



SOUTHERN CALIFORNIA
EDISON

An *EDISON INTERNATIONAL* Company

RENEWABLE POWER PURCHASE AND SALE AGREEMENT

between

SOUTHERN CALIFORNIA EDISON COMPANY

and

VENTURA REGIONAL SANITATION DISTRICT

(Toland Road Landfill Electric Generation Project)

1.0 MW to 5.0 MW LFG Power Plant

Santa Paula, California

(RAP ID #1221)

Southern California Edison

RAP ID# 1221 Ventura Regional Sanitation District

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LIST OF EXHIBITS

- A. Definitions.
- B. Generating Facility and Site Description.
- C. Notice List.
- D. Forecasting and Scheduling Requirements and Procedures.
- E. Seller's Milestone Schedule.
- F. Milestone Progress Reporting Form.
- G. (Intentionally Omitted.)
- H. Time of Delivery Periods and Energy Payment Allocation Factors.
- I. Seller's Estimate of Lost Output.
- J. SCE Penalties and CAISO Sanctions.
- K. Energy Replacement Damage Amount.

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RAP ID# 1221 Ventura Regional Sanitation District

RENEWABLE POWER PURCHASE AND SALE AGREEMENT

between

SOUTHERN CALIFORNIA EDISON COMPANY

and

VENTURA REGIONAL SANITATION DISTRICT

(RAP ID #1221)

PREAMBLE

This Renewable Power Purchase and Sale Agreement, together with the exhibits and attachments (collectively, the "Agreement") is made and effective as of the following date: April 2, 2009 ("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) **Ventura Regional Sanitation District** ("Seller"), an enterprise public agency whose principal place of business is at 1001 Partridge Dr., Suite 150, Ventura, CA 93003-0704.

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

RECITALS

Seller is willing to construct, own, and Operate a biomass electric energy Generating Facility which qualifies as of the Effective Date as an eligible renewable energy resource under the State of California Renewable Portfolio Standard Program as codified at California Public Utilities Code Section 399.11, *et seq.*, and 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; and

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.

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Preamble and Recitals

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ARTICLE ONE. SPECIAL CONDITIONS

1.01 Generating Facility.

- (a) Name: Toland Road Landfill Electric Generation Project
- (b) Location of Site: 3500 N. Toland Road, Santa Paula, CA 93060, as further described in Exhibit B.
- (c) Generating Facility description is located in Exhibit B.
- (d) Eligible Renewable Energy Resource Type: Biomass (landfill gas).
- (e) Contract Capacity:

The initial Contract Capacity shall be 1.0 MW.

Seller may, at its sole discretion, increase the Contract Capacity in one or more increments to a total of 5.0 MW, as additional landfill gas fuel becomes available.

Seller may decrease the Contract Capacity in one or more increments to a minimum of 1.0 MW, as less landfill gas fuel becomes available or as Station Use (new load) is added.

Seller shall provide Notice to SCE of any incremental changes in the Contract Capacity at least thirty (30) days prior to each proposed change, including a description of the proposed change in the Generating Facility and Exhibit B (the "Proposed Change Notice").

Notwithstanding the foregoing, the Contract Capacity must be at least one (1) MW and not greater than five (5) MW. Changes in Contract Capacity shall be carried out in accordance with Section 3.04.

- (f) Expected Annual Net Energy Production.

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

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

Where:

A = Contract Capacity in kW.

B = 70% capacity factor.

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C = 8,760 hours per year.

During the Term Year in which the contract capacity is changed, the calculation of the Expected Annual Net Energy Production will be prorated based on the date the new capacity comes on-line.

1.02 Term.

The term of this Agreement ("Term") shall commence upon Initial Operation as set forth in Section 2.03(a) and shall end on the last day of the calendar month which is Ten (10) Term Years from the month of the Firm Operation Date.

1.03 Energy Price.

The energy price shall be equal to the price (in dollars per MWh) that corresponds with the On-Line Year for this Agreement, as set forth in the table below (the "Energy Price").

<u>On-Line Year</u>	<u>\$/MWh</u>
2009	100.43
2010	101.75

1.04 Forecasted Initial Operation Date.

The Forecasted Initial Operation Date shall be on or before December 31, 2009.

1.05 Startup Deadline.

The Startup Deadline shall be July 31, 2010 but in no event shall be later than five (5) years from the Effective Date, or such other date as provided in this Agreement or as may be agreed to in a writing signed by both Parties; *provided* that, in no event shall the Startup Deadline be later than December 31, 2010.

1.06 Firm Operation Date.

The Firm Operation Date shall be the date that is six (6) months after Initial Operation, plus any additional days for Force Majeure as provided in Section 5.04, or as may be agreed to in a writing signed by both Parties.

*** End of ARTICLE ONE ***

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ARTICLE TWO. TERM AND CONDITIONS PRECEDENT; TERMINATION

2.01 Effective Date.

This Agreement shall become effective on the Effective Date.

2.02 Obligations Prior to Commencement of the Term.

(a) CPUC Filing and Approval of this Agreement.

Within ninety (90) days after the Effective Date, SCE shall file with the CPUC the appropriate request for CPUC Approval.

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

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

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

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

Seller shall apply for and exercise diligence in obtaining a FERC-accepted interconnection agreement to interconnect the Generating Facility to the Transmission Provider's electric system and any transmission, distribution or other service agreement required to transmit electric energy on the Transmission Provider's electric system.

(c) Seller's Regulatory and Governmental Filings.

(i) Within sixty (60) days prior to the Forecasted Initial Operation Date, Seller shall file:

- (1) An application or other appropriate request with the CEC for CEC Certification and Verification for the Generating Facility; and
- (2) All applications or other appropriate requests with the proper authorities for all Permits.

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- (ii) Seller shall expeditiously seek CEC Certification and Verification and all Permits, including promptly responding to any requests for information from the requesting authority.

2.03 Conditions Precedent to Commencement of Term.

(a) Commencement of Term.

The Term shall commence upon Initial Operation (as defined below).

(b) Initial Operation.

Initial Operation shall be deemed to have been achieved on the Initial Operation Date.

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

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

In addition, on or prior to the Initial Operation Date:

- (i) Seller shall have met all conditions set forth in Section 3.11(c);
- (ii) SCE shall have been authorized by the CAISO to Schedule the electric energy produced by the Generating Facility with the CAISO as of Initial Synchronization;
- (iii) The Generating Facility shall be Operating in parallel with the applicable Transmission Provider's electric system; and
- (iv) Seller shall be Forecasting and delivering electric energy to SCE at the Delivery Point.

2.04 Termination Rights of the Parties.

If either Party exercises a termination right, as set forth in Sections 2.04(a) or 2.04(c), the Forward Settlement Amount shall be zero dollars (\$0).

(a) Termination Rights of Both Parties.

- (i) Either Party shall have the right to terminate this Agreement on Notice, which shall be effective five (5) Business Days after such Notice is given, in the event CPUC Approval has not been obtained or waived by SCE in its sole discretion within three hundred sixty five

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(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) Either Party shall have the right to terminate this Agreement on Notice, which shall be effective five (5) Business Days after such Notice is given in the event CEC Certification and Verification or Permit Approval has not been obtained by Seller within eighteen (18) months after the Effective Date and a Notice of termination is given on or before the end of the nineteenth (19th) month after the Effective Date.

(b) Termination Rights of Seller.

[Intentionally Omitted.]

(c) Termination Rights 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 on or before the date that is sixty (60) days after Seller provides to SCE the results of any Interconnection Study by the CAISO or the Transmission Provider for the Generating Facility if the results of the latest of such studies performed as of the date of the termination Notice reflect that the total cost of transmission upgrades or new transmission facilities to SCE, or any Transmission Provider under the jurisdiction of the CAISO, that are not paid by Seller (without reimbursement from SCE or any other Transmission Provider) will exceed fifteen dollars (\$15) multiplied by the Contract Capacity in kilowatts.

(d) Uncured Defaults.

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

(e) End of Term.

At the end of the Term as set forth in Section 1.02, this Agreement shall automatically terminate.

2.05 Rights and Obligations Surviving Termination.

(a) Survival of Rights and Obligations Generally.

The rights and obligations that are intended to survive a termination of this Agreement are all of those rights and obligations that this Agreement

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

- (i) The obligation of Seller to pay the Energy Replacement Damage Amount under Section 3.05(b);
 - (ii) The obligation to make a Termination Payment under Section 6.03;
 - (iii) The indemnity obligations to the extent provided in Section 10.03;
 - (iv) The right to pursue remedies under Sections 6.02 and 10.15;
 - (v) The right to receive a Termination Payment under Section 6.03;
 - (vi) The limitation of damages under Article Seven;
 - (vii) The obligation of SCE to make payment for CAISO Revenues, if any, during the Startup Period and Energy Payments for Metered Amounts prior to termination under Section 4.01(c);
 - (viii) The obligation of Seller to make payments for CAISO Charges, CAISO Sanctions and any SCE Penalty that are attributable to Seller's actions or omissions during the Startup Period and the Term pursuant to Section 3.21 and Exhibit J; and
 - (ix) The covenants and indemnifications regarding the limitations on Seller's and Seller's Affiliates' ability to offer, make or agree to third party sales as set forth in Sections 2.05(b) and 3.04, if applicable.
- (b) Limitations on Seller's Ability to Make or Agree to Third Party Sales from the Generating Facility after Certain Terminations of this Agreement.

If Seller terminates this Agreement, as provided in Section 2.04(a)(ii) or Section 5.05 (based upon a Force Majeure as to which Seller is the Claiming Party), or if SCE terminates this Agreement as provided in Section 3.04, neither Seller nor Seller's Affiliates may sell, or enter into an agreement to sell, electric energy, Green Attributes, Capacity Attributes, or Resource Adequacy Benefits generated by, associated with or attributable to a generating facility installed at the Site to a party other than SCE for a period of two (2) years following the effective date of such termination.

This prohibition on contracting and sale shall not apply if, prior to entering into the contract or making a sale to a party other than SCE, Seller or Seller's

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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 by Seller of its covenants contained within this Section 2.05(b).

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

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ARTICLE THREE. SELLER'S OBLIGATIONS

- 3.01 Conveyance of Entire Output, Conveyance of Green Attributes, Capacity Attributes and Resource Adequacy Benefits.
- (a) Metered Amounts. Seller shall convey the *entire* Metered Amounts during the Term to SCE. Seller shall convey title to and risk of loss of all Metered Amounts to SCE at the Delivery Point.
 - (b) Green Attributes. Seller hereby provides and conveys all Green Attributes associated with all electricity generation from the Project to Buyer as part of the Product being delivered. Seller represents and warrants that Seller holds the rights to all Green Attributes from the Project, and Seller agrees to convey and hereby conveys all such Green Attributes to Buyer as included in the delivery of the Product from the Project.
 - (c) Capacity Attributes and Resource Adequacy Benefits. In addition, Seller shall dedicate and convey any and all Capacity Attributes and Resource Adequacy Benefits generated by, associated with or attributable to the Generating Facility during the Term to SCE and SCE shall be given sole title to all such Capacity Attributes and Resource Adequacy Benefits.
 - (d) Further Action by Seller. Seller shall, at its own cost, take all actions and execute all documents or instruments necessary to effectuate the use of the Green Attributes, Capacity Attributes and Resource Adequacy Benefits for SCE's sole benefit throughout the Term, which actions shall include:
 - (i) Cooperating with and encouraging the regional entity responsible for resource adequacy administration to certify or qualify the Contract Capacity for resource adequacy purposes;
 - (ii) Testing the Generating Facility in order to certify the Generating Facility for resource adequacy purposes;
 - (iii) Complying with all current and future CAISO Tariff provisions that address resource adequacy and are applicable to the Generating Facility, including provisions regarding performance obligations and penalties;
 - (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

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the registration, transfer or ownership of Green Attributes associated with the Generating Facility; and

- (v) Committing to SCE the full output of the Generating Facility.
- (e) Exclusive Rights. SCE will have the exclusive right, at any time or from time-to-time during the Term, to sell, assign, convey, transfer, allocate, designate, award, report or otherwise provide any and all such Green Attributes, Capacity Attributes or Resource Adequacy Benefits to third parties; provided, however, any such action shall not constitute a transfer of, or a release of SCE of, its obligations under this Agreement.

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

- (f) Other Sales of Product. From the Effective Date until the end of the Term, Seller shall not sell the Product (or any portion thereof) to any entity other than SCE.
- (g) Other Attributes. Consistent with the definition of Green Attributes, Seller is not obligated under this Agreement to sell, transfer or assign to SCE any credits, benefits, emissions reductions, offsets, or allowances, howsoever entitled, that are not attributable to the generation from the Project (see Section 1.B of Exhibit B). Notwithstanding the foregoing, Seller is obligated to transfer Green Attributes to SCE as required in accordance with the last sentence of the definition of Green Attributes.

3.02 Resource Adequacy Benefits.

Seller grants, pledges, assigns and otherwise commits to SCE the full 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:

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

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3.03 Permits and Interconnection, Transmission Service and CAISO Agreements.

- (a) Seller shall be responsible for obtaining and maintaining any and all interconnection and transmission service rights and Permits required to effect delivery of the electric energy from the Generating Facility to the Delivery Point and to transmit the electric energy on the Transmission Provider's electric system, including a FERC-accepted transmission or distribution service agreement required to transmit such electric energy.
- (b) Seller shall be responsible for all costs and charges directly caused by, associated with, or allocated to the interconnection of the Generating Facility to the Transmission Provider's electric system and transmission of electric energy from the Generating Facility on the Transmission Provider's electric system.
- (c) Seller shall secure all required CAISO agreements, certifications and approvals, including a Participating Generator Agreement and a Meter Service Agreement.
 - (i) Seller's Participating Generator Agreement, Schedule 1, shall:
 - (1) List all generating units as a single aggregated unit; and
 - (2) Indicate that the generating capacity from the Generating Facility is contracted to SCE under a bi-lateral agreement; and
 - (ii) Seller's Meter Service Agreement, Schedule 1 shall treat all generating units as a single generating unit with a single electric energy meter.
- (d) Seller shall secure through the CAISO the CAISO Global Resource ID that is used solely for this Generating Facility.

3.04 Failure to Meet Startup Deadline; Extension of Startup Deadline; Demonstration of Contract Capacity.

(a) Termination Upon Failure to Meet Startup Deadline.

Subject to Seller's right to extend the Startup Deadline as provided in this Section 3.04, Section 1.05, and Section 5.03 (for Force Majeure where Seller is the Claiming Party), in the event that Initial Operation does not occur on or before the Startup Deadline or, based upon SCE's reasonable determination, will not occur at all (including 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 terminate this Agreement and, subject to

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Section 2.05(b), neither Party shall have liability for damages for failure to deliver or purchase Product after the effective date of such termination.

(b) Daily Delay Liquidated Damages to Extend Startup Deadline.

- (i) Seller may elect to extend the Startup Deadline by paying to SCE Daily Delay Liquidated Damages in an amount equal to twenty cents (\$0.20) per kW of Contract Capacity per day for each day (or portion thereof) from and including the Startup Deadline to and excluding the Initial Operation Date (“Daily Delay Liquidated Damages”).
- (ii) 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.
- (iii) Seller may further extend the Startup Deadline beyond the original Startup Deadline extension period subject to the same terms applicable to the original Startup Deadline extension.
- (iv) The Daily Delay Liquidated Damages payments applicable to days included in any Startup Deadline extension shall be nonrefundable.
- (v) 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.
- (vi) 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.

(c) Demonstration of Contract Capacity.

- (i) On or before the Firm Operation Date and after Seller has achieved Initial Operation, Seller shall provide notice to SCE stating the Demonstration Hour selected by Seller.
- (ii) Within 30 days following Operation of any increased or decreased Contract Capacity pursuant to Section 1.01(e), Seller shall provide Notice to SCE of a new Demonstration Hour selected by Seller.

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- (iii) Within thirty (30) days after Seller's Notice pursuant to Section 3.04(c)(i) or 3.04(c)(ii), SCE shall:
 - (1) Retrieve interval data downloaded from the CAISO Approved Meter for the twelve (12) hour periods before and after the Demonstration Hour;
 - (2) Complete a site visit to verify that the Generating Facility was developed in accordance with the Generating Facility and Site Description set forth in Exhibit B or any Proposed Change Notice;
 - (3) Based upon the foregoing, determine the capacity of the Generating Facility for the purposes of this Agreement (the "Demonstrated Contract Capacity");
 - (4) Provide Notice to Seller of the Demonstrated Contract Capacity.
- (iv) As of the Firm Operation Date or any date thereafter on which Contract Capacity is tested pursuant to Section 3.04(c)(iii):
 - (1) If the Contract Capacity set forth in Section 1.01(e) is greater than or less than the most recent Demonstrated Contract Capacity, the Contract Capacity set forth in Section 1.01(e) shall be modified to an amount equal to the most recent Demonstrated Contract Capacity;
 - (2) The Expected Annual Net Energy Production set forth in Section 1.01(f) shall be calculated using such adjusted Contract Capacity; and
 - (3) Neither Party shall have any liability for failure to purchase or deliver Product associated with or attributable to capacity in excess of the Demonstrated Contract Capacity ("Unincluded Capacity"), subject to Section 3.04(d).
- (d) Restrictions on Sales Related to Unincluded Capacity.
 - (i) Neither Seller nor Seller's Affiliates may sell, or enter into an agreement to sell, electric energy, Green Attributes, Capacity Attributes or Resource Adequacy Benefits associated with or attributable to Unincluded Capacity from a generating facility installed at the Site to a party other than SCE for a period of two (2) years

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following SCE's Notice to Seller of the Demonstrated Contract Capacity pursuant to Section 3.04(c).

