



SOUTHERN CALIFORNIA
EDISON

An *EDISON INTERNATIONAL* Company

RENEWABLE POWER PURCHASE AND SALE AGREEMENT

between

SOUTHERN CALIFORNIA EDISON COMPANY

and

MOUNTAIN VIEW POWER PARTNERS, LLC

(RAP ID # 6333)

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

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RENEWABLE POWER PURCHASE AND SALE AGREEMENT

between

SOUTHERN CALIFORNIA EDISON COMPANY

and

MOUNTAIN VIEW POWER PARTNERS, LLC

(RAP ID # 6333)

PREAMBLE

This Renewable Power Purchase and Sale Agreement together with the exhibits, attachments, and any referenced collateral agreement or similar arrangement between the Parties (collectively, the “Agreement”) is made and effective as of the following date: November 3, 2008 (“Effective Date”).

This Agreement is entered into between:

- (i) **Southern California Edison Company** (“SCE” or “Buyer”), a California corporation, whose principal place of business is at 2244 Walnut Grove Avenue, Rosemead, California 91770, and
- (ii) **Mountain View Power Partners, LLC** (“Seller”), a Delaware limited liability company, whose principal place of business is at 4542 Ruffner Street, Suite 200, San Diego, California 92111.

SCE and Seller are sometimes referred to herein individually as a “Party” and jointly as “Parties.” Capitalized terms in this Agreement shall have the meanings set forth in Exhibit A.

RECITALS

Seller owns and Operates an electric energy Generating Facility which qualifies as of the Commencement Date as an eligible renewable energy resource under the State of California Renewable Portfolio Standard Program as codified at California Public Utilities Code Section 399.11, *et seq.*, and Seller is willing to sell, beginning on the Commencement Date and for the Term hereof, all electric energy produced by the Generating Facility as specified herein together with all Green Attributes, Capacity Attributes and Resource Adequacy Benefits to SCE; and

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SCE is willing to purchase all electric energy delivered by Seller to SCE generated by such Generating Facility together with all Green Attributes, Capacity Attributes and Resource Adequacy Benefits pursuant to the terms and conditions set forth herein.

ARTICLE ONE. SPECIAL CONDITIONS

1.01 Generating Facility.

- (a) Name: Mountain View Power Partners, LLC.
- (b) Location of Site: The Generation Facility is located in the San Geronio Pass wind energy development area, north of Palm Springs, California, along Interstate 10 in Riverside County, Southern California.
- (c) Generation Facility description is located in Exhibit B.
- (d) Eligible Renewable Energy Resource Type: Wind.
- (e) Contract Capacity: Contract Capacity shall be equal to 66.6 MW.
- (f) Expected Annual Net Energy Production.

The Expected Annual Net Energy Production for each Term Year shall be 219,900 MWh.

1.02 Intentionally Omitted.

1.03 Intentionally Omitted.

1.04 Intentionally Omitted.

1.05 Term.

The term of this Agreement (“Term”) commences on October 1, 2011 (the “Commencement Date”) and ends on September 30, 2021.

1.06 Energy Price.

The Energy Price shall be ninety six dollars and thirty five cents (\$96.35) per MWh.

1.07 Performance Assurance Amount.

The Performance Assurance Amount is ten million six hundred thousand dollars (\$10,600,000).

1.08 Seller's Guarantor.

- (a) Guarantor: Only applicable if a Guarantor is selected in accordance with Section 8.02.
- (b) Guaranty Amount: Only applicable if a Guarantor is selected in accordance with Section 8.02.
- (c) Cross Default Amount: Only applicable if a Guarantor is selected in accordance with Section 8.02.

*** End of ARTICLE ONE ***

ARTICLE TWO. TERM AND CONDITIONS PRECEDENT; TERMINATION**2.01 Effective Date.**

This Agreement shall become effective on the Effective Date, although, as described herein, many of the rights and obligations of the Parties commence on the Commencement Date.

2.02 Obligations Prior to the Commencement Date.**(a) CPUC Filing and Approval of this Agreement.**

Within sixty (60) days after the Effective Date, SCE shall file with the CPUC the appropriate request for CPUC Approval.

SCE shall seek such approval expeditiously, including promptly responding to any requests for information related to the request for approval from the CPUC.

Seller shall use commercially reasonable efforts to support SCE in obtaining CPUC Approval.

SCE shall have no obligation to seek rehearing or to appeal a CPUC decision which fails to approve this Agreement or which contains findings required for CPUC Approval with conditions or modifications unacceptable to either Party.

(b) Seller's Interconnection and Transmission Service Applications.

During the Term, Seller shall maintain in effect each of the Interconnection Agreements for the interconnection of the Generating Facility to the Transmission Provider's electric system and any transmission, distribution or other service agreement required to transmit electric energy from the Generating Facility to the Delivery Point.

(c) Seller's Regulatory and Governmental Filings.

(i) Within one hundred eighty (180) days after the Effective Date, Seller shall:

- (1) Subject to Section 3.18, either (a) file an application or other appropriate request with the CEC for CEC Certification and Verification for the Generating Facility or (b) confirm and certify to SCE's reasonable satisfaction that the CEC

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Certification and Verification has been obtained from the CEC;
and

- (2) Confirm and certify to SCE's reasonable satisfaction that all Permits necessary to Operate the Generating Facility for the Term are in effect.
 - (ii) To the extent not previously obtained by Seller and evidence thereof provided to SCE's reasonable satisfaction, Seller shall expeditiously seek CEC Certification and Verification (subject to Section 3.18) and all Permits, including promptly responding to any requests for information from the requesting authority. SCE shall use commercially reasonable efforts to cooperate with and support Seller in obtaining all such Permits and CEC Certification and Verification; *provided that* for this purpose, SCE shall not be required to expend more than \$5,000 in out of pocket expenses and SCE shall not be required to divulge any information which SCE deems confidential regarding any bidder or seller (other than Seller) involved in any SCE renewable procurement program.

2.03 Conditions Precedent to Commencement of Term.

(a) Commencement of Term.

The Term shall commence upon the Commencement Date subject to the conditions set forth in subsection (b) below.

(b) Conditions to Commencement Date.

On or before the Commencement Date:

- (i) SCE shall have obtained or waived CPUC Approval, as provided herein;
- (ii) Seller shall have met all conditions set forth in Section 3.10(c);
- (iii) SCE shall have been authorized by the CAISO to Schedule the electric energy produced by the Generating Facility with the CAISO as of the Commencement Date;
- (iv) Seller shall have posted with SCE the Performance Assurance required under Section 8.02 in the amount set forth in Section 1.07;

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

- (v) The Generating Facility shall be Operating in parallel with the applicable Transmission Provider's electric system;
- (vi) Seller shall be Forecasting and delivering electric energy from the Generating Facility to SCE at the Delivery Point; and
- (vii) Seller shall have installed and placed in operation the stand-alone meteorological station required under Section 3.06(e).

2.04 Termination Rights.

If either Party exercises a termination right under Section 2.04(a) or 2.04(b), the Forward Settlement Amount shall be zero dollars (\$0).

(a) Termination Rights of Both Parties.

Either Party shall have the right to terminate this Agreement on Notice, which shall be effective five (5) Business Days after such Notice is given, in the event CPUC Approval has not been obtained within three hundred sixty five (365) days after SCE files its request for CPUC Approval and a Notice of termination is given on or before the three hundred ninety fifth (395th) day after SCE files the request for CPUC Approval.

(b) Termination Rights of Seller.

Seller shall have the right to terminate this Agreement on Notice, which shall be effective five (5) Business Days after such Notice is given, in the event CEC Certification and Verification and all required Permits have not been obtained or confirmed and certified in accordance with Section 2.02(c) by Seller within eighteen (18) months after the Effective Date and a Notice of termination is given on or before the end of the twenty second (22nd) month after the Effective Date.

(c) Intentionally Omitted.

(d) Uncured Defaults.

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

(e) End of Term.

At the end of the Term as set forth in Section 1.05, this Agreement shall automatically terminate.

2.05 Rights and Obligations Surviving Termination.**(a) Survival of Rights and Obligations Generally.**

The rights and obligations that are intended to survive a termination of this Agreement are all of those rights and obligations that this Agreement expressly provides shall survive any such termination and those that arise from Seller's or SCE's covenants, agreements, representations, and warranties applicable to, or to be performed, at or during any time prior to or as a result of the termination of this Agreement, including, without limitation:

- (i) The obligation of Seller to pay any Seller's Annual Shortfall Payment and/or Seller's Long Term Availability Shortfall Payment due under Exhibit F and O and not taken into account in calculating the Termination Payment;
- (ii) The obligation to make a Termination Payment due under Section 6.03;
- (iii) The indemnity obligations to the extent provided in Section 2.05(b)(ii) and Section 10.03;
- (iv) The obligation of confidentiality set forth in Section 10.10;
- (v) The right to pursue remedies under Sections 6.02 and 10.16;
- (vi) The right to receive a Termination Payment under Section 6.03;
- (vii) The limitation of damages under Article Seven;
- (viii) The obligation of SCE to make payment for the Energy Payments for Delivered Amounts prior to termination under Section 4.02;
- (ix) The obligation of Seller to make payments for CAISO Charges, CAISO Sanctions and any SCE Penalty that are attributable to Seller's actions or omissions during the Term pursuant to Section 3.21 and Exhibit Q;
- (x) The covenants and indemnifications regarding the limitations on Seller's and Seller's Affiliates' ability to offer, make or agree to third party sales as set forth in Section 2.05(b);
- (xi) The obligation of Seller to post Performance Assurance under Section 8.02;

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- (xii) The obligation to make payment adjustments under this Agreement; and
 - (xiii) The dispute resolution provisions of Article Twelve.
- (b) Limitations on Seller's Ability to Make or Agree to Third Party Sales from the Generating Facility after Certain Terminations of this Agreement.
- (i) If Seller terminates this Agreement pursuant to Section 2.04(b) or Section 5.04 (based upon a Force Majeure as to which Seller is the Claiming Party), neither Seller nor Seller's Affiliates may sell, or enter into an agreement to sell, electric energy, Green Attributes, Capacity Attributes, or Resource Adequacy Benefits, generated by, associated with or attributable to a generating facility installed at the Site to a party other than SCE for a period of two (2) years following the effective date of such termination.

This prohibition on contracting and sale shall not apply if, prior to entering into the contract or making a sale to a party other than SCE, Seller or Seller's Affiliates provide SCE with a written offer to sell the electric energy, Green Attributes, Capacity Attributes and Resource Adequacy Benefits (i) on terms and conditions materially similar to the terms and conditions contained in this Agreement, or (ii) on terms and conditions no less favorable to Seller than those of its agreement with the third party if Seller is only able to overcome the conditions leading to termination as provided in Section 2.04(b) or Section 5.04 (based upon a Force Majeure as to which Seller is the Claiming Party) through a material modification to the Generating Facility or an increase in the payments to be received by Seller or Seller's Affiliates (provided that (x) any terms and conditions in Seller's proposed offer to SCE which materially differ from the terms of this Agreement, including any increase in a price over the comparable price term in this Agreement, must be directly related to documented costs or economic losses or damages that Seller incurred, or could reasonably be expected to incur, reasonably and in good faith under the circumstances; and (y) Seller must provide documentation of such costs, losses or damages and the reasonableness thereof to SCE at the time of the proposed offer to SCE) and, in either case, SCE fails to accept such offer in writing within forty-five (45) days after SCE's receipt thereof.

- (ii) Seller shall indemnify and hold SCE harmless from all benefits lost and other damages sustained by SCE as a result of any breach by Seller of its covenants contained within this Section 2.05(b).
- (iii) If SCE disagrees with either Section 2.05(b)(i)(x) or Section 2.05(b)(i)(y), SCE must give notice within forty-five (45) days of receipt of the proposed offer in Section 2.05(b)(i), or SCE waives its right to dispute the costs in Section 2.05(b)(i)(x) and (y). If SCE does dispute the costs in Section 2.05(b)(i)(x) or (y), it must provide Seller with an explanation of the basis of the dispute.
- (iv) If SCE disputes the costs in Section 2.05(b)(i)(x) or (y), Seller reserves the right to submit the matter to arbitration without first submitting the matter to mediation as provided for in Section 12.02. The Arbitrator shall allocate against the Party who did not prevail the prevailing Party's reasonable attorney's fees and expenses related to the prevailing Party's participation in the arbitration, and if the Arbitrator determines that the non-prevailing Party's position related to the dispute was asserted in bad faith, the Arbitrator may award to the prevailing Party an additional penalty in an amount as determined by the Arbitrator in his or her discretion.
- (v) If SCE accepts Seller's proposal pursuant to Section 2.05(b)(i), the Parties agree to cooperate to modify this Agreement as necessary to include, among other things, new Price terms.
- (vi) Notwithstanding the provisions of Section 10.10, Seller reserves the right to disclose the existence of this right of first refusal to third parties solely as may reasonably be required to make or negotiate third party sales as permitted by this Section 2.05(b).

*** *End of ARTICLE TWO* ***

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

- (a) **Delivered Amounts.** Seller shall convey the *entire* Delivered Amounts during the Term to SCE. Seller shall convey title to and risk of loss of all Delivered Amounts to SCE at the Delivery Point.
- (b) **Green Attributes.** Seller hereby provides and conveys all Green Attributes associated with all electricity generation from the Project to Buyer as part of the Product being delivered. Seller represents and warrants that Seller holds the rights to all Green Attributes from the Project, and Seller agrees to convey and hereby conveys all such Green Attributes to Buyer as included in the delivery of the Product from the Project.
- (c) **Capacity Attributes and Resource Adequacy Benefits.** In addition, Seller shall dedicate and convey any and all Capacity Attributes and Resource Adequacy Benefits generated by, associated with or attributable to the Generating Facility during the Term to SCE and SCE shall be given sole title to all such Capacity Attributes and Resource Adequacy Benefits.
- (d) **Further Action by Seller.** Seller shall, at its own cost, take all actions and execute all documents or instruments necessary to effectuate the use of the Capacity Attributes, Green Attributes and Resource Adequacy Benefits for SCE's sole benefit throughout the Term. Such actions shall include:
- (1) Cooperating with and encouraging the regional entity responsible for resource adequacy administration to certify or qualify the Contract Capacity for resource adequacy purposes;
 - (2) Testing the Generating Facility in order to certify the Generating Facility for resource adequacy purposes;
 - (3) Complying with all current and future CAISO Tariff provisions applicable to the Generating Facility that address resource adequacy, including provisions regarding performance obligations and penalties;
 - (4) Complying with Applicable Laws regarding the certification and transfer of Renewable Energy Credits, including participation in WREGIS or other process recognized under Applicable Laws for the registration, transfer or ownership of Green Attributes associated with the Generating Facility; and

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- (5) Committing to SCE the full output of the Generating Facility.
- (e) Exclusive Rights. SCE will have the exclusive right, at any time or from time-to-time during the Term, to sell, assign, convey, transfer, allocate, designate, award, report or otherwise provide any and all such Capacity Attributes, Green Attributes or Resource Adequacy Benefits to third parties; *provided, however*, any such action shall not constitute a transfer of, or a release of SCE of, its obligations under this Agreement.
- (f) Associated Costs. SCE shall be responsible for any costs associated with SCE's accounting for or otherwise claiming Green Attributes, Capacity Attributes and Resource Adequacy Benefits.
- (g) Seller's Costs. Seller shall not be required to incur out of pocket costs, including in connection with WREGIS, in excess of \$25,000 in any calendar year in order to effectuate the use of the Green Attributes, Capacity Attributes and Resource Adequacy Benefits for SCE's sole benefit throughout the Term or to facilitate the use by any third party transferee of SCE of any Green Attributes, Capacity Attributes or Resource Adequacy Benefits. Seller shall not be required to reduce the output of the Generating Facility in order to effectuate the use of the Green Attributes, Capacity Attributes and Resource Adequacy Benefits for SCE's sole benefit throughout the Term, other than in connection with periodic testing as may be required by the CAISO.
- (h) Title and Risk of Loss. Seller shall convey title to and risk of loss of all Delivered Amounts to SCE at the Delivery Point.
- (i) Other Sales of Product. From the Commencement Date until the end of the Term, Seller shall not sell the Product (or any portion thereof) to any entity other than SCE.

3.02 Resource Adequacy Benefits.

Seller grants, pledges, assigns and otherwise commits to SCE the full Contract Capacity in order to contribute to SCE meeting its resource adequacy obligations (including any RAR) under any Resource Adequacy Rulings.

Seller also represents, warrants and covenants to SCE that Seller:

- (a) Has not used, granted, pledged, assigned or otherwise committed any portion of the Generating Facility to meet the resource adequacy requirements of, or to confer Resource Adequacy Benefits upon, any entity other than SCE during the Term of this Agreement; and

- (b) Will not during the Term of this Agreement use, grant, pledge, assign or otherwise commit any portion of the Generating Facility to meet the resource adequacy requirements of, or to confer Resource Adequacy Benefits upon, any entity other than SCE.

3.03 Permits and Interconnection, Transmission Service and CAISO Agreements.

- (a) Seller shall be responsible for obtaining and maintaining any and all interconnection and transmission service rights and Permits required to effect delivery of the electric energy from the Generating Facility to the Delivery Point, including the Interconnection Agreements and, if applicable, a FERC-accepted transmission or distribution service agreement required to transmit such electric energy.
- (b) Seller shall secure and maintain throughout the Term all Required CAISO Agreements, certifications and approvals.
 - (i) No later than sixty (60) days prior to the Commencement Date, Seller shall submit proposed amendments to its two Participating Generator Agreements for the Generating Facility, and thereafter either (A) use commercially reasonable efforts to ensure, or (B) if required to do so under the terms of the Participating Generator Agreement, ensure, that each of Seller's two Participating Generator Agreements, Schedule 1,:
 - (1) List all Wind Turbines associated with the applicable Participating Generator Agreement as a single aggregated unit; and
 - (2) Indicate that the generating capacity associated with the applicable Participating Generator Agreement is contracted to SCE under a bi-lateral agreement; and
 - (ii) No later than sixty (60) days prior to the Commencement Date, Seller shall submit proposed amendments to its two Meter Service Agreements for the Generating Facility, and thereafter either (A) use commercially reasonable efforts to ensure, or (B) if required to do so under the terms of the Meter Service Agreement, ensure, that each of Seller's Meter Service Agreements, Schedule 1 shall treat all Wind Turbines associated with the applicable Meter Service Agreement and identified in the Schedule as a single generating unit with a single electric energy meter.
- (c) Seller shall secure through the CAISO the CAISO Global Resource ID's that are to be used solely for this Generating Facility.

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

3.04 Intentionally Omitted.3.05 Seller's Energy Delivery Performance Obligation.(a) Introduction.

After the Commencement Date, Seller shall pay as liquidated damages any:

- (i) Seller's Annual Shortfall Payment calculated as set forth in Exhibit F; and
- (ii) Seller's Long Term Availability Shortfall Payment calculated as set forth in Exhibit O.

(b) Actual Generating Facility Annual Availability.

Within thirty (30) days after the end of each of the first five (5) Term Years, Seller shall provide SCE Notice of the Generating Facility's actual availability.

Seller's Notice shall include:

- (i) The Actual Generating Facility Annual Availability;
- (ii) The Actual Generating Facility Long Term Availability (after the end of the fifth (5th) Term Year);
- (iii) A copy of the Wind Turbine manufacturer's wind turbine availability calculation so long as any of the Wind Turbines are still under warranty;
- (iv) A summary of availability of each Wind Turbine during the relevant time period;
- (v) A copy of all supporting data from the Generating Facility's control system;
- (vi) A letter from the Wind Turbine manufacturer or an independent engineer reasonably acceptable to SCE stating that it has reviewed the calculation methods and results, and found them to be consistent with the Wind Turbine manufacturer's contract guarantee to Seller; and
- (vii) An attestation from an officer of Seller that the calculation is accurate.

(c) Actual Generating Facility Quarterly Availability.

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

Within thirty (30) days after the end of each quarter of each of the first five (5) Term Years, Seller shall provide SCE Notice of the Generating Facility's actual availability for such quarter.

Seller's Notice shall include:

- (i) The Actual Generating Facility Quarterly Availability;
 - (ii) A copy of the Wind Turbine manufacturer's wind turbine availability calculation so long as any of the Wind Turbines are still under warranty;
 - (iii) A summary of availability of each Wind Turbine during the relevant time period;
 - (iv) A copy of all supporting data from the Generating Facility's control system;
 - (v) Any notification from the Wind Turbine manufacturer received by Seller stating that the manufacturer objects to or disputes the calculation methods and results, or has otherwise found them to be inconsistent with the Wind Turbine manufacturer's contract guarantee to Seller; and
 - (vi) An attestation from an officer of Seller that the calculation is accurate.
- (d) SCE's Calculation.

Within sixty (60) days of SCE's receipt of Seller's Notice in accordance with Section 3.05(b), SCE shall provide Seller a Notice which includes:

- (i) A calculation of Seller's Annual Shortfall Payment in accordance with Exhibit F;
 - (ii) Seller's Long Term Availability Shortfall Payment calculated as set forth in Exhibit O.
 - (iii) An invoice for any Seller's Annual Shortfall Payment and/or Seller's Long Term Availability Shortfall Payment amounts owed to SCE; and
 - (iv) Annotated work papers, source data and a detailed explanation of such calculation.
- (e) Seller's Payments.

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

Seller shall have thirty (30) days after receipt of SCE's Notice to review SCE's calculation and either pay the entire Seller's Annual Shortfall Payment and/or Seller's Long Term Availability Shortfall Payment amount claimed by SCE or pay any undisputed portion and provide Notice to SCE of the portion it disputes along with a detailed explanation of, and rationale for, Seller's calculation methodology, annotated work papers and source data.

The Parties shall negotiate in good faith to resolve any disputed portion of the Seller's Annual Shortfall Payment and/or Seller's Long Term Availability Shortfall Payment amount and shall, as part of such good faith negotiations, promptly provide information or data relevant to the dispute as each Party may possess which is requested by the other Party.

Disputes regarding any Seller's Annual Shortfall Payment and/or Seller's Long Term Availability Shortfall Payment amount shall be resolved in accordance with Article Twelve.

(f) Quarterly Statements of Metered Amounts and Lost Output.

- (i) SCE shall prepare and provide to Seller within thirty (30) days after the end of each calendar quarter during each Term Year-quarterly statements (each a "Quarterly Statement") showing the sum of Seller's Metered Amounts plus Lost Output for such completed calendar quarter, the pro rata portion of Seller's Energy Delivery Obligation for such calendar quarter and, for informational and not billing purposes, any estimated Seller's Annual Shortfall Payment that has accrued for such Term Year as of the end of such calendar quarter. SCE's Quarterly Statement shall be accompanied by a statement of all facts and information relied upon by SCE in formulating its calculation methodologies, including annotated work papers and source data.
- (ii) Seller shall have forty-five (45) days after receipt of a Quarterly Statement to review the statement and provide Notice to SCE of any dispute Seller has with the reported Metered Amounts, Lost Output, pro rata portion of Seller's Energy Delivery Obligation or estimate of Seller's Annual Shortfall Payment for such Quarterly Statement. Seller's Notice shall include Seller's calculation of the Metered Amounts, Lost Output, pro rata portion of Seller's Energy Delivery Obligation or estimated Seller's Annual Shortfall Payment for the Term Year as of the end of such calendar quarter, and all facts and information relied upon by Seller in formulating its calculation methodologies and claims, including annotated work papers and source data.

- (iii) Seller shall make a good faith effort to ascertain and include in its Notice any and all disputes that Seller has with the Quarterly Statement.
- (iv) The Parties shall negotiate in good faith for a maximum of thirty (30) days to resolve any disputed portion of such Quarterly Statement and shall, as part of such good faith negotiations, promptly provide information or data relevant to the dispute as each Party may possess which is requested by the other Party.

(g) SCE's Sole and Exclusive Remedy.

SCE's sole and exclusive remedy for Seller's breach of Seller's Annual Energy Obligation, Seller's Annual Availability Obligation and/or Seller's Long Term Availability Obligation shall be the receipt of Seller's Annual Shortfall Payment and/or Seller's Long Term Availability Shortfall Payment.

(h) Continuing Obligations of Seller.

Notwithstanding any payment of any Seller's Annual Shortfall Payment and/or Seller's Long Term Availability Shortfall Payment, or any dispute regarding a Quarterly Statement, Seller shall remain obligated to convey all electric energy generated by the Generating Facility and all Green Attributes, Capacity Attributes and Resource Adequacy Benefits to SCE during the Term, as provided in Sections 3.01 and 3.02.

3.06 Metering, Communications, Telemetry and Meteorological Station.

(a) CAISO Approved Meters.

Seller shall have:

- (i) Installed and paid for any meter and related communications equipment required by the CAISO Tariff and the Transmission Provider (in accordance with its tariff); and;
- (ii) Installed within a reasonable time period after Notice from SCE, any meter and related communications equipment required by SCE, outside the scope of its role as Transmission Provider (which equipment and installation will be at SCE's cost.)

Such equipment shall include two CAISO approved revenue quality meters, CAISO approved data processing gateways or remote intelligence gateways, telemetering equipment and data acquisition services sufficient for

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monitoring, recording and reporting, in real time, all electric energy produced by the Generating Facility less Station Use (collectively the “CAISO Approved Meter”).

(b) Access to CAISO Approved Meters.

