. This Guaranty applies only to the Guaranteed Amount. This Guaranty shall continue in full force and effect from the Effective Date until the earlier of the following: (x) all Guaranteed Amounts have been paid in full (whether directly or indirectly through set-off or netting of amounts owed by Buyer to Seller), or (y) replacement Performance Security is provided in an amount and form required by the terms of the PPA. Further, this Guaranty (a) shall remain in full force and effect without regard to, and shall not be affected or impaired by any invalidity, irregularity or unenforceability in whole or in part of this Guaranty, and (b) subject to the preceding sentence, shall be discharged only by complete performance of the undertakings herein. Without limiting the generality of the foregoing, the obligations of the Guarantor hereunder shall not be released, discharged, or otherwise affected and this Guaranty shall not be invalidated or impaired or otherwise affected for the following reasons:

(i) the extension of time for the payment of any Guaranteed Amount, or

(ii) any amendment, modification or other alteration of the PPA, or

(iii) any indemnity agreement Seller may have from any Person, or

(iv) any insurance that may be available to cover any loss, except to the extent insurance proceeds are used to satisfy the Guaranteed Amount, or

(v) any voluntary or involuntary liquidation, dissolution, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of, or other similar proceeding affecting, Seller or any of its assets, including but not limited to any rejection or other discharge of Seller's obligations under the PPA imposed by any court, trustee or custodian or any similar official or imposed by any law, statue or regulation, in each such event in any such proceeding, or

(vi) the release, modification, waiver or failure to pursue or seek relief with respect to any other guaranty, pledge or security device whatsoever, or

(vii) any payment to Buyer by Seller that Buyer subsequently returns to Seller pursuant to court order in any bankruptcy or other debtor-relief proceeding, or

(viii) those defenses based upon (A) the legal incapacity or lack of power or authority of any person, including Seller and any representative of Seller to enter into the PPA or perform its obligations thereunder, (B) lack of due execution, delivery, validity or enforceability, including of the PPA, or (C) Seller's inability to pay any Guaranteed Amount or perform its obligations under the PPA, or

(ix) any other event or circumstance that may now or hereafter constitute a defense to payment of the Guaranteed Amount, including, without limitation, statute of frauds and accord and satisfaction;

provided that Guarantor reserves the right to assert for itself any defenses, setoffs or counterclaims that Seller is or may be entitled to assert against Buyer (except for such defenses, setoffs or counterclaims that may be asserted by Seller with respect to the PPA, but that are expressly waived under any provision of this Guaranty).

4. Waivers by Guarantor. Guarantor hereby unconditionally waives as a condition precedent to the performance of its obligations hereunder, with the exception of the requirements in Paragraph 2, (a) notice of acceptance, presentment or protest with respect to the Guaranteed Amounts and this Guaranty, (b) notice of any action taken or omitted to be taken by Buyer in reliance hereon, (c) any requirement that Buyer exhaust any right, power or remedy or proceed against Seller under the PPA, and (d) any event, occurrence or other circumstance which might otherwise constitute a legal or equitable discharge of a surety. Without limiting the generality of the foregoing waiver of surety defenses, it is agreed that the occurrence of any one or more of the following shall not affect the liability of Guarantor hereunder:

(i) at any time or from time to time, without notice to Guarantor, the time for payment of any Guaranteed Amount shall be extended, or such performance or compliance shall be waived;

(ii) the obligation to pay any Guaranteed Amount shall be modified, supplemented or amended in any respect in accordance with the terms of the PPA;

(iii) (a) sale, transfer or consolidation of Seller into or with any other entity, (b) sale of substantial assets by, or restructuring of the corporate existence of, Seller or (c) change in ownership of any membership interests of, or other ownership interests in, Seller; or

(iv) the failure by Buyer or any other person to create, preserve, validate, perfect or protect any security interest granted to, or in favor of, Buyer or any person.

5. Subrogation. Notwithstanding any payments that may be made hereunder by the Guarantor, Guarantor hereby agrees that until the earlier of payment in full of all Guaranteed Amounts or expiration of the Guaranty in accordance with Section 3, it shall not be entitled to, nor shall it seek to, exercise any right or remedy arising by reason of its payment of any Guaranteed Amount under this Guaranty, whether by subrogation or otherwise, against Seller or seek contribution or reimbursement of such payments from Seller.

