



SOUTHERN CALIFORNIA
EDISON

An *EDISON INTERNATIONAL* Company

RENEWABLE POWER PURCHASE AND SALE AGREEMENT

between

SOUTHERN CALIFORNIA EDISON COMPANY

and

SOUTH HURLBURT WIND, LLC

(RAP ID# 6331)

TABLE OF CONTENTS

PREAMBLE 1

ARTICLE ONE. SPECIAL CONDITIONS 2

 1.01 Generating Facility..... 2

 1.02 Trigger Date..... 3

 1.03 Startup Deadline..... 4

 1.04 Firm Operation Date. 4

 1.05 Term..... 4

 1.06 Energy Price..... 4

 1.07 Performance Assurance Amount. 5

 1.08 Seller’s Guarantor. 5

ARTICLE TWO. TERM; CONDITIONS PRECEDENT; TERMINATION AND TRANSMISSION 6

 2.01 Effective Date. 6

 2.02 Obligations Prior to Commencement of Term..... 6

 2.03 Conditions Precedent to Purchase and Sale of Product During Startup Period. 9

 2.04 Conditions Precedent to Commencement of Term. 9

 2.05 Termination Rights of the Parties. 10

 2.06 Evaluation and Adjustment of Energy Price..... 12

 2.07 SCE’s Above MPR Cost Limit. 12

 2.08 Rights and Obligations Surviving Termination. 12

 2.09 Master Transmission Agreement. 14

ARTICLE THREE. SELLER’S OBLIGATIONS 15

 3.01 Conveyance of Entire Output, Conveyance of Green Attributes, Capacity Attributes and Resource Adequacy Benefits. 15

 3.02 Resource Adequacy Benefits. 16

 3.03 Permits and BPA Agreements. 17

 3.04 Development Security..... 17

 3.05 Seller’s Annual Energy Delivery Obligation..... 21

 3.06 Metering..... 24

 3.07 Site Control. 25

 3.08 Site Location. 26

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

3.09 Design..... 26

3.10 Operation..... 27

3.11 Obtaining Scheduling Agent Services. 29

3.12 Forecasting..... 30

3.13 Progress Reporting..... 30

3.14 Scheduled Outages..... 30

3.15 No Representation by SCE. 31

3.16 Provision of Information..... 31

3.17 SCE’s Access Rights..... 32

3.18 Obtaining and Maintaining CEC Certification and Verification. 32

3.19 Notice of Cessation or Termination of Service Agreements. 33

3.20 Lost Output Report; Seller Common Wind Turbine Defect Report. 34

3.21 Seller’s Obligations Pertaining to Independent Performance Engineer. 34

3.22 Meteorological Station and Reporting Requirements..... 37

3.23 Charges, Sanctions and Penalties..... 37

3.25 Actual Availability Report..... 40

3.26 Change in Revenue Notification; Seller’s Financial Information for
Consolidation. 40

3.27 Seller’s Provision of Historic Wind Data. 41

3.28 Application of Prevailing Wage..... 41

3.29 NERC Electric System Reliability Standards..... 41

ARTICLE FOUR. SCE’S OBLIGATIONS..... 43

4.01 Obligation to Pay. 43

4.02 BPA Charges, BPA Revenues and Transmission Credits. 44

4.03 Energy Payment Calculations..... 46

4.04 Payment and Payment Adjustments..... 46

4.05 Scheduling Agent..... 50

4.06 SCE’s Obligations Pertaining to Independent Performance Engineer. 50

4.07 SCE Obligations Affecting Seller’s Annual Energy Delivery
Obligation. 51

4.08 Support for Qualification of PTCs..... 52

4.09 SCE’s Obligations Regarding the Point-to-Point Agreements. 52

ARTICLE FIVE. FORCE MAJEURE 54

5.01 No Default for Force Majeure..... 54

5.02 Requirements Applicable to the Claiming Party. 54

5.03 Startup Deadline Extension..... 55

5.04 Firm Operation Date Extension. 55

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

5.05 Termination..... 55

ARTICLE SIX. EVENTS OF DEFAULT; REMEDIES..... 57

6.01 Events of Default. 57

6.02 Early Termination. 62

6.03 Termination Payment..... 62

6.04 Re-Assignment of Point-to-Point Agreements Upon Termination..... 63

ARTICLE SEVEN. LIMITATIONS OF LIABILITIES..... 65

ARTICLE EIGHT. CREDIT AND COLLATERAL REQUIREMENTS 67

8.01 Financial Information..... 67

8.02 Performance Assurance. 67

8.03 First Priority Security Interest in Cash or Cash Equivalent Collateral. 71

8.04 Subordinated Security Interests and Mortgage. 71

8.05 Credit and Collateral Covenants. 73

8.06 Waivers. 75

ARTICLE NINE. GOVERNMENTAL CHARGES..... 76

9.01 Cooperation to Minimize Tax Liabilities..... 76

9.02 Governmental Charges..... 76

9.03 Providing Information to Taxing Authorities. 76

ARTICLE TEN. MISCELLANEOUS 77

10.01 Representations and Warranties..... 77

10.02 Additional Seller Representations, Warranties and Covenants. 78

10.03 Indemnity. 79

10.04 Assignment. 81

10.05 Consent to Collateral Assignment. 81

10.06 Abandonment..... 83

10.07 Governing Law. 84

10.08 Notices. 84

10.09 General..... 85

10.10 Confidentiality. 86

10.11 Insurance..... 89

10.12 Nondedication..... 90

10.13 Mobile Sierra. 91

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

10.14 Interest..... 91
10.15 Payments. 91
10.16 Seller Ownership and Control of Generating Facility. 91
10.17 Change in BPA Business Practices..... 92
10.18 Provisional Relief..... 92
10.19 No Agency. 93
10.20 Required Material. 93

ARTICLE ELEVEN. MEDIATION AND ARBITRATION 94

11.01 Dispute Resolution..... 94
11.02 Mediation. 94
11.03 Binding Arbitration..... 95
11.04 General Provisions for Arbitration..... 98
11.05 Arbitration Awards. 100
11.06 Waivers. 100

SIGNATURE PAGE100

LIST OF EXHIBITS

- A. Definitions
- B. Generating Facility Description
- C. Notice List
- D. Seller's Forecasting Submittal Scheduling Requirements and Procedures
- E. Evaluation and Adjustment of Energy Price - CONFIDENTIAL
- F. Seller's Annual Energy Delivery Obligation
- G. Seller's Milestone Schedule
- H. Milestone Progress Reporting Form
- I. Form of Guaranty Agreement
- J. Non-Disclosure Agreement
- K. Transmission and Interconnection Certificate
- L. Procedure for Partial or Full Return of Development Security
- M. Form of Letter of Credit
- N. Seller's Report of Lost Output Settlement Intervals
- O. Independent Performance Engineer
- P. SA-Curtailed Amounts
- Q. Meteorological Equipment Specifications
- R. SCE Penalties and BPA Sanctions
- S. Actual Availability Report
- T-1. Form of Big Eddy Transmission Service Agreement
- T-2. Form of John Day Transmission Service Agreement
- U. Consolidation of Seller's Financial Information

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

RENEWABLE POWER PURCHASE AND SALE AGREEMENT**between****SOUTHERN CALIFORNIA EDISON COMPANY****and*****SOUTH HURLBURT WIND, LLC***

(RAP ID# 6331)

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: August 14, 2008 (“Effective Date”).

This Agreement is entered into between:

- (i) **Southern California Edison Company** (“SCE”), a California corporation, whose principal place of business is at 2244 Walnut Grove Avenue, Rosemead, California 91770, and
- (ii) **South Hurlburt Wind, LLC** (“Seller”), a Delaware limited liability company, whose principal place of business is at c/o Caithness Corporation 29th Floor, 565 5th Avenue, New York, NY 10017.

SCE and Seller are sometimes referred to herein individually as a “Party” and jointly as “Parties.”

Seller is willing to construct, own, and Operate an electric energy Generating Facility and to sell all electric energy produced by the Generating Facility as specified herein together with all Green Attributes, Capacity Attributes and Resource Adequacy Benefits to SCE.

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.

Capitalized terms in this Agreement shall have the meanings set forth in Exhibit A.

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

ARTICLE ONE. SPECIAL CONDITIONS

1.01 Generating Facility.

- (a) Name: South Hurlburt Wind, LLC
- (b) Location of Site: In the vicinity of Arlington, Oregon, as further described in Exhibit B.
- (c) Eligible Renewable Energy Resource Type: Wind Generating Facility.
- (d) Nameplate Contract Capacity: No less than 140 MW and no greater than 350 MW (“Maximum Nameplate Contract Capacity”).

On or before the date that is six (6) months after the Trigger Date, Seller shall provide Notice to SCE containing:

- (i) Seller’s estimate of the Nameplate Contract Capacity for this Agreement;
- (ii) The Development Security based on such Nameplate Contract Capacity;
- (iii) Seller’s estimate of any refund owed to Seller based on the Development Security provided by Seller in accordance with Section 3.04(a); and
- (iv) A request for a refund of any such excess funds.

The Nameplate Contract Capacity may be subject to reduction as set forth in Section 3.04(d).

(e) Seller’s Generating Facility Efficiency Guarantee:

<i>Term Year</i>	<i>Seller’s Generating Facility Efficiency Guarantee</i>
1	None
2	90.00%
3	90.00%
4	90.00%
5	90.00%
6	90.00%

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

7	90.00%
8	90.00%
9	90.00%
10	90.00%
11	89.50%
12	89.00%
13	88.50%
14	88.00%
15	87.50%
16	87.00%
17	86.50%
18	86.00%
19	85.50%
20	85.00%

1.02 Trigger Date.

The “Trigger Date” shall be the earlier of:

- (a) The date selected by Seller, in its sole discretion, by Notice to SCE; or
- (b) The earliest date on which all of the following have occurred:
 - (i) CPUC Approval has been obtained,
 - (ii) Seller has executed interconnection and transmission agreements with BPA for interconnection and transmission access with respect to the Generating Facility,
 - (iii) Seller has obtained a site certificate to construct and Operate the wind facility from the Oregon Energy Facility Siting Council, and
 - (iv) Federal Production Tax Credit Legislation is in full force and effect and extended so that PTCs are available for any Wind Turbines at the Generating Facility that are “placed-in-service” on or prior to the date that is no less than one (1) year after the last date of scheduled Wind Turbine delivery (the “Last Delivery Date”) under Seller’s executed Wind Turbine supply contracts (the “Wind Turbine Contracts”).

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

Within thirty (30) days after Seller's execution of the Wind Turbine Contracts, Seller must provide SCE with Notice of the Last Delivery Date. If Seller has not selected a date and provided Notice of same to SCE under Section 1.02(a), Seller must provide prompt Notice to SCE when the conditions set forth in Section 1.02(b) are achieved.

1.03 Startup Deadline.

The Startup Deadline shall be the date which is twenty-four (24) months after the Trigger Date, but in no event later than December 31, 2013 or as may be agreed to in a writing signed by both Parties.

The Startup Deadline shall be extended on a day-for-day basis for any Force Majeure event in accordance with Section 5.03 or for any delays in construction under an agreement for transmission and interconnection access with respect to the Generating Facility which are not caused or contributed to by Seller.

1.04 Firm Operation Date.

The Firm Operation Date shall be the date that is twelve (12) months after the Initial Operation Date, plus a day-for-day extension for any delays due to Force Majeure as provided in Section 5.04, or as may be agreed to in a writing signed by both Parties.

1.05 Term.

The Term shall commence as set forth in Section 2.04(a) and shall end on the last day of the calendar month which is two hundred forty (240) months from the Firm Operation Date, provided that the Term shall be extended on a day-to-day basis for any Force Majeure event occurring during the Term.

1.06 Energy Price.

SCE shall pay Seller the Energy Price for the Metered Amounts and all Green Attributes, Capacity Attributes and Resource Adequacy Benefits generated by, associated with or attributable to the Generating Facility as follows:

(a) Energy Price During Startup Period.

From Initial Synchronization until the commencement of the Term, the Energy Price shall be equal to the fixed price of thirty dollars (\$30.00) per MWh if the conditions of Section 2.03 have been met by Seller.

(b) Energy Price During Term.

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

From the commencement of the Term until the expiration of the Term, the Energy Price shall be equal to the fixed price of One Hundred One and 39/100 dollars (\$101.39) per MWh, subject to any adjustments made pursuant to Section 2.06 and Exhibit E.

1.07 Performance Assurance Amount.

The Performance Assurance Amount shall be calculated pursuant to the following formula:

PERFORMANCE ASSURANCE AMOUNT, in dollars (\$) =

$$A \times B \times C \times D$$

Where:

- A = Nameplate Contract Capacity, in MW
B = 4,380 hr
C = Energy Price, in MWh, as set forth in Section 1.06(b)
D = 0.30

1.08 Seller's Guarantor.

- (a) Guarantor: An entity that may from time to time become party to a Guaranty Agreement in accordance with Section 8.02(a).
(b) Cross Default Amount: To be determined if there is a Guarantor.
(c) Guaranty Amount: To be determined if there is a Guarantor.

*** End of ARTICLE ONE ***

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

ARTICLE TWO. TERM; CONDITIONS PRECEDENT; TERMINATION AND TRANSMISSION2.01 Effective Date.

This Agreement shall become effective on the Effective Date.

2.02 Obligations Prior to Commencement of Term.(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 (i) fails to approve this Agreement or (ii) contains findings required for CPUC Approval with conditions or modifications unacceptable to either Party.

(b) Seller's Interconnection and Transmission Agreements.

(i) One or more of the Shepherds Flat Parties or Shepherds Flat Affiliates shall execute the Interconnection Agreement in accordance with the BPA Tariff.

(ii) One or more of the Shepherds Flat Parties or Shepherds Flat Affiliates shall execute the Point-to-Point Agreements in accordance with the BPA Tariff.

(iii) Within 60 days after the Effective Date, Seller shall provide SCE with copies of all draft copies of the Point-to-Point Agreements.

(iv) Within 365 days after the Effective Date, Seller shall provide SCE with copies of the fully executed Point-to-Point Agreements.

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

- (v) Concurrently with Seller's delivery of the fully executed Point-to-Point Agreements and the fully executed Interconnection Agreement, Seller shall provide an executed certificate in the form of Exhibit K, containing certain representations and warranties with respect to all of such documents, which shall be attached to the certificate.
- (vi) SCE shall have no liability for, and Seller, the Shepherds Flat Parties and the Shepherds Flat Affiliates shall remain liable for, any items set forth on Schedules K-6 or K-7 of Exhibit K, or any additional liabilities arising therefrom.
- (vii) No more than thirty (30) days and no less than five (5) days prior to Initial Synchronization (or such other date agreed upon by the Parties), Seller shall assign and transfer to SCE the applicable Point-to-Point Agreements (or portions thereof) in accordance with the BPA Tariff, which such assignment and transfer shall be effective on the Billing Cycle Commencement Date. All or some specified portion of the transmission rights under the Point-to-Point Agreements are subject to transfer and reassignment back to the applicable Shepherds Flat Parties or Shepherds Flat Affiliates (on terms reasonably acceptable to SCE and Seller or the applicable Shepherds Flat Parties or Shepherds Flat Affiliates) in accordance with the provisions of Section 6.04 effective upon termination of this Agreement for any reason.
- (viii) Seller acknowledges and agrees that after the Point-to-Point Agreements have been assigned to SCE in accordance with Section 2.02(b)(vii), SCE shall have the right, on a "fair and nondiscriminatory basis:"
 - (1) To redirect for a period not greater than five (5) consecutive years the "Point of Delivery" under any Point-to-Point Agreement without the consent of the Shepherds Flat Parties or Shepherds Flat Affiliates;
 - (2) To redirect (when not needed for the Generating Facility's output) for a period not greater than six (6) consecutive months the "Point of Receipt" under any Point-to-Point Agreement without the consent of the Shepherds Flat Parties or Shepherds Flat Affiliates;
 - (3) To modify any other provisions of any Point-to-Point Agreement that SCE deems appropriate, with the consent of the applicable Shepherds Flat Parties or Shepherds Flat

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

Affiliates, which consent shall not be unreasonably withheld; and

- (4) To utilize the rights assigned under the Point-to-Point Agreements among the projects owned and operated by the Shepherds Flat Parties.

For purposes of the foregoing, “fair and nondiscriminatory basis” among the Shepherds Flat Parties means that SCE shall: (a) ensure that Seller’s pro rata share of the Available Transmission is available to Schedule energy produced by the Generating Facility when such transmission capacity is required by the Generating Facility, and (b) treat each Shepherds Flat Party in a manner which does not materially disadvantage any other Shepherds Flat Party.

(c) Seller’s Regulatory and Governmental Filings.

Within one hundred eighty (180) days after the Effective Date, Seller shall file or have filed:

- (i) An application or applications, or other appropriate request or requests with the appropriate Governmental Authority for all Permits; and
- (ii) An application or other appropriate request to the CEC for CEC Certification and Verification.

Seller shall expeditiously seek to obtain all Permits and CEC Certification and Verification, including promptly responding to any requests for information from the requesting authority, and SCE shall use commercially reasonable efforts to cooperate with and support Seller in obtaining all such Permits and CEC Certification and Verification.

(d) Site Control.

Seller shall have obtained adequate property rights to utilize the Site for installation and Operation of the Generating Facility during the Startup Period and during the Term.

(e) Site Plan.

Seller’s initial Site plan (the “Site Plan”) is attached hereto as a part of Exhibit B. Within sixty (60) days after the Trigger Date, Seller shall provide to SCE an updated Site Plan, to be attached hereto as a part of an amended Exhibit B, setting forth the physical location of each Wind Turbine on the Site.

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

2.03 Conditions Precedent to Purchase and Sale of Product During Startup Period.

Seller shall deliver and sell to SCE, and SCE shall accept and purchase from Seller at the Energy Price set forth in Section 1.06(a), the Product generated during the Startup Period if the following conditions are met:

- (a) Seller shall have met the conditions of Section 2.04(b)(i) through Section 2.04(b)(ix); and
- (b) At least one Wind Turbine is operating in parallel with the applicable Transmission Provider's electrical system.

2.04 Conditions Precedent to Commencement of Term.

- (a) Commencement of Term.

The Term shall commence upon Initial Operation.

- (b) Initial Operation.

Initial operation of the Generating Facility ("Initial Operation") shall, if the Generating Facility and Seller meet the requirements of this Section 2.04(b), be deemed to have occurred on the date selected by Seller (the "Initial Operation Date") to begin delivering Product to, or for the account of, SCE at that Energy Price set forth in Section 1.06(b).

Seller shall provide at least three (3) Business Days advance Notice to SCE of the Initial Operation Date.

The Initial Operation Date shall occur no later than sixty (60) days from Initial Synchronization.

As of the Initial Operation Date, each of the following conditions must have been met:

- (i) SCE has obtained or waived CPUC Approval;
- (ii) Seller has obtained CEC Pre-Certification;
- (iii) Seller has obtained all access and use rights for the Site in accordance with Section 2.02(d);
- (iv) Seller has obtained Permit Approval;

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

- (v) Seller shall have complied with all of the requirements of Section 2.02(b);
- (vi) BPA has authorized the Scheduling Agent to Schedule the electric energy produced by the Generating Facility;
- (vii) Seller shall have installed and placed in operation the stand-alone meteorological station required under Section 3.22;
- (viii) Seller has complied with all of the requirements set forth in Section 3.10(b);
- (ix) Seller shall be Forecasting and delivering electric energy from the Generating Facility at the Delivery Point;
- (x) Seller has posted with SCE the Performance Assurance required under Section 1.07 and Section 8.02;
- (xi) SCE and Seller have executed all subordinated security interest and mortgage documents required by Section 8.04; and
- (xii) At least twenty (20) Wind Turbines shall be commissioned and Operating in parallel with the BPA Grid.

2.05 Termination Rights of the Parties.

If either Party exercises a termination right as set forth in Sections 2.05(a) or if SCE exercises a termination right as set forth in Section 2.05(b), a Termination Payment will be calculated in accordance with Section 6.03, the Forward Settlement Amount shall be zero dollars (\$0), the terminating Party shall be considered the Non-Defaulting Party, and Seller shall be entitled to a return of any Development Security provided to SCE and a reassignment of all or some portion of the transmission rights under the Point-to-Point Agreements in accordance with Section 6.04. Any termination under Sections 2.05(a) and 2.05(b) shall be deemed a "no fault" termination and no monetary damages shall be due other than as specifically set forth in this Section 2.05.

(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 following circumstances:

- (i) CPUC Approval has not been obtained or waived by SCE 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;
 - (ii) The Trigger Date has not occurred by December 31, 2011 and a Notice of termination setting forth all conditions under Section 1.02(b) that have not been met is given on or before March 31, 2012; or
 - (iii) In accordance with Section 5.05 in the event of Force Majeure.
- (b) Termination Right of SCE.

SCE 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 following circumstances:

- (i) In the event that Seller fails to comply with Sections 2.02(b)(i) through 2.02(b)(v) before the Trigger Date, and a Notice of termination is provided within thirty (30) days after the Trigger Date; or
 - (ii) In the event that Seller fails to comply with Section 2.02(b)(vii) before Initial Synchronization, and a Notice of termination is provided within thirty (30) days after Initial Synchronization; or
 - (iii) If pursuant to the provisions of Section 2.06 and Exhibit E, the adjusted Energy Price is an amount greater than the Energy Price Cap, Seller does not agree in writing, within five (5) Business Days after the Actual Cost Report Delivery Date, to an adjusted Energy Price equal to the Energy Price Cap and a Notice of termination is given by SCE within thirty (30) days after such adjusted Energy Price is calculated; or
 - (iv) In the event that Seller does not obtain CEC Certification and Verification or Permit Approval within one hundred and eighty (180) days after the Firm Operation Date.
- (c) Uncured Defaults.

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

(d) End of Term.

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

2.06 Evaluation and Adjustment of Energy Price.

Before the beginning of the Term, the Parties will evaluate and if applicable revise the Energy Price set forth in Section 1.06(b) in accordance with the procedures set forth in Exhibit E.

2.07 SCE's Above MPR Cost Limit.

Seller understands and acknowledges that pursuant to Public Utilities Code Section 399.15(d), the Public Utilities Commission has established a limitation for SCE on the total costs SCE must expend above the applicable Market Price Referent for the procurement of eligible renewable energy resources to achieve the annual procurement targets established under the RPS Legislation (the "Above MPR Cost Limit"). In the event that SCE determines that the total cost to be expended per MW by SCE pursuant to this Agreement effectively exceeds the Market Price Referent (such excess, the "Above MPR Pricing"), upon Notice from SCE, Seller shall make a good faith effort and take all commercially reasonable actions reasonably necessary to assist SCE in its effort to qualify any Above MPR Pricing towards SCE's Above MPR Cost Limit. The Parties acknowledge that the Market Price Referent applicable to this Agreement is One Hundred One and 39/00 dollars (\$101.39).

2.08 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 those rights and obligations that this Agreement expressly provides shall survive termination and those which arise from Seller's or SCE's covenants, agreements, representations, and warranties applicable to, or to be performed at or during any time period prior to or as a result of, the termination of this Agreement, including:

- (i) Seller's right of return of any posted Development Security, and SCE's right to foreclose on Development Security, under Section 3.04;
- (ii) The obligation to make, or the right to receive, a Termination Payment under Section 6.03, if applicable;
- (iii) The indemnity obligations to the extent provided in Section 10.03;

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

- (iv) The obligation of confidentiality set forth in Section 10.10;
- (v) The right to pursue remedies under Section 6.02, if applicable;
- (vi) The limitation of damages under ARTICLE Seven;
- (vii) The obligation of SCE under Article Four to make payment for Metered Amounts delivered prior to termination;
- (viii) The obligation of either Party to make payments for BPA Charges, BPA Sanctions, Ancillary Service Charges, Wind Integration Charges, Transmission Demand Charges and any SCE Penalty for which such Party is obligated under this Agreement;
- (ix) The covenants and indemnifications regarding the limitations on Seller and the Shepherds Flat Affiliates' ability to offer, make or agree to third party sales as set forth in Section 2.08(b);
- (x) Seller's obligation to pay any Energy Replacement Damage Amount accruing under Section 3.05(a) prior to termination; and
- (xi) Seller's obligation to maintain Performance Assurance posted as of the termination date under Section 8.02.

Notwithstanding the foregoing, the rights and obligations listed above that are intended to survive a termination of this Agreement prior to the commencement of the Term shall be limited to those set forth in sub-clauses (i)-(ix), *provided* that a Party's right to receive, and a Party's obligation to pay, any liabilities that are due and owing as of such termination of this Agreement shall survive the termination and a Termination Payment will be calculated in accordance with Section 6.03, the Forward Settlement Amount shall be zero dollars (\$0) and the terminating Party shall be considered the Non-Defaulting Party.

(b) SCE's Right of First Offer to Sales from the Generating Facility after Certain Terminations of the Agreement.

If Seller terminates the Agreement as provided in Section 2.05(a)(ii) (Trigger Date), or Section 5.05 (based upon a Force Majeure as to which Seller is the Claiming Party), or if SCE terminates the Agreement as provided in Section 2.05(b)(iii) (Energy Price), 2.05(b)(iv) (CEC Certification and Verification and Permits) or Section 3.04(b) (Startup Deadline), neither Seller nor any Shepherds Flat Affiliate may sell, or enter into an agreement to sell, electric energy, Green Attributes, Capacity Attributes, or Resource Adequacy

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

Benefits associated with or attributable to a generating facility installed at the Site to a party other than SCE for a period of two (2) years following the effective date of such termination.

The prohibition on contracting and sale in the preceding sentence shall not apply if, prior to entering into the contract or making a sale to a party other than SCE, Seller or the Shepherds Flat Affiliates provide SCE with a written offer to sell the electric energy, Green Attributes, Capacity Attributes and Resource Adequacy Benefits to SCE on terms and conditions materially similar to the terms and conditions contained in this Agreement and SCE fails to accept such offer within forty-five (45) days after SCE's receipt thereof.

Seller shall indemnify and hold SCE harmless from all benefits lost and other damages sustained by SCE as a result of any breach of the covenants contained within this Section 2.08(b).

2.09 Master Transmission Agreement.

SCE acknowledges and agrees that Seller has entered into, or may enter into, a master transmission service agreement with BPA that will permit Seller to request transmission of electric energy from the Delivery Point to other locations on the BPA Grid (the "Master Transmission Agreement"), *provided however*, that such transmission service is in no way required or necessary in order to effectuate the transmission of electric energy from the Generating Facility to either or both of John Day or Big Eddy for SCE's account as contemplated by this Agreement.

*** End of ARTICLE TWO ***

ARTICLE THREE. SELLER'S OBLIGATIONS

- 3.01 Conveyance of Entire Output, Conveyance of Green Attributes, Capacity Attributes and Resource Adequacy Benefits.
- (a) Delivered Amounts. For so long as this Agreement has not been terminated, Seller shall deliver and convey to SCE all Delivered Amounts during the Term and during the Startup Period, and SCE shall take delivery of the same at the Delivery Point, provided, however, that SCE shall not be obligated to take delivery of, and purchase, any Delivered Amounts during the Startup Period if Section 2.03 has not been satisfied.
 - (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) Other Attributes. For so long as this Agreement has not been terminated, Seller shall dedicate and convey to SCE any and all Capacity Attributes and Resource Adequacy Benefits generated by, associated with, or attributable to, the Generating Facility during the Term and, if applicable, during the Startup Period, and SCE shall be given sole title to all such Capacity Attributes and Resource Adequacy Benefits.
 - (d) Further Actions. Seller shall take all reasonable actions and execute all documents or instruments reasonably necessary to effectuate the use of the Green Attributes, Capacity Attributes, and Resource Adequacy Benefits for SCE's sole benefit from the Effective Date throughout the Term. Such actions shall include:
 - (i) Cooperating with and encouraging the California or other regional entity responsible for resource adequacy administration relating to this Agreement to certify or qualify the Nameplate Contract Capacity for resource adequacy purposes;
 - (ii) Testing the Generating Facility in order to certify the Nameplate Contract Capacity for resource adequacy purposes;

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

- (iii) Complying with all current and future BPA and, if applicable, CAISO tariff provisions that address resource adequacy, including provisions regarding performance obligations and penalties;
 - (iv) Complying with Applicable Laws regarding the certification and transfer of Renewable Energy Credits, including participation in the Western Renewable Energy Generation Information System (“WREGIS”) or other process recognized under Applicable Laws for the registration, transfer or ownership of Green Attributes associated with the Generating Facility; and
 - (v) Committing to SCE the full Nameplate Contract Capacity.
- (e) Exclusivity. SCE will have the exclusive right, at any time or from time-to-time from the Effective Date through 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.

SCE shall be responsible for any costs associated with SCE’s registering, reporting, auditing, accounting for, or otherwise claiming, Green Attributes, Capacity Attributes and Resource Adequacy Benefits.

Seller shall convey title to and risk of loss of all Product to SCE at the Delivery Point.

From the Effective Date, Seller shall not sell any Product to any entity other than SCE.

3.02 Resource Adequacy Benefits.

From the Effective Date through the Term, Seller grants, pledges, assigns and otherwise commits to SCE the full Nameplate Contract Capacity in order for SCE to meet its resource adequacy obligations under any Resource Adequacy Rulings.

Seller also represents, warrants and covenants to SCE that Seller has not used, granted, pledged, assigned or otherwise committed, and will not, from the Effective Date through 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 BPA Agreements.

- (a) Seller shall be responsible for obtaining and maintaining the Interconnection Agreement and Permits required to effect delivery of the electric energy from the Generating Facility to the Delivery Point. Seller shall be responsible for all costs and any other charges directly caused by, associated with, or allocated to the Permits and the Interconnection Agreement.
- (b) For each Point-to-Point Agreement, one or more of the Shepherds Flat Parties or Shepherds Flat Affiliates shall be responsible for obtaining, performing under and maintaining such Point-to-Point Agreement during all periods from the Effective Date throughout the Term that are not Assignment Periods for such agreement.
- (c) Seller shall be entitled to the dollar value of any Transmission Credits relating to the Interconnection Agreement that are used by SCE, whether such credits are paid pursuant to the Interconnection Agreement or the Point-to-Point Agreements, including Transmission Credits payable during the Assignment Periods.

3.04 Development Security.**(a) Posting the Development Security.**

Seller shall post and thereafter maintain a Development Security equal to twenty dollars (\$20) for each kW of the proposed Maximum Nameplate Contract Capacity.

One half of the Development Security (based upon Seller's Notice as provided above) shall be posted within thirty (30) days following the Effective Date, with the remainder of such Development Security to be posted within thirty (30) days following CPUC Approval.

Upon SCE's receipt of Seller's Notice pursuant to Section 1.01(d) indicating the estimated Nameplate Contract Capacity for this Agreement and a request for a refund of any excess Development Security posted by Seller based on the Maximum Nameplate Contract Capacity, SCE shall recalculate the Development Security and refund any excess Development Security to Seller within ten (10) Business Days of SCE's receipt of such Notice.

The Development Security shall be held by SCE as security for Seller's meeting the Startup Deadline and installing and demonstrating the Nameplate Contract Capacity by the Firm Operation Date.

The Development Security shall be in the form of either a cash deposit or a Letter of Credit.

Any Development Security posted in cash shall bear simple interest at a rate equal to the Federal Funds Effective Rate. The calculation of any such interest shall be determined in accordance with Section 8.02(b) of this Agreement.

If Seller establishes the Development Security by means of a Letter of Credit, such Letter of Credit shall be provided substantially in the form of Exhibit M.

(b) Forfeiture of the Development Security for Failure to Meet Startup Deadline; Extension of the Startup Deadline.

Subject to Seller's right to extend the Startup Deadline as provided in this Section 3.04(b), in the event that the Initial Operation Date does not or cannot occur on or before the Startup Deadline or will not occur at all due to any termination of this Agreement as a result of an Event of Default by Seller occurring prior to the Startup Deadline, SCE shall be entitled to retain the entire Development Security and terminate this Agreement (if not already terminated) and, subject to Section 2.08(b), neither Party shall have liability for damages for failure to deliver or purchase Product after the effective date of such termination. Seller may elect to extend the Startup Deadline by paying to SCE daily delay liquidated damages in an amount equal to:

(i) fifty-seven basis points (0.57%)

times

(ii) the entire Development Security for each day (or portion thereof) from and including the Startup Deadline to and excluding the Initial Operation Date ("Daily Delay Liquidated Damages").

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

Seller may further extend the Startup Deadline beyond the original Startup Deadline extension period subject to the advance Notice, estimation and payment terms applicable to the original Startup Deadline extension.

The Daily Delay Liquidated Damages payments applicable to days included in any Startup Deadline extension shall be nonrefundable and are in addition to and not to be considered part of the Development Security.

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

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

Notwithstanding any other provision of this Agreement, SCE's retention of the full Development Security and the receipt of Daily Delay Liquidated Damages under this Section 3.04(b), together with SCE's rights under Section 2.08(b), shall be SCE's sole and exclusive remedy with respect to Seller's failure to cause the Initial Operation Date to occur on or before the Startup Deadline *provided, however*, that to the extent that any facts giving rise to a failure to cause the Initial Operation Date to occur on or before the Startup Deadline also independently give rise to a breach of any other provision of this Agreement, SCE may pursue any other remedies available to SCE under this Agreement that do not require payment of money damages in addition to SCE's retention of the full Development Security and receipt of Daily Delay Liquidated Damages pursuant to this Section 3.04(b); *provided further*, that nothing in this Section 3.04(b) shall limit SCE's right to enforce any obligations that survive termination of this Agreement.

(c) Full Return of Development Security.

The Development Security shall be returned to Seller in accordance with the procedure set forth in Exhibit L in each of the following circumstances:

- (i) Subject to Seller's achievement of Initial Operation by the Startup Deadline or any extended Startup Deadline as provided in Section 3.04(b), Seller demonstrates the full Nameplate Contract Capacity in accordance with the procedure set forth in Exhibit L on or before the Firm Operation Date; or
- (ii) If this Agreement is terminated in accordance with Section 2.05(a), 2.05(b) or 5.05; *provided that*, a termination under Section 5.05 shall entitle Seller to a return of the Development Security only if it is based upon a Force Majeure which prevents Seller from achieving Initial

Operation by the Startup Deadline or demonstrating full Nameplate Contract Capacity by the Firm Operation Date.

(d) Deficient Installation of Nameplate Contract Capacity; Partial Forfeiture and Partial Return of the Development Security.

- (i) If, on or before the Firm Operation Date, Seller has achieved Initial Operation by the Startup Deadline, as may be extended as set forth in Section 3.04(b), but is only able to demonstrate a portion of the full Nameplate Contract Capacity in accordance with the procedure set forth in Exhibit L (the amount so demonstrated defined as the “Demonstrated Nameplate Contract Capacity”) by the Firm Operation Date,

then Seller shall only be entitled to a return of the portion of the Development Security equal to the product of twenty dollars (\$20) per kW times the number of kW of Demonstrated Nameplate Contract Capacity and Seller shall forfeit and SCE shall be entitled to retain the balance of the Development Security that is not refunded to Seller.

- (ii) In addition, the Nameplate Contract Capacity shall be reduced to the Demonstrated Nameplate Contract Capacity as of the Firm Operation Date, and neither Party shall have any liability for failure to purchase or deliver Product associated with or attributable to capacity in excess of the Demonstrated Nameplate Contract Capacity (“Unincluded Capacity”);

(e) Restrictions on Sales Related to Unincluded Capacity.

- (i) Neither Seller nor any Shepherds Flat Affiliate may sell, or enter into an agreement to sell, electric energy, Green Attributes, Capacity Attributes or Resource Adequacy Benefits associated with or attributable to Unincluded Capacity from a generating facility installed at the Site to a party other than SCE for a period of two (2) years following SCE’s Notice to Seller of its partial forfeiture of the Development Security pursuant to Exhibit L.
- (ii) The prohibition on contracting and sale in the preceding sentence shall not apply if, prior to entering into the contract or making a sale to a party other than SCE, Seller or Shepherds Flat Affiliates provide SCE with a written offer to sell the electric energy, Green Attributes, Capacity Attributes and Resource Adequacy Benefits related to Unincluded Capacity to SCE on terms and conditions materially

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

similar to, or no less favorable to SCE than, the terms and conditions contained in this Agreement and SCE fails to accept such offer within forty-five (45) days after SCE's receipt thereof.

- (iii) Further, if the Unincluded Capacity is sold to a third party in accordance with Section 3.04(e)(ii) above, the output from all wind turbines associated with such Unincluded Capacity must not be metered by or connected to the BPA Meter (including any and all metering services and related equipment required by the BPA) installed for the Demonstrated Nameplate Contract Capacity sold to SCE hereunder and the seller of any Unincluded Capacity must not be Seller.

3.05 Seller's Annual Energy Delivery Obligation.

- (a) Beginning with the second Term Year following the Firm Operation Date, Seller shall be responsible for achieving the appropriate Seller's Annual Energy Delivery Obligation in accordance with Exhibit F during each Term Year (or portion thereof) and paying the applicable Energy Replacement Damage Amount if an Event of Deficient Energy Deliveries is determined to have occurred as set forth in Exhibit F. If an Event of Deficient Energy Deliveries occurs:
 - (i) The Parties acknowledge that the damages sustained by SCE associated with Seller's failure to meet Seller's Annual Energy Delivery Obligation would be difficult or impossible to determine, or that obtaining an adequate remedy would be unreasonably time consuming or expensive, and therefore agree that Seller shall pay SCE as liquidated damages the Energy Replacement Damage Amount, which is intended to compensate SCE for Seller's failure to perform, irrespective of whether SCE actually purchased such replacement electric energy by reason of Seller's failure to perform; and
 - (ii) SCE's sole and exclusive remedy with respect to an Event of Deficient Energy Deliveries shall be the receipt of payment of any applicable Energy Replacement Damage Amount; *provided, however*, that to the extent that any facts giving rise to an Event of Deficient Energy Deliveries also independently give rise to a breach of any other provision of this Agreement, SCE may pursue any other remedies available to SCE under this Agreement, including, without limitation a termination remedy, with respect to such independent breach.

- (b) In order to support the calculations to be made pursuant to Exhibit F, Seller shall prepare and provide to SCE, by the twentieth (20th) Business Day following the end of the third Term Year:
- (i) One Generating Facility Performance Model Report for the second Term Year; and
 - (ii) One Generating Facility Performance Model Report for the third Term Year.

Starting with the fourth Term Year, Seller shall prepare and provide to SCE, by the twentieth (20th) Business Day after the end of such Term Year and each Term Year thereafter, a Generating Facility Performance Model Report for the most recent Term Year.

- (c) 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 (calculated in accordance with Exhibit N) for such completed calendar quarter, the pro rata portion of Seller’s Annual Energy Delivery Obligation for such calendar quarter and, for informational and not billing purposes, any estimated Energy Replacement Damage Amount (as calculated in accordance with Exhibit F) 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 Energy Replacement Damage Amount for such Quarterly Statement. Seller’s Notice shall include Seller’s calculation of the Metered Amounts, Lost Output, pro rata portion of Seller’s Annual Energy Delivery Obligation or estimated Energy Replacement Damage Amount 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.