- (ii) With respect to Seller's Affiliates, 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, any Seller's Affiliate wishing to enter into a contract or sale provides SCE with a written offer to sell the electric energy, Green Attributes, Capacity Attributes and Resource Adequacy Benefits related to Unincluded Capacity to SCE on terms and conditions materially similar to or no less favorable to SCE than the terms and conditions contained in this Agreement and SCE fails to accept such offer within forty-five (45) days after SCE's receipt thereof; *provided that* any Seller's Affiliate wishing to enter into a contract or sale must:
 - (1) Build a new generating facility separate from the Generating Facility to produce such additional electric energy and associated attributes;
 - (2) Establish an entity other than Seller to act as the seller for such additional electric energy and associated attributes;
 - (3) Meter such additional generating capacity separately from the Generating Facility, to SCE's reasonable satisfaction; and
 - (4) Interconnect such additional generating capacity, separately from the Generating Facility, to the Transmission Provider to SCE's reasonable satisfaction.

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

3.05 Seller's Energy Delivery Performance Obligation.

Beginning on the commencement of the first Term Year and for every Term Year thereafter, Seller shall be subject to the following electric energy delivery requirements and damages for failure to perform as set forth below.

- (a) Performance Requirements.
 - (i) Seller's Annual Energy Delivery Obligation.

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Seller's Annual Energy Delivery Obligation shall be equal to ninety percent (90%) of the Expected Annual Net Energy Production identified in Section 1.01(f).

(ii) Event of Deficient Energy Deliveries.

At the end of each Term Year if the sum of Seller's Qualified Amounts plus any Lost Output during the Term Year does not equal or exceed Seller's Annual Energy Delivery Obligation, *then* an "Event of Deficient Energy Deliveries" shall be deemed to have occurred.

(b) Energy Replacement Damage Amount.

If an Event of Deficient Energy Deliveries occurs, as determined in accordance with Section 3.05(a)(ii) above, 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 an 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 (the "Energy Replacement Damage Amount").

Within ninety (90) days after the end of the applicable Term Year, SCE shall calculate any Energy Replacement Damage Amount as set forth in Exhibit K, 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.

Seller shall have thirty (30) days after receipt of SCE's Notice to review SCE's calculation and either pay the entire Energy Replacement Damage Amount claimed by SCE or pay any undisputed portion and provide Notice to SCE of the portion Seller disputes along with a detailed explanation of, and rationale for, Seller's calculation methodology, annotated work papers and source data.

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

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Notice of dispute by Seller, either Party may submit the dispute to mediation and arbitration as provided in Article Twelve.

(c) Continuing Obligations of Seller.

Notwithstanding any payment of an Energy Replacement Damage Amount, Seller shall remain obligated to convey all electric energy generated by the Generating Facility and all Green Attributes, Capacity Attributes and Resource Adequacy Benefits to SCE during the Term, as provided in Sections 3.01 and 3.02.

3.06 Metering, Communications, and Telemetry.

(a) CAISO Approved Meter.

Seller shall:

- (i) Execute a Meter Service Agreement with the CAISO, pursuant to the CAISO Tariff; and
- (ii) Install and pay for any real-time meter and related communications equipment required by SCE, the CAISO, and the Transmission Provider.

Such equipment shall include a CAISO Approved Meter.

(b) Access to CAISO Approved Meter.

- (i) Subject to Section 3.17, Seller hereby grants SCE reasonable access to the meter(s) for meter readings and any purpose necessary to effectuate this Agreement.

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

- (ii) Prior to Initial Synchronization, Seller shall provide instructions to the CAISO granting authorizations or other documentation sufficient to provide SCE with access to the CAISO Approved Meter and to Seller's settlement data on OMAR.

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

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(c) CAISO Approved Meter Maintenance.

- (i) Seller shall test and calibrate the CAISO Approved Meter as necessary, but in no event shall the period between testing and calibration dates be greater than twenty-four (24) months.
- (ii) Seller shall replace the CAISO Approved Meter battery at least once every thirty-six (36) months or such shorter period as may be recommended by the battery manufacturer.

Notwithstanding the foregoing, in the event the CAISO Approved Meter battery fails, Seller shall replace such battery within one (1) day after becoming aware of its failure.

- (iii) Seller shall use certified test and calibration technicians to perform any work associated with the CAISO Approved Meter.
- (iv) Seller shall inform SCE of test and calibration dates, provide SCE with access to observe and witness such testing and calibration, and provide SCE certified results of tests and calibrations within thirty (30) days after completion.

(d) Communication of Real-Time Data to SCE.

- (i) Seller shall install and pay for equipment required by SCE to provide SCE, as Scheduling Coordinator, the ability to monitor, in real time, all electric energy generated by the Generating Facility.
- (ii) The data from such equipment shall be centralized into a common supervisory and data acquisition system, otherwise known as SCADA.
- (iii) Such equipment shall be accessed by SCE via SCE's Generation Management System.
- (iv) Seller shall provide operational consent for SCE to use:
 - (1) The CAISO remote intelligent gateway, otherwise known as a RIG, or data processing gateway, otherwise known as a DPG; and
 - (2) Energy Control Network

as the network communication interface into the site control system.

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- (v) The connection shall be bidirectional in nature and used to exchange all data points to and from SCE's Generation Operation Center.
- (vi) The above mentioned connections and data transfer shall be included in the systems engineering tasks as a part of the construction of the Generating Facility, and shall be fully functional prior to Initial Synchronization.

3.07 Site Control.

- (a) On or before Initial Synchronization and at all times during the Term, Seller shall have Site Control.
- (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.

- (a) This Agreement is Site specific as set forth in Section 1.01(b).
- (b) Seller may, with SCE's prior written consent, change the location of the Site; *provided that*, the interconnection point with the Transmission Provider is not changed.
- (c) Seller shall promptly provide a revised Exhibit B describing any new Site in the event Seller requests SCE's consent to change the Site location.

3.09 Change in Structure, Ownership or Financing.

Seller shall provide Notice to SCE within five (5) Business Days of an actual or pending change in the status of any of the following after the Effective Date:

- (a) Seller's exact and complete name, form of organization and state of incorporation or organization; address of Seller's principal place of business, and Seller's principal business;
- (b) Seller's ultimate parent, including Seller's members, general partners, or joint venturers, Seller's chief executive officer or equivalent thereof, Seller's guarantor, as applicable, or Seller's organizational chart showing all of Seller's direct and indirect owners, including its ultimate parent;

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- (c) Seller's Moody's Investor Services' and Standard & Poor Rating Group's senior unsecured debt rating or, if such entities do not have a senior unsecured debt rating, *then* Seller's corporate credit rating or long-term issuer rating, if any;
- (d) Seller's anticipated or actual short-term, mid-term and long-term ownership structure of the Generating Facility; and
- (e) Seller's anticipated or actual construction period financing and operating period financing, including the sources of equity investments and debt financings.

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

3.10 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) Electrical one line diagrams;
 - (iii) Control and data acquisition details and configuration documents;
 - (iv) Major electrical equipment specifications;
 - (v) General arrangement drawings;
 - (vi) Longitude and latitude of each generator;
 - (vii) Artist renderings of the Site, if any; and
 - (viii) Aerial photographs of the Site, if any.
- (d) Providing SCE advance Notice at the earliest practicable time of any proposed changes in Seller's Generating Facility, but in no event less than thirty (30) days before the changes are to be made, which such Notice shall include the

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information set forth in Section 3.10(c) above, along with all specifications and drawings pertaining to any such changes and any changes to Exhibit B.

3.11 Operation and Record Keeping.

- (a) Seller shall Operate the Generating Facility in accordance with Prudent Electrical Practices.
- (b) Commencing upon the date on which all CAISO agreements have been executed by Seller and continuing throughout the Term of this Agreement, Seller shall comply with all provisions of the CAISO Tariff.
- (c) Prior to Initial Synchronization:
 - (i) Seller shall obtain CEC Certification and Verification;
 - (ii) Seller shall obtain all necessary Permits;
 - (iii) Seller shall take all steps necessary to ensure that SCE becomes authorized by the CAISO to Schedule the electric energy produced by the Generating Facility with the CAISO prior to Initial Synchronization;
 - (iv) Seller shall demonstrate to SCE's reasonable satisfaction that Seller has executed all necessary Transmission Provider and CAISO agreements;
 - (v) Seller shall provide to SCE the DLF and TLF, as applicable, used by the Transmission Provider in the administration of the transmission service agreement for the Generating Facility;
 - (vi) Seller shall demonstrate to SCE's reasonable satisfaction that Seller has complied with its obligations with respect to the CAISO Approved Meter as set forth in Section 3.06(a); and
 - (vii) Seller shall furnish to SCE all insurance documents required under Section 10.10(b).
- (d) Seller shall keep a daily operations log for the Generating Facility that shall include the following information:
 - (i) Availability;
 - (ii) Circuit breaker trip operations;

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- (iii) Any significant events related to the Operation of the Generating Facility;
- (iv) Real and reactive power and energy production;
- (v) Changes in Operating status;
- (vi) Protective apparatus operations;
- (vii) Any unusual conditions found during inspections;
- (viii) Electric energy production, fuel consumption and efficiency (if applicable); and
- (ix) Status and settings of generator controls including automatic voltage regulator and power system stabilizer.

Changes in generator output setting shall also be logged for Seller's generator(s) if it is "block-loaded" to a specific kW capacity.

In addition, Seller shall maintain complete records of the Generating Facility's fuel consumption.

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

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

- (f) Upon notification from SCE, Seller shall promptly curtail the production of the Generating Facility. Such Notice shall be provided to Seller only in the event SCE, as Seller's Scheduling Coordinator, is instructed by the CAISO to curtail energy deliveries in order to respond to a CAISO Forecasted Over-Generation Condition, a CAISO Declared Over-Generation Condition or an Emergency.
- (g) Information maintained pursuant to this Section 3.11 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.

3.12 Obtaining Scheduling Coordinator Services.

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

(a) SCE as Scheduling Coordinator.

- (i) At least thirty (30) days prior to Initial Synchronization, Seller shall take all actions and execute and deliver to SCE all documents necessary to authorize or designate SCE as Seller's Scheduling Coordinator during the Startup Period and throughout the Term of this Agreement.
- (ii) Seller shall not authorize or designate any other party to act as Scheduling Coordinator, nor shall Seller perform, for its own benefit, the duties of Scheduling Coordinator.

(b) Replacement of Scheduling Coordinator.

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

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

3.13 Forecasting.

Seller shall Forecast or cause to be Forecasted electric energy, in MWhs, in accordance with the provisions of Exhibit D.

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3.14 Scheduled Outages.

- (a) No later than January 1, April 1, July 1 and October 1 of each year during the Term, and at least sixty (60) days prior to Initial Synchronization, Seller shall submit to SCE its schedule of proposed planned outages (“Outage Schedule”) for the subsequent twenty-four month period using the Web Client.
- (b) Seller shall provide the following information for each proposed planned outage:
 - (i) Start date and time;
 - (ii) End date and time; and
 - (iii) Capacity online, in MW, during the planned outage.
- (c) Within twenty (20) Business Days after SCE’s receipt of an Outage Schedule, SCE shall notify Seller in writing of any reasonable request for changes to the Outage Schedule, and Seller shall, consistent with Prudent Electrical Practices, accommodate SCE’s requests regarding the timing of any planned outage.
- (d) Seller shall cooperate with SCE to arrange and coordinate all Outage Schedules with the CAISO.
- (e) In the event a condition occurs at the Generating Facility which causes Seller to revise its planned outages, Seller shall promptly provide Notice to SCE, using the Web Client, of such change (including, an estimate of the length of such planned outage) as required in the CAISO Tariff after the condition causing the change becomes known to Seller.
- (f) Seller shall promptly prepare and provide to SCE upon request, using the Web Client, all reports of actual or forecasted outages that SCE may reasonably require for the purpose of enabling SCE to comply with Section 761.3 of the California Public Utilities Code or any Applicable Law mandating the reporting by investor owned utilities of expected or experienced outages by electric energy generating facilities under contract to supply electric energy.

3.15 Progress Reporting Toward Meeting Milestone Schedule.

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

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

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

3.16 Provision of Information.

Seller shall promptly provide to SCE copies of:

- (a) All agreements with providers of distribution, transmission or interconnection services for the Generating Facility and all amendments thereto;
- (b) All applications and approvals relating to CEC Certification and Verification and any Permits;
- (c) All draft, preliminary, final and revised copies of reports, studies and analyses furnished by the CAISO, Seller's Transmission Consultant, or any Transmission Provider, and any correspondence related thereto, concerning the interconnection of the Generating Facility to the Transmission Provider's electric system or the transmission of electric energy on the Transmission Provider's electric system;
- (d) All notifications of adjustments in the DLF and TLF, as applicable, used by the Transmission Provider in the administration of the transmission service agreement for the Generating Facility within thirty (30) days of receiving such notification from the Transmission Provider;
- (e) Any reports, studies, or assessments done for Seller by an independent engineer; and
- (f) All Generating Facility and metering information as may be requested by SCE, including the following, at least thirty (30) days prior to Initial Synchronization:

For each CAISO Approved Meter:

- (1) Generating Station/Unit ID;
- (2) CAISO Global Resource ID;
- (3) CAISO Approved Meter Device ID;

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- (4) Password;
- (5) Data path (network (ECN) or modem);
- (6) If modem, phone number;
- (7) Copy of meter certification;
- (8) List of any CAISO metering exemptions (if any); and
- (9) Description of any compensation calculations such as transformer losses and line losses.

For the Generating Facility:

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

3.17 SCE's Access Rights.

Seller hereby grants SCE 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.

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

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

3.19 Notice of Cessation or Termination of Service Agreements.

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

3.20 Lost Output Report.

(a) Monthly Report; SCE Review.

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

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

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

(b) Disputes of Lost Output.

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

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

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

Seller 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

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("Supplemental Lost Output Report") if Seller can demonstrate that it neither knew nor could have known through the exercise of reasonable diligence about the Supplemental Lost Output within the foregoing thirty (30) day period and Seller provides the Supplemental Lost Output Report within ten (10) Business Days after learning the facts which provide the basis for the Supplemental Lost Output claim.

(c) Energy Replacement Damage Amount Calculation.

The Lost Output amount that shall be used in the Energy Replacement Damage Amount calculation, set forth in Exhibit K, shall be the amount calculated after the twelfth (12th) month of the Term Year.

3.21 CAISO Charges, CAISO Sanctions and SCE Penalties.

(a) Startup Period.

During the Startup Period, Seller shall be responsible for all CAISO Charges and CAISO Sanctions, if any, attributable to or assessed for test energy delivered by Seller to the real-time market (and any other CAISO administered market that may from time to time be implemented).

(b) After Initial Operation.

Commencing upon Initial Operation and continuing throughout the Term, Seller shall have no responsibility for CAISO Charges attributable to or assessed for energy delivered by Seller to SCE.

In the event Seller fails to comply with the Forecasting provisions set forth in Exhibit D or any CAISO Tariff or CAISO directives, Seller may be liable to pay an SCE Penalty or CAISO Sanction, each as set forth in Exhibit J;

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

(c) Seller shall make payments for CAISO Charges, CAISO Sanctions and any SCE Penalty in accordance with those provisions set forth in Section 3.21(a) and Exhibit J.

(d) If Seller disputes any CAISO Charge, SCE Penalty or CAISO Sanction, Seller shall provide Notice of such dispute within five (5) Business Days of becoming aware of such CAISO Charge, SCE Penalty or CAISO Sanction.

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3.22 Maximum Contract Capacity.

During the Term of this Agreement, Seller shall not allow the electrical generating capacity of the Generating Facility to exceed five (5) MW, net of Station Use.

3.23 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).

*** End of ARTICLE THREE ***

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ARTICLE FOUR. SCE'S OBLIGATIONS

4.01 Obligation to Pay.

For Seller's *full* compensation under this Agreement, SCE shall forward to Seller any CAISO Revenues and assess against Seller any CAISO Charges incurred during the Startup Period and shall make monthly Energy Payments to Seller during the Term calculated in the manner described in Section 4.02 and Exhibit J.