(i) Subject to Section 3.17, Seller shall grant SCE reasonable access to the meters for meter readings and any purpose necessary to effectuate this Agreement.

Seller shall promptly provide SCE access to all meter data and data acquisition services both in real-time, and at later times, as SCE may reasonably request.

(ii) Prior to the Commencement Date, Seller shall provide instructions to the CAISO granting authorizations or other documentation sufficient to provide SCE with access to the CAISO Approved Meters and to Seller’s settlement data on OMAR.

Seller shall promptly inform SCE of meter quantity changes after becoming aware of, or being informed of, any such changes by the CAISO.

(c) CAISO Approved Meter Maintenance.

(i) Seller shall test and calibrate the CAISO Approved Meters, as necessary, but in no event shall the period between testing and calibration dates be greater than twenty four (24) months.

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

Notwithstanding the foregoing, in the event a CAISO Approved Meter battery fails, Seller shall replace such battery within forty-eight (48) hours after becoming aware of its failure.

(iii) Seller shall use certified test and calibration technicians to perform any work associated with the CAISO Approved Meters.

(iv) Seller shall inform SCE of test and calibration dates, provide SCE with access to observe and witness such testing and calibration, and provide SCE certified results of tests and calibrations within thirty (30) days after completion.

- (d) **Communication of Real-Time Data to SCE.**
- (i) Seller shall install and pay for equipment required by SCE to provide SCE, as Scheduling Coordinator, the ability to monitor, in real time, all electric energy generated by the Generating Facility.
 - (ii) The data from such equipment shall be centralized into a common supervisory and data acquisition system, otherwise known as SCADA.
 - (iii) Such equipment shall be accessed by SCE via SCE's Generation Management System.
 - (iv) Seller shall provide operational consent for SCE to use as the communication network interface:
 - (1) The CAISO remote intelligent gateway, otherwise known as a RIG, or data processing gateway, otherwise known as a DPG; and
 - (2) Energy Control Network.
 - (v) In the event the Generating Facility does not provide real-time telemetry data to the CAISO as described in subsection (iv) above or if the Generating Facility is not interconnected to the CAISO Control Area, Seller shall provide SCE real-time telemetry utilizing a pathway and network protocol reasonably approved by SCE.
 - (vi) The connection shall be bidirectional in nature and used to exchange all data points to and from SCE's Generation Operation Center; provided that SCE shall cooperate in good faith with Seller to establish appropriate protocols for the bi-directional requirements.
 - (vii) The above mentioned connections and data transfer shall be included in the systems engineering tasks as a part of the construction of the Generating Facility, and shall be fully functional prior to the Commencement Date.
- (e) **Meteorological Station and Reporting Requirements.**

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

The station(s) shall be installed at least sixty (60) days before the Commencement Date.

The station(s) shall be equipped with instruments and equipment that meet those specifications set forth in Exhibit T as may be modified by SCE from time to time to reflect the CAISO's PIRP protocol.

The station(s) shall be designed to collect and record data in accordance with CAISO's PIRP protocols.

Data reports shall be formatted in a manner consistent with the CAISO requirements published on the CAISO internet home page.

Telemetry equipment shall be designed to function in accordance with CAISO's PIRP protocols.

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

Seller shall submit to SCE for review and approval, its technical specifications for the meteorological station(s) along with a site plan showing the location of the station(s), the location of all wind turbines and the wind rose for the Site.

(f) Real-Time Communication of Availability.

- (i) Prior to the Commencement Date, Seller may install a telecommunication system to interface with SCE's Web Client to provide SCE with Seller's cumulative available capacity of the Generating Facility on a real-time basis. SCE shall cooperate in good faith with Seller to establish appropriate protocols for the Web Client requirements.
- (ii) If Seller installs such telecommunication system, Seller shall maintain the telecommunications path, the hardware, and software to provide quality data to SCE.
- (iii) Upon Notice from SCE, Seller shall repair or have corrected within five (5) Business Days of receipt of such Notice any:
 - (1) Inoperable telecommunications path;
 - (2) Inoperable software; or
 - (3) Faulty instrumentation.

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- (iv) Seller shall submit an Actual Availability Report pursuant to Section 3.22 for any month in which Seller's telecommunications system was not available or did not provide quality data for longer than twenty-four (24) continuous hours.

3.07 Site Control.

- (a) On or before the Commencement Date and at all times during the Term, Seller shall have Site Control, which means that Seller shall:
 - (i) Own the Site;
 - (ii) Be the lessee of the Site under a Lease;
 - (iii) Be the holder of a right-of-way grant or similar instrument with respect to the Site; and/or
 - (iv) Be the managing partner or other person or entity authorized to act in all matters relating to the control and Operation of the Site and Generating Facility.
- (b) Seller shall provide SCE with prompt Notice of any change in the status of Seller's Site Control.
- (c) Seller shall provide SCE with Notice of the status of its Site Control prior to commencing construction of the Generating Facility.

3.08 Site Location.

This Agreement is Site specific as set forth in Section 1.01(b).

Seller may, with SCE's prior written consent, change the location of the Site; *provided that*, the Interconnection Point with the Transmission Provider is not changed.

Seller shall promptly provide a revised Exhibit B describing any new Site in the event Seller requests SCE's consent to change the Site location.

3.09 Design.

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

- (a) All matters related to the design and construction of the Generating Facility.
- (b) Using commercially reasonable efforts to acquire and/or maintain all Permits.

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- (c) Providing to SCE, at least thirty (30) days prior to the Commencement Date, the following Generating Facility information:
 - (i) Site plan drawings for the Generating Facility;
 - (ii) Electrical one line diagrams;
 - (iii) Control and data acquisition details and configuration documents;
 - (iv) Major electrical equipment specifications;
 - (v) General arrangement drawings;
 - (vi) Longitude and latitude of each generator;
 - (vii) Artist renderings of the Site, if any;
 - (viii) Aerial photographs of the Site, if any;
 - (ix) Wind turbine specification;
 - (x) Wind energy collection grid diagrams.
- (d) Providing SCE advance Notice at the earliest practicable time of any proposed changes in Seller's Generating Facility, but in no event less than thirty (30) days before the changes are to be made, which such Notice shall include the information set forth in Section 3.09(c) above, along with all specifications and drawings pertaining to any such changes and any changes to Exhibit B.

3.10 Operation and Record Keeping.

- (a) Seller shall Operate the Generating Facility in accordance with Prudent Electrical Practices.
- (b) Commencing on the Commencement Date and continuing throughout the Term of this Agreement, Seller shall be in material compliance with all applicable provisions of the CAISO Tariff.
- (c) Prior to the Commencement Date:
 - (i) Seller shall have obtained CEC Certification and Verification, subject to Section 3.18;
 - (ii) Seller shall have obtained all Material Permits;

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- (iii) Seller shall take all steps necessary to ensure that SCE becomes authorized by the CAISO to Schedule the electric energy produced by the Generating Facility with the CAISO prior to the Commencement Date;
 - (iv) Seller shall post with SCE the Performance Assurance required under Section 8.02;
 - (v) Seller shall have registered with NERC as the Generating Facility's Generator Owner and Generator Operator if Seller is required to be a registered entity pursuant to the NERC Reliability Standards;
 - (vi) Seller shall comply with its obligations with respect to the CAISO Approved Meters as set forth in Section 3.06(a); and
 - (vii) Seller shall have furnished to SCE all insurance documents required under Section 10.11(b).
 - (viii) Seller shall have entered into all Required CAISO Agreements.
- (d) Commencing on the Commencement Date, Seller shall keep a daily operations log for the Generating Facility that shall include the following information:
- (1) Availability;
 - (2) Circuit breaker trip operations;
 - (3) Any significant events related to the Operation of the Generating Facility;
 - (4) Real and reactive power and energy production;
 - (5) Changes in Operating status;
 - (6) Protective apparatus operations;
 - (7) Any unusual conditions found during inspections;
 - (8) Electric energy production; and
 - (9) Status and settings of generator controls including automatic voltage regulator and power system stabilizer.

Seller shall maintain complete records relating to the Generating Facility's wind speeds and other pertinent meteorological conditions and operational status of each Wind Turbine.

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

Seller shall maintain documentation of all procedures applicable to the testing and maintenance of the Generating Facility protective devices as necessary to comply with the NERC Reliability Standards applicable to protection systems for large electric generators if Seller is the Generator Owner or the Generator Operator and is required to maintain such documentation by NERC.

Such information in subsection (d) above shall be provided or made available to SCE within twenty (20) days after any Notice.

- (f) Upon Notice from SCE in accordance with the terms of this paragraph, Seller shall promptly curtail the production of the Generating Facility. Such Notice shall be provided to Seller only in the event SCE, as Seller's Scheduling Coordinator, is instructed by the CAISO to curtail energy deliveries in order to respond to a CAISO Forecasted Over-Generation Condition, a CAISO Declared Over-Generation Condition or an Emergency. Notwithstanding the above, except as may be required in order to respond to any Emergency, SCE shall: (i) limit the duration of any curtailment order to a maximum of fifteen (15) consecutive hours; (ii) not issue more than one curtailment order during any twenty-four (24) hour period; and (iii) limit the curtailment duration in any Term Year to a maximum of two hundred (200) hours.
- (g) Information maintained pursuant to this Section 3.10 shall be kept for at least seven (7) years since first created and shall be provided or made available to SCE within twenty (20) days after any Notice.

3.11 Obtaining Scheduling Coordinator Services.

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

- (a) SCE as Scheduling Coordinator.

- (i) At least thirty (30) days prior to the Commencement Date, Seller shall take all actions and execute and deliver to SCE all documents necessary to authorize or designate SCE as Seller's Scheduling Coordinator during the period that begins on the Commencement Date and ends on the expiration of the Term of this Agreement.
 - (ii) Seller shall not authorize or designate any other party to act as Scheduling Coordinator, nor shall Seller perform, for its own benefit, the duties of Scheduling Coordinator.
- (b) Replacement of Scheduling Coordinator.

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

- (i) Seller shall submit to the CAISO a designation of a new Scheduling Coordinator for Seller to replace SCE;
- (ii) Seller shall cause the newly designated Scheduling Coordinator to submit a letter to the CAISO accepting the designation; and
- (iii) Seller shall inform SCE of the last date on which SCE will be Seller's Scheduling Coordinator.

3.12 Forecasting.

Seller shall Forecast or cause to be Forecasted the available capacity, in MWs, of the Generating Facility, in accordance with the provisions of Exhibit D.

3.13 Scheduled Outages.

- (a) No later than five (5) Business Days prior to the dates required by the CAISO for delivery of schedules for planned outages (which such CAISO required delivery dates are currently January 15th, April 15th, July 15th and October 15th of each year during the Term), and at least sixty (60) days prior to the later of (A) the Commencement Date, or (B) SCE becoming Seller's Scheduling Coordinator, Seller shall submit to SCE its schedule of proposed planned outages ("Outage Schedule") for the subsequent twenty four-month period using an SCE-provided web-based system (the "Web Client").

- (b) Seller shall provide the following information for each proposed planned outage:
 - (i) Start date and time;
 - (ii) End date and time; and
 - (iii) Capacity expected to be online, in MW, during the planned outage.
- (c) Within twenty (20) Business Days after SCE's receipt of an Outage Schedule, SCE shall notify Seller in writing of any reasonable request for changes to the Outage Schedule, and Seller shall, consistent with Prudent Electrical Practices, accommodate SCE's requests regarding the timing of any planned outage.
- (d) Seller shall cooperate with SCE to arrange and coordinate all Outage Schedules with the CAISO.
- (e) In the event a condition occurs at the Generating Facility which causes Seller to revise its planned outages, Seller shall provide Notice to SCE, using the Web Client, of such change (including, an estimate of the length of such planned outage) as soon as practicable after the condition causing the change becomes known to Seller.
- (f) Seller shall promptly prepare and provide to SCE upon request, using the Web Client, all reports of actual or forecasted outages that SCE may reasonably require for the purpose of enabling SCE to comply with Section 761.3 of the California Public Utilities Code or any Applicable Law mandating the reporting by investor owned utilities of expected or experienced outages by electric energy generating facilities under contract to supply electric energy.

3.14 Reporting Regarding Maintaining Ability to Meet Commencement Date.

Seller shall provide to SCE quarterly a written report or confirmation (which may be by electronic communication) of its ability to meet the Commencement Date. The report shall include a statement of any change in any of its Permits or agreements with the Transmission Provider, CAISO or any Governmental Authority that is reasonably likely to have a material adverse effect on Seller's ability to meet the Commencement Date. If there no such change in any quarter, the confirmation shall state simply: "No Change in Status." Failure to provide such report or confirmation timely shall not be a default by Seller hereunder unless SCE provides written Notice to Seller of such failure and Seller fails to cure the failure within ten (10) Business Days of such Notice from SCE.

Seller shall advise SCE as soon as reasonably practicable of any problems or issues of which Seller is aware which may materially impact Seller's ability to meet the Commencement Date.

3.15 Intentionally omitted.

3.16 Provision of Information.

Seller shall promptly provide to SCE copies of:

- (a) All agreements with providers of distribution, transmission or interconnection services for the Generating Facility (including the Interconnection Agreements) and all amendments thereto, which may be redacted by Seller to eliminate any portions reasonably believed by Seller to contain confidential information;
- (b) All applications and approvals relating to CEC Certification and Verification of the Generating Facility, subject to Section 3.18 and PIRP
- (c) Intentionally omitted;
- (d) Intentionally omitted ;
- (e) Intentionally omitted ;
- (f) All Generating Facility and metering information as may be reasonably requested by SCE, including the following, at least thirty (30) days prior to the Commencement Date:

For each CAISO Approved Meter:

- (1) Generating Station/Unit ID;
- (2) CAISO Global Resource ID;
- (3) CAISO Approved Meter Device ID;
- (4) Password;
- (5) Data path (network (ECN) or modem);
- (6) If modem, phone number;
- (7) Copy of meter certifications;

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- (8) List of any CAISO metering exemptions (if any); and
- (9) Description of any compensation calculations such as transformer losses and line losses.

For the Generating Facility:

- (1) Utility transmission/distribution one line diagram;
- (2) Physical location, address or descriptive identification;
- (3) Latitude and longitude;
- (4) Telephone number on site;
- (5) Telephone number of control room;
- (6) Telephone number for operational issues; and
- (7) Telephone number for administrative issues.

3.17 SCE's Access Rights.

Seller shall grant SCE the right of ingress and egress during the Term to examine the Site and Generating Facility for any purpose reasonably connected with this Agreement or the exercise of any and all rights of SCE under Applicable Law or its tariff schedules and rules on file with the CPUC.

3.18 Obtaining and Maintaining CEC Certification and Verification.

Seller shall follow the appropriate procedures, including, but not limited to, making or supporting timely filings with the CEC, to obtain and maintain CEC Certification and Verification throughout the Term; provided however that:

- (a) This obligation shall not apply to the extent that Seller is unable to obtain and/or maintain CEC Certification and Verification because of a change in the RPS Legislation, or the rules or regulations relating thereto, occurring after the Effective Date and Seller has made commercially reasonable efforts to obtain and maintain CEC Certification and Verification under the then current Applicable Law.

The term "commercially reasonable efforts" as used in this Section shall not require Seller to incur out of pocket costs in excess of \$25,000 in any year in order to obtain and/or maintain CEC Certification and Verification under the then current Applicable Law.

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3.19 Notice of Cessation or Termination of Service Agreements.

Seller shall provide Notice to SCE within one (1) Business Day after termination of, or cessation of service under, any of the Interconnection Agreements or any other agreement necessary for the interconnection to the Transmission Provider's electric system, for transmission of the electric energy to the Delivery Point, for delivering Product to SCE, or for metering the Metered Amounts.

3.20 Lost Output Report.

(a) Monthly Report; SCE Review.

Commencing upon the Commencement Date and continuing throughout the Term, Seller shall calculate Lost Output and prepare and provide to SCE a Lost Output Report by the fifteenth (15th) Business Day of each month in accordance with Exhibit M.

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

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

(b) Disputes of Lost Output.

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

The Parties shall negotiate in good faith to resolve any dispute related to Seller's Lost Output calculation.

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

Seller shall have no right to claim any Lost Output for any month that was not identified in the original Lost Output Report for that month; *provided that*, Seller may supplement the amount of Lost Output claimed ("Supplemental Lost Output") for the month with a supplemental Lost Output Report ("Supplemental Lost Output Report") if Seller can demonstrate that it neither knew nor could have known through the exercise of reasonable diligence

about the Supplemental Lost Output within the foregoing thirty (30) day period and Seller provides the Supplemental Lost Output Report within ten (10) Business Days after learning the facts which provide the basis for the Supplemental Lost Output claim.

- (c) Seller's Annual Shortfall Payment Calculation.

The Lost Output amount that shall be used in the Seller's Annual Shortfall Payment calculation, set forth in Exhibit F, shall be the amount calculated after the twelfth (12th) month of the Term Year using the Generating Facility Power Curve derived for the Term Year for which the Lost Output is being calculated.

3.21 CAISO Charges, CAISO Sanctions and SCE Penalties.

- (a) Intentionally omitted.

- (b) After the Commencement Date.

(i) Commencing upon the later of the Commencement Date or the date on which SCE becomes Seller's Scheduling Coordinator and continuing throughout the Term, Seller shall have no responsibility for CAISO Charges attributable to or assessed for energy Scheduled by SCE, or delivered by Seller to SCE.

(ii) In the event Seller fails to comply with the availability forecasting provisions set forth in Exhibit D, or any CAISO Tariff or CAISO directives as required under Exhibit Q, Seller may be liable to pay an SCE Penalty and/or CAISO Charge and CAISO Sanction, each as set forth in Exhibit Q, which shall be SCE's sole and exclusive remedy for such failure to comply.

- (c) In no event shall Seller be responsible for CAISO Charges, CAISO Sanctions or SCE Penalties to the extent attributable to the fault of SCE, including any inaccuracy in the SC Schedules submitted by SCE under this Agreement.

- (d) If Seller disputes any CAISO Charge or CAISO Sanction, Seller shall provide Notice to SCE of such dispute in accordance with Section 4.03.

3.22 Actual Availability Report.

- (a) Commencing upon the later of the Commencement Date or the date on which SCE becomes Seller's Scheduling Coordinator, Seller shall prepare and provide to SCE a report with the Actual Available Capacity of the Generating

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Facility (an “Actual Availability Report”) for each month. Such report shall be in the form set forth in Exhibit S and shall be delivered to SCE no later than the fifteenth (15th) Business Day following the end of the month which is the subject of the Actual Availability Report.

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

3.23 Change in Revenue Notification; Seller’s Financial Information for Consolidation.

- (a) In the event Seller determines that the revenue received or to be received by Seller from this Agreement for any calendar year during the Term is or is likely to be less than ninety percent (90%) of Seller’s total anticipated revenue for such calendar year, Seller shall provide Notice of such determination to SCE as soon as practicable after such determination is made, but in no event later than forty-five (45) days before the end of such calendar year. Revenue generated after the expiration of the Term but before the end of the same calendar year is excluded from this Section 3.23(a). Revenue generated before the Commencement Date but after the start of the same calendar year is excluded from this Section 3.23(a).
- (b) After receipt of such Notice, SCE shall require Seller to provide certain financial information in accordance with Exhibit U, including unaudited statements of income, unaudited statements of cash flow and unaudited balance sheets, in order to determine if SCE, or its parent company, may have to consolidate Seller’s financial information for securities reporting purposes, and to effectuate such consolidation if and when necessary.

3.24 Seller’s Provision of Historic Wind Data.

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

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

- (b) Data Parameters.

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

- (i) Wind direction;

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

Seller shall provide the data:

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

3.25 Application of Prevailing Wage.

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

3.26 Seller's Cure Obligations Related to Availability.

- (a) In the event that, in the Notice delivered by Seller to SCE pursuant to Section 3.05(b), the Actual Generating Facility Quarterly Availability is less than or equal to eighty percent (80%) (the "Actual Generating Facility Quarterly Availability Threshold"), then Seller shall, within fourteen (14) days of delivery of such Notice, present to SCE (i) a detailed description of the reason that the Actual Generating Facility Quarterly Availability is below the Actual Generating Facility Quarterly Availability Threshold and (ii) a plan and schedule for increasing the Annual Generating Facility Quarterly Availability to at least the Annual Generating Facility Quarterly Availability Threshold level (the "Plan").
- (b) If SCE and Seller disagree about the Plan, Seller shall, at its expense, hire an independent third party engineering firm reasonably acceptable to SCE from the list provided in Exhibit V to assess the situation and recommend a commercially reasonable Plan for increasing the Actual Generating Facility Quarterly Availability to above the Actual Generating Facility Quarterly Availability Threshold level, in which case, such recommendation shall be deemed to be the Plan; provided that, any disagreements with regard to the

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commercial reasonableness and effectiveness of such deemed Plan shall be resolved in accordance with Article 12.

- (c) If, within fifteen (15) days of the agreement of a Plan in accordance with subsection 3.26(a) above or the deemed agreement of a Plan in accordance with subsection 3.26(b) above, Seller fails to implement the Plan, or, if the Plan cannot reasonably be implemented within such time period make reasonable progress in effecting same, in each case as determined and reported by the engineering firm hired in accordance with subpart 3.26(b), SCE shall have the right, in its sole discretion and in addition to and not in substitution for any other remedy otherwise available to it under this Agreement, to increase (i) Seller's Annual Availability Obligation to eighty-five percent (85%) for the Term Year in which the Actual Generating Facility Quarterly Availability Threshold is less than eighty percent (80%), and (ii) Seller's Long Term Availability Obligation to ninety percent (90%) during Seller's Long Term Availability Guarantee Period.

3.27 NERC Electric System Reliability Standards.

During the Term, Seller (or an agent of Seller as agreed to by SCE in its reasonable discretion) must be registered with NERC as the Generator Operator and the Generator Owner for the Generating Facility if any party is required to be so registered for purposes of complying with any NERC Reliability Standards that are applicable to the Generating Facility, and must, if any party is so required, perform all Generator Operator Obligations and Generator Owner Obligations except those Generator Operator Obligations that SCE, in its capacity as Scheduling Coordinator, is required to perform under this Agreement or under the CAISO Tariff.

Notwithstanding anything to the contrary set forth in this Section 3.27 and subject to the indemnity obligations set forth in Section 10.03, each Party acknowledges that such Party's performance of the Generator Operator Obligations or Generator Owner Obligations may not satisfy the requirements for self-certification or compliance with the NERC Reliability Standards, and that it shall be the sole responsibility of each Party to implement the processes and procedures required by NERC, WECC, or the CAISO in order to comply with the NERC Reliability Standards

*** End of ARTICLE THREE ***

ARTICLE FOUR. SCE’S OBLIGATIONS

4.01 Obligation to Pay.

For Seller’s *full* compensation under this Agreement, SCE shall make monthly Energy Payments to Seller during the Term calculated in the manner described in Section 4.02 and Exhibit Q.

SCE shall not be obligated to purchase from Seller any Product prior to the Commencement Date or any electric energy that is not or cannot be metered as a result of any circumstance, including:

- (a) An outage of the Generating Facility;
- (b) A Force Majeure under Article Five;
- (c) A reduction or curtailment of Delivered Amounts ordered by the CAISO; or
- (d) A reduction or curtailment of Delivered Amounts- pursuant to the terms of an agreement with a Transmission Provider.

4.02 Payments and Adjustments.

- (a) Intentionally omitted.
- (b) Energy Payment Calculations during the Term.

For the purpose of calculating monthly payments for Product delivered to SCE during the Term in accordance with the terms of this Agreement (“Energy Payments”), Delivered Amounts shall be time-differentiated according to the TOD Periods set forth in Exhibit K and the pricing shall be weighted by the Energy Payment Allocation Factors set forth in Exhibit K.

Monthly Energy Payments shall equal the sum of the TOD Period Energy Payments for all TOD Periods in the month. Each TOD Period Energy Payment shall be calculated pursuant to the following formula, where “n” is the TOD Period being calculated:

$$\text{TOD PERIOD}_n \text{ ENERGY PAYMENT} = A \times B \times C$$

Where:

A = Energy Price specified in Section 1.06 in \$/kWh (i.e., \$/MWh/1000).

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

- B = Energy Payment Allocation Factor, set forth in Exhibit K, for the TOD Period being calculated.
- C = The sum of Delivered Amounts in all hours for the TOD Period being calculated in kWh.

4.03 Payment Statement and Payment.

- (a) After the Commencement Date, no later than thirty (30) days after the end of each calendar month (or the last day of the month if the month in which the payment statement is being sent is February), or the last Business Day of the month if such 30th day (or 28th or 29th day for February) is a weekend day or holiday during which:

- (i) Intentionally omitted ;
- (ii) Delivered Amounts are provided to SCE;
- (iii) CAISO Charges, CAISO Sanctions or any SCE Penalties are incurred;
or
- (iv) Adjustments for payment errors are made as set forth below;

SCE shall do each of the following:

- (v) Send a statement to Seller showing:
 - (1) Intentionally omitted ;
 - (2) The Delivered Amounts for each TOD Period during the month for which the payment is being made;
 - (3) A calculation of the amount payable to Seller for the month pursuant to Section 4.02;
 - (4) The applicable CAISO Charges, CAISO Sanctions and SCE Penalties pursuant to Exhibit Q, which will be available approximately one hundred twenty (120) days following the last day of a calendar month (for electric energy deliveries during that month) or thirty (30) days after the CAISO final settlement data is available to SCE for such deliveries, whichever is sooner; and
 - (5) A calculation of the net amount due Seller.