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

- (iii) Seller shall make a good faith effort to ascertain and include in its Notice any and all disputes that it 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.
- (d) Energy Replacement Damage Amount.
- (i) With respect to the second and third Term Years, SCE shall calculate any Energy Replacement Damage Amount within 90 days after the end of the third Term Year and shall provide Notice to Seller of any Energy Replacement Damage Amount owing, including a detailed explanation of, and rationale for, its calculation methodology, annotated work papers and source data.
 - (ii) With respect to any Term Year after the third Term Year, SCE will calculate any Energy Replacement Damage Amount within 90 days after the applicable Term Year, and shall provide Notice to Seller of any Energy Replacement Damage Amount owing, including a detailed explanation of, and rationale for, its calculation methodology, annotated work papers and source data.
 - (iii) Seller shall have thirty (30) days after receipt of SCE's Notice to review SCE's calculation and pay the entire Energy Replacement Damage Amount calculated by SCE pursuant to Exhibit F; *provided, however* if Seller in good faith wishes to dispute any portion of the Energy Replacement Damage Amount, Seller may either:
 - (1) Elect to utilize EDR by providing Notice, in accordance with Section 11.03(a)(ii), of its request for EDR within ten (10) days of Seller's receipt of SCE's calculation of the Energy Replacement Damage Amount; or
 - (2) Pay any undisputed portion of the Energy Replacement Damage Amount and provide Notice to SCE of the portion Seller disputes along with a detailed explanation of, and rationale for, Seller's calculation methodology, annotated work papers and source data within the aforementioned thirty (30) day payment period.

- (e) In the event Seller selects the option under Section 3.05(d)(iii)(2), the Parties shall negotiate in good faith to resolve any disputed portion of the Energy Replacement Damage Amount and shall, as part of such good faith negotiations, promptly provide information or data relevant to the dispute as each Party may possess which is requested by the other Party.

If the Parties are unable to resolve a dispute regarding any Energy Replacement Damage Amount within thirty (30) days after the sending of a Notice of dispute by Seller, either Party may submit the dispute to mediation and/or ADR as provided in ARTICLE Eleven.

- (f) Continuing Obligations of Seller.

Notwithstanding any payment of an Energy Replacement Damage Amount, an ongoing EDR or ADR proceeding 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 and Capacity Attributes to SCE during the Term, as provided in Section 3.01, and Resource Adequacy Benefits as provided in Section 3.02.

3.06 Metering.

- (a) BPA Meter.

Seller shall install and pay for any and all metering services and related equipment required by the BPA to be installed under the Standard Large Generator Interconnection Agreement (as defined in the BPA Tariff) to be executed by the BPA and Seller.

One BPA meter and associated metering equipment shall be installed at the low voltage (36.5 kV) side of the Generating Facility's generation tie to the Slatt Substation (the "BPA Meter").

The BPA Meter shall provide the official measurement of Metered Amounts.

Seller shall take all actions and execute all documents reasonably necessary to grant SCE (or its designated Scheduling Agent) real-time access to communications, metering and telemetry (including the Generating Facility's SCADA system) with respect to (a) the meter data from the BPA Meter, and (b) the models and other information used by the BPA to calculate transformer and line losses.

- (b) Access to BPA Meter.

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

- (i) Subject to Section 3.17 and in accordance with the safety and other access procedures specified by Seller and by the BPA, Seller shall grant SCE reasonable access to the BPA Meter for meter readings and any purpose necessary to effectuate this Agreement.

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

- (ii) At least sixty (60) days prior to the Initial Operation Date, Seller shall provide instructions or other documentation required by the BPA in order to grant SCE real-time access to the BPA Meter and to Seller's settlement data.
- (iii) Seller shall promptly inform SCE of meter quantity changes after becoming aware of, or being informed of, any such changes by the BPA.

(c) BPA Meter Maintenance.

- (i) Seller shall request that the BPA test the BPA Meter, as necessary and in accordance with any applicable BPA requirements, but in no event shall the period between testing dates be greater than twenty-four (24) months.
- (ii) Seller shall request that the BPA replace the BPA Meter batteries at least once every thirty-six (36) months.
- (iii) Notwithstanding the foregoing, in the event any BPA Meter battery fails, Seller shall request that BPA replace such battery within one (1) day of its failure.

3.07 Site Control.

- (a) At all times during the Startup Period and the Term, Seller shall have Site Control, which means that Seller shall:
 - (i) Own the Site;
 - (ii) Be the lessee of the Site under one or more Leases;
 - (iii) Be the holder of one or more right-of-way grants or similar instruments with respect to the Site; 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).

3.09 Design.

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

- (a) Designing and constructing the Generating Facility.
- (b) Using commercially reasonable efforts to acquire all Permits.
- (c) Providing to SCE, at least thirty (30) days prior to the anticipated Initial Operation Date, the following Generating Facility information:
 - (i) Site plan drawings for the Generating Facility;
 - (ii) Specific identification of each Wind Turbine at the Generating Facility;
 - (iii) Electrical one line diagrams;
 - (iv) Major electrical equipment specifications, including all electric power collection systems specifications;
 - (v) General arrangement drawings;
 - (vi) Longitude and latitude of each generator;
 - (vii) Artist renderings of Site, if any;
 - (viii) Aerial photographs of Site, if any; and
 - (ix) Specifications for each Wind Turbine identified in Section 3.09(c)(ii).

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

- (d) Providing SCE advance Notice at the earliest practicable time of any proposed changes in Seller's Generating Facility, with such Notice to 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.
- (e) Providing to SCE, at least twelve (12) months prior to the anticipated Initial Operation Date, the design and specifications for all Generating Facility metering systems.

3.10 Operation.

- (a) Seller shall Operate the Generating Facility in accordance with Prudent Electrical Practices.
- (b) Prior to Initial Synchronization:
 - (i) Seller shall provide to SCE the method of calculation of: (i) line losses, including the DLF and TLF or other line loss factors, as applicable, used by the Transmission Provider in the administration of agreements required for the transmission of electric energy from the Generating Facility to the Delivery Point; and (ii) Electrical Losses, to the extent such information is provided by the BPA to Seller.
 - (ii) Seller shall demonstrate to SCE's reasonable satisfaction that Seller has complied with its obligations with respect to the BPA Meter as set forth in Section 3.06(a).
 - (iii) Seller shall have furnished to SCE all insurance documents required under Section 10.11(b).
 - (iv) Seller shall have registered with NERC as the Generating Facility's Generator Owner and Generator Operator.
- (c) Seller shall keep a daily operations log for the Generating Facility that shall include information on availability, maintenance outages, circuit breaker trip operations requiring a manual reset, and any significant events related to the Operation of the Generating Facility; *provided* that Seller shall keep such log for only the prior seven (7) year period.

In addition, Seller shall maintain complete records of the Generating Facility's wind speeds and other pertinent meteorological conditions, maintenance performed, kilowatts, kilovars and kilowatt-hours generated and settings or adjustments of the generator control equipment and protective devices.

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

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

- (d) Seller shall keep a maintenance log for the Generating Facility that shall include information on power production, fuel consumption and efficiency (if applicable), availability, maintenance (both breakdown and preventative) performed, outages, changes in Operating status, inspections, manufacturer recommended services and replacement, electrical characteristics of the generators, control settings or adjustments of equipment; *provided* that Seller shall keep such log for only the prior seven (7) year period.

Seller shall maintain documentation of all procedures applicable to the testing and maintenance of the Generating Facility protective devices as necessary to comply with NERC reliability standards applicable to protection systems for large electric generators.

Such information shall be kept for the Term of this Agreement and shall be provided or made available to SCE within twenty (20) days after any Notice.

- (e) Commencing upon the date on which all BPA agreements have been executed by Seller and continuing throughout the Term of this Agreement, Seller shall comply with all applicable provisions of the BPA Tariff and the Interconnection Agreement.
- (f) At least thirty (30) days prior to Initial Synchronization with the BPA Grid, Seller shall provide SCE with all facility and metering information as may be reasonably requested by SCE, including the following:

For the BPA Meter:

All information requested by SCE that can reasonably be used for verifying the accuracy of deliveries, penalties and other measured quantities.

For the Generating Facility:

- (i) Wind Turbine Commissioning Report(s);
- (ii) Utility transmission/distribution one-line diagram;
- (iii) Latitude and longitude;
- (iv) Telephone number on Site;
- (v) Telephone number of control room;

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

- (vi) Telephone number for operational issues; and
- (vii) Telephone number for administrative issues.
- (g) Upon Notice from the Scheduling Agent, Seller shall promptly curtail the production of the Generating Facility. Such Notice shall be provided to Seller only in the event the Scheduling Agent is instructed by the BPA to curtail generation at the Generating Facility in order to respond to a BPA forecasted or materialized over-generation condition or an Emergency, *provided, however*, that nothing in this provision shall be construed to require Seller to disregard any instructions it may receive directly from the BPA regarding variation of production deemed necessary by the BPA to address short-term problems on the BPA Grid. SCE shall promptly provide Seller a Notice of any BPA instruction relevant to the operation or maintenance of the Generating Facility.
- (h) Seller shall promptly respond to any and all instructions from the BPA, including with regard to curtailment of generation at the Generating Facility, and promptly provide Notice of such instructions to SCE but in no event later than 30 minutes of receiving such instructions from the BPA.

3.11 Obtaining Scheduling Agent Services.

Seller shall comply with all applicable BPA Tariff protocols (with respect to Seller's responsibilities as the operator of the Generating Facility) required for SCE to receive electric energy at the Delivery Point and for the Scheduling Agent to submit Schedules to the BPA regarding the electric energy produced by the Generating Facility.

- (a) Cooperation with Scheduling Agent.
 - (i) Seller shall take all actions and execute and deliver to SCE all documents necessary to authorize or designate SCE, or, if so requested by SCE, a qualified third party as the Scheduling Agent from the period that begins upon SCE's purchase of energy from the Generating Facility on or after Initial Synchronization and continues until the end of the Term of this Agreement.
 - (ii) Except as provided in Section 3.11(b), Seller shall not authorize or designate any party other than SCE (or SCE's designated Scheduling Agent) to act as Scheduling Agent, nor shall Seller perform, for its own benefit, the duties of Scheduling Agent.

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

(b) Replacement of Scheduling Agent.

The Parties shall cooperate and take such action as may reasonably be required so that the transition from SCE or its designee as Scheduling Agent to Seller or its designee as Scheduling Agent as of the end of the Term will not impair the rights of the respective Parties under this Agreement.

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 Progress Reporting.

Seller shall use commercially reasonable efforts to meet the Milestone Schedule and avoid or minimize any delays in meeting such schedule.

Seller shall provide a monthly written report of its progress toward meeting the Milestone Schedule using the procedures set forth in Exhibit H.

Seller shall include in such report a list of all letters, notices, applications, approvals, authorizations, filings, Permits and licenses relating to any Governmental Authority or the BPA and shall provide any such documents as may be reasonably requested on Notice from SCE.

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

3.14 Scheduled Outages.

- (a) Using an SCE-approved web-based system (“Web Client”), no later than five (5) Business Days prior to the date required by the BPA for submitting the Generating Facility’s planned maintenance schedules, and at least sixty (60) days prior to Initial Synchronization, Seller shall submit to SCE its schedule (“Outage Schedule”) of proposed planned maintenance outages of (i) 10% or more of the Nameplate Contract Capacity of the Generating Facility (“Maintenance Outage”) for a minimum of a rolling twenty-four (24) month period and (ii) all outage information submitted by Seller directly to the BPA as required by the BPA. If Seller fails to submit an Outage Schedule for any period as required under this Section 3.14, then Seller shall not be permitted to schedule or have any planned Maintenance Outages with respect to such period.

- (b) Seller shall provide the following information for each Outage Schedule:
 - (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 BPA.
- (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, if applicable.

3.15 No Representation by SCE.

Any review by SCE of the design, construction and Operation of the Generating Facility is solely for SCE's information.

By making such review, SCE makes no representation as to the economic and technical feasibility, operational capability, or reliability of the Generating Facility, or that the Generating Facility complies with Applicable Law or the terms of this Agreement, and Seller shall in no way represent to any third party that any such review by SCE constitutes any such representation. Seller is solely responsible for such matters.

3.16 Provision of Information.

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

Seller shall promptly provide to SCE copies of:

- (a) All agreements with providers of distribution, transmission or interconnection services for the Generating Facility (other than agreements with the local utility for retail electrical service) and all amendments thereto;
- (b) All Permits and applications and approvals relating to the CEC Certification and Verification and CEC Pre-Certification;
- (c) All draft, preliminary, final and revised copies of reports, studies and analyses furnished by the BPA, Seller's Transmission Consultant, if any, or any Transmission Provider, and any BPA correspondence related thereto, concerning the transmission of electric energy from the Generating Facility to the Delivery Point; and
- (d) Within thirty (30) days of receiving notification from the Transmission Provider, all notifications of adjustments in (i) the DLF, TLF, and other line loss factors, as applicable, or other adjustments in the calculation of line losses used by the BPA in the administration of any agreement for the transmission of electric energy from the Generating Facility to the Delivery Point; and (ii) the calculation of Electrical Losses, to the extent such information is provided by the BPA to Seller.

3.17 SCE's Access Rights.

Upon reasonable notice to Seller, and to the BPA as applicable, SCE shall have the right of ingress and egress 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. SCE shall comply with all Site safety and security rules and applicable BPA policies of which Seller or the BPA has made SCE aware (including the laws, rules and regulations of the United States government, NERC, WECC, the State of Oregon and any other bodies, agencies and departments having jurisdiction over the Site) during any such examination and shall indemnify Seller for any claims arising from the conduct of SCE, in violation of any rules of which SCE has been made aware, in accordance with Section 10.03.

3.18 Obtaining and Maintaining CEC Certification and Verification.

Seller shall take all necessary steps including 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 or maintain the CEC Certification and Verification using commercially reasonable efforts because of (i) a change in RPS Legislation occurring after the Effective Date, or (ii) a change in Applicable Laws directly impacting CEC Certification and Verification occurring after the Effective Date; and
- (b) The term “commercially reasonable efforts” in Section 3.18(a) of this Agreement shall not require Seller to pay or incur more than Two Hundred Thousand dollars (\$200,000) multiplied by the Seller Factor per year (the “Annual Compliance Cap”), but in no event greater than One Million Five Hundred Seventy-Five Thousand dollars (\$1,575,000) multiplied by the Seller Factor over the Term (the “Term Compliance Cap”), to obtain and maintain such CEC Certification and Verification.
- (c) In the event that Seller would be required to expend more than the Annual Compliance Cap or the Term Compliance Cap in order to maintain CEC Certification and Verification, Seller shall provide Notice to SCE of Seller’s good faith determination of the actions to be taken by Seller in order to maintain CEC Certification and Verification that exceed those actions covered under the Annual Compliance Cap or the Term Compliance Cap, as applicable (the “Excess Compliance Actions”) and Seller’s good faith estimate of the costs for such actions. SCE shall have 60 days to evaluate the Notice and, within that time, may agree to reimburse Seller for all or some portion of the costs for the Excess Compliance Actions (such SCE-agreed upon costs, the “Accepted Compliance Costs”). If SCE agrees to reimburse Seller for the Accepted Compliance Costs, then Seller shall (i) promptly take such Excess Compliance Actions as are agreed on by the Parties (to the extent the cost of such Excess Compliance Actions does not exceed the Accepted Compliance Costs) and (ii) invoice SCE for the actual costs, not to exceed the Accepted Compliance Costs. SCE shall reimburse Seller for Seller’s actual costs for the Excess Compliance Actions, not to exceed the Accepted Compliance Costs, within ten (10) days after SCE’s receipt of the invoice for such costs.

3.19 Notice of Cessation or Termination of Service Agreements.

Seller shall provide Notice to SCE within three (3) Business Days after termination of, or cessation of service under, any agreement necessary for interconnecting the Generating Facility to the Transmission Provider’s electric system or for delivering the Product to SCE or for metering the Metered Amounts.

In the event that Seller receives a Notice of termination of, or cessation of service under, any Point-to-Point Agreement, Seller shall provide Notice to SCE within one (1) Business Day after receipt of such Notice.

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

3.20 Lost Output Report; Seller Common Wind Turbine Defect Report.**(a) Provision of Reports; SCE Review.**

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

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 or any Seller Common Wind Turbine Defect Report.

(b) Disputes of Lost Output.

If SCE disputes Seller's Lost Output Report or any Seller Common Wind Turbine Defect Report related to such claim of Lost Output, it shall provide Notice to Seller within thirty (30) days after SCE's receipt of such report and shall include SCE's calculations and other data supporting its position.

The Parties shall negotiate in good faith to resolve any dispute. If the Parties are unable to resolve a dispute within thirty (30) days after SCE's giving the dispute Notice, either Party may submit the dispute to mediation or arbitration as provided in Article Eleven.

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.

3.21 Seller's Obligations Pertaining to Independent Performance Engineer.

- (a) Seller shall be responsible for generally supporting the Independent Performance Engineer in the development of the:
 - (i) Generating Facility Performance Model;
 - (ii) Generating Facility Performance Model Report; and
 - (iii) Generating Facility Power Curve.

- (b) Seller's responsibilities shall include, but are not necessarily limited to:
 - (i) Submitting its designs and specifications for the Meteorological Equipment to SCE for review and approval (which approval shall not be unreasonably withheld or delayed), and the Independent Performance Engineer for review and comment eighteen (18) months before the expected Initial Operation Date;
 - (ii) Submitting copies of data sheets for the actual Meteorological Equipment purchased by Seller to SCE and the Independent Performance Engineer as soon as practicable;
 - (iii) Submitting its procedures for the collection of Actual Site Wind Speeds data to SCE for review and approval (which approval shall not be unreasonably withheld or delayed) and the Independent Performance Engineer eighteen (18) months before the expected Initial Operation Date;
 - (iv) Submitting its procedures for the maintenance and calibration of the Meteorological Equipment to SCE for review and approval (which approval shall not be unreasonably withheld), and the Independent Performance Engineer for review and Initial Operation Date;
 - (v) Submitting a procedure for the tracking of Wind Turbine availability to SCE for review and approval (which approval shall not be unreasonably withheld or delayed) and the Independent Performance Engineer for review and comment eighteen (18) months before the expected Initial Operation Date;
 - (vi) Providing data collected during the Operation of the Generating Facility during the first, second and third Term Years to the Independent Performance Engineer, including:

- (1) Weather conditions, including but not necessarily limited to, wind speed, wind direction, relative humidity, barometric pressure and rain fall;
 - (2) Lost Output Report; and
 - (3) Wind Turbine availability;
- (vii) Providing the Independent Performance Engineer with access to Seller's:
- (1) Generating Facility;
 - (2) Generating Facility construction contractor;
 - (3) Generating Facility operators;
 - (4) Wind Turbine manufacturer's representatives; and
 - (5) Wind resource expert;
- (viii) Providing the Independent Performance Engineer with the manufacturer's specifications, data sheets, performance characteristics and power curves for the Wind Turbine generators;
- (ix) Providing the Independent Performance Engineer with design drawings and engineering specifications for the Generating Facility, including:
- (1) Site plan drawings;
 - (2) Topographic maps; and
 - (3) Electrical one-line diagrams;
- (x) Providing the Independent Performance Engineer with a copy of the Final Wind Report and any updates;
- (xi) Reviewing and commenting on the design criteria for the development of the Generating Facility Power Curve;
- (xii) Reviewing and commenting on the design criteria for the development of the Generating Facility Performance Model;
- (xiii) Reviewing and commenting on the Generating Facility Power Curve;

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

- (xiv) Reviewing and commenting on the Generating Facility Performance Model; and
- (c) Providing Generating Facility access to the Independent Performance Engineer.

3.22 Meteorological Station and Reporting Requirements.

Prior to commencement of the Term, Seller, at its own expense, shall install and maintain a stand-alone meteorological station at the Generating Facility (“Meteorological Station”) to monitor and report weather data to SCE’s weather station data collection system and, if required, to the BPA.

The Meteorological Station shall be installed at least sixty (60) days before the date on which the Term is expected to commence and shall be equipped with instruments and equipment (“Meteorological Equipment”) that meet those specifications set forth in Exhibit Q.

The Meteorological Station shall be equipped to measure and record the minimum data, if any, as may be required by SCE, the BPA or any applicable Governmental Authority, in the manner specified by SCE, the BPA or any applicable Governmental Authority.

Seller shall submit to SCE for review and approval (which approval shall not be unreasonably withheld or delayed) its technical specification for the Meteorological Station along with a site plan showing the location of the Meteorological Station, the location of all Wind Turbines and the wind rose for the Site.

If SCE reasonably concludes that the Meteorological Station does not provide sufficient data to accurately forecast the Generating Facility’s Metered Amounts, Seller shall install, at Seller’s expense, an additional meteorological station at another Generating Facility location in accordance with the technical and Scheduling requirements, if any, established by the BPA.

3.23 Charges, Sanctions and Penalties.

- (a) During the Startup Period.
 - (i) Commencing upon Initial Synchronization and continuing until the end of the Startup Period:
 - (1) BPA Charges. Seller shall be responsible for all BPA Charges assessed or incurred during the Startup Period.

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

- (2) BPA Revenues. If SCE is obligated to purchase Product at any time during the Startup Period, Seller shall forward to SCE any BPA Revenues received by Seller for electric energy produced during such portion of the Startup Period, net of any charges and fees that are for the account of SCE in accordance with this Section 3.23 and Section 4.02.
 - (3) Ancillary Service Charges. Seller shall be responsible for all Ancillary Service Charges assessed or incurred for electric energy produced by the Generating Facility during the Startup Period.
 - (4) Wind Integration Charges. Seller shall be responsible for all Wind Integration Charges assessed with respect to the Generating Facility during the Startup Period.
 - (5) Transmission Demand Charges. If SCE is not obligated to purchase Product at any time during the Startup Period, Seller shall be responsible for Transmission Demand Charges assessed or incurred during such portion of the Startup Period.
 - (6) Electrical Losses. Seller shall be responsible for Electrical Losses assessed or incurred for any Non-SCE Energy that is scheduled during the Startup Period.
 - (7) BPA Sanctions. Seller shall be responsible for all BPA Sanctions assessed or incurred during the Startup Period to the extent such BPA Sanctions are due to Seller's acts or inactions.
 - (8) SCE Penalties. Seller shall be liable for any SCE Penalties assessed by SCE in accordance with Exhibit R if Seller fails at any time during the Startup Period to comply with the availability forecasting provisions set forth in Exhibit D.
- (ii) Notwithstanding the foregoing Section 3.23(a)(i), during the Startup Period, Seller shall not be liable for the BPA Charges, Ancillary Service Charges and Wind Integration Charges that are imposed as a result of the negligence or willful misconduct of SCE.
- (b) During the Term.

Commencing upon Initial Operation and continuing until the end of the Term:

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

- (i) BPA Charges. Seller shall be responsible for all Seller-Side BPA Charges assessed or incurred during the Term.
 - (ii) BPA Revenues. Seller shall forward to SCE any BPA Revenues received by Seller for any electric energy produced during the Term, net of any charges and fees that are for the account of SCE in accordance with this Section 3.23 and Section 4.02. Alternatively, at the option of SCE, SCE shall net any BPA Revenues against amounts owed to Seller.
 - (iii) Ancillary Service Charges. Seller shall not be responsible for any Ancillary Service Charges assessed or incurred for electric energy produced by the Generating Facility during the Term.
 - (iv) Wind Integration Charges. Seller shall not be responsible for any Wind Integration Charges assessed with respect to the Generating Facility during the Term.
 - (v) Transmission Demand Charges. During the Term, Seller shall not be responsible for any Transmission Demand Charges assessed or incurred pursuant to a Point-to-Point Agreement during the Assignment Period for such Point-to-Point Agreement.
 - (vi) Electrical Losses. Seller shall not be responsible for any Electrical Losses for any electrical energy that is produced by the Generating Facility, purchased by SCE and scheduled during the Term.
 - (vii) BPA Sanctions. Seller shall be responsible for all BPA Sanctions assessed or incurred during the Term to the extent such BPA Sanctions are due to Seller's acts or omissions.
 - (viii) SCE Penalties. Seller shall be liable for any SCE Penalties assessed by SCE in accordance with Exhibit R if Seller fails at any time during the Term to comply with the availability forecasting provisions set forth in Exhibit D.
- (c) BPA Charge Statement.

Seller shall comply with the following provisions as of Initial Synchronization until the end of the Term:

- (i) No later than fifteen (15) days after the end of each calendar month Seller shall send a statement (the "BPA Charge Statement") to SCE showing any BPA Charges, Ancillary Service Charges, Wind

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

Integration Charges, BPA Revenues and BPA Sanctions that are assigned by the BPA to the Generating Facility or for energy delivered during such prior month, together with a copy of the statement or invoice received by Seller from the BPA itemizing such charges, revenues and sanctions.

- (ii) For the items described in Section 3.23(c)(i), Seller shall list each item and the corresponding amount separately, and indicate whether such amount is the responsibility of Seller or SCE, in accordance with the provisions of Sections 3.23(a), 3.23(b) and 4.02.

3.24 SA-Curtailed Amounts.

Seller shall comply with the requirements of Exhibit P and Attachment P-1 thereto. If Seller believes that a Curtailment Event has occurred and wishes to make a claim for any SA-Curtailed Amounts and an SA-Curtailment Payment, Seller will comply with the provisions of Exhibit P.

3.25 Actual Availability Report.

- (a) Commencing upon Initial Synchronization and continuing throughout the Term, Seller shall prepare and provide to SCE a report with the Settlement Interval Actual Available Capacity of the Generating 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 seventh (7th) 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.

3.26 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 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.
- (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

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

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.

3.27 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 Initial Synchronization.

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 reasonably specified by SCE; and
- (ii) In the interval in which such data was recorded.

3.28 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).

3.29 NERC Electric System Reliability Standards.

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

During the Startup Period and the Term, for purposes of complying with any NERC Reliability Standards applicable to the Generating Facility, Seller (or an agent of Seller as agreed to by SCE in its sole discretion) must be registered with NERC as the Generator Owner and Generator Operator for the Generating Facility and must perform all Generator Operator Obligations and Generator Owner Obligations except those Generator Operator Obligations that SCE or its designee is required to perform under this Agreement in the capacity of Scheduling Agent.

Notwithstanding anything to the contrary set forth in this Section 3.29, each Party acknowledges that such Party's performance of the Generator Operator Obligations (and with respect to Seller, the 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 BPA in order to comply with the NERC Reliability Standards.

**** End of ARTICLE THREE ****

ARTICLE FOUR. SCE'S OBLIGATIONS4.01 Obligation to Pay.

- (a) For Seller's *full* compensation under this Agreement, SCE shall make monthly Energy Payments to Seller beginning on Initial Synchronization and for the duration of the Term calculated in the manner described in Section 4.03;

provided, however, SCE shall not be obligated to pay Seller under this Agreement for any electric energy that is not delivered as a result of any circumstance, including, without limitation:

- (i) An outage of the Generating Facility;
 - (ii) A Force Majeure under Article Five;
 - (iii) A reduction or curtailment of electrical energy ordered by the BPA, subject to SCE's obligation to mitigate such curtailments in accordance with Section 4.09(d);
- (b) Notwithstanding anything this Section 4.01:
- (i) If at any time during the Term, Available Transfer Capability is not available from the Delivery Point to John Day and Big Eddy as a result of a Generating Facility malfunction or the negligence or willful misconduct of Seller, then, with respect to only the quantity of electric energy that is unable to be transmitted from the Delivery Point, SCE shall only be obligated to pay Seller under this Agreement an Energy Payment based on an Energy Price of thirty dollars (\$30.00); and
 - (ii) If Seller fails to meet the conditions of Section 2.03, Seller's full compensation for electric energy delivered during the Startup Period shall be the receipt of BPA Revenues in accordance with Section 4.02(a)(i).

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

4.02 BPA Charges, BPA Revenues and Transmission Credits.**(a) During the Startup Period.**

Commencing upon Initial Synchronization and continuing until the end of the Startup Period:

- (i) BPA Revenue. If SCE is not obligated to purchase Product during the Startup Period, SCE shall forward to Seller any BPA Revenues received by SCE as Scheduling Agent for any Non-SCE Energy delivered to the real-time market during the Startup Period, net of any applicable charges, penalties and sanctions.

If SCE is obligated to purchase Product during the Startup Period, SCE shall be entitled to retain any BPA Revenues for any electric energy generated by the Generating Facility during the Startup Period and purchased by SCE under this Agreement.

- (ii) BPA Charges, Ancillary Service Charges and Wind Integration Charges. SCE shall be responsible only for those BPA Charges, Ancillary Service Charges and Wind Integration Charges incurred or assessed during the Startup Period that are caused by the negligence or willful misconduct of SCE.
- (iii) Transmission Demand Charges. SCE shall be responsible only for those Transmission Demand Charges assessed or incurred pursuant to a Point-to-Point Agreement during that portion of the Startup Period during which SCE is obligated to purchase Product from Seller and SCE is the assignee of such Point-to-Point Agreement.
- (iv) Electrical Losses. SCE shall be responsible only for those Electrical Losses associated with electric energy that is produced by the Generating Facility, purchased by SCE and scheduled during the Startup Period.
- (v) BPA Sanctions. SCE shall be responsible for all BPA Sanctions assessed or incurred during the Startup Period to the extent such BPA Sanctions are due to SCE's acts or omissions.

(b) During the Term.

Commencing upon Initial Operation and continuing until the end of the Term:

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

- (i) BPA Revenues. SCE shall be entitled to retain all BPA Revenues for any electric energy generated by the Generating Facility during the Term and purchased by SCE under this Agreement.
- (ii) BPA Charges. Except as set forth in Section 3.23(b), SCE shall be responsible for all BPA Charges during the Term.
- (iii) Ancillary Service Charges. SCE shall be responsible for all Ancillary Service Charges attributable to or assessed for electric energy produced by the Generating Facility during the Term.
- (iv) Wind Integration Charges. SCE shall be responsible for all Wind Integration Charges assessed or incurred during the Term.
- (v) Transmission Demand Charges. During the Term, SCE shall be responsible for all Transmission Demand Charges assessed or incurred pursuant to each Point-to-Point Agreement during the Assignment Period for each such Point-to-Point Agreement.
- (vi) Electrical Losses. SCE shall be responsible for all Electrical Losses for all electric energy that is produced by the Generating Facility, purchased by SCE and Scheduled during the Term.
- (vii) BPA Sanctions. SCE shall be responsible for all BPA Sanctions assessed or incurred during the Term to the extent such BPA Sanctions are due to SCE's acts or omissions.

(c) Transmission Credits.

SCE shall compensate Seller for the dollar value of any Transmission Credits applied by the BPA and used by SCE to offset Transmission Demand Charges to SCE under any assigned Point-to-Point Agreement during the Assignment Period for such Point-to-Point Agreement, within ten (10) Business Days of SCE's receipt of an invoice from Seller for such Transmission Credits.

(d) Statements from Seller.

Upon receipt of the BPA Charge Statement sent by Seller to SCE pursuant to Section 3.23(c), SCE shall review such statement, request additional information of Seller, if necessary, and include any undisputed items in the next monthly statements sent to Seller in accordance with Section 4.04.

If SCE does not agree with one or more items on the BPA Charge Statement, *then* the Parties shall negotiate in good faith for a period of thirty days to resolve any Disputes.

If the Parties are unable to resolve the Dispute, either Party may elect to utilize mediation and arbitration by providing a Notice of request for mediation and arbitration in accordance with Article Eleven.

4.03 Energy Payment Calculations.

Each monthly Energy Payment delivered during the Term, or if applicable, during the Startup Period, shall be calculated pursuant to the following formula:

ENERGY PAYMENT, in dollars (\$) =

A x B

Where:

A = The sum of the Metered Amounts in all hours for the period being calculated, in kWh.

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

4.04 Payment and Payment Adjustments.

(a) After Initial Synchronization, 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 thirtieth (30th) day (or 28th or 29th day for February) is a weekend day or holiday during which:

- (i) Seller is delivering electric energy to the Delivery Point;
- (ii) BPA Charges, Ancillary Service Charges, Wind Integration Charges, BPA Sanctions or SCE Penalties are incurred; or
- (iii) Adjustments for payment errors are made as set forth below;

SCE shall do each of the following:

- (iv) Send a statement to Seller showing:

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

- (1) The sum of the BPA Charges, Ancillary Service Charges, Wind Integration Charges and BPA Revenues that are directly assigned by the BPA to the Generating Facility for energy delivered to the real-time market during the Startup Period;
 - (2) The Metered Amounts for the month for which the payment is being made;
 - (3) Any SA-Curtailed Amounts for any prior periods for which payment is being made;
 - (4) A calculation of the amount payable to Seller for the month pursuant to Section 4.03, Section 4.04(a)(iv)(1) and Section 4.09(d), if applicable;
 - (5) The BPA Sanctions assigned by the BPA for which Seller is liable pursuant to Section 3.23, or the SCE Penalties assessed by SCE to the Generating Facility for energy delivered; and
 - (6) A calculation of the net amount due Seller.
- (v) 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) Payment Adjustments

In the event SCE determines that:

- (i) The BPA has recalculated BPA Charges or BPA Revenues for energy delivered to the real-time market during the Startup Period; or
- (ii) A calculation of Metered Amounts, BPA Charges, BPA Sanctions or SCE Penalties is incorrect as a result of inaccurate meters, the correction of data by the BPA, or a recalculation of BPA Charges or BPA Sanctions by the BPA,

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

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

SCE shall also promptly recompute any payment affected by any meter or BPA Charge, BPA 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 BPA Charges, BPA 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 4.04(b) within twenty-eight (28) months from the end of the Term.

Adjustment payments for meter inaccuracy shall not bear interest.

(c) Netting Rights.

Each Party reserves the right to net against amounts that would otherwise be due to the other Party under this Agreement any amounts owing and unpaid by such other Party (including BPA Charges, BPA Sanctions, SCE Penalties and adjustments for which the other Party is liable) to such reserving Party under this Agreement, subject to the limitations on netting rights under Section 11.03(a)(iv). Nothing in this Section 4.04 shall limit either Party's rights under applicable tariffs, other agreements or Applicable Law.

(d) Waiver.

Except as provided in Section 4.04(b) and as otherwise provided in this Section 4.04(d), if within forty-five (45) 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 payment statement, computation and payment, and the payment statement shall be conclusively deemed correct and complete;

provided, however, that if an error is identified by Seller as a result of settlement, audit or other information provided to Seller by the BPA after the expiration of the original forty-five (45) day period, Seller shall have an additional forty-five (45) days from the date on which it receives the information from the BPA in which to give Notice to SCE 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 payment statement that is calculated.

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

Late payments to Seller resulting from SCE's errors, or overpayments to Seller by SCE, shall bear simple interest at the Interest Rate from 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) until paid;

provided, however, that changes made because of settlement, audit or other information provided by the BPA and not available to SCE when it 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 netting any amounts owed to Seller, the next monthly payment statement shall show a net amount owing to SCE.

At SCE's discretion, SCE may net this net amount owed to SCE against any amounts owed to SCE in any subsequent monthly payment statements 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.

In the event that either Party disputes in good faith a payment or claimed errors in a payment statement, such Party may elect to utilize EDR by providing a Notice of request for EDR within ten (10) days after receipt of the disputed statement, in accordance with Section 11.03(a)(ii).

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

4.05 Scheduling Agent.

Commencing with SCE's initial purchase of Product from Seller, the Scheduling Agent shall have the following duties during any Assignment Period:

- (a) The Scheduling Agent shall submit Schedules with respect to the electric energy produced by the Generating Facility to the BPA in accordance with BPA Tariff protocols without receiving any remuneration for such services other than BPA Revenues in accordance with Section 4.02.
- (b) The Scheduling Agent shall be responsible for submitting to the BPA all notices and updates required of the Scheduling Agent under the BPA Tariff regarding the Generating Facility's status.
- (c) Using the Availability Forecast submitted by Seller to the Scheduling Agent pursuant to Exhibit D, including updated Availability Forecasts to the extent reasonable practicable, the Scheduling Agent shall forecast (or cause a third party wind forecaster to forecast) Seller's expected generation ("Projected Energy Forecast") in any given hour.
- (d) The Scheduling Agent shall submit the adjusted Projected Energy Forecast to the BPA as Schedules.
- (e) In parallel with the BPA, the Scheduling Agent shall determine the difference between energy quantities measured by the BPA Meter from energy quantities available at the Delivery Point for purposes of submitting accurate Schedules to the BPA under the Point-to-Point Agreements and verifying Delivered Amounts.
- (f) The Scheduling Agent shall comply with all applicable BPA Tariff procedures, protocols, rules and testing requirements required to submit Schedules to the BPA for the electric energy produced by the Generating Facility.

4.06 SCE's Obligations Pertaining to Independent Performance Engineer.

SCE shall:

- (a) Select and contract for the service of the Independent Performance Engineer (who shall develop the Generating Facility Performance Model in accordance with Exhibit O);
- (b) Review and approve the design criteria for the development of the Generating Facility Power Curve;

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

- (c) Review and approve the design criteria for the development of the Generating Facility Performance Model;
- (d) Provide Metered Amounts data for the first, second and third Term Years;
- (e) Review and approve the Generating Facility Performance Model; and
- (f) Cause the Independent Performance Engineer to (i) promptly provide Seller with copies of all models or reports for the Generating Facility developed or produced by the Independent Performance Engineer for the Generating Facility, including, the Generating Facility Performance Model, the form of Generating Facility Performance Model Report and the Generating Facility Power Curve, and (ii) consider reasonable comments of Seller and its advisers with regard to all such models and reports.

If Seller has a Dispute with the Independent Performance Engineer or SCE with respect to the Generating Facility Performance Model or form of Generating Facility Performance Model Report or Generating Facility Power Curve, such Dispute shall first be submitted for resolution to a third-party independent engineer mutually selected and paid for by the Parties. If such third-party independent engineer is unable to resolve the Dispute within sixty (60) days, then the Dispute shall be submitted to the senior management of the Parties for resolution. If such senior management are unable to resolve the Dispute, then the Parties shall resolve such Dispute through the arbitration procedures set forth in Section 11.03. Should any of the Generating Facility Performance Model, the form of Generating Facility Performance Model Report or the Generating Facility Power Curve be the subject of a Dispute, the relevant model or report shall not be implemented for purposes of this Agreement until such Dispute has been resolved.

4.07 SCE Obligations Affecting Seller's Annual Energy Delivery Obligation.

SCE shall:

- (a) Review and approve Seller's designs and specifications for the Meteorological Equipment (which approval shall not be unreasonably withheld);
- (b) Review and approve Seller's plan for collecting Actual Site Wind Speed data (which approval shall not be unreasonably withheld);
- (c) Review and approve Seller's procedures for maintenance and calibration of the Meteorological Equipment (which approval shall not be unreasonably withheld);

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

- (d) Review and approve Seller's procedure for tracking Wind Turbine availability (which approval shall not be unreasonably withheld); and
- (e) Timely perform all its obligations as the Scheduling Agent and the assignee of the Point-to-Point Agreements.

