

POWER PURCHASE AND SALE AGREEMENT

between

SAN DIEGO GAS & ELECTRIC COMPANY

(as “Buyer”)

and

CALPINE ENERGY SERVICES, L.P.

(as “Seller”)

Geothermal Renewable Product – 25 MW

POWER PURCHASE AND SALE AGREEMENT

COVER SHEET

This Power Purchase and Sale Agreement is made as of the Execution Date set forth on the signature page hereof. The General Terms and Conditions attached hereto, along with this Cover Sheet, appendices, exhibits, schedules and any written supplements hereto between the Parties shall be referred to collectively as the "Agreement." Seller and Buyer listed below are each individually considered a "Party" and collectively are considered the "Parties" to the Agreement.

Name: Calpine Energy Services, L.P. ("Seller" or "Calpine")
All Notices:

Delivery Address:
717 Texas Avenue, Suite 1000
Houston, TX 77002

with copy to:

Geysers Power Company, LLC
10350 Socrates Mine Road
Middletown, CA 95461
Attention: Geothermal Sr. Vice-President

with copy to:

Delivery and Mail Address:
Western Region Office
Calpine Corporation
4160 Dublin Boulevard, Suite 100
Dublin, CA 94588
Facsimile: (925) 479-7303
Attention: Origination

Attn: Contract Administration
Phone: (713) 830-8845
Facsimile: (713) 830-8751

Duns: 16-966-8212

Name: San Diego Gas & Electric Company
("Buyer" or "SDG&E")
All Notices:

Delivery Address:
8315 Century Park Court; CP21D
San Diego, CA 92123-1548
Attn: Electric and Fuel Procurement
Contract Administration
Phone: (858) 650-6189
Facsimile: (858) 650-6190

Duns: 006911457

Invoices:

Attn: Power Accounting:

Phone: (713) 830-2000

Facsimile: (713) 830-8749

Scheduling:

Attn: Scheduling

Phone: (713) 830-8612

Facsimile: (713) 830-8722

Payments:

Attn: Power Accounting

Phone: (713) 830-2000

Facsimile: (713) 830-8749

Wire Transfer:

BNK: Deutsche Bank

ABA: 021001033

ACCT: 00449262

Credit and Collections:

Attn: Corporate Credit Manager

Phone: (713) 830-8877

Facsimile: (713) 570-4764

Invoices:

San Diego Gas & Electric Company
8315 Century Park Court; CP21D
San Diego, CA 92123-1548

Attn: Energy Accounting Manager

Phone: (858) 650-6177

Facsimile: (858) 650-6190

E-mail: jfinley@semprautilities.com

Scheduling:

San Diego Gas & Electric Company
8315 Century Park Court; CP21D
San Diego, CA 92123-1548

Attn: Transaction Scheduling Manager

Phone: (858) 650-6160

Facsimile: (858) 650-6190

E-mail (day-ahead scheduling):

presched@semprautilities.com

E-mail (real-time scheduling):

tsched1@semprautilities.com

Payments:

San Diego Gas & Electric Company
PO Box 25110

Santa Ana, CA 92799-5110

Attn: Mail Payments

Phone: (619) 696-4521

Facsimile: (619) 696-4899

Wire Transfer:

BNK: Union Bank of California

for: San Diego Gas & Electric Company

ABA: Routing #122000496

Acct: #4430000352

Confirmation: SDG&E , Major Markets

Fax: (213) 244-8316

Credit and Collections:

San Diego Gas & Electric Company

555 W Fifth Street; ML 10E3

Los Angeles, CA 90013-1011

Attn: Major Markets –

Credit & Collections Manager

Phone: (213) 244-4343

Facsimile: (213) 244-8316

With additional Notices of an Event of Default
to Contract Manager:

Attn: Risk Management Counsel

Phone: (713) 830-8835

Facsimile: (713) 830-8751

with copy to:

Attn: General Counsel

Phone: (713) 830-2000

Facsimile: (713) 830-2001

With additional Notices of an Event of Default to:

Sempra Energy

101 Ash Street

San Diego, CA 92101

Attn: Assistant General Counsel, Commercial Law

Facsimile: (619) 696-4377

Agreement Execution

IN WITNESS WHEREOF, each Party has caused this Agreement to be duly executed by
its authorized representative as of the date of the last signature provided below ("Execution Date"):

CALPINE ENERGY SERVICES L.P.

By: 

Name: Thad Hill

Title: President

QA

Date: February 26, 2010

SAN DIEGO GAS & ELECTRIC COMPANY

By: _____

Name: James Avery

Title: Senior Vice President – Power Supply

Date: _____

With additional Notices of an Event of Default
to Contract Manager:

Attn: Risk Management Counsel

Phone: (713) 830-8835

Facsimile: (713) 830-8751

with copy to:

Attn: General Counsel

Phone: (713) 830-2000

Facsimile: (713) 830-2001

With additional Notices of an Event of Default to:

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CALPINE ENERGY SERVICES, L.P.

SAN DIEGO GAS & ELECTRIC COMPANY

By: _____

Name: Thad Hill

Title: President

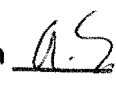
Date:

By: 

Name: James Avery

Title: Senior Vice President -- Power Supply

Date: 2.26.10

APPROVED as to legal form 

POWER PURCHASE AND SALE AGREEMENT
GENERAL TERMS AND CONDITIONS

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Exhibit 3.4(a) – Examples of Application of Section 3.4(a)

Exhibit 6.1 – Sample Seller's Invoice

ARTICLE ONE DEFINITIONS

- 1.1. “AAA” has the meaning set forth in Section 12.2(d).
- 1.2. “Accrued GA Adjustment Amount” has the meaning set forth in Section 3.1(a)(ii).
- 1.3. “Affiliate” means, with respect to any person, any other person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. 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.
- 1.4. “Agreement” has the meaning set forth in the Cover Sheet.
- 1.5. “Bankrupt” means with respect to any entity, such entity that (a) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it, (b) makes an assignment or any general arrangement for the benefit of creditors, (c) otherwise becomes bankrupt or insolvent (however evidenced), (d) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (e) is generally unable to pay its debts as they fall due.
- 1.6. “Business Day” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday and shall be between the hours of 8:00 a.m. and 5:00 p.m. local time for the relevant Party’s principal place of business where the relevant Party, in each instance unless otherwise specified, shall be the Party from whom the notice, payment or delivery is being sent and by whom the notice or payment or delivery is to be received.
- 1.7. “CAISO” means the California Independent System Operator Corporation or any successor entity performing similar functions.
- 1.8. “CAISO Control Area” has the meaning specified in the CAISO Tariff.
- 1.9. “CAISO Grid” means the system of transmission lines and associated facilities of the Participating Transmission Owner that have been placed under the CAISO’s operational control.
- 1.10. “CAISO Tariff” means the CAISO Operating Agreement and Tariff, including the rules, protocols, procedures and standards attached thereto, as it may be amended, modified, supplemented or replaced (in whole or in part) from time to time.
- 1.11. “California Renewables Portfolio Standard” means the Renewables Portfolio Standard of California under California Senate Bills 1078 and 107, as codified in California Public Utilities Code Sections 387, 390.1, and 399.25 and Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1, as such provisions are amended or supplemented from time to time.

1.12. "CEC" means the California Energy Commission or its successor agency.

1.13. "Claims" means all third party claims or actions, threatened or filed and, whether groundless, false, fraudulent or otherwise, that directly or indirectly relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, attorneys' fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement.

1.14. "Condition" has the meaning set forth in Section 11.1.

1.15. "Contract Energy Quantity" means 25 MW.

1.16. "Contract Price" means for the Interim Period: \$64.00/MWh, and for all periods after the Energy Delivery Date: \$114.00/MWh.

1.17. "Contract Year" means a period of twelve (12) consecutive months from January 1 through December 31, except that the first Contract Year shall commence on the Execution Date.

1.18. "Costs" means, with respect to the Non-Defaulting Party, (a) brokerage fees, commissions and other similar third party transaction costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace the Agreement; and (b) all reasonable attorneys' fees and expenses incurred by the Non-Defaulting Party in connection with the termination of the Agreement.

1.19. "Cover Sheet" means the Cover Sheet that precedes this Article One: Definitions to this Agreement.

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

1.21. "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.

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

1.22. “CPUC RA Decisions” means collectively CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-031 or subsequent decisions related to resource adequacy, as may be amended or issued from time to time by the CPUC.

1.23. “Credit Rating” means, with respect to any entity, the rating then assigned by S&P or Moody’s to such entity’s unsecured, senior long-term debt obligations (not supported by third party credit enhancements), or, if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuer rating by S&P or Moody’s.

1.24. “Day-Ahead Allocation Forecast” has the meaning set forth in Section 3.3(a).