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

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

4.02 Payments and Adjustments.

(a) Payment Calculations for Startup Period.

For the purpose of calculating monthly payment statements related to test energy delivered to the real-time market during the Startup Period, SCE shall compile all CAISO Charges and CAISO Revenues directly assessed or credited by the CAISO to the CAISO Global Resource ID for the Generating Facility.

(b) Energy Payment Calculations during Term.

For the purpose of calculating monthly payments for Product delivered to SCE as of Initial Operation in accordance with the terms of this Agreement ("Energy Payments"), Metered Amounts shall be time-differentiated according to the TOD Periods set forth in Exhibit H and the pricing shall be weighted by the Energy Payment Allocation Factors set forth in Exhibit H.

Monthly Energy Payments shall equal the sum of the TOD Period Energy Payments for all TOD Periods in the month. Each TOD Period Energy

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Payment shall be calculated pursuant to the following formula, where "n" is the TOD Period being calculated:

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

Where:

A = Energy Price specified in Section 1.03 in \$/kWh (i.e., \$/MWh/1000).

B = Energy Payment Allocation Factor, set forth in Exhibit H, for the TOD Period being calculated.

C = The sum of Metered Amounts in all hours for the TOD Period being calculated in kWh.

If the CAISO Approved Meter does not measure, or is not compensated to measure, the energy at the Delivery Point, SCE will apply a line loss factor or transformation loss factor to adjust the Metered Amounts in the above formula.

4.03 Payment Statement and Payment.

(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 30th day (or 28th or 29th day for February) is a weekend day or holiday during which:

- (i) Seller is delivering test energy during the Startup Period;
- (ii) Metered Amounts are provided to SCE;
- (iii) CAISO Charges, CAISO Sanctions or any SCE Penalties are incurred;
or
- (iv) Adjustments for payment errors are made as set forth below;

SCE shall do each of the following:

- (v) Send a statement to Seller showing:
 - (1) The sum of the CAISO Charges and CAISO Revenues that are directly assigned by the CAISO to the CAISO Global Resource ID(s) for the Generating Facility for test energy delivered to the real-time market during the Startup Period, which will be

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available approximately one hundred twenty (120) days following the last day of a calendar month (for electric energy deliveries during that month) or thirty (30) days after the CAISO final settlement data is available to SCE for such deliveries, whichever is sooner;

- (2) The Metered Amounts for each TOD Period during the month for which the payment is being made;
 - (3) A calculation of the amount payable to Seller for the month pursuant to Section 4.02;
 - (4) The CAISO Sanctions and SCE Penalties pursuant to Exhibit J, which will be available approximately one hundred twenty (120) days following the last day of a calendar month (for electric energy deliveries during that month) or thirty (30) days after the CAISO final settlement data is available to SCE for such deliveries, whichever is sooner; and
 - (5) A calculation of the net amount due Seller; and
- (vi) Send to Seller, via wire transfer, SCE's payment of said net amount, plus, if such payment is late, a Simple Interest Payment calculated using the Interest Rate and the number of days that such payment is late.
- (b) In the event SCE determines that:
- (i) The CAISO has recalculated CAISO Charges or CAISO Revenues for test energy delivered to the real-time market during the Startup Period; or
 - (ii) A calculation of Metered Amounts, CAISO Charges, SCE Penalties or CAISO Sanctions is incorrect as a result of inaccurate meters, the correction of data by the CAISO in OMAR, or a recalculation of CAISO Charges or CAISO Sanctions by the CAISO,

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

SCE shall also promptly recompute any payment affected by any meter or CAISO Charge, CAISO Sanction or SCE Penalty inaccuracy. Any amount due from SCE to Seller, or Seller to SCE, as the case may be, shall be made as

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an adjustment to the next monthly payment statement that is calculated after SCE's recomputation using corrected measurements.

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

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

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

Adjustment payments for meter inaccuracy shall not bear interest.

(c) Netting Rights.

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

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

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

(d) Waiver.

Except as provided in Section 4.03(b) and as otherwise provided in this Section 4.03(d), if within 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 statement, computation and payment, and the statement shall be conclusively deemed correct and complete; *provided, however*, that if an error is identified by Seller as a result

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of settlement, audit or other information provided to Seller by SCE 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 Seller receives the information from SCE 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 include a Simple Interest Payment calculated using the Interest Rate and the number of days between the date due (or, in the case of overpayments by SCE, commencing five (5) Business Days from the date SCE provides Notice of such overpayments to Seller) and the date paid; *provided, however*, that changes made because of settlement, audit or other information provided by the CAISO and not available to SCE when SCE rendered its original statement shall not bear interest.

In the event that the recomputation results in a net amount still owing to SCE after applying the amounts owed to SCE against any amounts owed to Seller in the payment statement, as described above, then SCE may, in its discretion, either net this net remaining amount owed to SCE against amounts owed to Seller in any subsequent monthly payment 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.

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

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

4.04 Scheduling Coordinator.

Commencing upon Initial Synchronization, SCE shall act as Scheduling Coordinator, on behalf of Seller, and shall submit bids and Schedules to the CAISO in accordance with CAISO Tariff protocols.

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(a) Duties as Scheduling Coordinator.

- (i) SCE shall submit all notices and updates required under the CAISO Tariff regarding the Generating Facility's status to the CAISO.
- (ii) SCE shall forward to Seller all CAISO Revenues.
- (iii) In the event SCE believes that any CAISO Charge, CAISO Revenue or CAISO Sanction is incorrect and disputable under the CAISO Tariff or upon Notice by Seller of any dispute of a CAISO Charge, CAISO Revenue or CAISO Sanction, SCE shall dispute any such CAISO Charge, CAISO Revenue or CAISO Sanction in accordance with the procedures set forth under the CAISO Tariff.

(b) Termination of Scheduling Coordinator.

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

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

4.05 CAISO Charges.

Except as set forth in Section 3.21 and Exhibit J, SCE shall be responsible for all CAISO Charges during the Term.

*** End of ARTICLE FOUR ***

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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.

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

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

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

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

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

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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 Section 1.05 and Seller's compliance with its obligations as the Claiming Party under Section 5.02, be extended on a day-for-day basis for the duration of the Force Majeure.

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 Contract Capacity as provided in Section 3.04(c),

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 extends for more than three hundred sixty-five (365) consecutive days.

*** End of ARTICLE FIVE ***

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ARTICLE SIX. EVENTS OF DEFAULT: REMEDIES

6.01 Events of Default.

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

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

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- (v) A Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the 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:
 - (i) Except as permitted under Section 10.04 or 10.05, Seller does not own the Generating Facility or otherwise have the authority over the Generating Facility as required in Section 3.07(a);
 - (ii) Seller has not cured a failure with respect to Section 3.07(a) within the earlier of thirty (30) days after providing Notice in accordance with Section 3.07(b) or sixty (60) days after the occurrence of the event which results in such failure;
 - (iii) The sum of Qualified Amounts plus Lost Output in any consecutive six (6) month period is not at least 10 percent (10%) of the Expected Annual Net Energy Production set forth in Section 1.01(f), and Seller fails to demonstrate to SCE's reasonable satisfaction, within ten (10) Business Days after Notice from SCE, a legitimate reason for such failure;
 - (iv) The Metered Amounts in any one calendar month, divided by the number of hours in that calendar month, in kWh/hr, exceed one hundred fifteen percent (115%) of the Contract Capacity set forth in Section 1.01(e) (as may be modified) (an "Event of Excess Deliveries"), without the prior written consent of SCE, and within ten (10) Business Days after Notice, Seller fails to demonstrate to SCE's satisfaction that Seller has identified the reason that the Event of Excess Deliveries occurred and that Seller has employed or is employing best efforts to ensure that no additional Events of Excess Deliveries will occur during the Term;
 - (v) Seller intentionally or knowingly Forecasts or delivers, or attempts to Forecast or deliver, at the Delivery Point for sale under this Agreement electric energy that was not in fact generated by the Generating Facility;
 - (vi) The electrical generating capacity of the Generating Facility exceeds five (5) MW, net of Station Use;

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- (vii) Seller removes from the Site equipment upon which the Contract Capacity has been based, except for the purposes of replacement, refurbishment, repair or maintenance, and such equipment is not returned within five (5) Business Days after Notice from SCE;
- (viii) The Generating Facility consists of an ERR type(s) different than that specified in Section 1.01(d);
- (ix) Subject to Section 3.18, the Generating Facility fails to qualify as an ERR;
- (x) Subject to Section 3.18, any electric energy from the Generating Facility and sold or to be sold to SCE hereunder fails to qualify as eligible renewable energy for purposes of the RPS Legislation;
- (xi) Seller fails to achieve Initial Operation within the timeframes set forth in Section 2.03 and such failure is not cured within five (5) Business Days after Notice from SCE;
- (xii) A termination of, or cessation of service under, any agreement necessary for:
 - (1) Interconnection of the Generating Facility to the Transmission Provider's electric system;
 - (2) Transmission of the electric energy on the Transmission Provider's electric system; or
 - (3) Metering of the Metered Amountsand such service is not reinstated, or alternative arrangements implemented, within one hundred and twenty (120) days after such termination or cessation;
- (xiii) Seller fails to take any actions necessary to dedicate, convey or effectuate the use of any and all Green Attributes, Capacity Attributes and Resource Adequacy Benefits for SCE's sole benefit as specified in Section 3.01;
- (xiv) The stock or equity ownership interest in Seller has been pledged or assigned as collateral or otherwise to any party other than Lender; or
- (xv) Seller fails to maintain its Participating Generator Agreement and Meter Service Agreement during the Term.

6.02 Early Termination.

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If an Event of Default occurs, 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.

The Party taking the default (the "Non-Defaulting Party") shall have the right:

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

6.03 Termination Payment.

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

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

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

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

*** End of ARTICLE SIX ***

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ARTICLE SEVEN. LIMITATIONS OF LIABILITIES

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

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

SUBJECT TO SECTION 10.15, IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

UNLESS EXPRESSLY PROVIDED IN THIS AGREEMENT, INCLUDING WITHOUT LIMITATION THE PROVISIONS OF SECTION 10.02(a) (INDEMNITY), NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE.

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

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

*** End of ARTICLE SEVEN ***

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ARTICLE EIGHT. FINANCIAL INFORMATION

8.01 Required Financial Statements.

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

In each case, the financial statements referenced in Section 8.01(a)(i) and 8.01(a)(ii) shall be:

- (1) Certified in accordance with all applicable laws and regulations, including all applicable Securities and Exchange Commission ("SEC") rules and regulations, if such Party is an SEC reporting company; or
 - (2) Certified by a Responsible Officer as being fairly stated in all material respects (subject to normal year end audit adjustments) if such Party is not an SEC reporting company;
- (b) For purposes of the requirement set forth in Section 8.01(a):
 - (i) If a Party's financial statements are publicly available electronically on the website of such Party or the SEC, then such Party shall be deemed to have met this requirement; and
 - (ii) Should any such financial statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an

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

(c) Uniform Commercial Code Waiver.

This Agreement sets forth the entirety of the agreement of the Parties regarding credit, collateral and adequate assurances. Except as expressly set forth in this Agreement, neither Party:

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

and all implied rights relating to financial assurances arising from Section 2-609 of the Uniform Commercial Code or case law applying similar doctrines, are hereby waived.

*** End of ARTICLE EIGHT ***

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ARTICLE NINE. GOVERNMENTAL CHARGES

9.01 Cooperation to Minimize Tax Liabilities.

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

9.02 Governmental Charges.

Seller shall pay or cause to be paid all taxes imposed by any Governmental Authority ("Governmental Charges") on or with respect to the Metered Amounts (and any contract associated with the Metered Amounts) arising 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 Metered Amounts from the Delivery Point. In the event Seller is required by law or regulation to remit or pay Governmental Charges which are SCE's responsibility hereunder, SCE shall promptly reimburse Seller for such Governmental Charges.

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

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

9.03 Providing Information to Taxing Authorities.

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

*** End of ARTICLE NINE ***

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ARTICLE TEN. MISCELLANEOUS

10.01 Representations and Warranties.

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

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

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

- (h) It has entered into this Agreement in connection with the conduct of its business and it has the capacity or ability to make or take delivery of the Product as contemplated in this Agreement; and

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- (i) It shall act in good faith in its performance under this Agreement.

10.02 Additional Seller Representations, Warranties and Covenants.

- (a) Seller hereby represents, warrants and covenants to SCE that throughout the Term:
 - (i) Seller shall own and Operate the Generating Facility;
 - (ii) Seller shall deliver to SCE the Product free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person;
 - (iii) 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 maintain and remain in compliance with all Permits;
 - (v) Seller shall have CEC Certification and Verification, and 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; and
 - (vi) Seller's Site is and shall remain located within the Control Area.
- (b) Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement that: (i) the Project qualifies and is certified by the CEC as an Eligible Renewable Energy Resource ("ERR") as such term is defined in Public Utilities Code Section 399.12 or Section 399.16; and (ii) the Project's output delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law.
- (c) The term "commercially reasonable efforts" as used in Section 10.02(b) shall have the meaning set forth in Section 3.18.

10.03 Indemnity.

- (a) Each Party as indemnitor shall defend, save harmless and indemnify the other Party and the directors, officers, employees, and agents of such other Party against and from any and all loss, liability, damage, claim, cost, charge,

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

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

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

- (b) Each Party releases and shall defend, save harmless and indemnify the other Party from any and all loss, liability, damage, claim, cost, charge, demand or expense arising out of or in connection with any breach made by the other Party of its representations and warranties in Sections 10.01 and 10.02.
- (c) The provisions of this Section 10.02(a) shall not be construed to relieve any insurer of its obligations to pay any insurance claims in accordance with the provisions of any valid insurance policy.
- (d) Notwithstanding anything to the contrary in this Agreement, if Seller fails to comply with the provisions of Section 10.10, Seller shall, at its own cost, defend, save harmless and indemnify SCE, its directors, officers, employees, 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 10.10.

The inclusion of this Section 10.03(d) is not intended to create any express or implied right in Seller to elect not to provide the insurance required under Section 10.10.

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

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- (f) Seller shall defend, save harmless and indemnify SCE against any penalty imposed upon SCE as a result of Seller's failure to fulfill its obligations regarding Resource Adequacy Benefits as set forth in Sections 3.01 and 3.02.
- (g) Notwithstanding anything else herein to the contrary, Seller shall indemnify and hold SCE harmless from and against any rate or other disallowance by the CPUC resulting from SCE's entry into this Agreement; *provided that* Seller's liability under this Section 10.03(g) shall be limited to Eight Hundred Ten Thousand Dollars (\$810,000) and provided further that Seller's obligation under this Section 10.03(g) shall expire on the earlier of:
 - (i) The date on which CPUC Approval of this Agreement is obtained; or
 - (ii) In the event that CPUC Approval is not obtained and either Party exercises its termination right under Section 2.04(a)(i), the date on which Seller fulfills, to SCE's satisfaction, Seller's indemnification obligations under this Section 10.03(g).
- (h) All indemnity rights shall survive the termination of this Agreement for twelve (12) months.

10.04 Assignment.

- (a) Except as provided in Section 10.05, neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld.
- (b) Any direct or indirect 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.

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 shall in good faith work with Seller and 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:

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- (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 this Agreement as a result of such Event of Default;
- (b) Following an Event of Default by Seller under this Agreement, SCE may require Seller or Lender to provide to SCE a report concerning:
 - (i) The status of efforts by Seller or Lender to develop a plan to cure the Event of Default;
 - (ii) Impediments to the cure plan or its development;
 - (iii) If a cure plan has been adopted, the status of the cure plan's implementation (including any modifications to the plan as well as the expected timeframe within which any cure is expected to be implemented); and
 - (iv) Any other information which SCE may reasonably require related to the development, implementation and timetable of the cure plan.

Seller or Lender 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;

- (c) 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 this 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;
- (d) Lender shall have the right to consent prior to any termination of this Agreement which does not arise out of an Event of Default;
- (e) Lender shall receive prior Notice of and the right to approve material amendments to this Agreement, which approval shall not be unreasonably withheld, delayed or conditioned;
- (f) 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

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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 this Agreement which are due and owing to SCE as of the assumption date; *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 this Agreement with respect to such Event of Default, *then* Lender at its option; and in its sole discretion, may elect to either:

- (i) Cause such Event of Default to be cured, or
 - (ii) Not assume this Agreement.
- (g) 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 that of Seller as of the Effective Date satisfactory to SCE in its sole discretion; and

- (h) 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.

Notwithstanding the foregoing sentence, SCE shall not be required to enter into such agreement with Lender or such designee if there has been a change in circumstances resulting from actions of Seller in its Bankruptcy case that would, in SCE's judgment, materially impact the rights or obligations of SCE under such an agreement.