4.08 Support for Qualification of PTCs.

SCE shall use commercially reasonable efforts to support any efforts of Seller and its Affiliates to qualify the Generating Facility for PTCs.

4.09 SCE's Obligations Regarding the Point-to-Point Agreements.

(a) Assignment.

No later than the Billing Commencement Cycle Date, and in accordance with applicable BPA Tariff requirements and on terms reasonably acceptable to SCE and Seller or the applicable Shepherds Flat Affiliate, SCE shall accept assignment of the Point-to-Point Agreements made by one or more of the Shepherds Flat Parties or Shepherds Flat Affiliates pursuant to Section 2.02(b)(vii).

(b) Obligations During Assignment Periods.

During the Assignment Periods for the Point-to-Point Agreements:

- (i) SCE shall exercise all rights and perform, in a timely fashion, all obligations imposed on the transmission customer as a holder or assignee of the Point-to-Point Agreements;
- (ii) SCE shall be solely responsible, without contribution or reimbursement from Seller, for all payment obligations to the BPA under the Point-to-Point Agreements for all Transmission Demand Charges and Electrical Losses for or relating to electrical energy purchased by SCE under this Agreement incurred during, but not prior to or after, any Assignment Period;
- (iii) SCE shall reimburse Seller for Transmission Credits from the BPA in accordance with Section 4.02(c); and
- (iv) Acting in its capacity as assignee under the Point-to-Point Agreements, SCE shall refrain from exercising the customer right under Section 17.7 of the BPA Tariff to extend the Service Commencement Date(s) (as defined in the BPA Tariff) for the transmission services provided

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

by the BPA beyond the dates(s) on which Seller plans to commence the delivery electric energy from the Generating Facility to SCE at the Delivery Point in a manner which would have a material adverse effect on Seller's ability to produce or deliver electric energy from the Generating Facility.

(c) Notice of Service Interruption or Cessation.

SCE shall provide Notice to Seller within three (3) Business Days after termination of, or cessation of, service under any Point-to-Point Agreement.

In the event that SCE receives a Notice of termination of, or cessation of service under, any Point-to-Point Agreement, SCE shall provide Notice to Seller within one (1) Business Day after receipt of such Notice.

(d) Obligation to Redirect; SA-Curtailed Amounts.

During any Assignment Period, SCE as the Scheduling Agent shall (or shall cause its designated Scheduling Agent to) take all commercially reasonable actions required to redirect transmission capacity to alternative points of delivery available under the Point-to-Point Agreements whenever, and to the extent, the previously scheduled points of delivery become unavailable due to BPA curtailments not excused under this Agreement as Force Majeure.

Upon receipt of a Curtailment Report provided by Seller in accordance with Exhibit P, SCE shall comply with the provisions of Exhibit P, and shall pay Seller the SA-Curtailment Payment for any SA-Curtailed Amounts determined in accordance with Exhibit P.

*** 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 order to be excused from its performance obligations hereunder by reason of Force Majeure:

- (a) The Claiming Party, within fourteen (14) days after the initial occurrence of the claimed Force Majeure, must give the other Party Notice describing the particulars of the occurrence; and
- (b) The Claiming Party must provide timely evidence reasonably sufficient to establish that the occurrence constitutes Force Majeure as defined in this Agreement. In the event of a claim of Force Majeure due in whole or in part to a Common Wind Turbine Defect, such evidence shall include a Seller Common Wind Turbine Defect Report for the claimed Common Wind Turbine Defect.

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.

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

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 Startup Deadline Extension.

If Force Majeure occurs prior to the Startup Deadline which prevents Seller from achieving the Startup Deadline, *then* the Startup Deadline shall, subject to Seller's compliance with its obligations as the Claiming Party under Section 5.02, be extended on a day-for-day basis for the duration of the Force Majeure.

5.04 Firm Operation Date Extension.

If Force Majeure occurs at any time after commencement of the Term, but prior to the Firm Operation Date, which prevents Seller from demonstrating the Nameplate Contract Capacity as provided in Sections 3.04(c) or 3.04(d),

then the Firm Operation Date shall, subject to Seller's compliance with its obligations as the Claiming Party under Section 5.02, be extended on a day-for-day basis for the duration of the Force Majeure.

5.05 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 materially and adversely affects the operations of such Party and extends for more than three hundred sixty-five (365) consecutive days ("One-Year Force Majeure Period");

provided, however, so long as the Claiming Party can demonstrate to the reasonable satisfaction of the other Party, at least one hundred and eighty (180) days before the expiration of the One-Year Force Majeure Period, that the Claiming Party has a plan to remedy and terminate the Force Majeure event within one hundred eighty (180) consecutive days following the expiration of the One-Year Force Majeure Period, and the Claiming Party has, in the reasonable determination of the other Party, been making commercially reasonable efforts to comply with its plan throughout the Force Majeure event, then neither Party shall have the right to terminate this Agreement under this Section 5.05 unless the Claiming Party fails to remedy and terminate the Force Majeure event within the one hundred and eighty (180) day period following expiration of the One-Year Force Majeure Period.

**** End of ARTICLE FIVE ****

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

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) 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 (or such shorter period as may be specified below), 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 payments disputed in good faith in accordance with the dispute resolution terms of this Agreement) in a material amount (including not making when

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

- due any material portion of a payment) required under this Agreement, or any Point-to-Point Agreement but only with respect to the portion of the Point-to-Point Agreement that was assigned to such Party at the time that such unpaid liability arose, and any such failure is not cured within five (5) Business Days after Notice;
- (iv) The failure of such Party to satisfy the creditworthiness and collateral requirements in ARTICLE Eight and such failure is not cured within ten (10) Business Days after Notice of such failure;
 - (v) A Party becomes Bankrupt;
 - (vi) Such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which such Party or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other Party;
- (b) With respect to Seller's Guarantor, if applicable (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 within five (5) 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 three (3) Business Days after Notice;
 - (iii) A Guarantor becomes Bankrupt;
 - (iv) The failure of any Guaranty Agreement in favor of SCE to be in full force and effect for purposes of this Agreement;
 - (v) A Guarantor repudiates, disaffirms, disclaims, or rejects, in whole or in part, or challenges the validity of any Guaranty Agreement given to SCE;

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

- (vi) The occurrence and continuation of a default, event of default or other similar condition or event under one or more agreements or instruments, individually or collectively, relating to indebtedness for borrowed money in the aggregate amount of not less than the 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 in making on the due date therefore one or more payments, individually or collectively, in an amount to be determined by the Parties if there is a Guarantor.
- (c) With respect to Seller, if at any time during the Term:
- (i) Seller fails to post and maintain the Development Security pursuant to Section 3.04 and such failure is not cured within five (5) Business Days after Notice of such failure;
 - (ii) Seller does not own the Generating Facility or otherwise have the authority over the Generating Facility as required in Section 3.07(a);
 - (iii) Seller has not cured a failure with respect to Section 3.07(a) within the earlier of (a) thirty (30) days of the occurrence of an event which results in such failure and which results in a material adverse change in Seller's ability to own or Operate the Generating Facility on the Site, (b) thirty (30) days after providing the Notice in accordance with Section 3.07(b) or (c) ninety (90) days after the occurrence of the event which results in such failure but which does not result in a material adverse change in Seller's ability to own or Operate the Generating Facility on the Site;
 - (iv) Seller fails to provide SCE with evidence that the indebtedness incurred with respect to any Restricted Financing has received a credit rating of "B" (or the equivalent) or better from S&P or Moody's at the time of incurrence of such Restricted Financing, *provided* that, if Seller has previously provided a credit rating to SCE hereunder with respect to a Restricted Financing, Seller must, to avoid an Event of Default hereunder, provide to SCE a credit rating from the same credit rating agency (i.e., S&P or Moody's) for any subsequent Restricted Financing;

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

- (v) Notwithstanding the payment of any Energy Replacement Damage Amount, the sum of Delivered Amounts plus Lost Output in any consecutive six (6) month period is not at least ten percent (10%) of the Seller's Annual Energy Delivery Obligation set forth in Section 3.05, 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;
- (vi) Seller intentionally or knowingly Forecasts, delivers, or attempts to Forecast or deliver at the Delivery Point for sale under this Agreement electric energy that was not in fact generated by the Generating Facility;
- (vii) Seller installs Generating Facility Capacity in excess of the Nameplate Contract Capacity and attempts to sell or does sell the output of such excess capacity to SCE, and such Generating Facility Capacity is not removed within five (5) Business Days after Notice from SCE; or
- (viii) Seller removes from the Site equipment upon which the Nameplate Contract Capacity has been based, except for the purposes of replacement, refurbishment, repair or maintenance, and such equipment is not returned within five (5) Business Days after Notice from SCE;
- (ix) The Generating Facility consists of an ERR type different than that specified in Section 1.01(c).
- (x) Subject to Section 3.18, the Generating Facility fails to qualify as an ERR;
- (xi) Subject to Section 3.18, any electrical output from the Generating Facility sold or to be sold to SCE hereunder fails to qualify as eligible renewable energy for purposes of the RPS Legislation;
- (xii) Seller fails to achieve Initial Operation within the timeframes set forth in Section 2.04(b) and such failure is not cured within ten (10) Business Days after Notice from SCE;
- (xiii) Whether caused by Seller, any Shepherds Flat Party or any Shepherds Flat Affiliate, a termination of, or cessation of service under, any:

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

- (1) Agreement necessary for the interconnection of the Generating Facility to the BPA Grid;
- (2) Agreement necessary for the transmission of the electric energy to the Delivery Point;
- (3) Point-to-Point Agreement, except to the extent such termination or cessation of service is caused by the negligence or willful misconduct of SCE; or
- (4) Agreement necessary for the metering of the Metered Amounts,

and such service is not reinstated, or alternative arrangements implemented, within one hundred and twenty (120) days after such termination or cessation;

- (xiv) Seller defaults under any Security Document and such default is not cured within the applicable cure period, if any, set forth in such Security Document, or Seller repudiates, disaffirms, disclaims, or rejects, in whole or in part, or challenges the validity of, any of the Security Documents;
- (xv) Seller fails to take any reasonable actions necessary to dedicate, convey or effectuate the use of any and all Green Attributes, Capacity Attributes and Resource Adequacy Benefits for SCE's sole benefit as specified in Section 3.01 and such failure is not cured within 30 days after Notice from SCE;
- (xvi) Seller fails to remediate any deficiency in internal controls over financial reporting in accordance with Exhibit U, if applicable; or
- (xvii) Any representation or warranty made in the certificate provided to SCE pursuant to Section 2.02(b) 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 by Seller or the breaching party within five (5) Business Days after Notice to Seller; or

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

- (2) Such inaccuracy is not capable of a cure, but SCE'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 SCE to Seller
- (d) With respect to SCE:
 - (i) If at any time during the Term, the termination of or cessation of service under any Point-to-Point Agreement occurs, but only to the extent such cessation or termination is caused by the negligence or willful misconduct of SCE and such service is not reinstated, or alternative arrangements have not been implemented, within one hundred twenty (120) days after such termination or cessation; or
 - (ii) The failure of SCE to perform, or cause to be performed, the duties of the Scheduling Agent in accordance with Section 4.05.

6.02 Early Termination.

- (a) If an Event of Default shall have occurred, there will be no opportunity for cure except as specified in Section 6.01 or pursuant to a Collateral Assignment Agreement agreed upon by SCE, Seller and Lender in accordance with Section 10.05.
- (b) The Party taking the default (the "Non-Defaulting Party") shall have the right:
 - (i) To designate, by Notice, a day, no earlier than twenty (20) calendar days after the Notice is effective, as an "Early Termination Date;"
 - (ii) To immediately suspend performance under this Agreement; and
 - (iii) 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 under this Agreement (the “Termination Payment”).

In the event that SCE is the Defaulting Party, the Seller may include in its calculation of any amounts Seller is owed by SCE the value of any Lost Income Tax Credits.

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 ten (10) Business Days after the Notice is provided.

If either Party in good faith disputes the calculation of the Termination Payment, it may elect EDR but must provide Notice to the other Party of such election within ten (10) days after receipt of the disputed calculation in accordance with Section 11.03(a)(ii). 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; *provided*, that nothing in this Section 6.03 shall limit either Party’s right to enforce any obligations which survive termination of this Agreement.

6.04 Re-Assignment of Point-to-Point Agreements Upon Termination.

- (a) In the event that this Agreement is terminated by either Party, SCE shall take all commercially reasonable actions required to assign to Seller or Seller’s designated assignee, as directed by Seller, firm transmission capacity under the Point-to-Point Agreements equal to 724 MW multiplied by the Seller Factor, or such other amount as may be mutually agreed to by the Parties. The Parties acknowledge that accomplishing the reassignment may require revisions, amendment or reallocation of transmission rights under the Point-to-Point Agreements and agree to reasonably cooperate in dealings with the BPA to accomplish such purpose.

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

Upon agreement of the Parties with respect to the firm transmission capacity to be re-assigned to Seller or Seller's designated assignee, SCE shall re-assign such firm transmission capacity to such party on or prior to the date of termination of this Agreement.

The Parties agree that:

- (i) Seller would be irreparably harmed by a breach of the provisions of this Section 6.04(a),
 - (ii) An award of damages would be inadequate to remedy such breach, and
 - (iii) Seller shall be entitled to equitable relief, including specific performance, to compel compliance with the provisions of this Section 6.04(a) and Section 10.18.
- (b) Any assignment made pursuant to this Section 6.04 shall be effective as of the effective date of the termination of this Agreement, or such other time as the Parties may agree.
- (c) SCE shall not be required to assign to Seller or any Seller designated assignee but may offer for sale to Seller on reasonable terms:
- (i) Any transmission agreement to which Seller was not originally party, except to the extent that such agreement replaces a Point-to-Point Agreement; or
 - (ii) Any transmission rights that SCE purchased from third parties, including the BPA, except to the extent that such transmission rights replace a Point-to-Point Agreement.

**** End of ARTICLE SIX ****

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

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.

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.

THE VALUE OF ANY LOST INCOME TAX CREDITS (WHICH SELLER HAS NOT BEEN ABLE TO MITIGATE AFTER USE OF REASONABLE EFFORTS), IF ANY, SHALL BE DEEMED DIRECT DAMAGES.

UNLESS EXPRESSLY PROVIDED IN THIS AGREEMENT, AND SUBJECT TO 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

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

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 ARTICLE PREVENTS, OR IS INTENDED TO PREVENT SCE FROM PROCEEDING AGAINST OR EXERCISING ITS RIGHTS WITH RESPECT TO ANY SECURED INTERESTS IN COLLATERAL.

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

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

If requested by one Party, the other Party shall deliver:

- (a) 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 for such fiscal year; and
- (b) 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 unaudited consolidated financial statements for such fiscal quarter.

In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles;

provided that, should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the producing party diligently pursues the preparation, certification and delivery of the statements.

8.02 Performance Assurance.**(a) Posting Performance Assurance.**

On or before the commencement of the Term, Seller shall post Performance Assurance with SCE. The Performance Assurance Amount due to SCE by Seller shall be as set forth in Section 1.07.

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:

- (i) For an uncured Event of Default of Seller or Seller's Guarantor, one year following the Early Termination Date; and
- (ii) For all other circumstances, one hundred eighty (180) days following the termination of the Agreement; provided that SCE shall, within sixty (60) days following the termination of the Agreement, return to Seller fifty percent (50%) of the amount of any Performance

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

Assurance which remains posted (i.e., has not been drawn upon by SCE as authorized hereunder) as of that time.

The Performance Assurance Amount shall be either in the form of cash or Letter of Credit acceptable to SCE, provided that on the commencement of the Term, if Seller has posted the Development Security in the form of cash or a Letter of Credit and SCE has not either returned the Development Security to Seller or given Seller Notice, pursuant to Exhibit L, of its determination regarding the disposition of the Development Security by such date, then Seller may withhold the portion of the Performance Assurance Amount equal to the Development Security held by SCE until three (3) Business Days following the later of Seller's receipt or forfeiture of the Development Security or any portion thereof pursuant to Section 3.04 or SCE's Notice to Seller pursuant to Exhibit L of its determination regarding the disposition of the Development Security. SCE shall accept a Guaranty Agreement, in accordance with Section 8.02(d), from a Guarantor acceptable to SCE to satisfy Seller's Performance Assurance obligation in lieu of cash or Letter of Credit as set forth in Section 8.02(c). Such Guaranty shall be for the Performance Assurance Amount. 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 (x) financial statements and other information regarding the proposed Guarantor, (y) the proposed Cross Default Amount and (z) Credit Ratings and other relevant information provided by S&P or Moody's. SCE shall approve both the Guarantor and the Cross Default Amount in its discretion.

(b) Interest Payments on Cash.

Performance Assurance posted in cash shall bear simple interest at a rate equal to the Federal Funds Effective Rate.

Seller shall provide a monthly invoice to SCE that sets forth the calculation of the interest amount due and SCE shall make payment thereof by the later of the third Local Business Day:

- (i) Of the first month after the last month to which the invoice relates; or
- (ii) After the day on which such invoice is received;

so long as no Event of Default has occurred and is continuing with respect to the Seller, or no Early Termination Date for which any unsatisfied payment

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

obligation of Seller exists has occurred or been designated as the result of an Event of Default by Seller.

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 interest amount as additional Performance Assurance hereunder until the obligations of the Seller under this Agreement have been satisfied in the case of an Early Termination Date or for so long as such Event of Default is continuing in the case of an Event of Default.

(c) 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. Seller shall:
 - (1) Renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit;
 - (2) If the bank that issued an outstanding Letter of Credit has indicated its intent not to renew such Letter of Credit, provide alternative Performance Assurance acceptable to SCE at least forty-five (45) 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 acceptable to SCE within one (1) Business Day after such refusal, or five (5) Business Days after such refusal if SCE's draw request results from Seller's failure to provide alternative Performance Assurance acceptable to SCE where a Letter of Credit is expiring as described in Section 1.C. of Attachment A to Exhibit M;
- (ii) Upon the occurrence of a Letter of Credit Default, Seller shall provide to SCE either a substitute Letter of Credit or alternative Performance Assurance acceptable to SCE, in each case on or before the first Business Day after the occurrence thereof (or the tenth (10th) Business

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

Day after the occurrence thereof if only Section a) in the definition of “Letter of Credit Default” in Exhibit A applies);

- (iii) 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 exist any unsatisfied payment obligations, *then* SCE may draw on any undrawn portion of any outstanding Letter of Credit upon submission to the bank issuing such Letter of Credit of one or more certificates specifying that such Event of Default or Early Termination Date has occurred and is continuing.

Cash proceeds received by SCE from drawing upon the Letter of Credit shall be deemed Performance Assurance as security for the 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 sufficient Performance Assurance; or
 - (2) Any amounts owing to SCE and remaining unpaid after the application of the amounts so drawn by SCE.
- (iv) In all cases, the costs and expenses of establishing, renewing, substituting, canceling, and increasing the amount of a Letter of Credit shall be borne by Seller.

(d) 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 acceptable to SCE meeting the Credit Rating requirements for a 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.

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

If at any time the Guarantor fails to maintain such Credit Ratings, the 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 to net against), and assignment of the Development Security, Performance Assurance, and any and all interest thereon or proceeds resulting therefrom or from the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of SCE, and Seller agrees to take such action as SCE reasonably requires in order to perfect SCE’s Security Interest in, and lien on (and right to net against), such collateral and any and all proceeds resulting there from or from the liquidation thereof.

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

- (a) Exercise any of its rights and remedies with respect to all Development Security and Performance Assurance, including any such rights and remedies under law then in effect;
- (b) Draw on any outstanding Letter of Credit issued for its benefit; and
- (c) Liquidate all Development Security and Performance Assurance then held by or for the benefit of 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 Subordinated Security Interests and Mortgage.

- (a) Prior to the commencement of the Term, as security for Seller’s obligation to pay any Termination Payment, Seller or SCE, as the case may be, shall

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

execute, deliver, file and record, as appropriate, separate agreements, documents, fixture filings, financing statements or instruments (the “Security Documents”) under which Seller will grant to SCE, in a form reasonably acceptable to SCE and subject to characterization as real or personal property in SCE’s sole discretion, fully perfected security interest(s), or mortgage lien(s) in the Generating Facility and in any and all real and personal property rights, contractual rights, or other rights that Seller requires in order to construct or Operate the Generating Facility, including all Permits (collectively the “Secured Interests”).

Seller expressly grants SCE the right to file and or record, as appropriate, such fixture filings, financing statements and other Security Documents in order to perfect its security interests in the Generating Facility.

The Secured Interests shall be subordinate in right of payment, priority and remedies only to the interests of Lender (or its assignee or designee) in accordance with the terms of the subordination, intercreditor or other agreements to be mutually agreed upon by Seller, SCE and Lender. Any such subordination documents shall state that SCE’s Secured Interests shall be junior and subordinate to the lien securing the senior debt of Lender with respect to right of payment, priority and remedies, including provisions which state SCE will not exercise any remedies or share in any proceeds of collateral until all senior debt is paid in full.

- (b) The Secured Interests shall not include the pledge, assignment, or other interest in the ownership interest in Seller.

The Parties shall confirm, define, and perfect the Secured Interests by executing, delivering, filing, and recording, at the expense of Seller, the Security Documents.

In addition, Seller agrees to file and expressly grants SCE the right to file or, in the case of a fixture filing record, such Uniform Commercial Code financing statements and to take such further action and execute such further instruments as shall reasonably be required by SCE to confirm and continue the validity, priority, and perfection of the Secured Interests which in all events shall be junior and subordinate to the lien securing the senior debt of Lender.

The granting of the Secured Interests shall not be to the exclusion of, nor be construed to limit the amount of any further claims, causes of action or other

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

rights accruing to SCE by reason of any breach or default by Seller under this Agreement or the termination of this Agreement prior to the expiration of its Term.

The Secured Interests shall be discharged and released, and SCE shall take any steps reasonably required by Seller to effect and record such discharge and release, upon the expiration of the Term and satisfaction by Seller of all of its obligations hereunder.

Seller shall reimburse SCE for its reasonable costs associated with the discharge and release of the Secured Interests.

- (c) The Security Documents shall provide that if SCE acts to obtain title to the Generating Facility pursuant to the interests provided by Seller pursuant to Section 8.04(a) (which in all events shall be junior and subordinate to the interests of Lender), Seller shall take all steps necessary to transfer all Permits and licenses necessary to Operate the Generating Facility to SCE, and shall diligently prosecute and cooperate in such transfers.

8.05 Credit and Collateral Covenants.

- (a) Seller shall, from time to time as requested by SCE, execute, acknowledge, record, register, deliver and file all such notices, statements, instruments and other documents as may be necessary or advisable to render fully valid and enforceable under all applicable laws the Security Documents and the rights, liens and priorities of SCE with respect to the Security Interest and the Secured Interests provided for herein and therein.
- (b) Seller shall provide prompt Notice to SCE of any Restricted Financing and, as part of such Notice, supply to SCE evidence that the indebtedness incurred with respect to the Restricted Financing has received a credit rating of “B” (or the equivalent) or better from Moody’s or S&P, *provided* that, if Seller has previously provided a credit rating to SCE hereunder with respect to a Restricted Financing, Seller must provide to SCE a credit rating from the same credit rating agency (i.e., S&P or Moody’s) for any subsequent Restricted Financing.
- (c) Except for liens which secure a Restricted Financing; are created by the Security Documents; or are materialmen’s, mechanic’s, workers’ or repairmen’s liens arising in the ordinary course of business (that are not incurred in connection with the obtaining of any loan, advance or credit) for

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

amounts which are not yet due or are being contested in good faith by appropriate proceedings and do not, in the aggregate materially impair the use or value of Seller's assets, Seller shall not create, incur, assume or suffer to be created by it or by any other person or entity, any lien on Seller's interest (or any part thereof) in this Agreement, the Site, or the Generating Facility. Seller shall promptly provide Notice to SCE of any attachment or the imposition of any lien against Seller's interest (or any part thereof) in the Site, this Agreement or the Generating Facility.

Seller promptly shall pay or discharge, or shall cause its contractors to promptly pay and discharge, and discharge of record, any lien for labor, materials, supplies or other obligations upon Seller's interest in the Site, the Generating Facility, or any part thereof or interest therein, unless:

- (i) Seller is disputing any such lien in good faith or
- (ii) Such interest has been subordinated to SCE's interest in the Site, the Generating Facility, or any part thereof or interest therein,

and only for so long as it does not create an imminent risk of a sale or transfer of the Generating Facility or a material part thereof.

Seller shall promptly notify SCE of any attachment or imposition of any lien against Seller's interest (or any part thereof) in the Site, the Generating Facility, or any part thereof or interest therein;

- (d) During any period during which a Seller is a Defaulting Party and until the resolution of the relevant default or Event of Default, which such resolution shall include the payment in full of any amounts that are finally determined to be owed by Seller to SCE, Seller shall not:
 - (i) Declare or pay any dividend, or make any other distribution or payment, on account of any equity interest in Seller; or
 - (ii) Otherwise make any distribution or payment to any Affiliate of Seller;

provided, however, Seller may make ordinary course distributions (including distributions to parent entities) for the payment of debt.
- (e) Seller shall not hold any material assets, become liable for any material obligations or engage in any material business activities other than the development, construction and Operation of the Generating Facility.

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

8.06 Waivers.

SELLER SHALL NOT AT ANY TIME INSIST UPON, PLEAD, CLAIM OR TAKE THE BENEFIT OR ADVANTAGE OF ANY LAW NOW OR HEREAFTER IN FORCE PROVIDING FOR ANY APPRAISEMENT, VALUATION, STAY OF EXECUTION, EXEMPTION, EXTENSION OR REDEMPTION, OR REQUIRING FORECLOSURE OF ANY RIGHTS GRANTED TO SCE BY SELLER UNDER ANY DEED OF TRUST BEFORE EXERCISING ANY OTHER REMEDY GRANTED HEREUNDER.

*** *End of ARTICLE EIGHT* ***

ARTICLE NINE. GOVERNMENTAL CHARGES9.01 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 Amounts) 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 that Party is exempt under the law.

9.03 Providing Information to Taxing Authorities.

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

*** End of ARTICLE NINE ***

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

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

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

- (a) It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
- (b) Except for CPUC Approval in the case of SCE, and all Permits (including the CEC Certification and Verification) and agreements necessary to install, interconnect and Operate the Generating Facility 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;

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

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

10.02 Additional Seller Representations, Warranties and Covenants.

- (a) Seller hereby represents, warrants and covenants to SCE that throughout the Term:
 - (i) Seller shall own and Operate the Generating Facility;
 - (ii) Seller shall deliver the Product to SCE at the Delivery Point free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person;
 - (iii) Subject to Section 3.18, Seller shall hold the rights to all Green Attributes, Capacity Attributes and Resource Adequacy Benefits, which Seller has conveyed and has committed to convey to SCE hereunder;
 - (iv) Seller shall have, maintain and remain in compliance with all Permits, interconnection agreements and transmission rights necessary to Operate the Generating Facility and to deliver electric energy from the Generating Facility to the Delivery Point;
 - (v) Seller shall have 724 MW of Reserved Capacity in force under the Point-to-Point Agreements; and
 - (vi) Any additional transmission service agreements that become effective after the Effective Date (other than the Master Transmission Agreement referenced in Section 2.09, shall be available for assignment to SCE at SCE's discretion.
- (b) Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement that: (i) the Project qualifies

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

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 cost incurred by Seller in order to demonstrate “commercially reasonable efforts” as used in Section 10.02(b) shall have the limitation set forth in Section 3.18(b).

10.03 Indemnity.

- (a) Each Party as indemnitor shall defend, hold 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, hold 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.

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

- (d) Except as otherwise provided in Sections 10.03(a) and 10.03(e), neither Party shall be liable to the other Party for consequential damages incurred by such other Party.
- (e) 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, hold 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(e) is not intended to create any express or implied right in Seller to elect not to provide the insurance required under Section 10.11.

- (f) Each Party shall indemnify, defend and hold harmless the other Party against any Governmental Charges for which such Party is responsible under Article Nine.
- (g) SCE shall indemnify Seller for claims arising from any violations of Site safety rules of which SCE is aware during its examinations of the Site, as provided in Section 3.17.
- (h) Seller is solely responsible for any NERC Standards Non-Compliance Penalties arising from or relating to Seller's failure to perform the Generator Owner Obligations and the Generator Operator Obligations, in accordance with Section 3.29, and will indemnify, defend and hold SCE harmless from and against all liabilities, damages, claims, losses, costs, attorneys fees (which shall include costs of in-house counsel) or expenses 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. If Seller fully complies with the Generator Owner Obligations and the Generator Operator Obligations, SCE will indemnify, defend and hold Seller harmless from and against all liabilities, damages, claims, losses, costs, attorneys fees (which shall include costs of in-house counsel) or expenses incurred by Seller for any NERC Standards Non-Compliance Penalties which are solely due to or its

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

designee's negligence in performing its role as the Scheduling Agent during the Term.

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

10.04 Assignment.

- (a) Except in accordance with Sections 10.05(g) and 10.05(h) or in the case of an assignment by Seller to a Permitted Transferee, 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.
- (b) Any Change of Control of Seller (whether voluntary or by operation of law) shall be deemed an assignment and shall require the prior written consent of SCE, which consent shall not be unreasonably withheld; provided that a direct or indirect transfer of any equity interest in the Seller shall not be considered a Change of Control if such transfer is to one or more Permitted Transferees.

10.05 Consent to Collateral Assignment.

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.

In connection with any financing or refinancing of the Generating Facility by Seller, SCE and Seller shall in good faith work with Lender to agree upon a consent to collateral assignment of this Agreement ("Collateral Assignment Agreement").

The Collateral Assignment Agreement shall be in form and substance agreed to by SCE, Seller and Lender, and shall include, among others, the following provisions:

- (a) SCE shall give Notice of an Event of Default by Seller, to the person(s) to be specified by Lender in the Collateral Assignment Agreement, prior to exercising its right to terminate the Agreement as a result of such Event of Default;
- (b) Lender shall have the right to cure an Event of Default by Seller in accordance with the provisions of the Agreement;
- (c) Following an Event of Default by Seller under this Agreement, SCE may require Seller or Lender to provide to SCE a report concerning:

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

- (i) The status of efforts by Seller or Lender to develop a plan to cure the Event of Default;
- (ii) If a cure plan has been adopted, the status of the cure plan's implementation (including any modifications to the plan as well as the expected timeframe within which any cure is expected to be implemented); and
- (iii) Any other information which SCE may reasonably require related to the development, implementation and timetable of the cure plan.

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;

- (d) Lender shall have the right to cure an 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 must remedy or cure the Event of Default within the cure period under the Agreement;

provided that, such cure period may, in SCE's sole discretion, be extended by no more than an additional one hundred eighty (180) days;

- (e) Lender shall have the right to consent prior to any termination of the Agreement which does not arise out of an Event of Default;
- (f) Lender shall receive prior Notice of and the right to approve material amendments to the Agreement, which approval shall not be unreasonably withheld, delayed or conditioned;
- (g) In the event Lender, directly or indirectly, takes possession of, or title to the Generating Facility (including possession by a receiver or title by foreclosure or deed in lieu of foreclosure), Lender 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 Collateral Assignment Agreement);

provided that, Lender shall have no personal liability for any monetary obligations of Seller under the Agreement which are due and owing to SCE as of the assumption date;

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

provided, however, that prior to such assumption, if SCE advises Lender that SCE will require that Lender cure (or cause to be cured) any Event of Default existing as of the possession date in order to avoid the exercise by SCE (in its sole discretion) of SCE's right to terminate the Agreement in respect of such Event of Default, *then* Lender at its option; and in its sole discretion, may elect to either:

- (i) Cause such Event of Default to be cured, or
 - (ii) Not assume this Agreement;
- (h) If Lender elects to sell or transfer the Generating Facility (after Lender directly or indirectly, takes possession of, or title to the Generating Facility), or sale of the Generating Facility occurs through the actions of Lender (for example, a foreclosure sale where a third party is the buyer, or otherwise),

then Lender must cause the transferee or buyer to assume all of Seller's obligations arising under this Agreement and all related agreements as a condition of the sale or transfer.

Such sale or transfer may be made only to an entity with financial qualifications (including, collateral support and any other additional security as may be required by SCE) and operating experience equivalent to Seller as of the Effective Date reasonably satisfactory to SCE; and

- (i) If this Agreement is rejected in Seller's Bankruptcy or otherwise terminated in connection therewith and if Lender or its designee, directly or indirectly, takes possession of, or title to, the Generating Facility (including possession by a receiver or title by foreclosure or deed in lieu of foreclosure), Lender shall or shall cause its designee to promptly enter into a new agreement with SCE having substantially the same terms as this Agreement.

10.06 Abandonment.

Except as provided under Section 10.05(g) and Section 10.05(h), Seller shall not relinquish its possession and control of the Generating Facility without the prior written consent of SCE.

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,

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

and such cessation is not a result of an event of Force Majeure, for a consecutive thirty (30) day period.

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 scheduling requests) shall, unless otherwise specified herein, be in writing and may be delivered by hand delivery, United States mail, overnight courier service or facsimile.

- (a) Notice provided in accordance with this Section 10.08 shall be deemed given as follows:

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 shall be deemed given on the next Business Day after it was sent out; and

- (c) Notice by first class United States mail shall be deemed given two (2) Business Days after it was sent.

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.

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

All notices, requests, statements or payments for this Generating Facility must reference the QFID 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 or the Lender under Article Eight).
- (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 applicable agreement covering transmission, distribution, metering,

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

scheduling or interconnection. In the event of an apparent contradiction between this Agreement and any such agreement, the applicable agreement shall control.

- (l) Whenever this Agreement specifically refers to any law, tariff, government department or agency, regional reliability council, the BPA, 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.
- (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) Each Party shall act in good faith in its performance under this Agreement.
- (q) This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by facsimile transmission, Portable Document Format (i.e., PDF) or by other electronic means shall constitute effective execution and delivery of this Agreement as to the Parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by facsimile or by other electronic means shall be deemed to be their original signatures for all purposes.

10.10 Confidentiality.

- (a) Terms and Conditions of this Agreement.

Neither Party shall disclose the non-public terms or conditions of this Agreement to a third party, other than:

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

- (i) To such Party's employees, lenders, counsel, accountants or advisors who have a need to know such information and have agreed to keep such terms confidential;
- (ii) With respect to disclosure by SCE, to SCE's Procurement Review Group, as defined in CPUC Decision 02-08-071, subject to any confidentiality agreements or laws, or regulations or regulatory decisions concerning confidentiality which are applicable to SCE's Procurement Review Group;
- (iii) With respect to disclosure by SCE, 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 applicable statute, order or rule;
- (iv) To the Governmental Authorities of the State of Oregon for the purpose of obtaining all regulatory approvals, permits, licenses and other grants of authority necessary to complete development and construction on the Site and Operate the Generating Facility;
- (v) To the BPA regarding the interconnection of the Generation Facility to the BPA Grid and the transmission of electrical energy sold to SCE hereunder;
- (vi) In order to comply with any Applicable Law or any exchange, control area or BPA Business Practice, or order issued by a court or entity with competent jurisdiction over the Disclosing Party, other than to those entities set forth in Section 10.10(a)(vii);
- (vii) In order to comply with any applicable regulation, rule, or order of the CPUC, CEC, or FERC, any court, administrative agency, legislative body or other tribunal, or any discovery or data request of a party to any proceeding pending before any of the foregoing;
- (viii) 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;
- (ix) To representatives of a Party's credit ratings agencies;

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

- (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; or
 - (2) With respect to the potential impact of this Agreement on the Party's financial reporting obligations.
- (x) In connection with discovery requests or orders pertaining to the non-public terms of this Agreement as referenced in this Section 10.10(a) ("Disclosure Order"), each Party shall, to the extent practicable, use reasonable efforts to (x) notify the other Party prior to disclosing the confidential information and (y) prevent or limit such disclosure.

After using such reasonable efforts, the Disclosing Party shall not be (A) prohibited from complying with a Disclosure Order or (B) 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.

(b) Non-Disclosure Agreement.

- (i) The Non-Disclosure Agreement, as amended, between the Parties and attached hereto as Exhibit J is incorporated herein (the "NDA"), and the termination date of that agreement is modified such that it will terminate on the later of:
- (1) Three (3) years following the Effective Date; or
 - (2) One year after the date of termination of this Agreement.

Information provided by the Parties pursuant to this Agreement shall be subject to the NDA, or to such other agreement that the Parties shall negotiate to provide reasonable protection for their confidential business information or trade secrets.

- (ii) The term "Confidential Information" as used in the NDA shall be deemed to include (in addition to the information described in the NDA) this Agreement and all oral or written communications

exchanged between the Parties pursuant to this Agreement, except for communications and information described in Section 4 of the NDA.

- (iii) Confidential Information may only be used for the purposes set forth under the NDA and for the purpose of implementing and enforcing this Agreement.

(c) RPS Confidentiality.

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

- (i) Party names;
- (ii) ERR Type;
- (iii) Term;
- (iv) Generating Facility location;
- (v) Generating Facility capacity;
- (vi) Expected deliveries;
- (vii) Delivery Point; and
- (viii) Online date.

(d) Freedom of Information Act.

In the event that a Party becomes aware that the BPA may disclose any Confidential Information of either Party in compliance with the request for disclosure under the Freedom of Information Act or similar state statute, each Party shall use commercially reasonable efforts in cooperation with the other Party in judicial action to block or limit such disclosure.

10.11 Insurance.

- (a) Throughout the Term, Seller shall obtain and maintain in force as hereinafter provided commercial general liability insurance, including contractual liability

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

coverage, with a combined single limit of not less than two million dollars (\$2,000,000) for each occurrence.

The insurance carrier or carriers and form of policy shall be subject to review and approval by SCE which approval shall not be unreasonably withheld or delayed.

- (b) Before commencement of the Term, as provided in Section 2.04(a), 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;
 - (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

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

facilities involved in the performance of this Agreement to the public or to the service provided under the Agreement, and such service shall cease upon termination of the 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 and 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 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 Interest.

Except as specifically provided in this Agreement, any outstanding and past due amounts owing and unpaid by either Party under the terms of this Agreement, shall bear simple interest at the Interest Rate.

10.15 Payments.

Payments to be made under this Agreement shall be made by wire transfer.

10.16 Seller Ownership and Control of Generating Facility.

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

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

acknowledge that the entire output of the Generating Facility has been dedicated to SCE under the terms of this Agreement.

10.17 Change in BPA Business Practices.

The Parties acknowledge and anticipate that there may be changes in BPA Business Practices throughout the Term that affect the Point-to-Point Agreements. In the event a Party becomes aware of a proposed change in any BPA Business Practice that a Party believes may have a material adverse effect on either Party's benefits, burdens and obligations under this Agreement, that Party may notify the other Party of such change, and either Party, in its sole discretion, may petition the BPA regarding the proposed change in such BPA Business Practice.