6. Representations and Warranties. Guarantor hereby represents and warrants that (a) it has all necessary and appropriate limited liability company powers and authority and the legal right to execute and deliver, and perform its obligations under, this Guaranty, (b) this Guaranty constitutes its legal, valid and binding obligations enforceable against it in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, moratorium and other similar laws affecting enforcement of creditors' rights or general principles of equity, (c) the execution, delivery and performance of this Guaranty does not and will not contravene Guarantor's organizational documents, any applicable law or any contractual provisions binding on or affecting Guarantor, (d) there are no actions, suits or proceedings pending before any court, governmental agency or arbitrator, or, to the knowledge of the Guarantor, threatened, against or affecting Guarantor or any of its properties or revenues which may, in any one case or in the aggregate, adversely affect the ability of Guarantor to enter into or perform its obligations under this Guaranty, and (e) no consent or authorization of, filing with, or other act by or in respect of, any arbitrator or governmental authority, and no consent of any other Person (including, any stockholder or creditor of the Guarantor), that has not heretofore been obtained is required in connection with the execution, delivery, performance, validity or enforceability of this Guaranty by Guarantor.

7. Notices. Notices under this Guaranty shall be deemed received if sent to the address specified below: (i) on the day received if served by overnight express delivery, and (ii) four business days after mailing if sent by certified, first class mail, return receipt requested. If transmitted by facsimile, such notice shall be deemed received when the confirmation of transmission thereof is received by the party giving the notice. Any party may change its address or facsimile to which notice is given hereunder by providing notice of the same in accordance with this Paragraph 8.

If delivered to Buyer, to it at [____]
Attn: [____]
Fax: [____]

If delivered to Guarantor, to it at [____]
Attn: [____]
Fax: [____]

8. **Governing Law and Forum Selection**. This Guaranty shall be governed by, and interpreted and construed in accordance with, the laws of the United States and the State of California, excluding choice of law rules. The Parties agree that any suit, action or other legal proceeding by or against any party (or its affiliates or designees) with respect to or arising out of this Guaranty shall be brought in the federal courts of the United States sitting in the County of San Francisco, California.

9. Miscellaneous. This Guaranty shall be binding upon Guarantor and its successors and assigns and shall inure to the benefit of Buyer and its successors and permitted assigns pursuant to the PPA. No provision of this Guaranty may be amended or waived except by a written instrument executed by Guarantor and Buyer. This Guaranty is not assignable by Guarantor without the prior

written consent of Buyer. No provision of this Guaranty confers, nor is any provision intended to confer, upon any third party (other than Buyer's successors and permitted assigns) any benefit or right enforceable at the option of that third party. This Guaranty embodies the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings of the parties hereto, verbal or written, relating to the subject matter hereof. If any provision of this Guaranty is determined to be illegal or unenforceable (i) such provision shall be deemed restated in accordance with applicable Laws to reflect, as nearly as possible, the original intention of the parties hereto and (ii) such determination shall not affect any other provision of this Guaranty and all other provisions shall remain in full force and effect. This Guaranty may be executed in any number of separate counterparts, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. This Guaranty may be executed and delivered by electronic means with the same force and effect as if the same was a fully executed and delivered original manual counterpart.

10. WAIVER OF JURY TRIAL; JUDICIAL REFERENCE.

(a) JURY WAIVER. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTY HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

(b) JUDICIAL REFERENCE. IN THE EVENT ANY LEGAL PROCEEDING IS FILED IN A COURT OF THE STATE OF CALIFORNIA (THE "COURT") BY OR AGAINST ANY PARTY HERETO IN CONNECTION WITH ANY CONTROVERSY, DISPUTE OR CLAIM DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS GUARANTY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY) (EACH, A "CLAIM") AND THE WAIVER SET FORTH IN THE PRECEDING PARAGRAPH IS NOT ENFORCEABLE IN SUCH ACTION OR PROCEEDING, THE PARTIES HERETO AGREE AS FOLLOWS:

(i) ANY CLAIM (INCLUDING BUT NOT LIMITED TO ALL DISCOVERY AND LAW AND MOTION MATTERS, PRETRIAL MOTIONS, TRIAL MATTERS AND POST-TRIAL MOTIONS) WILL BE DETERMINED BY A GENERAL REFERENCE PROCEEDING IN ACCORDANCE WITH THE PROVISIONS OF CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 638 THROUGH 645.1. THE PARTIES INTEND THIS GENERAL REFERENCE AGREEMENT

TO BE SPECIFICALLY ENFORCEABLE IN ACCORDANCE WITH CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638.