10.06 Abandonment.

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

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

10.07 Governing Law.

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

10.08 Notices.

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

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

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

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

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

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

All notices, requests, statements or payments for this Generating Facility must reference the RAP ID.

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).
- (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 shall be considered as 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, scheduling or interconnection. In the event of an apparent contradiction

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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, Transmission Provider, or credit rating agency, the Parties hereby agree that the reference shall also refer to any successor to such law, tariff or organization.
- (m) SCE has assigned a RAP ID number to this Agreement for tracking purposes only.
- (n) SCE's obligation to take and pay for electric energy produced by the Generating Facility, together with Green Attributes, Resource Adequacy Benefits 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) 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 Insurance.

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

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

- (b) Before commencement of the Term, as provided in Section 2.03(a), Seller shall:

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

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

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

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

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

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

10.11 Nondedication.

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

10.12 Mobile Sierra.

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

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

10.13 Simple Interest Payments.

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

10.14 Payments.

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

10.15 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 other security, to seek a preliminary injunction, temporary restraining order, or other provisional relief as a remedy for a breach of Section 2.05(b), 3.01, 3.02, 3.04(d) or 3.07 of this Agreement in any court of competent jurisdiction, notwithstanding the obligation to submit all other disputes (including all claims for monetary damages under this Agreement) to arbitration pursuant to Section 12.01. The Parties further acknowledge and agree that the results of such arbitration may be rendered ineffectual without such provisional relief.

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

10.16 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

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“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.

10.17 Required Material.

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

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

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ARTICLE ELEVEN. CHANGE IN ELECTRIC MARKET DESIGN

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

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

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

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

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

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ARTICLE TWELVE. MEDIATION AND ARBITRATION

12.01 Dispute Resolution.

Other than requests for provisional relief under Section 10.15, any and all Disputes which the Parties have been unable to resolve by informal methods after undertaking a good faith effort to do so, shall first be submitted to mediation under the procedures described in Section 12.02 below, and if the matter is not resolved through mediation, then for final and binding arbitration under the procedures described in Section 12.03 below.

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

12.02 Mediation.

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

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

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

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

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

All offers, promises, conduct and statements, whether oral or written, made in connection with or during the mediation by either of the Parties, their agents, representatives, employees, experts and attorneys, and by the Mediator or any of the Mediator's agents, representatives and employees, shall not be subject to discovery and shall be confidential, privileged and inadmissible for any purpose, including impeachment, in any arbitration or other proceeding between or involving the Parties, or either of them, provided that evidence that is otherwise admissible or discoverable

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shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation.

12.03 Arbitration.

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

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

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

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

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

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

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

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

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

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

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

Subject to Article Seven, the Arbitrator shall have the authority to grant any form of equitable or legal relief a Party might recover in a court action. The Parties acknowledge and agree that irreparable damage would occur in the event certain provisions of this Agreement are not performed in accordance with the terms hereof, that money damages would not be a sufficient remedy for any breach of such

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provisions of this Agreement, and that the Parties shall be entitled, without the requirement of posting a bond or other security, to specific performance and injunctive or other equitable relief as a remedy for a breach of Section 2.05(b), 3.01, 3.02, 3.04(d) or 3.07 of this Agreement.

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

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

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

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

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

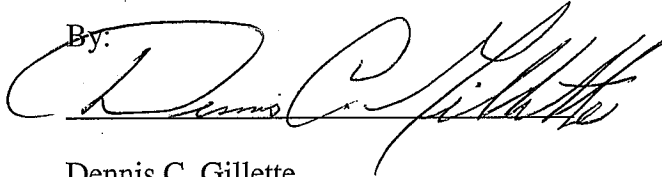
**VENTURA REGIONAL
SANITATION DISTRICT,**

a Public Agency

**SOUTHERN CALIFORNIA EDISON
COMPANY,**

a California corporation.

By:



Dennis C. Gillette

Chairman, Board of Directors

By:

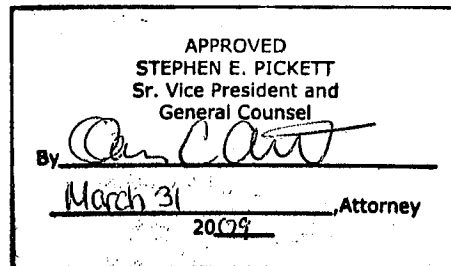


Stuart R. Hemphill

*Vice President,
Renewable and Alternative Power*

Date: FEB. 19, 2009

Date: 4/2/09



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EXHIBIT A *Definitions*

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EXHIBIT A

Definitions

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

1. "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.

2. "Agreement" has the meaning set forth in the Preamble.
3. "Applicable Laws" means all constitutions, treaties, laws, ordinances, rules, regulations, interpretations, permits, judgments, decrees, injunctions, writs and orders of any Governmental Authority that apply to either or both of the Parties, the Generating Facility or the terms of this Agreement.
4. "Arbitrator" has the meaning set forth in Article Twelve.
5. "Bankrupt" means with respect to any entity, such entity:
 - (a) Files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it;
 - (b) Makes an assignment or any general arrangement for the benefit of creditors;
 - (c) Otherwise becomes bankrupt or insolvent (however evidenced);
 - (d) Has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to such entity or any substantial portion of its property or assets; or
 - (e) Is generally unable to pay its debts as they fall due.
6. "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.
7. "Buyer" means Southern California Edison Company.

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8. "CAISO" means the California Independent System Operator Corporation or successor entity.
9. "CAISO Approved Meter" means a CAISO approved revenue quality meter or meters, CAISO approved data processing gateway or remote intelligence gateway, telemetering equipment and data acquisition services sufficient for monitoring, recording and reporting, in real time, all electric energy produced by the Generating Facility less Station Use.
10. "CAISO Charges" or "CAISO Charge" means the debits, costs, penalties and interest that are directly assigned by the CAISO to the CAISO Global Resource ID for the Generating Facility for, or attributable to, scheduling or deliveries from the Generating Facility under this Agreement.
11. "CAISO Declared Over-Generation Condition" means a CAISO declared condition on the CAISO Grid where the sum of the desired generation output of all of the Scheduling Coordinators in the Control Area, absent mitigation, would be greater than the system load.
12. "CAISO Forecasted Over-Generation Condition" means a CAISO forecasted condition on the CAISO Grid where the sum of the desired generation output of all of the Scheduling Coordinators in the Control Area, absent mitigation, would be greater than the system load.
13. "CAISO Global Resource ID" means the number or name assigned by the CAISO to the CAISO Approved Meter.
14. "CAISO Grid" means the system of transmission lines and associated facilities and entitlements of the participating transmission owners that have been placed under the CAISO's operational control.
15. "CAISO Revenues" or "CAISO Revenue" means the credits and other payments incurred or received by SCE as a result of test energy from the Generating Facility delivered to the real-time market by Seller during the Startup Period, including costs and revenues associated with CAISO dispatches.
16. "CAISO Sanctions" or "CAISO Sanction" means any sanctions directly assigned by the CAISO to the CAISO Global Resource ID for the Generating Facility, or attributable to, scheduling or deliveries from the Generating Facility under this Agreement.
17. "CAISO Tariff" means the California Independent System Operator Corporation Operating Agreement and Tariff, including the rules, protocols, procedures and standards attached thereto, as the same may be amended or modified from time-to-time and approved by FERC.

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18. "Capacity Attributes" means any and all current or future defined characteristics, certificates, tags, credits, ancillary service attributes, or accounting constructs, howsoever entitled, including any accounting construct counted toward any resource adequacy requirements, attributed to or associated with the Generating Facility or any unit of generating capacity of the Generating Facility during the Term.
19. "CEC" means the California Energy Commission.
20. "CEC Certification and Verification" means certification (or, with respect to periods before the Generating Facility has been constructed, pre-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.
21. "CFR" means the Code of Federal Regulations, as may be amended from time to time.
22. "Change in CAISO Tariff" means that, other than changes for the Market Redesign and Technology Update (to be implemented by the CAISO) being planned as of the Effective Date, the CAISO Tariff has been changed and such change has a material adverse impact on either Party, or the CAISO has been dissolved or replaced and any successor to the CAISO operates under rules, protocols, procedures or standards that differ in a material respect from the CAISO Tariff, after the Effective Date.
23. "Claiming Party" has the meaning set forth in Section 5.02.
24. "Collateral Assignment Agreement" has the meaning set forth in Section 10.05.
25. "Contract Capacity" means the electric energy generating capacity, set forth in Section 1.01(e), that Seller commits to install at the Site, net of Station Use.
26. "Control Area" means the electric power system (or combination of electric power systems) under the operational control of the CAISO or any other electric power system under the operational control of another organization vested with authority comparable to that of the CAISO.
27. "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.
28. "CPUC" means the California Public Utilities Commission.

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29. "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.
30. "Daily Delay Liquidated Damages" has the meaning set forth in Section 3.04(b).
31. "Defaulting Party" has the meaning set forth in Section 6.01.
32. "Delivery Losses" means all electric energy losses occurring between the CAISO Approved Meter and the Delivery Point and electric energy losses occurring over the CAISO Grid as such losses are assigned by the CAISO to the Generating Facility including, if applicable:
- (a) If the CAISO Approved Meter is not installed on the high voltage side of the Generating Facility's substation bus bar, transformer and other electric energy losses occurring between the CAISO Approved Meter and the high voltage side of the Generating Facility's substation bus bar;
 - (b) Any applicable DLF or TLF, or if no DLF is applicable, then electric energy losses between the high voltage side of the Generating Facility's substation bus bar and the CAISO Grid; and
 - (c) Electric energy losses determined by utilizing the GMM assigned to the Generating Facility.
33. "Delivery Point" means the location where the Generating Facility first interconnects with the existing electrical transmission or distribution system, as reported on the Generating Facility's application for interconnection with the Transmission Provider's electric system within the CAISO Control Area. Such electric energy is to be measured by the CAISO Approved Meter.

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Such location shall be Toland Road Landfill, 3500 N. Toland Road, Santa Paula, CA 93060.

34. "Delivery Term" means Term.
35. "Demonstrated Contract Capacity" has the meaning set forth in Section 3.04(c)(i).
36. "Demonstration Hour" means the date and hour selected by Seller, on or before the Firm Operation Date with respect to the initial Contract Capacity or after the Firm Operation Date with respect to any increase or decrease in Contract Capacity in accordance with Section 1.01(e), during which Seller claims it has demonstrated the applicable Contract Capacity.
37. "Dispute" means any and all disputes, claims or controversies arising out of, relating to, concerning or pertaining to the terms of this Agreement, or to either Party's performance or failure of performance under this Agreement.
38. "DLF" means a number that is a representation for all net electric energy losses or avoided losses as determined by the CPUC associated with the transmission of electric energy through the electric system from the high voltage side of the Generating Facility's substation bus bar to the interface with the CAISO Grid, also known as the distribution loss factor.
39. "Early Termination Date" has the meaning set forth in Section 6.02.
40. "Effective Date" has the meaning set forth in the Preamble.
41. "Emergency" means:
 - (a) An actual or imminent condition or situation which jeopardizes the integrity of Transmission Provider's electric system or the integrity of any other systems to which the Transmission Provider's electric system is connected, as determined by the Transmission Provider in its reasonable discretion, or any condition so defined and declared by the CAISO; or
 - (b) An emergency condition as defined under an interconnection agreement and any abnormal interconnection or system condition that requires automatic or immediate manual action to prevent or limit loss of load or generation supply, that could adversely affect the reliability of the Transmission Provider's electric system or generation supply, that could adversely affect the reliability of any interconnected system, or that could otherwise pose a threat to public safety.
42. "Energy Control Network" means the CAISO infrastructure network (data highway) used by all CAISO participants to exchange data to and from resources and CAISO.

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43. "Energy Deviations" means the absolute value of the difference, in kWh, in any Settlement Interval between:
 - (a) The Final Hour-Ahead Schedule for the hour of the Settlement Interval divided by the number of Settlement Intervals in the hour; and
 - (b) Settlement Amounts for the Settlement Interval.
44. "Energy Forecast(s)" means a forecast of Seller's expected Metered Amounts submitted in accordance with Exhibit D.
45. "Energy Payment" has the meaning set forth in Section 4.02(b).
46. "Energy Payment Allocation Factor" has the meaning set forth in Exhibit H.
47. "Energy Price" means the energy price set forth in Section 1.03.
48. "Energy Replacement Damage Amount" has the meaning set forth in Section 3.05(b).
49. "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.
50. "ERR" means an Eligible Renewable Energy Resource as such term is defined in Public Utilities Code Section 399.12 or Section 399.16.
51. "Event of Default" has the meaning set forth in Section 6.01.
52. "Event of Deficient Energy Deliveries" has the meaning set forth in Section 3.05(a)(ii).
53. "Event of Excess Deliveries" has the meaning set forth in Section 6.01(b)(iv).
54. "Expected Annual Net Energy Production" means the Generating Facility's expected annual Qualified Amounts set forth in Section 1.01(f).
55. "FERC" means the Federal Energy Regulatory Commission.
56. "Final Hour-Ahead Schedule" has the meaning as set forth in the CAISO Tariff.
57. "Final Schedule" has the meaning as set forth in the CAISO Tariff.
58. "Firm Operation Date" has the meaning set forth in Section 1.06.
59. "Force Majeure" means any occurrence that was not anticipated as of the Effective Date that:

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

Force Majeure does not include:

- (d) The lack of a fuel source of an inherently intermittent nature;
 - (e) Reductions in generation from the Generating Facility resulting from ordinary wear and tear, deferred maintenance or operator error; or
 - (f) Curtailment or reduction in deliveries at the direction of a Transmission Provider or the CAISO when the basis of the curtailment or reduction in deliveries ordered by a Transmission Provider or the CAISO is congestion arising in the ordinary course of operations of the Transmission Provider's system or the CAISO Grid, including congestion caused by outages or capacity reductions for maintenance, construction or repair.
60. "Forecast" or "Forecasting" means the action of Seller in preparing and submitting the Energy Forecast(s) to SCE in accordance with Exhibit D.
61. "Forecasted Initial Operation Date" means the date Seller anticipates, as of the Effective Date, will be the Initial Operation Date.
62. "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.

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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.

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

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

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

64. "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.
65. "Generation Management System" or "GMS" means the automated system employed by SCE real time operations to remotely monitor and dispatch each generating unit.
66. "Generation Operations Center" or "GOC" means the location of SCE's real time operations personnel.
67. "GMM(s)" means the generation meter multipliers as determined by the CAISO representing the calculation of all electrical losses assigned to the Generating Facility associated with the transmission of electric energy delivered by the Generating Facility over the CAISO Grid. As of the Effective Date, such values are posted by the CAISO on its website. The values used in this Agreement shall be those appearing on the CAISO website on the third (3rd) Business Day of the calendar month following the month for which such values are being applied.

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68. "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.
69. "Governmental Charges" has the meaning as set forth in Section 9.02.
70. "Green Attributes" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Project, and its avoided emission of pollutants. Green Attributes include but are not limited to Renewable Energy Credits, as well as:
- (a) Any avoided emission of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants;
 - (b) Any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere;¹
 - (c) 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

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

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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:

- (d) Any energy, capacity, reliability or other power attributes from the Project,
- (e) 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,
- (f) 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
- (g) Emission reduction credits encumbered or used by the Project for compliance with local, state, or federal operating and/or air quality permits.

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

- 71. “Initial Operation” means the initial operation of the Generating Facility.
- 72. “Initial Operation Date” means the date selected by Seller to begin Forecasting and delivering the Product to SCE.
- 73. “Initial Synchronization” means the date upon which the Generating Facility is first synchronized with Seller’s Transmission Provider.
- 74. “Interconnection Study” means any of the following studies as may be defined in the CAISO’s Tariff or the Transmission Provider’s tariff, as applicable:
 - (a) An interconnection feasibility study;
 - (b) An interconnection system impact study; or
 - (c) An interconnection facilities study.
- 75. “Interest Rate” means an annual rate equal to:

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- (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.

- 76. "JAMS" has the meaning set forth in Article Twelve.
- 77. "kW" means a kilowatt of electric energy generating capacity.
- 78. "kWh" means a kilowatt-hour of electric energy.
- 79. "Lease" means one or more agreements whereby Seller leases the Site(s) described in Section 1.01(b) from a third party, the term of which lease begins on or before the commencement of the Term and extends at least through the last day of the Term.
- 80. "Lender" means any financial institution(s) or successor(s) in interest or assignees that provide(s) development, bridge, construction, permanent debt or tax equity financing or refinancing for the Generating Facility to Seller.
- 81. "Losses" means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of this Agreement for the remaining Term of this Agreement, determined in a commercially reasonable manner.

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

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.