1.25. “Day-Ahead Index Energy Price” means for any given hour, the then-applicable NP15 EZ Gen Hub day-ahead Locational Marginal Price (in \$/MWh and including congestion, energy and losses components) as posted and updated by the CAISO.

1.26. “Defaulting Party” means the Party that is subject to an Event of Default.

1.27. “Delivered GA Energy” or “DGAE” means Energy generated and metered from Eligible Units with associated Green Attributes that meets the warranty contained in Section 10.1(j) (subject to the change in law provision contained therein) and is scheduled, delivered and sold to CAISO pursuant to Section 3.3 and allocated to Buyer pursuant to Sections 3.5(c) and 6.1.

1.28. “Delivery Point” means collectively the interconnection points of the Eligible Units with the CAISO Grid, or such successor nodal delivery point(s) that most closely resemble(s) those interconnection points.

1.29. “Delivery Term” has the meaning set forth in Section 3.2.

1.30. “Designated RA Capacity” means, for each Designated RA Facility, the RA Capacity that Seller provides to Buyer pursuant to this Agreement to the extent such capacity is certified for inclusion in Buyer’s RAR Showings and, if applicable, LAR Showings in each case as determined or approved by the CPUC pursuant to the CPUC RA Decisions (and/or by the CAISO).

1.31. “Designated RA Facilities” has the meaning set forth in Section 3.6(b).

1.32. “Disclosing Party” has the meaning set forth in Section 10.6.

1.33. “Disclosure Order” has the meaning set forth in Section 10.6.

1.34. “Dispatch Down” means any of the following which prevents Seller from delivering Energy to the Delivery Point from the Eligible Unit designated for Buyer’s purchase: (a) curtailments ordered from the CAISO for any reason or (b) PTO-ordered curtailments as a result of a warning of a System Emergency (as defined in the CAISO Tariff) or warning of an imminent condition or situation which could jeopardize the PTO’s electric system integrity or other integrity of other systems to which the PTO is connected or (c) scheduled or unscheduled maintenance on the PTO’s transmission facilities.

1.35. “DUNS” means the Data Universal Numbering System, which is a unique nine character identification number provided by Dun and Bradstreet.

1.36. “Early Termination Date” has the meaning set forth in Section 5.2.

1.37. “Effective Date” has the meaning set forth in Section 11.1.

1.38. “Eligible Renewable Energy Resource” or “ERR” has the meaning set forth in Public Utilities Code Sections 399.12 or 399.16, as may be amended.

1.39. “Eligible Unit” means any of the following units located at the Geysers Known Geothermal Resource Area: Geysers 1 (WREGIS ID – “Geysers Power Plant – Aidlin Power Plant”), Geysers 2 (WREGIS ID – “Geysers Power Plant – Bear Canyon Power Plant”), Geysers 3 (WREGIS ID – “Geysers Power Plant – Sonoma/Calpine Geysers”), Geysers 4 (WREGIS ID – “Geysers Power Plant – West Ford Flat Power Plant”), Geysers 5 and 6 (WREGIS ID – “Geysers Power Plant – Calpine Geothermal Unit 5/6”), Geysers 7 and 8 (WREGIS ID – “Geysers Power Plant – Calpine Geothermal Unit 7-8”), Geysers 11 (WREGIS ID – “Geysers Power Plant – Calpine Geothermal Unit 11”), Geysers 12 (WREGIS ID – “Geysers Power Plant – Calpine Geothermal Unit 12”), Geysers 13 (WREGIS ID – “Geysers Power Plant – Calpine Geothermal Unit 13”), Geysers 14 (WREGIS ID – “Geysers Power Plant – Calpine Geothermal Unit 14”), Geysers 16 (WREGIS ID – “Geysers Power Plant – Calpine Geothermal Unit 16”), Geysers 17 (WREGIS ID – “Geysers Power Plant – Calpine Geothermal Unit 17”), Geysers 18 (WREGIS ID – “Geysers Power Plant – Calpine Geothermal Unit 18”), Geysers 19 (WREGIS ID – “Geysers Power Plant – Calistoga Power Plant”), Geysers 20 (WREGIS ID – “Geysers Power Plant – Calpine Geothermal Unit 20”), and any geothermal unit developed, constructed or acquired by Seller located at the Geysers Known Geothermal Resource Area.

1.40. “Energy” means electric energy measured in MWh.

1.41. “Energy Delivery Date” has the meaning set forth in Section 3.1(b).

1.42. “Equitable Defenses” means any bankruptcy, insolvency, reorganization or other laws affecting creditors’ rights generally and, with regard to equitable remedies, the discretion of the court before which proceedings may be pending to obtain same.

1.43. “Event of Default” has the meaning set forth in Section 5.1.

1.44. “Excused GA Energy” or “EGAE” has the meaning described in Section 3.4(a).

1.45. “Execution Date” has the meaning set forth on the Cover Sheet.

1.46. “FERC” means the Federal Energy Regulatory Commission or any successor government agency.

1.47. “Final Allocation Forecast” or “FAF” is the Day-Ahead Allocation Forecast as modified by Real-Time Forecast Changes. If no Real-Time Forecast Changes are submitted then the Day-Ahead Allocation Forecast shall be the FAF.

1.48. “Final Allocation Forecast Shortfall” has the meaning set forth in Section 3.4(a).

1.49. "Force Majeure" means any event or circumstance which wholly or partly prevents or delays the performance of any material obligation arising under this Agreement, but only if and to the extent (i) such event is not within the reasonable control, directly or indirectly, of the Party seeking to have its performance obligation(s) excused thereby, (ii) the Party seeking to have its performance obligation(s) excused thereby has taken all reasonable precautions and measures in order to prevent, overcome, or avoid such event or mitigate the effect of such event on such Party's ability to perform its obligations under this Agreement and which by the exercise of due diligence such Party could not reasonably have been expected to avoid and which by the exercise of due diligence it has been unable to overcome, and (iii) such event is not the direct or indirect result of the fault of, or negligence of, or caused by, the Party seeking to have its performance obligations excused thereby. Subject to the foregoing, events that could qualify as Force Majeure include, but are not limited to the following:

(a) unusual flooding, lightning, landslide, earthquake, fire, drought, explosion, epidemic, quarantine, storm, hurricane, tornado, other natural disaster or unusual or extreme adverse weather-related events;

(b) war (declared or undeclared), riot or similar civil disturbance, acts of the public enemy (including acts of terrorism), sabotage, blockage, insurrection, revolution, expropriation or confiscation; or

(c) except as set forth in subpart (vii) below, strikes, work stoppage or other labor disputes (in which case the affected Party shall have no obligation to settle the strike or labor dispute on terms it deems unreasonable).

(d) Force Majeure shall not be based on:

(i) Buyer's inability economically to use or resell the Product, or any element thereof, purchased hereunder;

(ii) Seller's ability to sell the Product at a price greater than the price set forth in this Agreement;

(iii) Seller's inability to obtain approvals from a Governmental Body for the construction, operation, or maintenance of the Geysers Project (except for new approvals or renewals of approvals from a Governmental Body related to or in connection with induced seismicity);

(iv) Seller's inability to obtain sufficient fuel, power or materials to operate the Geysers Project, except if Seller's inability to obtain sufficient fuel, power or materials is caused solely by an event of Force Majeure of the specific type described in any of subsections (a) through (c) above;

(v) Seller's failure to obtain additional funds, including funds authorized by a state or the federal government or agencies thereof, to supplement the payments made by Buyer pursuant to this Agreement;

(vi) a Forced Outage except where such Forced Outage is caused by an event of Force Majeure of the specific type described in any of subsections (a) through (c) above;

(vii) a strike, work stoppage or labor dispute limited only to any one or more of Seller, Seller's Affiliates, the EPC Contractor or subcontractors thereof or any other third party employed by Seller to work on the Geysers Project to the extent in excess of thirty (30) days; or

(viii) any equipment failure except if such equipment failure is caused solely by an event of Force Majeure of the specific type described in any of subsections (a) through (c) above.

1.50. "Forced Outage" means any unplanned reduction or suspension of the electrical output from the Eligible Unit or unavailability of the Eligible Unit in whole or in part, in response to a mechanical, electrical, or hydraulic control system trip or operator-initiated trip in response to an alarm or equipment malfunction and any other unavailability of a Unit for operation, in whole or in part, for maintenance or repair.

1.51. "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 the Agreement pursuant to Section 5.2 for the remaining Delivery Term, determined in a commercially reasonable manner, subject to Section 5.2 hereof. Factors used in determining economic benefit may include, without limitation, reference to information either available to it internally or supplied by one or more third parties, including, without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, market price referent, market prices for a comparable transaction, forward price curves based on economic analysis of the relevant markets, settlement prices for a comparable transaction at liquid trading hubs (e.g., NYMEX), all of which should be calculated for the remaining Delivery Term and include the value of Green Attributes, UCTs, and RA Capacity.