- (vi) Send to Seller, via wire transfer, SCE's payment of said net amount, plus, if such payment is late, a Simple Interest Payment calculated using the Interest Rate and the number of days that such payment is late.
- (b) In the event SCE determines that:
 - (i) Intentionally omitted
 - (ii) A calculation of Metered Amounts, CAISO Charges, CAISO Sanctions or SCE Penalties is incorrect as a result of inaccurate meters, the correction of data by the CAISO in OMAR, or a recalculation of CAISO Charges or CAISO Sanctions by the CAISO,

SCE shall promptly recompute Metered Amounts, CAISO Charges, CAISO Sanctions or SCE Penalties for the period of the inaccuracy based upon an adjustment of inaccurate meter readings, correction of data or recalculation of CAISO Charges or CAISO Sanctions in accordance with the CAISO Tariff.

SCE shall also promptly recompute any payment affected by any meter or CAISO Charge, CAISO Sanction or SCE Penalty inaccuracy. Any amount due from SCE to Seller, or Seller to SCE, as the case may be, shall be made as an adjustment to the next monthly payment statement that is calculated after SCE's recomputation using corrected measurements.

In the event that the recomputation results in a net amount owed to SCE after applying any amounts owing to Seller as shown on the next monthly payment statement, any such additional amount still owing to SCE shall be netted against amounts owed to Seller in any subsequent monthly payments to Seller or invoiced to Seller, in which case Seller must pay the amount owing to SCE within twenty (20) days after receipt of such invoice.

At SCE's discretion, SCE may net any remaining amount owed SCE on any subsequent monthly payment statement to Seller or invoice Seller for such amount, in which case Seller must pay the amount owing to SCE within twenty (20) days after receipt of such invoice.

SCE may make payment adjustments arising from a recalculation of CAISO Charges, CAISO Sanctions or SCE Penalties or as a result of inaccurate meters after the end of the Term, *provided that* the Parties shall be deemed to have waived any such payment adjustments which are not communicated as provided in this Section 4.03(b) within twenty-eight (28) months from the end of the Term.

Adjustment payments for meter inaccuracy shall not bear interest.

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

(c) Netting Rights.

SCE reserves the right to net amounts that would otherwise be due to Seller under this Agreement in payment of any amounts:

- (i) Owing and unpaid by Seller to SCE under this Agreement; or
- (ii) Owed to SCE by Seller arising out of, or related to, any other SCE agreement, tariff, obligation or liability.

Nothing in this Section 4.03(c) shall limit SCE's rights under applicable tariffs, other agreements or Applicable Law.

(d) Waiver.

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

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

If Seller identifies an error in SCE's favor and SCE agrees that the identified error occurred, SCE may offset the amount of overpayment caused by the error against amounts otherwise owed to Seller and apply the offset to the next monthly payment statement that is calculated.

Late payments to Seller resulting from SCE's errors, or overpayments to Seller by SCE, shall include a Simple Interest Payment calculated using the Interest Rate and the number of days between the date due (or, in the case of overpayments by SCE, commencing five (5) Business Days from the date SCE provides Notice of such overpayments to Seller) and the date paid; *provided, however*, that changes made because of settlement, audit or other information provided by the CAISO or any other third party not under the

control of, or an Affiliate of, Seller, and not available to SCE when SCE rendered its original payment statement shall not bear interest.

In the event that the recomputation results in a net amount still owing to SCE after offsetting any amounts owed to Seller, the next monthly payment statement shall indicate such net amount owing to SCE.

At SCE's discretion, SCE may offset this net amount owed SCE on any subsequent monthly payment statement to Seller or invoice Seller for such amount, in which case Seller must pay the amount owing to SCE within thirty (30) days after receipt of such invoice.

The Parties shall negotiate in good faith to resolve any disputes regarding claimed errors in a payment statement.

Any disputes which the Parties are unable to resolve through negotiation may be submitted for resolution through mediation and arbitration as provided in Article Twelve.

4.04 Scheduling Coordinator.

Commencing on the Commencement Date, SCE shall act as Scheduling Coordinator, (without receiving any separate remuneration for such services) on behalf of Seller, and shall submit bids and SC Schedules to the CAISO in accordance with CAISO Tariff protocols.

(a) Duties as Scheduling Coordinator.

- (i) SCE shall timely submit all notices and updates required under the CAISO Tariff regarding the Generating Facility's status to the CAISO and promptly provide all communications to Seller regarding the Generating Facility from the CAISO (which may be made available via the Web Client).
- (ii) Intentionally omitted .
- (iii) In the event SCE believes that any CAISO Charge or CAISO Sanction is incorrect and disputable under the CAISO Tariff or upon Notice by Seller of any dispute of a CAISO Charge or CAISO Sanction, SCE shall dispute any such CAISO Charge or CAISO Sanction in accordance with the procedures set forth under the CAISO Tariff.
- (iv) SCE shall, upon the request of Seller (which request may be made no more than once per year during the Term), provide Seller with the amount of the Scheduled Amounts for the Generating Facility.

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

- (v) SCE shall at all times perform its Scheduling Coordinator obligations in a reasonable and prudent manner and in compliance with all applicable CAISO rules and protocols.
- (vi) If Buyer is Seller's Scheduling Coordinator, Buyer as Scheduling Coordinator will reasonably cooperate with Seller to the extent necessary to enable Seller to comply and for Seller to demonstrate Seller's compliance with the NERC Reliability Standards referenced above. Buyer's cooperation will include providing to Seller, or such other person as Seller designates in writing, information in Buyer's possession that Buyer as Scheduling Coordinator has provided to the CAISO related to the Generating Facility or actions that Buyer has taken as Scheduling Coordinator related to Seller's compliance with the NERC Reliability Standards referenced above. Buyer may, in its reasonable discretion (depending upon the quantity of information requested by Seller and the timeframe established by Seller for compliance), comply with the requirement to provide information set forth in the previous sentence by making such information available for inspection by Seller, or Seller's designee, or by providing responsive summaries or excerpts of same so long as the foregoing enables Seller to comply with the NERC Reliability Standards. In addition, Buyer may redact any information or data that is confidential to Buyer from materials or information to be supplied to Seller so long as the foregoing enables Seller to comply with the NERC Reliability Standards.

(b) Termination of Scheduling Coordinator.

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

- (i) Thirty (30) days prior to the end of the Term; or
- (ii) The date of any early termination of this Agreement.

4.05 CAISO Charges.

- (a) Except as set forth in Section 3.21 and Exhibit Q, SCE shall be responsible for all CAISO Charges during the Term.
- (b) Upon MRTU implementation, Seller shall be responsible for any congestion costs to the Delivery Point, and SCE shall be responsible for all congestion costs at and from the Delivery Point.

- (c) To the extent that SCE requires Seller to participate in the PIRP program, SCE shall be responsible for CAISO Charges and PIRP forecasting fees.

4.06 Interest Payments on Cash Deposits.

- (a) SCE shall make monthly Simple Interest Payments, calculated using the Federal Funds Effective Rate, to Seller on cash amounts posted for the:
 - (i) Intentionally omitted.
 - (ii) Performance Assurance.
- (b) Upon receipt of a monthly invoice (provided by Seller to the SCE Manager of Credit and Collateral as set forth in Exhibit C) that sets forth the calculation of the Simple Interest Payment amount due, SCE shall make payment thereof by the third (3rd) Local Business Day of the first month after the last month to which the invoice relates so long as such date is after the day on which such invoice is received; *provided that*,
 - (i) No Event of Default has occurred and is continuing with respect to Seller; and
 - (ii) No Early Termination Date for which any unsatisfied payment obligation of Seller exists, has occurred or has been designated as the result of an Event of Default by Seller.
- (c) On or after the occurrence of an Event of Default by Seller or an Early Termination Date as a result of an Event of Default by Seller, SCE shall retain any such Simple Interest Payment amount as an additional Performance Assurance Amount hereunder until:
 - (i) In the case of an Early Termination Date, the obligations of Seller under this Agreement have been satisfied; or
 - (ii) In the case of an Event of Default, for so long as such Event of Default is continuing.

*** End of ARTICLE FOUR ***

ARTICLE FIVE. FORCE MAJEURE**5.01 No Default for Force Majeure.**

Neither Party shall be considered to be in default in the performance of any of its obligations set forth in this Agreement (except for obligations to pay money) when and to the extent failure of performance is caused by Force Majeure.

5.02 Requirements Applicable to the Claiming Party.

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

In connection with a claim of Force Majeure:

- (a) The Claiming Party, within fourteen (14) days after the later of (i) the initial occurrence of the claimed Force Majeure, or (ii) the date on which the claimed Force Majeure first prevents or delays performance under this Agreement, must give the other Party Notice describing the particulars of the occurrence; and
- (b) The Claiming Party must provide timely evidence reasonably sufficient to establish that the occurrence constitutes Force Majeure as defined in this Agreement.

The suspension of the Claiming Party’s performance due to Force Majeure shall be of no greater scope and of no longer duration than is required by the Force Majeure.

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

This section shall not require the settlement of any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Claiming Party, are contrary to its interest.

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

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

5.03 Intentionally omitted.

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5.04 Termination.

Either Party may terminate this Agreement on Notice, which shall be effective five (5) Business Days after such Notice is provided, in the event of Force Majeure which prevents substantial performance by the other Party and which extends for more than three hundred sixty five (365) consecutive days.

*** End of ARTICLE FIVE ***

ARTICLE SIX. EVENTS OF DEFAULT: REMEDIES6.01 Events of Default.

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

- (a) With respect to either Party:
 - (i) Any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated if the representation or warranty is continuing in nature, if:
 - (1) Such misrepresentation or breach of warranty is not remedied within five (5) Business Days after Notice; or
 - (2) Such inaccuracy is not capable of a cure, but the non-breaching Party’s damages resulting from such inaccuracy can reasonably be ascertained and the payment of such damages is not made within ten (10) Business Days after a Notice of such damages is provided by the non-breaching Party to the breaching Party;
 - (ii) Except for an obligation to make payment when due, the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default or to the extent excused by a Force Majeure) if such failure is not remedied within thirty (30) days after Notice of such failure, which Notice sets forth in reasonable detail the nature of the failure; *provided that*, if such failure is not reasonably capable of being cured within the thirty (30) day cure period specified above, the Party shall have such additional time (not exceeding an additional one hundred twenty (120) days) as is reasonably necessary to cure such failure, so long as such Party promptly commences and diligently pursues such cure;
 - (iii) A Party fails to make when due any payment (other than amounts disputed in good faith in accordance with the dispute resolution terms of this Agreement) due and owing under the Agreement and such failure is not cured within five (5) Business Days after Notice such of failure;
 - (iv) The failure of such Party to satisfy the creditworthiness and collateral requirements in Article Eight and such failure is not cured within three (3) Business Days after Notice of such failure;

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- (v) A Party becomes Bankrupt; or
 - (vi) A Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the 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's Guarantor (each event listed below to be deemed an Event of Default with respect to Seller):
- (i) If any representation or warranty made by a Guarantor in connection with this Agreement is false or misleading in any material respect when made or when deemed made or repeated if the representation or warranty is continuing in nature and the misrepresentation or breach of warranty is not remedied (including through the provision of an alternative Guaranty Agreement or other Performance Assurance) within ten (10) Business Days after Notice;
 - (ii) The failure of a Guarantor to make any payment required or to perform any other material covenant or obligation in any guaranty made in connection with this Agreement and such failure shall not be remedied within five (5) Business Days after Notice;
 - (iii) A Guarantor becomes Bankrupt and Seller fails to procure a replacement Guaranty Agreement or to provide other Performance Assurance within five (5) Business Days, or if paragraphs (c) or (e) in the definition of "Bankrupt" apply, then five (5) Business Days after Notice;
 - (iv) The failure of a Guaranty Agreement to SCE to be in full force and effect for purposes of this Agreement (other than in accordance with its terms);
 - (v) A Guarantor repudiates, disaffirms, disclaims, or rejects, in whole or in part, or challenges the validity of any Guaranty Agreement given to SCE and Seller fails to procure a replacement Guaranty Agreement or other Performance Assurance within five (5) Business Days of Notice;
 - (vi) The occurrence and continuation of an event of default or other similar condition or event (but not an event or circumstance that would become an "event of default" or other similar condition or event with

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- notice and/or the passage of time) under one or more agreements or instruments of Guarantor, individually or collectively, relating to indebtedness of Guarantor for borrowed money in the aggregate amount of not less than the Cross Default Amount, which results in such indebtedness becoming, or becoming capable at such time of being declared, immediately due and payable; or
- (vii) The occurrence and continuation of a default by Guarantor in making on the due date therefore one or more payments, individually or collectively, in an aggregate amount of not less than the applicable Cross Default Amount;
- (c) With respect to Seller:
- (i) Intentionally omitted ;
 - (ii) Seller does not own the Generating Facility or otherwise have the authority over the Site as required in Section 3.07(a)(iv) and such failure is not cured by the later of thirty (30) days after Seller providing Notice in accordance with Section 3.07(b) or thirty (30) days after Seller becomes aware of the occurrence of the event that results in such failure;
 - (iii) The sum of Metered Amounts plus Lost Output in any consecutive six (6) month period is not at least ten percent (10%) of the Expected Annual Net Energy Production set forth in Section 1.01(f) and Seller fails to demonstrate to SCE's reasonable satisfaction, within ten (10) Business Days after Notice from SCE, a legitimate reason for such failure;
 - (iv) Seller installs capacity in excess of the Contract Capacity set forth in Section 1.01(e) and attempts to sell the output of such excess capacity to SCE, and such capacity is not permanently disconnected from the CAISO Grid within five (5) Business Days after Notice from SCE and removed within thirty (30) days after Notice from SCE.
 - (v) Seller removes from the Site equipment upon which the Contract Capacity has been based, except for the purposes of replacement, refurbishment, repair or maintenance, and such equipment or a suitable replacement reasonably acceptable to SCE is not returned within thirty (30) Business Days after Notice from SCE;
 - (vi) The Generating Facility consists of an ERR type(s) different than that specified in Section 1.01(d);

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- (vii) Seller fails to comply with its obligations under Section 3.18;
 - (viii) Intentionally omitted;
 - (ix) Intentionally omitted;
 - (x) Seller fails to take any actions necessary to dedicate, convey or effectuate the use of any and all Green Attributes, Capacity Attributes and Resource Adequacy Benefits associated with, related to or arising from the Generating Facility during the Term for SCE's sole benefit as specified in Sections 3.01 and 3.02 and subject to the limitations therein and such failure is not cured within ten (10) days of Notice of such failure; provided that, if such failure is not reasonably capable of being cured within such ten (10) days, Seller shall have such additional time (not exceeding an additional one hundred twenty (120) days) as is reasonably necessary to cure such failure, so long as Seller promptly commences and diligently pursues such cure;
 - (xi) On or after the Commencement Date, a termination of, or cessation of service under, any Interconnection Agreement or any other agreement necessary for the interconnection of the Generating Facility to the Transmission Provider's electric system or transmission of the electric energy to the Delivery Point, for Scheduling to SCE, or for metering the Metered Amounts (including any Required CAISO Agreement) and such service is not reinstated, or alternative arrangements implemented, within one hundred and twenty (120) days after such termination or cessation;
 - (xii) Seller fails to comply with its obligations under Section 2.03(b) and fails to cure such failure and resume performance of such obligations within three (3) Business Days after Notice from SCE;
 - (xiii) Except as permitted in, and subject to the provisions of, Sections 10.04 and 10.05, the stock or equity ownership interest in Seller has been pledged or assigned as collateral or otherwise to any party other than Lender; or
 - (xiv) Seller fails to remediate any deficiency in internal controls over financial reporting in accordance with Exhibit U.
- (d) With respect to SCE:
- (i) SCE fails to take delivery of the Scheduled Amounts or the Delivered Amounts as required hereunder, and such failure is reasonably likely

to either reduce Seller's Monthly Energy Payment or Actual Generating Facility Annual Availability or make Seller liable for CAISO or other transmission-related charges or penalties, and the failure is not cured within five (5) Business Days after Notice of failure from Seller.

6.02 Early Termination.

If an Event of Default shall have occurred, and is continuing, the Party not in default (the "Non-Defaulting Party") shall have the right:

- (a) To designate by Notice, a day, no earlier than twenty (20) days after the Notice is effective and no later than sixty (60) days after the Notice is effective (an "Early Termination Date");
- (b) To immediately suspend performance under this Agreement; and
- (c) To pursue all remedies available at law or in equity against the Defaulting Party (including monetary damages), except to the extent that such remedies are limited by the terms of this Agreement.

6.03 Termination Payment.

As soon as practicable after an Early Termination Date is declared, the Non-Defaulting Party shall provide Notice to the Defaulting Party of the sum of all amounts owed by the Defaulting Party under this Agreement, less any amounts owed by the Non-Defaulting Party to the Defaulting Party (the "Termination Payment").

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

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

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

In the event that a Party is to receive a Termination Payment for an Early Termination Date (by determination of an Arbitrator or otherwise), such Termination Payment, once paid in full and credited to the account of the receiving Party, shall be the sole and exclusive remedy for the breach that was the basis of the designation of such Early Termination Date and for any obligation that does not survive termination; provided that nothing in this Section 6.03 shall limit either Party's right to enforce any obligations which survive termination of this Agreement.

The provisions of this Article Six are subject to any liquidated damages or express remedy provisions, or other limitation of liability specified in this Agreement.

*** End of ARTICLE SIX ***

ARTICLE SEVEN. LIMITATIONS OF LIABILITIES

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

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES 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, UNLESS THE PROVISION IN QUESTION PROVIDES THAT THE EXPRESS REMEDIES ARE IN ADDITION TO OTHER REMEDIES THAT MAY BE AVAILABLE.

SUBJECT TO SECTION 10.16, IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY PROVIDED IN THIS AGREEMENT, INCLUDING WITHOUT LIMITATION THE PROVISIONS OF SECTION 10.03 (INDEMNITY), NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE.

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

TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS AND DO NOT CONSTITUTE A PENALTY.

NOTHING IN THIS SECTION PREVENTS, OR IS INTENDED TO PREVENT SCE FROM PROCEEDING AGAINST OR EXERCISING ITS RIGHTS WITH RESPECT TO ANY SECURED INTERESTS IN COLLATERAL.

NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH HEREIN, THE VALUE OF ANY PRODUCTION TAX CREDITS, DETERMINED ON AN AFTER-TAX BASIS, LOST DUE TO SCE'S DEFAULT (WHICH SELLER HAS NOT BEEN ABLE TO MITIGATE AFTER USE OF REASONABLE EFFORTS), IF ANY, SHALL BE DEEMED DIRECT DAMAGES AND MAY, IF LOST AND UNMITIGATED, BE RECOVERED BY SELLER HEREUNDER AS PART OF SELLER'S LOSSES OR DAMAGES.

*** *End of ARTICLE SEVEN* ***

ARTICLE EIGHT. CREDIT AND COLLATERAL REQUIREMENTS**8.01 Financial Information.**

- (a) If a Party makes a request within thirty (30) days following the end of each period described below, the other Party shall deliver the following financial statements, as applicable, which in all cases shall be prepared in accordance with generally accepted accounting principles:
- (i) Within one hundred-twenty (120) days following the end of each fiscal year, a copy of its and its Guarantor's, if any, annual report containing audited consolidated financial statements income statement, balance sheet, statement of cash flows, statement of retained earnings (and all accompanying notes, if any) for such fiscal year, setting forth in each case in comparative form the figures for the previous year, *provided that* Seller may provide unaudited financial statements if audited financial statements are not prepared by Seller in the ordinary course of business; and
 - (ii) Within sixty (60) days after the end of each of its first three fiscal quarters of each fiscal year, a copy of its and its Guarantor's, if any, quarterly report containing consolidated financial statements income statement, balance sheet, and statement of retained earnings (and all accompanying notes, if any) for such fiscal quarter and the portion of the fiscal year through the end of such quarter, and:
 - (1) Certified in accordance with Applicable Laws, including all applicable SEC rules and regulations, if such Party or its Guarantor is an SEC reporting company; or
 - (2) Certified by a Responsible Officer as being fairly stated in all material respects (subject to normal year end audit adjustments) if such Party or its Guarantor is not an SEC reporting company;
- (b) For purposes of the requirement set forth in Section 8.01(a):
- (i) If a Party or its Guarantor's financial statements are publicly available electronically on the website of such Party, its Guarantor or the SEC, then such Party shall be deemed to have met this requirement; and
 - (ii) Should any such financial statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an

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Event of Default so long as the producing party diligently pursues the preparation, certification and delivery of the statements.

8.02 Performance Assurance.

(a) Posting Performance Assurance.

Seller shall post the Performance Assurance Amount with SCE as follows:

- (i) One hundred seventy-five thousand dollars (\$175,000) to be posted within thirty (30) days of the Effective Date;
- (ii) An additional one hundred seventy-five thousand dollars (\$175,000) to be posted within thirty (30) days of the date on which CPUC Approval occurs; and
- (iii) An additional ten million two hundred and fifty thousand dollars (\$10,250,000) to be posted on or before the Commencement Date.

The Performance Assurance in the Performance Assurance Amount shall be posted to SCE at all times during the Term and thereafter until such time as Seller has satisfied all monetary obligations which survive any termination of this Agreement, not to exceed one year following the end of the Term.

In lieu of Performance Assurance, SCE may accept a Guaranty Agreement, in accordance with Section 8.02(c), to satisfy the Seller's Performance Assurance obligation. Such Guaranty Agreement shall be for the Performance Assurance Amount (less any other Performance Assurance then in effect). At such time that Seller proposes to satisfy its Performance Assurance obligation by means of a Guaranty Agreement, Seller shall submit to SCE a Notice containing (i) financial statements and other information regarding the proposed Guarantor, (ii) the proposed Cross Default Amount and (iii) Credit Ratings and other relevant information provided by S&P or Moody's. SCE shall approve the Guarantor in accordance with Section 8.02(c) and the Cross Default Amount in its reasonable discretion.

(b) Letters of Credit.

Performance Assurance provided in the form of a Letter of Credit shall be subject to the following provisions:

- (i) Each Letter of Credit shall be maintained for the benefit of SCE.
- (ii) Seller shall:

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- (1) Renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit;
 - (2) If the bank that issued an outstanding Letter of Credit has indicated its intent not to renew such Letter of Credit, provide alternative Performance Assurance at least twenty (20) Business Days prior to the expiration of the outstanding Letter of Credit; and
 - (3) If the bank issuing a Letter of Credit fails to honor SCE's properly documented request to draw on an outstanding Letter of Credit, provide alternative Performance Assurance within three (3) Business Days after notice of such refusal;
- (iii) Upon the occurrence of a Letter of Credit Default, Seller shall provide to SCE either a substitute Letter of Credit or alternative Performance Assurance, in each case on or before the second Business Day after the earlier of: (1) Notice from SCE of the occurrence thereof (or the tenth (10th) Business Day after Notice from SCE of the occurrence thereof if only Section a) in the definition of "Letter of Credit Default" in Exhibit A applies); or (2) Seller's knowledge of the occurrence thereof. If Seller does not provide SCE either a substitute Letter of Credit or alternative Performance Assurance in such time period, SCE may draw on the existing Letter of Credit;
- (iv) Upon, or at any time after, the occurrence and continuation of an Event of Default by Seller, or if an Early Termination Date has occurred or been designated as a result of an Event of Default by Seller for which there exists any unsatisfied payment obligations, *then* SCE may draw on an amount that is equal to all amounts that are due and owing from any outstanding Letter of Credit upon submission to the bank issuing such Letter of Credit of one or more certificates specifying that such Event of Default or Early Termination Date has occurred and is continuing. Seller shall remain liable for any amounts due and owing to SCE and remaining unpaid after the application of the amounts so drawn by SCE.

Cash proceeds received by SCE from drawing upon the Letter of Credit shall be deemed Performance Assurance as security for Seller's obligations to SCE and SCE shall have the rights and remedies set forth in Section 8.03 with respect to such cash proceeds.

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

- (1) Failure to provide or maintain required Performance Assurance; or
 - (2) Any amounts owing to SCE and remaining unpaid after the application of the amounts so drawn by SCE.
- (v) In all cases, the costs and expenses of establishing, renewing, substituting, canceling, enforcing and increasing the amount of a Letter of Credit shall be borne by Seller; *provided that* SCE shall bear its own costs, including costs of outside counsel, associated with the establishment, maintenance, renewal, substitution, increase or cancellation of SCE's rights and obligations in connection with any Letter of Credit.
- (c) Guaranty Agreement.

If Seller's Performance Assurance obligation is satisfied by a Guaranty Agreement, it shall be in the form of Exhibit I executed by a Guarantor reasonably acceptable to SCE meeting the Credit Rating requirements for the Guarantor set forth immediately below. The Guarantor shall maintain a Credit Rating of at least:

- (i) "BBB-" from S&P and "Baa3" from Moody's, if it is rated by both S&P and Moody's; or
- (ii) "BBB-" from S&P or "Baa3" from Moody's if it is rated by either S&P or Moody's but not by both.

If at any time the Guarantor fails to maintain such Credit Ratings, Seller shall provide to SCE Performance Assurance in the form of cash or a Letter of Credit, or a replacement Guaranty Agreement from a party acceptable to SCE, within five (5) Business Days.