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82. "Lost Output" means the reduction in Qualified Amounts over the relevant measurement period that the Generating Facility was available to produce and could reasonably have been expected to deliver, based upon the calculation method set forth in Exhibit I, but was not delivered due to:
- (a) Force Majeure;
 - (b) An Event of Default where SCE is the Defaulting Party; or
 - (c) A curtailment or reduction of deliveries ordered or caused by the CAISO, or SCE acting as a Transmission Provider (including without limitation a curtailment or reduction that does not constitute a Force Majeure as provided in subparagraph (e) of the definition of Force Majeure..
83. "Lost Output Report" means the report of Lost Output in the form of the Lost Output Workbook prepared in accordance with the procedures set forth in Section 3.20 and Exhibit I.
84. "Lost Output Workbook" has the meaning set forth in Exhibit I.
85. "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).
86. "Mediator" has the meaning set forth in Article Twelve.
87. "Metered Amounts" means the electric energy produced by the Generating Facility, and expressed in kWh, as measured by the CAISO Approved Meter.
88. "Meter Service Agreement" has the meaning set forth in the CAISO Tariff.
89. "Milestone Schedule" means Seller's schedule to develop the Generating Facility as set forth in Exhibit E, including any revisions thereto in accordance with this Agreement.
90. "Monthly Profile" has the meaning set forth in Exhibit I.
91. "MW" means a megawatt (or 1,000 kilowatts) of electric energy generating capacity.
92. "MWh" means a megawatt-hour (or 1,000 kilowatt-hours) of electric energy.
93. "Non-Defaulting Party" has the meaning set forth in Section 6.02.
94. "Notice" means notices, requests, statements or payments provided in accordance with Section 10.08 and Exhibit C.

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95. "OMAR" means the Operational Metering Analysis and Reporting System operated and maintained by the CAISO as the repository of settlement quality meter data or its successor.
96. "On-Line Year" means the year in which Seller achieves Initial Operation for the Generating Facility.
97. "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.
98. "Outage Schedule" has the meaning set forth in Section 3.14.
99. "Participating Generator Agreement" has the meaning set forth in the CAISO Tariff.
100. "Party" or "Parties" have the meaning set forth in the Preamble.
101. "Performance Tolerance Band" has the meaning set forth in Exhibit J.
102. "Permit Approval" means approval, by the relevant regulatory agencies, of all Permits required to develop, construct and operate the Generating Facility or to Forecast or deliver the electric energy produced by the Generating Facility to SCE. 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.
103. "Permits" means all applications, approvals, authorizations, consents, filings, licenses, orders, permits or similar requirements imposed by any Governmental Authority, or the CAISO, in order to develop, construct, operate, maintain, improve, refurbish and retire the Generating Facility or to Forecast or deliver the electric energy produced by the Generating Facility to SCE.
104. "Product" means:
 - (a) All electric energy produced by the Generating Facility during the Term, net of Station Use; and
 - (b) All Green Attributes, Capacity Attributes, and Resource Adequacy Benefits generated by, associated with or attributable to the Generating Facility during the Term.
105. "Project" means the Generating Facility.

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106. "Proposed Change Notice" has the meaning set forth in Section 1.01(e).
107. "Prudent Electrical Practices" means those practices, methods and acts that would be implemented and followed by prudent operators of electric energy generating facilities in the Western United States, similar to the Generating Facility, during the relevant time period, which practices, methods and acts, in the exercise of prudent and responsible professional judgment in the light of the facts known at the time the decision was made, could reasonably have been expected to accomplish the desired result consistent with good business practices, reliability and safety.

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

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

- (a) Equipment, materials, resources, and supplies, including spare parts inventories, are available to meet the Generating Facility's needs;
- (b) Sufficient operating personnel are available at all times and are adequately experienced and trained and licensed as necessary to operate the Generating Facility properly and efficiently, and are capable of responding to reasonably foreseeable emergency conditions at the Generating Facility and Emergencies whether caused by events on or off the Site;
- (c) Preventive, routine, and non-routine maintenance and repairs are performed on a basis that ensures reliable, long-term and safe operation of the Generating Facility, and are performed by knowledgeable, trained, and experienced personnel utilizing proper equipment and tools;
- (d) Appropriate monitoring and testing are performed to ensure equipment is functioning as designed;
- (e) Equipment is not operated in a reckless manner, in violation of manufacturer's guidelines or in a manner unsafe to workers, the general public, or the Transmission Provider's electric system or contrary to environmental laws, permits or regulations or without regard to defined limitations such as, flood conditions, safety inspection requirements, operating voltage, current, volt ampere reactive (VAR) loading, frequency, rotational speed, polarity, synchronization, and control system limits; and
- (f) Equipment and components designed and manufactured to meet or exceed the standard of durability that is generally used for electric energy generating

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facilities operating in the Western United States and will function properly over the full range of ambient temperature and weather conditions reasonably expected to occur at the Site and under both normal and emergency conditions.

108. "Qualified Amounts" means the Metered Amounts, expressed in kWh, that qualify as eligible renewable energy for purposes of the RPS Legislation.
109. "RAP ID" means the contract identification number set forth on the title page to this Agreement.
110. "Renewable Energy Credit" has the meaning set forth in Public Utilities Code Section 399.12(h)(1)-(2), as may be amended from time to time or as further defined or supplemented by Applicable Law.
111. "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.
112. "Resource Adequacy Benefits" means the rights and privileges attached to the Generating Facility that satisfy any entity's resource adequacy obligations, as those obligations are set forth in any Resource Adequacy Rulings and shall include any local, zonal or otherwise locational attributes associated with the Generating Facility.
113. "Resource Adequacy Rulings" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-024, 06-07-031 and any subsequent CPUC ruling or decision, or any other resource adequacy laws, rules or regulations enacted, adopted or promulgated by any applicable Governmental Authority, as such CPUC decisions, rulings, laws, rules or regulations may be amended or modified from time-to-time during the Term.
114. "Responsible Officer" means the chief financial officer, treasurer or any assistant treasurer of a Party or any employee of a Party designated by any of the foregoing.
115. "RPS Legislation" means the State of California Renewable Portfolio Standard Program, as codified at California Public Utilities Code Section 399.11 *et seq.*
116. "SC Schedules" means the amounts initially submitted to the CAISO by SCE, as Scheduling Coordinator for Seller, of expected electric energy that Seller expects to deliver to SCE in each hour.
117. "SCE" has the meaning set forth in the Preamble.

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118. "SCE Penalty" has the meaning set forth in Exhibit J.
119. "Schedule," "Scheduled" or "Scheduling" means the action of SCE in submitting the SC Schedules to the CAISO and receiving the Final Schedules from the CAISO.
120. "Scheduling Coordinator" or "SC" means an entity certified by the CAISO for the purposes of undertaking the functions specified by CAISO Tariff Section 2.2.6, as amended by FERC from time-to-time.
121. "SEC" has the meaning set forth in Section 8.01.
122. "Seller" has the meaning set forth in the Preamble.
123. "Seller's Annual Energy Delivery Obligation" has the meaning set forth in Section 3.05(a)(i).
124. "Seller's Transmission Consultant" means an independent consultant selected by Seller to 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.
125. "Settlement Amounts" means the Metered Amounts adjusted by Delivery Losses.
126. "Settlement Interval" means any one of the six ten (10) minute time intervals beginning on any hour and ending on the next hour (e.g. 12:00 to 12:10, 12:10 to 12:20, etc.).
127. "Simple Interest Payment" means a dollar amount calculated by multiplying the:
 - (a) Dollar amount on which the Simple Interest Payment is based; times
 - (b) Interest Rate as applicable; times
 - (c) The result of dividing the number of days in the calculation period by 360.
128. "Site" means the real property on which the Generating Facility is, or will be located, as further described in Section 1.01(b) and Exhibit B or as adjusted in accordance with Section 3.08.
129. "Site Control" means that Seller shall:
 - (a) Own the Site;
 - (b) Be the lessee of the Site under a Lease;

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- (c) Be the holder of a right-of-way grant or similar instrument with respect to the Site; or
 - (d) Be the managing partner or other person or entity authorized to act in all matters relating to the control and Operation of the Site and the Generating Facility.
130. "Startup Deadline" means the date set forth in Section 1.05 by which Seller must have achieved Initial Operation as set forth in Section 2.03, subject to extension as provided in this Agreement.
131. "Startup Period" means the period that begins at Initial Synchronization and ends at Initial Operation.
132. "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 Toland Road Landfill Facility.
133. "Supplemental Lost Output" has the meaning set forth in Section 3.20.
134. "Supplemental Lost Output Report" has the meaning set forth in Section 3.20.
135. "Term" means the term of this Agreement.
136. "Term Year" means a twelve (12) month period beginning on the first day of the calendar month following the Firm Operation Date and each successive twelve (12) month period thereafter.
137. "Termination Payment" means the sum of all amounts owed by the Defaulting Party to the Non-Defaulting Party under this Agreement, less any amounts owed by the Non-Defaulting Party to the Defaulting Party determined as of the Early Termination Date.
138. "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 CAISO Grid, also known as the transmission loss factor.
139. "TOD Period(s)" means the time of delivery period(s) set forth in Exhibit H.

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140. "TOD Period Energy Payment" means a portion of an Energy Payment based upon the time of delivery of Product and calculated in accordance with the formula set forth in Section 4.02(b).
141. "Toland Road Landfill Facility" means the solid waste facility owned and operated by Seller located at 3500 N. Toland Rd, in an unincorporated area of Ventura County, between the cities of Fillmore and Santa Paula illustrated as Parcels 9, 10, 11 and 12 on Attachment 6 to Exhibit B.
142. "Transmission Provider" means any entity or entities responsible for the interconnection of the Generating Facility with a Control Area or transmitting the Metered Amounts on behalf of Seller from the Generating Facility to the Delivery Point.
143. "Unincluded Capacity" has the meaning set forth in Section 3.04(c).
144. "WECC" means the Western Electricity Coordinating Council, the regional reliability council for the Western United States, Northwestern Mexico and Southwestern Canada.
145. "Web Client" means a web-based system approved by SCE.
146. "WREGIS" has the meaning set forth in Section 3.01(d)(iv).

*** End of EXHIBIT A ***

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EXHIBIT B

Generating Facility and Site Description

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EXHIBIT B

Generating Facility And Site Description

1. Facility Description

A. Generating Facility Description

Electrical Generating Equipment

The Toland Road Landfill electrical generating facility, which will utilize landfill gas to drive microturbines, will be developed in phases to consume the steadily increasing flows of landfill gas. The initial phase of the project will consist of Ingersoll-Rand microturbines with an initial generating capacity of 1.0 MW.

Subsequent phases will include the installation of additional microturbines up to a maximum capacity not to exceed 5.0 MW.

Three SGIP generators (three - 250 kW units) dedicated to onsite loads are being installed concurrently, but are not included in the Project or the Project's capacity calculation.

Control Features - Summary

The following is a summary of the control features for the generating facilities, both in the Project and in the dedicated onsite system. A more detailed description, prepared by Ingersoll-Rand Energy Systems, is provided as Attachment 1.

The facility comprises a 4000A, 480V, 3-phase, 4-wire switchgear fed from an SCE owned 2500 kVA transformer. The switchgear has a 4000A rackable and lockable main breaker 52M. 52M Breaker feeds two sub-main rackable and lockable breakers 52E, and 52N. 52E breaker feeds multiple 250 kW turbine generators, plus a 70 kW turbine generator (the Generating System). These generators will export power to Southern California Edison (SCE), net of Station Use. A Beckwith 3410 Relay, programmed to SCE-approved settings, provides paralleling protects of the system connected to the 52E relay. 52N breaker feeds 3 non-exporting turbine generators and facility loads. A

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Beckwith relay prevents power export to the utility by tripping the exporting generators, in addition to providing necessary paralleling protection.

Each turbine generator has manufacturer provided protection systems to protect the generator against various kinds of faults such as undervoltage, overvoltage, reverse-phase voltage, reverse-phase current, overload, short circuit, and ground-fault. Any one of these faults will result in disconnecting the generator from the line.

The facility loads are fed from thermal magnetic breakers.

See Attachment 1 - Site Plan, and Attachment 2 - One Line (single line) diagram.

B. Toland Road Landfill Facility – Gas Destruction and Utilization Systems.

The Toland Road Landfill Facility, which hosts the Generating Facility, includes additional, separate operations that in their own right destroy emissions of landfill gas (and associated emissions) in a flare, in dedicated onsite generators, in equipment that dries biosolids (sludge) from wastewater treatment facilities, and in any future facilities and/or equipment that may utilize landfill gas, including additional biosolids drying equipment, waste conversion technologies, leachate evaporators, or dedicated onsite generators. These operations create credits, benefits, emissions reductions, offsets, or allowances that are not attributable to the generation from the Generating Facility. These operations also create onsite electrical loads (currently estimated to be 750 kW to 1000 kW as described below) that impact the net power exported from the electrical Generating Facility.

Landfill Gas Collection, Treatment, and Destruction

This system comprises the treatment system for the gas directed to the electrical Generating Facility, the treatment system for gas directed to the biosolids drying facility, and the landfill gas flare. Blowers in the flare and biosolids drying treatment systems and the compressor in the electrical generation treatment system place a vacuum on the

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landfill gas collection system and extract gas from the landfill for subsequent treatment/use or destruction in the flare.

This load will increase over time to accommodate the increasing landfill gas flows. Increased gas flows are expected to be consumed in the later phases of the electrical Generating Facility expansion and the possible expansion of the biosolids drying facility.

The treatment system for the gas utilized by the electrical Generating Facility will require addition of a second compressor to provide the required gas flows for the additional microturbines projected in subsequent phases. Similarly, up to 2 additional blowers will be required to provide gas to a possible future expansion of the biosolids drying facility.

Biosolids Drying Facility

This facility will receive waste water treatment plant biosolids residues and reduce the water content of these materials, through indirect heating, prior to their discharge into the landfill. The facility will utilize treated landfill gas as the fuel source for heating the biosolids. All ancillary and support equipment associated with this facility will be electrically driven.

Landfill Support Facilities

This includes all loads associated with landfill administrative offices, scale house, and equipment maintenance area.

Water Supply Facilities

This includes pumps used to supply water for fire control, dust control, irrigation, and domestic use.

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2. Site Description

See Attachment 4 - Legal Description, Attachment 5 - Vicinity Map, and Attachment 6 - Generating Facility Location Maps (2).

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Attachment 1

Project Information: Ventura Regional Sanitation District
3500 North Toland Road
Santa Paula, CA 93060

1.0 Introduction

This document contains a brief description of the Toland Road Landfill Generation project and provides details on the design of the protection and control systems which will be used for the interconnection of the subject generators with the Southern California Edison (SCE) system. The document has been prepared for submittal with the Small Generator Interconnection Procedures (SGIP) form which is contained in SCE's FERC Electric Tariff as Attachment G.

2.0 Project Description

The Toland Road Landfill Generation Project consists of the interconnection of a total of twelve (12) 250 kW microturbines (synchronous) and one (1) 70 kW microturbine (induction) with the SCE system. The generators will be interconnected via a new electric service at the landfill.

Single line diagrams (E-223-1 Sheets 1 & 2) showing the details on the interconnection of the generation have been provided with the application. In addition, three line diagrams (E-223-2 & E-223-9) showing the interconnection of the protective relaying equipment have also been provided.

The design of the electrical systems is being completed to interconnect the generation with the SCE system in a grid-parallel manner. Adequate relaying has been provided to allow for safe and reliable operation in this manner. Excess generation from the facility will be exported into the SCE grid with the maximum export capability being requested being 2500 kW.

3.0 System Protection Description

This section contains a functional description of the protective relaying equipment which will be installed for the interconnection. The section has been broken down into two sub-sections; 1) Grid Isolation Protection, 2) Utility system protection, and 3) Synchronizing Control and Synchronism Check. Separate relaying will be installed for the exporting generation and the non-exporting generation as shown on the attached single line diagrams.

3.1. Grid Isolation Protection

Grid isolation protection (27,59,81O,81U, and 47 (export only)) will be provided via a single Beckwith M-3410A relay for each of the export and non-export installations. These relays will be installed at the generation switchgear location

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and will be interconnected with the electrical system via 4000/5 (export) or 3000/5 (non-export) current transformers (CTs). Since the service voltage is 480/277V, the voltage inputs to the relays will be direct-connected to the switchgear bus and will be connected phase-phase.

The M-3410A relays will function to trip the 4G contactors in the microturbine enclosures. The relays will be interconnected with the contactor coil via auxiliary tripping relays (94TA thru 94TD) as shown on the AC schematic diagrams (E-223-2 and E-223-9). The tripping logic is being configured in a fail safe manner such that a failure of a single component (ie. M-3410A, 94T, etc) will result in the dropout of the 4G contactor. In particular, a normally closed trip contact will be used in the M-3410A. This contact will be held closed under normal conditions (non-fault) and will be connected in series with a normally closed relay alarm contact. Therefore, if either a utility system fault or relay failure is detected, the appropriate relay contacts will open to de-energize the contactor holding coil resulting in a trip of the generation. In addition, an auxiliary contact (52a) from the 52M, 52E, and 52N circuit breakers will be connected to trip the units as shown on the attached schematic diagrams.