1.52. "GA Shortfall Quantity" has the meaning set forth in Section 3.4(a).

1.53. "Geysers Catastrophic Event" has the meaning set forth in Section 11.4(a).

1.54. "Geysers Project" means all of the Eligible Units and the other assets, tangible and intangible, associated therewith.

1.55. "Good Utility Practice" has the meaning provided in the CAISO Tariff.

1.56. "Governmental Body" means any federal, state, local, municipal or other government; 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; and any court or governmental tribunal.

1.57. "Governmental Charges" has the meaning set forth in Section 9.2.

1.58. “Green Attributes” or “GA” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Project, and its avoided emission of pollutants. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by Law, to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere;¹ (3) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Tag Reporting Rights are the right of a Green Tag Purchaser to report the ownership of accumulated Green Tags in compliance with federal or state Law, if applicable, and to a federal or state agency or any other party at the Green Tag Purchaser’s discretion, and include without limitation those Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local Law, regulation or bill, and international or foreign emissions trading program. Green Tags are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of Energy. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Project, (ii) production tax credits associated with the construction or operation of the Project and other financial incentives in the form of credits, reductions, or allowances associated with the Project that are applicable to a state or federal income taxation obligation, (iii) fuel-related subsidies or “tipping fees” that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered or used by the Project for compliance with local, state, or federal operating and/or air quality permits. If the Project is a biomass or biogas facility and Seller receives any tradable Green Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel 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.

1.59. “IFM Load Uplift Obligation” shall have the meaning set forth in the CAISO Tariff.

1.60. “Interconnection Facilities” means the facilities, which include all apparatus installed and means required pursuant to the PTO’s transmission department’s facility connection requirements, to which Seller shall be able to interconnect and deliver Energy from an Eligible Unit to the CAISO, including, but not limited to, connection, transformation, switching, metering, communications, control, and safety equipment, such as equipment required pursuant to Good Utility Practices and in accordance with any agreements entered into by Seller necessary for interconnection to the PTO’s transmission system and the CAISO Grid.

1.61. “Interest Rate” means the rate per annum equal to the “Financial” Commercial Paper rate (1-month) as reported the prior month in the Federal Reserve Bank Statistical Release, or its successor publication.

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.

1.62. “Interim Period” has the meaning set forth in Section 3.1(a).

1.63. “Interim Period Product” has the meaning set forth in Section 3.1(a)(i).

1.64. “Interim Product Delivery Date” has the meaning set forth in Section 3.1(a).

1.65. “Inter-SC Trades of IFM Load Uplift Obligation” or “UCT” has the meaning specified in the CAISO Tariff.

1.66. “LAR” means local area reliability, which is any program of localized resource adequacy requirements established for jurisdictional LSEs by the CPUC pursuant to the CPUC RA Decisions having jurisdiction over the LSE. LAR may also be known as local resource adequacy, local RA, or local capacity requirement in other regulatory proceedings or legislative actions.

1.67. “LAR Attributes” means, with respect to a Designated Eligible Unit, and except as otherwise specifically limited by this Agreement, any and all resource adequacy attributes (or other locational attributes related to system reliability), as may be identified from time to time by the CAISO or CPUC, or other Governmental Body having jurisdiction, associated with the physical location or point of electrical interconnection of the Designated Eligible Unit within the CAISO Control Area, that can be counted toward LAR, but exclusive of any RAR Attributes which are not associated with the CAISO Control Area where in the Designated Eligible Unit is physically located or electrically interconnected. For clarity, it should be understood that the LAR Attributes associated with a Designated Eligible Unit by virtue of its location or point of electrical interconnection may change as the CAISO, or a Governmental Body, defines new or re-defines existing LAR regions, provided that such change will not result in a change in payments made pursuant to this Agreement.

1.68. “LAR Showings” means the LAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and/or, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC RA Decisions, having jurisdiction over the LSE.

1.69. “Law” means any statute, law, treaty, rule, regulation, ordinance, code, permit, enactment, injunction, order, writ, decision, authorization, judgment, decree or other legal or regulatory determination or restriction by a court or Governmental Body of competent jurisdiction, including any of the foregoing that are enacted, amended, or issued after the Execution Date, and which become effective during the Delivery Term; or any binding interpretation of the foregoing.

1.70. “Letter(s) of Credit” means one or more irrevocable, non-transferable standby letters of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a Credit Rating of at least A from S&P or A2 from Moody’s, substantially in the form as contained in Appendix I to this Agreement.

1.71. “LSE” means load-serving entity. LSEs may be an investor-owned utility, an electric service provider, a community aggregator or community choice aggregator, or a municipality serving load in the CAISO Control Area (excluding exports).

1.72. “Locational Marginal Price” or “LMP” has the meaning specified in the CAISO Tariff.

1.73. “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 the termination of the Agreement for the remaining Delivery Term, determined in a commercially reasonable manner, subject to Section 5.2 hereof. Factors used in determining the loss of economic benefit may include, without limitation, reference to information either available to it internally or supplied by one or more third parties including, without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, market price referent, market prices for a comparable transaction, forward price curves based on economic analysis of the relevant markets, settlement prices for a comparable transaction at liquid trading hubs (e.g. NYMEX), all of which should be calculated for the remaining term of the Agreement and include value of Green Attributes, UCTs, and RA Capacity. If the Non-Defaulting Party is the Seller, then “Losses” shall exclude any loss of Production Tax Credits or other federal or state tax credits related to the Project.

1.74. “Maximum Generation” or “MG” has the meaning given in Section 3.4(a).

1.75. “Minimum Green Attribute Delivery Factor” or “MGADF” has the meaning set forth in Section 3.4(a).

1.76. “Monthly Billing Period” means each calendar month during the Contract Year.

1.77. “Monthly Product Payment” has the meaning set forth in Section 3.3(c).

1.78. “Moody’s” means Moody’s Investor Services, Inc., or its successor.

1.79. “MWh” means megawatt-hour.

1.80. “NERC” means the North American Electric Reliability Council or a successor organization that is responsible for establishing reliability criteria and protocols.

1.81. “Non-Defaulting Party” has the meaning set forth in Section 5.2.

1.82. “Notice” means, unless otherwise specified in the Agreement, written communications by a Party to be delivered by hand delivery, United States mail, overnight courier service, facsimile or electronic mail (e-mail) pursuant to Article Thirteen.

1.83. “NP15 EZ Gen Hub” has the meaning specified in the CAISO Tariff.

1.84. “Participating Transmission Owner” or “PTO” means Pacific Gas and Electric Company in its capacity as the owner of certain transmission facilities placed under the operational control of the CAISO pursuant to the terms of the CAISO Tariff.

1.85. “Party” or “Parties” has the meaning set forth in the Cover Sheet.

1.86. “Product” has the meaning set forth in Section 3.1(b), except that “Product” as it is used in Section 3.5(a) means Delivered GA Energy.

1.87. “Production Tax Credit” or “PTC” means the tax credit for electricity produced from certain renewable generation resources described in Section 45 of the Internal Revenue Code of 1986, as may be amended from time to time.

1.88. “Project” as it is used in Sections 1.58 (“Green Attributes”), 3.5(a) and 10.1(j) means Eligible Units, and the references in Section 1.73 (“Losses”), Section 1.58 (“Green Attributes”), and Section 10.1(j) to generation or output from the Project shall mean Delivered GA Energy.

1.89. “RA Capacity” means the amount of capacity of a Designated RA Facility that qualifies to meet Buyer’s RAR and LAR requirements, as determined by the CAISO, CPUC, or other Governmental Body authorized to make such determination. RA Capacity encompasses both RAR Attributes and LAR Attributes of the capacity provided by a Designated RA Facility pursuant to Section 3.6. LAR Attributes are included to the extent the Designated RA Facility so qualifies.

1.90. “RA Deadline” has the meaning set forth in Section 3.6(b).

1.91. “RAR Attributes” means, with respect to a Designated RA Facility, and except as otherwise specifically limited by this Agreement, any and all resource adequacy attributes, as may be identified and modified from time to time by the CPUC, or other Governmental Body having jurisdiction that can be counted toward RAR, exclusive of any LAR Attributes. For clarity, it should be understood that the RAR Attributes associated with a Designated RA Facility by virtue of its location or point of electrical interconnection may change as the CAISO, or a Governmental Body, defines new or re-defines existing regions and RAR, provided that such change will not result in a change in payments made pursuant to this Agreement.

1.92. “RAR Showings” means the RAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and/or, to the extent authorized by the CPUC, to the CAISO), pursuant to the CPUC RA Decisions.

1.93. “Real-Time Forecast Change” is a modification to a Day-Ahead Allocation Forecast that is submitted in accordance with Section 3.3(a).