In the event that the proposed change is implemented, the Parties shall enter into negotiations to make the minimum changes to this Agreement necessary to render this Agreement in compliance with the terms and conditions of the revised BPA Business Practice while preserving to the maximum extent possible the benefits, burdens and obligations that each Party would have had received had the BPA Business Practice not been changed.

10.18 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 2.08(b), 3.01, 3.02, 3.04(e), 3.07, 6.04(a) 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 Article Section 11.01. 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 11.01, 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.

10.19 No Agency.

Nothing in this Agreement, including the provisions of Sections 2.02(b) and 4.05 and the designation of SCE (or SCE's Scheduling Agent-designee as) as "Scheduling Agent" is intended to establish or create, nor shall it be deemed to establish or create, an "agency" relationship, as such relationship is described in California Civil Code Section 2295 et seq. or similar state, federal or other Applicable Law, between Seller and SCE (or SCE's Scheduling Agent-designee) such that SCE or its Scheduling Agent-designee is deemed to be an "agent" of Seller, any Shepherds Flat Party or any Shepherds Flat Affiliate under the California Civil Code or any other state, federal or other Applicable Law. In the event that such an "agency" relationship is created, deemed to be created, or implied under the BPA Tariff or other Applicable Law, the Parties shall negotiate in good faith to determine the scope of any such "agency" relationship.

10.20 Required Material.

Seller acknowledges and agrees that any review, approval, request, or requirement of any Required Material made pursuant to this Agreement shall mean only that such Required Material is acceptable to SCE solely for SCE's internal purposes and benefit, and except where it is expressly provided in this Agreement that SCE shall be liable (e.g., with respect to SA-Curtailed Amounts determined in accordance with Exhibit P), no such review, approval, request or requirement shall in anyway be construed to mean that such Required Material is accurate, suitable for its intended purpose, in compliance with any Applicable Law or other requirement, or endorsed for the benefit of any other party, including Seller.

*** End of ARTICLE TEN ***

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

ARTICLE ELEVEN. MEDIATION AND ARBITRATION**11.01 Dispute Resolution.**

The Parties agree that 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 be resolved according to the dispute resolution procedures of this Article Eleven.

Any Dispute that is not an EDR Eligible Dispute shall first be submitted to mediation under the procedures described in Section 11.02 below, and if the matter is not resolved through mediation, then for final and binding arbitration under the procedures described in Section 11.03(b) below.

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

11.02 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

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

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.

11.03 Binding Arbitration.

(a) Expedited Dispute Resolution.

(i) Eligible Disputes for Expedited Dispute Resolution.

In order to expedite the resolution of certain disputed payment amounts and certain disputed defaults under this Agreement, either Party may elect to commence a proceeding for binding expedited dispute resolution ("EDR") for such disputes in accordance with the provisions of this Section 11.03(a). Those disputes for which EDR shall be available (the "EDR Eligible Disputes") shall be disputes over Non-Financial Defaults and the payment amounts in Payment Requests only. Disputes regarding Financial Defaults shall not be eligible for EDR.

(ii) Notice.

In the event that one Party receives an invoice for payment or a Notice of default for any EDR Eligible Dispute, and the receiving Party believes that it has a bona fide, good faith dispute regarding the payment amount or alleged default, such Party (the "Disputing Party") may initiate expedited binding arbitration with respect to such dispute by providing Notice in accordance with Section 10.08 of a demand for EDR before the Arbitrator (as defined below), *provided that* such

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

Notice must be given by the Disputing Party within ten (10) days after receipt of such payment invoice or Notice of default, as applicable; *provided*, that in no event shall such Notice be given later than the expiration of the cure period applicable to such default. No mediation shall be required in order to commence EDR for an EDR Eligible Dispute.

The Disputing Party's Notice shall set forth in detail the reason for its dispute, and shall include the Disputing Party's calculation of any disputed amounts, calculated in accordance with the appropriate provisions of this Agreement, as well as annotated work papers and source data supporting the Disputing Party's calculations and claims.

(iii) EDR Procedures.

During the first thirty (30) days after receipt of a Notice of request for EDR, the Parties shall: (y) engage in good faith negotiations to resolve their disputes with respect to any payment amount or alleged default; and (z) cooperate with one another in selecting an Arbitrator capable of complying with the conditions of this EDR procedure.

If the Parties are able to resolve their dispute by good faith negotiation within the aforementioned thirty (30) day period, the Parties may agree in writing to cancel the EDR, each Party shall pay its own attorneys' fees and costs associated with the arbitration, if any, and the Parties shall bear equally all other costs of the arbitration, if any.

If the EDR proceeds, the Arbitrator shall be instructed that a final decision must be rendered within one hundred eighty (180) days after receipt of the Notice for EDR (the "EDR Decision Deadline"), and the Parties shall cooperate with each other and the Arbitrator in a good faith effort to meet the EDR Decision Deadline. EDR shall proceed in accordance with the provisions of Section 11.04.

(iv) Effect of EDR.

In the event that a Disputing Party invokes EDR for an EDR Eligible Dispute in accordance with the procedures set forth above:

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

- (1) Notwithstanding the expiration of any applicable cure period hereunder, from the date of receipt of the Notice requesting EDR until the earlier of: (i) three (3) Business Days after a decision of the Arbitrator in the EDR proceeding, or (ii) the EDR Decision Deadline (the “Tolling Period”):
 - a) An Event of Default shall not be deemed to have occurred; and
 - b) The Party providing the invoice for payment or Notice of default (the “Non-Disputing Party”) may not exercise its right to terminate this Agreement based upon any Non-Financial Defaults or Payment Requests.

Nothing set forth in subclauses (a) and (b) above shall act to toll or extend any cure periods under Section 6.01; and

- (2) During the Tolling Period, the Parties may not exercise any of their netting rights under Section 4.04(c) based upon a Payment Request or Non-Financial Default which is the subject of an EDR proceeding invoked by the Disputing Party;

provided that, in the event SCE is the Non-Disputing Party, its obligations under clauses (1)-(2) above shall be terminated immediately in the event Seller makes any equity distributions to its Affiliates, other than ordinary course distributions (including distributions to parent entities) for the payment of debt, at any time during the Tolling Period.

In the event that the Arbitrator does not render a final decision on or before the EDR Decision Deadline, the Parties may, by mutual agreement in writing, either terminate the EDR proceeding or allow the EDR proceeding to continue, notwithstanding that the Non-Disputing Party is free at such time to exercise its termination right and its netting rights.

- (b) Alternative Dispute Resolution.

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

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 (“ADR”) before an Arbitrator at any time following the unsuccessful conclusion of the mediation provided for in Section 11.02 above.

The Parties will cooperate with one another in selecting the Arbitrator within sixty (60) days after Notice of the demand for ADR 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. ADR shall proceed in accordance with the provisions of Section 11.04.

This ADR procedure may be used to resolve EDR Eligible Disputes (in lieu of EDR) and Financial Defaults, provided that in neither case shall the netting rights or the termination rights of the Party requesting payment or claiming the default be suspended.

11.04 General Provisions for Arbitration.

- (a) All EDR and ADR (collectively, “Arbitration”) shall be before a single, neutral arbitrator (the “Arbitrator”). 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.
- (b) With respect to ADR, unless otherwise agreed to by the Parties, the individual acting as the Mediator shall be disqualified from serving as the Arbitrator in the ADR 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.
- (c) 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.
- (d) Upon Notice of a Party’s demand for 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.

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

- (e) 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).
- (f) 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.
- (g) 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:
 - (i) 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).
 - (ii) 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.
 - (iii) Discovery may commence at any time after the Parties' initial disclosure.
 - (iv) The Parties will not be permitted to propound any interrogatories or requests for admissions.
 - (v) 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).

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

- (h) Each Party is allowed a maximum of three (3) expert witnesses, excluding rebuttal experts.
- (i) Within forty-five (45) 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.
- (j) Within fifteen (15) days after the initial expert disclosure, the Parties may designate a maximum of two (2) rebuttal experts.
- (k) Unless the Parties agree otherwise, all direct testimony shall be in form of affidavits or declarations under penalty of perjury.
- (l) Each Party shall make available for cross examination at the Arbitration hearing its witnesses whose direct testimony has been so submitted.

11.05 Arbitration Awards.

Judgment on the award may be entered in any court having jurisdiction. In any award, the Arbitrator shall 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 (collectively, the "Arbitration Costs"), 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.

In the case of EDR, the Arbitrator also shall allocate against the Party who did not prevail the prevailing Party's reasonable attorneys' fees and expenses related to the prevailing Party's participation in the Arbitration. Further, if the Arbitrator determines that the non-prevailing Party's position related to the dispute (i.e., either initiating or opposing the Payment Request or Notice of default) 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.

11.06 Waivers.

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

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 11.02 AND 11.03 HEREOF.

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

[Remainder of Page Left Blank Intentionally.]

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

ID #6331 (South Hurlburt Wind)

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

SOUTH HURLBURT WIND, LLC,

**SOUTHERN CALIFORNIA EDISON
COMPANY,**

a Delaware limited liability company

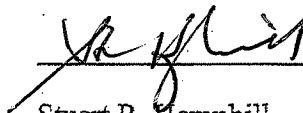
a California corporation

By:



Leslie J. Gelber
President &
Chief Operating Officer

By:



Stuart R. Hemphill
Vice President,
Renewable and Alternative Power

Date: August 14, 2008

Date: August 14, 2008

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

ID #6331 (South Hurlburt Wind)

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

SOUTH HURLBURT WIND, LLC,

**SOUTHERN CALIFORNIA EDISON
COMPANY,**

a Delaware limited liability company

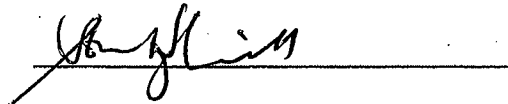
a California corporation

By:



Leslie J. Gelber
President &
Chief Operating Officer

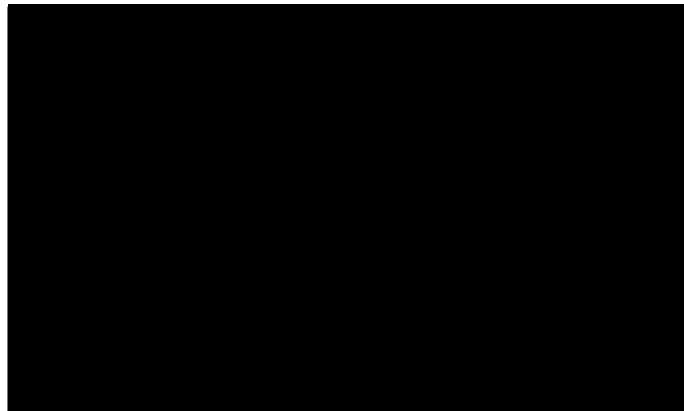
By:



Stuart R. Hemphill
Vice President,
Renewable and Alternative Power

Date: August 14, 2008

Date: August 14, 2008



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. “20th Turbine Date” means the date on which at least twenty (20) Wind Turbines have been installed at the Generating Facility and are running in parallel with the BPA Grid.
2. “Above MPR Cost Limit” has the meaning set forth in Section 2.07.
3. “Above MPR Pricing” has the meaning set forth in Section 2.07.
4. “Accepted Compliance Costs” has the meaning set forth in Section 3.18(c).
5. “Actual Availability Report” has the meaning set forth in Section 3.25.
6. “Actual Cost Report Delivery Date” means the date on which the Cost Expert delivers the Cost Report to the Parties in accordance with Exhibit E.
7. “Actual Site Wind Speeds” means the Site wind speeds and other meteorological conditions that are measured and recorded by the Meteorological Equipment.
8. “ADR” has the meaning set forth in Section 11.03(b).
9. “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.

10. “Agreement” has the meaning set forth in the Preamble.
11. “Ancillary Service Charges” means debits, costs, rates or penalties (including any interest thereon) arising under the BPA Tariff or a BPA rate schedule, inclusive of generation imbalance charges, that are imposed by the BPA, in its capacity as Transmission Provider, and that relate to the provision of transmission services, excluding only BPA Sanctions.
12. “Annual Compliance Cap” has the meaning set forth in Section 3.18(b).
13. “Applicable Laws” means all constitutions, treaties, laws, ordinances, rules, regulations, interpretations, permits, judgments, decrees, injunctions, writs and orders

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

- of any Governmental Authority that apply to either or both of the Parties, the Generating Facility or the terms of this Agreement.
14. “Arbitration” has the meaning set forth in Section 11.04(a).
 15. “Arbitration Costs” has the meaning set forth in Section 11.05.
 16. “Arbitrator” has the meaning set forth in Section 11.04(a).
 17. “Assignment Period” with respect to a Point-to-Point Agreement means any time during the Startup Period or the Term (or, if this Agreement is terminated prior to expiration of the Term, any time from the commencement of the Startup Period until the Early Termination Date) that SCE is the assignee of the Point-to-Point Agreement (or a portion thereof).
 18. “Authority to Construct” means the final and non-appealable order of the Oregon Energy Facility Siting Council granting a site certificate authorizing the construction and Operation of the Generating Facility in accordance with provisions of Chapter 469 of the Oregon Revised Statutes.
 19. “Availability Deviation” means, for each hour, the absolute difference between (i) the quantity reported in the Availability Forecasts in accordance with Exhibit D and (ii) the actual available total generation capacity of the Generating Facility plus (c) the quantity, if any, associated with a forced or unexpected outage.
 20. “Availability Forecasts” has the meaning set forth in Exhibit D.
 21. “Availability Workbook” has the meaning set forth in Exhibit S.
 22. “Available Transfer Capability” has the meaning set forth in the BPA Tariff.
 23. “Available Transmission” means, at any given time, that portion of the firm transmission capacity under all Point-to-Point-Agreements assigned to SCE at such time by the Shepherds Flat Parties or the Shepherds Flat Affiliates that is actually available, for transmission service to any primary or secondary Point(s) of Delivery as those terms are used in the BPA Tariff, at such time on the BPA Grid.
 24. “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,

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

- 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 it or any substantial portion of its property or assets; or
 - e) Is generally unable to pay its debts as they fall due.
25. “Big Eddy” means the Big Eddy 230 kV Substation that serves as the northern terminus of the Pacific Northwest–Pacific Southwest DC Intertie located on the Columbia River near The Dalles, Oregon and is specified as a “Point of Delivery” in the Big Eddy Agreement.
26. “Big Eddy Agreement” means a point-to-point firm transmission service agreement with the BPA, substantially in the form of Exhibit T-1, providing for the transmission on a firm basis of at least 474 MW from the Generating Facility to Big Eddy for at least the Term of this Agreement,.
27. “Billing Cycle Commencement Date” means the first date of the BPA billing cycle for Transmission Demand Charges in which Initial Synchronization occurs or is expected to occur.
28. “BPA” means the Bonneville Power Administration or any successor entity.
29. “BPA Business Practice” means any BPA practice or procedure the BPA may adopt for the purpose of facilitating the administration of the BPA Tariff.
30. “BPA Charges” means debits, costs, penalties and interest that are directly assigned or attributable by the BPA or Transmission Provider to the Generating Facility. Notwithstanding the foregoing, BPA Charges do not include BPA Sanctions, Ancillary Service Charges, Wind Integration Charges, Transmission Demand Charges or Electrical Losses.
31. “BPA Charge Statement” has the meaning set forth in Section 3.23(c)(i).
32. “BPA Meter” has the meaning set forth in Section 3.06.

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

33. “BPA Grid” means the system of transmission lines and associated facilities that comprise the Federal Columbia River Transmission System; provided, however, that the “BPA Grid” excludes the Interconnection Facilities designated by BPA as “interconnection customer’s interconnection facilities.”
34. “BPA Revenues” means any and all the credits and other payments received from the BPA, including payments made due to positive (i.e., for a given hour, when actual generation from the Generating Facility exceeds the respective electric energy specified in the Schedule) Generation Imbalance.
35. “BPA Sanctions” means any sanction or penalty directly attributable to generation, distribution, transmission, scheduling or deliveries from or with respect to the Generating Facility under this Agreement, imposed or assessed by the BPA, including with respect to forecasting the availability of the Generating Facility or failure to adhere or respond to BPA instructions. BPA Sanctions include any unauthorized increase charges, any generating facility penalties and any other sanction or penalty that is not a BPA Charge, Ancillary Service Charge, Transmission Demand Charges, Electrical Loss or Wind Integration Charge.
36. “BPA Tariff” means the Bonneville Power Administration Open Access Transmission Tariff, including the rules, protocols, BPA Business Practices, bulletins, procedures and standards attached thereto, as well as BPA standard agreements and rate schedules, as the same may be amended or modified from time-to-time and accepted or approved by FERC.
37. “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.
38. “Buyer” means Southern California Edison Company.
39. “CAISO” means the California Independent System Operator Corporation or successor entity.
40. “Capacity Attributes” means any and all current or future defined characteristics, certificates, tag, 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.
41. “CEC” means the California Energy Commission.

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

42. “CEC Certification and Verification” means certification by the CEC that the Generating Facility is an ERR for purposes of the RPS Legislation and that all electric energy produced by the Generating Facility qualifies as generation from an ERR for purposes of the RPS Legislation.
43. “CEC Pre-Certification” means provisional certification of the proposed Generating Facility as an ERR by the CEC upon submission by a facility of a complete CEC-RPS-1B application and required supplemental information.
44. “CFR” means the Code of Federal Regulations, as may be amended from time to time.
45. “Change of Control” means any assignment or other transfer of fifty percent (50%) or more of the voting control of Seller (as of the Effective Date).
46. “Change in BPA Tariff” means that the BPA Tariff has been changed and such change has a material adverse impact on either Party, or the BPA has been dissolved or replaced and any successor to the BPA operates under rules, protocols, procedures or standards that differ in a material respect from the BPA Tariff, after the Effective Date.
47. “Claiming Party” has the meaning set forth in Section 5.02.
48. “Collateral Assignment Agreement” has the meaning set forth in Section 10.05.
49. “Common Wind Turbine Defect” means a common design or manufacturing defect in more than one of the new Wind Turbines at the Generating Facility that is:
 - i) Referenced by the Wind Turbine manufacturer in a service bulletin issued to its customers as a service, warranty or maintenance issue in wind turbines of the same model as the Wind Turbines; or
 - ii) Identified in a report from a third-party expert employed by Seller and reasonably acceptable to SCE concluding that a defect exists for the Wind Turbines which is due to a common design or manufacturing defect for wind turbines of the same model as the Wind Turbines.
50. “Conditional Use Permit” means, collectively, any permit(s) which Seller is required to obtain from Governmental Authorities, other than the Authority to Construct, to enable Seller to construct and Operate the Generating Facility.
51. “Control Area” means the electric power system (or combination of electric power systems) to which an automatic generation control scheme is applied under the operational control of the BPA or any other similar electric power system under the

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

operational control of another organization vested with authority comparable to that of the BPA.

52. “Cost Expert” means any of Garrad Hassan America, Inc., Global Energy Concepts, LLC, Stone & Webster, Inc., Worley-Parsons, URS-Washington Group, Fluor Corporation, or any other independent third party jointly selected by the Parties and experienced in the evaluation of wind turbine costs and balance of plant construction and service costs.
53. “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.
54. “CPUC” means the California Public Utilities Commission.
55. “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.

56. “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,

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

- 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.
57. “Cross Default Amount” means the dollar amount, if any, set forth in Section 1.08(b).
58. “Curtailed Event” means an interruption or curtailment of transmission service by the BPA that results in SA-Curtailed Amounts.
59. “Daily Delay Liquidated Damages” has the meaning set forth in Section 3.04(b).
60. “Defaulting Party” has the meaning set forth in Section 6.01.
61. “Deficient Energy Delivery Amount” has the meaning set forth in Item 3 of Exhibit F.
62. “Delivered Amounts” means the Metered Amounts adjusted for Delivery Losses between the BPA Meter and the Delivery Point.
63. “Delivery Losses” means all transformer, line and other electrical losses occurring between the BPA Meter and the Delivery Point.
64. “Delivery Point” means the point on the 500 kV bus of the Slatt Substation where the Interconnection Facilities connect to the BPA Grid.
65. “Delivery Term” means Term.
66. “Demonstrated Nameplate Contract Capacity” has the meaning set forth in Section 3.04(d).
67. “Development Security” means the amount described in Section 3.04(a).
68. “Disclosing Party” has the meaning set forth in Section 10.10.
69. “Disclosure Order” has the meaning set forth in Section 10.10.
70. “Dispute” has the meaning set forth in Section 11.01.
71. “Disputing Party” has the meaning set forth in Section 11.03(a)(ii).
72. “DLF” means a number that is a representation for all net electric energy losses or avoided losses as determined by the relevant government agency associated with the transmission of electric energy through the electric system from the high voltage side of the Generating Facility’s substation bus bar to the interface with the BPA Grid, also known as the distribution loss factor.

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

73. “Dollars” or “\$” means United States Dollars.
74. “Early Termination Date” has the meaning set forth in Section 6.02.
75. “EDR” has the meaning set forth in Section 11.03(a)(i).
76. “EDR Decision Deadline” has the meaning set forth in Section 11.03(a)(iii).
77. “EDR Eligible Dispute” has the meaning set forth in Section 11.03(a)(i).
78. “Effective Date” has the meaning set forth in the Preamble.
79. “Electrical Losses” means all monetary or in-kind payments demanded by BPA to account for electrical losses relating to transmission or transmission of power from the Generating Facility at, and beyond, the Delivery Point.
80. “Eligible Renewable Energy Resource” is defined in Public Utilities Code Section 399.12 and Section 399.16.
81. “Emergency” means:
 - a) An actual or imminent condition or situation which jeopardizes the integrity of the BPA Grid or the integrity of other systems to which the BPA is connected, as determined by the BPA in its reasonable discretion, or any condition so defined and declared by the BPA; or
 - b) An emergency condition as defined under the Interconnection Agreement and any abnormal interconnection or system condition that requires automatic or immediate manual action to prevent or limit loss of regional load or generation supply, that could adversely affect the reliability of the BPA Grid or generation supply, that could adversely affect the reliability of any interconnected system, or that could otherwise pose a threat to public safety.
82. “Energy Payment” means a payment made by SCE to Seller calculated in accordance with Section 4.03 for Product delivered to, or for the account of, SCE by Seller in accordance with the terms of this Agreement.
83. “Energy Price” means any of the energy prices set forth in Section 1.06.
84. “Energy Price Cap” means, at the time the Energy Price is re-evaluated pursuant to Section 2.06 and Exhibit E, the greater of the most recently published Market Price

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

- Referent for the online date in which Initial Synchronization is estimated to occur or \$112.00 per MWh.
85. “Energy Replacement Damage Amount” has the meaning set forth in Item 4 of Exhibit F.
 86. “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.
 87. “ERR” means Eligible Renewable Energy Resource, as set forth in Section 10.02(b).
 88. “Event of Default” has the meaning set forth in Section 6.01.
 89. “Event of Deficient Energy Deliveries” has the meaning set forth in Exhibit F.
 90. “Excess Compliance Actions” has the meaning set forth in Section 3.18(c).
 91. “Federal Funds Effective Rate” means the rate for that day opposite the caption “Federal Funds (effective)” as set forth in the weekly statistical release as H.15(519), or any successor publication, published by the Board of Governors of the Federal Reserve System.
 92. “Federal Production Tax Credit Legislation” means validly enacted Federal legislation extending the applicability and rate of the renewable energy production tax credit (26 U.S.C. § 45) to owners of generating facilities which use wind to produce electric energy on terms no less favorable to owners of wind generating facilities than those available with respect to such facilities placed in service on or after January 1, 2006 and before January 1, 2009 pursuant to the law governing Production Tax Credits as in effect on the Effective Date including, but not limited to, a tax credit allowable for at least ten years of at least twenty dollars (\$20) per MWh in 2007 dollars adjusted for inflation as set forth therein.
 93. “FERC” means the Federal Energy Regulatory Commission.
 94. “Final Wind Report” means the unabridged and unredacted final report concerning the electric energy producing potential of the Site prepared by an independent engineer which shall be obtained by Seller and provided to SCE as set forth in Section 3.21(b)(x).
 95. “Financial Defaults” means the following defaults that are not eligible for EDR: defaults under (i) Section 6.01(a)(iv) (Credit Default); (ii) Section 6.01(b) (Guarantor

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

Default) (other than Section 6.01(b)(i)); (iii) Section 6.01(c)(iv) (Restricted Financing Default); and (iv) Section 6.01(c)(xiv) (Security Document Default).

96. “Firm Operation Date” has the meaning set forth in Section 1.04.
97. “Forecast” or “Forecasting” means the action of Seller in preparing and submitting to SCE, in accordance with Exhibit D, the Availability Forecasts.
98. “Force Majeure” means (A) a Common Wind Turbine Defect or (B) any occurrence that was not anticipated as of the Effective Date that:
- a) In whole or in part:
 - i) Delays a Party’s performance under this Agreement;
 - ii) Causes a Party to be unable to perform its obligations; or
 - iii) Prevents a Party from complying with or satisfying the conditions of this Agreement;
 - b) Is not within the control of, or is not the result of the negligence 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 reduction in deliveries at the direction of a Transmission Provider or the BPA (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;
- b) The lack of economic resources of a Party;
- c) Reductions in generation from the Generating Facility resulting from ordinary wear and tear, deferred maintenance or operator error; or
- d) Curtailment or reduction in deliveries at the direction of the BPA:

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

- (i) When the basis of the curtailment or reduction in deliveries ordered by a Transmission Provider or the BPA is congestion arising in the ordinary course of operations of the Transmission Provider's system or the BPA Grid, including congestion caused by outages or capacity reductions for maintenance, construction or repair; or
 - (ii) When SCE, using commercially reasonable efforts, can redirect such deliveries, on either a firm or non-firm basis, to alternative points of delivery under the Point-to-Point Agreements.
99. "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.

100. "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, Market Price Referents set by the CPUC, 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, but 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,

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

then the Non-Defaulting Party may use information available to it internally suitable for such purpose in accordance with prudent industry practices.

101. “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.
102. “Generating Facility Capacity” means the Generating Facility’s total rated electric energy generating capacity determined by the total of the manufacturer’s nameplate ratings of all installed Wind Turbines, consistent with Prudent Electrical Practices and accepted industry standards, as indicated on the nameplates physically attached to the individual Wind Turbine generators.
103. “Generating Facility Performance Model” means a computer program developed by the Independent Performance Engineer that:
 - a) Calculates the Term Year Estimate of Metered Amounts; and
 - b) Produces a Generating Facility Performance Model Report.
104. “Generating Facility Performance Model Report” means a written report produced by Seller for each Term Year, based upon the results from the Generating Facility Performance Model, which includes:
 - a) A Term Year Estimate of Metered Amounts;
 - b) A log of Wind Turbine availability during each Settlement Interval in the applicable Term Year;
 - c) A histogram of Metered Amounts:
 - i) Recorded for all Term Years;
 - ii) Calculated by using the Generating Facility Power Curve and the P1, P50 and P99 wind profiles included in the Final Wind Report; and
 - iii) Calculated by using the Wind Turbine manufacturer’s power curves for a single wind turbine and the P50 wind profiles included in the Final Wind Report and then multiplying the results by the number of Wind Turbines installed at the Generating Facility.

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

- d) A chart showing values sorted from largest to smallest of Metered Amounts:
 - i) Recorded for all Term Years;
 - ii) Calculated by using the Generating Facility Power Curve and the P1, P50 and P99 wind profiles included in the Final Wind Report; and
 - iii) Calculated by using the Wind Turbine manufacturer's power curves for a single wind turbine and the P50 wind profiles included in the Final Wind Report and then multiplying the results by the number of Wind Turbines installed at the Generating Facility.
 - e) A histogram based upon the:
 - i) Actual Site Wind Speeds for all Term Years; and
 - ii) P1, P50 and P99 wind speeds included in the Final Wind Report; and
 - f) Electronic copy of the Generating Facility Performance Model computer program used to produce the report.
105. "Generating Facility Power Curve" means a table, chart or mathematical algorithm, developed by the Independent Performance Engineer, which is:
- a) Designed to translate Actual Site Wind Speeds to estimated Metered Amounts;
 - b) Capable of being integrated into the Generating Facility Performance Model; and
 - c) Derived from the Metered Amounts recorded during all Settlement Intervals:
 - i) When all of the Wind Turbines are available to produce electric energy;
 - ii) That are not Lost Output Settlement Intervals; and
 - iii) That occurred during the second and third Term Years.
106. "Generator Operator" means an entity that operates and maintains generating units and has registered with the NERC as the entity responsible for complying with those NERC reliability standards applicable to the operation and maintenance of generating units.

107. “Generator Owner” means an entity that owns generating units and has registered with NERC as the entity responsible for complying with those NERC reliability standards applicable to owner of generating units.
108. “Generator Operator Obligations” means the obligations of a Generator Operator as set forth in the all applicable NERC Reliability Standards available at http://www.nerc.com/~filez/standards/Reliability_Standards_Regulatory_Approved.html.
109. “Generator Owner Obligations” means the obligations of a Generator Owner as set forth in the all applicable NERC Reliability Standards available at http://www.nerc.com/~filez/standards/Reliability_Standards_Regulatory_Approved.html.
110. “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.
111. “Governmental Charges” has the meaning as set forth in Section 9.02.
112. “Green Attributes” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Project, and its displacement of conventional energy generation. Green Attributes include but are not limited to Renewable Energy Credits, as well as:
- (1) Any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (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;

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

- (3) The reporting rights to these avoided emissions, such as Green Tag Reporting Rights.

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

Green Attributes do *not* include:

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

If the Project is a biomass or landfill gas 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.

113. "Guarantor" has the meaning set forth in Section 1.08.
114. "Guaranty Agreement" means, if a Guarantor has been identified, the guaranty agreement from the Guarantor in the form attached hereto as Exhibit I.

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

115. “Guaranty Amount” means the amount, if any, specified in Section 1.08(c).
116. “Independent Performance Engineer” means a recognized third party expert experienced with the:
- a) Performance characteristics of wind powered electric energy generators that will be installed at the Generating Facility;
 - b) Design and construction of wind powered generating facilities;
 - c) Specification of meteorological instruments;
 - d) Development of generating facility power curves; and
 - e) Development of generating facility performance models.
117. “Initial Operation” means the Generating Facility has achieved the requirements under 2.04(b).
118. “Initial Operation Date” has the meaning set forth in Section 2.04(b).
119. “Initial Synchronization” means the date upon which at least one Wind Turbine is initially synchronized with the BPA Grid.
120. “Interconnection Agreement” means the FERC-accepted Large Generator Interconnection Agreement between one or more of the Shepherds Flat Parties or Shepherds Flat Affiliates and the BPA that provides for, among other things, construction and financial responsibilities for the Interconnection Facilities; parallel operation of the Generating Facility with the BPA electrical system; interconnection of the Generating Facility to the Transmission Provider’s electric system; responsibility for generation imbalance charges; and other matters pertaining to the Operation of the Generating Facility.
121. “Interconnection Facilities” means the electrical equipment and facilities designated as “Interconnection Facilities” in the Interconnection Agreement.
122. “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.

123. “JAMS” has the meaning set forth in Article Eleven.
124. “John Day” means the point in the John Day 500 kV substation where the northern portion of the Pacific Northwest–Pacific Southwest AC Intertie connects to the BPA’s Main Grid transmission facilities located on the Columbia River near The Dalles, Oregon and is specified as a “Point of Delivery” in the John Day Agreement.
125. “John Day Agreement” means a point-to-point firm transmission service agreement with the BPA, substantially in the form of Exhibit T-2, providing for the transmission on a firm basis of 250 MW from the Generating Facility for at least the Term of this Agreement.
126. “kW” means a kilowatt of electric generating capacity.
127. “kWh” means a kilowatt-hour of electric energy.
128. “Last Delivery Date” has the meaning set forth in Section 1.02(b).
129. “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 Effective Date and extends at least through the last day of the Term.
130. “Lender” means any financial institution(s) or successor(s) in interest or assignees that provide(s) development, bridge, construction, permanent debt (including debt financed on a Portfolio basis) or tax equity financing or refinancing for the Generating Facility to Seller (or any Shepherds Flat Affiliate).
131. “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 M and reasonably acceptable to SCE.

All Letter of Credit costs shall be borne by Seller.

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

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

- 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.

133. “Local Business Day” means, a Business Day on which commercial banks are open for business (a) in relation to any payment, in the place where the relevant account is located and (b) in relation to any notice or other communication, in the city specified in the address for notice provided by the recipient, except for the Friday immediately following the U.S. Thanksgiving holiday or a Federal Reserve Bank holiday.
134. “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, Market Price Referents set by the CPUC, 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.
135. “Lost Income Tax Credits” means Production Tax Credits that Seller did not earn but would have earned (determined on an after-tax basis) had an Event of Default by SCE and subsequent termination of this Agreement due to such Event of Default not occurred, *provided* that any such lost Production Tax Credits shall be only for those periods during which Seller is not able to produce and deliver electric energy into the real-time market or to any third party due to SCE’s default.
136. “Lost Output” means the sum of the 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 historical performance and/or actual operating conditions, but was not delivered due to:
- a) Force Majeure, *provided* that a Common Wind Turbine Defect event of Force Majeure shall be considered as Lost Output only from the date claimed (and reasonably substantiated) as an event of Force Majeure by Seller in its Seller Common Wind Turbine Defect Report submitted to SCE pursuant to Section 5.02(b) to support such proposed event of Force Majeure, through the earlier of:
 - i) the date that the manufacturer of the affected Wind Turbines has cured the Common Wind Turbine Defect, as evidenced by publications from the manufacturer or other evidence reasonably demonstrating that the manufacturer has cured the Common Wind Turbine Defect; or
 - ii) the date that Seller (if Seller has developed a plan to cure such defect) has cured the Common Wind Turbine Defect by installing replacement components in the affected Wind Turbines.
137. “Lost Output Report” means the monthly report of Lost Output Settlement Intervals in the form of the worksheet for the applicable month from the Lost Output Workbook prepared in accordance with the procedures set forth in Section 3.20 and Exhibit N.
138. “Lost Output Settlement Interval” means any Settlement Interval when there is Lost Output.
139. “Market Price” means, for the respective hour, the simple average (rounded to the nearest hundredth place) of the Mid-C On-Peak Period index price or Off-Peak Period index price, as applicable, as reported in the following two daily publications, unless a

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

- substitute publication and/or index is mutually agreed to by the Parties: (1) Platts Megawatt Daily, and (2) the Intercontinental Exchange, Inc. Day Ahead Index (“ICE”).
140. “Market Price Referent” means the market price referent applicable to this Agreement, as determined by the CPUC in accordance with Public Utilities Code Section 399.15(c).
141. “Master Transmission Agreement” has the meaning set forth in Section 2.09.
142. “Maximum Nameplate Contract Capacity” has the meaning set forth in Section 1.01(d).
143. “Mediator” has the meaning set forth in Section 11.02.
144. “Meteorological Equipment” has the meaning set forth in Section 3.22.
145. “Meteorological Station” has the meaning set forth in Section 3.22.
146. “Metered Amounts” means the electric energy produced by the Generating Facility and expressed in kWh that qualifies as output from an eligible renewable energy resource for purposes of the RPS Legislation pursuant to CEC Certification and Verification (subject to Section 3.18) as measured by the BPA Meter.
147. “Milestone Schedule” means Seller’s schedule to develop the Generating Facility as set forth in Exhibit G, including any revisions thereto in accordance with this Agreement.
148. “Moody’s” means Moody’s Investor Services, Inc.
149. “MW” means a megawatt (or 1,000 kilowatts) of electric energy generating capacity.
150. “MWh” means a megawatt-hour (or 1,000 kilowatt-hours) of electric energy.
151. “Nameplate Contract Capacity” means the electrical generating capacity that Seller commits to install at the Site as set forth in Section 1.01(d), subject to reduction as set forth in Section 3.04(d).
152. “NERC” means the North American Electric Reliability Council, or any successor thereto.

153. “NERC Reliability Standards” means the NERC State of Compliance Registry Criteria (Revision 3.1), which is, as of the Effective Date, available at ftp://www.nerc.com/pub/sys/all_updl/ero/Statement_of_Registry_Criteria_Rev3-1.pdf, or any successor thereto.
154. “NERC Standards Non-Compliance Penalties” means any and all monetary fines, penalties, damages, interest or assessments by a 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 Owner and Generator Operator as set forth in the NERC Reliability Standards.
155. “Non-Defaulting Party” has the meaning set forth in Section 6.02.
156. “Non-Disclosure Agreement or “NDA” has the meaning set forth in Section 10.10(b)(i).
157. “Non-Disputing Party” has the meaning set forth in Section 11.03(a).
158. “Non-Financial Defaults” means all defaults other than Financial Defaults.
159. “Non-SCE Energy” means electric energy produced by the Generating Facility during the Startup Period but not purchased by SCE under the terms and conditions of this Agreement.
160. “Notice” means notices, requests, statements or payments provided in accordance with Section 10.08 and Exhibit C.
161. “Off-Peak Period” means the periods as identified by the daily publications referred to in the definition of “Market Price”.
162. “On-Peak Period” means the periods as identified by the daily publications referred to in the definition of “Market Price”.
163. “One-Year Force Majeure Period” has the meaning set forth in Section 5.05.
164. “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.

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

165. “Operator” refers to employees, personnel, agents or contractors hired by Seller to Operate the Generating Facility
166. “Oregon Energy Facility Siting Council” means the Oregon Department of Energy’s council charged with ensuring that Oregon maintains adequate energy supply while protecting Oregon’s environment and public safety.
167. “Outage Schedule” has the meaning set forth in Section 3.14(a).
168. “Party” or “Parties” has the meaning set forth in the Preamble.
169. “Payment Requests” means requests for payment amounts made pursuant to Section 3.05(d) (Energy Replacement Damage Amount), Section 4.04 (Energy Payments and Monthly Payment Statements), Section 6.03(Termination Payment), and Exhibit L, which such disputes may, at the election of the disputing Party, be resolved by EDR in accordance with the terms of this Agreement.
170. “Performance Assurance” means collateral in the amount set forth in Section 1.07 for Seller’s performance during the Term in the form of either cash or Letter(s) of Credit.
171. “Permit Approval” means approval, by the relevant regulatory agencies, of all Permits required to develop, construct and operate the Generating Facility or to deliver the electric energy produced by the Generating Facility to the Delivery Point. Permit Approval with respect to any Permit shall be deemed obtained upon the issuance of such Permit, and shall not be invalidated by pendency of appeal or other opposition.
172. “Performance Assurance Amount” means the collateral amount for Performance Assurance as set forth in Section 1.07.
173. “Permits” means all material applications, approvals, authorizations, consents, filings, licenses, orders, permits or similar requirements imposed by any Governmental Authority, or the BPA, in order to develop, construct, Operate, maintain, improve, refurbish and retire the Generating Facility or to Forecast or to Schedule and deliver the electric energy produced by the Generating Facility to, or for the account of, SCE, including the Authority to Construct permit.
174. “Permitted Transferee” means any entity, or any entity with a parent, that has all of the following:
- a) A tangible net worth of not less than \$100,000,000 or a Credit Rating of “BBB-” or better;

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

- b) Experience in the ownership of power generation facilities; and
 - c) At least five (5) years of experience in the operation of power generation facilities similar to the Generating Facility (or shall have retained a reputable third party with such experience to Operate and maintain the Generating Facility).
175. “Point-to-Point Agreements” means the Big Eddy Agreement and the John Day Agreement, together with all amendments thereto.
176. “Portfolio” means the single portfolio of projects and entities in which the Generating Facility is included.
177. “Product” means:
- a) All electric energy produced by the Generating Facility, net of Station Use and Delivery Losses; and
 - b) All associated Green Attributes, Capacity Attributes, and Resource Adequacy Benefits generated by, associated with or attributable to the Generating Facility.
178. “Production Tax Credits” means production tax credits under Section 45 of the Internal Revenue Code as in effect on the Effective Date or any successor or other provision providing for a federal tax credit determined by reference to renewable electric energy produced from wind resources for which the Generating Facility is eligible.
179. “Project” means the Generating Facility.
180. “Projected Energy Forecast” has the meaning set forth in Section 4.05(c).
181. “Prudent Electrical Practices” means those practices, methods and acts that would be implemented and followed by a prudent operator of facilities similar to the Generating Facility in the Western United States 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, NERC Reliability Standards, WECC reliability standards, the BPA 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, comply with NERC Reliability Standards applicable to Generator Owners and Generator Operators, and are capable of responding to reasonably foreseeable Emergency conditions 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 NERC Reliability Standards, WECC reliability standards, 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/or control system limits; and
- f) Equipment and components meet or exceed the standard of durability that is generally used for electric generation operations in the region 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.