(ii) UPON THE WRITTEN REQUEST OF ANY PARTY, THE PARTIES SHALL SELECT A SINGLE REFEREE, WHO SHALL BE A RETIRED JUDGE OR JUSTICE. IF THE PARTIES DO NOT AGREE UPON A REFEREE WITHIN TEN (10) DAYS OF SUCH WRITTEN REQUEST, THEN, ANY PARTY MAY REQUEST THE COURT TO APPOINT A REFEREE PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 640(B).

(iii) THE PARTIES RECOGNIZE AND AGREE THAT ALL CLAIMS RESOLVED IN A GENERAL REFERENCE PROCEEDING PURSUANT HERETO WILL BE DECIDED BY A REFEREE AND NOT BY A JURY.

(iv) THE PARTIES AGREE THAT THE COSTS OF THE REFEREE SHALL BE SHARED EQUALLY BY THE PARTIES.

(v) THE PARTIES AGREE THAT EACH PARTY SHALL BE RESPONSIBLE FOR ITS OWN COSTS AND EXPENSES, INCLUDING LEGAL FEES, IN CONNECTION WITH ANY GENERAL REFERENCE PROCEEDING.

IN WITNESS WHEREOF, the undersigned has caused this Guaranty to be duly executed and delivered by its duly authorized representative on the date first above written.

GUARANTOR:

[_____]

By:_____
Printed Name:
Title:

BUYER:

[_____]

By:_____
Printed Name:
Title:

By:_____

Printed Name:

Title:

EXHIBIT N

NOTICES

SUNZIA WIND SOUTH LLC ("Seller")	**CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority** ("Buyer")
All Notices: Street: 1088 Sansome St. City: San Francisco, CA Attn: General Counsel Phone: [redacted] Email: [redacted]	**All Notices:** Street: 801 S Grand, Suite 400 City: Los Angeles CA, 90017 Attn: Chief Executive Officer Phone: (213) 269-5870 Email: tbardacke@cleanpoweralliance.org
Reference Numbers: Duns: [redacted] Federal Tax ID Number: [redacted]	**Reference Numbers:** Duns: Federal Tax ID Number:
Invoices: Attn: Pattern Energy Settlements Phone: [redacted] Email: [redacted]	**Invoices:** Attn: Vice President, Power Supply Phone: (213) 280-4011 E-mail: settlements@cleanpoweralliance.org
Scheduling: Attn: [redacted] Email: [redacted] Phone: [redacted] Facsimile: [redacted]	**Scheduling:** Attn: Operations 24/7 Desk Phone: (817) 462-1509 Email: TenaskaComm@tnsk.com
Confirmations: Attn: Pattern Energy Settlements Phone: [redacted] Email: [redacted]	**Confirmations:** Attn: Vice President, Power Supply Phone: (213) 280-4011 Email: ldescagnia@cleanpoweralliance.com Email CC: energycontracts@cleanpoweralliance.org
Payments: Attn: Pattern Energy Settlements Phone: [redacted] Email: [redacted]	**Payments:** Attn: Vice President, Power Supply Phone: (213) 280-4011 E-mail: settlements@cleanpoweralliance.org
Wire Transfer: BNK: [redacted] [redacted]	**Wire Transfer:** BNK: River City Bank ABA: [redacted] ACCT: XXXXXX7557

SUNZIA WIND SOUTH LLC ("Seller")	**CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority** ("Buyer")
ABA: [redacted] ACCT: [redacted]	
Emergency Contact: Attn: 24/7 Operations Control Center Phone: [redacted] Email: [redacted]	**Emergency Contact:**

EXHIBIT O

SAMPLE CALCULATION OF GUARANTEED RA AMOUNT

Assumptions

Installed Capacity = PMax = 3,515,000 kW

Guaranteed Capacity: 575,000 kW

Excused Capacity Reduction: 0 kW

Installed Capacity not available: 515,000 kW

Deemed Delivered RA: 0 kW

Replacement RA: 0 kW

Buyer's Share: 575,000 kW / 3,515,000 kW = 16.3585%

CPM Soft Offer Cap: $7.34/kW-mo

CPM Adjustment Factor (January): [redacted]