1.94. “Real-Time Index Energy Price” means such price as determined, for any given hour, by arithmetically averaging that hour’s NP15 EZ Gen Hub real-time twelve (12) Interval Locational Marginal Prices (i.e., twelve five-minute interval prices per hour averaged to a single hourly value) (in \$/MWh and including congestion, energy and losses components) as published and updated by CAISO.

1.95. “Recording” has the meaning set forth in Section 2.4.

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

1.97. “Resource Adequacy Requirements” or “RAR” means the resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC RA Decisions or other Governmental Body having jurisdiction.

1.98. “S&P” means the Standard & Poor’s Rating Group (a division of McGraw-Hill, Inc.) or its successor.

1.99. “Scheduling Coordinator” or “SC” means an entity certified by the CAISO as qualifying as a Scheduling Coordinator pursuant to the CAISO Tariff, including, but not limited to Sections 4.2.1, 4.3.1.2 and 4.6.1 of the CAISO Tariff, for the purposes of undertaking the functions specified in “Responsibilities of a Scheduling Coordinator,” Section 4.5 of the CAISO Tariff, as amended by the FERC from time to time.

1.100. “SEC” means the U.S. Securities and Exchange Commission.

1.101. “Seller Security” has the meaning set forth in Section 8.2.

1.102. “Settlement Amount” means, with respect to the Non-Defaulting Party, the Losses or Gains, and Costs, expressed in U.S. Dollars, which such Party incurs as a result of the liquidation of this Agreement pursuant to Sections 5.2 and 5.3.

1.103. “Supply Plan” means the supply plans, or similar or successor filings, that each unit’s Scheduling Coordinator submits to the CAISO, or a Governmental Body, pursuant to Applicable Laws, in order for that RA Capacity to count for its RAR Attributes or LAR Attributes.

1.104. “Term” has the meaning set forth in Section 2.5.

1.105. “Termination Payment” has the meaning set forth in Section 5.2.

1.106. “THEQ” has the meaning set forth in Section 3.3(c).

1.107. “THEQP” has the meaning set forth in Section 3.3(c).

1.108. “UCT” or “Inter-SC Trades of IFM Load Uplift Obligation” shall have the meaning set forth in the CAISO Tariff.

1.109. “WECC” means the Western Electricity Coordinating Council or successor agency.

1.110. “WREGIS” has the meaning set forth in Section 3.5(c).

1.111. “Year-Ahead Compliance Filing” means the requirement under the CPUC RA Decisions for Buyer to identify, as of a prescribed date, Designated RA Capacity with which it is satisfying its RAR & LAR for the next Contract Year as published by CAISO prior to the start of the next Contract Year.

ARTICLE TWO GOVERNING TERMS AND TERM

2.1. Entire Agreement. This Agreement, together with the Cover Sheet and each and every appendix, attachment, amendment, schedule and any written supplements hereto, if any, between the Parties constitutes the entire agreement between the Parties.

2.2. Interpretation. The following rules of interpretation shall apply:

(a) The term “month” shall mean a calendar month unless otherwise indicated, and a “day” shall be a 24-hour period beginning at 12:00:01 a.m. Pacific Prevailing Time

and ending at 12:00:00 midnight Pacific Prevailing Time; provided that a “day” may be 23 or 25 hours on those days on which daylight savings time begins and ends.

(b) Unless otherwise specified herein, all references herein to any agreement or other document of any description shall be construed to give effect to amendments, supplements, modifications or any superseding agreement or document as then exist at the applicable time to which such construction applies.

(c) Capitalized terms used in this Agreement, including the appendices hereto, shall have the meaning set forth in Article One, unless otherwise specified.

(d) Unless otherwise specified herein, references in the singular shall include references in the plural and vice versa, pronouns having masculine or feminine gender will be deemed to include the other, and words denoting natural persons shall include partnerships, firms, companies, corporations, joint ventures, trusts, associations, organizations or other entities (whether or not having a separate legal personality). Other grammatical forms of defined words or phrases have corresponding meanings.

(e) References to a particular article, section, subsection, paragraph, subparagraph, appendix or attachment shall, unless specified otherwise, be a reference to that article, section, subsection, paragraph, subparagraph, appendix, exhibit or attachment in or to this Agreement.

(f) Any reference in this Agreement to any natural person, Governmental Body, corporation, partnership or other legal entity includes its permitted successors and assigns or to any natural person, Governmental Body, corporation, partnership or other legal entity succeeding to its functions.

(g) All references to dollars are to U.S. dollars.

2.3. Authorized Representatives. Each Party shall provide Notice to the other Party of the persons authorized to make Notices on behalf of such Party and specify the scope of their individual authority and responsibilities, and may change its designation of such persons from time to time in its sole discretion by providing Notice.

2.4. Recording Unless a Party expressly objects to a Recording (defined below) at the beginning of a telephone conversation, each Party consents to the creation of a tape or electronic recording (“Recording”) of all telephone conversations between representatives of the Parties responsible for the scheduling of Energy or the operation of the Eligible Units, which conversations are conducted in connection with the scheduling of Energy, and that any such recordings will be retained in confidence, secured from improper access, and may be submitted in evidence in any proceeding or action relating to this Agreement. Each Party waives any further notice of such monitoring or recording, and agrees to notify its officers and employees of such monitoring or recording and to obtain any necessary consent of such officers and employees.

2.5. Term. The term of this Agreement shall commence upon the Execution Date of this Agreement and shall remain in effect until the conclusion of the Delivery Term or unless terminated sooner pursuant to the terms of this Agreement (the “Term”); provided, however, that this Agreement shall remain in effect until (i) the Parties have fulfilled all obligations with

respect to the Agreement, including payment in full of amounts due for the Product delivered prior to the end of the Term, the Settlement Amount, indemnification payments or other damages (whether directly or indirectly such as through set-off or netting) and (ii) the undrawn portion of the Seller Security is released and/or returned as applicable (if any is due). All indemnity rights shall survive the termination of this Agreement for the longer of twelve (12) months or the expiration of the statute of limitations period of the claim underlying the indemnity obligation.

2.6. Binding Nature. This Agreement shall be effective and binding as of the Execution Date subject to the terms herein, including the requirements set forth in Article Eleven.

2.7. Good Faith and Fair Dealing. Each Party expressly assumes a duty of good faith and fair dealing with respect to its performance of its obligations under this Agreement.

ARTICLE THREE PRODUCT; DELIVERY TERM; COMPENSATION

3.1. Transaction. The transaction between the Parties is as follows:

(a) Prior to Effective Date. Starting at 12:00:01 a.m. PPT on the second Business Day following the Execution Date (the “Interim Product Delivery Date”) until the Energy Delivery Date or earlier in accordance with the terms of the Agreement (the “Interim Period”), the Parties agree that:

(i) Seller shall sell and Buyer shall buy (A) the Contract Energy Quantity (subject to the applicable terms and conditions of this Agreement) of the Delivered GA Energy from the Geysers Project (but excluding the Green Attributes associated with such Delivered GA Energy, the purchase and sale of which shall be governed by subclause (ii) immediately below) and (B) 25 MW of Resource Adequacy Capacity as described in Section 3.6. Also, the Parties agree to transfer (C) 25 MW of IFM Load Uplift Obligation as described in Section 3.1(c). Collectively, (A), (B) and (C) constitute the “Interim Period Product.” Buyer’s payment to Seller for the Interim Period Product shall be subject to adjustment in accordance with Section 3.4(a)(i) (but not Section 3.4(a)(ii)).

(ii) During the Interim Period, Seller shall accrue a credit in an amount equal to \$50.00 per MWh of Delivered GA Energy delivered to Buyer plus interest in arrears at the Interest Rate (such amount, the “Accrued GA Adjustment Amount”). Subsequent to the Energy Delivery Date, within ten (10) calendar days of the date Buyer receives Seller’s invoice in respect of the Accrued GA Adjustment Amount, Buyer shall make a one-time payment to Seller of the entire Accrued GA Adjustment Amount. Upon Seller’s receipt of such payment, Seller shall promptly upon availability deliver the Green Attributes associated with the Delivered GA Energy during the Interim Period and transfer the associated WREGIS certificates. Buyer’s payment of the Accrued GA Adjustment Amount shall be subject to adjustment in accordance with Section 3.4(a)(ii) at the time that such payment is made (less any amounts already paid by Seller pursuant to Section 3.4(a)(i)). If this Agreement terminates in accordance with the terms of this Agreement prior to the Energy Delivery Date, (A) Buyer shall be released from any obligation to pay the Accrued GA Adjustment Amount and purchase the Green Attributes associated with the MWhs of Delivered GA Energy delivered during the Interim Period,

(B) Buyer shall have released any claim that it has to the Green Attributes associated with the MWhs of Delivered GA Energy generated by Seller during the Interim Period and (C) Seller shall retain all rights to the Green Attributes associated with such MWhs of Delivered GA Energy delivered during the Interim Period.