Proposed settings for the M-3410A relays have been developed in accordance with SCE interconnection standards and are provided in the table below.

Relay Element	Description	Setpoint	Time Delay
27-1	Undervoltage Stage 1	88% (422V L-L)	120 cycles
27-2	Undervoltage Stage 2	50% (240V L-L)	10 cycles
59-1	Overvoltage Stage 1	110% (528V L-L)	30 cycles
59-2	Overvoltage Stage 2	125% (600V L-L)	6 cycles
81O	Overfrequency	60.5 Hz	10 cycles
81U	Underfrequency	59.3 Hz	10 cycles
47 (Export Only)	Negative Sequence Voltage	25%	120 cycles

The settings listed above will be applied to the M-3410A relays.

3.2. Utility System Protection

A voltage controlled overcurrent function (51V) will be used to provide protection for utility system faults for the exporting generation installation. The operation of this function will dropout the 94TA thru 94TC relays thereby tripping the units off-line via the 4G contactors. The settings for this function will be developed during the final design stages of the project and will be coordinated with SCE.

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An underpower (32U) function will be used for the non-exporting generation installation to provide anti-islanding protection.

3.3. Synchronizing Control

The synchronizing control of the generators will be managed by the DEIF PPU (Paralleling Protection Unit). This unit will bring the unit within a slip frequency of 0.2 Hz and a voltage difference of less than 5%.

The closing of the 4G contactors will be supervised by a synchronism check function provided by the DEIF CSQ-3 synchronism check relay. This function will be programmed to only allow a close of the contactor when the slip frequency is less than 0.2 Hz, the voltage difference is less than 5%, and the phase angle difference is less than 10 degrees.

4.0 Conclusion

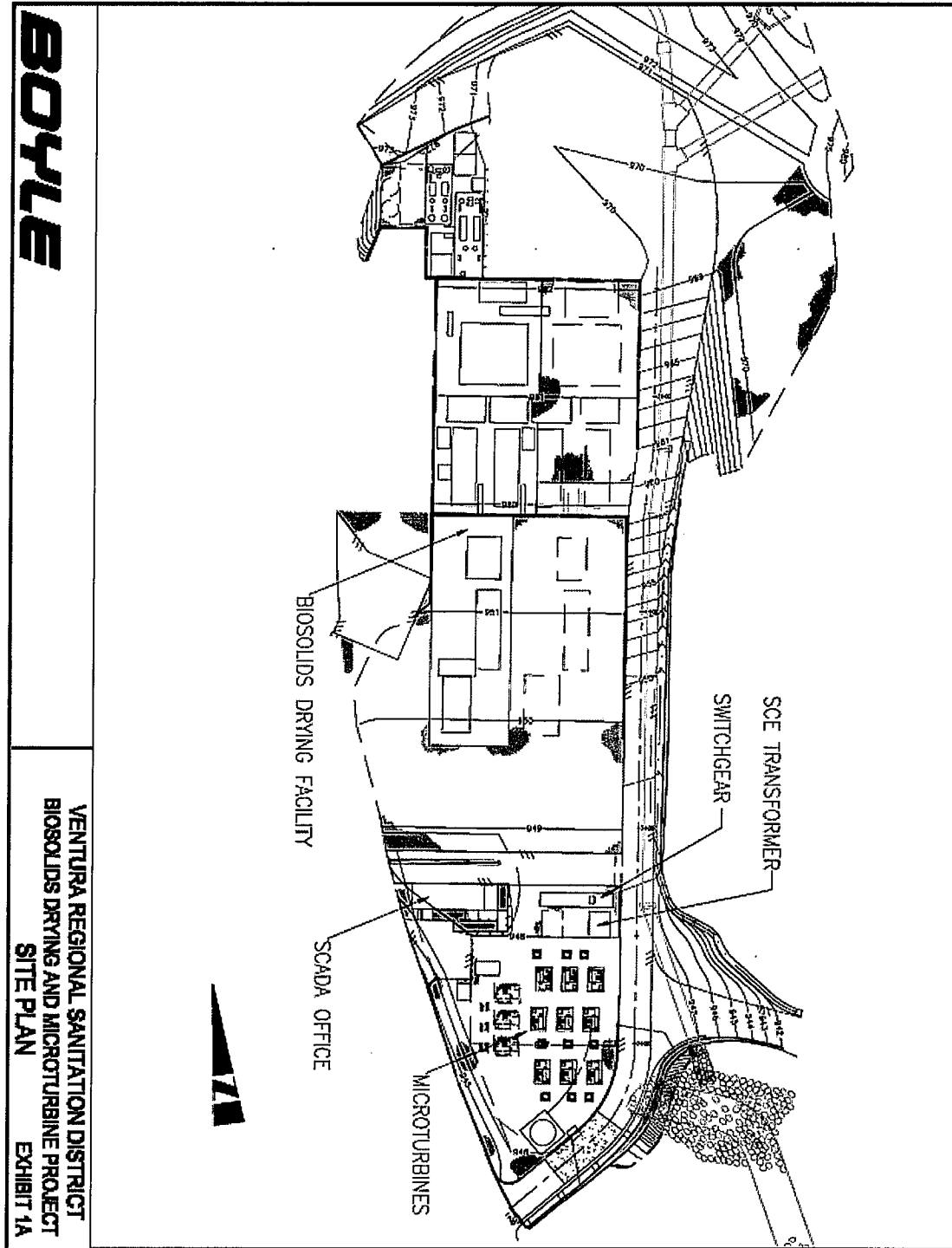
The protection systems and associated design which are being proposed for these generation interconnections have been developed in accordance with the intent of the SGIP interconnection requirements and SCE standards. It is believed that this design will result in a reliable generator interconnection meeting the needs of both SCE and the customer.

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Attachment 2

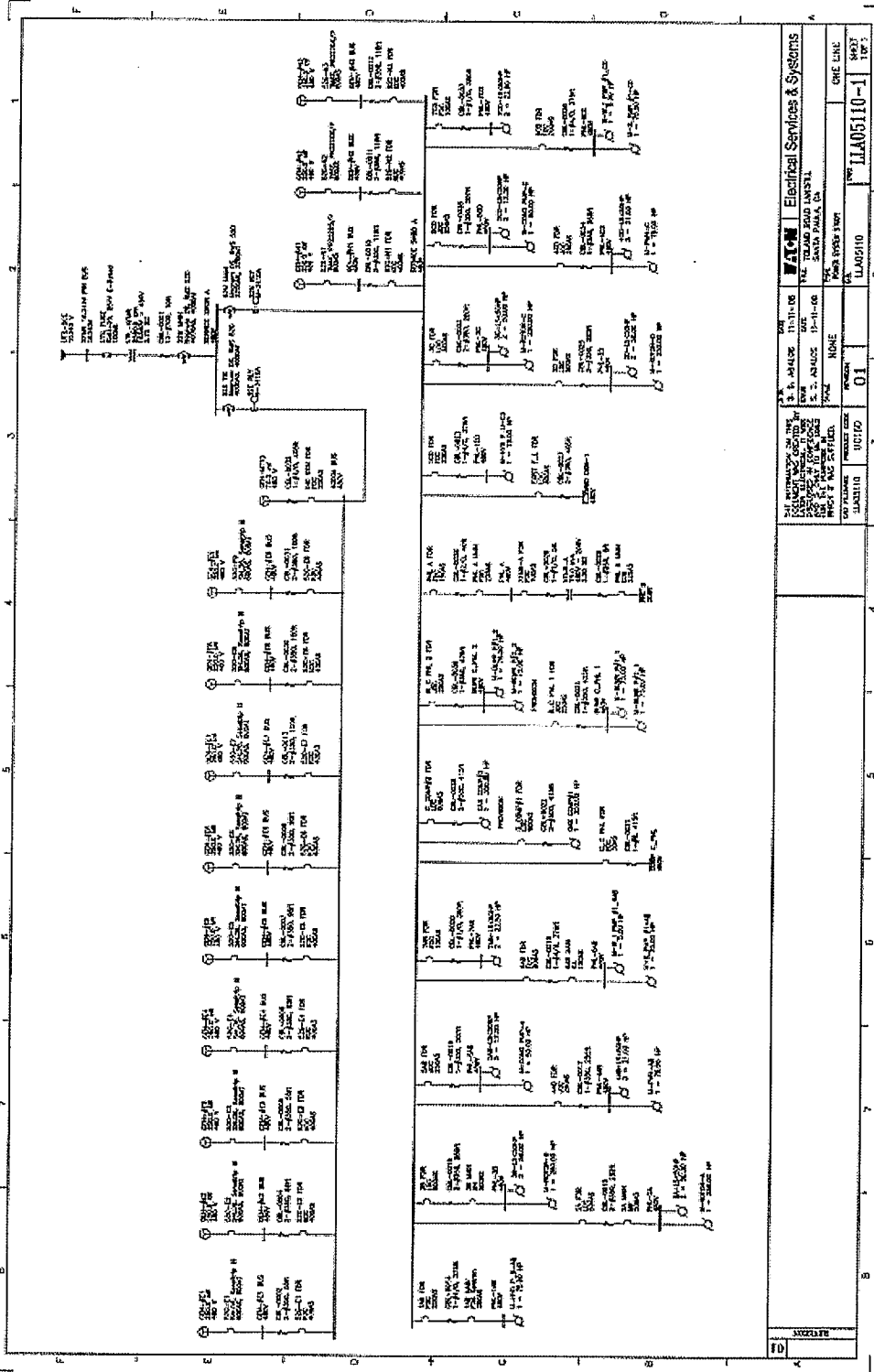


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Attachment 3

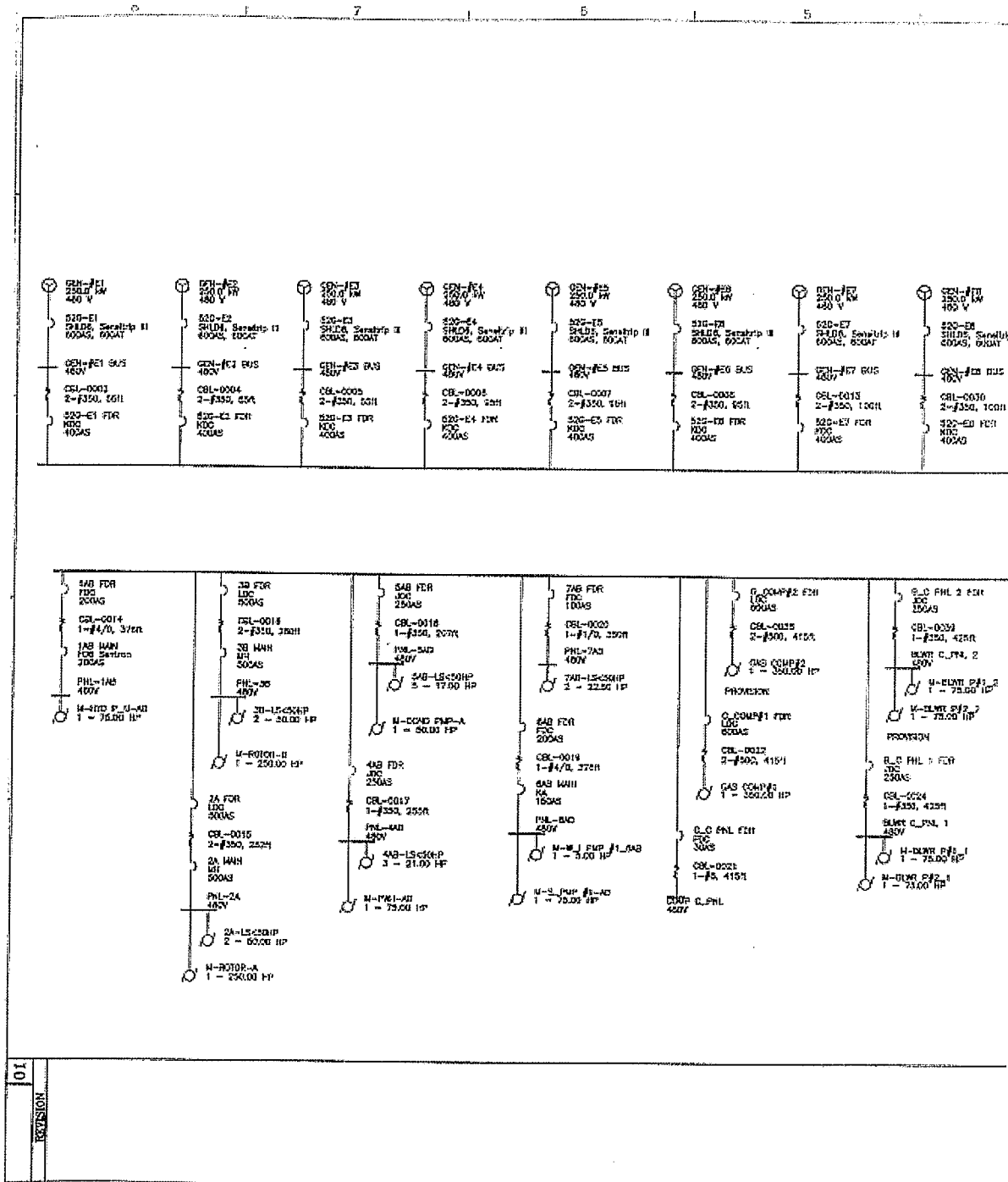


Note: Attached is larger version of this document provided in two - 8.5" x 11" halves.

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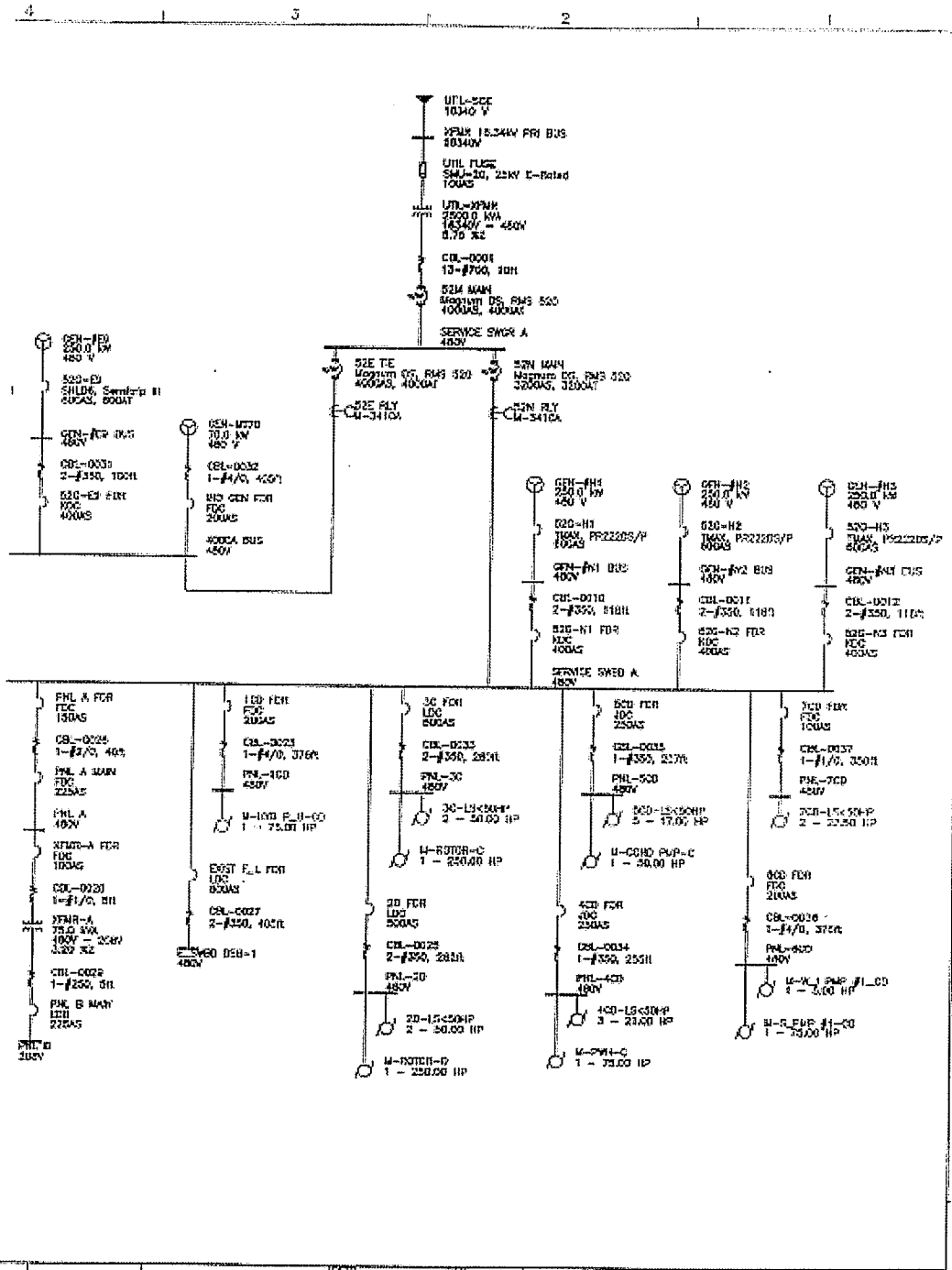
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		CDR S. O. ABALOS DATE 11-11-08	TITLE TOLAND ROAD LANDFILL SANTA PAULA, CA
		SCALE NONE	SITE POWER SYSTEM STUDY
		ONE LINE	
CDR FILENAME LLA05110	PRODUCT CODE U0160	REVISION 01	CDR LLA05110
		CDR LLA05110-1	SHEET 1 OF 1

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Attachment 4

Legal Description Parcel 9

The northeast quarter of Section 29, Township 4 North, Range 20 West, San Bernardino Meridian, in the County of Ventura, State of California, according to the official plat of the survey of said land on file in the Bureau of Land Management.