RA Deficiency Cap (January): [redacted]

Seller included in its Supply Plan the Supply Plan Amount

Pre-Slice of Day Structure

ELCC (January): 34.0%

NQC = (PMax – Excused Capacity Reduction) x ELCC = (3,515,000 – 0) x 0.3400 = 1,195,100

Guaranteed RA Amount = NQC x Buyer's Share = 1,195,100 x 16.3585% = 195,500 kW

Supply Plan Amount = (Installed Capacity – Installed Capacity not available) x Buyer's Share x ELCC

Supply Plan Amount = (3,515,000 – 515,000) x 16.3585% x 0.3400 = 166,856 kW

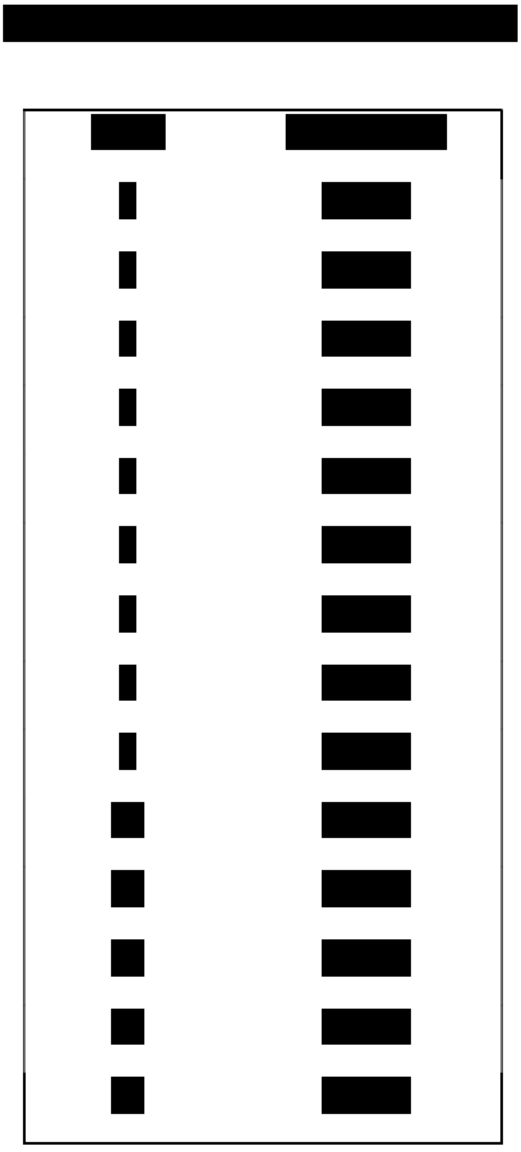
ELCC RA Amount = Supply Plan Amount = 166,856 kW

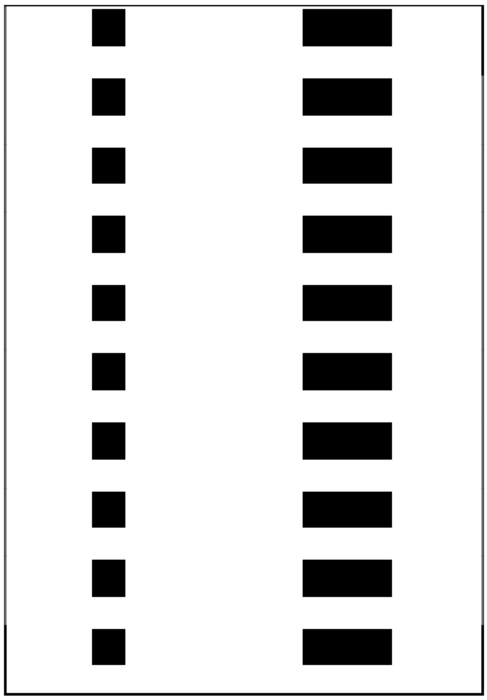
RA Shortfall Amount = Guaranteed RA Amount – ELCC RA Amount = 195,500 – 166,856 = 28,644 kW

RA Deficiency Amount = RA Shortfall Amount x MIN(CPM Soft Offer Cap x CPM Adjustment Factor, RA Deficiency Cap)