(b) Following Effective Date. Starting at 12:00:01 a.m. PPT on the second Business Day following the Effective Date (the “Energy Delivery Date”), the Parties agree that Seller shall sell and Buyer shall buy (A) the Contract Energy Quantity (subject to the applicable terms and conditions of this Agreement) of the Delivered GA Energy and associated Green Attributes from the Geysers Project and (B) 25 MW of Resource Adequacy Capacity as described in Section 3.6. Also, the Parties agree to transfer (C) 25 MW of IFM Load Uplift Obligation as described in Section 3.1(c). Collectively, (A), (B) and (C) constitute the “Product.”

(c) IFM Load Uplift Obligation. Seller will provide UCTs to meet Buyer’s IFM for 25 MW for all hours of the Delivery Period. For each hour of the Delivery Term, the Parties (or their respective Scheduling Coordinators) shall submit a UCT for 25 MW unless a lesser amount is otherwise directed by Buyer.

3.2. Delivery Term. The Parties agree to a “Delivery Term” beginning at 12:00:01 a.m. PPT on the second Business Day following the Execution Date and ending at 11:59:59 p.m. PPT on December 31, 2014, unless earlier terminated as provided by the terms of this Agreement.

3.3. Delivery of Energy.

(a) Forecasts. If Seller anticipates that Delivered GA Energy will be less than the Contract Energy Quantity in any hour during a day, then by 5:30 AM Pacific Prevailing Time on the Business Day immediately preceding such day, Seller shall (or shall cause its Scheduling Coordinator to) email the Buyer a day-ahead forecast of the anticipated Delivered GA Energy to be allocated to the Buyer for each hour of the immediately succeeding day (“Day-Ahead Allocation Forecast”). A Day-Ahead Allocation Forecast provided in a day immediately prior to any non-Business Day(s) shall include forecasts for the immediate day, each succeeding non-Business Day and the next Business Day. Each Day-Ahead Allocation Forecast shall clearly identify, for each hour of the forecast period, all amounts of Delivered GA Energy to be allocated and sold to Buyer pursuant to this Agreement. Any updates to the Day-ahead Allocation Forecast shall be made in the Real-Time Forecast Change and submitted to Buyer via email at least three (3) hours prior to the start of each delivery hour, which shall be the Final Allocation Forecast. Seller shall deliver and allocate DGAE in accordance with its Final Allocation Forecast, or Seller shall pay Buyer replacement damages in accordance with Section 3.4(a).

(b) CAISO Payments/Scheduling Coordinator. Seller shall be solely responsible for scheduling with the CAISO the delivery of all Energy associated with the Delivered GA Energy under this Agreement or otherwise causing the delivery of such Energy to the CAISO Grid, and shall be entitled to retain for its account all revenues received from the CAISO in respect of the sale of such Energy to the CAISO. Buyer shall pay for the Delivered GA Energy in accordance with Sections 3.3(c), 3.4 and Article Six, and shall not be entitled to any payments received from CAISO in respect of the Energy associated with such Delivered GA Energy, and shall remit any such payments received by it in

respect thereof to Seller. Each of Seller and Buyer shall be its own Scheduling Coordinator with respect to this Agreement, or designate a qualified third party to fulfill such role.

(c) Payment. In accordance with the billing and payment terms set forth in Article Six, Buyer shall pay to Seller in arrears for each month during the Delivery Term pursuant to the following formula (the “Monthly Product Payment”) as may be adjusted in accordance with other terms of this Agreement, including Section 3.4.

Σ (for each hour of the month) [(THEQP) – (the Day-Ahead Index Energy Price * THEQ)]

Where:

“THEQ” (total hourly energy quantity) = the lower of the Final Allocation Forecast or the Delivered GA Energy (in MWh)

“THEQP” (total hourly energy quantity payment) = THEQ * the then applicable Contract Price

(d) Regulatory Cooperation: GA. Buyer agrees to take such reasonable action or actions that are reasonably necessary for (i) the Eligible Units to qualify and be certified by the CEC as Eligible Renewable Energy Resources (ERRs), and (ii) that the Delivered GA Energy qualify under the requirements of the California Renewables Portfolio Standard.

3.4. Replacement Damages.

(a) Failure to Deliver. Unless stated below, in each hour during each calendar month of the Delivery Term, if the Delivered GA Energy does not equal the Contract Energy Quantity, the Monthly Product Payment shall be reduced as follows calculated for each hour of such month:

(i) If the MGADF (defined below) is **greater than 97%** in any calendar month **or** if Seller is in a month where the MGADF is less than 97% but Seller is still within **the chronologically first three percent (3%)** of undelivered Contract Energy Quantity that are not Excused GA Energy, then:

(a) there is no replacement damage if the Delivered GA Energy equals the Final Allocation Forecast; or

(b) if there is a Final Allocation Forecast Shortfall, the Monthly Product Payment shall be reduced by the product of the positive difference, if any, between the Real-Time Index Energy Price less the then applicable Contract Price multiplied by the Final Allocation Forecast Shortfall.

(ii) If the MGADF is **less than 97%** in any calendar month*, then, for the GA Shortfall Quantity (defined below):

(a) to the extent there is a Final Allocation Forecast Shortfall, the Monthly Product Payment shall be reduced by the product of the positive difference, if any, between the sum of the Real-Time Index Energy Price plus \$50/MWh less \$114/MWh multiplied by the Final Allocation Forecast Shortfall; and, then, for the remainder of any GA Shortfall Quantity:

(b) to the extent the Delivered GA Energy equals the Final Allocation Forecast, the Monthly Product Payment shall be reduced by the product of the positive difference, if any, between the sum of the Day-Ahead Index Energy Price plus \$50/MWh less \$114/MWh multiplied by the remainder of any GA Shortfall Quantity.

The MGADF = (DGAE + EGAE) / (MG)

Where:

DGAE (Delivered GA Energy) is the quantity, in MWh, of the Delivered GA Energy in such calendar month.

EGAE (“Excused GA Energy”) is the quantity, in MWh, of MG that was not delivered but is excused (i) as a result of a Force Majeure claim (each incident being allocated on a pro rata basis from all generation capacity of the Geysers Project) affecting the generation capacity of the Geysers Project; or (ii) due to a Dispatch Down.

MG (“Maximum Generation”) is the Contract Energy Quantity multiplied by the number of hours in the applicable calendar month.

“GA Shortfall Quantity” shall be the positive amount, if any, calculated as follows for each hour of each month: [Contract Energy Quantity] – [Delivered GA Energy] - [Excused GA Energy]

“Final Allocation Forecast Shortfall” shall be the positive amount, if any, calculated as follows for each hour of each month (in MWs): [Final Allocation Forecast] – [Delivered GA Energy] - [Excused GA Energy]

Examples of the application of this Section 3.4(a) are set forth in Exhibit 3.4(a).

* For purposes of determining the undelivered Contract Energy Quantity for which there is no replacement damages under Section 3.4(a)(ii), assume the chronologically first three percent (3%) of undelivered Contract Energy Quantity that are not Excused GA Energy.

(b) Failure to Provide Load Uplift. For any hour of the Delivery Term, to the extent Seller fails to properly submit a UCT for 25 MW for any reason other than Force Majeure, Seller shall pay Buyer (A) an amount equal to Buyer's CAISO Hourly IFM BCR Tier 1 Allocation Price (\$/MWh as shown in Buyer's CAISO settlement statements) times (B) the difference between 25 MW and the amount properly submitted in such UCT.

(c) Failure to Provide Resource Adequacy. To the extent Seller fails to provide Buyer with an aggregate total of 25 MW of RA Capacity in accordance with the terms of this Agreement in any month for any reason, Seller shall pay Buyer either (A) the market value of the MW quantity by which the Designated RA Capacity is less than 25 MW as determined by Buyer in a commercially reasonable manner using actual replacement transactions, similar transactions or market quotes or (B) any monetary fines or penalties assessed against Buyer by the CAISO or the CPUC resulting from Seller's failure.

3.5. Seller's Obligations.

(a) Exclusive Right: GA. Seller covenants throughout the Delivery Term that it, or its Affiliates or permitted successors or assigns, have or will have ownership of, or a demonstrable exclusive right to control, the Eligible Units, and that, throughout the Delivery Term, the Delivered GA Energy will be transferred to Buyer unencumbered by any claim of any other Person. Seller represents, warrants and covenants that it has good, marketable title to the Delivered GA Energy sold hereunder. 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.

(b) Climate Action Registry. Seller shall register the Geysers Project with the California Climate Action Registry as may be required by the CPUC pursuant to Decision 06-02-032 and any subsequent order.