182. "PTC" means Production Tax Credit.

183. "Qualified Amounts" means the Metered Amounts, expressed in kWh, that qualify as eligible renewable energy for purposes of the RPS Legislation.

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

184. “Quarterly Statement” has the meaning set forth in Section 3.05(c)(i).
185. “RAP ID” means the contract identification number set forth on the title page to this Agreement.
186. “Renewable Energy Credit” has the meaning set forth in Public Utilities Code Section 399.12(h), as may be amended from time to time or as further defined or supplemented by Applicable Law.
187. “Required Material” means any permit, license, application, certification, design, specification, program, agreement, instrument, equipment, device, mechanism, or any other item in connection with the Generating Facility to be reviewed or approved by SCE or on SCE's behalf, or requested or required of Seller by SCE or on SCE's behalf, under this Agreement.
188. “Reserved Capacity” has the meaning set forth in the BPA Tariff.
189. “Resource Adequacy Benefits” means the rights and privileges attached to the Generating Facility that qualify to satisfy any entity's resource adequacy obligations, as those obligations are set forth in any Resource Adequacy Rulings.
190. “Resource Adequacy Rulings” means CPUC Decisions 04-01-050, 04-10-035, and 05-10-042, 06-06-024, 06-07-031 and any subsequent CPUC ruling or decision relating to an entity's resource adequacy obligations, or any other resource adequacy laws, rules or regulations enacted, adopted or promulgated by any applicable Governmental Authority, as such decisions, rulings, laws, rules or regulations may be amended or modified from time to time during the Term.
191. “Restricted Financing” shall mean the incurrence of indebtedness by Seller, or any Shepherds Flat Affiliate (including any refinancing or increase of an earlier-incurred indebtedness), solely for the Portfolio which is secured, in whole or in part, by the equity interests in Seller or the assets of Seller, including, without limitation, the Generating Facility and any accounts receivable arising from the Operation of the Generating Facility.
192. “RPS Legislation” means the State of California Renewable Portfolio Standard Program, as codified at California Public Utilities Code Section 399.11, et seq.
193. “S&P” means the Standard & Poor's Rating Group.
194. “SA-Curtailment Payment” means a payment to Seller for SA-Curtailed Amounts, calculated in accordance with the formula set forth in Item 9 of Exhibit P.

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

195. “SA-Curtailed Amounts” means the estimated amount of Metered Amounts, as determined by the Generating Facility Power Curve and the Availability Forecast for such period, as updated in accordance with Exhibit D, that the Generating Facility could have generated but was unable to generate solely and directly as a result of a curtailment by the BPA that SCE as Scheduling Agent (or SCE’s designated Scheduling Agent) could have mitigated using the Point-to-Point Agreements (or portions thereof) then assigned to SCE, but failed to mitigate in accordance with the Scheduling Agent’s obligations under 4.09(d) or because of the changes to the Point-to-Point Agreements made by SCE in accordance with SCE’s rights under Sections 2.02(b)(viii)(1) and (2). There shall be no SA-Curtailed Amounts during any Lost Output Settlement Intervals nor at any time prior to the second Term Year.
196. “SCADA” means the Generating Facility’s Supervisory Control and Data Acquisition system.
197. “SCE” has the meaning set forth in the Preamble.
198. “SCE Penalty” means the amount charged to Seller by SCE, in accordance with Exhibit R, for hours in a calendar month when Seller does not comply in with the procedures for forecasting availability information as set forth in Exhibit D.
199. “Schedule,” “Scheduled” or “Scheduling” means the action of the Scheduling Agent, in preparing and submitting transmission and interchange schedules and electric energy quantities associated with the Generation Facility to the BPA.
200. “Schedules” means the transmission and interchange schedules and expected electric energy quantities the Scheduling Agent submits to the BPA under this Agreement, pursuant to the BPA Tariff.
201. “Scheduling Agent” means SCE or any other qualified entity retained by SCE for the purposes of undertaking the functions of preparing and submitting transmission and interchange schedules from the Delivery Point and associated forecasts with respect to the Generating Facility.
202. “Secured Interest” has the meaning set forth in Section 8.04(a).
203. “Security Documents ” has the meaning set forth in Section 8.04(a).
204. “Security Interest” has the meaning set forth in Section 8.03.
205. “Seller” has the meaning set forth in the Preamble.

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

206. “Seller Factor” means the quotient of the Demonstrated Nameplate Contract Capacity divided by the Shepherds Flat Demonstrated Nameplate Contract Capacity.
207. “Seller-Side BPA Charge” means a BPA Charge incurred in connection with the Generating Facility, the Interconnection Facilities, or the generation, interconnection, distribution or transmission of energy from the Generating Facility at and to the Delivery Point.
208. “Seller Common Wind Turbine Defect Report” means a report provided by Seller from time-to-time to SCE during the Term that includes:
- (a) Information from the Wind Turbine manufacturer, industry user groups, industry publications, independent experts or third party experts hired by Seller about any wind turbine manufacturing or design defects associated with the Wind Turbines;
 - (b) Seller’s analysis of any impacts that a Common Wind Turbine Defect has on Nameplate Contract Capacity; and
 - (c) Seller’s plan for minimizing the effects of a Common Wind Turbine Defect on the Operation of the Generating Facility.
209. “Seller’s Annual Energy Delivery Obligation” means the minimum quantity of Metered Amounts that Seller guarantees will be produced by the Generating Facility during each Term Year, as calculated in Item 2 of Exhibit F.
210. “Seller’s Generating Facility Efficiency Guarantee” means the value that is:
- a) Set forth in Section 1.01(e); and
 - b) Used in the calculation of Seller’s Annual Energy Delivery Obligation set forth in Item 2 of Exhibit F.
211. “Seller’s Transmission Consultant” means an independent consultant selected by Seller who will analyze the scope of congestion or curtailments that may be experienced by the Generating Facility during the Term, or transmission upgrades that may be required to mitigate congestion or curtailments.
212. “Settlement Interval” means any one (1) hour time interval beginning on any hour and ending at the beginning of the next hour (e.g. 12:00:00 to 12:59:59, 1:00:00 to 1:59:59, etc.), or as otherwise defined by the BPA.

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

213. “Settlement Interval Actual Available Capacity” means the sum of the capacity, in MWs, of all generating units of the Generating Facility that were available as the end of such Settlement Interval, as indicated by the Actual Availability Report.
214. “Shepherds Flat Affiliate” means an Affiliate of any of the Shepherds Flat Parties.
215. “Shepherds Flat Demonstrated Nameplate Contract Capacity” means the aggregate Demonstrated Nameplate Contract Capacity of the Shepherds Flat Parties under their respective Renewable Power Purchase and Sale Agreements with SCE executed of even date herewith. In the event that a Shepherds Flat Party has not determined its Demonstrated Nameplate Contract Capacity at the time of calculation of the Seller Factor under this Agreement, such party's estimated Nameplate Contract Capacity provided to SCE pursuant to Section 1.01(d)(i) of its Renewable Power Purchase and Sale Agreement with SCE shall be deemed the Seller's Demonstrated Nameplate Contract Capacity. Any Shepherds Flat Party which has neither determined its Demonstrated Nameplate Contract Capacity nor provided an estimate in accordance with Section 1.01(d)(i) of its Renewable Power Purchase and Sale Agreement with SCE shall be deemed to have estimated the Maximum Nameplate Contract Capacity under such agreement.
216. "Shepherds Flat Parties" means, collectively, North Hurlburt Wind, LLC, South Hurlburt Wind, LLC and Horseshoe Bend Wind, LLC.
217. “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.
218. “Site Control” means that Seller satisfies the criteria of Section 3.07(a).
219. “Site Plan” has the meaning set forth in Section 2.02(e).
220. “Slatt Substation” means the BPA-owned Slatt 500 kV Substation located in northern Oregon which is specified as the Delivery Point in this Agreement and the “Point of Receipt” in the Point-to-Point Agreements attached as Exhibit T.
221. “Standard Large Generator Interconnection Agreement” has the meaning set forth in the BPA Tariff.
222. “Startup Deadline” means the date as set forth in Section 1.03 by which Seller must have commenced Initial Operation, subject to extension as provided in this Agreement.
223. “Startup Period” means the period commencing upon Initial Synchronization and ending upon the Initial Operation Date.

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

224. “Station Use” means:
- a) The electric energy produced by the Generating Facility that is used within the Generating Facility to power the lights, motors, control systems and other electrical loads that are necessary for Operation; and
 - b) The electric energy produced by the Generating Facility that is consumed within the Generating Facility’s electric energy distribution system as losses.
225. “Supplemental Lost Output” has the meaning set forth in Section 3.20.
226. “Supplemental Lost Output Report” has the meaning set forth in Section 3.20(b).
227. “Term” has the meaning used in Section 1.05.
228. “Term Compliance Cap” has the meaning set forth in Section 3.18(b).
229. “Termination Payment” has the meaning set forth in Section 6.03.
230. “Term Year” means the twelve (12) month period beginning on the Firm Operation Date and each successive twelve (12) month period thereafter.
231. “Term Year Estimate of Metered Amounts” means the result calculated by the Generating Facility Performance Model, as determined below:

TERM YEAR ESTIMATE OF METERED AMOUNTS, in MWh

$$= \sum_{\substack{\text{First Settlement} \\ \text{Interval of the Firm} \\ \text{Operating Period Year}}}^{\substack{\text{Last Settlement} \\ \text{Interval of the Firm} \\ \text{Operating Period Year}}} A$$

Where:

A = The estimate of Metered Amount quantities for all Settlement intervals that are not Lost Output Settlement Intervals derived from the Generating Facility Power Curve by using the Actual Site Wind Speeds, in MWh.

- 232. “TLF” means a measure of all net electrical losses, as determined by the Transmission Provider, associated with the transmission of electric energy through the electric system from the high voltage side of the Generating Facility’s substation bus bar to the interface with the BPA Grid, also known as the transmission loss factor.
- 233. “Tolling Period” has the meaning set forth in Section 11.03(a)(iv).
- 234. “Transmission Credits” means any amounts, payable over time by the BPA to the transmission customer under the Point-to-Point Agreements, in compensation for amounts paid to the BPA by Seller to cover the cost of network upgrades relating to interconnection or transmission for the Generating Facility.
- 235. “Transmission Demand Charge” means a monthly payment to the BPA based on the then-current BPA rate schedule for transmission demand provided by the BPA to the transmission customer under the BPA Tariff and the Point-to-Point Agreements.
- 236. “Transmission Provider” means the BPA or other entity or entities responsible for the interconnection of the Generating Facility with the immediate Control Area or transmitting the Delivered Amounts from the Delivery Point to other points on the BPA Grid.
- 237. “Trigger Date” has the meaning set forth in Section 1.02.

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

238. “Unincluded Capacity” has the meaning set forth in Section 3.04(d).
239. “Web-Client” has the meaning set forth in Section 3.14(a).
240. “WECC” means the Western Electricity Coordinating Council, the regional reliability organization for the Western United States, Northwestern Mexico and Southwestern Canada.
241. “Wind Integration Charge” means the Wind Integration – Within-Hour Balancing Service charge under the BPA Tariff.
242. “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.
243. “Wind Turbine Commissioning Report” means the report on the installation, test procedures, results and other relevant installation information provided by the Wind Turbine manufacturer upon the completion of the installation of the Wind Turbines.
244. “Wind Turbine Contracts” has the meaning set forth in Section 1.02(b).
245. “WREGIS” has the meaning set forth in Section 3.01(d)(iv).

*** *End of EXHIBIT A* ***

EXHIBIT B

Generating Facility Description

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

EXHIBIT B*Generating Facility Description.¹*

1. Site Plan.

Generating Facility Description

Caithness Shepherds Flat, LLC proposes the construction of three wind power Generation Facilities in Gilliam and Morrow Counties, Oregon. The three Generating Facilities, Horseshoe Bend, North Hurlburt and South Hurlburt wind farms, will contain a total of up to 303 wind turbine generators, with an aggregate nameplate generating capacity from 696.9 megawatts (MW) to 909 MW, depending on the size of the turbine selected. The final number of turbines and nameplate capacity of the Seller's Generating Facility will be disclosed to SCE in an amendment to this schedule by Seller.

The location of the wind farms, and combined site plan, may be found in this Exhibit B.

Generating Facility components for all three wind farms in the aggregate will include:

- three hundred three wind turbines
 - up to ten meteorological towers
 - an interconnected electrical system at the 500 kV BPA Slatt switching station
 - facility communications system
 - approximately sixty eight miles of new project roads
- two facility substations

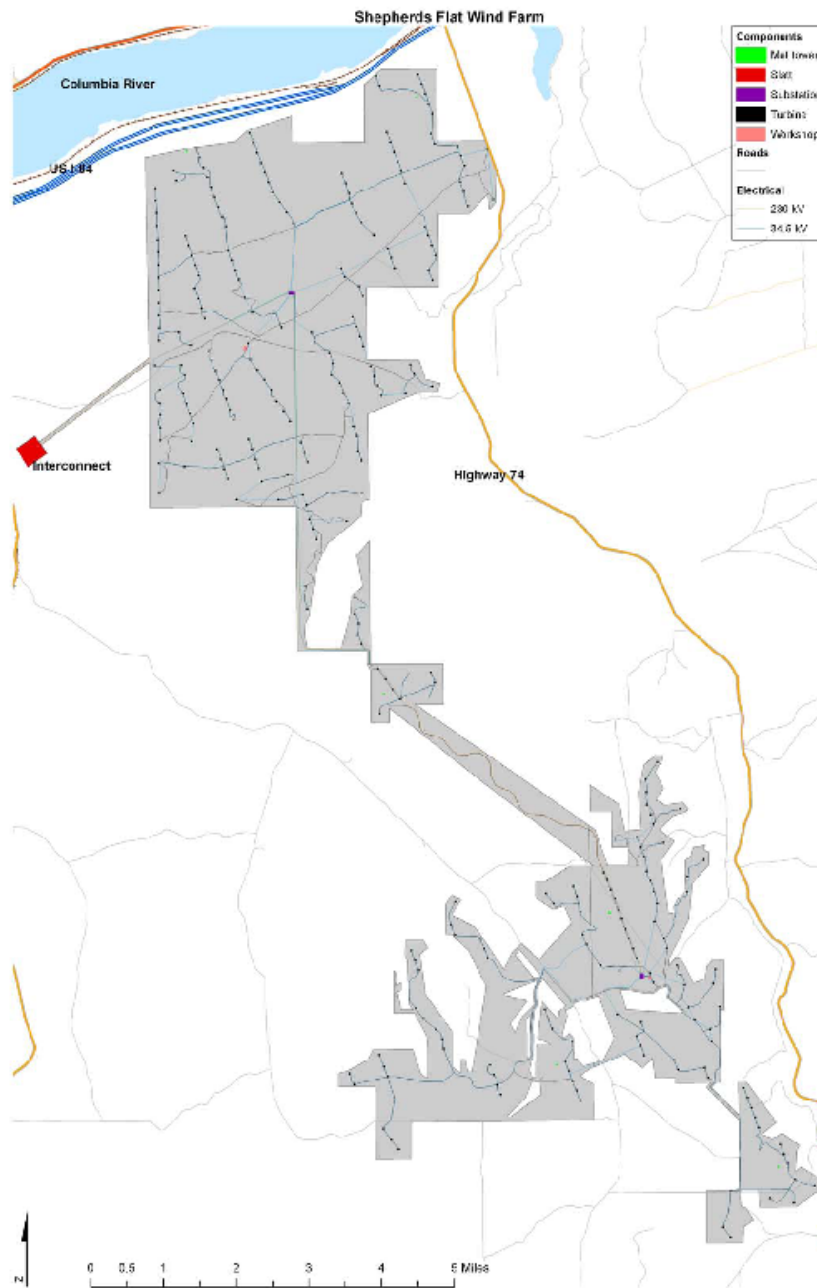
¹ Seller shall provide an updated, detailed description of the Generating Facility equipment, systems and features, including a Site Plan, Legal Description within 60 days of the Trigger Date.

Wind Turbines

Several WTGs are under consideration for the Generating Facility, and their specifications, as known, are included in the following table:

<u>Specification</u>	Siemens SWT- 2.3-93	Clipper 2.5 MW Liberty	Vestas V90	GE Energy 2.5xl
Peak Generating Capacity (kW)	2,300	2,500	3,000	2,500
Hub Height (meters)	80	80	105	100
Rotor Diameter (meters)	93	96	90	100
Maximum Number of Turbines	303	303	303	303
Nameplate Facility Capacity (MW)	696.9	757.5	909	757.5

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



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

ID #6331 (South Hurlburt Wind)

2. Legal Description.

Parcel 1:

TOWNSHIP 2 NORTH, RANGE 23 EAST, W.M. (Morrow County, Oregon)

SECTION 19: The South Half (S/2).

SECTION 20: The South Half of the Southwest Quarter (S ½ SW ¼) and all of the Southwest Quarter of the Northeast Quarter of Section 20, lying West of the Railroad right-of-way of the O.W.R. & N. Co., as the same is located across said lands.

ALSO, beginning 11.33 chains South of the Northeast corner of the Southeast Quarter of Section 20;

THENCE West a distance of 16.82 chains to within 50.00 feet of the middle of the abandoned right-of-way of the O. W. R. & N. Co.;

THENCE Northwesterly parallel with the abandoned railroad track a distance of 32.24 chains to a point 23.73 chains West of the Northeast corner of the Southeast Quarter of the Northeast Quarter of said Section 20;

THENCE East a distance of 23.73 chains to said corner;

THENCE South on Section line a distance of 31.38 chains to the place of beginning.

ALSO that part of the East Half of the Southeast Quarter of Section 20, described as follows, to wit:

BEGINNING at a point 11.33 chains South of the Northeast corner of the Southeast Quarter of said Section 20, running thence South 28.67 chains to the Southeast corner of Section 20;

THENCE West to the East boundary line of the abandoned O. W. R. & N. Co. right-of-way across said land;

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

THENCE Northwesterly following said East boundary line of such right-of-way to a point due West from the place of beginning;

THENCE East a distance of 16.82 chains, more or less, to the point of beginning.

SAVE AND EXCEPT beginning at the Northeast corner of the Southeast Quarter of the Northeast Quarter of Section 20;

THENCE West 1,100.00 to stake;

THENCE South 16°00' East a distance of 1,200.00 feet to a point;

THENCE South 23°45' East a distance of 555.00 feet to a point;

THENCE South 40°45' East a distance of 555.00 feet to a point;

THENCE South 89°20' East a distance of 188.00 feet to a point;

THENCE North on line between Sections 20 and 21, a distance of 2,075.00 feet to place of beginning, containing 36 acres more or less, all being in Township 2 North Range 23 East of the Willamette Meridian, Morrow County, Oregon.

SECTION 21: A parcel of land described as follows:

BEGINNING at a stake a distance of 755.00 feet South of the Quarter corner between Sections 20 and 21, Township 2 North of Range 23, E.W.M.;

THENCE South a distance of 1,885.00 feet to the corner of Section 20, 21, 28 and 29;

THENCE East a distance of 895.00 feet to right-of-way of the Oregon and Washington Highway;

THENCE North 2°40' West a distance of 1,800.00 feet to a stake on said right-of-way line;

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

THENCE North 83°46' West a distance of 816.00 feet to the place of beginning.

SECTION 27: The West Half (W ½).

SECTION 28: All;

EXCEPTING beginning at a point on the Easterly right-of-way line of the Oregon-Washington Highway, which point is 30.00 feet distance Easterly from (when measured at right angles to) the Center line of said highway to Station 244+77.8, said point also being 233.40 feet South and 973.8 feet East of the Northwest corner of said Section 28;

THENCE North 87°14' East a distance of 100.0 feet to a point;

THENCE parallel to said right-of-way line South 2°46' East a distance of 135.6 feet;

THENCE on a 2,421.83 foot radius curve right (the long chord of which curve bears South 0°59' West 316.79 feet) a distance of 317.00 feet; THENCE North 85°16' West a distance of 100.00 feet to said right-of-way line;

THENCE along said right-of-way line on a 2,321.83 foot radius curve right (the long chord of which bears North 0°59' East 303.71 feet) a distance of 303.9 feet;

THENCE North 2°46' West a distance of 135.6 feet to the point of beginning.

SECTION 29: ALL.

SECTION 30: The East Half (E ½); Government Lot 1; the East Half of the Northwest Quarter (E ½ NW ¼); the Northeast Quarter of the Southwest Quarter (NE ¼ SW ¼).

SECTION 32: ALL, EXCEPTING THEREFROM the following:

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

ID #6331 (South Hurlburt Wind)

BEGINNING at a point lying on the North line of said Section 32, lying West a distance of 603.80 feet from the Northeast corner of said Section 32, said point being the True Point of beginning of this description;

THENCE South 15° East a distance of 175.00 feet to a point;

THENCE South 75° West a distance of 140.00 feet to a point;

THENCE North 15° West a distance of 175.00 feet to a point on the North line of said Section 32;

THENCE East a distance of 140.00 feet to the true point of beginning of this description.

SECTION 33: ALL, EXCEPTING THEREFROM the portion in the Southwest Quarter of the Southwest Quarter reserved in the Patent from the United States of America.

SECTION 34: The West Half (W ½).

TOWNSHIP 1 NORTH, RANGE 23 EAST, W.M. (Morrow County, Oregon)

SECTION 4: All lying West of the West right-of-way margin line of the State Highway.

SECTION 5: Government Lots 1, 2, 3, 4; the Southeast Quarter of the Northwest Quarter (SE ¼ NW ¼); the South Half of the Northeast Quarter (S ½ NE ¼).

EXCEPTING from the above description all lands deeded to the County of Morrow, and State of Oregon for road purposes, and also EXCEPTING all land deeded to O.W.R. & N. Co. for Railroad rights-of-way.

TOWNSHIP 3 NORTH, RANGE 22 EAST, W.M. (Gilliam County, Oregon)

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

ID #6331 (South Hurlburt Wind)

- SECTION 3: Lots 1, 2, 3 and that portion of Lot 4 lying South of right of way for Highway I-84
- SECTION 5: That portion lying South of right-of-way for highway I-84.
- SECTION 7: All.
- SECTION 8: All.
- SECTION 9: All.
- SECTION 10: All.
- SECTION 11: All, EXCEPT the right-of-way for highway #74.
- SECTION 15: All.
- SECTION 16: All.
- SECTION 17: All.
- SECTION 18: All.
- SECTION 19: All.
- SECTION 20: All.
- SECTION 21: All.
- SECTION 26: All that portion of the S $\frac{1}{2}$ NW $\frac{1}{4}$ and E $\frac{1}{2}$ SW $\frac{1}{4}$ lying and being West and South of the right-of-way of the Union Pacific Railway Company (formerly Oregon-Washington Railroad and Navigation Co. and Oregon Railroad and Navigation Co.) as the same is now located; NW $\frac{1}{4}$ SW $\frac{1}{4}$; EXCEPT an approximately .2 acre parcel in the S $\frac{1}{2}$ NW $\frac{1}{4}$ deeded to Gilliam County by Warranty Deed recorded in M-65-336, Gilliam County Records.
- SECTION 27: NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$.
- SECTION 28: All.

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

ID #6331 (South Hurlburt Wind)

- SECTION 29: All.
- SECTION 30: All.
- SECTION 31: All.
- SECTION 32: All.
- SECTION 33: All.
- SECTION 35: All EXCEPT the E $\frac{1}{2}$ NE $\frac{1}{4}$.
- SECTION 36: S $\frac{1}{2}$ SW $\frac{1}{4}$.

TOWNSHIP 2 NORTH, RANGE 22 EAST, W.M. (Gilliam County, Oregon)

- SECTION 4: All.
- SECTION 9: All.
- SECTION 15: S $\frac{1}{2}$ N $\frac{1}{2}$; N $\frac{1}{2}$ S $\frac{1}{2}$; SW $\frac{1}{4}$ SW $\frac{1}{4}$.

Parcel 2:

TOWNSHIP 2 NORTH, RANGE 23 EAST, W.M. (Morrow County, Oregon)

- SECTION 31: All, excepting therefrom a parcel of land lying within the Northeast Quarter of the Northwest Quarter described as follows: Beginning at a point lying on the North line of said Section 31, a distance of 2,510.00 feet East of the Northwest Corner of said Northwest Quarter; Thence South a distance of 140.00 feet; Thence East a distance of 100.00 feet, said point lying South a distance of 50.00 feet and East a distance of 50.00 feet from that well described in the State of Oregon Record of Water Right Certificate Numbered 58655, Application No. G-8519, Permit No. G-7687; Thence North a distance of 140.00 feet to a point on the North line of said Section 31; Thence following the North line of said Section 31, a distance of 100.00 feet to the True Point of Beginning of this description.

TOWNSHIP 1 NORTH, RANGE 23 EAST, W.M. (Morrow County, Oregon)

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

ID #6331 (South Hurlburt Wind)

SECTION 5: Southwest Quarter (SW¹/₄) of the Northwest Quarter (NW¹/₄); The South Half (S¹/₂).

SECTION 6: Government Lots 1, 2, 3, 4, 5, 6, and 7, also known as the North Half (N¹/₂) of the North Half (N¹/₂), the West Half (W¹/₂) of the Southwest Quarter (SW¹/₄) and the Southwest Quarter (SW¹/₄) of the Northwest Quarter (NW¹/₄); The South Half (S¹/₂) of the Northeast Quarter (NE¹/₄); The Southeast Quarter (SE¹/₄); The East Half (E¹/₂) of the Southwest Quarter (SW¹/₄); The Southeast Quarter (SE¹/₄) of the Northwest Quarter (NW¹/₄).

SECTION 7: Government Lots 1, 2, 3, and 4, also known as the West Half (W¹/₂) of the West Half (W¹/₂); The East Half (E¹/₂) of the West Half (W¹/₂) The East Half (E¹/₂). EXCEPTING THEREFROM all of that portion of the Southwest Quarter lying South and West of the Northeast right-of-way margin line of the County Road.

SECTION 8: The West half (W¹/₂); The West Half (W¹/₂) of the East Half (E¹/₂). EXCEPTING therefrom all roads and road rights of way.

SECTION 18: The East Half of the Northwest Quarter. EXCEPTING THEREFROM all of that portion lying West of the East right-of-way margin line of the County road running North and South through said East Half of the Northwest Quarter.

TOWNSHIP 2 NORTH, RANGE 22 EAST, W.M. (Gilliam County, Oregon)

SECTION 25: All that portion lying South of the North right of way margin line of Fairview Lane County Road EXCEPTING all county road rights of way.

SECTION 36: All excepting all county road rights of way.

TOWNSHIP 1 NORTH, RANGE 23 EAST, W.M. (Morrow County, Oregon)

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

- SECTION 15: Beginning at the Southwest Corner of Section 15, thence North along the West Section line of Section 15 a distance of 450 feet; thence East a distance of 800 feet; thence South a distance of 450 feet to the South Section line of said Section 15; thence West along the south section line 800 feet to the point of beginning.
- SECTION 16: The West Half ($W\frac{1}{2}$); A parcel of land lying in the West Half ($W\frac{1}{2}$) of the Northeast Quarter ($NE\frac{1}{4}$) more particularly described as follows: Beginning at a point 8.91 chains South of the Quarter corner between Sections 9 and 16, thence South 31.09 chains, more or less, to the center of Section 16, thence East 10 chains, thence North 31.09 chains, thence West to the point of beginning; The Southeast Quarter ($SE\frac{1}{4}$), excepting therefrom the following: Beginning at the Quarter Corner between Sections 15 and 16, Thence West 30 chains, thence South 10 chains, thence East 30 chains, thence North along the line between Section 15 and 16 to the point of beginning.
- SECTION 19: The East Half ($E\frac{1}{2}$) of the Southwest Quarter ($SW\frac{1}{4}$); The Southeast Quarter ($SE\frac{1}{4}$), excepting therefrom all roads and road rights of way.
- SECTION 20: The South Half ($S\frac{1}{2}$), excepting therefrom Parcel 2 of Partition Plat 2004-4 and all roads and road rights of way.
- SECTION 21: The North Half ($N\frac{1}{2}$); North Half ($N\frac{1}{2}$) of the Southeast Quarter ($SE\frac{1}{4}$); the Northeast Quarter ($NE\frac{1}{4}$) of the Southwest Quarter ($SW\frac{1}{4}$); The West Half ($W\frac{1}{2}$) of the Southwest Quarter ($SW\frac{1}{4}$) lying South and West of the County Road, also known as Palmateer Road EXCEPTING therefrom all roads and road rights of way.
- SECTION 22: The North Half ($N\frac{1}{2}$) of the Southwest Quarter ($SW\frac{1}{4}$); The West 800.00 feet of the Northwest Quarter ($NW\frac{1}{4}$) of the Northwest Quarter ($NW\frac{1}{4}$); the South Half ($S\frac{1}{2}$) of the Northwest Quarter ($NW\frac{1}{4}$); and the following described parcel: Beginning at the Southeast corner of the North Half ($N\frac{1}{2}$) of the Northwest Quarter ($NW\frac{1}{4}$), said point being the True Point of Beginning of the description; thence West (W) a distance of 800.00 feet along the

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

North line of the South Half (S½) of the North Half (N½), thence in a Northeasterly direction a distance of 400.00 feet; thence in a Southeasterly direction a distance of 500.00 feet to the True Point of Beginning. EXCEPTING THEREFROM THE FOLLOWING: Beginning at the Southwest corner of the Northwest Quarter (NW¼); thence West 700 feet along the North line of the South Half (S½) of the North Half (N½) to the True Point of Beginning of this description; thence South parallel with the West Section line a distance of 500 feet; thence West parallel with the North Section line 600 feet; thence North 500 feet to a point on the North line of the South Half (S½) of the North Half (N½) of said Section; thence East a distance of 600 feet to the True Point of Beginning, excepting therefrom all roads and road rights of way.

SECTION 28: The Northwest Quarter (NW¼) of the Northwest Quarter (NW¼) EXCEPTING therefrom all roads and road rights of way.

SECTION 29: The North Half (N½) of the Northeast Quarter (NE¼); The Northeast Quarter (NE¼) of the Northwest Quarter (NW¼)

Parcel 3:

TOWNSHIP 1 NORTH, RANGE 22 EAST, W.M. (Gilliam County, Oregon)

SECTION 15: N ½., SW ¼

TOWNSHIP 1 NORTH, RANGE 22 EAST, W.M. (Gilliam County, Oregon)

SECTION 1: All.

SECTION 2: All.

SECTION 3: All.

SECTION 9: SE ¼.

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

ID #6331 (South Hurlburt Wind)

SECTION 10: S $\frac{1}{2}$; NE $\frac{1}{4}$.

SECTION 11: All.

SECTION 12: All that portion lying West of the County Road.

SECTION 13: N $\frac{1}{2}$.

SECTION 14: N $\frac{1}{2}$.

TOWNSHIP 2 NORTH, RANGE 22 EAST, W.M. (Gilliam County, Oregon)

SECTION 34: SW $\frac{1}{4}$ of SW $\frac{1}{4}$

SECTION 35: E $\frac{1}{2}$; S $\frac{1}{2}$ NW $\frac{1}{4}$; SW $\frac{1}{4}$. EXCEPT county road thereon.

TOWNSHIP 1 NORTH, RANGE 23 EAST, W.M. (Morrow County, Oregon)

SECTION 7: W $\frac{1}{2}$ of the SW $\frac{1}{4}$ lying West of the County Road.

SECTION 18: NW $\frac{1}{4}$ lying West of the County Road.

Parcel 4:

That certain real property located in Gilliam County, Oregon, described as follows:

TOWNSHIP 1 NORTH, RANGE 22 EAST, W.M.

SECTION 4: All.

SECTION 9: NE $\frac{1}{4}$.

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

ID #6331 (South Hurlburt Wind)

SECTION 10: NW ¼.

TOWNSHIP 2 NORTH, RANGE 22 EAST, W.M.

SECTION 33: All, EXCEPT the N ½ of the NE ¼

Parcel 5:

That certain real property located in Gilliam and Morrow Counties, Oregon, described as follows:

TOWNSHIP 2 NORTH, RANGE 22 EAST, W.M., (Gilliam County)

SECTION 14:	S½
SECTION 15:	S½ SE¼; SE¼ SW¼
SECTION 22:	E½; E½ NW¼
SECTION 23:	All
SECTION 24:	W½; W½ E½
SECTION 25:	All, excepting that portion lying South of the North right of way margin line of Fairview Lane County Road
SECTION 26	N½

TOWNSHIP 2 NORTH, RANGE 23 EAST, W.M., (Morrow County)

SECTION 30:	SW¼ NW¼; W½ SW¼; SE¼ SW¼
-------------	--------------------------

Parcel 6:

The following described real property located in Gilliam and Morrow Counties, Oregon:

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

Easement Corridor

Starting at T2N R22E Section 15, the west section line going approximately 1,271 feet in a straight line east and from T2N R22E Section 15, the south section line going approximately 1,313 feet in a straight line north to a point

Going east in a straight line approximately 1,938 feet in T2N R22E Section 15

Going southeast to a point in T2N R22E Section 23, 7,687 approximately feet, approximately 1,083 feet west of the east section line of T2N R22E section 23 and approximately 2,084 feet north of the south section line T2N R22E section 23

Going southeast to a point in T2N R23E Section 30 approximately 8,270 feet, approximately 417 feet east of the west section line T2N R23E section 30 and approximately 2,604 feet north of the south T2N R22E section 23

Going southeast approximately 2,754 feet to the south section line of T2N R23E Section 30, approximately 1,314 feet from the southwest corner of T2N R23E Section 30

Going west approximately 1,603 feet in T2N R23E Section 30 on the south section line of T2N R23E Section 30, approximately 271 feet from the southwest corner of T2N R23E Section 30

Going northwest to a point in T2N R22E Section 23 approximately 10,354 feet, approximately 2,729 feet west of the east T2N R22E Section 23 line and 1,063 feet north of the south T2N R22E Section 23 line

Going northwest to a point in T2N R22E Section 15 approximately 8,423 feet, approximately 1,271 feet east from the west T2N R22E Section 15 line and approximately 979 feet north of south T2N R22E Section 15

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

ID #6331 (South Hurlburt Wind)

Going straight north to the point of beginning.

Parcel 7:

That certain real property located in Gilliam County, Oregon, more particularly described as follows:

A strip of land approximately one hundred twenty-five (125) feet in width over and across the N¹/₂NE¹/₄, the SW¹/₄NE¹/₄, the SE¹/₄NW¹/₄, the N¹/₂SW¹/₄, and the SW¹/₄SW¹/₄ of Section 25; and the E¹/₂SE¹/₄ and the SW¹/₄SE¹/₄ of Section 26; all in Township 3 North, Range 21 East, Willamette Meridian, Gilliam County, Oregon, said one hundred twenty-five (125) foot strip lying on the southeasterly side of, and running parallel with, an existing one hundred forty-five (145) foot right of way of the United States of America for its Bonneville Power Administration's transmission lines, which, in turn, lies southeasterly of the existing two hundred fifty (250) foot right of way of the United States of America for its Bonneville Power Administration's transmission lines, the survey line of said two hundred fifty (250) foot right-of-way being described in that certain Transmission Line Easement dated February 20, 1953, recorded in Book 35, Page 145, File No. 48140, Deed Records of Gilliam County, Oregon; and a strip of land approximately one hundred twenty-five (125) feet in width over and across the NW¹/₄NE¹/₄, the E¹/₂NW¹/₄ [and the SW¹/₄NW¹/₄] [*Pat Pilz to confirm*] of Section 35, Township 3 North, Range 21 East, Willamette Meridian, Gilliam County, Oregon, said one hundred twenty-five (125) foot strip lying on the southeasterly side of, and running parallel with, a strip of land variable in width, which, in turn, lies southeasterly of the existing two hundred fifty (250) foot right of way of the United States of America for its Bonneville Power Administration's transmission lines, the survey line of said two hundred fifty (250) foot right-of-way being described in that certain Transmission Line Easement dated February 20, 1953, recorded in Book 35, Page 146, File No. 48140, Deed Records of Gilliam County, Oregon.

The easement area set forth above is approximately 10,014 feet long, more or less.