RA Deficiency Amount = 28,644 x MIN($7.34 x 50%, $15) = 28,644 x $3.67 = $105,122

Slice of Day Structure





[redacted]

[redacted]

[redacted]

Guaranteed RA Amount

[redacted]

Guaranteed RA Amount = [redacted]

Supply Plan Amount = [redacted]

Exceedance Profile RA Amount

[redacted]

Exceedance Profile RA Amount = [redacted]

RA Shortfall Amount = [redacted]

RA Deficiency Amount = [redacted]

RA Deficiency Amount = [redacted]

Table 2: Slice of Day Coefficients (per definition of "SOD Coefficient")

Month	[redacted]	[redacted]	[redacted]
Jan	[redacted]	[redacted]	[redacted]
Feb	[redacted]	[redacted]	[redacted]
Mar	[redacted]	[redacted]	[redacted]

Apr	[redacted]	[redacted]	[redacted]
May	[redacted]	[redacted]	[redacted]
Jun	[redacted]	[redacted]	[redacted]
Jul	[redacted]	[redacted]	[redacted]
Aug	[redacted]	[redacted]	[redacted]
Sep	[redacted]	[redacted]	[redacted]
Oct	[redacted]	[redacted]	[redacted]
Nov	[redacted]	[redacted]	[redacted]
Dec	[redacted]	[redacted]	[redacted]

EXHIBIT P

CPM Adjustment Factors

Month	Multiplier
January	[redacted]
February	[redacted]
March	[redacted]
April	[redacted]
May	[redacted]
June	[redacted]
July	[redacted]
August	[redacted]
September	[redacted]
October	[redacted]
November	[redacted]
December	[redacted]

EXHIBIT Q

Supply Chain Code of Conduct

Buyer is committed to ensuring that the fundamental human rights of workers are protected, including addressing the potential risks of forced labor, child labor, servitude, human trafficking and slavery across our portfolio.

Our requirements and expectations for Seller's supply chain are detailed below in our Supply Chain Code of Conduct ("**Supply Chain Code**"). Seller must comply with all applicable Laws and this Supply Chain Code (subject to Section 2.3(b) of this Agreement), even when this Supply Chain Code exceeds the requirements of applicable Law.

These standards are derived from the United Nations Guiding Principles on Business and Human Rights, the Core Conventions of the International Labour Organization ("ILO"), including the ILO Declaration on Fundamental Principles and Rights at Work, and the Responsible Business Alliance Code of Conduct.

1. **Freely Chosen Employment**
   Forced, bonded (including debt bondage) or indentured labor, involuntary or exploitative prison labor, slavery or trafficking of persons is not permitted. This includes transporting, harboring, recruiting, transferring, or receiving persons by means of threat, force, coercion, abduction or fraud for labor or services. There shall be no unreasonable restrictions on workers' freedom of movement in the facility in addition to unreasonable restrictions on entering or exiting company provided facilities including, if applicable, workers' dormitories or living quarters. All work must be voluntary, and workers shall be free to leave work at any time or terminate their employment without penalty if reasonable notice is given as per worker's contract. Employers, agents, and sub-agents' may not hold or otherwise destroy, conceal, or confiscate identity or immigration documents, such as government-issued identification, passports, or work permits. Employers can only hold documentation if such holdings are required by law. In this case, at no time should workers be denied access to their documents. Workers shall not be required to pay employers' agents or sub-agents' recruitment fees or other related fees for their employment. If any such fees are found to have been paid by workers, such fees shall be repaid to the worker.

2. **Young Workers**
   Child labor is not to be used in any stage of manufacturing. The term "child" refers to any person under the age of 15, or under the age for completing compulsory education, or under the minimum age for employment in the country, whichever is greatest. Suppliers shall implement an appropriate mechanism to verify the age of workers. The use of legitimate workplace learning programs, which comply with all laws and regulations, is supported. Workers under the age of 18 shall not perform work that is likely to jeopardize their health or safety, including night shifts and overtime. Suppliers shall ensure proper management of student workers through proper maintenance of student records, rigorous due diligence of educational partners, and protection of students' rights in accordance with applicable laws and regulations. Suppliers shall provide appropriate support and training to all student

workers. In the absence of local law, the wage rate for student workers, interns, and apprentices shall be at least the same wage rate as other entry-level workers performing equal or similar tasks. If child labor is identified, assistance/remediation is provided.