(c) WREGIS. Prior to the commencement of the Interim Period, Seller shall register the Eligible Units in the Western Renewable Energy Generating Information System or any successor renewable energy tracking program ("WREGIS"), and take all other actions necessary to ensure that the Energy and Green Attributes produced from the Geysers Project are tracked for purposes of satisfying the requirements of the California Renewable Portfolio Standard and transferred to Buyer promptly upon availability, including payment of all fees required to register the facility in WREGIS, issue WREGIS certificates, and, subject to the provisions of Section 3.1(a)(ii), transfer such certificates to Buyer.

3.6. Resource Adequacy.

(a) Resource Adequacy. Beginning May 1, 2010 and continuing until the expiration or earlier termination of this Agreement, Seller grants, pledges, assigns and otherwise commits to Buyer 25 MW for each hour in each month of total aggregate system RA Capacity for Buyer to use in meeting its Resource Adequacy Requirements.

Seller agrees that it shall take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to enable Buyer to use the 25 MW for Buyer's Resource Adequacy Requirements beginning with Buyer's monthly filing to demonstrate compliance with the RAR for the month of May, 2010.

(b) Annual Designation of RA Facilities. No less than thirty (30) days prior to the RA Deadline for each calendar year preceding a Contract Year, Seller will notify Buyer of the generating facility or facilities necessary to provide an aggregate of 25 MW of RA Capacity for that Contract Year. The generating facility or facilities must be eligible to count for Buyer's RA Showings without utilizing Buyer's resource adequacy import allocation, and, if so designated in such Notice, shall be the "Designated RA Facilities" for that Contract Year unless substituted in accordance herewith. The "RA Deadline" is the earlier of the date upon which either the CPUC and/or the CAISO require Buyer to make a Year-Ahead Compliance Filing. For the avoidance of doubt, Designated RA Facilities may or may not have LAR Attributes and may or may not be Eligible Units. However, if the Designated RA Facilities have LAR Attributes, Seller shall ensure that SDG&E is entitled to the full benefit of such LAR Attributes as part of this Agreement. If Seller elects to replace any Designated RA Facility, Seller shall provide Buyer Notice of such substitution on or before the earlier of (i) thirty (30) days before the effective date of the substitution or (ii) no later than ten (10) Business Days before Buyer's month-ahead showing for such month is due to the CPUC.

ARTICLE FOUR

STANDARDS OF CARE; METERING; GA TRACKING; FORCE MAJEURE

4.1. Standards of Care.

(a) General Operation. Seller shall comply with all applicable requirements of Law, the CAISO, NERC and WECC relating to the Geysers Project. In no event shall Seller be obligated to take any action, or cause any action, which conflicts with a requirement of Law. Buyer agrees to cooperate with Seller in connection with Seller's compliance under this Section 4.1(a).

(b) CAISO. Each Party shall perform all generation and transmission services in compliance with all applicable (i) operating policies, criteria, rules, guidelines, tariffs and protocols of the CAISO and (ii) Good Utility Practices.

4.2. Metering. All Delivered GA Energy from the Geysers Project during the Delivery Term must be delivered through CAISO revenue meters dedicated exclusively to the Geysers Project. For the Green Attributes to be counted, all Delivered GA Energy must be measured by the CAISO revenue meters. Seller shall bear all costs relating to all the metering equipment installed to fulfill the requirements under this Section 4.2. In addition, Seller hereby agrees to provide all meter data, if any, to Buyer in a form acceptable to Buyer, and consents to Buyer obtaining from the CAISO the CAISO meter data applicable to the Geysers Project and all inspection, testing and calibration data and reports. Seller shall grant Buyer the right to retrieve the meter reads from the CAISO Operational Meter Analysis and Reporting (OMAR) website and/or directly from the CAISO meters at the Geysers Project site. If the CAISO makes any adjustment to any CAISO meter data for a given time period, Seller agrees that it shall submit revised monthly invoices, pursuant to Section 6.2, covering the entire applicable time period in order to conform fully such adjustments to the meter data. Seller shall submit any such revised

invoice no later than thirty (30) days from the date on which the CAISO provides to Seller such binding adjustment to the meter data.

4.3. [Intentionally Omitted]

4.4. Force Majeure. To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under this Agreement and such Party gives Notice and details of the Force Majeure to the other Party as detailed below then the Party impacted by Force Majeure shall be excused from the performance of its obligations to the extent impacted. Within forty-eight (48) hours of commencement of an event of Force Majeure, the non-performing Party shall provide the other Party the oral notice of the event of Force Majeure, and within two (2) weeks of the commencement of an event of Force Majeure the non-performing Party shall provide the other Party with Notice in the form of a letter describing in detail the particulars of the occurrence giving rise to the Force Majeure claim. Failure to provide timely notice constitutes a waiver of a Force Majeure claim. The suspension of performance due to a claim of Force Majeure must be of no greater scope and of no longer duration than is required by the Force Majeure. Buyer shall not be required to make any payments for any Product that Seller fails to deliver or provide as a result of Force Majeure during the term of a Force Majeure.

4.5. Operations Logs and Access Rights.

(a) Operations Logs. Seller shall maintain a complete and accurate log of all material operations and maintenance information on a daily basis for the Geysers Project. Such log shall include, but not be limited to, information on power production, fuel consumption, efficiency, availability, maintenance performed, outages, results of inspections, manufacturer recommended services, replacements, electrical characteristics of the generators, control settings or adjustments of equipment and protective devices. Seller shall provide this information electronically to Buyer within thirty (30) days of Buyer's request.

(b) Access Rights. Subject to the requirements of this subsection (b), Buyer, its authorized agents, employees and inspectors shall have the right of ingress to and egress from the Geysers Project on reasonable advance notice during normal business hours and for any purposes reasonably connected with this Agreement or the exercise of any and all rights secured to Buyer by law or its tariff schedules, and rules on file with the CPUC. Buyer shall make reasonable efforts to coordinate its emergency activities with the Safety and Security Departments, if any, of the Geysers Project operator. Buyer agrees and acknowledges that any authorized agent, employee or inspector seeking access to the Geysers Project must comply with all safety, health and environmental procedures and protocols of the Geysers Project and its operator. In addition Buyer agrees that it will not constitute a breach of this subsection (b) if access to the Geysers Project is denied or revoked as a result of any such authorized agent, employee or inspector of Buyer refusing to comply with the safety, health and environmental requirements, including, without limitation, the execution of waiver of liability forms.

4.6. Operating Procedures. No later than forty-five (45) days before the Effective Date, and from time to time as reasonably determined necessary by the Parties, the Parties shall meet to address how each Party will perform its respective obligations under this Agreement, including, but not limited to: (1) key personnel lists for each Party; (2) procedures for record keeping; and (3) invoicing and payment procedures; provided, that the failure to agree on these

operating procedures will not relieve the Parties of their respective obligations under this Agreement, and any failure to agree shall be resolved in accordance with the dispute resolution procedures in Article Twelve.

ARTICLE FIVE
EVENTS OF DEFAULT; PERFORMANCE REQUIREMENT; REMEDIES

5.1. Event of Default. An “Event of Default” shall mean:

(a) With respect to a Party that is subject to the Event of Default the occurrence of any of the following:

(i) the failure to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within five (5) Business Days after Notice is received by the Party failing to make such payment;

(ii) such Party’s failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default), if such failure is not remedied within thirty (30) days after Notice is received by the Non-Defaulting Party, unless such failure cannot reasonably be remedied within such period, in which case, so long as such Party is diligently seeking to remedy such failure, the cure period will be extended by such time as is reasonably necessary to remedy such failure, not to exceed an additional ninety (90) days;

(iii) any representation or warranty made by such Party herein is false or misleading in any material respect when made, and if capable of remedy, has not been remedied within thirty (30) days after Notice is received by the Defaulting Party;

(iv) such Party becomes Bankrupt;

(v) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other Party;

(vi) such Party assigns this Agreement or any of its rights hereunder other than in compliance with Section 10.5; or

(b) with respect to Seller as the Defaulting Party:

(i) an MGADF of less than 70% persisting for twelve (12) consecutive months;

(ii) Seller fails to satisfy the creditworthiness/collateral requirements agreed to pursuant to Article Eight of this Agreement, as applicable, which such failure is not remedied within five (5) Business Days after Notice is received by the Seller; or

(iii) with respect to any outstanding Letter of Credit provided for the benefit of Buyer, the failure by Seller to provide for the benefit of Buyer either (1) cash, or (2) a substitute Letter of Credit from a different issuer meeting the criteria set forth in the definition of Letter of Credit, in each case, in the amount required hereunder within five (5) Business Days after Seller receives Notice of the occurrence of any of the following events:

the issuer of the outstanding Letter of Credit shall fail to maintain a Credit Rating of at least "A-" by S&P or "A3" by Moody's;

the issuer of such Letter of Credit becomes Bankrupt;

the issuer of the outstanding Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit and such failure shall be continuing after the lapse of any applicable grace period permitted under such Letter of Credit;

the issuer of the outstanding Letter of Credit shall fail to honor a properly documented request to draw on such Letter of Credit;

the issuer of the outstanding Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit; or

Seller shall fail to renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit and as provided in accordance with this Agreement, and in no event less than sixty (60) days prior to the expiration of the outstanding Letter of Credit.