*** End of EXHIBIT B ***

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

EXHIBIT C

Notice List

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

EXHIBIT C

Notice List

<p>SOUTH HURLBURT WIND, LLC</p> <p>("Seller")</p>	<p>SOUTHERN CALIFORNIA EDISON COMPANY</p> <p>("SCE")</p>
<p>All Notices are deemed provided in accordance with Section 10.08 if made to the address and/or facsimile numbers provided below:</p>	<p>All Notices are deemed provided in accordance with Section 10.08 if made to the address and/or facsimile numbers provided below:</p>
<p>Contract Sponsor:</p> <p>Attn: [REDACTED]</p> <p>Street: [REDACTED]</p> <p>City: [REDACTED]</p> <p>Phone: [REDACTED]</p> <p>Facsimile: [REDACTED]</p>	<p>Contract Sponsor:</p> <p>Attn: [REDACTED]</p> <p>Street: [REDACTED]</p> <p>City: [REDACTED]</p> <p>Phone: [REDACTED]</p> <p>Facsimile: [REDACTED]</p>
<p>Reference Numbers:</p> <p>Duns: N/A</p> <p>Federal Tax ID Number: [REDACTED]</p>	<p>Reference Numbers:</p> <p>Duns Number: [REDACTED]</p> <p>Federal Tax ID Number: [REDACTED]</p>
<p>Contract Administration:</p> <p>Attn: [REDACTED]</p> <p>Phone: [REDACTED]</p> <p>Facsimile: [REDACTED]</p>	<p>Contract Administration:</p> <p>Attn: [REDACTED]</p> <p>Phone: [REDACTED]</p> <p>Facsimile: [REDACTED]</p>
<p>Scheduling:</p> <p>Attn: TBD</p> <p>Phone: TBD</p> <p>Facsimile: TBD</p>	<p>Generation Operations Center:</p> <p><u>Trading Desk.</u></p> <p>Phone: [REDACTED]</p> <p><u>Generation Desk.</u></p> <p>Phone: [REDACTED]</p>

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

SOUTH HURLBURT WIND, LLC ("Seller")	SOUTHERN CALIFORNIA EDISON COMPANY ("SCE")
Day Ahead Scheduling: Phone: TBD Facsimile: TBD	Day Ahead Scheduling: <u>Manager.</u> Attn: [REDACTED] Phone: [REDACTED] Facsimile: [REDACTED] <u>Scheduling Desk.</u> Phone: [REDACTED] Backup: [REDACTED] Fax: [REDACTED] Email: [REDACTED]
Real-Time Scheduling: Phone: TBD Facsimile: TBD	Real-Time Scheduling: <u>Manager.</u> Attn: [REDACTED] Phone: [REDACTED] Facsimile: [REDACTED] <u>Scheduling Desk.</u> Phone: [REDACTED] Fax: [REDACTED] Email: [REDACTED]
Outage Scheduling: Phone: TBD Facsimile: TBD	Outage Scheduling: Phone: [REDACTED] Email: [REDACTED]
Payment State Attn: [REDACTED] Phone: [REDACTED] Facsimile: [REDACTED]	Payment S Attn: [REDACTED] Phone: [REDACTED] Facsimile: [REDACTED] Email: [REDACTED]

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

<p>SOUTH HURLBURT WIND, LLC ("Seller")</p>	<p>SOUTHERN CALIFORNIA EDISON COMPANY ("SCE")</p>
<p>Payments: Attn: [REDACTED] Phone: Facsimile:</p>	
<p>Wire Transfer: BNK: [REDACTED] ABA: [REDACTED] ACCT: [REDACTED]</p>	<p>Wire Transfer: BNK: [REDACTED] ABA: [REDACTED] ACCT: [REDACTED] Details: [REDACTED]</p>
<p>Credit and Collections: Attn: [REDACTED] Phone: [REDACTED] Facsimile: [REDACTED]</p>	<p>Manager of Credit and Collateral: Attn: [REDACTED] Phone: [REDACTED] Facsimile: [REDACTED]</p>
<p>With additional Notices of an Event of Default or Potential Event of Default to: Attn: TBD Phone: TBD Facsimile: TBD</p>	<p>With additional Notices of an Event of Default or Potential Event of Default to: Attn: [REDACTED] Phone: [REDACTED] Facsimile: [REDACTED]</p>
<p>Guarantor: TBD Attn: TBD Phone: TBD Facsimile: TBD</p>	

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

SOUTH HURLBURT WIND, LLC ("Seller")	SOUTHERN CALIFORNIA EDISON COMPANY ("SCE")
Lender: TBD Attn: TBD Phone: TBD Facsimile: TBD Email: TBD	

*** End of EXHIBIT C ***

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

EXHIBIT D

Seller's Forecasting Submittal Requirements and Procedures

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

EXHIBIT D*Seller's Forecasting Submittal Requirements and Procedures*1. Introduction.

The Parties shall abide by the forecasting submittal 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 BPA Tariff changes;
- (b) Accommodate changes to their respective generation technology and organizational structure; and
- (c) Address changes in the operating and Scheduling procedures of either the BPA or SCE, including 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) 30-Day Availability Forecast.

No later than thirty (30) days prior to Initial Synchronization, 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 day (30) period commencing on Initial Synchronization, using the Web Client.

If, after submitting the Availability Forecast pursuant to this Section 2(a), Seller learns that Initial Synchronization will occur on a date and time other than that reflected on the Availability Forecast, Seller will provide an updated Availability Forecast reflecting the new Initial Synchronization date at the earliest practicable time but no later than 5:00 p.m. Pacific Prevailing Time ("PPT") on the Wednesday prior to the new Initial Synchronization date, if Seller has learned of the new Initial Synchronization date by that time, but in no event not less than three (3) Business Days prior to the new Initial Synchronization date.

In the event the Web Client becomes unavailable, Seller shall provide SCE with the Availability Forecast by telephoning SCE's Generation Operations

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

Center, at the telephone number(s) listed in Exhibit C and providing the information that would have been submitted using Web Client.

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 BPA Meter(s) and the Delivery Point; and
- (ii) Limit hour-to-hour forecast changes to no less than two hundred fifty (250) kW during any period when the Web Client is unavailable. There shall be no minimum kW restriction on hour-to-hour forecast changes when the Web Client is available.

(b) Weekly Update to 30-Day Availability Forecast.

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.

(c) Intra-Week Update to 30-Day Energy Forecast.

In the event of a Communication Failure and 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 an unplanned outage, prior to the time that the next weekly update of the Availability Forecast is due under any applicable provision of the BPA Tariff related to availability and outage reporting, then Seller shall provide an updated Availability Forecast to SCE.

The updated Availability Forecast must be submitted to SCE by no later than:

- (i) 5:00 p.m. PPT on the day prior to the Trading Day impacted by the change, if the change is known to Seller at that time, or

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

- (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 the commencement of the event which caused the availability change, subject to two (2) Grace Periods per calendar year.

In the case of (i), (ii) or (iii) immediately above, Seller's updated Availability Forecast must contain the following information:

- (iv) The beginning date and time of the event resulting in the availability change;
- (v) The expected ending date and time of the event;
- (vi) The expected availability, in MW; and
- (vii) Any other information required by the BPA as communicated to Seller by either the BPA or SCE.

3. Definitions

For the purpose of this Exhibit D:

“Communication Failure” means any time Seller does not provide or SCE does not have access to real-time communication of availability via a telecommunication system designed to provide SCE with Seller's cumulative available capacity of the Generating Facility on a real-time basis (including real-time access the Generating Facility's SCADA system); the telecommunications path to obtain real-time data is inoperable; or instrumentation is providing faulty or incorrect data;

“Grace Period” means, with respect to a Communication Failure of which Seller is not aware, either: (a) one (1) hour to discover the Communication Failure and re-establish real-time communication if the Communication Failure occurs during Normal Business Hours or (b) Three (3) hours to discover the Communication Failure and re-establish real-time communication if the Communication Failure occurs during Off Hours.

“Normal Business Hours” means every Business Day.

“Off Hours” means all hours that are not Normal Business Hours.

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

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

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

EXHIBIT E

Evaluation and Adjustment of Energy Price

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

EXHIBIT E*Evaluation and Adjustment of Energy Price*

The Parties will evaluate the Energy Price set forth in Section 1.06(b) and, if an adjustment is required pursuant to this Exhibit E, the Parties will adjust the Energy Price as set forth herein, subject to SCE's right to terminate this Agreement in accordance with Section 2.05(b)(iii).

(a) Determination of Estimated Costs.

- (i) Seller estimates as of the Effective Date, that (A) the cost to procure wind turbines for the Generating Facility on commercially reasonable terms ("Estimated Turbine Cost") will be \$0.726 per kWh based upon the installation of 303 MW at the Generating Facility and (B) the cost under a balance of plant contract for construction of the Generating Facility other than any costs included in the Estimated Turbine Cost ("Estimated BOP Cost") on commercially reasonable terms will be \$317.00 per kW based upon the installation of 303 MW at the Generating Facility.
- (ii) Attached hereto as Attachment A is the document (the "Cost Scope Document") that sets forth the scope and categories (but excludes pricing information) of (x) wind turbine costs (i.e., information normally set forth in a bid sheet used to procure wind turbines) used in determining the Estimated Turbine Costs and (y) balance-of-plant construction, equipment and services and costs used in determining the Estimated BOP Cost.

Certain items, including SCADA System, Wind Turbine Erection and FAA Lighting, appear in both the Wind Turbine Cost Scope and Balance of Plant Cost Scope provisions (the "Duplicate Items"). Except where it is intended that the parties supplying turbines or providing balance of plant goods and services perform redundant services consistent with industry standard wind development practices, none of the costs in the Duplicate Items will be double counted for purposes of determining the price adjustments and the adjusted Energy Price in accordance with this Exhibit E.

Upon presentation of the Pricing Information to the Cost Expert, Seller shall indicate if these costs are associated with the wind turbine costs, the balance of plant costs, or are shared between the two. If the latter, Seller will explain in detail the division of such costs in the Pricing Information.

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

- (iii) Seller represents as of the Effective Date that it has in its possession the complete and original pricing information used for the Estimated Turbine Costs, the Estimated BOP Cost, and the completed Cost Scope Document (collectively, the “Pricing Information”).
- (iv) Seller certifies that the Estimated Turbine Cost and the Estimated BOP Cost set forth in Item (i) above are based on the parameters set forth in the Cost Scope Document.
- (v) Within ninety (90) days after the Effective Date, Seller shall provide the Cost Expert with: (A) the Pricing Information, (B) the identity of the vendor or vendors from which such Pricing Information was derived, and (C) for purposes of confirming the Estimated Turbine Cost, the power curve applicable to the wind turbine used to derive the Estimated Turbine Cost and wind distribution information from the Generating Facility. All of the foregoing shall be reviewed by the Cost Expert to audit the Estimated Turbine Cost and Estimated BOP Cost, subject to confidentiality requirements, so that the Cost Expert may provide the Estimated Cost Report in accordance with Item (vi) below. In addition, Seller agrees to provide such additional information as the Cost Expert may reasonably request so that the Cost Expert may provide the Estimated Cost Report in accordance with Item (vi) below.
- (vi) Within sixty (60) days after the receipt of Seller’s information described in Item (a)(v) above, the Cost Expert shall provide Seller and SCE a written statement (the “Estimated Cost Report”) in which the Cost Expert affirms that, based upon the Cost Expert’s experience with the markets for wind turbine and balance of plant construction, equipment and services:
 - (1) The Cost Scope Document is adequate to correctly evaluate wind turbine costs and balance of plant construction, equipment and services costs, and reflects the appropriate allocation of the Duplicate Items;
 - (2) Based upon the Cost Scope Document and the information provided under Item (a)(v) above, the Estimated Turbine Cost and the Estimated BOP Cost are reasonably accurate and reflect Current Market Prices, and any Duplicate Items and associated costs are correctly allocated according to standard wind development practices. As used in this Item (a)(vi)(2), the term “Current Market Prices” means current market prices for similar goods and services at the time the

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

information described in Item (a)(v) above was provided to the Cost Expert; and

- (3) The wind turbines, construction services, equipment and other services, and the vendors providing such goods and services, described in the Estimated Turbine Cost and the Estimated BOP Cost are reputable and of a high quality.

Provided, however, if the Cost Expert cannot affirm one or more of Items (a)(vi)(1), (2) or (3) above, the Cost Expert shall provide in the Estimated Cost Report:

- (4) With respect to the Cost Scope Document, a revised Cost Scope Document, which, subject to Seller's dispute rights in Item (a) below, shall become the "Cost Scope Document" for purposes of Items (b)-(d) below if the Cost Expert concludes that the original Cost Scope Document is not adequate to correctly evaluate wind turbine costs and balance of plant construction, equipment and services costs for the Generating Facility. The Estimated Cost Report shall identify what specific cost scope information presented by Seller was inaccurate or inadequate and the Cost Expert's assessment of the appropriate allocation of the Duplicate Items;
- (5) With respect to costs, the Cost Expert's revised Estimated Turbine Cost or Estimated BOP Cost (as applicable) that the Cost Expert has determined to be consistent with Current Market Prices and is based upon the Cost Scope Document and the information provided under Item (a)(v) above, which such revised Estimated Turbine Cost or Estimated BOP Cost shall be the Estimated Turbine Cost or Estimated BOP Cost for purposes of Items (b)-(d) below. The Estimated Cost Report shall provide reasonable support for such revisions to the original Estimated Turbine Cost or Estimated BOP Cost (as applicable) provided by Seller. As used in this Item (a)(vi)(5), the term "Current Market Prices" means current market prices for similar goods and services at the time the information described in Item (a)(v) above was provided to the Cost Expert; and
- (6) With respect to the reputation or quality of vendors, goods and services, and for informational purposes only, a detailed list of the key

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

problems associated with the proposed vendor, good or service identified in the Pricing Information, and the Cost Expert's recommendation for two alternate vendors, goods or services.

- (vii) In verifying the Estimated Turbine Cost, the Cost Expert will divide the total turbine cost reflected on the Cost Scope Document by the product of :
 - (1) The expected capacity factor of the Generating Facility based on the equipment identified in Item (a)(v)(C);
 - (2) The assumed installation capacity of 303 MW at the Generating Facility; and
 - (3) 8,760 hours.
- (viii) In verifying the Estimated BOP Cost, the Cost Expert will divide the total balance of plant cost reflected on the Cost Scope Document by the assumed installation capacity of 303 MW at the Generating Facility.
- (ix) After receipt of the Estimated Cost Report, Seller shall have ten (10) Business Days to deliver written notice of any dispute with the conclusions of the Cost Expert to SCE and the Cost Expert. In the case of such a dispute, Seller and the Cost Expert will confer within thirty (30) days and attempt to resolve the dispute.

In the event the dispute is not resolved between the Seller and the Cost Expert, Seller may invoke arbitration consistent with Sections 11.03(b) and 11.04 of the Agreement, which proceeding shall be between the Seller and the Cost Expert and shall remain confidential in all respects except that the Cost Expert shall provide SCE with written notice of the result of the arbitration without disclosing to SCE any confidential information submitted by Seller to the Cost Expert or submitted by either Seller or the Cost Expert to the arbitrator in the arbitration, if any. SCE shall not be responsible for any of the costs incurred by Seller or the Cost Expert for such arbitration.

(b) Determination of Actual Cost.

No later than six (6) months after the Trigger Date, Seller shall provide the Cost Expert, subject to confidentiality restrictions, with:

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

- (i) Documentation evidencing Seller's actual cost per kWh for the Wind Turbines installed or to be installed at the Generating Facility ("Actual Turbine Cost") and the actual per kW balance-of-plant construction, equipment and service costs paid or to be paid for construction of the Generating Facility ("Actual BOP Cost"), in either case based on either the most recent price quotes from third party vendors selected by Seller or executed agreements with third party vendors to provide the Wind Turbines and balance-of-plant construction, equipment and services for the Generating Facility (a "Cost Notice");
 - (ii) The power curve for the Wind Turbines installed or to be installed at the Generating Facility in order to confirm the per kWh Actual Turbine Cost (the Parties intending that the same wind distribution information used for calculation of the Estimated Turbine Cost shall be used for the calculation of Actual Turbine Cost);
 - (iii) The identity of the vendor or vendors from which the Actual Turbine Cost and Actual BOP Cost information is derived; and
 - (iv) Such other information as may be reasonably requested by the Cost Expert for the purpose of the Cost Expert's audit of Actual Turbine Cost and Actual BOP Cost.
- (c) Actual Cost Report.

The Cost Expert will evaluate the Cost Notice and within thirty (30) days after receipt of the information described in Item (b) above issue a written cost report to each of the Parties (an "Actual Cost Report"):

- (i) Certifying that, based upon the Cost Expert's experience with the markets for wind turbine and balance of plant construction, equipment and services:
 - (1) The wind turbines, equipment and services and the vendors providing such wind turbines, equipment and services described in the Estimated Turbine Cost and Actual Turbine Cost are comparable, reputable and of a high quality;
 - (2) The balance of plant construction, equipment and services and the vendors providing such construction, equipment and services

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

described in the Estimated BOP Cost and Actual BOP Cost are comparable, reputable and of a high quality ;

- (3) The Actual Turbine Cost and Actual BOP Cost reasonably reflect Current Market Prices for similar goods and services. As used in this Item (c)(i)(3), "Current Market Prices" means current market prices for similar goods and services at the time the information described in Item (b) above was provided to the Cost Expert.
 - (4) Either the Actual Turbine Cost varies from the Estimated Turbine Cost by more than five percent (5%) or the Actual Turbine Cost does not vary from the Estimated Turbine Cost by more than five percent (5%);
 - (5) Either the Actual BOP Cost varies from the Estimated BOP Cost by more than five percent (5%) or the Actual BOP Cost does not vary from the Estimated BOP Cost by more than five percent (5%); and
 - (6) The actual variance between:
 - a) The Estimated Turbine Cost and Actual Turbine Cost on a per kWh basis; and
 - b) The Estimated BOP Cost and Actual BOP Cost on a per kW basis; and
- (ii) Stating the BOP Price Adjustment, the Turbine Price Adjustment and the adjusted Energy Price based on such price adjustments, all as determined in accordance with Item (d).

(d) Adjustment of Energy Price.

If the Cost Expert determines that the Actual Turbine Cost varies from the Estimated Turbine Cost by more than 5.0%, or the Actual BOP Cost varies from the Estimated BOP Cost by more than 5.0%, the Cost Expert will calculate the BOP Price Adjustment, the Turbine Price Adjustment and the adjusted Energy Price based on such price adjustments in accordance with the following procedures and provide the Parties on the Actual Cost Report Delivery Date with such calculations in an Excel spreadsheet in electronic and hard copy format as an exhibit to the Actual Cost Report.

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

(1) BOP Price Adjustment.

For every \$10.00 per kW incremental change in the Actual BOP Cost from the Estimated BOP Cost that the Cost Expert certifies, the BOP Price Adjustment shall be \$0.56/MWh (the “BOP Price Adjustment”). Any incremental price change less than a \$10.00 per kW shall be mathematically interpolated linearly and rounded to the nearest 1/100 (i.e., one cent).

Example #1a

If the Cost Expert certifies that the Actual BOP Cost is \$20.00 per kW greater than the Estimated BOP Cost, the BOP Price Adjustment shall be \$1.12/MWh (positive one dollar and twelve cents per MWh).

Example #1b

If the Cost Expert certifies that the Actual BOP Cost is \$11.00 per kW greater than the Estimated BOP Cost, the BOP Price Adjustment shall be \$0.62/MWh (positive sixty-two cents per MWh).

(2) Turbine Price Adjustment.

For every \$50.00 per MWh incremental change in the Actual Turbine Cost from the Estimated Turbine Cost that the Cost Expert certifies, the Turbine Price Adjustment shall be \$5.86/MWh (the “Turbine Price Adjustment”). Any incremental price change less than a \$50.00 per MWh increment shall be mathematically interpolated linearly and rounded to the nearest 1/100 (i.e., one cent).

Example #2a

If the Cost Expert certifies that the Actual Turbine Cost is \$25.00 per MWh less than the Estimated Turbine Cost, the Turbine Price Adjustment shall be (-)\$2.93/MWh (negative two dollars and ninety-three cents per MWh).

Example #2b

If the Cost Expert certifies that the Actual Turbine Cost is \$105.00 per MWh greater than the Estimated Turbine Cost, the Turbine Price Adjustment shall be \$12.31/MWh (positive twelve dollars and thirty-one cents per MWh).

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

(3) Energy Price Adjustment or Termination.

If the aggregate price adjustments in Items (d)(1) and (d)(2) above, when added to the Energy Price set forth in Section 1.06(b) of the Agreement, would yield an adjusted Energy Price variation of more than positive or negative five percent ($\pm 5\%$), then the Energy Price set forth in Section 1.06(b) will be adjusted by the Energy Price Adjustment. The “Energy Price Adjustment” shall equal the sum of (a) the BOP Price Adjustment and (b) the Turbine Price Adjustment.

In the event that the adjusted Energy Price, after inclusion of the Energy Price Adjustment, exceeds the Energy Price Cap, SCE shall have the right to exercise the termination right set forth in Section 2.05(b)(iii) unless Seller agrees to an Energy Price equal to the Energy Price Cap within five (5) Business Days after the calculation of the adjusted Energy Price.

Example #3a

Using Example #1a and Example #2a above, an Energy Price of \$100.00 per MWh for this example and an Energy Price Cap of \$112.00 per MWh):

$$\begin{aligned}
 \text{Term Energy Price Adjustment} &= \text{BOP Price Adjustment} + \text{Turbine Price Adjustment} \\
 &= \$1.12/\text{MWh} + (-)\$2.93/\text{MWh} \\
 &= \$1.12/\text{MWh} - \$2.93/\text{MWh} \\
 &= (-)\$1.81/\text{MWh} \\
 \\
 \text{Adjusted Energy Price} &= \$100.00 + (-)\$1.81 \\
 &= \$98.19
 \end{aligned}$$

Because the calculated adjusted Energy Price (\$98.19) varies from the original Energy Price (\$100.00) by less than 5%, the final Energy Price for the Term would remain \$100.00/MWh, and no termination right under Section 2.05(b)(iii) would be available to SCE.

Example #3b

Using Example #1b and Example #2b above, with an Energy Price of \$100.00 per MWh for this example and an Energy Price Cap of \$112.00 per MWh):

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

$$\begin{aligned}\text{Term Energy Price Adjustment} &= \text{BOP Price Adjustment} + \text{Turbine Price Adjustment} \\ &= \$0.62/\text{MWh} + \$12.31/\text{MWh} \\ &= \$12.93/\text{MWh}, \\ \text{Adjusted Energy Price} &= \$100.00 + 12.93 \\ &= \$112.93\end{aligned}$$

Here, the adjusted Energy Price exceeds the Energy Price Cap of \$112.00, and, unless Seller agrees to an Energy Price equal to \$112.00/MWh, SCE may exercise its right to terminate the Agreement in accordance with Section 2.05(b)(iii).

(e) Miscellaneous.

- (i) The Parties shall evenly share the expense of the Cost Expert.
- (ii) All information provided to the Cost Expert shall remain confidential and shall not be disclosed to SCE, and prior to receipt by the Cost Expert of any information hereunder, the Cost Expert shall execute a non-disclosure agreement reasonably acceptable to Seller.

**ATTACHMENT A
to
EXHIBIT E**

Wind Turbine and Balance-of-Plant Cost Scope Document

Wind Turbine Cost Scope

Item	\$ Amount
<p><u>Wind Turbine Generators (WTGs) Including Towers and SCADA</u></p> <ul style="list-style-type: none"> • Including WTGs (Everything installed above the tower/nacel coupling, including but not limited to nacel, blades, hub, gearbox, and generator, yaw system, anemometer, etc.) • WTG footings • Control panels • Step-up Transformer • High Voltage switchgear • Protective equipment • Conductor • SCADA System – Hardware and Software* • Computer Station • 2- year standard warranty • 5- year full service and maintenance agreement covering scheduled and unscheduled maintenance (including parts and consumables), 24 hour surveillance with remote resets, documentation subscription and 95% availability guarantee for years 1 and 2 (90% in first 6 months) • WTG Erection* <p><u>Towers</u></p> <ul style="list-style-type: none"> • 80 meter hub height tubular steel IEC Class I towers • Internal safety ladders and lights <p><u>Import Duty and Sales Tax</u></p> <ul style="list-style-type: none"> • Estimate (Actual cost to be reimbursed by Buyer) 	

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

Item	\$ Amount
<p><u>Ocean Freight</u></p> <ul style="list-style-type: none"> • Wind Trubine Generators (WTGs) to major west coast or gulf coast ports • Towers to North American port or Ex-Works Factory in North America • Shipping insurance 	
<p><u>Land Transportation</u></p> <ul style="list-style-type: none"> • WTGs from port to Arlington, Oregon • Towers from North American port or Ex-works Factory in North America to Arlington, Oregon • Insurance 	
<p><u>FAA Lighting*</u></p> <ul style="list-style-type: none"> • FAA type L864/5 lighting 	
<p><u>Other</u></p> <ul style="list-style-type: none"> • Cold weather package • DVAR compensation • Low voltage ride through and other grid compatibility capabilities • Spare Parts 	
<p><u>WTG Technical Advice and Commissioning, including</u></p> <ul style="list-style-type: none"> • Site supervision & technical advice during the erection period <p>Final assembly, testing and commissioning of WTGs by Seller's technicians</p>	

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

Item	\$ Amount
<p><u>Payment Terms</u></p> <p>10% of total is to be paid to vendor as a non-refundable down payment upon contract signing. Seller is to establish an irrevocable standby letter of credit at a bank acceptable to vendor for the balance of the contract value at the time the down payment is made.</p> <p>55% of the Ex-Works Factory payment will be made upon the date the equipment leaves the factory.</p> <p>20% of total is to be paid when the WTG(s) are delivered to the project site(s).</p> <p>15% of total to be paid, upon commissioning on a per WTG basis.</p>	

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

BOP Cost Scope

Item	\$ Amount
<p><u>Site Conditions</u></p> <ul style="list-style-type: none"> • Project Site Layout and Wind Turbine Coordinates • Geotechnical Evaluation 	
<p><u>Site Work and Roadways</u></p> <ul style="list-style-type: none"> • Clear & Grub • Roadways – Permanent Access • Turnarounds • Spoils • Utilizing existing roads • Maintenance and Repair to public • Drainage, hydrological work • Roads, 6" of base course • Re-grade, reclaim roads • Turnouts from public roads • Dust control / Noise Control • Preservation of sensitive areas • Construction areas • Reseeding of WTG erection areas, substations, & construction roads • Site Preparation 	

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

Item	\$ Amount
<p><u>Fencing and Gates</u></p> <ul style="list-style-type: none"> • Contractor to repair damage to fences • Gates thru existing fences • Fencing around substations • Above-ground electrical equipment protection 	
<p><u>WTG Deliveries</u></p> <ul style="list-style-type: none"> • Unload WTG components at WTG sites • Furnish standard rigging equipment • Inspection of WTG components • Return shipping containers and packing materials 	
<p><u>WTG Erection*</u></p> <ul style="list-style-type: none"> • WTG technical assistance available • Erect towers, nacelle, hubs, blades and misc. • WTG Commissioning • Nacelle assembly • Blade repairs due to shipping • Pressure washing of WTG components • Touch up paint • Tensioning of anchor bolts with tower erection 	
<p><u>Foundation</u></p> <ul style="list-style-type: none"> • Design & install WTG foundations • Approval by Client's Independent Engineer • Concrete testing & sampling • Anchor bolts and template rings 	

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

<ul style="list-style-type: none"> Bolt caps / bolt painting 	
Item	\$ Amount
<p><u>FAA Lighting*</u></p> <ul style="list-style-type: none"> FAA Lighting MET tower FAA lighting 	
<p><u>SCADA System*</u></p> <ul style="list-style-type: none"> Fiber cable supply and installation Hardware kits (for both met towers and WTGs & receiving hardware) WTG - MET tower fiber Wind Farm SCADA Commissioning, hardware, programming and design. Utility SCADA Commissioning, hardware, programming and design. 	
<p><u>MET Towers</u></p> <ul style="list-style-type: none"> Guyed 80 m, met tower with std. Instruments, grounding Temporary MET tower, 80 m 	
<p><u>Telephone/Telecom</u></p> <ul style="list-style-type: none"> High speed internet Phone, electrical service Modems, RTU's for substations 	
<p><u>Low/Medium Voltage Work</u></p> <ul style="list-style-type: none"> Terminate/connect all WTG to pad mount transformers WTG cabling between nacelle and bottom control panel Elbows for MV cable @ padmount transformers 	

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

<ul style="list-style-type: none"> • Control Cabinet • 2500 KVA, 690V - 34.5KV Padmount Transformer • 34.5kV Grounding Transformer 	
Item	\$ Amount
<p><u>Collection System</u></p> <ul style="list-style-type: none"> • Power cable supply • Fiber cable supply • Cable trenching, bedding, backfill • Splice / Sectionalizing Cabinets • Splice specifications • Grounding • Cable testing / commissioning of collection system 	
<p><u>Collection Substation</u></p> <ul style="list-style-type: none"> • Overhead 34.5 kV bus • All substation structures including foundations • Main step-up transformer 2x250 MVA, 34.5KV–230KV incl. containment • Nominal power rating per Interconnection Agreement • Station Service & Telephone Service • Overhead 230 kV line and associated structures/components • All necessary protection and control equipment • All necessary breakers, CCVT's, PT's, switches, meters, relays, etc. • Relay Settings • All equipment and structures for electrical use • Environmentally controlled heated/air conditioned/dust resistant control building • Lighting and convenience outlets for above • Equipment racks • Battery bank • Lockouts / safety equipment per utility code • All grounding / shielding / UG conduit • Spare materials list • Fencing and gates 	

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

<ul style="list-style-type: none"> • Testing commissioning and startup • Grading and 4" lift of gravel / crushed rock • Ground grid • Power Conditioning Equipment • Diesel Generator 	
Item	\$ Amount
<p><u>Transmission Line</u></p> <ul style="list-style-type: none"> • Overhead 230 kV line and associated structures/components • H pole Wood transmission structures, backfill • Shielding and grounding components • Right of ways / existing structures coordination • H Pole line structure type • Nominal design capacity • Fiber optic cable • QA/QC 	
<p><u>Engineering and Permitting</u></p> <ul style="list-style-type: none"> • Surveying for engineering and permitting • All civil and electrical engineering • Construction permits • Site specific QA/QC plan, construction surveying, final drawings • Transmission Line Survey/Permit • Electrical Loss Study 	
<p><u>Miscellaneous</u></p> <ul style="list-style-type: none"> • Mapping / underground locating of utilities • Electrical spare parts • Site specific safety plan, Site Safety Inspector • Site security • Job books • Clean up / trash collection • Grading for 5 AC office complex and laydown area • Extra office trailer – Client 	

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

<ul style="list-style-type: none">• Extra office trailer - WTG supplier• Permanent Field Office/Workshop• Land leases, easements, ROW, use fees, utility connection, usage fees• Road bonding• Training of Client's staff• Project Bonding• Gross Receipts Tax	
--	--

* Seller shall indicate whether this item is allocated to the wind turbine costs, the balance of plant costs, or is shared between the two.

*** End of EXHIBIT E ***

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

EXHIBIT F

Seller's Annual Energy Delivery Obligation

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

EXHIBIT F*Seller's Annual Energy Delivery Obligation*1. Introduction.

This Exhibit F sets forth the calculation of:

- a) Seller's Annual Energy Delivery Obligation in each Term Year starting with the second Term Year; and
- b) The Energy Replacement Damage Amount that shall be paid by Seller to SCE if there is an Event of Deficient Energy Deliveries in any Term Year starting with the second Term Year.

2. Seller's Annual Energy Delivery Obligation.

Seller's Annual Energy Delivery Obligation for all Term Years starting with the second Term Year shall be calculated in accordance with the following formula:

SELLER'S ANNUAL
ENERGY DELIVERY OBLIGATION, in MWh = A x B

Where:

- A = Term Year Estimate of Metered Amounts,
calculated by the Generating Facility Performance Model, in MWh.
- B = Seller's Generating Facility Efficiency Guarantee for the appropriate
Term Year, set forth in Section 1.01(e).

provided that, in the event that Seller's obligation to deliver energy pursuant to Section 3.05 (Seller's Annual Energy Delivery Obligation) for a Term Year ends prior to the termination of such Term Year, then Seller's Annual Energy Delivery Obligation for such Term Year shall be equal to the estimated Metered Amounts calculated by the Generating Facility Performance Model for the months of the Term Year during which this Agreement is in force.

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

3. Deficient Energy Delivery Amount.

The Deficient Energy Delivery Amount for all Term Years shall be calculated in accordance with the following formula:

DEFICIENT ENERGY DELIVERY AMOUNT, in MWh

$$= A - B$$

Where:

A = Seller's Annual Energy Delivery Obligation, calculated as set forth in Item 2 of this Exhibit F, in MWh.

B = Sum of Delivered Amounts and SA-Curtailed Amounts, if any, determined in accordance with Exhibit P during all Settlement Intervals for the applicable Term Year, in MWh.

An Event of Deficient Energy Deliveries shall be deemed to have occurred if the Deficient Energy Delivery Amount, calculated as set forth in this Item 3 of Exhibit F in MWh, is greater than zero (0).

4. Energy Replacement Damage Amount.

If an Event of Deficient Energy Deliveries occurs, Seller shall pay to SCE as liquidated damages an amount (the "Energy Replacement Damage Amount") which shall be the lesser of the:

- a) Energy Replacement Damage Amount Calculation Result, calculated as set forth in Item 5 of this Exhibit F, in dollars; and
- b) Energy Replacement Damage Amount Maximum, calculated as set forth in Item 6 of this Exhibit F, in dollars.

5. Energy Replacement Damage Amount Calculation Result.

Seller's Energy Replacement Damage Amount Calculation Result shall be calculated according to the following formula:

ENERGY REPLACEMENT DAMAGE AMOUNT CALCULATION RESULT, in dollars

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

$$= A \times (B - C)$$

Where:

A = Deficient Energy Delivery Amount, calculated as set forth in Item 3 of this Exhibit F, in MWh.

B = Simple average of the Market Prices for all Settlement Intervals during the Term Year, in dollars per MWh;

C = Energy Price, dollars per MWh

provided that, the result of “(B – C)” shall not be:

- (i) Less than twenty dollars (\$20) per MWh; nor
 - (ii) Greater than fifty dollars (\$50) per MWh.
6. Energy Replacement Damage Amount Maximum.

Seller’s Energy Replacement Damage Amount Maximum shall be calculated according to the following formula:

ENERGY REPLACEMENT DAMAGE AMOUNT MAXIMUM, in dollars

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

Where:

A = Energy Price, as set forth in Section 1.06, in dollars per MWh.

B = The sum of all Metered Amounts for the applicable Term Year, in MWh;

C = Fifty percent (50%).

*** End of EXHIBIT F***

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

EXHIBIT G

Seller's Milestone Schedule

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

EXHIBIT G

Seller's Milestone Schedule²

<i>No.</i>	<i>Date</i>	<i>Milestones</i>
1	July 2008	Receives the Site Permit approval
2	August 2008	Executes the Engineering & Procurement Agreement for long lead items
3	October 2008	BPA issues the Record of Decision
4	October 2008	Executes the LGIA
5	November 2008	Defers transmission in-service dates until November 2009
6	November 2008	Selects the balance of plant constructor
7	November 2008	Executes term sheet with turbine supplier
8	November 2008	Files permit amendment application
9	December 2008	CPUC Approves PPA
10	March 2009	Energy Facility Siting Council approves amended permit
11	TBD	Trigger Date
12	Trigger Date + 1 months	Execute turbine supply agreement
13	Trigger Date + 1 months	Execute BOP contract
14	November 2009	Defers transmission in-service dates until November 2010
15	Trigger Date + 5 months	Limited Notice to Proceed issued to BOP contractor
16	Trigger Date + 11 months	Notice to Proceed issued to BOP contractor
17	Trigger Date + 12 months	BOP Contractor mobilized and enters site
18	November 2010	Defers transmission in-service dates until November 2010
19	Trigger Date + 17 months	BPA energizes the Slatt 500kV sub-station

² To be revised in accordance with this Agreement.

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

20	Trigger Date + 18 months	First turbine delivered to Site
21	Trigger Date + 24 months	Initial Operation Date

*** End of EXHIBIT G ***

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

EXHIBIT H

Milestone Progress Reporting Form

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

EXHIBIT H*Milestone Progress Reporting Form*

Seller shall prepare a written report each month on its progress relative to the development, construction and startup of the Generating Facility and the Milestone Schedule. The report shall be sent via email in the form of a single Adobe Acrobat file or facsimile to SCE's Contract Administrator, as noted in Exhibit C, on the fifth (5th) Business Day of each month.

Seller's obligation to complete a Milestone Progress Reporting Form for the preceding month and submit such report to SCE shall begin on the first day of the first full calendar month after the Effective Date of this Agreement and shall end immediately after a Milestone Progress Reporting Form is completed and submitted for the month in which the Firm Operation Date occurs.

Each Milestone Progress Report shall include the following items:

1. Cover page.
2. Brief Generating Facility description.
3. Site plan of the Generation Facility.
4. Description of any planned changes to the Generating Facility and Site Description in Exhibit B.
5. Bar chart schedule showing progress on achieving the Milestone Schedule.
6. PERT or GANT chart showing critical path schedule of major items and activities.
7. Summary of activities during the previous month.
8. Forecast of activities scheduled for the current month.
9. Written description about the progress relative to Seller's Milestone Schedule.
10. List of issues that could potentially impact Seller's Milestone Schedule.
11. Enumeration and schedule of any support or actions requested of SCE.

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

12. Progress and schedule of all agreements, contracts, Permits, approvals, technical studies, financing agreements and major equipment purchase orders showing the start dates, completion dates, and completion percentages.
13. A status report of start-up activities including a forecast of activities ongoing and after start-up, a report on Generating Facility performance including performance projections for the next twelve (12) months.

*** End of EXHIBIT H ***

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

EXHIBIT I

Form of Guaranty Agreement

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

EXHIBIT I*Form of Guaranty Agreement*1. Guaranty.

For valuable consideration, [Guarantor's legal name], [legal status] (“**Guarantor**”) unconditionally and irrevocably guarantees payment to Southern California Edison Company, a California corporation, and its successors and assigns (collectively, “**Beneficiary**”), 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 herein 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, with a specific statement that Beneficiary is calling upon Guarantor to pay under this guaranty (“**Guaranty**”). Guarantor shall promptly, but in no event less than ten Business Days following demand by Beneficiary, pay such Obligations in immediately available funds. A payment demand satisfying the foregoing requirements shall be deemed sufficient notice to Guarantor that it must pay the Obligations. Other than such 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, and any notice of credits extended and sales made by the Beneficiary to the Principal, and all other notices whatsoever. The liability of Guarantor hereunder is a continuing guaranty of payment when any amount is owing without regard to whether recovery may be or has become barred by any statute of limitations or otherwise may be unenforceable.

2. Guaranty Limit.

Subject to Paragraph 12, 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.

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

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 or surety. 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 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) Guarantor's payment of a portion, but not all, of the Obligations shall in no way limit, affect, modify or abridge Guarantor's liability for that portion of the Obligations which is not paid. 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;
- (e) 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 agreement, except to the extent the amount(s) owed to Beneficiary by Principal have been paid; and

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

- (f) 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) Beneficiary's acceptance and/or enforcement of, or failure to enforce, any other guaranties;
 - (vi) Beneficiary's exercise of any other rights available to it under the Agreement;
 - (vii) 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;
 - (viii) any failure to perfect or continue perfection of a security interest in any collateral that secures the Obligations;
 - (ix) any defenses, setoffs or counterclaims that Principal may allege or assert against Beneficiary with respect to the Obligations, including, without limitation, failure of consideration, breach of warranty, statute of frauds, statute of limitations and accord and satisfaction; and
 - (x) 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.