3. **Working Hours**
   Studies of business practices clearly link worker strain to reduced productivity, increased turnover, and increased injury and illness. Working hours are not to exceed the maximum set by local law. Further, suppliers shall use commercially reasonable efforts to limit a workweek to not more than 60 hours per week, including overtime. All overtime must be voluntary. Workers shall be allowed at least one day off every seven days.

4. **Wages and Benefits**
   Compensation paid to workers shall comply with all applicable wage laws, including those relating to minimum wages, overtime hours and legally mandated benefits. In compliance with local laws, workers shall be compensated for overtime at pay rates greater than regular hourly rates. Deductions from wages as a disciplinary measure shall not be permitted. For each pay period, workers shall be provided with a timely and understandable wage statement that includes sufficient information to verify accurate compensation for work performed. All use of temporary, dispatch and outsourced labor will be within the limits of the local law.

5. **Humane Treatment**
   There is to be no harsh or inhumane treatment including violence, gender-based violence, sexual harassment, sexual abuse, corporal punishment, mental or physical coercion, bullying, public shaming, or verbal abuse of workers; nor is there to be the threat of any such treatment. Disciplinary policies and procedures in support of these requirements shall be clearly defined and communicated to workers.

6. **Non-Discrimination/Non-Harassment**
   Suppliers should be committed to a workplace free of harassment and unlawful discrimination. Companies shall not engage in discrimination or harassment based on race, color, age, gender, sexual orientation, gender identity and expression, ethnicity or national origin, disability, pregnancy, religion, political affiliation, union membership, covered veteran status, protected genetic information or marital status in hiring and employment practices such as wages, promotions, rewards, and access to training. Workers shall be provided with reasonable accommodation for religious practices. In addition, workers or potential workers should not be subjected to medical tests that could be used in a discriminatory way or otherwise in violation of applicable law. This was drafted in consideration of ILO Discrimination (Employment and Occupation) Convention (No.111).

7. **Freedom of Association**
   In conformance with local law, Suppliers shall respect the right of all workers to form and join trade unions of their own choosing, to bargain collectively, and to engage in peaceful assembly as well as respect the right of workers to refrain from such activities. Workers and/or their representatives shall be able to openly communicate and share ideas and concerns with management regarding working conditions and management practices

without fear of discrimination, reprisal, intimidation, or harassment.

8. **Restricted Jurisdictions**
   Supplier shall not manufacture or produce products in the Xinjiang Uyghur Autonomous Region of China, or knowingly procure goods and services mined, produced or manufactured in the same.