8.03 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 SCE a present and continuing first-priority security interest ("Security Interest") in, and lien on (and right of setoff against), and assignment of the Performance Assurance, any other cash collateral and cash equivalent collateral, if 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 SCE, and

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Seller agrees to take such action as SCE reasonably requires in order to perfect SCE's Security Interest in, and lien on (and right of setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof.

Upon or any time after the occurrence or deemed occurrence, and during the continuation of, an Event of Default caused by Seller or an Early Termination Date caused by an Event of Default of Seller, SCE may do any one or more of the following:

- (a) Exercise any of its rights and remedies with respect to all Performance Assurance, including any such rights and remedies under law then in effect;
- (b) Draw on any outstanding Letter of Credit issued for its benefit; and
- (c) Liquidate all Performance Assurance then held by or for the benefit of SCE free from any claim or right of any nature whatsoever of Seller, including any equity or right of purchase or redemption by Seller.

SCE shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce Seller's obligations under this Agreement (Seller shall remain liable for any amounts owing to SCE after such application), subject to SCE's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

8.04 Credit and Collateral Covenants.

- (a) Seller shall not hold any material assets, become liable for any material obligations or engage in any material business activities other than the development, financing, construction and Operation of the Generating Facility; and
- (b) Seller shall not own, form or acquire, or otherwise conduct any of its activities through, any direct or indirect subsidiary, except for Affiliates that may be retained to provide services necessary for the Operation of the Generating Facility.

*** End of ARTICLE EIGHT ***

ARTICLE NINE. GOVERNMENTAL CHARGES**9.01 Cooperation to Minimize Tax Liabilities.**

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

9.02 Governmental Charges.

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

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

If SCE is required by law or regulation to remit or pay Governmental Charges which are Seller’s responsibility hereunder, SCE may deduct such amounts from payments to Seller made pursuant to Article Four.

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

9.03 Providing Information to Taxing Authorities.

Seller or SCE, as necessary, shall provide information concerning the Generating Facility to any requesting taxing authority.

*** End of ARTICLE NINE ***

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

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

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

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

- (h) It has entered into this Agreement in connection with the conduct of its business and it has the capacity or ability to make or take delivery of the Product as contemplated in this Agreement; and
- (i) It shall act in good faith in its performance under this Agreement.

10.02 Additional Seller Representations, Warranties and Covenants.

- (a) Seller hereby represents, warrants and covenants to SCE that throughout the Term except as otherwise permitted under this Agreement:
 - (i) Seller shall own and Operate the Generating Facility;
 - (ii) Seller shall deliver to SCE the Product free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person;
 - (iii) On the Effective Date, and throughout the Term, Seller shall hold the rights to all Green Attributes, Capacity Attributes and Resource Adequacy Benefits, which Seller has committed to convey to SCE hereunder;
 - (iv) Seller has all Permits necessary to Operate the Generating Facility and to deliver electric energy from the Generating Facility to the Delivery Point and shall maintain and remain in material compliance with such Permits.
- (b) Seller, and, if applicable, its successors, represents and warrants that throughout the Term of this Agreement that: (i) the Project qualifies and is certified by the CEC as an Eligible Renewable Energy Resource (“ERR”) as such term is defined in Public Utilities Code Section 399.12 or Section 399.16; and (ii) the Project’s output delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law.
- (c) The term “commercially reasonable efforts” as used in Section 10.02(b) shall not require Seller to incur out of pocket costs in excess of \$25,000 in any year in order to obtain and maintain CEC Certification and Verification under the then-current Applicable Law.

10.03 Indemnity.

- (a) Each Party as indemnitor shall defend, save harmless and indemnify the other Party and the directors, officers, employees, and agents of such other Party

against and from any and all loss, liability, damage, claim, cost, charge, demand, or expense (including any direct, indirect, or consequential loss, liability, damage, claim, cost, charge, demand, or expense, including attorneys' fees) for injury or death to persons, including employees of either Party, and physical damage to property including property of either Party arising out of or in connection with the gross negligence or willful misconduct of the indemnitor relating to its obligations under this Agreement.

This indemnity shall apply notwithstanding the active or passive negligence of the indemnitee.

However, neither Party shall be indemnified hereunder for its loss, liability, damage, claim, cost, charge, demand or expense resulting from its sole negligence or willful misconduct.

- (b) Each Party releases and shall defend, save harmless and indemnify the other Party from any and all loss, liability, damage, claim, cost, charge, demand or expense arising out of or in connection with any breach made by the other Party of its representations and warranties in Sections 10.01 and 10.02.
- (c) The provisions of this Section 10.03 shall not be construed to relieve any insurer of its obligations to pay any insurance claims in accordance with the provisions of any valid insurance policy.
- (d) Notwithstanding anything to the contrary in this Agreement, if Seller fails to comply with the provisions of Section 10.11, Seller shall, at its own cost, defend, save harmless and indemnify SCE, its directors, officers, employees, and agents, assigns, and successors in interest, from and against any and all loss, liability, damage, claim, cost, charge, demand, or expense of any kind or nature (including any direct, indirect, or consequential loss, damage, claim, cost, charge, demand, or expense, including attorneys' fees and other costs of litigation), resulting from injury or death to any person or damage to any property, including the personnel or property of SCE, to the extent that SCE would have been protected had Seller complied with all of the provisions of Section 10.11.

The inclusion of this Section 10.03(d) is not intended to create any express or implied right in Seller to elect not to provide the insurance required under Section 10.11.

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

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- (f) Seller shall indemnify SCE against any monetary penalty or fine (including backstop costs) imposed upon SCE by the CAISO or a Governmental Authority directly attributable to the failure of Seller to fulfill those of its obligations regarding Resource Adequacy Benefits as set forth in Sections 3.01(c), 3.01(d), 3.01(i) and 3.02; *provided that* SCE shall use commercially reasonable efforts (not including expending any money for which Seller has first agreed in writing to reimburse to SCE) to avoid and mitigate any monetary penalties or fines (including backstop costs) . Notwithstanding any such failure by Seller, Seller's indemnity obligation shall not exceed the pro rata share of Seller's Contract Capacity) relative to the capacity of generating resources of other Persons on which SCE relies for meeting its Resource Adequacy Requirements that fail to meet their Resource Adequacy obligations to SCE, including, if applicable, generating facilities owned by SCE.
- (g) Seller is solely responsible for any NERC Standards Non-Compliance Penalties arising from or relating to Seller's failure to perform the Generator Operator Obligations or the Generator Owner Obligations, for which Seller is responsible in accordance with Section 3.27, and will indemnify, defend and hold SCE harmless from and against all liabilities, damages, claims, losses, and reasonable costs and expenses (which shall include reasonable costs and expenses of outside or in-house counsel) incurred by SCE arising from or relating to NERC Standards Non-Compliance Penalties or an attempt by any Governmental Authority, person or entity to assess such NERC Standards Non-Compliance Penalties against SCE. SCE will indemnify, defend and hold Seller harmless from and against all liabilities, damages, claims, losses, and reasonable costs and expenses (which shall include reasonable costs and expenses of outside and in-house counsel) or expenses incurred by Seller for any NERC Standards Non-Compliance Penalties to the extent that they are due to SCE's negligence or willful misconduct in performing its role as Seller's Scheduling Coordinator during the Term.
- (h) All indemnity rights shall survive the termination of this Agreement for twelve (12) months.

10.04 Assignment.

- (a) Except as provided in Section 10.05, neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Seller may assign this Agreement to a Permitted Transferee without SCE's consent.

- (b) Any direct or indirect change of control of Seller (whether voluntary or by operation of law) shall be deemed an assignment and shall, except in the case of a Permitted Transferee, require the prior written consent of SCE, which consent shall not be unreasonably withheld.

10.05 Consent in Favor of Lenders.

Subject to the provisions of this Section 10.05, Seller shall have the right to assign this Agreement as collateral for any financing or refinancing of the Generating Facility, including a Sale-Leaseback Transaction or Equity Investment.

In connection with any financing or refinancing of the Generating Facility by Seller as described in the preceding paragraph, SCE shall in good faith work with Seller and Lender to agree upon a consent to a collateral assignment of the Agreement or to a Sale-Leaseback Transaction or Equity Investment, as applicable (“Consent Agreement”).

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

- (a) SCE shall give, to the person(s) to be specified by Lender in the Consent Agreement, simultaneously with the Notice to Seller and prior to exercising its right to terminate this Agreement, written Notice of any event or circumstance known to SCE which would, if not cured within the applicable cure period as specified in Article Six, constitute an Event of Default (an “Incipient Event of Default”);
- (b) Lender shall have the right to cure an Incipient Event of Default or an Event of Default by Seller in accordance with the same provisions of this Agreement as apply to Seller.
- (c) Following an Event of Default by Seller under this Agreement, SCE may require Seller to (although Lender may, but shall have no obligation, subject to 10.05(g)) provide to SCE a report concerning:
 - (i) The status of efforts by Seller or Lender to develop a plan to cure the Event of Default;
 - (ii) Impediments to the cure plan or its development;
 - (iii) If a cure plan has been adopted, the status of the cure plan’s implementation (including any modifications to the plan as well as the

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- expected timeframe within which any cure is expected to be implemented); and
- (iv) Any other information which SCE may reasonably require related to the development, implementation and timetable of the cure plan.
 - (d) Seller or Lender shall provide the report to SCE within ten (10) Business Days after Notice from SCE requesting the report. SCE shall have no further right to require the report with respect to a particular Event of Default after that Event of Default has been cured;
 - (e) Lender shall have the right to cure an Event of Default or Incipient Event of Default on behalf of Seller, only if Lender sends a written notice to SCE prior to the end of any cure period indicating Lender's intention to cure. Lender may remedy or cure the Event of Default or Incipient Event of Default within the cure period under this Agreement. Such cure period for Lender shall be extended for each day SCE does not provide the Notice to Lender referred to in Section 10.05(a). In addition, such cure period may, in SCE's reasonable discretion, be extended by no more than an additional one hundred eighty (180) days. If possession of the Generating Facility is necessary to cure such Incipient Event of Default or Event of Default, Lender has commenced foreclosure proceedings within sixty (60) days after receipt of such Notice from SCE, and Lender is making diligent and consistent efforts to complete such foreclosure, take possession of the Generating Facility and promptly cure the Incipient Event of Default or Event of Default, Lender or its designee(s) or assignee(s) will be allowed a reasonable period of time to complete such foreclosure proceedings, take possession of the Generating Facility and cure such Incipient Event of Default or Event of Default, not to exceed one hundred eighty (180) days after Lender's commencement of foreclosure. Additionally, if Lender is prohibited from curing any Incipient Event of Default or Event of Default by any process, stay or injunction issued by a Governmental Authority or pursuant to any bankruptcy, insolvency or similar proceedings, then the time period for curing such Incipient Event of Default or Event of Default shall be extended for the period of the prohibition provided that Lender is exercising reasonable diligence in having such process, stay or injunction removed;
 - (f) Lender shall have the right to consent prior to any termination of this Agreement which does not arise out of an Event of Default or the end of the Term;

- (g) Lender shall receive prior Notice of and the right to approve material amendments to this Agreement, which approval shall not be unreasonably withheld, delayed or conditioned;
- (h) In the event Lender, directly or indirectly, takes title to the Generating Facility (including title by foreclosure or deed in lieu of foreclosure), the entity taking title to the Generating Facility shall assume all of Seller's obligations arising under this Agreement and all related agreements (subject to such limits on liability as are mutually agreed to by Seller, SCE and Lender as set forth in the Consent Agreement); provided that, Lender (or such entity) shall have no liability for any monetary obligations of Seller under this Agreement which are due and owing to SCE as of the assumption date (but this provision shall not be interpreted to limit SCE's rights to proceed against Seller as a result of an Event of Default) and Lender's (or such entity's) liability to SCE after such assumption shall be limited to its interest in the Generating Facility; *provided, however*, that prior to such assumption, if SCE advises Lender (or such entity) that SCE will require that Lender (or such entity) cure (or cause to be cured) one or more monetary or non-monetary Incipient Event(s) of Default or Event(s) of Default existing as of the date such entity takes title in order to avoid the exercise by SCE (in its sole discretion) of SCE's right to terminate this Agreement with respect to such Incipient Event(s) of Default or Event(s) of Default, *then* Lender (or such entity) at its option; and in its sole discretion, may elect to either:
 - (i) Cause such Incipient Event(s) of Default or Event of Default to be cured, or
 - (ii) Not assume this Agreement.
- (i) If Lender has assumed this Agreement as provided in Section 10.05(h) and elects to sell or transfer the Generating Facility (after Lender directly or indirectly, takes title to the Generating Facility), or sale of the Generating Facility occurs through the actions of Lender or an agent of or representative of Lender (excluding any foreclosure sale where a third party other than Lender, Seller, an Affiliate of Lender or an Affiliate of Seller is the buyer, *then* Lender must cause the transferee or buyer to assume all of Seller's obligations arising under this Agreement and all related agreements as a condition of the sale or transfer excluding, however, a foreclosure (unless the transferee or buyer is Lender, Seller, an Affiliate of Lender or an Affiliate of Seller). Lender shall be released from all further obligations under the Agreement and all related documents following such assumption. Such sale or transfer (excluding however, a foreclosure) may be made only to a Permitted Transferee or to an entity that is reasonably acceptable to SCE; and

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

10.06 Abandonment.

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

For purposes of this Section 10.06, Seller shall have been deemed to relinquish possession of the Generating Facility if Seller has ceased work on the Generating Facility or the Generating Facility has ceased production and delivery of the Product for a consecutive thirty (30) day period and such cessation is not a result of an event of Force Majeure.

10.07 Governing Law.

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

10.08 Notices.

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

Notices (other than Forecasting and scheduling requests) shall, unless otherwise specified herein, be in writing and may be delivered by hand delivery, first class United States mail, overnight courier service or facsimile.

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

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

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

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

All notices, requests, statements or payments for this Generating Facility must reference the contract identification (“RAP ID”) number set forth on the title page to this Agreement.

10.09 General.

- (a) This Agreement constitutes the entire agreement between the Parties relating to its subject matter.
- (b) 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.
- (c) Except to the extent provided for herein, no amendment or modification to this Agreement shall be enforceable unless reduced to a writing signed by all Parties.
- (d) This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement).

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

- (e) Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default.
- (f) The term “including” when used in this Agreement shall be by way of example only and shall not be considered in any way to be in limitation.
- (g) The word “or” when used in this Agreement shall include the meaning “and/or” unless the context unambiguously dictates otherwise.
- (h) The headings used herein are for convenience and reference purposes only. Words having well-known technical or industry meanings shall have such meanings unless otherwise specifically defined herein.
- (i) Where days are not specifically designated as Business Days, they are calendar days.
- (j) This Agreement shall be binding on each Party’s successors and permitted assigns.
- (k) No provision of this Agreement is intended to contradict or supersede any of the Interconnection Agreements or any other applicable agreement covering transmission, distribution, metering, scheduling or interconnection between the Parties, the CAISO Tariff or the requirements of PIRP. In the event of an apparent contradiction between this Agreement and any of the Interconnection Agreements or any such other agreement in respect of transmission, distribution, metering, scheduling or interconnection services, the CAISO Tariff or the requirements of PIRP, the other agreement or CAISO provision shall control. No default under any of the Interconnection Agreements or any other agreement covering transmission, distribution, metering, scheduling or interconnection between the Parties shall constitute a default hereunder..
- (l) Except where expressly provided otherwise herein, whenever this Agreement specifically refers to any law, tariff, government department or agency, regional reliability council, Transmission Provider, or credit rating agency, the Parties hereby agree that the reference shall also refer to any successor to such law, tariff or organization.
- (m) SCE has assigned a RAP ID number to this Agreement for tracking purposes only.
- (n) SCE’s obligation to take and pay for electric energy produced by the Generating Facility, together with Green Attributes, and Capacity Attributes

associated therewith, shall not be affected by any change to or elimination of the RPS Legislation or any Resource Adequacy Requirements.

- (o) The Parties acknowledge and agree that this Agreement and the transactions contemplated by this Agreement constitute a “forward contract” within the meaning of the United States Bankruptcy Code and that SCE and Seller are each “forward contract merchants” within the meaning of the United States Bankruptcy Code.
- (p) This Agreement may be executed in multiple counterparts, each of which shall be deemed an original.

10.10 Confidentiality.

- (a) Terms and Conditions of this Agreement.

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

- (i) To such Party’s employees, Lenders, counsel, accountants, advisors, Affiliates, or investors, in each case who have a need to know such information and have agreed to keep such terms confidential;
- (ii) To potential Lenders with the consent of SCE, which consent shall not be unreasonably withheld, delayed or conditioned; *provided, however*, that disclosure:
 - (1) Of cash flow and other financial projections to any potential Lender in connection with a potential loan or tax equity investment; or
 - (2) To potential Lenders with whom Seller has negotiated (but not necessarily executed) a term sheet or other similar written mutual understanding,

shall not require such consent of SCE, and provided further that, in each case such potential Lender has a need to know such information and has agreed to keep such terms confidential;

- (iii) To SCE’s Procurement Review Group, as defined in CPUC Decision 02-08-071, subject to any confidentiality agreements or laws, regulations or regulatory decisions concerning confidentiality which are applicable to SCE’s Procurement Review Group;

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- (iv) To the CPUC under seal for purposes of review subject to the disclosing Party (“Disclosing Party”) making reasonable efforts to obtain confidentiality protection from the CPUC under Section 583 of the California Public Utilities Code or other statute, order or rule offering comparable confidentiality protection;
- (v) To the CAISO or as otherwise may reasonably be required in order to participate in any auction, market or other process pertaining to the allocation of priorities or rights related to the transmission of electric energy sold or to be sold to SCE hereunder;
- (vi) In order to comply with any Applicable Law or any exchange, control area or CAISO rule, or order issued by a court or entity with competent jurisdiction over the Disclosing Party, other than to those entities set forth in Section 10.10(a)(vii);
- (vii) In order to comply with any applicable regulation, rule, or order of the SEC, CPUC, CEC, FERC, any court, administrative agency, legislative body or other tribunal, or any mandatory discovery or data request of a party to any proceeding pending before any of the foregoing;
- (viii) To any governmental body, the CPUC, the CAISO or any local control area or regional authority having jurisdiction in order to support SCE’s RAR showings, if applicable; *provided that* SCE shall, to the extent reasonable, use reasonable efforts to limit the ability of any such applicable governmental body, CAISO, local control area or regional authority to further disclose such information;
- (ix) As may reasonably be required to participate in the WREGIS or other process recognized under Applicable Laws for the registration, transfer or ownership of Green Attributes associated with the Generating Facility;
- (x) To representatives of a Party’s credit ratings agencies:
 - (1) Who have a need to review the terms and conditions of this Agreement for the purpose of assisting the Party in evaluating this Agreement for credit rating purposes and have agreed to keep such information confidential; or
 - (2) With respect to the potential impact of this Agreement on the Party’s financial reporting obligations;

- (xi) Disclosure of terms specified in and pursuant to Section 10.10(b);
- (xii) In connection with discovery requests or orders pertaining to the non-public terms of this Agreement as referenced in Sections 10.10(a)(vi) and 10.10(a)(vii) (“Disclosure Order”) each Party shall, to the extent practicable, use reasonable efforts to:
 - (1) Notify the other Party prior to disclosing the confidential information; and
 - (2) Prevent or limit such disclosure.

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

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

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

Note: By checking this blank, Seller agrees to waive the right to notification under clause (1) above: ____.

(b) RPS Confidentiality.

Notwithstanding Section 10.10(a), at any time on or after the date on which the SCE makes its advice filing letter seeking CPUC Approval of this Agreement, either Party shall be permitted to disclose the following terms with respect to this Agreement:

- (i) Party names;
- (ii) ERR type;
- (iii) Term;
- (iv) Generating Facility location;
- (v) Delivery Point;
- (vi) Generating Facility’s expected energy deliveries;

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

- (vii) Commencement Date; and
- (viii) Contract Capacity.

10.11 Insurance.

- (a) Throughout the Term, Seller shall obtain and maintain in force as hereinafter provided commercial general liability insurance, including contractual liability coverage, with a combined single limit of not less than two million dollars (\$2,000,000) for each occurrence.

The insurance carrier or carriers shall have an AM Best rating of at least "A-" with a size rating of at least "VII" and the form of policy shall meet Prudent Electrical Practices.

- (b) Before the Commencement Date, as provided in Section 2.03(b) Seller shall:
 - (i) Furnish a certificate of insurance to SCE, which certificate shall provide that such insurance shall not be terminated nor expire except on thirty (30) calendar days' prior written notice to SCE; and
 - (ii) Furnish to SCE an additional insured endorsement with respect to such insurance in substantially the following form:

“In consideration of the premium charged, SCE is named as additional insured with respect to all liabilities arising out of Seller’s use and ownership of Seller’s Generating Facility.

The inclusion of more than one insured under this policy shall not operate to impair the rights of one insured against another insured and the coverages afforded by this policy will apply as though separate policies had been issued to each insured.

The inclusion of more than one insured will not, however, operate to increase the limit of the carrier’s liability.

SCE will not, by reason of its inclusion under this policy, incur liability to the insurance carrier for payment of premium for this policy.

Any other insurance carried by SCE which may be applicable shall be deemed excess insurance and Seller’s insurance primary for all purposes despite any conflicting provisions in Seller’s policy to the contrary.”

10.12 Nondedication.

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

10.13 Mobile Sierra.

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

Further, absent the prior agreement in writing by both Parties, the standard of review for changes to the rates, terms or conditions of service of this Agreement proposed by a Party, a non-Party or the FERC acting *sua sponte* shall be the “public interest” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 US 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 US 348 (1956).

10.14 Simple Interest Payments.

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

10.15 Payments.

Payments to be made under this Agreement shall be made by wire transfer to accounts specified in Exhibit C.

10.16 Provisional Relief.

The Parties acknowledge and agree that irreparable damage would occur in the event that certain provisions of this Agreement are not performed in accordance with the terms hereof, that money damages would not be a sufficient remedy for any breach of such provisions of this Agreement, and that the Parties shall be entitled, without the requirement of posting a bond or the other security, to seek a preliminary injunction, temporary restraining order, or other provisional relief as a remedy for a breach of

Section 2.05(b), 3.01, 3.02, 3.07 or 10.10 of this Agreement in any court of competent jurisdiction, notwithstanding the obligation to submit all other disputes (including all claims for monetary damages under this Agreement) to arbitration pursuant to Section 12.01. The Parties further acknowledge and agree that the results of such arbitration may be rendered ineffectual without such provisional relief.

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

10.17 Ownership or Control of Generation Facility.

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

*** *End of ARTICLE TEN* ***

ARTICLE ELEVEN. CHANGE IN ELECTRIC MARKET DESIGN

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

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

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

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

*** *End of ARTICLE ELEVEN* ***

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

Other than requests for provisional relief under Section 10.16, any and all disputes, claims or controversies arising out of, relating to, concerning or pertaining to the terms of this Agreement, or to either Party's performance or failure of performance under this Agreement ("Dispute"), which Dispute the Parties have been unable to resolve by informal methods after undertaking a good faith effort to do so, shall first be submitted to mediation under the procedures described in Section 12.02 below, and if the matter is not resolved through mediation, then for final and binding arbitration under the procedures described in Section 12.03 below.

The Parties waive any right to a jury and agree that there shall be no interlocutory appellate relief (such as writs) available.

12.02 Mediation.

Either Party may initiate mediation by providing Notice to the other Party in accordance with Section 10.08 of a written request for mediation, setting forth a description of the Dispute and the relief requested.

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

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

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

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

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

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

12.03 Arbitration.

Either Party may initiate binding arbitration with respect to the matters first submitted to mediation by providing Notice in accordance with Section 10.08 of a demand for binding arbitration before a single, neutral arbitrator (the “Arbitrator”) at any time following the unsuccessful conclusion of the mediation provided for above.

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

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

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

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

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

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

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

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

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

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

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Subject to Article Seven, the Arbitrator shall have the authority to grant any form of equitable or legal relief a Party might recover in a court action. The Parties acknowledge and agree that irreparable damage would occur in the event certain provisions of this Agreement are not performed in accordance with the terms hereof, that money damages would not be a sufficient remedy for any breach of such provisions of this Agreement, and that the Parties shall be entitled, without the requirement of posting a bond or other security, to specific performance and injunctive or other equitable relief as a remedy for a breach of Section 2.05(b), 3.01, 3.02, 3.07 or 10.10 of this Agreement.

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

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

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

12.04 Waivers.

SELLER AGREES THAT SELLER WILL NOT AT ANY TIME INSIST UPON, PLEAD, CLAIM OR TAKE THE BENEFIT OR ADVANTAGE OF ANY LAW NOW OR HEREAFTER IN FORCE REQUIRING FORECLOSURE OF ANY RIGHTS GRANTED TO SCE BY SELLER UNDER ANY DEED OF TRUST BEFORE TAKING ANY ACTION DESCRIBED IN SECTIONS 12.02 AND 12.03 HEREOF.

*** *End of ARTICLE TWELVE* ***

RAP ID # , Mountain View Power Partners, LLC

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


MOUNTAIN VIEW POWER PARTNERS, LLC,

SOUTHERN CALIFORNIA EDISON COMPANY,

a Delaware limited liability company.

a California corporation.