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

4. Termination; Reinstatement.

- (a) The term of this Guaranty is continuous until the earlier of: (i) the date on which the Obligations have been performed or paid in full or (ii) with regard to future transactions, the date on which Guarantor provides Beneficiary with written notice of such termination, and any such termination shall become effective no earlier than sixty (60) calendar days from the date Beneficiary receives such written notice from Guarantor. Unless otherwise agreed in writing by Beneficiary, no such notice or termination shall release Guarantor from any liability as to any amount or performance that is at the time owing under the Agreement.
- (b) Notwithstanding the provisions of Paragraph 4(a) hereof, this Guaranty shall be reinstated if at any time following the termination of this Guaranty under Paragraph 4(a) hereof, 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. Such period of reinstatement shall continue until satisfaction of the conditions contained in, and shall continue to be subject to, the provisions of Paragraphs 4(a) hereof. 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

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

by reason of the order, decree or decision of any court or administrative body resulting from any such proceeding.

- (b) Guarantor acknowledges and agrees that any interest on any portion of the Obligations which accrues after the commencement of any proceeding referred to in clause (a) above (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 because it is the intention of Guarantor and Beneficiary that the Obligations which are guaranteed by Guarantor pursuant to this Guaranty should be determined without regard to any rule of law or order which may relieve Principal of any portion of such 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.
- (c) In any bankruptcy, reorganization, insolvency or other proceeding in which the filing of claims is required by law, Guarantor shall file all claims which Guarantor may have against Principal relating to any indebtedness of Principal to Guarantor and shall assign to Beneficiary all rights of Guarantor thereunder. If Guarantor does not file any such claim, Beneficiary, as attorney-in-fact for Guarantor, is hereby authorized to do so in the name of Guarantor or, in Beneficiary's discretion, to assign the claim to a nominee and to cause proof of claim to be filed in the name of Beneficiary's nominee. The foregoing power of attorney is coupled with an interest and cannot be revoked. Beneficiary or its nominee shall have the right, in its reasonable discretion, to accept or reject any plan proposed in such proceeding and to take any other action which a party filing a claim is entitled to do. In all such cases, whether in administration, bankruptcy or otherwise, the person or persons authorized to pay such claim shall pay to Beneficiary the amount payable on such claim and, to the full extent necessary for that purpose. Guarantor hereby assigns to Beneficiary all of Guarantor's rights to any such payments or distributions; provided, however, Guarantor's obligations hereunder shall not be satisfied except to the extent that Beneficiary receives cash by reason of any such payment or distribution. If Beneficiary receives anything hereunder other than cash, the same shall be held as collateral for amounts due under this Guaranty.

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

6. Subrogation.

In accordance with Paragraph 8(d) hereof, the Guarantor shall be subrogated to all rights of the Beneficiary against Principal in respect of any amounts paid by the Guarantor pursuant to the Guaranty, provided that the Guarantor postpones any rights that it may acquire by way of subrogation under this Guaranty, by any payment made hereunder or otherwise, reimbursement, exoneration, contribution, indemnification or any right to participate in any claim or remedy of the Beneficiary against Principal or any collateral that the Beneficiary now has or hereafter acquires, until all of the Obligations shall have been irrevocably paid to the Beneficiary in full.

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 and shall promptly pay such amount to Beneficiary.

Guarantor further agrees that to the extent the waiver of its rights of subrogation as set forth herein is found by a court of competent jurisdiction to be void or voidable for any reason, any rights of subrogation Guarantor may have against Principal or against such collateral or security shall be junior and subordinate to any rights Beneficiary may have against Principal and to all right, title and interest Beneficiary may have in such collateral or security. Beneficiary may use, sell or dispose of any item of collateral or security as it sees fit without regard to any subrogation rights that Guarantor may have, and upon any disposition or sale, any rights of subrogation Guarantor may have shall terminate. Guarantor understands that it may record a Request for Notice of Default pursuant to California Civil Code Section 2924b and thereby receive notice of any proposed foreclosure of any real property collateral then securing Principal's obligations under the Agreement. With respect to the foreclosure of any security interest in any personal property collateral then securing the Obligations, Beneficiary agrees to give Guarantor five (5) days' prior written notice, in the manner set forth in Paragraph 17 hereof, of any sale or disposition of any such personal property collateral, other than collateral which is perishable, threatens to decline speedily in value, is of a type customarily sold on a recognized market, or is cash, cash equivalents, certificates of deposit or the like. Guarantor's sole right with respect to any such foreclosure of real or personal property collateral shall be to bid at such sale in accordance with applicable law. Guarantor acknowledges and agrees that Beneficiary may also bid at any such sale and if such collateral is sold to Beneficiary in whole or partial satisfaction of Principal's obligations under the Agreement,

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

including the Obligations (or any portion thereof), Guarantor shall not have any further right or interest with respect thereto. The rights of Beneficiary under this Paragraph 6 are in addition to other rights and remedies which Beneficiary may have.

7. Subordination.

Any indebtedness of Principal now or hereafter held by Guarantor is hereby subordinated in right of payment to the Obligations. Guarantor assigns all such indebtedness to Beneficiary as security for this Guaranty and the Agreement. Guarantor agrees to make no claim for such indebtedness until all obligations of Principal under the Agreement have been fully discharged. Guarantor further agrees not to assign all or any part of such indebtedness unless Beneficiary is given prior notice and such assignment is expressly made subject to the terms of this Guaranty. If Beneficiary so requests, (i) all instruments evidencing such indebtedness shall be duly endorsed and delivered to Beneficiary, (ii) all security for such indebtedness shall be duly assigned and delivered to Beneficiary, (iii) such indebtedness shall be enforced, collected and held by Guarantor as trustee for Beneficiary and shall be paid over to Beneficiary on account of the Obligations but without reducing or affecting in any manner the liability of Guarantor under the other provisions of this Guaranty, and (iv) Guarantor shall execute, file and record such documents and instruments and take such other actions as Beneficiary deems necessary or appropriate to perfect, preserve and enforce Beneficiary's rights in and to such indebtedness and any security therefor. If Guarantor fails to take any such action, Beneficiary, as attorney-in-fact for Guarantor, is hereby authorized to do so in the name of Guarantor. The foregoing power of attorney is coupled with an interest and cannot be revoked.

8. Waivers of Guarantor.

- (a) [Intentionally Omitted.]
- (b) Guarantor waives any right to require Beneficiary to:
 - (i) Proceed against Principal;
 - (ii) Proceed against or exhaust any security held from Principal or any other party acting under a separate agreement; or
 - (iii) Pursue any other remedy available to Beneficiary.

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

- (c) Guarantor waives all of the rights and defenses described in subdivision (a) of Section 2856 of the California Civil Code. As used below in this Subparagraph (c), "debtor" and "principal" each refers to Principal, "creditor" refers to Beneficiary, "guarantor" refers to "Guarantor" and "debt" refers to the Obligations. Without limiting the generality of the waiver in the first sentence of this Subparagraph (c), Guarantor desires and intends to, and hereby does, waive each and all of the rights and defenses described below in this Subparagraph (c).
- (i) The guarantor waives the guarantor's rights of subrogation, reimbursement, indemnification, and contribution and any other rights and defenses that are or may become available to the guarantor by reason of Sections 2787 to 2855, inclusive, of the California Civil Code;
- (ii) 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

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

defenses based upon Section 580a, 580b, 580d, or 726 of the California Code of Civil Procedure.

- (iii) 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.
- (e) 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.
- (f) Guarantor waives any defense arising by reason of the incapacity, lack of authority or any disability or other defense of the Principal, including, without limitation, any defense based on or arising out of the lack of validity or enforceability of the Obligations or by reason of the cessation of liability of the Principal under the Agreement for any reason;
- (g) Guarantor waives any defense based upon any statute or rule of law that provides that the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal;
- (h) Guarantor waives any defense based upon Beneficiary's errors or omissions in the administration of the Obligations;
- (i) Guarantor waives its right to raise any principles of law, statutory or otherwise, that are or might be in conflict with the terms of this Guaranty and any legal or equitable discharge of Guarantor's obligations hereunder;
- (j) Guarantor waives any rights to setoffs, recoupments or counterclaims against Beneficiary;
- (k) 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;

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

- (l) Guarantor waives any defenses or benefits that may be derived from or afforded by law which limit the liability of or exonerate guarantors or sureties, or which may conflict with the terms of this Guaranty;
 - (m) Guarantor waives any rights or defenses that Guarantor may have under Sections 2899 and 3433 of the California Civil Code;
 - (n) Guarantor waives any defense based upon Beneficiary's election, in any proceeding instituted under the United States Bankruptcy Code, as amended, of the application of Section 1111(b)(2) of the United States Bankruptcy Code, as amended, or any successor statute; and
 - (o) Guarantor waives any defense based upon any borrowing or any grant of a security interest under Section 364 of the United States Bankruptcy Code, as amended.
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, its successors, assigns and creditors, and can be modified only by a written instrument signed by the Beneficiary and the Guarantor. 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, which shall not be unreasonably withheld. Any reasonable uncertainty on the part of the Beneficiary concerning the ability on the part of any potential assignee of the Guarantor to carry out the Guarantor's obligations hereunder shall be considered a reasonable basis for withholding consent, unless and until the potential assignee can satisfy the Beneficiary, in its sole

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

discretion, that the assignee is capable of performing the obligations of the Guarantor hereunder.

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

13. Governing Law.

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

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, and its provisions may not be waived, altered, modified or amended except in writing executed by an officer of each of Guarantor and Beneficiary. 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.

14. 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 person.

15. 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.

16. Third Party Rights.

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

17. Notices.

Any notice given hereunder by either Guarantor or Beneficiary shall be made by facsimile to the person and at the address for notices specified below (with notices to Guarantor sent to facsimile and address specific below for Beneficiary).

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

Beneficiary.

Southern California Edison Company
2244 Walnut Grove Avenue, Quad 4-D
Rosemead, CA 91770
Attn: Director, Renewable and Alternative Power
Phone: (626) 302-
Facsimile: (626) 302-

with a copy to:

Southern California Edison Company
2244 Walnut Grove Avenue, Quad 4-D
Rosemead, CA 91770
Attn: Director, Risk Control
Phone: (626) 302-
Facsimile: (626) 302-

Guarantor.

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

Principal.

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

Such notice shall be effective upon 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.

Guarantor.

_____ *[legal name]* _____

By: _____

Title: _____

Date: _____

Beneficiary.

Agreed to by Beneficiary for purposes of establishing the creditworthiness of Principal, as partial security for the Agreement.

SOUTHERN CALIFORNIA EDISON COMPANY

By: _____

Title: _____

Date: _____

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

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

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

EXHIBIT J

Non-Disclosure Agreement

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

EXHIBIT J

Non-Disclosure Agreement

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

NON-DISCLOSURE AGREEMENT

Between

SOUTHERN CALIFORNIA EDISON COMPANY

and

CAITHNESS SHEPHERDS FLAT, LLC

SOUTHERN CALIFORNIA EDISON COMPANY ("SCE"), a California corporation, and Caithness Shepherds Flat, LLC ("CSF"), a Delaware limited liability company, hereby enter into this Non-Disclosure Agreement ("Agreement").

SCE and CSF shall sometimes be referred to in this Agreement individually as a "Party" and jointly as the "Parties."

RECITALS

- A. SCE initiated a request for proposals ("RFP") to supply energy and associated Green Attributes, Capacity Attributes and Resource Adequacy Benefits from eligible renewable resources ("ERRs") on March 12, 2007, with a goal of negotiating and executing power purchase agreements with ERRs whose proposals are selected pursuant to the RFP.
- B. CSF desires to submit a proposal in response to the RFP.
- C. The Parties desire to keep confidential any confidential or proprietary information disclosed by CSF to SCE as part of CSF submission of a proposal in response to the RFP (the "Proposal"), or any confidential or proprietary information that may be disclosed by SCE to CSF as part of discussions or negotiations with CSF concerning CSF Proposal.

AGREEMENT

NOW, THEREFORE, the Parties agree as follows:

1. For purposes of this Agreement, all oral or written communications exchanged between the Parties on or after the

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

Effective Date, as set forth in Section 10 of this Agreement, as part of the Proposal shall be referred to as "Confidential Information."

Any such communications must comply with the provisions of Section 6 herein to be considered Confidential Information.

2. The Parties agree to treat Confidential Information as confidential with respect to third parties and shall not disclose Confidential Information except as specifically authorized herein or as specifically agreed to by both Parties in writing.

Accordingly, Parties may disclose Confidential Information only to their employees, directors, financial advisors, attorneys, or accountants who have a strict need to know solely for the purpose of assisting the Party in evaluating the Proposal, or in subsequent discussions or negotiations regarding the Proposal and who read and agree to abide by this Agreement ("Permitted Disclosee").

The Parties may also disclose Confidential Information to representatives of their rating agencies who have a strict need to know solely for the purpose of assisting the Party in evaluating the Proposal, so long as the disclosing Party advises the rating agency of the confidential nature of the Confidential Information and uses reasonable efforts to prevent or limit the disclosure of Confidential Information by any such rating agency.

3. SCE may also disclose Confidential Information to the following entities and their staff and divisions thereof in furtherance of the RFP: (i) the California Public Utilities Commission ("CPUC"), (ii) the Procurement Review Group established pursuant to D.02-08-071 and D.03-06-071 ("PRG"), (iii) the California Energy Commission ("CEC") and (iv) the California Independent System Operator ("CAISO").

Although SCE will seek confidential treatment of any Confidential Information submitted by it to the CPUC, by means of a motion for protective order under Public Utilities Code section 583 and General Order 66-C, or by appropriate application to or agreement with, the PRG, CAISO and CEC, SCE may disclose Confidential Information under this Paragraph even if no protective order is issued and no confidentiality or non-disclosure agreements are entered into.

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

- SCE may also disclose Confidential Information as may be reasonably required to participate in any auction, market or other process pertaining to the allocation of priorities or rights related to the transmission of electrical energy sold or to be sold to SCE under any agreement reached as a result of discussions or negotiations.
4. Notwithstanding anything to the contrary set forth herein, the obligations set forth in this Agreement shall not apply to and the term "Confidential Information" shall not include:
 - a. Information which is in the public domain as of the Effective Date of this Agreement or which later comes into the public domain from a source other than from the other Party or its Permitted Disclosee;
 - b. Information which SCE or CSF can demonstrate in writing was already known to SCE or CSF prior to the effective date of this Agreement;
 - c. Information which comes to SCE or CSF from a bona fide third party source not under an obligation of confidentiality;
 - d. Information which is independently developed by SCE or CSF without use of or reference to Confidential Information or information containing Confidential Information; or
 - e. The fact that CSF submitted a Proposal in response to the RFP.
 5. The Parties agree that irreparable damage would occur if this Agreement were not performed in accordance with its terms or were otherwise breached. Accordingly, a Party may be entitled to seek an injunction or injunctions to prevent breach of this Agreement and to enforce specifically its provisions in any court of competent jurisdiction, in addition to any other remedy to which the Party may be entitled by law or equity.
 6. Confidential Information submitted to a Party in hard copy or electronic form shall bear on each page the following legend:

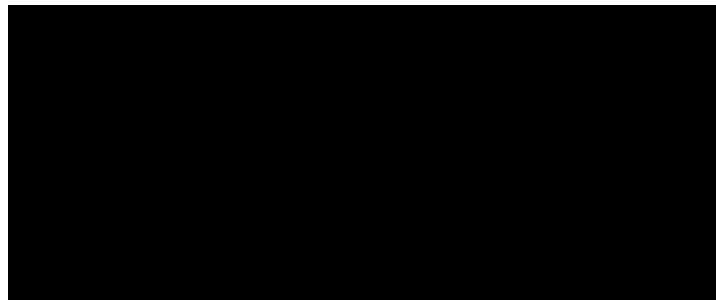
The contents of this document are subject to restrictions on disclosure as set forth herein.

**"CONFIDENTIAL INFORMATION.
THE CONTENTS OF THIS DOCUMENT ARE SUBJECT TO
A NON-DISCLOSURE AGREEMENT"**

- 7. The Parties agree not to introduce (in whole or in part) into evidence or otherwise voluntarily disclose in any administrative or judicial proceeding, any Confidential Information, except as required by law or as SCE or CSF may be required to disclose to duly authorized governmental or regulatory agencies, including the CPUC or any division thereof, in order to demonstrate the reasonableness of its actions.
- 8. Nothing in this Agreement is intended to waive any attorney-client, work-product or other privilege applicable to any statement, document, communication, or other material of a Party or the Parties.
- 9. Any notice or communication given pursuant to this Agreement shall be in writing and:
 - a) Delivered personally, in which case delivery is given upon written acknowledgment of receipt;
 - b) Mailed by registered or certified mail; postage prepaid, in which case delivery is given on the earlier of the actual date of delivery, as set forth in the return receipt, or three (3) days from the date posted, or
 - c) Delivery by telecopy, in which case delivery is given upon actual receipt of the entire document.

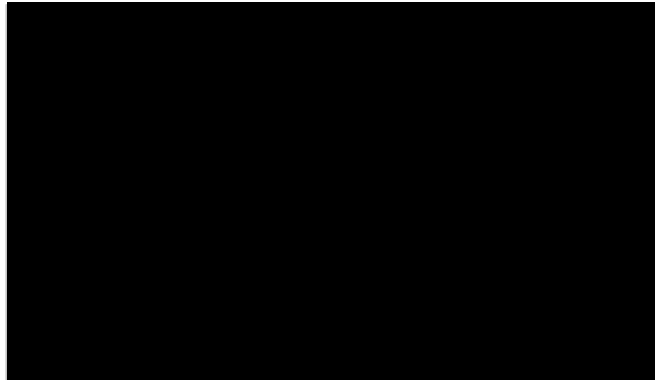
In any of these cases, the writing shall be sent or delivered as follows (subject to change by either Party by notifying the other Party pursuant to this paragraph).

If to SCE:



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

If to CSF:



10. This Agreement shall be effective as of the date of the last signature to this Agreement and shall terminate five years from such date or earlier upon the mutual written consent of the Parties (the "Effective Date").

11. This Agreement shall be interpreted in accordance with the plain meaning of its terms and not strictly for or against any of the Parties hereto.

This Agreement shall be construed as if each Party was its author and each Party hereby adopts the language of this Agreement as if it were its own.

12. Any waiver of the requirements and provisions of this Agreement shall be in writing.

The failure of either Party to enforce at any time any of the provisions of the Agreement or to require at any time performance by the other Party of any of such provisions, shall in no way be construed as a waiver of such provision or a relinquishment of the right thereafter to enforce such provision.

13. This Agreement may not be modified except by a written agreement executed by both Parties.

14. This Agreement shall be interpreted, governed and construed under the laws of the State of California (without giving effect to its conflict of laws provisions that could apply to the law of another jurisdiction) as if executed in and to be wholly performed within the State of California.

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

15. This Agreement fully expresses the Parties' agreement concerning the subject matter hereof and supersedes any prior agreements or understandings regarding the same subject matter.
16. The signatories hereto represent that they have been duly authorized to enter into this Agreement on behalf of the Party for whom they sign.
17. If any provision hereof is unenforceable or invalid, it shall be given effect to the extent it may be enforceable or valid, and such enforceability or invalidity shall not affect the enforceability or invalidity of any other provision of this Agreement.

[Remainder of page left blank intentionally.]

18. This Agreement may be signed in counterparts, each of which shall be deemed an original.

CAITHNESS SHEPHERDS FLAT, LLC

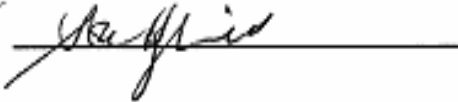
**SOUTHERN CALIFORNIA EDISON
COMPANY,**

a Delaware limited liability company

a California corporation.

By:

By:



John A. McNamee
Vice President Finance

Date: May 17, 2007

Date: 6/18/07

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

CAITHNESS SHEPHERDS FLAT, LLC

Southern California Edison Company
2244 Walnut Grove Avenue
Rosemead, CA 91770

Attn: Vice President, Renewable and Alternative Power

Reference is made to that certain Non-Disclosure Agreement between Caithness Shepherds Flat, LLC (“CSF”), a Delaware limited liability company, and Southern California Edison Company (“SCE”), a California corporation, dated May 17, 2007 (the “NDA”).

SCE and CSF wish to add North Hurlburt Wind, LLC, a Delaware limited liability company, South Hurlburt Wind, LLC, a Delaware limited liability company, and Willow Creek Wind, LLC, a Delaware limited liability company, (each, a “Seller” and collectively, “Sellers”) as parties to the NDA and Sellers wish to become parties to the NDA. In addition, SCE, CSF and Sellers (collectively, the “Parties”) wish to acknowledge certain persons as Permitted Disclosees under the NDA.

The Parties hereby acknowledge and agree that:

- (1) Each of North Hurlburt Wind, LLC, South Hurlburt Wind, LLC and Willow Creek Wind, LLC shall be added as a party to the NDA;
- (2) Each Seller has read the NDA, and agrees to be bound by the NDA along with and to the same extent as CSF, and agrees to make all of the terms and conditions contained in the NDA with respect to CSF legally enforceable against such Seller;
- (3) The Independent Evaluator for the purpose of monitoring the solicitation, evaluation, selection and negotiation process for SCE’s Requests for Proposals from Eligible Renewable Energy Resource Suppliers for Electric Energy (“RFPs”), as described in Section 3.04 of SCE’s Procurement Protocol for the RFPs, is a “Permitted Disclosee” under the NDA with respect to all Confidential Information (as defined in the NDA) exchanged between SCE on the one hand, and CSF and/or Sellers on the other hand.

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

ID #6331 (South Hurlburt Wind)

(4) All consultants who have been or will be retained by SCE for the purpose of reviewing and evaluating CSF's proposals and negotiating one or more renewable power purchase agreements between SCE and Sellers are Permitted Disclosees under the NDA with respect to all Confidential Information exchanged between SCE on the one hand, and CSF and/or Sellers on the other hand;


(5) Each Party shall inform its Permitted Disclosees of the confidential nature of the Confidential Information and shall direct its Permitted Disclosees to comply with the confidentiality requirements of the NDA with respect to such information;

(6) Each Party shall be responsible for any breach of the NDA by its Permitted Disclosees;

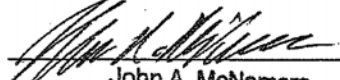
(7) This letter agreement shall be effective as of the date first written above.

Sincerely,


CAITHNESS SHEPHERDS FLAT, LLC

By: 
Name: John A. McNamara
Title: Vice President Finance

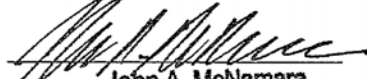
NORTH HURLBURT WIND, LLC

By: 
Name: John A. McNamara
Title: Vice President Finance

SOUTH HURLBURT WIND, LLC

By: 
Name: John A. McNamara
Title: Vice President Finance

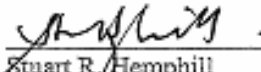
WILLOW CREEK WIND, LLC

By: 
Name: John A. McNamara
Title: Vice President Finance

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

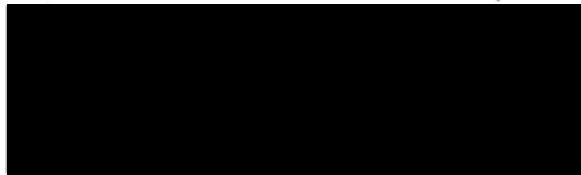
Agreed and accepted this 1st day of -8/ 2008

SOUTHERN CALIFORNIA EDISON COMPANY

By: 
Name: Stuart R. Hemphill
Title: Vice President, Renewable and Alternative Power

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

CAITHNESS SHEPHERDS FLAT, LLC



August 9, 2008

Southern California Edison Company
2244 Walnut Grove Avenue
Rosemead, CA 91770

Attn: Vice President, Renewable and Alternative Power

Reference is made to that certain Non-Disclosure Agreement between Caithness Shepherds Flat, LLC ("CSF"), a Delaware limited liability company, and Southern California Edison Company ("SCE"), a California corporation, dated May 17, 2007 (the "NDA") and that certain letter of July 28, 2008 from North Hurlburt Wind, LLC, a Delaware limited liability company ("NHW"), South Hurlburt Wind, LLC, a Delaware limited liability company ("SHW"), and Willow Creek Wind, LLC, a Delaware limited liability company ("WCW") to SCE amending the NDA (the "First Amended NDA").

SCE, NHW, SHW, WCW and CSF (the "Parties") wish to amend the First Amended NDA to reflect the fact that WCW's name has been changed to Horseshoe Bend Wind, LLC, a Delaware limited liability company.

The Parties hereby acknowledge and agree that:

- (1) WCW's name has been changed to Horseshoe Bend Wind, LLC and the NDA shall be deemed amended to reflect such change;
- (2) The change of WCW's name to Horseshoe Bend Wind, LLC shall not modify or limit any of the Parties' respective rights or obligations under the NDA;
- (3) This letter agreement shall be effective as of the date first written above.

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

Sincerely,

CAITHNESS SHEPHERDS FLAT, LLC

By: David Casale
Name: David Casale
Title: VP & Controller

NORTH HURLBURT WIND, LLC

By: David Casale
Name: David Casale
Title: VP & Controller

SOUTH HURLBURT WIND, LLC

By: David Casale
Name: David Casale
Title: VP & Controller

HORSESHOE BEND WIND, LLC

By: David Casale
Name: David Casale
Title: VP & Controller

Agreed and accepted this 13th day of August 2008

SOUTHERN CALIFORNIA EDISON COMPANY

By: Stuart R. Hemphill
Name: Stuart R. Hemphill
Title: Vice President, Renewable and Alternative Power

*** End of EXHIBIT J ***

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

EXHIBIT K

Transmission and Interconnection Certificate

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

EXHIBIT K*Transmission and Interconnection Certificate*

Renewable and Alternative Power
Southern California Edison Company
2244 Walnut Grove Ave
Rosemead CA 91770
Attention:

To: Southern California Edison Company (“SCE”)

RE: Renewable and Power Purchase Agreement by and between SCE and *[Insert Name of applicable Shepherds Flat Party]* dated *[Date]* (the “Power Purchase Agreement”)

The undersigned hereby represents and warrants to SCE as of *[Execution Date]* that:

- (1) The Bonneville Power Administration (the “BPA”) is the sole transmission provider under *[the][each]* firm transmission Point-to-Point Agreement as defined in the Power Purchase Agreement and attached to this Transmission and Interconnection Certificate as Attachment K-1;
- (2) *[The][Each]* Point-to-Point Agreement:
 - a) Has been fully executed by *[Insert Name of applicable Shepherds Flat Party or Affiliate]* on the one hand and the BPA on the other hand;
 - b) Is legally binding on *[Insert Name of applicable Shepherds Flat Party or Affiliate]* and, to the best of the undersigned’s knowledge, is legally binding on the BPA, and is in full force and effect; and
 - c) Is fully transferable and assignable to SCE.
- (3) With respect to the Point-to-Point Agreement*[s in the aggregate]*:
 - a) The portion of such agreement*[s]* assigned to SCE for the purpose of the firm transmission of electric energy purchased pursuant to the Power Purchase Agreement provides for the transmission of electric energy on a firm basis from the Delivery Point (as defined in the Power Purchase Agreement) to either or both of:

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

- i) The Big Eddy 230 kV Substation that serves as the northern terminus of the Pacific Northwest–Pacific Southwest DC Intertie located on the Columbia River near The Dalles, Oregon (“Big Eddy”) and
 - ii) The point in the John Day 500 kV substation where the northern portion of the Pacific Northwest–Pacific Southwest AC Intertie connects to the BPA’s Main Grid transmission facilities located on the Columbia River near The Dalles, Oregon (“John Day”),

in an aggregate amount equal to no less than *[Calculate: 724 MW multiplied by the Seller Factor]*;
- b) No other transmission or distribution service agreements are necessary to fully transmit on a firm basis at least *[Calculate: 724 MW multiplied by the Seller Factor]* of electric energy, generated by Seller’s electric generating facility as more particularly described in the Power Purchase Agreement (the “Generating Facility”), from the Delivery Point to Big Eddy and/or John Day.
- (4) The Interconnection Agreement, as defined in the Power Purchase Agreement and attached to this Transmission and Interconnection Certificate as Attachment K-4, has been fully executed by one or more of the Shepherds Flat Parties or Shepherds Flat Affiliates and the BPA.
 - (5) No other interconnection agreements are necessary to fully interconnect the Generating Facility to the BPA Grid.
 - (6) Except as set forth on attached Schedule K-6, there is no pending litigation or action, or, to the best knowledge of the undersigned, no threatened litigation or actions, with respect to any of the Point-to-Point Agreements.
 - (7) Except as set forth on attached Schedule K-7, there are no unpaid or anticipated judgments with respect to the Point-to-Point Agreements against any of the Shepherds Flat Parties or Shepherds Flat Affiliates under the Point-to-Point Agreements.
 - (8) In Seller’s reasonable opinion, none of the entries set forth on Schedule K-6 and K-7 will have a materially adverse impact on *[Insert Name of applicable Shepherds Flat Party or Affiliate]*’s rights under the Point-to-Point Agreements.

*** End of EXHIBIT K ***

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

EXHIBIT L

Procedure for Partial or Full Return of Development Security

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

EXHIBIT L*Procedure for Partial or Full Return of Development Security*

1. Seller's Request for Development Security Refund.

Seller shall provide Notice to SCE of its request for Development Security refund based upon either of the following:

- (a) Termination pursuant to Sections 2.05(a), 2.05(b) or Section 5.05; or
- (b) Seller has completed installation of Wind Turbines pursuant to the Generating Facility and Site Description set forth in Exhibit B.

2. Full Return of Development Security for Termination of Agreement.

Provided that SCE does not dispute Seller's Notice of request for Development Security refund pursuant to Item 1(a) above, SCE shall return the Development Security to Seller, or Letter of Credit to the issuing bank, within ten (10) Business Days after such Notice, unless SCE provides timely Notice to Seller that additional days are required to substantiate data.

3. Full or Partial Return of Development Security for Demonstrating Nameplate Contract Capacity.

Unless SCE provides timely Notice to Seller that additional days are required to substantiate data, SCE shall within thirty (30) days after Seller's Notice of request for Development Security refund pursuant to Item 1(b):

- (a) Complete a site visit to verify the Generating Facility was developed in accordance with the Generating Facility description set forth in Exhibit B, as it may be amended in accordance with this Agreement, and to determine the Demonstrated Nameplate Contract Capacity based on the Generating Facility Capacity;
- (b) If the Demonstrated Nameplate Contract Capacity as determined in Item 3(a) above is greater than or equal to the full Nameplate Contract Capacity expected to be installed at the Generating Facility,

then Seller shall qualify to receive a full return of the Development Security;

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

- (c) If the Demonstrated Nameplate Contract Capacity as determined in Item 3(a) above is less than the full Nameplate Contract Capacity of the Wind Turbines expected to be installed at the Generating Facility,

then Seller shall qualify to receive a return of only a portion of the Development Security based upon the level of the Demonstrated Nameplate Contract Capacity;
- (d) Based upon the information in Item 3(a), calculate the amount of Development Security refund due Seller pursuant to Sections 3.04(c) and 3.04(d);
- (e) Provide Notice to Seller of the amount of Development Security being returned pursuant to Item 3(d), the amount of Development Security forfeited, as applicable, and the reason(s) that a forfeiture of all or part of the Development Security is appropriate;
- (f) Return any Development Security due Seller if such Development Security was posted in the form of cash; and
- (g) Return the Letter of Credit to the issuing bank if the total amount of the posted Development Security is due Seller. If Seller is only entitled to a partial return of the Development Security SCE shall submit a drawing certificate on the Letter of Credit for the amount of Development Security forfeited by Seller, after which SCE shall release the remaining balance of the Letter of Credit.

*** End of EXHIBIT L ***

EXHIBIT M

Form of Letter of Credit

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

EXHIBIT M

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 (as hereinafter defined).

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 (the "Expiration Date").

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

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

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:

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. It is understood that 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 there under, shall govern all matters with respect to this Letter of Credit.

AUTHORIZED SIGNATURE for Issuer

(Name)

Title: _____

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

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 the Renewable Power Purchase and Sale Agreement (the "Agreement"), with respect to the Applicant has occurred and is continuing.

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

- []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 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.
 - []E. The Beneficiary has not been paid any or all of the Applicant's payment obligations now due and payable under the Agreement.
 - []F. The Beneficiary is entitled to retain the entire Development Security (as defined in the Agreement) as a result of Applicant's failure to achieve Initial Operation (as defined in the Agreement) by the Startup Deadline (as defined in the Agreement) or any extended Startup Deadline as provided in the Agreement, or the Agreement has terminated (or an Early Termination Date has been designated) due to an Event of Default by Applicant prior to the Startup Deadline.
 - []G. The Beneficiary is entitled to retain a portion of the Development Security equal to the product of \$20 per kilowatt times the Unincluded Capacity (as defined in the Agreement) in kilowatts as a result of Applicant demonstrating only a portion of the Nameplate Contract Capacity.
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:

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

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 M* ***

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

EXHIBIT N

Seller's Report of Lost Output Settlement Intervals

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

EXHIBIT N*Seller's Report of Lost Output Settlement Intervals*

Lost Output and Lost Output Settlement Intervals shall be reported by Seller in accordance with the procedures described in this Exhibit N, unless otherwise agreed upon by the Parties.

Seller shall (1) collect the data specified below in one (1) or more Microsoft Excel Workbooks (the "Lost Output Workbook") in a form and naming convention to be agreed upon by the Parties and (2) 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.

The Parties shall work together to refine the Lost Output Workbook and the Lost Output Report on an as needed basis.

1. Log of Lost Output Events and Associated Settlement Intervals.

The log of Lost Output events and associated Settlement Intervals 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 start date;
- (d) One (1) column for the start time;
- (e) One (1) column for the end date;
- (f) One (1) column for the end time;
- (g) One (1) column for the duration;
- (h) One (1) column for the cause.

2. Wind Speed Data Collection.

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

Seller shall record average Settlement Interval wind speeds, in increments of one half (0.5) meters per second, and Qualified Amounts for the Settlement Interval 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 Qualified Amounts quantity; and
- (g) One (1) row for each Settlement Interval period.

3. Availability Forecast.

Seller shall provide the actual availability of all Wind Turbine generators as measured by such generator's internal turbine controller, as reported on the Actual Availability Report for the applicable time period, for each Lost Output Settlement Interval for the Term Year.

4. Estimated Metered Amounts.

For each Term Year starting with the second Term Year, Seller shall provide the estimated Lost Output using the Generating Facility Power Curve and the data provided by the power curve for each Lost Output Settlement Interval.

5. Other Information.

Seller shall provide such other information reasonably requested by SCE for the determination or verification of Lost Output and Lost Output Settlement Intervals.

*** End of EXHIBIT N***

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

EXHIBIT O

Independent Performance Engineer

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

EXHIBIT O*Independent Performance Engineer*1. Introduction.

This Exhibit O sets forth the responsibilities of the Independent Performance Engineer relative to the development of the Generating Facility Performance Model.

2. Independent Performance Engineer's Responsibilities.

The Independent Performance Engineer shall:

- (a) Execute a non-disclosure agreement with Seller and SCE that requires it to maintain the confidentiality of all data and information relating to:
 - (i) This Agreement;
 - (ii) The Generating Facility;
 - (iii) The Generating Facility Power Curve; and
 - (iv) The Generating Facility Performance Model.
- (b) Submit a set of design criteria for the development of the Generating Facility Power Curve to SCE and Seller;
- (c) Develop and submit to SCE for approval and Seller for review the Generating Facility Power Curve;
- (d) Submit a set of design criteria for the development of the Generating Facility Performance Model to SCE and Seller;
- (e) Develop and submit to SCE for approval and Seller for review the Generating Facility Performance Model;
- (f) Test the Generating Facility Power Curve and Generating Facility Performance Model using the Actual Site Wind Speeds and Metered Amounts for first, second and third Term Years;

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

- (g) Compare the Term Year Estimate of Metered Amounts produced by the Generating Facility Performance Model against the power curve for each wind turbine generator model installed at the Generating Facility;
- (h) Review Seller's designs and specifications for the Meteorological Equipment;
- (i) Review Seller's procedures for maintenance and calibration of the Meteorological Equipment;
- (j) Review Seller's plan for collecting Actual Site Wind Speed data;
- (k) Review Seller's Generating Facility Performance Model Reports for the second and third Term Years.

*** End of EXHIBIT O***

EXHIBIT P

SA-Curtailed Amounts

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

EXHIBIT P*SA-Curtailed Amounts*

SCE and Seller shall comply with the provisions of this Exhibit P with respect to any claim by Seller for SA-Curtailed Amounts and an SA-Curtailment Payment. There shall be no SA-Curtailed Amounts, or SA-Curtailment Payments made, for any periods prior to the commencement of the second Term Year.

1. Curtailment Report.

Within thirty (30) days after the last day of any month (an “Affected Month”) for which Seller believes a Curtailment Event has occurred and wishes to make a claim for SA-Curtailed Amounts, Seller shall provide SCE with a report (a “Curtailment Report”) containing the following:

- (a) The worksheet from the Curtailment Workbook as described in Attachment P-1 to this Exhibit P containing the recorded data for the Affected Month;
- (b) A statement of Seller’s estimate of SA-Curtailed Amounts for the Affected Month based upon the data in the Curtailment Workbook for the Affected Month,
- (c) Seller’s estimate of the SA-Curtailment Payment, in dollars, owed Seller by SCE based upon the estimated SA-Curtailed Amounts and the formula set forth in Item 9 below;
- (d) An explanation of Seller’s assumptions and methodology with respect to Seller’s determination of the estimated SA-Curtailed Amounts and the SA-Curtailment Payment for the Affected Month;
- (e) Any document supporting such assumptions, methodology and calculations;
- (f) A request that SCE provide a statement of efforts made by the Scheduling Agent to re-direct curtailed transmission relating to the dates and times covered in the Curtailment Report for the Affected Month.

2. Seller’s Waiver.

- (a) If Seller does not provide a Curtailment Report for an Affected Month

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

within one year after the end of the Affected Month, *then* Seller will be deemed to have waived any right to claim SA-Curtailed Amounts or request an SA-Curtailment Payment for that Affected Month.

3. Statement of Scheduling Agent's Efforts.

SCE shall provide Seller, within fifteen (15) days after receipt of a Curtailment Report, a statement that briefly describes the Scheduling Agent's efforts to re-direct curtailed transmission that resulted in a curtailment of the Generating Facility during the periods covered in the Curtailment Report if the Curtailment Report contains a request for such information.

4. Additional Information.

SCE shall have thirty (30) days after receipt of the Curtailment Report to review the report and request additional information in order to verify the data and calculations presented on the Curtailment Report. Seller shall provide the requested information, if available, within five (5) Business Days after any request for additional information made by SCE.

5. Notice of Error or Acceptance.

Within forty-five (45) days after receipt of the Curtailment Report, SCE either shall provide to Seller:

- (a) A Notice of an error in the Curtailment Report, including SCE's estimate of the SA-Curtailed Amounts and the corresponding SA-Curtailment Payment, if any, for the Affected Month, together with SCE's documentation and assumptions supporting SCE's calculation of SA-Curtailed Amounts and the corresponding SA-Curtailment Payment; or
- (b) A Notice of SCE's acceptance of the Curtailment Report for the Affected Month and the requested SA-Curtailment Payment;

provided however, if SCE requests additional information in accordance with Item 4 and Seller fails to fully reply to such request within five (5) Business Days of SCE's request, SCE shall have a day-for-day extension of the 45-day period in which to provide Notice to Seller.