AND that certain parcel of land described as follows:

A portion of the south half of Section 29, Township 4 North, Range 20 West, San Bernardino Meridian, in the County of Ventura, State of California, according to the official plat thereof described as follows:

1. BEGINNING at the center of said Section 29;
2. Thence South $89^{\circ}39'50''$ West, 425 feet along the northerly line of said south half;
3. Thence South $27^{\circ}41'19''$ East, 112.59 feet to a line parallel to and 100 feet southerly of said northerly line;
4. Thence North $89^{\circ}39'50''$ East, 557.24 feet along said parallel line to a non-tangent curve concave easterly, having a radius of 370.00 feet and the westerly line of a 40-foot wide access easement as described in the document recorded in Book 3646, Page 210 of Official Records;
5. Thence along the westerly line of said access easement for the following two courses;
6. Northerly along said curve an arc distance of 61.78 feet, through a central angle of $9^{\circ}34'02''$;
7. Thence tangent to said curve North $10^{\circ}15'00''$ East, 39.27 feet to said northerly line of the south half of section 29;
8. Thence South $89^{\circ}39'50''$ West, 197.43 feet along said northerly line to the POINT OF BEGINNING.

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Legal Description Parcel 10

That portion of the South half of Section 29, Township 4 North, Range 20 West, San Bernardino Meridian, in the County of Ventura, State of California, according to the official plat thereof described as follows:

1. BEGINNING at the center of said Section 29;
2. Thence South $89^{\circ}39'50''$ West, 425.00 feet along the northerly line of the Southwest quarter of said Section;
3. Thence South $27^{\circ}41'19''$ East, 112.59 feet to the TRUE POINT OF BEGINNING;
4. Thence South $27^{\circ}41'19''$ East, 1174.66 feet;
5. Thence South $50^{\circ}24'38''$ East, 124.81 feet;
6. Thence South $10^{\circ}50'17''$ East, 540.00 feet;
7. Thence South $32^{\circ}16'24''$ West, 367.76 feet;
8. Thence South $4^{\circ}24'45''$ East, 206.55 feet to the centerline of that certain 40 feet wide access easement as described in Exhibit "B" in that certain lease agreement between William Dennis O'Leary and the County of Ventura as recorded as Document Number 16954 in Book 3646, page 210 of Official Records of said County;
9. Thence along the centerline of said access easement for the following two courses;
10. South $50^{\circ}15'00''$ West, 108.78 feet to a tangent curve concave Southeasterly, having a radius of 407.30 feet;
11. Thence Southerly along said curve an arc distance of 355.44 feet, through a central angle of $50^{\circ}00'00''$ to the Southerly line of said Section 29;
12. Thence North $89^{\circ}28'10''$ East, 30.00 feet to the Southwest corner of the Southeast quarter of said Section 29;
13. Thence North $89^{\circ}28'10''$ East, 662.63 feet along the Southerly line of said Section 29, to the Southeast corner of the West one-half of the Southwest quarter of the Southeast quarter of said Section 29;
14. Thence North $0^{\circ}09'00''$ East, 1323.73 feet along the easterly line of said West one-half, to the Northeast corner of said West one-half;
15. Thence North $89^{\circ}34'10''$ East, 660.90 feet along the Southerly line of the Northwest quarter of the Southeast quarter of said Section 29, to the Southeast corner of the Northwest quarter of the Southeast quarter of said Section 29;
16. Thence North $0^{\circ}04'25''$ East, 1323.22 feet along the easterly line of said northwest quarter to the Northerly line of said Southeast quarter of said Section 29;

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17. Thence South $89^{\circ}39'50''$ West, 1121.15 feet along said Northerly line, to the Westerly line of said 40-foot wide access easement recorded in Book 3646, page 210 of Official Records;
18. Thence along the westerly line of said access easement for the following two courses;
19. South $10^{\circ}15'00''$ West, 39.27 feet to a tangent curve concave Easterly, having a radius of 370.00 feet;
20. Thence Southerly along said curve an arc distance of 61.78 feet, through a central angle of $9^{\circ}34'02''$ to a non-tangent line which is parallel to and 100.00 feet Southerly from, measured at right angles, the Northerly line of the South one-half of said Section 29;
21. Thence South $89^{\circ}39'50''$ West, 557.24 feet along said line, to the TRUE POINT OF BEGINNING.

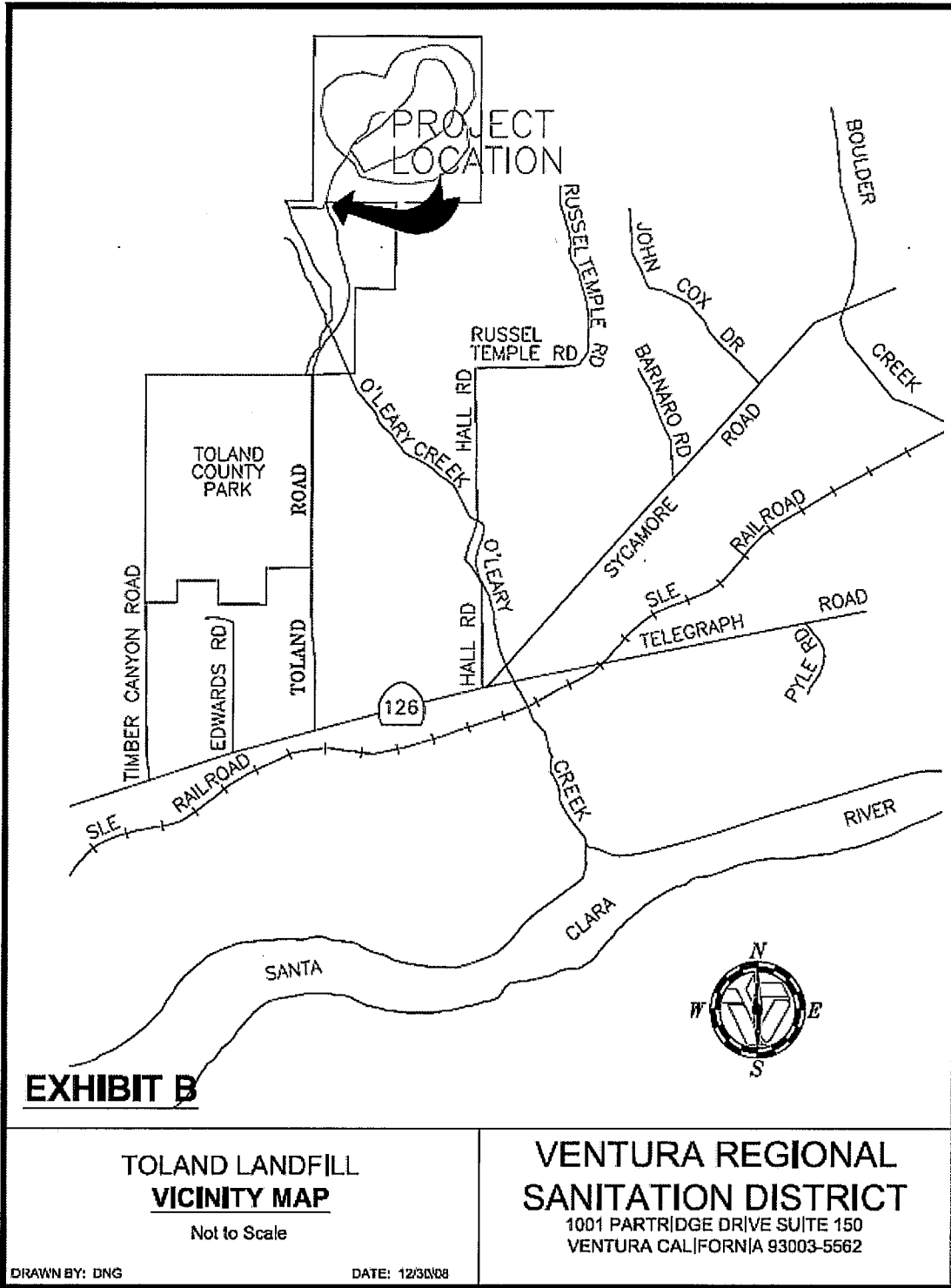
EXCEPTING THEREFROM a 67.4 percent ownership interest in the water which is produced by the water well which is drilled on said land.

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Attachment 5

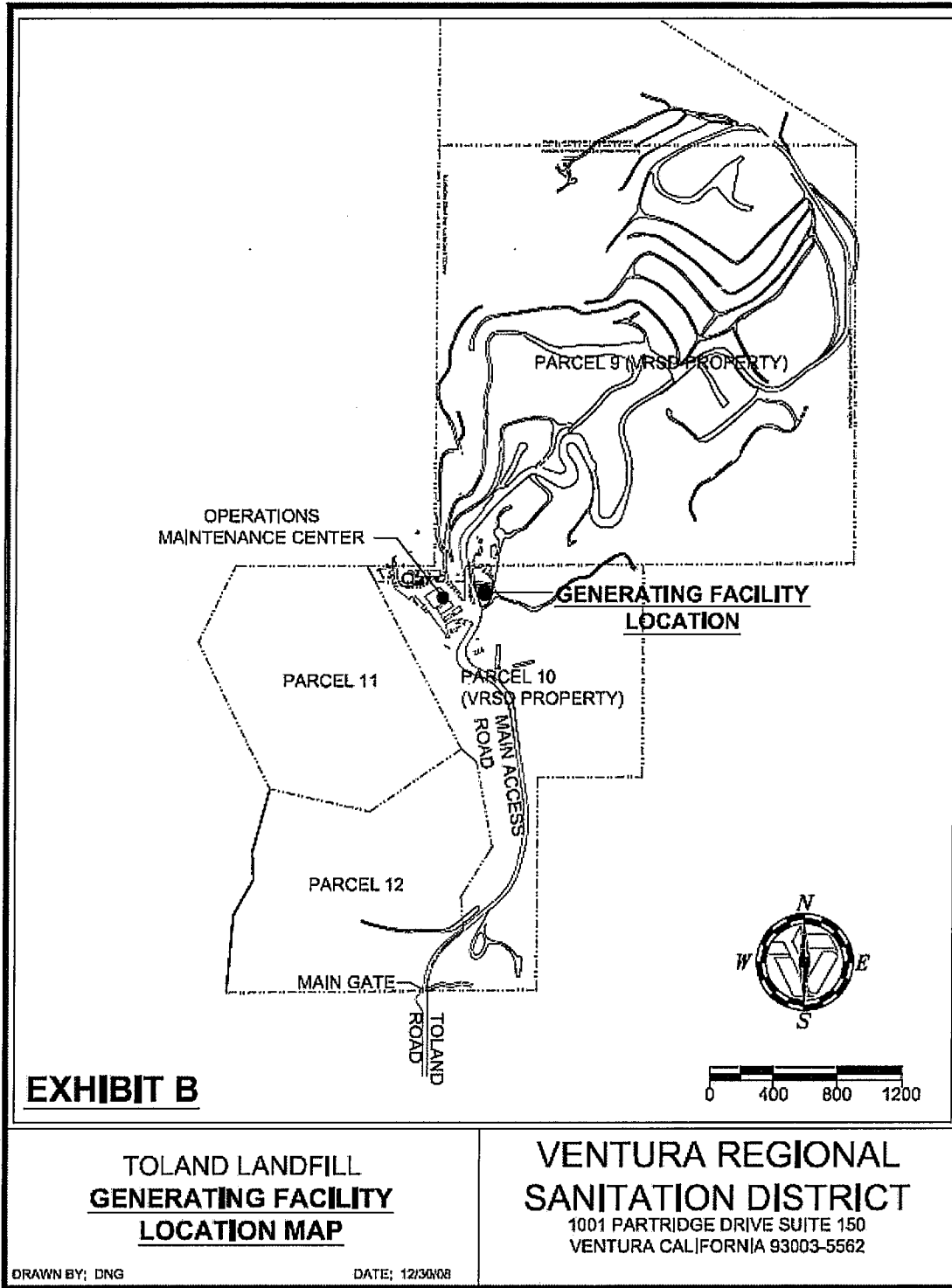


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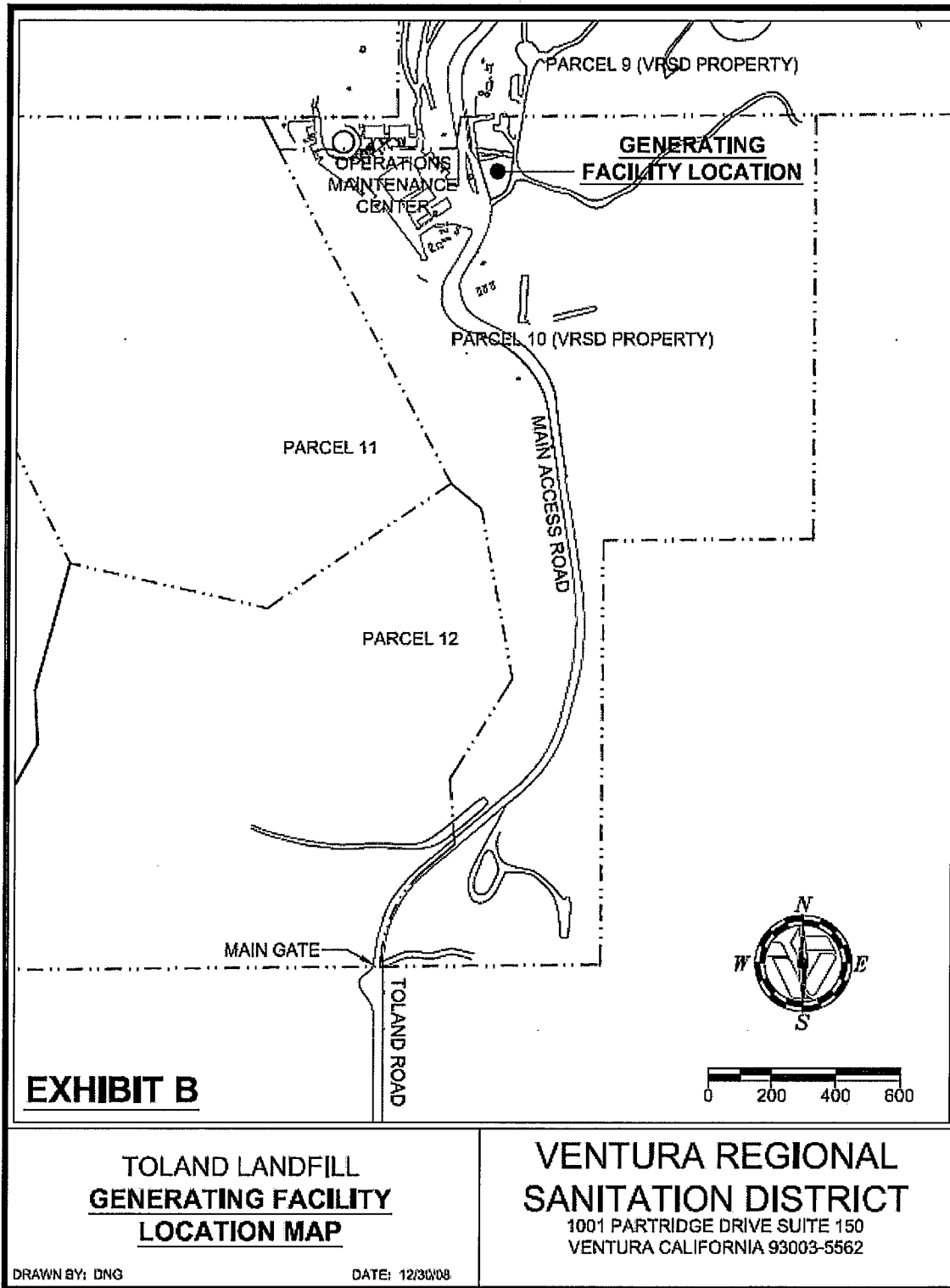
Attachment 6