By: 

By: 

Martin Crotty

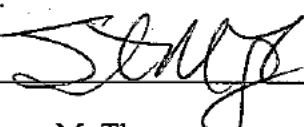
Stuart R. Hemphill

President

*Vice President,
Renewable and Alternative Power*

Date: 11/18/08

Date: 11/13/08

By: 

Steven M. Thompson

Vice President

Date: 11/18/08



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

EXHIBIT A
Definitions

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

EXHIBIT A*Definitions*

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

1. “Actual Available Capacity” means the sum of the capacity, in MWs, of all generating units of the Generating Facility that were available as of the end of an hour, as indicated by the Actual Availability Report.
2. “Actual Availability Report” has the meaning set forth in Section 3.22(a).
3. “Actual Generating Facility Annual Availability” means the overall annual wind turbine availability percentage result for one Term Year that is:
 - a) Provided by Seller in a Notice to SCE in accordance with Section 3.05(b) after the end of each of the first five (5) Term Years; and
 - b) Calculated:
 - i) By the Generating Facility’s control system for all Generating Facility Wind Turbines; and
 - ii) In a manner consistent with the method prescribed by the Wind Turbine manufacturer.
4. “Actual Generating Facility Quarterly Availability” means the overall quarterly wind turbine availability percentage result for each quarter of a Term Year that is:
 - a) Provided by Seller in a Notice to SCE in accordance with Section 3.05(c) after the end of each quarter of each of the first five (5) Term Years; and
 - b) Calculated:
 - i) By the Generating Facility’s control system for all Generating Facility Wind Turbines; and
 - ii) In a manner consistent with the method prescribed by the Wind Turbine manufacturer.
5. “Actual Generating Facility Quarterly Availability Threshold” has the meaning set forth in Section 3.26(a).
6. “Actual Generating Facility Long Term Availability” means the overall wind turbine availability percentage result for each of Seller’s Long Term Availability Guarantee Period and Seller’s Long Term Availability Guarantee Period that is:

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

- a) Provided by Seller in a Notice to SCE in accordance with Section 3.05(b) after the end of the fifth (5th) Term Year; and
 - b) Calculated:
 - i) By the Generating Facility's control system for all Generating Facility Wind Turbines; and
 - ii) In a manner consistent with the method prescribed by the Wind Turbine manufacturer.
7. "Affiliate" means, with respect to a Party, any entity that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with such Party.
- For this purpose, "control" means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.
8. "Agreement" has the meaning set forth in the Preamble.
9. "Applicable Laws" means all constitutions, treaties, laws, ordinances, rules, regulations, interpretations, permits, judgments, decrees, injunctions, writs and orders of any Governmental Authority that apply to either or both of the Parties, the Generating Facility or the terms of this Agreement.
10. "Arbitrator" has the meaning set forth in Section 12.03.
11. "Availability Forecast" has the meaning set forth in Exhibit D.
12. "Availability Workbook" has the meaning set forth in Exhibit S.
13. "Bankrupt" means with respect to any entity, such entity:
- a) Files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it;
 - b) Makes an assignment or any general arrangement for the benefit of creditors;
 - c) Otherwise becomes bankrupt or insolvent (however evidenced);

- d) Has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to such entity or any substantial portion of its property or assets; or
 - e) Is generally unable to pay its debts as they fall due.
14. “Business Day” means any day except a Saturday, Sunday, a Federal Reserve Bank holiday, or the Friday following Thanksgiving. A Business Day shall begin at 8:00 a.m. and end at 5:00 p.m. local time for the Party sending the Notice or payment or performing a specified action.
15. “Buyer” has the meaning set forth in the Preamble.
16. “CAISO” means the California Independent System Operator Corporation or successor entity.
17. “CAISO Approved Meter” has the meaning set forth in Section 3.06(a).
18. “CAISO Charges” or “CAISO Charge” means the debits, costs, penalties and interest that are directly assigned by the CAISO to the CAISO Global Resource ID for the Generating Facility for, or attributable to, scheduling or deliveries from the Generating Facility under this Agreement.
19. “CAISO Declared Over-Generation Condition” means a CAISO declared condition on the CAISO Grid where the sum of the desired generation output of all of the Scheduling Coordinators in the Control Area, absent mitigation, would be greater than the system load.
20. “CAISO Forecasted Over-Generation Condition” means a CAISO forecasted condition on the CAISO Grid where the sum of the desired generation output of all of the Scheduling Coordinators in the Control Area, absent mitigation, would be greater than the system load.
21. “CAISO Global Resource ID” means the number or name assigned by the CAISO to the CAISO Approved Meter.
22. “CAISO Grid” means the system of transmission lines and associated facilities and entitlements of the participating transmission owners that have been placed under the CAISO’s operational control.
23. “CAISO PIRP Charges” means those CAISO charges under the Participating Intermittent Resource Program identified as charge types 701, 711 and 721 (as of the Effective Date) as such charges are defined in the CAISO Tariff, plus any forecast fee

- imposed by the CAISO on Seller not included in such charges, or any successor charges that accomplish a similar purpose to any of the foregoing charges.
24. “CAISO Sanctions” or “CAISO Sanction” means any sanction directly assigned by the CAISO to the CAISO Global Resource ID for the Generating Facility, or attributable to, scheduling or deliveries from the Generating Facility under this Agreement.
 25. “CAISO Tariff” means the California Independent System Operator Corporation Operating Agreement and Tariff, including the rules, protocols, procedures and standards attached thereto, as the same may be amended or modified from time-to-time and approved by FERC.
 26. “Capacity Attributes” means any and all current or future defined characteristics, certificates, tags, credits, ancillary service attributes, or accounting constructs, howsoever entitled, including any accounting construct counted toward any resource adequacy requirements, attributed to or associated with the Generating Facility or any unit of generating capacity of the Generating Facility during the Term.
 27. “CEC” means the California Energy Commission.
 28. “CEC Certification and Verification” means a determination from the CEC that the Generating Facility is certified (or, with respect to periods before the Generating Facility has been constructed, that the Generating Facility is pre-certified) as an ERR for purposes of the RPS Legislation and that all electric energy produced by the Generating Facility qualifies as generation from an ERR for purposes of the RPS Legislation.
 29. “Change in CAISO Tariff” means that the CAISO Tariff has been changed and such change has or would have had a financial impact on either Party, or the CAISO has been dissolved or replaced and any successor to the CAISO operates under rules, protocols, procedures or standards that differ in a material respect from the CAISO Tariff, after the Effective Date.
 30. “Claiming Party” has the meaning set forth in Section 5.02.
 31. “Consent Agreement” has the meaning set forth in Section 10.05.
 32. “Commencement Date” has the meaning set forth in Section 1.05.
 33. “Confidential Information” shall mean the non-public terms and conditions of this Agreement and all oral and written communications related thereto exchanged between the Parties, except that “Confidential Information” shall not include:

- a) Information which is in the public domain as of the Effective Date or which later comes into the public domain from a source other than from the receiving Party or its Permitted Disclosee;
 - b) Information which the receiving Party can demonstrate in writing was already known to the receiving Party prior to the Effective Date;
 - c) Information which comes to a receiving Party from a bona fide third party source not under an obligation of confidentiality;
 - d) Information which is independently developed by a receiving Party without use of or reference to Confidential Information or information containing Confidential Information; or
 - e) The fact that the Parties have entered into this Agreement.
34. “Contract Capacity” means the electric energy generating capacity, set forth in Section 1.01(e), that Seller commits to install at the Site, net of any capacity installed to account for Station Use.
35. “Control Area” means the electric power system (or combination of electric power systems) under the operational control of the CAISO or any other electric power system under the operational control of another organization vested with authority comparable to that of the CAISO.
36. “Costs” means, with respect to the Non-Defaulting Party, brokerage fees, commissions, legal expenses and other similar third party transaction costs and expenses reasonably incurred by such Party in entering into any new arrangement which replaces this Agreement.
37. “CPUC” means the California Public Utilities Commission.
38. “CPUC Approval” means a final and non-appealable order of the CPUC, without conditions or modifications unacceptable to the Parties, or either of them, which contains the following terms:
- a) Approves this Agreement in its entirety, including payments to be made by the Buyer, subject to CPUC review of the Buyer’s administration of the Agreement; and
 - b) Finds that any procurement pursuant to this Agreement is procurement from an eligible renewable energy resource for purposes of determining Buyer’s compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard

(Public Utilities Code Section 399.11 et. seq.) Decision 03-06-071, or other applicable law.

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

39. “Credit Rating” means with respect to any entity, on the relevant date of determination, the respective ratings then assigned to such entity’s unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancement) by S&P or Moody’s. If no rating is assigned to such entity’s unsecured, senior long-term debt or deposit obligation by either S&P or Moody’s, *then* “Credit Rating” shall mean the general corporate credit rating or long-term issuer rating assigned by S&P or Moody’s, as the case may be.
40. Cross Default Amount” means the dollar amount, if any, set forth in Section 1.08(c).
41. “Defaulting Party” has the meaning set forth in Section 6.01.
42. “Delivered Amounts” means the Metered Amounts adjusted by Delivery Losses.
43. “Delivery Losses” means all electric energy losses occurring between the CAISO Approved Meter and the Delivery Point, including, if applicable:
- a) If the CAISO Approved Meter is not installed on the high voltage side of the Generating Facility’s substation bus bar, transformer and other electric energy losses occurring between the CAISO Approved Meter and the high voltage side of the Generating Facility’s substation bus bar; and
 - b) Any applicable DLF, or if no DLF is applicable, *then* electric energy losses between the high voltage side of the Generating Facility’s substation bus bar and the CAISO Grid.
44. “Delivery Point” means:
- a) Before MRTU implementation, the first point of interconnection with the CAISO Grid; and
 - b) Upon MRTU implementation, the PNode for the Generating Facility.
45. “Delivery Term” means Term.
46. “Disclosing Party” has the meaning set forth in Section 10.10(a)(iv).
47. “Disclosure Order” has the meaning set forth in Section 10.10(a)(xii).
48. “Dispute” has the meaning set forth in Section 12.01.

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49. “DLF” means the distribution loss factor and shall be 1.0112.
50. “Early Termination Date” has the meaning set forth in Section 6.02(a).
51. “Effective Date” has the meaning set forth in the Preamble.
52. “Emergency” means:
- a) An actual or imminent condition or situation which jeopardizes the integrity of Transmission Provider’s electric system or the integrity of any other systems to which the Transmission Provider’s electric system is connected, as determined by the Transmission Provider in its reasonable discretion, or any condition so defined and declared by the CAISO; or
 - b) An emergency condition as defined under the Interconnection Agreements and any abnormal interconnection or system condition that requires automatic or immediate manual action to prevent or limit loss of load or generation supply, that could adversely affect the reliability of the Transmission Provider’s electric system or generation supply, that could adversely affect the reliability of any interconnected system, or that could otherwise pose a threat to public safety.
53. “Energy Control Network” means the CAISO infrastructure network (data highway) used by all CAISO participants to exchange data to and from resources and CAISO.
54. “Energy Deviations” means the absolute value of the difference, in kWh, in any Settlement Interval between:
- a) The Final Hour-Ahead Schedule for the hour the Settlement Interval divided by the number of Settlement Intervals in the hour; and
 - b) Delivered Amounts for the Settlement Interval.
55. “Energy Payment” means the amount calculated pursuant to 4.02(b).
56. “Energy Payment Allocation Factor” has the meaning set forth in Exhibit K.
57. “Energy Price” means the energy price set forth in Section 1.06.
58. “Equitable Defense” means any bankruptcy, insolvency, reorganization and other laws affecting creditors’ rights generally, and with regard to equitable remedies, the discretion of the court before which proceedings to obtain same may be pending.
59. "Equity Investment" means an acquisition by a Lender of an ownership interest in the form of stock, membership or partnership interest of Seller or the immediate parent of

- Seller under which Seller retains the right to act in all matters relating to the control and Operation of the Site and the Generating Facility for the Term of this Agreement, subject to Lender's rights to enforce its ownership interest in Seller or the immediate parent of Seller, as applicable, in the event of a default by Seller or the immediate parent of Seller under Lender's equity acquisition agreement or the partnership agreement, operating agreement, or other agreement governing the relationship between the equity owners of the Project.
60. "ERR" means an Eligible Renewable Energy resource as such term is defined in Public utilities Code Section 399.12 or Section 399.16.
61. "Event of Default" has the meaning set forth in Section 6.01.
62. "Expected Annual Net Energy Production" means the Generating Facility's expected annual Metered Amounts set forth in Section 1.01(f)
63. "Federal Funds Effective Rate" means the annual interest rate posted opposite the caption "Federal Funds (effective)" as set forth in the weekly statistical release as H.15(519), or any successor publication, published by the Board of Governors of the Federal Reserve System.
64. "FERC" means the Federal Energy Regulatory Commission.
65. "Final Hour-Ahead Schedule" has the meaning as set forth in the CAISO Tariff.
66. "Final Schedule" has the meaning as set forth in the CAISO Tariff.
67. "Force Majeure" means any occurrence that:
- a) In whole or in part:
 - i) Delays a Party's performance under this Agreement;
 - ii) Causes a Party to be unable to perform its obligations; or
 - iii) Prevents a Party from complying with or satisfying the conditions of this Agreement;
 - b) Is not within the reasonable control of that Party; and
 - c) The Party has been unable to overcome by the exercise of due diligence, including, but not limited to, an act of God, flood, drought, earthquake, storm, fire, pestilence, lightning and other natural catastrophes, epidemic, war, riot, civil disturbance or disobedience, terrorism, sabotage, strike or labor dispute, or actions or inactions of any Governmental Authority or curtailment or

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reduction in deliveries at the direction of a Transmission Provider or the CAISO (except as set forth below).

Force Majeure does not include:

- a) The lack of wind, sun or other fuel source of an inherently intermittent nature; or
 - b) Curtailment or reduction in deliveries at the direction of a Transmission Provider or the CAISO when the basis of the curtailment or reduction in deliveries ordered by a Transmission Provider or the CAISO is congestion arising in the ordinary course of operations of the Transmission Provider's system or the CAISO Grid, including congestion caused by outages or capacity reductions for maintenance, construction or repair.
68. "Forecast" or "Forecasting" means the action of Seller in preparing and submitting to SCE, in accordance with Exhibit D, the Availability Forecasts.
69. "Forward Settlement Amount" means the Non-Defaulting Party's Costs and Losses, on the one hand, netted against its Gains, on the other.

If the Non-Defaulting Party's Costs and Losses exceed its Gains, *then* the Forward Settlement Amount shall be an amount owing to the Non-Defaulting Party.

If the Non-Defaulting Party's Gains exceed its Costs and Losses, then the Forward Settlement Amount shall be zero dollars (\$0).

The Forward Settlement Amount shall not include consequential, incidental, punitive, exemplary or indirect or business interruption damages.

70. "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 Term of this Agreement, determined in a commercially reasonable manner.

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

Agreement, and shall include the value of Green Attributes, Capacity Attributes and Resource Adequacy Benefits.

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

71. “Generating Facility” means Seller’s electric generating facility as more particularly described in Exhibit B, together with all materials, equipment systems, structures, features and improvements necessary to produce electric energy at such facility, excluding the Site, land rights and interests in land.
72. “Generating Facility Power Curve” means a table used to estimate the Generating Facility’s Metered Amounts as a function of the recorded wind speed at the Site as described in Exhibit M.
73. “Generation Management System” means the automated system employed by SCE real time operations to remotely monitor and dispatch each Generating Unit.
74. “Generation Operations Center” means the location of SCE’s real time operations personnel.
75. “Generator Operator” means the entity that operates generating unit(s) and performs the functions of supplying energy and interconnected operations services as described in NERC’s Statement of Compliance Registry Criteria, which, as of the Effective Date, is at http://www.wecc.biz/documents/library/compliance/manuals/Statement_of_Compliance_Registry_Criteria_V4-0.pdf.
76. “Generator Operator Obligations” means the obligations of a Generator Operator as set forth in the applicable NERC Reliability Standards, which, as of the Effective Date, are available at <http://www.nerc.com/page.php?cid=2|20>.
77. “Generator Owner” means an entity that owns generating units and is obligated to register with NERC as the entity responsible for complying with those NERC Reliability Standards applicable to owner of generating units, which, as of the Effective Date, are described in the Statement of Compliance Registry Criteria at <http://www.wecc.biz>.
78. “Generator Owner Obligations” means the obligations of a Generator Owner as set forth in the applicable NERC Reliability Standards, which, as of the Effective Date, are available at <http://www.wecc.biz>.

79. “GMM(s)” means the generation meter multipliers as determined by the CAISO representing the calculation of all electrical losses assigned to the Generating Facility associated with the transmission of electric energy delivered by the Generating Facility over the CAISO Grid. As of the Effective Date, such values are posted by the CAISO on its website. The values used in this Agreement shall be those appearing on the CAISO website on the third (3rd) Business Day of the calendar month following the month for which such values are being applied.
80. “Governmental Authority” means:
- a) Any federal, state, local, municipal or other government;
 - b) Any governmental, regulatory or administrative agency, commission, or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; or
 - c) Any court or governmental tribunal.
81. “Governmental Charges” has the meaning as set forth in Section 9.02.
82. “Green Attributes” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Project, and its avoided emission of pollutants. Green Attributes include but are not limited to Renewable Energy Credits, as well as:
- (1) Any avoided emission of pollutants to the air, soil or water such as sulfur oxides (SO_x), nitrogen oxides (NO_x), carbon monoxide (CO) and other pollutants;
 - (2) Any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere;¹
 - (3) The reporting rights to these avoided emissions, such as Green Tag Reporting Rights.

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

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

Green Attributes do not include:

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

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

- 83. "Guarantor" has the meaning set forth in Section 1.08.
- 84. "Guaranty Agreement" means, if a Guarantor has been identified, the guaranty agreement from the Guarantor in the form attached hereto as Exhibit I or in a form acceptable to SCE.
- 85. "Incipient Event of Default" has the meaning set forth in Section 10.05(a).
- 86. "Interconnection Agreements" mean the Mountain View I Project Expedited Service and Interconnection Agreement, dated January 12, 2001, by and between Seller and the Transmission Provider and the Mountain View II Project Interconnection Facilities Agreement, dated April 19, 2001, by and between Seller and the

- Transmission Provider, each of which agreements are for the interconnection of the Generating Facility to the SCE's electric system.
87. "Interconnection Point" means the point(s) at which the Generating Facility interconnects with the Transmission Provider's transmission system or the CAISO Grid.
88. "Interest Rate" means an annual rate equal to:
- a) The rate published in The Wall Street Journal as the "Prime Rate" (or, if more than one rate is published, the arithmetic mean of such rates) as of the date payment is due; plus
 - b) Two percentage points (2%);
- provided, however, that in no event shall the Interest Rate exceed the maximum interest rate permitted by Applicable Laws.*
89. "JAMS" has the meaning set forth in Section 12.02.
90. "kW" means a kilowatt of electric energy generating capacity.
91. "kWh" means a kilowatt-hour of electric energy.
92. "Lease" means one or more agreements whereby Seller leases the Site(s) described in Section 1.01(b) from a third party, the term of which lease begins on or before the commencement of the Term and extends at least through the last day of the Term.
93. "Lender" means any third-party institution(s) or entity(ies) or successor(s) in interest or assignees that either (i) purchase(s) the Generating Facility and then lease(s) it to Seller under a Sale-Leaseback Transaction, or (ii) provide(s) development, bridge, construction, or permanent debt or tax equity financing or refinancing (including an Equity Investment) for the Generating Facility to Seller or credit support in connection with this Agreement.
94. "Letter of Credit" means an irrevocable, nontransferable standby letter of credit issued by a U.S. commercial bank or a U.S. branch of a foreign bank with such bank having a Credit Rating of at least "A-" from S&P and "A3" from Moody's, substantially in the form of Exhibit N or in such form as is reasonably acceptable to SCE.
95. "Letter of Credit Default" means with respect to a Letter of Credit, the occurrence of any of the following events:

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

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

96. “Local Business Day” means, a Business Day on which commercial banks are open in the United States (or California) for business (a) in relation to any payment, in the place where the relevant account is located and (b) in relation to any notice or other communication, in the location specified in the address for notice provided by the recipient, except for the Friday immediately following the U.S. Thanksgiving holiday or a Federal Reserve Bank holiday.
97. “Losses” means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of this Agreement for the remaining Term of this Agreement, determined in a commercially reasonable manner.

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

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

- Only if the Non-Defaulting Party is unable, after using commercially reasonable efforts, to obtain third party information to determine the loss of economic benefits, *then* the Non-Defaulting Party may use information available to it internally suitable for such purpose in accordance with prudent industry practices.
98. “Lost Output” means the reduction in Metered Amounts over the relevant measurement period that the Generating Facility was available to produce and could reasonably have been expected to deliver, based upon the calculation method set forth in Exhibit M, but was not delivered due to:
- a) Force Majeure; or
 - b) An Event of Default where SCE is the Defaulting Party.
99. “Lost Output Report” means the report of Lost Output in the form of the Lost Output Workbook prepared in accordance with the procedures set forth in Section 3.20 and Exhibit M.
100. “Lost Output Workbook” has the meaning set forth in Exhibit M.
101. “Market Price” means the CAISO Real-Time Price for uninstructed deviations or any successor price for short term imbalance electric energy, as such price or successor price is defined in the CAISO Tariff Appendix A, that would apply to the Generating Facility, which values are, as of the Effective Date, posted by the CAISO on its website.
- The values used in this Agreement will be those appearing on the CAISO website on the third (3rd) Business Day of the calendar month following the month for which such prices are being applied.
102. “Material Permit” means any Permit necessary for the Operation of the Generating Facility.
103. “Mediator” has the meaning set forth in Section 12.02.
104. “Metered Amounts” means the electric energy produced by the Generating Facility and expressed in kWh, as measured by the CAISO Approved Meter.
105. “Meter Service Agreement” has the meaning set forth in the CAISO Tariff.
106. “Moody’s” means Moody’s Investor Services, Inc.
107. “MW” means a megawatt (or 1,000 kilowatts) of electric energy generating capacity.
108. “MWh” means a megawatt-hour (or 1,000 kilowatt-hours) of electric energy.

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109. “NERC” means the North American Electric Reliability Corporation, or any successor thereto.
110. “NERC Reliability Standards” means those reliability standards applicable to the Generating Facility, or to the Generator Owner or the Generator Operator with respect to the Generating Facility, that are adopted by NERC and approved by the applicable regulatory authorities, which, as of the Effective Date, are available at <http://www.nerc.com/page.php?cid=2|20>.
111. “NERC Standards Non-Compliance Penalties” means any and all monetary fines, penalties, damages, interest or assessments by the NERC, the CAISO, WECC, a Governmental Authority or any entity acting at the direction of a Governmental Authority arising from or relating to a failure to perform the obligations of Generator Operator or Generator Owner as set forth in the NERC Reliability Standards
112. “Non-Defaulting Party” has the meaning set forth in Section 6.02.
113. “Notice” means notices, requests, statements or payments provided in accordance with Section 10.08 and Exhibit C.
114. “OMAR” means the Operational Metering Analysis and Reporting System operated and maintained by the CAISO as the repository of settlement quality meter data or its successor.
115. “Operate,” “Operating” or “Operation” means to provide (or the provision of) all the operation, engineering, purchasing, repair, supervision, training, inspection, testing, protection, use, management, improvement, replacement, refurbishment, retirement, and maintenance activities associated with operating the Generating Facility in accordance with Prudent Electrical Practices.
116. “Outage Schedule” has the meaning set forth in Section 3.13(a).
117. “Participating Generator Agreement” has the meaning set forth in the CAISO Tariff.
118. “Participating Intermittent Resource” means an intermittent resource generating facility that is certified, and remains certified, under PIRP as set forth in the CAISO Tariff.
119. “Participating Intermittent Resource Program” or “PIRP” means the CAISO’s intermittent resource program initially established pursuant to Amendment No. 42 of the California CAISO Tariff in Docket No. ER02-922-000 or any successor program that SCE determines accomplishes a similar purpose.
120. “Party” or “Parties” have the meaning set forth in the Preamble.

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121. “Performance Assurance” means collateral (in the amount of the Performance Assurance Amount set forth in Section 1.07) for Seller’s performance under this Agreement in the form of either cash, Letter(s) of Credit, or other security acceptable to SCE.
122. “Performance Assurance Amount” means the collateral amount for Performance Assurance set forth in Section 1.07.
123. “Permits” means all applications, approvals, authorizations, consents, filings, licenses, orders, permits or similar requirements imposed by any Governmental Authority, or the CAISO, in order to develop, construct, operate, maintain, improve, refurbish and retire the Generating Facility or to Forecast or deliver the electric energy produced by the Generating Facility to SCE.
124. “Permitted Disclosee” shall mean the Persons set forth in Sections 10.10(a)(i), 10.10(a)(ii), 10.10(a)(iii) and 10.10(a)(xiii).
125. “Permitted Transferee” means any entity, or entity with a parent or other Affiliate, that:
- a) Has a tangible net worth of not less than \$100,000,000; and
 - b) Has at least five (5) years of experience in the operation of wind power generation facilities (or shall have retained a reputable third party or internal personnel with experience comparable to that of a reputable third party) to operate and maintain the Generating Facility) or
 - c) In the case of Section 10.04(a) is an Affiliate of Seller of equal or better credit standing and operational capabilities to that of Seller as of the date of the proposed transfer.
126. “Person” shall mean any individual, corporation, partnership, joint venture, association, joint-stock company, limited liability company, trust, unincorporated organization, government or any agency or political subdivision thereof, or any other legal entity.
127. “Procurement Review Group” has the meaning set forth in Section 10.10(a).
128. “Plan” has the meaning set forth in Section 3.26(a).
129. "PPT" means Pacific Prevailing Time.
130. “Product” means:

- a) All electric energy produced by the Generating Facility, net of Station Use and Delivery Losses; and
 - b) All Green Attributes, Capacity Attributes, and Resource Adequacy Benefits generated by, associated with or attributable to the Generating Facility.
131. Intentionally omitted.
132. “Project” means the Generating Facility.
133. “Prudent Electrical Practices” means those practices, methods and acts that would be implemented and followed by prudent operators of electric energy generating facilities in the Western United States, similar to the Generating Facility, during the relevant time period, which practices, methods and acts, in the exercise of prudent and responsible professional judgment in the light of the facts known at the time the decision was made, could reasonably have been expected to accomplish the desired result consistent with good business practices, reliability and safety.