6. SCE's Waiver.

If within forty-five (45) days after receipt of the Curtailment Report, as may be extended pursuant to Item 5, SCE neither requests additional information of Seller nor gives Notice to Seller of an error in the Curtailment Report or SCE's acceptance of such Curtailment Report, *then* SCE will be deemed to have waived any error in the Curtailment Report, the Curtailment Report for such month shall be deemed correct and complete, and SCE shall be deemed to have waived any right to dispute payment for SA-Curtailed Amounts for such month, and the provisions of Items 8 and 9 shall apply.

7. Dispute Resolution.

If SCE provides Seller with Notice of an error in Seller's calculation of SA-Curtailed Amounts or any requested SA-Curtailment Payment owed by SCE and Seller disagrees with SCE's Notice, the Parties shall negotiate in good faith for thirty (30) days to resolve any Dispute. If the Parties are unable to resolve the Dispute within the thirty day period, either Party may submit the Dispute to arbitration in accordance with Section 11.03(b).

8. Payment for SA-Curtailed Amounts.

Upon acceptance, or deemed acceptance, by SCE of Seller's estimate of SA-Curtailed Amounts, or the resolution of any Dispute regarding SA-Curtailed Amounts pursuant to negotiation between the Parties or mediation or arbitration pursuant to Article Eleven, SCE shall pay Seller the SA-Curtailment Payment for the agreed upon or determined SA-Curtailed Amounts in accordance with the formula set forth in Item 9 and shall apply the additional payment to the next monthly payment statement that SCE calculates. Any amounts owed for SA-Curtailed Amounts shall not bear interest.

9. Calculation of SA-Curtailment Payment.

Any SA-Curtailment Payment to Seller shall be calculated pursuant to the following formula:

SA-CURTAILMENT PAYMENT, in dollars (\$) =

A x B

Where:

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

- A = The sum of the SA-Curtailed Amounts for the Affected Month, in kWh.
- B = Applicable Energy Price specified in Section 1.06, calculated in \$/kWh (i.e., \$/MWh/1000).

Attachment P-1

Curtailment Report

SA-Curtailed Amounts shall be reported by Seller in accordance with the procedures described in this Attachment P-1 to Exhibit P, unless otherwise agreed upon by the Parties.

1. Maintenance of Curtailment Workbook.

Seller shall (1) collect the data specified in Item 2 below in one (1) or more Microsoft Excel Workbooks (the "Curtailment Workbook") in a form and naming convention to be agreed upon by the Parties and (2) electronically send the Curtailment Workbook to an address provided by SCE.

Seller shall update the Curtailment Workbook after each Affected Month and shall include the worksheet from the Affected Month in its Curtailment Report for that month in accordance with Item 1 of Exhibit P.

The Parties shall work together to refine the Curtailment Workbook and the Curtailment Report on an as needed basis.

2. Log of Lost Output Events and Associated Settlement Intervals.

The log of Curtailment Events and associated Settlement Intervals shall be created on a single, dedicated worksheet that is arranged with:

- (a) One (1) column for a Curtailment Event number;
- (b) One (1) column for the Term Year;
- (c) One (1) column for the calendar month;
- (d) One (1) column for the start date for the Curtailment Event;
- (e) One (1) column for the start time for the Curtailment Event;
- (f) One (1) column for the end date for the Curtailment Event;
- (g) One (1) column for the end time for the Curtailment Event;
- (h) One (1) column for the duration for the Curtailment Event;

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

- (i) One (1) column for the cause for the Curtailment Event.

3. Wind Speed Data Collection.

Seller shall record average Settlement Interval wind speeds, in increments of one half (0.5) meters per second, and Metered Amounts for the Settlement Interval in the workbook on individual calendar month worksheets.

Each month 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.

4. Availability Forecast.

Seller shall provide the Actual Available Capacity of all Wind Turbine generators as measured by such generator's internal turbine controller, as reported on the Actual Availability Report for the applicable time period, for each Settlement Interval during which a Curtailment Event occurred in the Affected Month.

5. Estimated SA-Curtailed Amounts.

For each Term Year starting with the second Term Year, Seller shall calculate the estimated SA-Curtailed Amounts using the Generating Facility Power Curve and the data provided by the power curve for each Settlement Interval during which a Curtailment Event occurred.

6. Other Information.

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

Seller shall provide such other information reasonably requested by SCE for the determination or verification of SA- Curtailed Amounts and Settlement Intervals during which Curtailment Events occurred.

*** End of EXHIBIT P***

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

EXHIBIT Q

Meteorological Equipment Specifications

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

EXHIBIT Q*Meteorological Equipment Specifications*

Pursuant to Section 3.22, Seller shall install and maintain a Meteorological Station which shall be equipped with the Meteorological Equipment meeting the specifications set forth in this Exhibit Q. SCE and Seller acknowledge that SCE may update this Exhibit Q from time to time in order to accommodate industry standards.

1. Equipment Stations.

- (a) There shall be two (2) equipment stations per location and each station shall be comprised of the following:
 - (i) Heated Wind Sensors
 - (ii) Air Temp Sensors
 - (iii) Barometer Pressure (with DCP sensor).
- (b) Equipment stations shall be set at two (2) height locations from ground level (e.g., 33 feet at a location that represents the hub center of the Wind Turbines or at a minimum of 100 feet).

2. Attributes of Station Locations.

The equipment station locations should be unencumbered by tower shadow or other equipment. At most locations the weather station tower is best placed in front of generating Wind Turbines on the upwind side of the wind park. SCE recommends Seller to coordinate with SCE representatives in order to review the tower site locations for the equipment stations.

1. Communication.

Seller shall communicate meteorological data to SCE via a system consistent with SCE's employed methods at the time of installation. A list of qualified equipment appears in Section 4 below. Such equipment is available through SCE's approved weather station vendor, Vaisala Inc.

4. Qualified Equipment.

- (a) MAWS301 AWS System

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

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

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

- (iii) PMT16A Barometric pressure sensor installed within the MAWS301 enclosure
- (iv) M301-WS425STDH Heated Ultrasonic Wind Sensor with RS485 & power output cable, sensor mounting on 60 mm dia. pole/mast and 36 VDC power supply
- (b) Powering.
 - (i) MCP150-M3-115 Mains (AC) power supply, installed in enclosure (ENC542PLM), incl. wiring and surge arrestors for 115 VAC
- (c) Communication.*
 - (i) DSI485ASET48-M3 Isolated RS-485 module - 2 wire connection, incl. 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.
- (d) Install Accessories.
 - (i) APPK-60SET Mast mounting for MAWS enclosure on a 50-60 mm dia 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

* The Satellite communication requires an unencumbered south-by-south west view of the sky for antenna placement. Weather Station data will be transmitted to SCE consistent with the employed methods at the time of installation.

- (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 Q***

EXHIBIT R

SCE Penalties and BPA Sanctions

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

EXHIBIT R

SCE Penalties and BPA Sanctions

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

1. Determining Potential Applicability of SCE Penalty.

- (a) SCE shall review the Actual Availability Report to determine if Seller complied with its obligations as set forth in Exhibit D to provide availability forecasts for the months covered by the report. If SCE determines that:
 - (i) Seller did not comply with its availability forecasting requirements for any hour during the month; and
 - (ii) The Availability Deviation for such hour exceeds 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 MWh, shall be equal to:
 - (i) Three percent (3%) times
 - (ii) Nameplate Contract Capacity times
 - (iii) One hour, (i.e., the interval of time for monitoring availability forecasting requirements).

2. SCE Penalty.

The SCE Penalty amount shall be one hundred dollars per MW (\$100/MW) for each MW of Availability Deviation ("SCE Penalty"); *provided however*, the SCE Penalty will be waived for the first hour and any subsequent hours of the first calendar day in each month in which Seller fails to meet the requirements of Item 1 above. The SCE Penalty will be assessed during any hour thereafter in that calendar month in which Seller fails to meet the requirements of Item 1 above.

3. BPA Sanctions.

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

4. Seller shall be liable to reimburse SCE for all BPA Sanctions incurred by SCE as a result of Seller's failure to adhere to its obligations under the BPA Tariff or any BPA directive, as such directive may be communicated to Seller by SCE.
5. Billing and Documentation of BPA Sanctions.
 - (a) The BPA Sanctions will be available for billing approximately one hundred twenty (120) days following the last day of a calendar month for electrical deliveries during that month or thirty (30) days after the BPA final settlement data is available to SCE for such deliveries, whichever is sooner.
 - (b) SCE shall provide to Seller the applicable back-up data used for validating BPA Sanctions.

*** End of EXHIBIT R***

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 3.25, Seller shall prepare an Actual Availability Report in accordance with the procedures described in this Exhibit S.

1. Availability Workbook.

Seller shall:

(a) collect the measurement data, listed in Item (b) 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 Wind Turbine 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 BPA Meter and the Delivery Point.

ATTACHMENT 1

*Actual Availability Report
(Form of Microsoft Excel File Attachment to Email Notice)*

		[Seller's] Availability Report																							
		QFID — [Seller]																							
		All amounts are in MWs																							
Settlement Interval No.	Date	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																								
2	mm/dd/yyyy																								
3	mm/dd/yyyy																								
4	mm/dd/yyyy																								
5	mm/dd/yyyy																								
6	mm/dd/yyyy																								
1	mm/dd/yyyy																								
2	mm/dd/yyyy																								
3	mm/dd/yyyy																								
4	mm/dd/yyyy																								
5	mm/dd/yyyy																								
6	mm/dd/yyyy																								
		8/2/06 14:36	Date/Time of Submit	[Date and time will recalculate when saving file]																					

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

EXHIBIT T-1

Form of Big Eddy Transmission Service Agreement

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

EXHIBIT T-1

Form of Big Eddy Transmission Service Agreement



Department of Energy

Bonneville Power Administration
P.O. Box 61409
Vancouver, WA 98666-1409

TRANSMISSION SERVICES

November 7, 2007

In reply refer to: TSE/TPP2

Mr. Ken Hoffman
Caithness Shepherds Flat, LLC
c/o Caithness Corporation
565 5th Avenue, 29th Floor
New York, NY 10017

Dear Mr. Hoffman:

Enclosed for signature are two originals of Table 1B to Exhibit A of Point-to-Point Transmission Service Agreement No. 07TX-12615 (Agreement) between the Bonneville Power Administration (BPA) and Caithness Shepherds Flat, LLC (Caithness).

Pursuant to Exhibit C, Special Provisions, of the Agreement and BPA's Creditworthiness Business Practice, BPA has reviewed Caithness' financial condition and determined that credit support is required. Pursuant to the Tariff, Caithness has the choice of providing BPA with an unconditional and irrevocable letter of credit (equal to 4.6 months of the estimated amount of Caithness' bill) or a mutually agreed-to alternate risk support instrument. BPA's Creditworthiness Business Practice lists the acceptable alternatives to the letter of credit.

BPA has included the prepayment alternative as your credit instrument for the Agreement at this time. Specifically, Section 8 in Exhibit A, Table 1B describes Caithness' prepayment obligation of \$635,100. The first prepayment must be received by Close of Business (COB) on November 26, 2007. Subsequent prepayments must be received by the 15th day of each month for service for the following month, per terms described in Exhibit C of the Agreement.

The original service commencement date requested by Caithness was from January 1, 2006, to January 1, 2031, for 500 MW. However, following analysis of Available Transfer Capability for the request, BPA is able to offer a partial offer of 474 MW of transmission service commencing December 1, 2007. If Caithness returns both signed originals associated with Table 1B, the remaining transmission capacity of 26 MW requested and not offered associated with such tables will remain under Study status in BPA's Long-Term Firm Transmission Service Request queue, in accordance with the Tariff.

Please sign both originals of the enclosed documents and return both signed originals to my attention at one of the following addresses by Close of Business (COB) on November 23, 2007, in order to commence transmission service on December 1, 2007:

First Class Mail
Bonneville Power Administration
Mail Stop: TSE/TPP-2
P.O. Box 61409
Vancouver, WA 98666-1409

Overnight Delivery Service
Bonneville Power Administration
Mail Stop: TSE/TPP-2
7500 NE 41st Street - Suite 130
Vancouver, WA 98662-7905

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

Furthermore, the following actions are required to process this transaction:

- BPA will change the OASIS status of the Transmission Service Request (TSR) associated with Assign Ref 71687807 no earlier than 13 calendar days after the date of tender. This is done to ensure that Caithness receives 15 calendar days to consider the offer prior to the offer being RETRACTED.
- Within two business days after the date and time BPA receives the signed originals, BPA will change the OASIS status of the TSR associated with Table 1B, to COUNTEROFFER.
- Within two business days after the date BPA changes the TSR status to COUNTEROFFER, Caithness must CONFIRM the TSR via OASIS. If Caithness fails to CONFIRM the TSR in OASIS, the status of Assign Ref 71687807 will be changed to RETRACTED.
- After Caithness CONFIRMS the TSR, BPA will countersign the originals and return one original to Caithness.
- If Caithness fails to sign and return the two originals by COB on November 23, 2007, BPA will change the OASIS status of the TSR to DECLINED and the remaining transmission capacity requested and not offered associated with such tables will also be DECLINED.

If you have any questions, please call me at (360) 619-6007 or Diego Ochoa, Account Specialist, at (360) 619-6704.

Sincerely,



Angela R. DeClerck
Transmission Account Executive
Transmission Sales

cc: Mr. Derrel A. Grant

2 Enclosures

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

**EXHIBIT A
SPECIFICATIONS FOR LONG-TERM
FIRM POINT-TO-POINT TRANSMISSION SERVICE**

**TABLE 1B
REQUEST FOR TRANSMISSION SERVICES**

The OASIS Assign Ref is: 71687807.

1. **TERM OF TRANSACTION**
Start Date: at 0000 hours on December 1, 2007.
Termination Date: at 0000 hours on January 1, 2031.
2. **DESCRIPTION OF CAPACITY AND ENERGY TO BE TRANSMITTED BY TRANSMISSION PROVIDER**

Contract POR (Source) Name and Voltage	Reservation-Scheduling (POR)	POR Control Area	Contract POD (Sink) Name and Voltage	Reservation-Scheduling (POD)	POD Control Area	Reserved Capacity (MW)
SLATT500	SLATT	BPA	BIGEDDY500CELO	BIGEDDY	BPA	474

Total Reserved Capacity: 474 MW.

3. **POINT(S) OF RECEIPT**

Slatt 500 kV¹

Location: the point in the Transmission Provider's Slatt Substation on the 500 kV bus;

Voltage: 500 kV;

Metering: scheduled quantities.
4. **POINT(S) OF DELIVERY**

(a) **Description of Network Point of Delivery**

¹ Upon the Caithness Shepherds Flat project (Generator Request Queue No. 118) achieving Commercial Operation as defined in the Standard Large Generator Interconnection Agreement, Transmission Customer shall have the right to modify on a firm basis (redirect) the designated Point of Receipt under this Table 1B from Slatt 500 kV Substation to Slatt 230 kV Substation.

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

(1) **Big Eddy 500 kV-Celilo**

Location: the points in the Transmission Provider's Big Eddy Substation where the line terminals of the Transmission Provider's Celilo converter station are connected to the 500 kV bus;

Voltage: 500 kV;

Metering: scheduled quantities.

(b) **Description of Transfer Points of Delivery**
Not applicable.

5. **DESIGNATION OF PARTY(IES) SUBJECT TO RECIPROCAL SERVICE OBLIGATION**

Caithness Shepherds Flat, LLC.

6. **NAMES OF ANY INTERVENING SYSTEMS PROVIDING TRANSMISSION SERVICE**

None.

7. **SERVICE AGREEMENT CHARGES**

Service under this Service Agreement will be subject to some combination of the charges detailed in Tables 1B, 2, and 3 of this Exhibit.

(a) **Transmission Charge**

PTP-08 Rate Schedule or successor rate schedules.

(1) **Reservation Fee**

Not Applicable

(2) **Short Distance Discount (SDD)**

$0.6 + (0.4 \times 49.4/75) = 0.8635$

(b) **System Impact and/or Facilities Study Charge(s)**

None.

8. **OTHER PROVISIONS SPECIFIC TO THIS SERVICE AGREEMENT**

(a) **Creditworthiness**

Transmission Customer agrees to comply with Transmission Provider's credit support requirements as set forth in Transmission Provider's Creditworthiness Business Practice, as amended.

(b) **Prepayment**

Transmission Customer shall pay the first prepayment of \$635,100 for Reserved Capacity in this Table 1B no later than November 26, 2007, for the month of December 2007. Transmission Customer shall make subsequent

prepayments in accordance with Exhibit C, Special Provisions
Creditworthiness and Prepayment, to the Agreement.

9. SIGNATURES

The signatories represent that they are authorized to enter into this Agreement on behalf of the Party for whom they sign.

CAITHNESS SHEPHERDS FLAT, LLC

UNITED STATES OF AMERICA
Department of Energy
Bonneville Power Administration

By: _____

By: _____

Name: _____
(Print/Type)

Name: Angela R. DeClerck
(Print/Type)

Title: _____

Title: Transmission Account Executive

Date: _____

Date: _____

W:\TMC\CT\Caithness-Shepherds\Revisions\12615_EXA_T1B

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

EXHIBIT T-2

Form of John Day Transmission Service Agreement

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

EXHIBIT T-2 *John Day Agreement*



Department of Energy
Bonneville Power Administration
P.O. Box 61409
Vancouver, WA 98666-1409

TRANSMISSION SERVICES

October 11, 2007

In reply refer to: TSE/TPP2

Mr. Ken Hoffman
Caithness Shepherds Flat, LLC
c/o Caithness Corporation
565 5th Avenue, 29th Floor
New York, NY 10017

Dear Mr. Hoffman:

Enclosed for signature are two originals of Table 1A to Exhibit A of Point-to-Point Transmission Service Agreement No. 07TX-12615 (Agreement) between the Bonneville Power Administration (BPA) and Caithness Shepherds Flat, LLC (Caithness).

Pursuant to Exhibit C, Special Provisions, of the Agreement and BPA's Creditworthiness Business Practice, BPA has reviewed Caithness' financial condition and determined that credit support is required. Pursuant to the Tariff, Caithness has the choice of providing BPA with an unconditional and irrevocable letter of credit (equal to 4.6 months of the estimated amount of Caithness' bill) or a mutually agreed-to alternate risk support instrument. BPA's Creditworthiness Business Practice lists the acceptable alternatives to the letter of credit.

BPA has included the prepayment alternative as your credit instrument for the Agreement at this time. Specifically, Section 8 in Exhibit A, Table 1A describes Caithness' prepayment obligation of \$300,000. The first prepayment must be received by Close of Business (COB) on October 26, 2007. Subsequent prepayments must be received by the 15th day of each month for service for the following month, per terms described in Exhibit C of the Agreement.

The original service commencement date requested by Caithness was January 1, 2007. However, following analysis of Available Transfer Capability for the request, BPA is able to offer transmission service commencing November 1, 2007.

Please sign both originals of the enclosed documents and return both signed originals to my attention at one of the following addresses by Close of Business on October 26, 2007, in order to commence transmission service on November 1, 2007:

First Class Mail
Bonneville Power Administration
Mail Stop: TSE/TPP-2
P.O. Box 61409
Vancouver, WA 98666-1409

Overnight Delivery Service
Bonneville Power Administration
Mail Stop: TSE/TPP-2
7500 NE 41st Street - Suite 130
Vancouver, WA 98662-7905


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

Furthermore, the following actions are required to process this transaction:

- BPA will activate Caithness in OASIS as a valid customer of BPA once credit support is received by BPA and the Point-to-Point Service Agreement No. 07TX-12615 sent to Caithness on October 5, 2007, is executed by Caithness.
- If credit support is not received by October 26, 2007, the status of Assign Ref 71651554 will be changed to DECLINED and Caithness will not be activated in OASIS.
- BPA will change the OASIS status of the Transmission Service Request (TSR) associated with Assign Ref 71651554 no earlier than 13 calendars days after the date of tender. This is done to ensure that Caithness receives 15 calendar days to consider the offer prior to the offer being RETRACTED.
- Within two business days after the date and time BPA receives the signed originals, BPA will change the OASIS status of the TSR associated with Table 1A, to COUNTEROFFER.
- Within two business days after the date BPA changes the TSR status to COUNTEROFFER, Caithness must CONFIRM the TSR via OASIS. If Caithness fails to CONFIRM the TSR in OASIS, the status of Assign Ref 71651554 will be changed to RETRACTED.
- After Caithness CONFIRMS the TSR, BPA will countersign the originals and return one original to Caithness.
- If Caithness fails to sign and return the two originals by COB on October 26, 2007, BPA will change the OASIS status of the TSR to DECLINED.

If you have any questions, please call me at (360) 619-6007 or Diego Ochoa, Account Specialist, at 360-619-6704.

Sincerely,


for Angela DeClerck
Transmission Account Executive
Transmission Sales

cc: Mr. Derrel A. Grant

2 Enclosures

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

**EXHIBIT A
SPECIFICATIONS FOR LONG-TERM
FIRM POINT-TO-POINT TRANSMISSION SERVICE**

The Assign Ref 71651554 under this Table 1A supersedes OASIS Assign Ref No. 71583832 to reflect the Transmission Customer's original request for Slatt 500 kV Substation as the designated Point of Receipt.

**TABLE 1A
REQUEST FOR TRANSMISSION SERVICES**

The Assign Ref is: 71651554.

1. **TERM OF TRANSACTION**
Start Date: at 0000 hours on November 1, 2007.
Termination Date: at 0000 hours on January 1, 2032.
2. **DESCRIPTION OF CAPACITY AND ENERGY TO BE TRANSMITTED BY TRANSMISSION PROVIDER**

Contract POR (Source) Name and Voltage	Reservation-Scheduling (POR)	POR Control Area	Contract POD (Sink) Name and Voltage	Reservation -Scheduling (POD)	POD Control Area	Reserved Capacity (MW)
SLATT500	SLATT	BPA	JOHNDAYINT1500	JOHNDAY	BPA	250

3. **POINT(S) OF RECEIPT**

Slatt 500 kV¹

Location: the point in the Transmission Provider's Slatt Substation on the 500 kV bus;

Voltage: 500 kV;

Metering: scheduled quantities.

¹ Upon the Caithness Shepherds Flat project (Generator Request Queue No. 118) achieving Commercial Operation as defined in the Standard Large Generator Interconnection Agreement, Transmission Customer shall have the right to modify on a firm basis (redirect) the designated Point of Receipt under this Table 1A from Slatt 500 kV Substation to Slatt 230 kV Substation.

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

4. POINT(S) OF DELIVERY

(a) **Description of Network Point of Delivery**

John Day Intertie 500 kV

Location: the points in the Transmission Provider's John Day Substation where the line terminals of the Pacific AC Intertie are connected to the 500 kV bus;

Voltage: 500 kV;

Metering: scheduled quantities.

(b) **Description of Transfer Points of Delivery**

Not applicable.

5. DESIGNATION OF PARTY(IES) SUBJECT TO RECIPROCAL SERVICE OBLIGATION

Caithness Shepherds Flat, LLC.

6. NAMES OF ANY INTERVENING SYSTEMS PROVIDING TRANSMISSION SERVICE

None.

7. SERVICE AGREEMENT CHARGES

Service under this Agreement will be subject to some combination of the charges detailed below.

(a) **Transmission Charge**

PTP-08 Rate Schedule or successor rate schedules.

(1) **Reservation Fee**

Not Applicable

(2) **Short Distance Discount (SDD)**

$0.6 + (0.4 \times 30.3/75) = 0.7616$

(b) **System Impact and/or Facilities Study Charge(s)**

None.

8. OTHER PROVISIONS SPECIFIC TO THIS SERVICE AGREEMENT

(a) **Creditworthiness**

Transmission Customer agrees to comply with Transmission Providers credit support requirements as set forth in Transmission Provider's Creditworthiness Business Practice, as amended.

ID #6331 (South Hurlburt Wind)

(b) **Prepayment**

Transmission Customer shall pay the first prepayment of \$300,000 for Reserved Capacity in this Table 1A no later than October 26, 2007, for the month of November 2007. Transmission Customer shall make subsequent prepayments in accordance with Exhibit C, Special Provisions Creditworthiness and Prepayment, to the Agreement.

9. SIGNATURES

The signatories represent that they are authorized to enter into this Agreement on behalf of the Party for whom they sign.

CAITHNESS SHEPHERDS FLAT, LLC

UNITED STATES OF AMERICA
Department of Energy
Bonneville Power Administration

By: _____

By: _____

Name: _____
(Print/Type)

Name: Angela DeClerck
(Print/Type)

Title: _____

Title: Transmission Account Executive

Date: _____

Date: _____

W:\TMC\CT\Caithness-Shepherds\Revisions\12615 Ex A T1A.doc

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

EXHIBIT U

Consolidation of Seller's Financial Information

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

EXHIBIT U

Consolidation of Seller's Financial Information

Seller and SCE agree that if SCE provides Notice to Seller pursuant to Section 3.26:

- (b) Within twenty (20) days following the end of each calendar quarter, Seller shall deliver to SCE:
 - (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.

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 3.26 and this Exhibit U in accordance with accounting principles generally accepted in the United States of America.

- (c) Promptly upon 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.
- (d) 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

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

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

- (e) 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 3.26 and this Exhibit U.
- (f) 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.
- (g) SCE shall treat Seller's financial statements or other financial information provided under the terms of Section 3.26 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

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

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.

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

Southern California Edison

Confidential Information

RAP ID #6331 South Hurlburt Wind, LLC

AMENDMENT NO. 1

to

RENEWABLE POWER PURCHASE AND SALE AGREEMENT

between

SOUTHERN CALIFORNIA EDISON COMPANY

and

SOUTH HURLBURT WIND, LLC,

(RAP ID #6331)

This Amendment No. 1 to Renewable Power Purchase and Sale Agreement (this "Amendment No. 1"), is made and entered into as of July 22, 2011 (the "Amendment No. 1 Effective Date"), by and between South Hurlburt Wind, LLC ("Seller"), a Delaware limited liability company, and Southern California Edison Company ("SCE"), a California corporation. SCE and Seller are hereinafter sometimes referred to individually as a "Party" and jointly as the "Parties." Capitalized terms used but not defined herein shall have the meaning set forth in the Agreement (as defined below).

RECITALS

This Amendment No. 1 is entered into between the Parties with reference to the following facts:

- A. SCE and Seller have entered into that certain Renewable Power Purchase and Sale Agreement, dated as of August 14, 2008 (as amended, the "Agreement").
- B. Pursuant to the terms of the Interconnection Agreement, the Generating Facility will interconnect with the BPA Grid at the low (230kV) side of the Slatt Substation. The Point-to-Point Agreements (which provide for transmission service from the Slatt Substation to BPA's Bid Eddy and John Day substations and which Seller is required to assign to SCE under the terms of the Agreement) currently provide for a "point of receipt" at the high (500kV) side of the Slatt Substation. BPA has required that the "point of receipt" under the Point-to-Point Agreements be modified to designate the low

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

Amendment No. 1 to Renewable Power Purchase and Sale Agreement

Page 1

Southern California Edison

Confidential Information

RAP ID #6331 South Hurlburt Wind, LLC

(230kV) side of the Slatt Substation as the “point of receipt” under such Point-to-Point Agreements. BPA has informed Seller that it will not process its request to assign the Point-to-Point Agreements to SCE until such designation is completed. Seller intends to make such designation on or before July 25, 2011.

- C. Under the terms of the Agreement, the “Delivery Point” (where the Generating Facility connects to the BPA Grid) is designated as the high (500kV) side of the Slatt Substation. In order to accommodate BPA’s request under Recital B, the Parties have agreed to modify the Delivery Point under the Agreement as the low (230kV) side of the Slatt Substation. SCE is willing to do so, provided that the original allocation of risk under the Agreement with regard to the Delivery Point is preserved, as if the Generating Facility were delivering electricity to the originally agreed “delivery point” which was the high (500kV) side of the Slatt Substation.

NOW, THEREFORE, in consideration of the foregoing, the mutual promises contained herein and other good and valuable consideration, receipt of which is hereby acknowledged, the Parties agree as follows:

AMENDMENTS

1. Amendments to Section 3.23: Charges, Sanction and Penalties.

- a. Section 3.23(a)(i)(1) is hereby deleted in its entirety and replaced with the following:

“3.23(a)(i)(1) BPA and Certain Other Charges. Seller shall be responsible for all BPA Charges, Seller-Borne SDD Losses (if any) and Slatt Substation Charges (if any) assessed or incurred during the Startup Period.”

- b. Section 3.23(b)(i) is hereby deleted in its entirety and replaced with the following:

“3.23(b)(i) BPA and Certain Other Charges. Seller shall be responsible for all Seller-Side BPA Charges, Seller-Borne SDD Losses (if any) and Slatt Substation Charges (if any) assessed or incurred during the Term.”

2. Amendment to Section 4.01: Obligation to Pay.

- a. Section 4.01(a) is amended by adding the word “or” at the end of clause (iii) and adding the following new clause (iv) immediately thereafter:

“(iv) Any energy that has been delivered to the Delivery Point but cannot be delivered to the high (500kV) side of the Slatt Substation as a result of any circumstance other than one caused by an Event of Default of SCE.”

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

Southern California Edison

Confidential Information

RAP ID #6331 South Huriburt Wind, LLC

3. Amendments to Section 4.02: BPA Charges, BPA Revenues and Transmission Credits.
- a. Section 4.02(a) is amended by adding the following new clause (vi) at the end thereof:
- “(vi) Other Charges. SCE shall not be responsible for any Seller-Borne SDD Losses or Slatt Substation Charges assessed or incurred during the Startup Period.”
- b. Section 4.02(b) is amended by adding the following new clause (viii) at the end thereof:
- “(viii) Other Charges. SCE shall not be responsible for any Seller-Borne SDD Losses or Slatt Substation Charges assessed or incurred during the Term.”
4. Amendment to Section 4.04: Payment and Payment Adjustments.
- a. Section 4.04(a)(iv) is amended by deleting the word “and” at the end of clause (5); replacing the period at the end of clause (6) with “; and” and adding the following new clause (7):
- “(7) The amount of any Seller-Borne SDD Losses and Slatt Substation Charges for the current period for which the Seller is being charged.”
5. Amendment to Section 6.04: Re-Assignment of Point-to-Point Agreements Upon Termination.
- a. The first full paragraph of Section 6.04(a) is hereby deleted in its entirety and replaced with the following:
- “In the event that this Agreement is terminated, SCE shall reassign to Seller or Seller’s designated assignee, as directed by Seller, firm transmission capacity under the Point-to-Point Agreements equal to 724MW multiplied by the Seller Factor, and Seller or Seller’s designated assignee shall accept such reassignment; provided that if Seller’s designated assignee does not accept such reassignment, then Seller shall accept such reassignment. The Parties may mutually agree to a reassignment of lesser amounts of firm transmission capacity; provided, that in the absence of such agreement, Seller or its designated assignee shall accept reassignment of firm transmission capacity under the Point-to-Point Agreements equal to 724MW multiplied by the Seller Factor. The Parties acknowledge that BPA may require revisions, amendments or reallocation of transmission rights under the Point-to-Point Agreements, and the Parties agree, and Seller agrees to cause its designated assignee, if any, to reasonably cooperate in dealings with BPA to accomplish such purpose.”

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

Southern California Edison

Confidential Information

RAP ID #6331 South Hurlburt Wind, LLC

6. Amendments to Definitions. Exhibit A to the Agreement is hereby modified as follows:
- a. Big Eddy Agreement. The definition “Big Eddy Agreement” is hereby deleted in its entirety and replaced with the following:

“26. ‘Big Eddy Agreement’ means one or more point-to-point firm transmission service agreements with the BPA, substantially in the form of Exhibit T-1, providing for the transmission on a firm basis of at least 474MW from the Generating Facility to Big Eddy for at least the Term of this Agreement.”
 - b. BPA Charges. The definition “BPA Charges” is hereby deleted in its entirety and replaced with the following:

“30. ‘BPA Charges’ means debits, costs and interest that are directly assigned or attributable by the BPA or Transmission Provider to the Generating Facility. Notwithstanding the foregoing, BPA Charges do not include BPA Sanctions, Ancillary Service Charges, Wind Integration Charges, Transmission Demand Charges, Electrical Losses or Slatt Substation Charges.”
 - c. Delivered Amounts. The definition “Delivered Amounts” is hereby deleted in its entirety and replaced with the following:

“62. ‘Delivered Amounts’ means the Metered Amounts adjusted for Delivery Losses between the BPA Meter and the high (500kV) side of the Slatt Substation.”
 - d. Delivery Losses. The definition “Delivery Losses” is hereby deleted in its entirety and replaced with the following:

“63. ‘Delivery Losses’ means all transformer, line and other electrical losses occurring between the BPA Meter and the high (500kV) side of the Slatt Substation.”
 - e. Delivery Point. The definition “Delivery Point” is hereby deleted in its entirety and replaced with the following:

“64. ‘Delivery Point’ means the point on the low (230kV) side of the Slatt Substation where the Interconnection Facilities connect to the BPA Grid.”

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

Southern California Edison

Confidential Information

RAP ID #6331 South Hurlburt Wind, LLC

- f. John Day Agreement. The definition “John Day Agreement” is hereby deleted in its entirety and replaced with the following:

“125. ‘John Day Agreement’ means one or more point-to-point agreements with the BPA, substantially in the form of Exhibit T-2, providing for the transmission on a firm basis of at least 250MW from the Generating Facility to John Day for at least the Term of this Agreement.”

- g. Lost Output. The definition “Lost Output” is amended by replacing the period at the end of clause (a)(ii) with “; and” and adding a new clause (b) as follows:

“(b) The inability to deliver electricity produced by the Generating Facility from the Delivery Point to the high (500kV) side of the Slatt Substation because of an Event of Default by SCE.”

- h. Slatt Substation. The definition “Slatt Substation” is hereby deleted in its entirety and replaced with the following:

“220. ‘Slatt Substation’ means the BPA-owned Slatt 230kV/500kV substation located in Northern Oregon.”

- i. Net Positive Price. The following new definition is added to Exhibit A of the Agreement:

“Net Positive Price” means the gross proceeds of sale of electric energy produced by the Generating Facility (without deduction for Transmission Demand Charges) that are greater than zero.

- j. Seller-Borne SDD Losses. The following new definition is added to Exhibit A of the Agreement:

“Seller-Borne SDD Losses” means the costs attributable to any loss of the Short Distance Discount under any Point-to-Point Agreement incurred by SCE only in the event that, on any single date of determination, all of the following are true: (i) SCE, acting in good faith, is unable to sell the electric energy produced by the Generating Facility at John Day or Big Eddy for a Net Positive Price; (ii) SCE, acting in good faith, is unable to sell the electric energy produced by the Generating Facility at the low (230kV) side of the Slatt Substation for a Net Positive Price; (iii) SCE, acting in good faith, is able to sell electric energy produced by the Generating Facility at the high (500kV) side of the Slatt Substation for a Net Positive Price; (iv) no transmission other than that available under the Point-to-Point Agreements is available to transmit the electric energy produced by the Generating Facility from the Delivery Point to the high (500kV)

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

Southern California Edison

Confidential Information

RAP ID #6331 South Hurlburt Wind, LLC

side of the Slatt Substation; and (v) SCE is required to redirect the “point of delivery” under some portion of the Point-to-Point Agreements in order to effect the sale described under clause (iii) above and is, as a result, charged a higher transmission service fee solely as a result of such redirection.”

- k. Short Distance Discount. The following new definition is added to Exhibit A of the Agreement:

“Short Distance Discount” means the positive difference, if any, between (a) the Transmission Demand Charge under any Point-to-Point Agreement for a month if the Point of Delivery under such agreement is redirected at any time during such month; and (b) the Transmission Demand Charge for that month if such Point of Delivery had not been so redirected.”

- l. Slatt Substation Charge. The following new definition is added to Exhibit A of the Agreement:

“Slatt Substation Charge” means any fee, charge or cost assessed by BPA, on or after the Amendment No. 1 Effective Date, in connection with the generation, interconnection, distribution or transmission (or congestion relating thereto) of electric energy produced by the Generating Facility from the Delivery Point to the high (500kV) side of the Slatt Substation, excluding Transmission Demand Charges.”

7. Miscellaneous.

- (a) Reservation of Rights. Each of the Parties expressly reserves all of its respective rights and remedies under the Agreement.
- (b) Legal Effect. Except as expressly modified as set forth herein, the Agreement remains unchanged and, as so modified, the Agreement shall remain in full force and effect.
- (c) Governing Law. THIS AMENDMENT NO. 1 AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. TO THE EXTENT ENFORCEABLE AT SUCH TIME, EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AMENDMENT NO. 1.

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

Southern California Edison

Confidential Information

RAP ID #6331 South Hurlburt Wind, LLC

- (d) Successors and Assigns. This Amendment No. 1 shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.
- (e) Authorized Signatures; Notices. Each Party represents and warrants that the person who signs below on behalf of that Party has authority to execute this Amendment No. 1 on behalf of such Party and to bind such Party to this Amendment No. 1. Any written notice required to be given under the terms of this Amendment No. 1 shall be given in accordance with the terms of the Agreement.
- (f) Effective Date of Amendment No. 1. This Amendment No. 1 shall be effective as of the Amendment No. 1 Effective Date.
- (g) Further Agreements. This Amendment No. 1 shall not be amended, changed, modified, abrogated or superseded by a subsequent agreement unless such subsequent agreement is in the form of a written instrument signed by the Parties.
- (h) Counterparts; Electronic Signatures. This Amendment No. 1 may be executed in one or more counterparts, each of which will be deemed to be an original of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Amendment No. 1 and of signature pages by facsimile transmission, Portable Document Format (i.e., PDF), or by other electronic means shall constitute effective execution and delivery of this Amendment No. 1 as to the Parties and may be used in lieu of the original Amendment No. 1 for all purposes.

[Remainder of Page Intentionally Left Blank]

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

Southern California Edison

Confidential Information

RAP ID #6331 South Hurlburt Wind, LLC

In WITNESS WHEREOF, the Parties have caused this Amendment No. 1 to be duly executed by their duly authorized representatives on the dates indicated below their respective signatures.

<p>SOUTH HURLBURT WIND, LLC a Delaware limited liability company</p> <p>By: Caithness Shepherds Flat, LLC, a Delaware limited liability company Its Member</p> <p>By: Caithness Northwestern Wind, LLC a Delaware limited liability company Its Managing Member</p> <p>By:  Name: John A. McNamara Title: Senior Vice President</p> <p>7-22-11</p>	<p>SOUTHERN CALIFORNIA EDISON COMPANY, a California corporation.</p> <p>By:  Name: Marc L. Ulrich Title: Vice President, Renewable & Alternative Power</p>
<p>Date:</p>	<p>Date:</p>

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