EXHIBIT R

METERING DIAGRAM

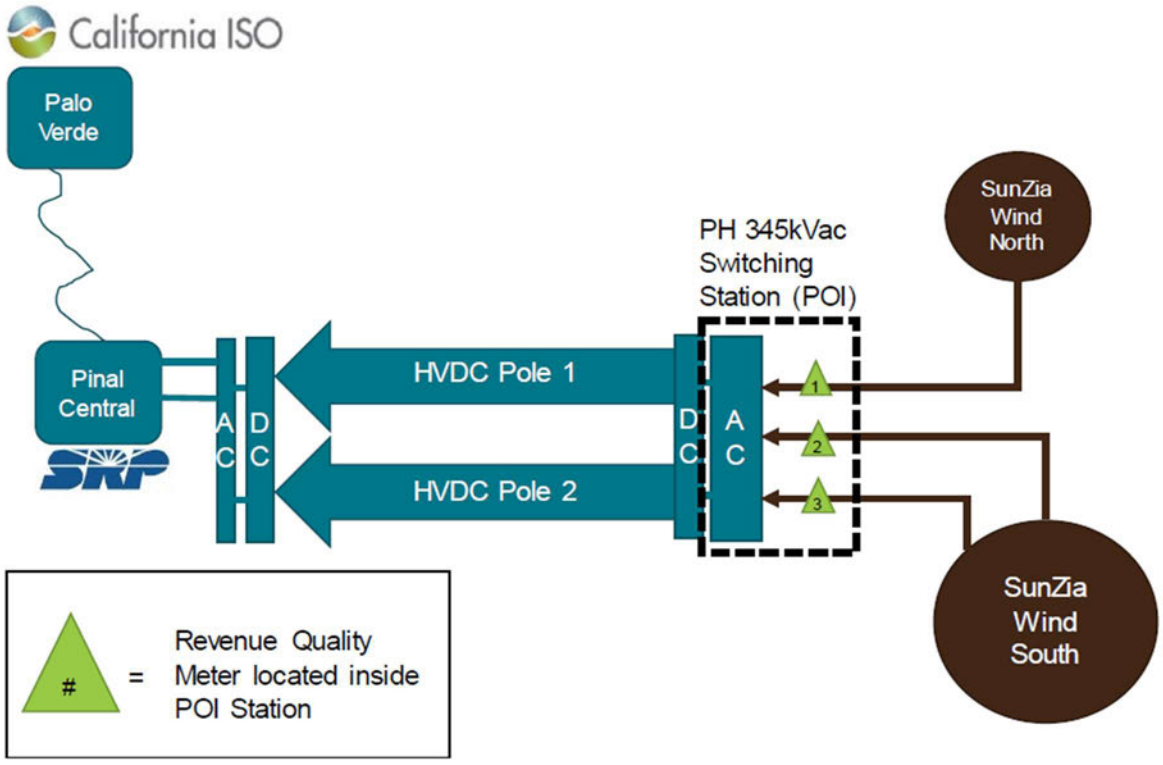


EXHIBIT S

MATERIAL PERMITS

No.	*Permits*
	SunZia Wind South Material Permits
1.	N/A

EXHIBIT T

Force Majeure Event and/or Development Cure Period Claim Form

Instructions

A. Please review Article 10 and Exhibit B (if applicable) of the Renewable Power Purchase Agreement (SunZia South) prior to filling out the form.

B. Fill out the form completely and return to your assigned Contract Manager at CPA.

Seller: [Name] Project: [Name]

Current Guaranteed Construction Start Date: [Date]

New Guaranteed Construction Start Date (if Seller's claims are validated in full): [Date]

Guaranteed Commercial Operation Date: [Date]

New Guaranteed Commercial Operation Date (if Seller's claims are validated in full): [Date]

Seller hereby certifies and represents to Buyer the following:

1. Please describe the claimed Force Majeure Event or other event giving rise to the claimed Development Cure Period delay(s) (the "Claimed Event"), including its cause, date of commencement and date it ended or is anticipated to end, if known.

2. Please specify the extent of the delay or prevented performance, if known, caused by the Claimed Event, including the relief claimed thereby. Describe how the claimed relief was calculated/determined, accounting for individual developments causing such delay or prevented performance.

3. With respect to a Claimed Event other than a Force Majeure Event, please describe the commercially reasonable efforts taken by Seller, if any, to prevent such event or, if applicable, explain in reasonable detail why it was not possible to take such efforts.

4. Please describe the commercially reasonable efforts taken to mitigate the delays or

nonperformance caused by the Claimed Event, if any, or, if applicable, explain in reasonable detail why it was not possible to take such efforts, and specify if such efforts, if any, reduced the delay days or nonperformance that would otherwise have occurred absent such mitigation.

5. Please attach supporting documentation, including (to the extent applicable and available):

- Force Majeure notices or other correspondence received from suppliers and/or contractors that describe the basis for and extentof the Claimed Event.
- Documentation, contracts, and/or correspondence with suppliers and/or contractors evidencing the claiming Party's mitigation efforts.
- Project schedule and/or GANNT charts that demonstrate the effect of the Claimed Event on the Guaranteed Commercial Operation Date.

By signing this Claim form, I attest and affirm that I am authorized to sign this form on behalf of the Seller.

[SELLER NAME]

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT U

OPERATING RESTRICTIONS

Operating Restrictions of the Facility are as follows:

- Interconnection Capacity (Maximum Injection Amount): 2,119.72 MW; provided, if the North Affiliate is not utilizing an amount of interconnection capacity equal to 3,021 MW *minus* 2,119.72 MW, Seller may have the right to additional interconnection capacity for the Facility up to an aggregate of 2,561.2 MW; [redacted]
- Minimum operating capacity: 0.0 MW
- Maximum number of start-ups per calendar day (if any such operational limitations exist): N/A
- Ramp Rate: The ramp rate accepted by CAISO in the Master File of the Facility.
- Minimum Down Time: N/A