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

Prudent Electrical Practices shall also include taking reasonable steps to ensure that:

- a) Equipment, materials, resources, and supplies, including spare parts inventories, are available to meet the Generating Facility’s needs;
- b) Sufficient operating personnel are available at all times and are adequately experienced and trained and licensed as necessary to operate the Generating Facility properly and efficiently, and are capable of responding to reasonably foreseeable emergency conditions at the Generating Facility and Emergencies whether caused by events on or off the Site;
- c) Preventive, routine, and non-routine maintenance and repairs are performed on a basis that ensures reliable, long term and safe operation of the Generating Facility, and are performed by knowledgeable, trained, and experienced personnel utilizing proper equipment and tools;
- d) Appropriate monitoring and testing are performed to ensure equipment is functioning as designed;

- e) Equipment is not operated in a reckless manner, in violation of manufacturer's guidelines or in a manner unsafe to workers, the general public, or the Transmission Provider's electric system or contrary to environmental laws, permits or regulations or without regard to defined limitations such as, flood conditions, safety inspection requirements, operating voltage, current, volt ampere reactive (VAR) loading, frequency, rotational speed, polarity, synchronization, and control system limits; and
 - f) Equipment and components designed and manufactured to meet or exceed the standard of durability that is generally used for electric energy generating facilities operating in the Western United States and will function properly over the full range of ambient temperature and weather conditions reasonably expected to occur at the Site and under both normal and emergency conditions.
134. Intentionally omitted.
135. Intentionally omitted.
136. "Quarterly Statement" has the meaning set forth in Section 3.05(f)(i).
137. "RA Capacity" means the qualifying and deliverable capacity of the Generating Facility for RAR purposes for the Term, as determined by the CAISO, or other governmental body authorized to make such determination under Applicable Law. RA Capacity encompasses all local and system RAR attributes of the capacity provided by the Generating Facility.
138. "RAP ID" has the meaning set forth in Section 10.08.
139. "Renewable Energy Credit" or "REC" means a certificate of proof, issued through the Western Renewable Generation Information System, that one megawatt-hour of electricity was generated by an RPS-eligible renewable energy resource and delivered for consumption by California end-use retail customers. A REC includes all renewable and environmental attributes associated with the production of electricity from the eligible renewable energy resource, including any avoided emissions of pollutants to the air, soil or water; any avoided emissions of carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, or any other greenhouse gases 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 global climate change;² and the reporting rights to these avoided emissions, such as Green Tag rights.³

A REC does not include any emissions reduction credit issued pursuant to § 40709 of the Health and Safety Code or any credits or payments associated with the reduction of solid waste or treatment benefits created by the utilization of biomass or biogas fuels. A REC also does not include any energy, capacity, reliability or other power attributes of the generation; any tax credits or other financial incentives in the form of credits, reduction, or allowances associated with the generation that are applicable to a state or federal income taxation obligation; any fuel-related subsidies or “tipping fees” or local subsidies received by the generator for the destruction or particular preexisting pollutants or the promotion of local environmental benefits; or emission reduction credits (whether issued pursuant to § 40709 of the Health and Safety Code or any other authority) that are encumbered or used by the generator for compliance with local, state, or federal operating and/or air quality permits.

The electricity underlying a REC must be delivered for consumption by California en-use retail customers, in accordance with the definition of delivery implemented by the California Energy Commission (CEC).

No REC may be created based on any electricity generated pursuant to any contract with a California retail seller or a local publicly owned electric utility executed before January 1, 2005, unless the contract contains explicit terms and conditions specifying the ownership or disposition of the RECs. A REC may not be created based on any electricity generated pursuant to a contract with a qualifying facility pursuant to the Public Utility Regulatory Policies Act of 1978 that was executed after January 1, 2005.

A REC can not be created with respect to electricity generated by an eligible renewable energy resource attributable to the use of nonrenewable fuels, beyond a *de minimus* quantity as determined by the CEC.

² Avoided emissions may or may not have any value for GHG compliance purposes. Although avoided emissions are included in the definition of the REC, this definition does not create any right to use those avoided emissions to comply with any GHG regulatory program.

³ Green Tag reporting rights are the right to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party to include without limitation those Green Tag reporting rights accruing under Section 1605(b) of the Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program.

140. “Responsible Officer” means the chief financial officer, treasurer or any assistant treasurer of a Party or its Guarantor or any employee of a Party or its Guarantor designated by any of the foregoing.
141. “Required CAISO Agreements” means those agreements between Seller and the CAISO required from time-to-time to permit Seller to Schedule and transmit power over the CAISO Grid. As of the Effective Date, such agreements are a Participating Generator Agreement and a Meter Service Agreement.
142. “Resource Adequacy Benefits” means the rights and privileges attached to any generating resource that satisfy any entity’s resource adequacy obligations, including any local area reliability or other resource adequacy associated with the physical location or point of electric interconnection of the generating resource, as those obligations are set forth in any Resource Adequacy Rulings, to the extent attributed to or associated with the Generating Facility and any electric energy produced therewith during the Term.
143. “Resource Adequacy Requirements” or “RAR” has the meaning set forth in the Resource Adequacy Rulings.
144. “Resource Adequacy Rulings” means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-024, 06-07-031 and any subsequent CPUC ruling or decision in connection with resource adequacy, or any other resource adequacy laws, rules or regulations enacted, adopted or promulgated by any applicable Governmental Authority, as such CPUC decisions, rulings, laws, rules or regulations may be amended or modified from time-to-time during the Term.
145. “RPS Legislation” means the State of California Renewables Portfolio Standard Program, as codified at California Public Utilities Code Section 399.11, *et seq.*
146. “Sale-Leaseback Transaction” means a transaction in which Seller (i) sells the Generating Facility to a Lender providing tax equity financing to Seller and (ii) leases the Generating Facility from Lender under an agreement authorizing Seller to act in all matters relating to the control and Operation of the Site and the Generating Facility for the Term of this Agreement, subject to Lender’s right to terminate the lease in the event of a default by Seller as set forth in the agreement between Seller and Lender.
147. “S&P” means the Standard & Poor’s Rating Group.
148. “SC Schedules” means the amounts initially submitted to the CAISO by SCE, as Scheduling Coordinator for Seller, of expected electric energy that Seller expects to deliver to SCE in each hour.

149. “SCE” has the meaning set forth in the Preamble.
150. “SCE Penalty” or “SCE Penalties” means the amount charged to Seller by SCE, in accordance with Exhibit Q, for hours in a calendar month when Seller does not accurately provide availability information as set forth in Exhibit D.
151. “SCE’s Projected Energy Forecast” has the meaning set forth in Exhibit D.
152. “Schedule,” “Scheduled” or “Scheduling” means the action of SCE in submitting the SC Schedules to the CAISO and receiving the Final Schedules from the CAISO.
153. “Scheduling Coordinator” or “SC” means an entity certified by the CAISO for the purposes of undertaking the functions specified by CAISO Tariff Section 2.2.6, as amended by FERC from time-to-time.
154. “Scheduling Coordinator Trades” or “SC-to-SC Trades” means Scheduling Coordinator to Scheduling Coordinator trades of electric energy from the Generating Facility by Seller, or Seller’s authorized agent, to SCE in accordance with the CAISO Tariff.
155. “SEC” means the United States Securities and Exchange Commission.
156. “Security Interest” has the meaning set forth in Section 8.03.
157. “Seller” has the meaning set forth in the Preamble.
158. “Seller’s Annual Availability Obligation” means the minimum Wind Turbine availability that Seller is required to maintain in any of the first five (5) Term Years, which is that the Actual Generating Facility Annual Availability for the Term Year, in percent, must be equal to or greater than eighty percent (80%).
159. “Seller’s Annual Energy Obligation” means the minimum amount of energy that Seller is required to deliver in any two (2) consecutive Term Years (calculated annually on a rolling two-year basis for a maximum period of ten (10) years) commencing with the second Term Year, which is that (a) the Metered Amounts total for the two (2) consecutive Term Years of the calculation period, in MWh, plus (b) the sum of all Lost Output during the two (2) consecutive Term Years of the calculation period, in MWh, must be equal to or greater than (c) 1.4 multiplied by (d) the Expected Annual Net Energy Production, in MWh.
160. “Seller’s Annual Shortfall Payment” means the dollar amount calculated as set forth in Exhibit F.
161. “Seller’s Long Term Availability Guarantee Period” means the period that begins on

- the first day of the first Term Year and ends on the last day of the fifth (5th) Term Year.
162. “Sellers Long Term Availability Shortfall Payment” means the dollar amount calculated as set forth in Exhibit O.
163. “Seller’s Long Term Availability Obligation” means the minimum Wind Turbine availability that Seller is required to maintain in Seller’s Long Term Availability Guarantee Period, which is that the Actual Generating Facility Long Term Availability for Seller’s Long Term Availability Guarantee Period, in percent, must be equal to or greater than eighty five percent (85%).
164. “Settlement Interval” means any one of the six ten (10) minute time intervals beginning on any hour and ending on the next hour (e.g. 12:00 to 12:10, 12:10 to 12:20, etc.).
165. “Simple Interest Payment” means a dollar amount calculated by multiplying the:
- a) Dollar amount on which the Simple Interest Payment is based; times
 - b) Federal Funds Effective Rate or Interest Rate as applicable; times
 - c) The result of dividing the number of days in the calculation period by 360.
166. “Site” means the real property on which the Generating Facility is, or will be located, as further described in Section 1.01(b) and Exhibit B or as adjusted in accordance with Section 3.08.
167. “Site Control” has the meaning set forth in Section 3.07.
168. “Station Use” means the electric energy produced by the Generating Facility that is either:
- a) Used within the Generating Facility to power the lights, motors, control systems and other electrical loads that are necessary for Operation; or
 - b) Consumed within the Generating Facility’s electric energy distribution system as losses.
169. “Supplemental Lost Output” has the meaning set forth in Section 3.20(b).
170. “Supplemental Lost Output Report” has the meaning set forth in Section 3.20(b).
171. “Term” has the meaning used in Section 1.05.

172. “Term Year” means a twelve (12) month period beginning on October 1 of each calendar year during the Term and ends on September 30 of the following calendar year.
173. “Termination Payment” has the meaning set forth in Section 6.03.
174. Intentionally omitted.
175. “TOD Period(s)” means the time of delivery period(s) set forth in Exhibit K.
176. “TOD Period Energy Payment” means a portion of an Energy Payment based upon the time of delivery of Product and calculated in accordance with the formula set forth in Section 4.02(b).
177. “Transmission Provider” means any entity or entities responsible for the interconnection of the Generating Facility with a Control Area or transmitting the Metered Amounts on behalf of Seller from the Generating Facility to the Delivery Point.
178. “Web Client” shall have the meaning set forth in Section 3.13(a).
179. “WECC” means the Western Electricity Coordinating Council, the regional reliability council for the Western United States, Northwestern Mexico and Southwestern Canada.
180. “Wind Speed Interval” has the meaning set forth in Exhibit M.
181. “Wind Turbine” or “Wind Turbines” means the wind turbine generators installed on the Site as part of the Generating Facility including any replacements or substitutes therefore
182. “Wind Turbine Manufacturer’s Power Curve” means a Wind Turbine manufacturer’s table that estimates the electric energy generating capacity for one Wind Turbine of a specified model based upon wind speeds and other Site specific conditions.
183. “WREGIS” means the Western Renewable Energy Generation Information System.

*** End of EXHIBIT A ***

EXHIBIT B

Generating Facility and Site Description

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

EXHIBIT B*Generating Facility And Site Description***GENERATING FACILITY**

This Generating Facility consists of 111 Mitsubishi Heavy Industry (“MHI”) MWT-600 wind turbine generators. The wind turbine generators are positioned in 10 rows which are approximately 8.4 to 8.85 rotor diameters apart located on approximately 1,000 acres. The rows are laid out perpendicular to the prevailing westerly winds and will generally run north to south (or north-northeast to south-southwest). The Generating Facility consists of two phases: Mountain View I consists of 74 turbines (44.4 MW) and Mountain View II consists of 37 turbines (22.2 MW) for a total aggregate capacity of 67 MW. The wind turbines are spaced approximately 1.4 to 1.5 rotor diameters apart within the rows.

Each wind turbine includes:

1. A single speed asynchronous induction generator with a nameplate capacity of 600KW;
2. A gearbox;
3. variable pitch, three bladed, 44 /45-meter hub and rotor assembly;
4. An on-board microprocessor controller;
5. 50 /60-meter tubular steel tower; and
6. A meteorological station.

Three-phase electric energy is generated at 600 volts and transmitted through low voltage power cables to pad-mounted 600 volt/34.5 kV step-up transformers located at the base of each wind turbine tower. The high side of each pad-mounted transformer is connected through underground cables to a substation that will interconnect the Generating Facility with the high voltage electric power transmission system.

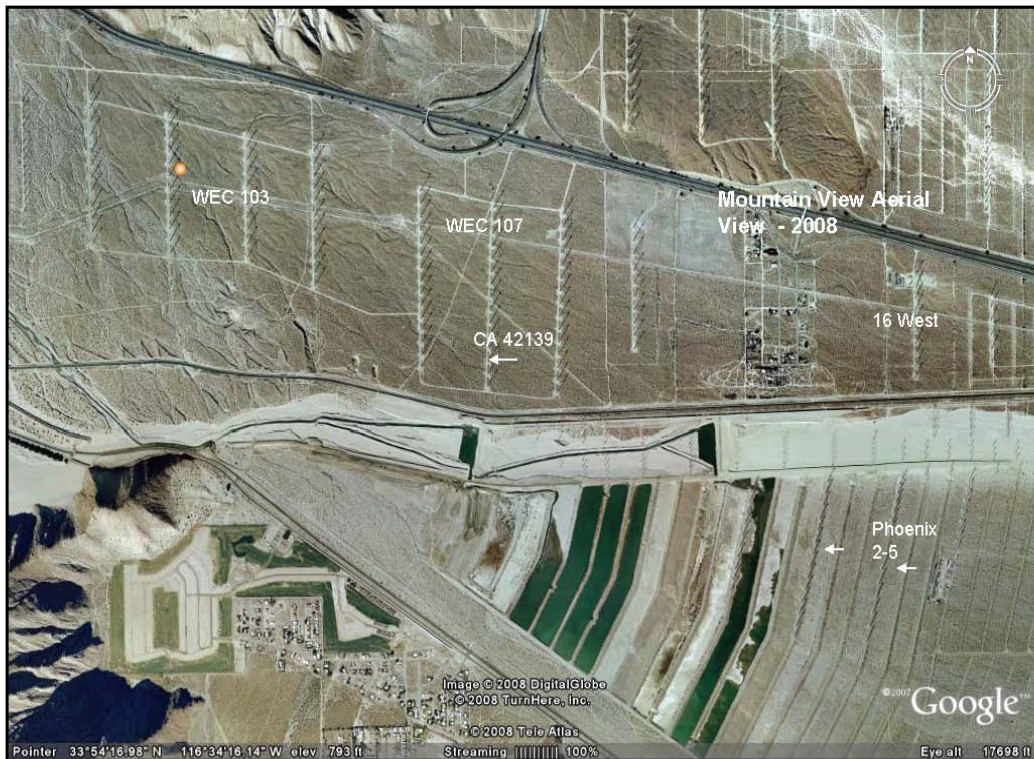
The Generating Facility is equipped with a computerized Supervisory Control and Data Acquisition (“SCADA”) system which is connected to each wind turbine controller. The SCADA system allows operators located within Seller’s regional operations and maintenance facility to remotely operate each individual wind turbine and to monitor the output of the Generating Facility as a whole. It SCADA system also gathers, archives, and reports data from each wind turbine generator and for each wind turbine meteorological station. The wind turbines are self starting and can be started and stopped remotely via SCADA system.

An affiliate of Seller has its regional operations and maintenance facility located within close proximity to the Generation Facility at 19435 Ruppert Street, North Palm Springs, CA 92258.

Wind turbine towers are accessed by a network of compacted gravel access roadways.

SITE

The Generating Facility is constructed on contiguous parcels of land totaling 1,000 acres and owned by several private landowners (the “Site”) and leased by the Seller under various agreements. The Site is roughly rectangular in shape and is situated approximately 2 to 3 miles southwest of the interchange between Highway I-10 and Indian Avenue, northwest of Palm Springs, California in the San Gorgonio Wind Resource Area, and as further described below. A site map depicting the parcels comprising the Site is included below.



*** End of EXHIBIT B ***

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

EXHIBIT C

Notice List

EXHIBIT C

Notice List

MOUNTAIN VIEW POWER PARTNERS, LLC ("Seller")	SOUTHERN CALIFORNIA EDISON COMPANY ("SCE")
All Notices are deemed provided in accordance with Section 10.08 if made to the address and facsimile numbers provided below:	Unless otherwise specified, all Notices are deemed provided in accordance with Section 10.08 if made to the Contract Sponsor at the address or facsimile number provided below:
Contract Sponsor: Attn: [REDACTED] Mountain View Power Partners, LLC Street: [REDACTED] City: [REDACTED] Phone: [REDACTED] Facsimile: [REDACTED] Email: [REDACTED]	Contract Sponsor: Attn: [REDACTED] Street: [REDACTED] City: [REDACTED] Phone: [REDACTED] Facsimile: [REDACTED]
Reference Numbers: Duns: [REDACTED] Federal Tax ID Number: [REDACTED]	Reference Numbers: Duns: [REDACTED] Federal Tax ID Number: [REDACTED]
Contract Administration: Attn: [REDACTED] Phone: [REDACTED] Facsimile: [REDACTED] Email: [REDACTED]	Contract Administration: Attn: [REDACTED] Phone: [REDACTED] Facsimile: [REDACTED]
Forecasting: Attn: 24/7 Data Monitoring Hotline Phone: [REDACTED] Facsimile: [REDACTED]	Generation Operations Center: Phone: [REDACTED] Phone: [REDACTED]

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

MOUNTAIN VIEW POWER PARTNERS, LLC ("Seller")	SOUTHERN CALIFORNIA EDISON COMPANY ("SCE")
Day-Ahead Forecasting: Mountain View Power Partners, LLC [Redacted] Monitoring Hotline Phone: [Redacted] Attn: [Redacted] Email: [Redacted]	Day-Ahead Scheduling: <u>Manager.</u> [Redacted] Attn: [Redacted] Phone: [Redacted] Facsimile: [Redacted] <u>Scheduling Desk.</u> Phone: [Redacted] Backup: [Redacted] Fax: [Redacted] Email: [Redacted]
Real-Time Forecasting: Mountain View Power Partners, LLC [Redacted] Phone: [Redacted] Attn: [Redacted] Email: [Redacted]	Real-Time Scheduling: <u>Manager.</u> Attn: [Redacted] Phone: [Redacted] Facsimile: [Redacted] <u>Operations Desk.</u> Phone: [Redacted] Back-up: [Redacted] Fax: [Redacted] Email: [Redacted]
Payment Statements: Attn: [Redacted] Phone: [Redacted] Facsimile: [Redacted] Email: [Redacted]	Payment Statements: Attn: [Redacted] Phone: [Redacted] Facsimile: [Redacted] Email: [Redacted]
CAISO Charges and CAISO Sanctions: Attn: [Redacted] Phone: [Redacted] Facsimile: [Redacted] Email: [Redacted]	CAISO Charges, CAISO Sanctions and SCE Penalties: Attn: [Redacted] Phone: [Redacted] Facsimile: [Redacted] Email: [Redacted]

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

MOUNTAIN VIEW POWER PARTNERS, LLC ("Seller")	SOUTHERN CALIFORNIA EDISON COMPANY ("SCE")
Payments: Attn: [REDACTED] Phone: [REDACTED] Facsimile: [REDACTED] Email: [REDACTED]	Payments: Attn: [REDACTED] Phone: [REDACTED] Facsimile: [REDACTED] Email: [REDACTED]
Wire Transfer: BNK: _____ ABA: _____ ACCT: _____	Wire Transfer: BNK: [REDACTED] ABA: [REDACTED] ACCT: [REDACTED]
Credit and Collections: Attn: [REDACTED] Phone: [REDACTED] Facsimile: [REDACTED] Email: [REDACTED]	Manager of Credit and Collateral: Attn: [REDACTED] Phone: [REDACTED] Facsimile: [REDACTED]

MOUNTAIN VIEW POWER PARTNERS, LLC ("Seller")	SOUTHERN CALIFORNIA EDISON COMPANY ("SCE")
With additional Notices of an Event of Default or Potential Event of Default to: [Redacted] [Redacted] Attn: [Redacted] Phone: [Redacted] Facsimile: [Redacted] Email: [Redacted] And [Redacted] Attn: [Redacted] Phone: [Redacted] Facsimile: [Redacted] Email: [Redacted]	With additional Notices of an Event of Default or Potential Event of Default to: Attn: [Redacted] Phone: [Redacted] Facsimile: [Redacted]
Guarantor: Attn: To Be Determined Phone: Facsimile: Email:	
Lender: Attn: To Be Determined Phone: Facsimile: Email:	

*** End of EXHIBIT C **

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

EXHIBIT D

Forecasting and Scheduling Requirements and Procedures

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

EXHIBIT D*Forecasting and Scheduling Requirements and Procedures*1. Introduction.

The Parties shall abide by the Forecasting and Scheduling requirements and procedures described below and shall agree upon reasonable changes to these requirements and procedures from time-to-time, as necessary to:

- (a) Comply with the CAISO Tariff;
- (b) Accommodate changes to their respective generation technology and organizational structure; and
- (c) Address changes in the operating and Scheduling procedures of both SCE and the CAISO, including but not limited to, automated forecast and outage submissions.

2. Seller's Availability Forecasting Requirements.

Seller must meet all of the following requirements for Forecasting as specified below.

- (a) No later than thirty (30) days prior to the Commencement Date, Seller shall provide SCE with a 30-day, hourly forecast of the expected available total generation capacity of the Generating Facility, in MW, ("Availability Forecast"), for the thirty (30) day period commencing on the Commencement Date using the Web Client.

In the event that the Web Client becomes unavailable, Seller shall provide SCE with the Availability Forecast by telephoning SCE's Generation Operations Center, at the telephone number(s) listed in Exhibit C.

- (b) The Availability Forecast, and any updated Availability Forecasts provided pursuant to this Section 2, shall:
 - (i) Not include any anticipated or expected electric energy losses between the CAISO Approved Meter and the Delivery Point; and
 - (ii) Limit hour-to-hour forecast changes to no less than two hundred fifty (250) kWh during any period when the Web Client is unavailable. Seller shall have no restriction on hour-to-hour forecast changes when the Web Client is available.

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

- (c) Commencing on or before 5:00 p.m. PPT of the Wednesday prior to the first week covered by the Availability Forecast provided pursuant to Section 2(a) above and on or before 5:00 p.m. PPT every Wednesday thereafter until the end of the Term, Seller shall update the Availability Forecast for the thirty (30) day period commencing on the Sunday following the weekly Wednesday Availability Forecast update submission. Seller shall use the Web Client, if available, to supply this weekly update or, if the Web Client is not available, Seller shall provide SCE with the weekly Availability Forecast update by telephoning SCE's Generation Operations Center, at the telephone number(s) listed in Exhibit C.
- (d) In the event:
 - (i) Seller does not provide real-time communication of availability as provided in Section 3.06(f);
 - (ii) the telecommunications path to obtain real-time data is inoperable; or
 - (iii) instrumentation is providing faulty or incorrect data; *and*
 - (iv) Seller learns of any change in the available capacity of the Generating Facility for a period covered by the most recent Availability Forecast update resulting from any cause, including, but not limited to, an unplanned outage, prior to the time that the next weekly update of the Availability Forecast is due which Seller is required to report under the provisions of the CAISO Tariff related to PIRP and under other applicable provisions of the CAISO Tariff related to availability and outage reporting, then

Seller shall provide an updated Availability Forecast to SCE. This updated Availability Forecast must be submitted to SCE via the Web Client by no later than:

- (i) 5:00 am PPT on the day prior to any day impacted by the change, if the change is known to Seller at that time;
- (ii) Thirty (30) minutes before the commencement of any hour impacted by the change, if the change is known to Seller at that time; or
- (iii) If the change is not known to Seller by the timeframes indicated in (i) or (ii) above, no later than twenty (20) minutes after Seller becomes aware of the event which caused the availability change.