5.2. Declaration of Early Termination Date. If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party ("Non-Defaulting Party") shall have the right to: (a) send Notice, designating a day, no earlier than the day such Notice is deemed to be received and no later than twenty (20) days after such Notice is deemed to be received, as an early termination date of this Agreement ("Early Termination Date"); (b) accelerate all amounts owing between the Parties under this Agreement, terminate the Agreement and end the Delivery Term effective as of the Early Termination Date and collect liquidated damages ("Termination Payment"), which shall be calculated in accordance with Section 5.3 below; (c) withhold any payments due to the Defaulting Party under this Agreement; (d) suspend performance; and (e) exercise any other right or remedy available at Law or in equity to the extent otherwise permitted under this Agreement. The Termination Payment will be the aggregate of all Settlement Amounts netted into a single amount. If the Non-Defaulting Party's aggregate Gains exceed its aggregate Losses and Costs, if any, resulting from the termination of this Agreement, the Termination Payment owed to the Non-Defaulting Party shall be zero,

except in the case of a termination of this Agreement by the Non-Defaulting Party solely as a result of an Event of Default by the Defaulting Party under Section 5.1(a)(iv). Disputes regarding the Termination Payment shall be determined in accordance with Article Twelve.

5.3. Calculation of Termination Payment. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for the Agreement as of the Early Termination Date. Third parties supplying information for purposes of the calculation of Gains or Losses may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information, any of which shall not be affiliated with either Party. If the Non-Defaulting Party uses the market price for a comparable transaction to determine the Gains or Losses, such price should be determined by using the average of market quotations provided by three (3) or more bona fide unaffiliated market participants. If the number of available quotes is three, then the average of the three quotes shall be deemed to be the market price. Where a quote is in the form of bid and ask prices, the price that is to be used in the averaging is the midpoint between the bid and ask price. The quotes obtained shall be: (a) for a like amount, (b) of the same Product, (c) at the NP-15 EZ Gen Hub for Energy quotes, and (d) for the remaining Delivery Term, or in any other commercially reasonable manner. The Gains and Losses shall be calculated as the difference, plus or minus, between the economic value of the remaining Delivery Term of the Agreement and the equivalent quantities and relevant market prices for the same term that either are quoted by a bona fide market participant, as provided above, or which are reasonably expected to be available in the market for a replacement contract for the Agreement. For purposes of identifying applicable replacement products, those products include Green Attributes, UCT and RAR Attributes; provided that, the Green Attributes, UCT, and resource adequacy components of the Product may be valued as unbundled products if the same are not available in the market as bundled parts of an energy product. The Settlement Amount shall not include consequential, incidental, punitive, exemplary, indirect or business interruption damages, unless expressly provided for herein. The Non-Defaulting Party shall not have to enter into replacement transactions to establish a Settlement Amount but shall mitigate its Costs, Losses and damages resulting from any Event of Default.

5.4. Notice of Payment of Termination Payment. As soon as practicable after a liquidation, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment and whether a Termination Payment is due to the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount and the sources for such calculation. If a Termination Payment is to be made to the Non-Defaulting Party, it shall be made within ten (10) Business Days after such Notice is effective.

5.5. Disputes With Respect to Termination Payment. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall, within five (5) Business Days of receipt of the Non-Defaulting Party's calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute.

ARTICLE SIX PAYMENT

6.1. Billing and Payment Remedies. On or about the tenth (10th) day of each month beginning with the calendar month following the Interim Product Delivery Date and every

calendar month thereafter, and continuing through and including the first month following the end of the Delivery Term, Seller shall provide to Buyer (a) records of metered data, including CAISO metering and transaction data sufficient to document and verify the generation and delivery of the Delivered GA Energy by the Eligible Units(s) (and upon Buyer's reasonable request access to any records, including invoices or settlement data from the CAISO, necessary to verify the invoice) and (b) an invoice, in the format agreed to by Buyer and Seller from time to time with all component charges and unit prices identified and all calculations used to arrive at invoiced amounts described in reasonable detail, including the MGADF and Green Attributes delivered or to be delivered to Buyer from Seller. Buyer shall pay the undisputed amount of such invoices on or before the later of the twenty-fifth (25th) day of each month or fifteen (15) calendar days after receipt of the invoice. If either the invoice date or payment date is not a Business Day, then such invoice or payment shall be provided on the next Business Day. Each Party will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any undisputed amounts not paid by the due date will be deemed delinquent and will accrue interest at the Interest Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full. Invoices may be sent by facsimile or e-mail. If the CAISO publishes updated LMPs at any point during the Delivery Term, or up to 6 months after contract expiration, either party has the right to update invoices or true-up past settlements based upon the new final prices. A sample of Seller's form of invoice is attached hereto as Exhibit 6.1.

6.2. Disputes and Adjustments of Invoices. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice, rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Subject to Section 4.2, in the event adjustments to payments are required as a result of inaccurate meter(s), Buyer shall use corrected measurements to recompute the amount due from Buyer to Seller for the Delivered GA Energy delivered under the Agreement during the period of inaccuracy. The Parties agree to use good faith efforts to resolve the dispute or identify the adjustment as soon as possible. Upon resolution of the dispute or calculation of the adjustment, any required payment shall be made within fifteen (15) calendar days of such resolution along with interest accrued at the Interest Rate from and including the original due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this Section 6.2 within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within twelve (12) months after the close of the month during which performance occurred, the right to payment for such performance is waived.

6.3. Netting of Payments. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other under this Agreement on the same date through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Product during the Monthly Billing Period under this Agreement, including

any related damages calculated pursuant to Section 3.4, interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

ARTICLE SEVEN LIMITATIONS

7.1. Limitation of Remedies, Liability and Damages. EXCEPT AS SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. 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. EXCEPT FOR A PARTY'S INDEMNITY OBLIGATION IN RESPECT OF THIRD PARTY CLAIMS OR AS OTHERWISE EXPRESSLY PROVIDED FOR HEREIN, 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. UNLESS EXPRESSLY HEREIN PROVIDED, AND SUBJECT TO THE PROVISIONS OF SECTION 10.4 (INDEMNITIES), 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.

ARTICLE EIGHT COLLATERAL REQUIREMENTS

8.1. [Intentionally Omitted]

8.2. Seller Security. Within five (5) Business Days after the Execution Date, and during the Delivery Term, to secure its obligations under this Agreement, Seller shall provide a Letter of Credit in an amount equal to four million, three hundred and eighty thousand dollars (US\$4,380,000) (the "Seller Security"), except during the last Contract Year of the Delivery Term, the Seller may reduce Seller Security to two million, one hundred and ninety thousand dollars (US\$2,190,000). Seller Security shall not be deemed a limitation of damages. If Seller provides Performance Assurance in the form of a Letter of Credit, in all cases, the reasonable costs and expenses of (including but not limited to the reasonable costs, expenses, and attorneys' fees, including reasonably allocated costs of in-house counsel of the Buyer) establishing, renewing, substituting, canceling, increasing and reducing the amount of (as the case may be)

one or more Letters of Credit shall be borne by the Seller. Buyer shall promptly return to Seller the unused portion of the Seller Security after the following have occurred: (A) the Delivery Term has expired or terminated early; and (B) all payment obligations of the Seller arising under this Agreement, including compensation for penalties, Termination Payment, indemnification payments or other damages are paid in full (whether directly or indirectly such as through set-off or netting).

ARTICLE NINE GOVERNMENTAL CHARGES

9.1. Cooperation. 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.

9.2. Governmental Charges. Seller shall pay or cause to be paid all taxes imposed by any Governmental Body ("Governmental Charges") on or with respect to the Product arising prior to and at the NP15 EZ Gen Hub, including, but not limited to, ad valorem taxes and other taxes attributable to the Geysers Project, land, land rights or interests in land for the Geysers Project. Buyer shall pay or cause to be paid all Governmental Charges on or with respect to the Product from the NP15 EZ Gen Hub. In the event Seller is required by law or regulation to remit or pay Governmental Charges which are Buyer's responsibility hereunder, Buyer shall promptly reimburse Seller for such Governmental Charges. If Buyer is required by law or regulation to remit or pay Governmental Charges which are Seller's responsibility hereunder, Buyer may deduct such amounts from payments to Seller with respect to payments under the Agreement; if Buyer elects not to deduct such amounts from Seller's payments, Seller shall promptly reimburse Buyer for such amounts upon request. Nothing shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under the law.

9.3. NERC/WECC. The Parties shall cooperate with respect to any CAISO, NERC or WECC reporting compliance obligations as may be required or imposed from time to time. Buyer will not contest Seller's annual self-assessment to determine if the Units are "critical assets."