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*** End of EXHIBIT B ***

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EXHIBIT C

Notice List

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EXHIBIT C

Notice List

VENTURA REGIONAL SANITATION DISTRICT ("Seller")	SOUTHERN CALIFORNIA EDISON COMPANY ("SCE")
All Notices are deemed provided in accordance with Section 10.08 if made to the address and facsimile numbers provided below:	Unless otherwise specified, all Notices are deemed provided in accordance with Section 10.08 if made to the Contract Sponsor at the address or facsimile number provided below:
Contract Sponsor: Attn: General Manager Ventura Regional Sanitation District Street: 1001 Partridge Drive, Suite 150 City: Ventura, CA 93003 Phone: 805-658-4600 Facsimile: 805-658-4660	Contract Sponsor: Attn: Vice President, Renewable and Alternative Power Street: 2244 Walnut Grove Avenue City: Rosemead, California 91770 Phone: (626) 302-1212 Facsimile: (626) 302-1103
Reference Numbers: Duns: 030382014 Federal Tax ID Number: 95-2679561	Reference Numbers: Duns: 006908818 Federal Tax ID Number: 95-1240335
Contract Administration: Attn: Finance – Contracts (Lori Peterson) Phone: 805-658-4619 Facsimile: 805-658-4660	Contract Administration: Attn: Drew Brabb Phone: (626) 302-2498 Facsimile: (626) 302-9622
Forecasting: Attn: Solid Waste Division Manager Phone: 805-658-4639 Facsimile: 805-933-1298	Generation Operations Center: Phone: (626) 307-4453 or Phone: (626) 307-4410

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VENTURA REGIONAL SANITATION DISTRICT ("Seller")	SOUTHERN CALIFORNIA EDISON COMPANY ("SCE")
<p>Day-Ahead Forecasting:</p> <p><u>Manager:</u> Solid Waste Division Manager – Greg Grant.</p> <p>Phone: 805-658-4639</p> <p><u>Scheduling:</u> Mark Potter Phone: 805-658-4677 Phone: 805-658-4639</p>	<p>Day-Ahead Scheduling:</p> <p><u>Manager.</u> Attn: Manager of Day-Ahead Operations Phone: (626) 302-1323 Facsimile: (626) 302-3409</p> <p><u>Scheduling Desk.</u> Phone: (626) 307-4425 Backup: (626) 307-4420 Fax: (626) 302-3409 Email: PreSched@SCE.com</p>
<p>Real-Time Forecasting:</p> <p><u>Manager:</u> Solid Waste Division Manager – Greg Grant.</p> <p>Phone: 805-658-4639</p> <p><u>Scheduling:</u> Mark Potter Phone: 805-658-4677 Phone: 805-658-4639</p>	<p>Real-Time Scheduling:</p> <p><u>Manager.</u> Attn: Manager of Real-Time Operations Phone: (626) 302-3308 Facsimile: (626) 302-3409</p> <p><u>Operations Desk.</u> Phone: (626) 307-4453 Back-up: (626) 307-4410 Fax: (626) 302-3409 Email: RealTime@SCE.com</p>
<p>Payment Statements:</p> <p>Attn: Finance Operations Manager Phone: 805-658-4621 Facsimile: 805-658-4660 Email: Linda Moyer@vrsd.com</p>	<p>Payment Statements:</p> <p>Attn: SCS Payments Phone: (626) 302- Facsimile: (626) 302-6524 Email: ContractSettlements@SCE.com</p>
<p>Payments:</p> <p>Attn: Finance Operations Manager Phone: 805-658-4621 Facsimile: 805-658-4660 Email: Linda Moyer@vrsd.com</p>	<p>Payments:</p> <p>Attn: SCS Payments Phone: (626) 302- Facsimile: (626) 302-6524 Email: ContractSettlements@SCE.com</p>

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RAP ID# 1221 Ventura Regional Sanitation District

VENTURA REGIONAL SANITATION DISTRICT ("Seller")	SOUTHERN CALIFORNIA EDISON COMPANY ("SCE")
Wire Transfer: BNK: City National Bank ABA: [REDACTED] ACCT: [REDACTED]	Wire Transfer: BNK: JP Morgan Chase Bank ABA: [REDACTED] ACCT: [REDACTED]
Credit and Collections: Attn: Finance Operations Manager Phone: 805-658-4621 Facsimile: 805-658-4660 Email: Linda Moyer@vrds.com	Manager of Credit and Collateral: Attn: Manager of Credit Phone: (626) 302-1129 Facsimile: (626) 302-2517
With additional Notices of an Event of Default or Potential Event of Default to: Attn: Director of Finance Phone: 805-658-4646 Facsimile: 805-658-4660 Email: VickieDragan@vrds.com	With additional Notices of an Event of Default or Potential Event of Default to: Attn: Manager SCE Law Department Power Procurement Section Phone: (626) 302-1212 Facsimile: (626) 302-1904
Guarantor: N/A Attn: Phone: Facsimile: Email:	
Lender: N/A Attn: Phone: Facsimile: Email:	
CAISO Charges and CAISO Sanctions: Attn: Finance Operations Manager Phone: 805-658-4621 Facsimile: 805-658-4660 Email: Linda Moyer@vrds.com	CAISO Charges, CAISO Sanctions and SCE Penalties: Attn: Phone: (626) 302- Facsimile: (626) 302- Email: ContractSettlements@SCE.com

*** End of EXHIBIT C ***

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RAP ID# 1221 Ventura Regional Sanitation District

EXHIBIT D

Forecasting and Scheduling Requirements and Procedures

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EXHIBIT D

Forecasting and Scheduling Requirements and Procedures

1. Introduction.

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

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

2. Seller's Forecasting Requirements.

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

- (a) No later than thirty (30) days prior to Initial Synchronization, Seller shall provide SCE with a 30-day, hourly Energy Forecast, in MWh, for the thirty day (30) period commencing on Initial Synchronization using the Web Client.

If, after submitting the Energy 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 Energy Forecast, Seller will provide an updated Energy 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 later than three (3) Business Days prior to the new Initial Synchronization date.

The Energy Forecast for any given hour becomes binding at 5:30 am PPT on the day prior to the day in which such hour occurs, unless the Energy Forecast is updated pursuant to Sections 2.(c) or 2.(d) below.

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

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- (b) The Energy Forecast, and any updated Energy Forecasts provided pursuant to this Section 2, shall:
 - (i) Not include any anticipated or expected electric energy losses between the CAISO Approved Meter and the Delivery Point; and
 - (ii) Limit hour-to-hour forecast changes to no less than one hundred (100) kWh during any period when the Web Client is unavailable. Seller shall have no restriction on hour-to-hour forecast changes when the Web Client is available.
 - (c) Commencing on or before 5:00 p.m. PPT of the Wednesday prior to the first week covered by the Energy 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 Energy Forecast for the thirty (30) day period commencing on the Sunday following the weekly Wednesday Energy 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 Energy Forecast update by telephoning SCE's Generation Operations Center, at the telephone number(s) listed in Exhibit C.
 - (d) If Seller learns of any change in the total generation capacity of the Generating Facility for a period covered by the most recent Energy Forecast update resulting from any cause, including an unplanned outage, prior to the time that the next weekly update of the Energy Forecast is due which results in variance in expected energy in any hour of plus (+) or minus (-) three percent (3%) from the energy reported in the most recent Energy Forecast update, Seller shall provide an updated Energy Forecast to SCE. This updated Energy Forecast must be submitted to SCE by no later than:
 - (i) 5:30 am PPT on the day prior to any day impacted by the change, if the change is known to Seller at that time;
 - (ii) Thirty (30) minutes before the commencement of any hour impacted by the change, if the change is known to Seller at that time; or
 - (iii) If the change is not known to Seller by the timeframes indicated in (i) or (ii) above, no later than twenty (20) minutes after the commencement of the event which caused the available capacity change.
- Seller's updated Energy Forecast must contain the following information:
- (iv) The beginning date and time of the event resulting in the availability change;

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- (v) The expected ending date and time of the event:
- (vi) The expected generation, in MW; and
- (vii) Any other information required by the CAISO as communicated to Seller by SCE.

3. SCE's Scheduling Responsibilities.

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

- (a) Adjustment of the Energy Forecasts, or the last Energy Forecast update submitted to SCE pursuant to Item 2, for forecasted electric energy line losses to reflect Seller's self-provision of those losses and the amount of electric energy Seller expects to deliver to the Delivery Point in any given hour;
- (b) Submission of the adjusted Energy Forecasts to the CAISO as SC Schedules; and
- (c) Receipt of notification of the Final Schedules from the CAISO.

4. Outage Scheduling Procedures.

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

*** End of EXHIBIT D ***

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RAP ID# 1221 Ventura Regional Sanitation District

EXHIBIT E

Seller's Milestone Schedule

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EXHIBIT E

Seller's Milestone Schedule

<i>No.</i>	<i>Date</i>	<i>Milestones</i>
1	Complete	Submits interconnection application.
2	Complete	Files any land applications.
3	Complete	Files Permit application(s).
4	2/10/09	Files a CEC Certification and Verification application.
5	Complete	Receives a completed System Impact Study.
6	Complete	Obtains control of all lands and rights-of-way comprising the Site.
7	Complete	Receives a completed interconnection Facility Study.
8	Complete	Executes a Transmission Owner Tariff and/or applicable service agreement.
9	11/30/09	Receives FERC acceptance of Interconnection Agreement and transmission agreement(s).
10	2/16/09	Receives all Permits.
11	4/30/09	Receives CEC Certification and Verification.
12	Complete	Executes an Engineering, Procurement and Construction ("EPC") contract.
13	Complete	Completes Financing.
14	Complete	Begins construction of the Generating Facility.
15	5/1/09	Begins startup activities.
16	12/31/09	Achieves Initial Operation.
17	6/30/10	Demonstrates the Contract Capacity.

*** End of EXHIBIT E ***

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EXHIBIT F

Milestone Progress Reporting Form

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EXHIBIT F

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 after 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.
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.

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13. A status report of start-up activities including a forecast of activities ongoing and after start-up, a report on Generating Facility performance including performance projections for the next twelve (12) months.
14. Pictures, in sufficient quantity and of appropriate detail, in order to document construction and startup progress of the Generating Facility, Transmission Provider's electric system and all other interconnection utility services.

**** End of EXHIBIT F ****

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EXHIBIT G

Intentionally Omitted

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EXHIBIT H

*Time of Delivery Periods
and
Energy Payment Allocation Factors*

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

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

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

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

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

*** End of EXHIBIT H ***

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EXHIBIT I

Seller's Estimate of Lost Output

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EXHIBIT I

Seller's Estimate of Lost Output

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

Seller shall (1) collect the measurement data and perform the engineering calculations specified below in one (1) or more Microsoft Excel Workbooks (the "Lost Output Workbook") provided in a form and naming convention approved by SCE and (2) electronically send the Lost Output Workbook to an address provided by SCE.

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

1. Log of Lost Output Events.

The Log shall be kept on a single Worksheet in the Lost Output Workbook. It shall identify the date, time, duration, cause and percentage by which the Generating Facility's output was curtailed for each Lost Output event.

2. Data Collection.

Seller shall record all hourly Qualified Amounts, during the Term, in the Lost Output Workbook on a single worksheet labeled "Qualified Amounts".

The worksheet shall be arranged with:

- (a) One (1) column for the date;
- (b) One (1) column for the time;
- (c) One (1) column for the weekday;
- (d) One (1) column for the recorded Qualified Amounts for each Term Year; and
- (e) One (1) row for each one (1) hour period during the Term Year.

Seller shall also identify, on a worksheet labeled "Curtailements" and organized in a manner similar to the Qualified Amounts worksheet described above, all hours when the Generating Facility's Metered Amounts were reduced due to any of the conditions or occurrences enumerated in the definition of Lost Output.

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3. Generating Facility Monthly Profiles.

Seller shall create a profile of the estimated Generating Facility's Qualified Amounts during an average week of each month during the Term (the "Monthly Profile").

Monthly Profiles shall include the seven (7) day period beginning at midnight on Sunday and ending at midnight on the following Saturday. They shall have a total of 168 average hourly Qualified Amount periods (i.e., 7 days times 24 hours per day equals 168 hourly periods).

Each Monthly Profile shall be created by averaging the Qualified Amounts during the same one (1) hour interval of each day of the week within the month of the current Term Year and up to the three preceding Term Years, if available.

All hours during which the Generating Facility's Metered Amounts were reduced due to any of the conditions or occurrences enumerated in the definition of Lost Output.

If a Monthly Profile is incomplete because of missing hourly averages or if more than one half (1/2) of the one (1) hour averages are calculated using less than three (3) hourly Qualified Amounts, the Monthly Profile for that month shall be based upon a comparable winter season or summer season month, as appropriate, agreed upon by the Parties for the Term Year in which the Lost Output amount is being calculated.

All Term Year Monthly Profiles, for the same calendar month, shall be calculated on a worksheet dedicated to that month.

Worksheets shall be labeled "Jan Profile," "Feb Profile," etc. Each of the twelve (12) profile worksheets shall have one (1) column for the weekday, one (1) column for the time, one (1) column for each Term Year Monthly Profile and one (1) row for each of the one hundred sixty eight (168) hourly periods.

Seller shall also create twelve (12) line charts, one for each calendar month, on dedicated worksheets formatted with the charts sized to fit on the worksheet. Each chart shall include one data series for each Term Year. Chart sheets shall be labeled "Jan Chart," "Feb Chart," etc.

4. Seller's Estimate of Lost Output.

Lost Output shall be estimated by Seller for all Term Years on one worksheet labeled "LO Years".

The worksheet shall include:

- (f) One (1) column for the date;

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- (g) One (1) column for the time;
- (h) One (1) column for the weekday;
- (i) One (1) column for Seller's Lost Output estimate for each Term Year; and
- (j) One (1) row for each one (1) hour period during the Term Year.

Seller's estimate of Lost Output, for any hour during which the Generating Facility was not offline due to any of the conditions or occurrences enumerated in the definition of Lost Output shall be equal to the Qualified Amount average included in the Monthly Profile for the same hour, of the same weekday, of the month in the same Term Year in which the Lost Output event occurred less any Qualified Amounts during the hour.

Seller shall summarize its Lost Output calculation results on a one (1) worksheet that has one (1) column for the month, one (1) column for each Term Year and one (1) row for each calendar month. Seller's claim for Lost Output, at the end of any Term Year, shall be equal to the sum of the monthly Lost Output amounts, for the appropriate Term Year column, on this summary worksheet. This worksheet shall be labeled "LO Summary."

SCE reserves the right to recalculate any Lost Output estimated by Seller.

*** End of EXHIBIT I ***

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EXHIBIT J

SCE Penalties and CAISO Sanctions

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EXHIBIT J

SCE Penalties and CAISO Sanctions

This Exhibit J sets forth the procedures for determining Seller's liability for an SCE Penalty or CAISO Sanction in the event Seller fails to comply with the forecasting requirements set forth in Exhibit D.

1. Performance Tolerance Band.

Seller shall be responsible for SCE Penalties for all Settlement Intervals where Energy Deviations exceed a tolerance band, as described below (the "Performance Tolerance Band").

The Performance Tolerance Band shall equal the quantity in any Settlement Interval, in kWh, that is product of:

- (a) Three percent (3%) times
- (b) Contract Capacity divided by
- (c) The number of Settlement Intervals in the hour.

2. SCE Penalty.

- (a) Subject to Section 2(b) and 2(c) below, the SCE penalty amount shall be fifty dollars per MWh (\$50/MWh) for each MWh of Energy Deviation or any portion thereof, in every hour for which the conditions in Section 1 have been met (the "SCE Penalty").
- (b) Once in each month, 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 in Section 1 above.
- (c) The SCE Penalty will be assessed during any hour thereafter in that calendar month in which Seller fails to meet the requirements in Section 1 above.

3. CAISO Sanctions.

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

4. Billing and Documentation of CAISO Sanctions.

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- (a) The CAISO 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 CAISO 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 CAISO Sanctions, including any relevant updated or adjusted information as it becomes available to SCE.

**** End of EXHIBIT J****

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EXHIBIT K

Energy Replacement Damage Amount

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EXHIBIT K

Energy Replacement Damage Amount

In accordance with the provisions of Section 3.05, if in any Term Year Seller fails to meet Seller's Annual Energy Delivery Obligation, then Seller shall be subject to an Energy Replacement Damage Amount penalty calculated as follows:

ENERGY REPLACEMENT DAMAGE AMOUNT =

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

Where:

A = Seller's Annual Energy Delivery Obligation in kWh.

B = Sum of Qualified Amounts over the Term Year in kWh.

C = Sum of Lost Output over the Term Year in kWh.

D = Two Cents (\$0.02) per kWh.

*** End of EXHIBIT K ***

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