Seller's updated Availability Forecast must contain the following information:

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

- (i) The beginning date and time of the event resulting in the availability change;
- (ii) The expected ending date and time of the event;
- (iii) The expected availability, in MW; and
- (iv) Any other information required by the CAISO as communicated to Seller by SCE.

3. SCE's Scheduling Responsibilities.

Pursuant to the CAISO Tariff, SCE shall be responsible for the following:

- (a) Using the Availability Forecast submitted to SCE pursuant to Section 2 above, including updated Availability Forecasts to the extent reasonably practicable, to forecast Seller's expected generation using SCE's forecasting model ("SCE's Projected Energy Forecast") in any given hour.
- (b) Adjusting SCE's Projected Energy Forecast for forecasted electric energy line losses to reflect Seller's self-provision of those losses and the amount of electric energy Seller is expected to deliver to the Delivery Point.
- (c) Submitting the adjusted forecasts to the CAISO as SC Schedules.
- (d) Receiving notification of the Final Schedules from the CAISO.

4. Seller's Outage Scheduling Requirements.

Seller shall be responsible for all expenses and costs associated with all requirements and timelines for generation outage scheduling contained in the CAISO's Scheduled and Forced Outage Procedure T-113 as posted on the CAISO's website.

*** *End of EXHIBIT D* ***

EXHIBIT E

Intentionally Omitted.

**** End of EXHIBIT E ****

EXHIBIT F

Seller's Annual Shortfall Payment

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

EXHIBIT F*Seller's Annual Shortfall Payment*1) Introduction.

Seller's Annual Shortfall Payment shall be determined at the end of each Term Year in accordance with the requirements set forth in Section 3.05 and the following formulas.

2) SELLER'S ANNUAL SHORTFALL PAYMENT, in dollars
equals the greater of:

- a) Seller's Annual Energy Delivery Obligation Shortfall Payment, as calculated in Item #3 of this Exhibit F for all the two consecutive Term Year periods during the Term, in dollars. Therefore, the first calculation of this amount shall be at the end of the second Term Year; and
- b) Seller's Annual Availability Shortfall Payment, as calculated in Item #4 of this Exhibit F for each of the first five (5) Term Years, in dollars.

3) SELLER'S ANNUAL ENERGY DELIVERY OBLIGATION SHORTFALL PAYMENT, in dollars, *equals the greater of zero dollars (\$0) and the result of:*

$$= [(A_{F1} \times B_{F1}) - C_{F1} - D_{F1}] \times E_{F1} - F_{F1}$$

Where:

A_{F1} = One hundred forty percent (140%).

B_{F1} = The Expected Annual Net Energy Production, in MWh.

C_{F1} = The Metered Amounts total for the two (2) year consecutive Term Years of the calculation period, in MWh.

D_{F1} = The sum of all Lost Output during the two (2) consecutive Term Years of the calculation period, in MWh.

E_{F1} = *The lesser of:*

a) Fifty dollars (\$50.00) per MWh; and

b) *The greater of:*

i) Twenty dollars (\$20.00) per MWh; and

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

ii) *The result of:*

$$A_{F2} - B_{F2}$$

Where:

A_{F2} = The simple average of the Market Price for all Settlement Intervals during the two (2) consecutive Term Year calculation period, in dollars per MWh.

B_{F2} = The Energy Price, in dollars per MWh.

F_{F1} = Seller's Annual Shortfall Payment for the previous Term Year, in dollars.

4) SELLER'S ANNUAL AVAILABILITY SHORTFALL PAYMENT, in MWh, equals the greater of zero dollars (\$0) and the result of:

$$= (A_{F3} - B_{F3}) \times C_{F3} \times D_{F3}$$

Where:

A_{F3} = Eighty (80%).

B_{F3} = The Actual Generating Facility Annual Availability for the current Term Year, in percent.

C_{F3} = The Expected Annual Net Energy Production, in MWh.

D_{F3} = *The lesser of:*

a) Ten dollar (\$10.00) per MWh; and

b) *The greater of:*

i) Zero dollars (\$0.00) per MWh; and

ii) *The result of:*

$$A_{F4} - B_{F4}$$

Where:

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

A_{F4} = The simple average of the Market Price for all Settlement Intervals during the Term Year calculation period, in dollars per MWh.

B_{F4} = The Energy Price, in dollars per MWh.

*** End of EXHIBIT F ***

EXHIBIT G

Intentionally Omitted.

**** End of EXHIBIT G ****

EXHIBIT H

Intentionally Omitted.

**** End of EXHIBIT H ****

EXHIBIT I

Form of Guaranty Agreement

EXHIBIT I

Form of Guaranty Agreement

1. Guaranty.

For valuable consideration, [Guarantor's legal name], [legal status] ("Guarantor") guarantees payment to Southern California Edison Company, a California corporation ("Beneficiary"), its successors and assigns, of all amounts owed to Beneficiary by [Seller's legal name], [legal status] ("Principal") under that certain Renewable Power Purchase and Sale Agreement between Beneficiary and Principal dated [date], as amended from time to time ("Agreement") (said amounts are hereinafter referred to as the "Obligations").

Initially capitalized words that are used but not otherwise defined in this agreement ("Guaranty") shall have the meanings given them in the Agreement.

Upon the failure or refusal by Principal to pay all or any portion of the Obligations, the Beneficiary may make a demand upon the Guarantor.

Such demand shall be in writing and shall state the amount Principal has failed to pay and an explanation of why such payment is due, that all cure periods have expired, and with a specific statement that Beneficiary is calling upon Guarantor to pay under this Guaranty.

Guarantor shall promptly, but in no event less than ten Business Days following demand by Beneficiary, pay such Obligations in immediately available funds.

The obligations of Guarantor hereunder shall not be subject to any counterclaim, setoff, withholding, or deduction unless required by applicable law.

A payment demand satisfying the foregoing requirements shall be deemed sufficient notice to Guarantor that it must pay the Obligations.

2. Guaranty Limit.

Subject to Paragraph 13, the liability of Guarantor hereunder shall not exceed \$_____ in the aggregate, which amount shall include all interest that has accrued on any amount owed hereunder.

3. Guaranty Absolute.

Guarantor agrees that its obligations under this Guaranty are irrevocable, absolute, independent and unconditional and shall not be affected by any circumstance which constitutes a legal or equitable discharge of a guarantor. In furtherance of the

foregoing and without limiting the generality thereof, Guarantor agrees as follows:

- (a) The liability of Guarantor under this Guaranty is a continuing guaranty of payment and not of collectibility, and is not conditional or contingent upon the genuineness, validity, regularity or enforceability of the Agreement or the pursuit by Beneficiary of any remedies which it now has or may hereafter have under the Agreement;
- (b) Beneficiary may enforce this Guaranty upon the occurrence of a default by Principal under the Agreement notwithstanding the existence of a dispute between Beneficiary and Principal with respect to the existence of the default;
- (c) The obligations of Guarantor under this Guaranty are independent of the obligations of Principal under the Agreement and a separate action or actions may be brought and prosecuted against Guarantor whether or not any action is brought against Principal or any other guarantors and whether or not Principal is joined in any such action or actions;
- (d) Beneficiary may, at its election, foreclose on any security held by Beneficiary, whether or not the means of foreclosure is commercially reasonable, or exercise any other right or remedy available to Beneficiary without affecting or impairing in any way the liability of Guarantor under this Guaranty, except to the extent the amount(s) owed to Beneficiary by Principal have been paid; and
- (e) Guarantor shall continue to be liable under this Guaranty and the provisions hereof shall remain in full force and effect notwithstanding:
 - (i) Any modification, amendment, supplement, extension, agreement or stipulation between Principal and Beneficiary or their respective successors and assigns, with respect to the Agreement or the obligations encompassed thereby;
 - (ii) Beneficiary's waiver of or failure to enforce any of the terms, covenants or conditions contained in the Agreement;
 - (iii) Any release of Principal or any other guarantor from any liability with respect to the Obligations or any portion thereof;
 - (iv) Any release, compromise or subordination of any real or personal property then held by Beneficiary as security for the performance of the Obligations or any portion thereof, or any substitution with respect thereto;
 - (v) Without in any way limiting the generality of the foregoing, if

Beneficiary is awarded a judgment in any suit brought to enforce a portion of the Obligations, such judgment shall not be deemed to release Guarantor from its covenant to pay that portion of the Obligations which is not the subject of such suit;

- (vi) Beneficiary's acceptance and/or enforcement of, or failure to enforce, any other guaranties or any portion of this Guaranty;
 - (vii) Beneficiary's exercise of any other rights available to it under the Agreement;
 - (viii) Beneficiary's consent to the change, reorganization or termination of the corporate structure or existence of the Principal and to any corresponding restructuring of the Obligations;
 - (ix) Any failure to perfect or continue perfection of a security interest in any collateral that secures the Obligations;
 - (x) [Reserved]; and
 - (xi) Any other act or thing or omission, or delay to do any other act or thing that might in any manner or to any extent vary the risk of Guarantor as an obligor with respect to the Obligations.
- (f) Guarantor agrees that upon a demand for payment under this Guaranty in accordance with Section 1 hereof, Guarantor shall pay such Obligations as are included in such demand notwithstanding any defenses, setoffs or counterclaims that Principal may allege or assert against Beneficiary with respect to the Obligations, including, without limitation, statute of frauds, statute of limitations and accord and satisfaction; provided that Guarantor reserves the right to assert any defenses, setoffs or counterclaims that Principal may allege or assert against Beneficiary (except for such defenses, setoffs or counterclaims as are expressly waived under other provisions of this Guaranty) in a subsequent action for recoupment, restitution or reimbursement.

4. Termination; Reinstatement.

- (a) The term of this Guaranty is continuous until the date on which the Obligations have been performed or paid in full.
- (b) This Guaranty shall be reinstated if at any time following the termination of this Guaranty, any payment by Guarantor under this Guaranty or pursuant hereto is rescinded or must otherwise be returned by the Beneficiary or other person upon the insolvency, bankruptcy, reorganization, dissolution or

liquidation of Principal, Guarantor or otherwise, and is so rescinded or returned to the party or parties making such payment, all as though such payment had not been made.

If all or any portion of the Obligations are paid by Principal, the obligations of Guarantor hereunder shall continue and remain in full force and effect or be reinstated, as the case may be, in the event that all or any part of such payment(s) are rescinded or recovered directly or indirectly from Beneficiary as a preference, fraudulent transfer or otherwise, and any such payments which are so rescinded or recovered shall constitute Obligations for all purposes under this Guaranty.

5. Bankruptcy; Post-Petition Interest.

- (a) So long as any Obligations remain outstanding, Guarantor shall not, without the prior written consent of Beneficiary, commence or join with any other person in commencing any bankruptcy, reorganization or insolvency proceedings of or against Principal.

The obligations of Guarantor under this Guaranty shall not be reduced, limited, impaired, discharged, deferred, suspended or terminated by any proceeding, voluntary or involuntary, involving the bankruptcy, insolvency, receivership, reorganization, liquidation or arrangement of the Principal or by any defense which Principal may have by reason of the order, decree or decision of any court or administrative body resulting from any such proceeding.

- (b) Any interest on any portion of the Obligations which accrues after the commencement of any such proceeding (or, if interest on any portion of the Obligations ceases to accrue by operation of law by reason of the commencement of said proceeding, such interest as would have accrued on such portion of the Obligations if said proceedings had not been commenced) shall be included in the Obligations.

Guarantor will permit any trustee in bankruptcy, receiver, debtor in possession, assignee for the benefit of creditors or similar person to pay Beneficiary, or allow the claim of Beneficiary in respect of, any such interest accruing after the date on which such proceeding is commenced.

6. Subrogation.

Guarantor shall be subrogated to all rights of the Beneficiary against Principal with respect to any amounts paid by the Guarantor pursuant to the Guaranty, provided that Guarantor postpones the exercise of such rights until all Obligations have been irrevocably paid in full to the Beneficiary.

If any amount shall be paid to Guarantor on account of such subrogation, reimbursement, contribution or indemnity rights at any time when all the Obligations guaranteed hereunder shall not have been indefeasibly paid in full, Guarantor shall hold such amount in trust for the benefit of Beneficiary (provided that no fiduciary duty shall be deemed to arise in connection herewith) and shall promptly pay such amount to Beneficiary.

7. Intentionally omitted.

8. Waivers of Guarantor.

(a) Intentionally omitted.

(b) Guarantor waives any right to require Beneficiary to proceed against or exhaust any security held from Principal or any other party acting under a separate agreement.

(c) Guarantor waives all of the rights and defenses described in subdivision (a) of Section 2856 of the California Civil Code, including any rights and defenses that are or may become available to the Guarantor by reason of Sections 2787 to 2855 thereof, inclusive. Without limiting the generality of the foregoing waiver:

(i) The guarantor waives all rights and defenses that the guarantor may have because the debtor's debt is secured by real property.

This means, among other things:

a. The creditor may collect from the guarantor without first foreclosing on any real or personal property collateral pledged by the debtor.

b. If the creditor forecloses on any real property collateral pledged by the debtor:

(1) The amount of the debt may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price.

(2) The creditor may collect from the guarantor even if the creditor, by foreclosing on the real property collateral, has destroyed any right the guarantor may have to collect from the debtor.

This is an unconditional and irrevocable waiver of any rights and defenses the guarantor may have because the debtor's debt is secured by real property. These rights and defenses include, but are not limited to, any rights or defenses based upon Section 580a, 580b, 580d, or 726 of the California Code of Civil Procedure.

- (ii) The guarantor waives all rights and defenses arising out of an election of remedies by the creditor, even though that election of remedies, such as a nonjudicial foreclosure with respect to security for a guaranteed obligation, has destroyed the guarantor's rights of subrogation and reimbursement against the principal by the operation of Section 580d of the Code of Civil Procedure or otherwise.
- (d) Guarantor assumes all responsibility for keeping itself informed of Principal's financial condition and all other factors affecting the risks and liability assumed by Guarantor hereunder, and Beneficiary shall have no duty to advise Guarantor of information known to it regarding such risks.
- (e) Guarantor waives any defense arising by reason of the incapacity, lack of authority or any disability of the Principal, failure of consideration or any defense based on or arising out of the lack of validity or enforceability of the Obligations;
- (f) Guarantor waives any defense based upon Beneficiary's errors or omissions in the administration of the Obligations;
- (g) Guarantor waives its right to raise any defenses based upon promptness, diligence, and any requirement that Beneficiary protect, secure, perfect or insure any security interest or lien or any property subject thereto;
- (h) Guarantor waives its right to raise any principles of law, statutory or otherwise, that limit the liability of or exonerate guarantors, provide any legal or equitable discharge of Guarantor's obligations hereunder, or which may conflict with the terms of this Guaranty;
- (i) Other than demand for payment, the Guarantor hereby expressly waives all notices between the Beneficiary and the Principal including without limitation all notices with respect to the Agreement and this Guaranty, notice of acceptance of this Guaranty, any notice of credits extended and sales made by the Beneficiary to Principal, any information regarding Principal's financial condition, and all other notices whatsoever; and
- (j) Guarantor waives filing of claims with a court in the event of the insolvency or bankruptcy of the Principal.

9. No Waiver of Rights by Beneficiary.

No right or power of Beneficiary under this Guaranty shall be deemed to have been waived by any act or conduct on the part of Beneficiary, or by any neglect to exercise a right or power, or by any delay in doing so, and every right or power of Beneficiary hereunder shall continue in full force and effect until specifically waived or released in a written document executed by Beneficiary.

10. Assignment, Successors and Assigns.

This Guaranty shall be binding upon Guarantor, its successors and assigns, and shall inure to the benefit of, and be enforceable by, the Beneficiary and its successors, assigns and creditors.

The Beneficiary shall have the right to assign this Guaranty to any person or entity without the prior consent of the Guarantor; *provided, however*, that no such assignment shall be binding upon the Guarantor until it receives written notice of such assignment from the Beneficiary.

The Guarantor shall have no right to assign this Guaranty or its obligations hereunder without the prior written consent of the Beneficiary.

11. Representations of Guarantor.

Guarantor hereby represents and warrants that:

- (a) It is a corporation duly organized, validly existing and in good standing in all necessary jurisdictions and has full power and authority to execute, deliver and perform this Guaranty;
- (b) It has taken all necessary actions to execute, deliver and perform this Guaranty;
- (c) This Guaranty constitutes the legal, valid and binding obligation of Guarantor, enforceable in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws effecting creditors' rights generally and to general equitable principles;
- (d) Execution, delivery and performance by Guarantor of this Guaranty does not conflict with, violate or create a default under any of its governing documents, any agreement or instruments to which it is a party or to which any of its assets is subject or any applicable law, rule, regulation, order or judgment of any Governmental Authority; and
- (e) All consents, approvals and authorizations of governmental authorities

required in connection with Guarantor's execution, delivery and performance of this Guaranty have been duly and validly obtained and remain in full force and effect.

12. Financial Statements.

If requested by Beneficiary, Guarantor shall deliver the following financial statements, which in all cases shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles:

Within one hundred-twenty (120) days following the end of each fiscal year that any Obligations are outstanding, a copy of its annual report containing its audited consolidated financial statements (income statement, balance sheet, statement of cash flows and statement of retained earnings and all accompanying notes) for such fiscal year, setting forth in each case in comparative form the figures for the previous year; and

Within sixty (60) days after the end of each of its first three fiscal quarters of each fiscal year that any Obligations are outstanding, a copy of its quarterly report containing its consolidated financial statements (income statement, balance sheet, statement of cash flows and statement of retained earnings and all accompanying notes) for such fiscal quarter and the portion of the fiscal year through the end of such quarter, setting forth in each case in comparative form the figures for the previous year and:

Certified in accordance with all applicable laws and regulations, including without limitation all applicable Securities and Exchange Commission ("SEC") rules and regulations, if Guarantor is an SEC reporting company; or

Certified by a Responsible Officer as being fairly stated in all material respects (subject to normal year end audit adjustments) if Guarantor is not an SEC reporting company.

For the purposes of the requirement in this Paragraph 12, if Guarantor's financial statements are publicly available electronically on the website of Guarantor or the SEC, then Guarantor shall be deemed to have met this requirement.

13. Attorneys' Fees.

In addition to the amounts for which payment is guaranteed hereunder, Guarantor agrees to pay reasonable attorneys' fees and all other costs and expenses incurred by Beneficiary in enforcing this Guaranty or in any action or proceeding arising out of or relating to this Guaranty.

Any costs for which Guarantor becomes liable pursuant to this Paragraph 13 shall not

be subject to, and shall not count toward, the guaranty limit set forth in Paragraph 2 above.

14. Governing Law.

This Guaranty is made under and shall be governed in all respects by the laws of the State of California, without regard to conflict of law principles.

If any provision of this Guaranty is held invalid under the laws of California, this Guaranty shall be construed as though the invalid provision has been deleted, and the rights and obligations of the parties shall be construed accordingly.

15. Construction.

All parties to this Guaranty are represented by legal counsel.

The terms of this Guaranty and the language used in this Guaranty shall be deemed to be the terms and language chosen by the parties hereto to express their mutual intent.

This Guaranty shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument or any portion thereof to be drafted, or in favor of the party receiving a particular benefit under this Guaranty.

No rule of strict construction will be applied against any party.

16. Amendment; Severability.

Neither this Guaranty nor any of the terms hereof may be terminated, amended, supplemented or modified, except by an instrument in writing executed by an authorized representative of each of Guarantor and Beneficiary.

If any provision in or obligation under this Guaranty 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.

17. Third Party Rights.

This Guaranty shall not be construed to create any rights in any parties other than Guarantor and Beneficiary and their respective successors and permitted assigns.

18. Notices.

Any demand for payment, notice, request, instruction, correspondence or other document to be given hereunder by any party to another shall be made by facsimile to the person and at the address for notices specified below.

Beneficiary:

Southern California Edison Company
2244 Walnut Grove Avenue
Rosemead, CA 91770
Attn: [Credit Manager]
Phone: (626) _____
Facsimile: (626) _____

with a copy to:

Southern California Edison Company
2244 Walnut Grove Avenue
Rosemead, CA 91770
Attn: _____
Phone: (626) _____
Facsimile: (626) _____

with an additional copy to:

Southern California Edison Company
2244 Walnut Grove Avenue, Quad 3B
Rosemead, CA 91770
Attn: Manager, Power Procurement Section, Law Dept.
Phone: (626) _____
Facsimile: (626) _____

Guarantor:

[Guarantor]
[Street]
[City, State Zip]
Attn:
Phone:
Facsimile:

Principal:

[Principal]
[Street]

[City, State Zip]

Attn:

Phone:

Facsimile:

Such notice shall be effective upon confirmation of the actual receipt if received during the recipient's normal business hours, or at the beginning of the recipient's next Business Day after receipt if receipt is outside of the recipient's normal business hours. Either party may periodically change any address to which notice is to be given it by providing notice of such change as provided herein.

IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of _____, ____.

_____ *[legal name]*

By: _____

Name: _____

Title: _____

*** *End of EXHIBIT I* ***

EXHIBIT J

Intentionally Omitted.

EXHIBIT K
*Time of Delivery Periods
and
Energy Payment Allocation Factors*

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

EXHIBIT K
*Time of Delivery Periods
 and
 Energy Payment Allocation Factors*

<u>Time of Delivery Periods (“TOD Periods”)</u>			
<i>TOD Period</i>	<i>Summer Jun 1st – Sep 30th</i>	<i>Winter Oct 1st – May 31st</i>	<i>Applicable Days</i>
On-Peak	Noon – 6:00 p m.	Not Applicable.	Weekdays except Holidays.
Mid-Peak	8:00 a m. – Noon	8:00 a m. - 9:00 p m.	Weekdays except Holidays.
	6:00 p.m. – 11:00 p m.		Weekdays except Holidays.
Off-Peak	11:00 p.m. – 8:00 a.m.	6:00 a m. – 8:00 a m.	Weekdays except Holidays.
		9:00 p.m. – Midnight	Weekdays except Holidays.
	Midnight – Midnight	6:00 a m. – Midnight	Weekends and Holidays
Super-Off-Peak	Not Applicable.	Midnight – 6:00 a m.	Weekdays, Weekends and Holidays

<u>Energy Payment Allocation Factors</u>			
<i>Season</i>	<i>TOD Period</i>	<i>Calculation Method</i>	<i>Energy Payment Allocation Factor</i>
Summer	On-Peak	Fixed Value.	3.13
	Mid-Peak	Fixed Value.	1.35
	Off-Peak	Fixed Value.	0.75
Winter	Mid-Peak	Fixed Value.	1.00
	Off-Peak	Fixed Value.	0.83
	Super-Off-Peak	Fixed Value.	0.61

“Holiday” is defined as New Year’s Day, Presidents’ Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, and Christmas Day.

When any Holiday falls on a Sunday, the following Monday will be recognized as a Holiday. No change will be made for Holidays falling on Saturday.

*** End of EXHIBIT K ***

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

EXHIBIT L

Intentionally Omitted.

**** End of EXHIBIT L ****

EXHIBIT M

Seller's Estimate of Lost Output

EXHIBIT M*Seller's Estimate Of Lost Output*1. Introduction.

Lost Output, as used in Section 3.20, shall be estimated by Seller in accordance with the procedures described in this Exhibit M.

The intent is that:

- (a) Seller's estimate of Lost Output be as simple and transparent as possible;
- (b) Seller shall provide a:
 - (i) Preliminary estimate of Lost Output at the end of each month which is based upon the:
 - (1) Wind Turbine Manufacturer's Power Curve after adjustment for applicable Site conditions and losses for the first Term Year; and
 - (2) Final Generating Facility Power Curve for the previous Term Year for all Term Years, except the first Term Year;
 - (ii) Final estimate of Lost Output at the end of each Term Year that is based upon a Generating Facility Power Curve which is:
 - (1) Derived from the Wind Speed and Metered Amounts data that is recorded for the Lost Output Term Year being calculated; and
 - (2) Based upon the simple average of the Metered Amounts data at each Wind Speed Interval.
- (c) There be a single Generating Facility Power Curve and a single free wind stream meteorological station for the entire Generating Facility;
- (d) Seller may elect to utilize multiple Generating Facility Power Curves by:
 - (i) Establishing wind turbine groups;
 - (ii) Installing a dedicated meteorological station for each group; and
 - (iii) Performing the calculations set forth below for each group.

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

- (e) The descriptions that follow provide an outline of the general form and organization of the required calculations, but do not strictly limit the Excel Workbook calculations to only the designated columns and rows.

2. Seller's Obligations.

Seller shall:

- (a) Collect the measurement data and perform the engineering calculations specified below in one (1) or more Microsoft Excel Workbooks (the "Lost Output Workbook") in a form and naming convention approved by SCE; and
- (b) Electronically send the Lost Output Workbook to an address provided by SCE.

Seller shall update the Lost Output Workbook each month and shall include the latest revision of the Lost Output Workbook with its monthly Lost Output Report.

3. Log of Lost Output Events.

The Log of Lost Output Events shall be created on a single, dedicated worksheet that is arranged with:

- (a) One (1) column for a Lost Output event number;
- (b) One (1) column for the Term Year number;
- (c) One (1) column for the cause;
- (d) One (1) column for the start date and time ;
- (e) One (1) column for the end date and time;
- (f) One (1) column for the duration;
- (g) One (1) column for actual Metered Amounts;
- (h) Three (3) columns for the Preliminary Results, including:
 - (i) One (1) column for the total estimated Metered Amounts quantity that is equal to the sum of estimated Metered Amounts during all of the Settlement Intervals of the Lost Output event;

- (ii) One (1) column for the total of the Lost Output *preliminary* results during all of the Settlement Intervals of the Lost Output event, as set forth in Item #6(a)(ii) in this Exhibit M;
 - (iii) One (1) column for a percentage calculated by:
 - (1) *Dividing* the preliminary results set forth in Item #3(h)(ii) of this Exhibit M;
 - (2) *By* the Metered Amounts set forth in Item #3(h)(i) of this Exhibit M;
 - (i) Three (3) columns for the Final Results, including:
 - (i) One (1) column for the total estimated Metered Amounts quantity that is equal to the sum of estimated Metered Amounts during all of the Settlement Intervals of the Lost Output event;
 - (ii) One (1) column for the total of the Lost Output *final* results during all of the Settlement Intervals of the Lost Output event, as forth in Item #6(b)(ii) in this Exhibit M; and
 - (iii) One (1) column for a percentage calculated by:
 - (1) *Dividing* the preliminary results set forth in Item #3(i)(ii) of this Exhibit M;
 - (2) *By* the Metered Amounts set forth in Item #3(i)(i) of this Exhibit M.
4. Generating Facility Power Curve.

Seller shall create a Generating Facility Power Curve table on a single dedicated worksheet that is arranged with:

- (a) One (1) column for an item number;
- (b) One (1) column for the wind speeds;
- (c) One (1) column for the manufacturer's estimate of the electric energy that can be produced by a single Wind Turbine at each wind speed;
- (d) One (1) column for a Generating Facility Power Curve which estimates the electric energy that could be produced by the entire Generating Facility at each wind speed calculated by:

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

- (i) *Multiplying* the estimate of the electric energy that will be produced by a single Wind Turbine using the Wind Turbine Manufacturer's Power Curve set forth in Item #4(c);
 - (ii) *Times* the total number of Generating Facility Wind Turbines; and then
 - (iii) *Adjusting* the results for the estimated impacts of wake losses, applicable site conditions and for electric losses within the Generating Facility;
- (e) One (1) column for each Term Year Generating Facility Power Curve which is based upon the simple average of all Metered Amounts data points for each wind speed during all time periods when there is no Lost Output; and
 - (f) One (1) row for each one half (0.5) meter per second Wind Speed interval (each a "Wind Speed Interval").

Seller shall also create a single chart which plots all of the Generating Facility Power Curves set forth in Item #4(d) and Item #4(e) of this Exhibit M on the Generating Facility Power Curve worksheet.

5. Wind Speed Data Collection.

Seller shall record average Settlement Interval wind speeds, in increments of one half (0.5) meters per second, and Settlement Interval Metered Amounts in the Lost Output Workbook on individual Term Year worksheets.

Each Term Year worksheet shall be arranged with:

- (a) One (1) column for an item number;
 - (b) One (1) column for the date;
 - (c) One (1) column for the beginning time;
 - (d) One (1) column for the weekday;
 - (e) One (1) column for each recorded wind speed measurement;
 - (f) One (1) column for each Metered Amounts quantity; and
 - (g) One (1) row for each Settlement Interval period.
6. Detailed Estimate of Lost Output.

Seller's detailed estimate of the Lost Output amounts shall be included as a separate section of the Wind Speed Data Collection worksheet described in Item #5 and organized as follows:

- (a) Two (2) columns for the *preliminary* results, including:
 - (i) One (1) columns for the preliminary estimate of Metered Amounts for all Settlement Intervals determined by using the appropriate initial Generating Facility Power Curve as follows:
 - (1) For the first eleven (11) months of the first Term Year the appropriate initial Generating Facility Power Curve shall be the power curve set forth in Item #4(d) of this Exhibit M;
 - (2) For the first eleven (11) months of any Term Year, other than the first Term Year, the appropriate initial Generating Facility Power Curve shall be the Generating Facility Power Curve set forth in Item #4(e) of this Exhibit M for the previous Term Year; and
 - (ii) One (1) column for a *final* result estimate of Lost Output during the Lost Output event calculated by:
 - (1) *Subtracting* the actual Metered Amounts quantity set forth in Item #5(f);
 - (2) *From* the results calculated in Item #6(a)(i) of this Exhibit M;
- (b) Two (2) columns for the final results, including:
 - (i) One (1) column for the final estimate of Metered Amounts for all Settlement Intervals determined by using the *final* Generating Facility Power Curve from Item 4(e) for the Term Year being calculated;
 - (ii) One (1) column for the result of:
 - (1) *Subtracting* the actual Metered Amounts quantities set forth in Item 5(f) of this Exhibit M;
 - (2) *From* the results calculated in Item 6(a)(i) of this Exhibit M; and
- (c) One (1) row for each Settlement Interval.

7. Assignment of Lost Output Estimate to an Independent Consultant.

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

The Parties can by mutual agreement elect to have the estimate of Lost Output prepared by an independent consultant.

**** End of EXHIBIT M ****

EXHIBIT N

Form of Letter of Credit

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

EXHIBIT N
Form of Letter of Credit

IRREVOCABLE NONTRANSFERABLE STANDBY

LETTER OF CREDIT

Reference Number:

Transaction Date:

BENEFICIARY:

Southern California Edison Company

2244 Walnut Grove Avenue

Risk Control GO#1, Quad 1D

Rosemead, CA 91770

Ladies and Gentlemen:

_____ (the “Bank”) hereby establishes this Irrevocable Nontransferable Standby Letter of Credit (“Letter of Credit”) in favor of Southern California Edison Company, a California corporation (the “Beneficiary”), for the account of _____, a _____ corporation, also known as RAP ID# ____ (the “Applicant”), for the amount of XXX AND XX/100 Dollars (\$_____) (the “Available Amount”), effective immediately and expiring at 5:00 p.m., California time, on _____ (the “Expiration Date”).

This Letter of Credit shall be of no further force or effect upon the close of business on _____ or, if such day is not a Business Day (as hereinafter defined), on the next preceding Business Day.

For the purposes hereof, “Business Day” shall mean any day on which commercial banks are not authorized or required to close in Los Angeles, California.

Subject to the terms and conditions herein, funds under this Letter of Credit are available to Beneficiary by presentation in compliance on or prior to 5:00 p.m. California time, on or prior to the Expiration Date of the following:

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

1. The original of this Letter of Credit and all amendments (or photocopy of the original for partial drawings); and
2. The Drawing Certificate issued in the form of Attachment A attached hereto and which forms an integral part hereof, duly completed and purportedly bearing the signature of an authorized representative of the Beneficiary.

Notwithstanding the foregoing, any drawing hereunder may be requested by transmitting the requisite documents as described above to the Bank by facsimile at _____ or such other number as specified from time-to-time by the Bank.

The facsimile transmittal shall be deemed delivered when received. Drawings made by facsimile transmittal are deemed to be the operative instrument without the need of originally signed documents.

Partial drawing of funds shall be permitted under this Letter of Credit, and this Letter of Credit shall remain in full force and effect with respect to any continuing balance;

provided that, the Available Amount shall be reduced by the amount of each such drawing.

This Letter of Credit is not transferable or assignable. Any purported transfer or assignment shall be void and of no force or effect.

Banking charges shall be the sole responsibility of the Applicant.

This Letter of Credit sets forth in full our obligations and such obligations shall not in any way be modified, amended, amplified or limited by reference to any documents, instruments or agreements referred to herein, except only the attachment referred to herein; and any such reference shall not be deemed to incorporate by reference any document, instrument or agreement except for such attachment.

The Bank engages with the Beneficiary that Beneficiary’s drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented to the Bank on or before the Expiration Date.

Except so far as otherwise stated, this Letter of Credit is subject to the International Standby Practices ISP98 (also known as ICC Publication No. 590), or revision currently in effect (the “ISP”). As to matters not covered by the ISP, the laws of the State of California, without regard to the principles of conflicts of laws thereunder, shall govern all matters with respect to this Letter of Credit.

AUTHORIZED SIGNATURE for Issuer

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

(Name)

Title: _____

ATTACHMENT A

Drawing Certificate

TO *[ISSUING BANK NAME]*

IRREVOCABLE NON-TRANSFERABLE STANDBY LETTER OF CREDIT

No. _____

DRAWING CERTIFICATE

Bank

Bank Address

Subject: Irrevocable Non-transferable Standby Letter of Credit

Reference Number: _____

The undersigned _____, an authorized representative of Southern California Edison Company (the “Beneficiary”), hereby certifies to *[Issuing Bank Name]* (the “Bank”), and _____ (the “Applicant”), with reference to Irrevocable Nontransferable Standby Letter of Credit No. { _____ }, dated _____, (the “Letter of Credit”), issued by the Bank in favor of the Beneficiary, as follows as of the date hereof:

1. The Beneficiary is entitled to draw under the Letter of Credit an amount equal to \$ _____, for the following reason(s) [check applicable provision]:
 -]A. An Event of Default, as defined in that certain Renewable Power Purchase and Sale Agreement between Applicant and Beneficiary, dated as of *[Date of Execution]* (the “Agreement”), with respect to the Applicant has occurred and is continuing.
 -]B. An Early Termination Date (as defined in the Agreement) has occurred or been designated as a result of an Event of Default (as defined in the Agreement) with respect to the Applicant for which there exist any unsatisfied payment obligations.
 -]C. The Letter of Credit will expire in fewer than 20 Local Business Days (as defined in the Agreement) from the date hereof, and Applicant has not

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

provided Beneficiary alternative Performance Assurance (as defined in the Agreement) acceptable to Beneficiary.

[]D. The Bank has heretofore provided written notice to the Beneficiary of the Bank’s intent not to renew the Letter of Credit following the present Expiration Date thereof (“Notice of Non-renewal”), and Applicant has failed to provide the Beneficiary with a replacement letter of credit satisfactory to Beneficiary in its sole discretion within thirty (30) days following the date of the Notice of Non-renewal.

- 2. Based upon the foregoing, the Beneficiary hereby makes demand under the Letter of Credit for payment of U.S. DOLLARS AND ____/100ths (U.S.\$_____), which amount does not exceed (i) the amount set forth in paragraph 1 above, and (ii) the Available Amount under the Letter of Credit as of the date hereof.
- 3. Funds paid pursuant to the provisions of the Letter of Credit shall be wire transferred to the Beneficiary in accordance with the following instructions:

Unless otherwise provided herein, capitalized terms which are used and not defined herein shall have the meaning given each such term in the Letter of Credit.

IN WITNESS WHEREOF, this Certificate has been duly executed and delivered on behalf of the Beneficiary by its authorized representative as of this ____ day of _____, _____.

Beneficiary: SOUTHERN CALIFORNIA EDISON COMPANY

By:

Name:

Title:

*** End of EXHIBIT N ***

EXHIBIT O

Seller's Long Term Availability Shortfall Payment

EXHIBIT O*Seller's Long Term Availability Shortfall Payment*1) Introduction.

Seller's Long Term Availability Shortfall Payment for Seller's Long Term Availability Guarantee Period shall be determined in accordance with the requirements set forth in Section 3.05 and the following formulas.

2) SELLER'S LONG TERM AVAILABILITY SHORTFALL PAYMENT in dollars, equals the greater of zero (0) and the result of:

$$(A_{O1} \times B_{O1}) - C_{O1}$$

Where:

A_{O1} = Seller's Long Term Availability Shortfall calculated as set forth in Item #3 of this Exhibit O, in MWh.

B_{O1} = *The lesser of:*

a) Ten dollars (\$10.00) per MWh; and

b) *The greater of:*

(i) Zero dollars (\$0.00) per MWh; and

(ii) *The result of:*

$$A_{O2} - B_{O2}$$

Where:

A_{O2} = The simple average of the Market Price for all Settlement Intervals in the first five (5) Term Years, in dollars per MWh.

B_{O2} = The Energy Price, in dollars per MWh.

C_{O1} = The sum of all Seller's Annual Energy Delivery Obligation Shortfall Payments, in the first five (5) Term Years, in dollars.

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

- 3) SELLER'S LONG TERM AVAILABILITY SHORTFALL, in MWh, for Seller's Long Term Availability Guarantee Period

$$= A_{O3} \times B_{O3} \times 5$$

Where:

A_{O3} = *The lesser of:*

- (a) Five percent (5%); and
- (b) *The greater of:*
 - (i) Zero percent (0%); and
 - (ii) *The result of:*

$$A_{O4} - B_{O4}$$

Where:

A_{O4} = Eighty five percent (85%);

B_{O4} = The Actual Generating Facility Long Term Availability for the guarantee period, in percent; *provided that*, if with respect to any Term Year in such guarantee period, the Actual Generating Facility Annual Availability for such Term Year was less than eighty percent (80%), then the actual availability for each calculation interval in such Term Year shall be assumed, for the purposes of this calculation, to be eighty percent (80%).

B_{O3} = The Expected Annual Net Energy Production, in MWh.

*** End of EXHIBIT O***

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

EXHIBIT P

Intentionally Omitted.

EXHIBIT Q

CAISO Charges, CAISO Sanctions and SCE Penalties

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

EXHIBIT Q*SCE Penalties and CAISO Sanctions*

This Exhibit Q sets forth the procedure for determining Seller's liability for an SCE Penalty or a CAISO Sanction (as described below) in the event Seller fails to comply with the availability forecasting requirements of Exhibit D.

1. Determining Potential Applicability of SCE Penalty.

(a) In the event Seller does not:

- (i) Provide real-time communication of availability as provided in Section 3.06(f);
- (ii) Maintain the telecommunications path in order for SCE to obtain real-time data; or
- (iii) Repair or replace faulty instrumentation;

SCE will review the Actual Availability Report to determine if Seller complied with its obligation as set forth in Exhibit D to provide availability forecasts for the month covered by the report. If SCE determines that:

- a. Seller did not comply with its availability forecasting requirements for any hour during the month; and
- b. The sum of Energy Deviations for each of the six Settlement Intervals in the given hour exceeded the Performance Tolerance Band (as defined below);

then Seller may be responsible for SCE Penalties as set forth below.

(b) The Performance Tolerance Band, in kWh, shall be equal to:

- (i) Three percent (3%) times
- (ii) Contract Capacity times
- (iii) One (1) hour, i.e., the interval of time for monitoring availability forecasting requirements.

2. SCE Penalty.

- (a) Subject to Sections 2(b) and 2(c) below, the SCE Penalty shall be one hundred dollars per MW (\$100/MW) for each MW of availability deviation, or any

portion thereof, in every hour for which Seller fails to meet the requirements in Section 1(a).

- (b) The SCE Penalty will be waived the first hour of the first calendar day (and any subsequent hours of such day) in each month in which Seller fails to meet the requirements in Section 1(a).
 - (c) The SCE Penalty will be assessed during any hour of any calendar day thereafter in that month in which Seller fails to meet the requirements in Section 1(a).
3. CAISO Sanctions.

Seller shall be liable to reimburse SCE for all CAISO Sanctions incurred by SCE as a result of Seller's failure to adhere to its obligations under the CAISO Tariff or any CAISO directive, as such directive may be communicated to Seller by SCE.

4. Billing and Documentation of CAISO Sanctions.

- (a) The CAISO Sanctions will be available for billing approximately one hundred twenty (120) days following the last day of a calendar month or thirty (30) days after the CAISO final settlement data is available to SCE, whichever is sooner.
- (b) SCE shall provide to Seller the applicable back-up data used for validating CAISO Sanctions.

*** End of EXHIBIT Q***

EXHIBIT R

Intentionally Omitted.

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

EXHIBIT S

Actual Availability Report

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

EXHIBIT S

Actual Availability Report

Pursuant to Section 3.22, Seller shall prepare an Actual Availability Report in accordance with the procedures described in this Exhibit S.

1. Availability Workbook.

Seller shall (1) collect the measurement data, listed in Item 2 below, in one (1) or more Microsoft Excel Workbooks (the “Availability Workbook”) provided in a form and naming convention approved by SCE and (2) electronically send the Availability Workbook to an address provided by SCE.

The Actual Availability Report shall reflect the sum of the Settlement Interval Actual Available Capacity of all generators as measured by such generator’s internal turbine controller.

2. Log of Availability.

The Availability Workbook shall be created on a single, dedicated worksheet and shall be in the form of Attachment 1 to this Exhibit S.

The data presented in the Availability Workbook shall not reflect any electric energy losses between the CAISO Approved Meter and the Delivery Point.

ATTACHMENT 1

Actual Availability Report

(Form of Microsoft Excel File Attachment to Email Notice)

Settlement Interval No		Date	QFID --- [Seller]																							
			HE1	HE2	HE3	HE4	HE5	HE6	HE7	HE8	HE9	HE10	HE11	HE12	HE13	HE14	HE15	HE16	HE17	HE18	HE19	HE20	HE21	HE22	HE23	HE24
1		mm/dd/yyyy																								
2		mm/dd/yyyy																								
3		mm/dd/yyyy																								
4		mm/dd/yyyy																								
5		mm/dd/yyyy																								
6		mm/dd/yyyy																								
1		mm/dd/yyyy																								
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EXHIBIT T

Meteorological Station Specifications

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

EXHIBIT T

Meteorological Station Specifications

Pursuant to Section 3.06(e), Seller shall install and maintain a minimum of one (1) stand-alone meteorological equipment station for each fifty (50) MWs of nameplate capacity installed at the Generating Facility. Each station shall be equipped with instruments and equipment that meet those specifications set forth in the CAISO's PIRP protocol. SCE and Seller acknowledge that SCE may update this Exhibit T from time to time in order to accommodate industry standards and the CAISO PIRP protocol.

1. Equipment Stations.

- (a) The equipment stations shall be comprised of the following:
 - (i) Two (2) heated wind sensors;
 - (ii) Two (2) air temperature sensors; and
 - (iii) One (1) barometric pressure sensor (with DCP sensor).
- (b) The wind sensors and air temperature sensors shall be set at two (2) height locations from ground level:
 - (i) One wind sensor and one temperature sensor shall be set at the height that represents the lowest blade tip when positioned at a ninety degree angle with the ground; and
 - (ii) One wind sensor and one temperature sensor shall be set at the height that represents the hub center of the turbines.

2. Attributes of Equipment Station Locations.

The equipment station location(s) should be unencumbered by tower shadow or other equipment. If an equipment station tower is being placed on the Site, the tower is to be placed in front of generating turbines on the upwind side of the wind park, as determined by the wind rose. The second station is best placed at the rear of the park as determined by the wind rose. SCE recommends that Seller coordinate with SCE representatives in order to review the tower site location(s) for the equipment stations.

3. Communication.

Seller shall communicate meteorological data to SCE via a system consistent with SCE's employed methods at the time of installation.

The equipment installed, if different from that listed below, will need to be approved by SCE's forecasting vendor. A list of qualified equipment currently used by SCE appears in Item 4 below.

4. Qualified Equipment.

(a) MAWS301 AWS System

(i) MAWS301 Basic Basic Assembly for MAWS301 Automatic Weather Station, including following modules and functions:

- QML201 AWS Logger with 1.7 MB Flash memory for data logging
- QBR101B Battery regulator
- ENC542PLM Equipment enclosure with backup battery mounting accessories and internal wiring
- Bottom plate with signal connectors for sensors and peripheral equipment
- MAWS LIZARD Set-up software
- MAWS Terminal software

(ii) ENC542SHIELD Radiation Shield for MAWS301 enclosure

(iii) QMZ101 QMZ101 Terminal/maintenance cable for MAWS

(iv) QMBATT12 Back-up battery - 12 Ah/12V, installed in MAWS enclosure, includes wiring

(b) Sensors

(i) QMT110 Air temperature sensor with 10 m cable and connector

- DTR502P22 Radiation shield for QMT110 (air temp sensor) including mounting accessories to a pole/mast (60-100 mm)

(ii) QMT103 Air temperature sensor with 5-m cable and connector

- 212417 Extension cables, 25m, shielded, 5-pin F-M connector for QMT103 sensor

- DTR502P22 Radiation shield for QMT103 (air temp sensor) including mounting accessories to a pole/mast (60-100 mm)
 - (iii) PMT16A Barometric pressure sensor installed within the MAWS301 enclosure
 - (iv) M301-WS425STDH Heated Ultrasonic Wind Sensor with RS485 & power output cable, sensor mounting on 60 mm diameter pole/mast and 36 VDC power supply
- (c) Powering.
- MCP150-M3-115 Mains (AC) power supply, installed in enclosure (ENC542PLM), including wiring and surge arrestors for 115 VAC
- (d) Communication.
- (i) DSI485ASET48-M3 Isolated RS-485 module - 2 wire connection, including extra surge arrestors for both lines, installed in MAWS enclosure communications from logger to WS425 sensors
 - (ii) DME421-M3 Ethernet interface serial port to VSAT transmitter. Module mounted within MAWS enclosure
 - (iii) VSAT Hardware, VSAT transmitter, cables with connectors, testing of each site, antenna positioners, mounting hardware. Installation at each site should include program fee for VSAT module.
- (e) Install Accessories.
- (i) APPK-60SET Mast mounting for MAWS enclosure on a 50-60 mm diameter pole/mast/tower
 - (ii) QSA124PT Surge Arrestor for QMT103/110 Temp sensor lines (4-wire)
 - (iii) #010411 Shielded RS485 cabling from MAWS301 to WS425STDH - 10m cables
 - (iv) QSA224DC Surge Arrestor for RS485 lines, wind sensors at 10m
 - (v) WS425STDH-SPEC-30m Shielded RS485 cabling from MAWS301 to WS425STDH - 30m cables
 - (vi) QSA224DC Surge Arrestor for RS485 lines, wind sensors at 30m

**** End of EXHIBIT T ****

EXHIBIT U

Seller's Financial Information for Consolidation

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

EXHIBIT U*Seller's Financial Information for Consolidation*

Seller and SCE agree that if SCE provides Notice to Seller pursuant to Section 3.23:

- (a) Within twenty (20) days following the end of each calendar quarter, Seller shall deliver to SCE drafts of each of the following:
 - (i) An unaudited condensed statement of income for the calendar quarter and year-to-date;
 - (ii) An unaudited condensed statement of cash flows for the calendar quarter and year-to-date;
 - (iii) An unaudited condensed balance sheet at the end of such calendar quarter; and
 - (iv) A completed quarterly disclosure checklist with supporting financial schedules necessary for SCE to prepare its quarterly filing with the United States Securities and Exchange Commission.

Final versions of each of the above shall be delivered to SCE within thirty (30) days following the end of each calendar quarter.

SCE will provide to Seller such checklist prior to the end of each quarter and include only items considered material to SCE.

Seller shall prepare its financial statements to be delivered under the terms of Section 3.23 and this Exhibit U in accordance with accounting principles generally accepted in the United States of America.

- (b) Promptly, but no earlier than three (3) Business Days after Notice from SCE, Seller shall allow SCE access to Seller's records and personnel, so that SCE's internal auditors and independent registered public accounting firm can conduct financial statement audits in accordance with the standards of the Public Company Accounting Oversight Board (United States), as well as internal control audits in accordance with Section 404 of the Sarbanes-Oxley Act of 2002, as applicable. All expenses for any such audit shall be borne by SCE.
- (c) SCE shall provide Notice to Seller if, in the sole discretion of SCE, Seller's internal controls of financial reporting (directly or indirectly, alone or in combination with other factors) would be considered material

to SCE or its parent company's financial statements, financial condition or internal controls of financial reporting.

- (d) Within thirty (30) days of Seller's receipt of Notice from SCE, Seller shall remediate any deficiency in Seller's internal controls of financial reporting identified by SCE during or as a result of the audits permitted under Section 3.23 and this Exhibit U.
- (e) As soon as possible, but in no event later than two (2) Business Days following any occurrence that would affect Seller in any material way, Seller shall provide to SCE a Notice describing such occurrence in sufficient detail to permit SCE to make a Form 8-K filing with the United States Securities and Exchange Commission. Such occurrences include all reportable events on the then current Form 8-K that applies to SCE and its parent company at such time, including the following events:
 - (i) Acquisition or disposition of a material amount of assets;
 - (ii) Creation of a material direct financial obligation or off-balance sheet financing arrangement;
 - (iii) Existence of material litigation; and
 - (iv) Entry into, or termination of, a material contract upon which Seller's business is substantially dependent.
- (f) SCE shall treat Seller's financial statements or other financial information provided under the terms of Section 3.23 and this Exhibit U in strict confidence and, accordingly:
 - (i) Shall utilize such Seller financial information only for purposes of preparing, reviewing or certifying SCE's or any SCE parent company's financial statements, for making regulatory, tax or other filings required by law in which SCE is required to demonstrate or certify its or any parent company's financial condition or to obtain Credit Ratings; and
 - (ii) Shall make such Seller financial information available only to its officers, directors, employees or auditors who are responsible for preparing, reviewing or certifying SCE's or any SCE parent company's financial statements, to the United States Securities and Exchange Commission and the Public Company Accounting Oversight Board (United States) in connection with any oversight of SCE's or any SCE parent company's financial statements and to

those persons or entities who are entitled to receive confidential information as identified in Section 10.10.

**** End of EXHIBIT U ****

EXHIBIT V

List of Acceptable Third Party Engineering Firms

List of Acceptable Third Party Engineering Firms:

- Garrad Hassan America, Inc
- R.W. Beck (U.S.)
- Sargent & Lundy
- Black & Veatch, LLP
- Global Energy Concepts, LLC (GEC)