ARTICLE TEN MISCELLANEOUS

10.1. Representations and Warranties. On the Execution Date, each Party represents and warrants to the other Party that:

- (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
- (b) it has all regulatory authorizations necessary for it to perform its obligations under this Agreement, except for CPUC Approval in the case of Buyer;
- (c) the execution, delivery and performance of this Agreement is 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 and each other document executed and delivered in accordance with this Agreement constitutes a legally valid and binding obligation enforceable against it in accordance with its terms, subject to any Equitable Defenses;

(e) it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt;

(f) except as may be set forth in its reports filed with the SEC, there is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement;

(g) 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;

(h) it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement;

(i) it has entered into this Agreement in connection with the conduct of its business and it has the capacity or the ability to make or take delivery of the Product, as provided in this Agreement; and

(j) Subject to Buyer's receipt of CPUC Approval, Seller shall make the following representation and warranty:

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.

For purposes of this Section 10.1(j) only, "commercially reasonable efforts" shall not include any incremental out-of-pocket third party capital expenditure and expenses incurred by Seller in excess of \$250,000 per calendar year.

10.2. Mutual Covenants. Each Party covenants that throughout the Delivery Term:

(a) it shall continue to be duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

(b) subject to Buyer's receipt of CPUC Approval, it shall maintain (or obtain from time to time as required, including through renewal, as applicable) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement;

(c) it shall perform its obligations under this Agreement in a manner that does 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; and

(d) it shall maintain its status as a "forward contract merchant" within the meaning of the United States Bankruptcy Code (for so long as such term has the same definition as in effect as of the Execution Date).

10.3. Seller Covenants. Seller covenants that throughout the Delivery Term:

(a) it will deliver to Buyer the Product free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person arising prior to or at the Delivery Point; and

(b) other than that portion of the Product described in Sections 3.1(b)(B) and 3.1(b)(C), Seller shall only sell to Buyer under this Agreement Product that meets all of the qualifications of DGAE.

10.4. Indemnities.

(a) Indemnity by Seller. Seller shall release, indemnify and hold harmless Buyer, its Affiliates, and its and their directors, officers, employees, agents, and representatives against and from any and all loss, claims, actions or suits, including costs and attorney's fees resulting from, or arising out of or in any way connected with (i) the Product delivered under this Agreement to the Delivery Point, including, without limitation, any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to or death of persons, or for damage to or destruction of property belonging to Buyer, Seller, or others, (ii) Seller's or its Affiliate's operation and/or maintenance of the Geysers Project, (iii) any Governmental Charges for which Seller is responsible hereunder, (iv) any liens, security interest, encumbrances or other adverse claims against the Product delivered hereunder made by, under or through Seller or (v) Seller's failure to comply with applicable law, rule, order or the like, in all cases excepting only such loss, claim, action or suit to the extent caused by the willful misconduct or gross negligence of Buyer, its Affiliates, and its and their agents, employees, directors, or officers.

(b) Indemnity by Buyer. Buyer shall release, indemnify and hold harmless Seller, its Affiliates, and its and their directors, officers, employees, agents, and representatives against and from any and all loss, claims, actions or suits, including costs and attorney's fees resulting from, or arising out of or in any

way connected with (i) Buyer's failure to comply with applicable law, rule, order or the like, (ii) any Governmental Charges for which Buyer is responsible hereunder, or (iii) the Product delivered by Seller to Buyer under this Agreement after the Delivery Point, including, without limitation, any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to or death of persons, or for damage to or destruction of property belonging to Buyer, Seller, or others, excepting only such loss, claim, action or suit to the extent caused by the willful misconduct or gross negligence of Seller, its Affiliates, and its and their agents, employees, directors or officers.

(c) No Dedication. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or the public, nor affect the status of Buyer as an independent public utility corporation or Seller as an independent individual or entity.

10.5. Assignment. 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; provided, however, either Party may, without the consent of the other Party (and without relieving itself from liability hereunder), transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof to its financing provider(s); provided, however, that such financing provider(s) shall agree in writing that upon exercising its rights to assume the Agreement, it shall be bound by the terms and conditions hereof. Buyer will execute such consents to the extent required by Seller's financing parties in connection with such assignment and in a form consistent with industry standards; and provided further, Seller shall be responsible for Buyer's reasonable costs associated with review, negotiation, execution and delivery of such documents, including attorneys' fees.

10.6. Confidentiality. Neither Party shall disclose the non-public terms or conditions of this Agreement, or any non-public pricing information or meter read data exchanged in accordance with this Agreement to a third party, other than (i) the Party's Affiliates and its and their officers, directors, employees, counsel, accountants or advisors who have a need to know such information and have agreed to keep such terms confidential, (ii) for disclosure to Buyer's Procurement Review Group, as defined in CPUC Decision D. 02-08-071, subject to a confidentiality agreement, (iii) to the CPUC under seal for purposes of review, (iv) disclosure of terms specified in and pursuant to Section 10.7 of this Agreement, (v) in order to comply with any applicable law, regulation, or any exchange, control area or CAISO rule, or order issued by a court or entity with competent jurisdiction over the disclosing Party ("Disclosing Party"), other than to those entities set forth in subsection (vi), (vi) in order to comply with any applicable regulation, rule, or order of the CPUC, CEC, or the FERC or (vii) the Party's third party lenders or investors (and their legal advisors), provided that such third party lender or investor has a need to know such information and has agreed to keep such information confidential pursuant to a written confidentiality agreement. In connection with requests made pursuant to clause (v) of this Section 10.6 ("Disclosure Order") each Party shall, to the extent practicable, use reasonable efforts to prevent or limit such disclosure. After using such reasonable efforts, the Disclosing Party shall not be: (i) prohibited from complying with a Disclosure Order or (ii) liable to the other Party for monetary or other damages incurred in connection with the disclosure of the confidential information pursuant to the Disclosure Order. Except as provided in the preceding

sentence, the Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation. Notwithstanding the foregoing, a Party may disclose the terms and conditions of this Agreement to index publishers that aggregate and report such data to the public in the form of indices that do not detail specific transaction information.

10.7. RPS Confidentiality. Notwithstanding Section 10.6 of this Agreement, at any time on or after the date on which the Buyer makes its advice letter filing seeking CPUC Approval of this Agreement, either Party shall be permitted to disclose the following terms: Party names, resource type, Delivery Term, Geysers Project location, Contract Energy Quantity and expected annual deliveries.

10.8. Publicity. Except as otherwise agreed to in Sections 10.6 and 10.7 above, no announcement, publicity, advertising, press release, promotional or marketing materials regarding the arrangement contemplated under this Agreement, including the existence hereof, shall be made by either Party without the prior written approval of the other Party which approval shall not be unreasonably withheld or delayed.

10.9. Audit. Each Party has the right, at its sole expense and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement including amounts of Delivered GA Energy. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of twelve (12) months from the rendition thereof, and thereafter any objection shall be deemed waived.

10.10. Insurance. Seller shall at its sole expense purchase from and maintain in a company or companies lawfully authorized to conduct business in the jurisdiction where the Geysers Project is located the insurance described below. Such insurers shall maintain an A.M. Best's rating of A- or better or if such insurer is not rated by A.M. Best, a comparable financial strength rating from a rating entity acceptable to Buyer.

Buyer shall be named as an additional insured to the extent of the indemnity obligations set forth in Section 10.4 assumed hereunder under all Seller's insurance policies except All Risk Property Insurance and Workers Compensation. Each policy of insurance maintained by Seller below in this Section 10.10 shall contain a waiver of subrogation in favor of Buyer. All insurance shall be endorsed to specify that the Seller's insurance is primary and that any insurance or self-insurance maintained by Buyer shall not contribute with it. Seller shall be responsible for all policy deductible or self-insured retentions, and all policy premiums.

Buyer's Insurance Department and Law Department personnel may inspect the original policies in Seller's offices during normal business hours but may not share with any other department within Buyer's organization any of Seller's commercially sensitive information contained therein. Seller may redact any premium or payroll information contained in such policies.

Before the Delivery Term, Seller shall provide to Buyer certificates of insurance and blanket endorsements (if applicable) for each policy discussed below within ten (10) Business Days of Buyer's request. Thereafter, Seller shall provide Buyer with renewable certificates of insurance within five (5) Business Days after expiration. Insurance shall be maintained without lapse in coverage during the Delivery Term. The certificates must state that coverage will not be cancellable except after thirty (30) days prior Notice has been given to Buyer and must be signed by a person authorized by the insurer to bind coverage on its behalf.

All Risk Property Insurance – Seller will procure and maintain all risk property insurance including coverage for physical damage, boiler and machinery and extra expense during the operation of the Geysers Project. Coverage valuation shall be the actual repair or replacement costs but no greater than the full replacement cost of the Geysers Project. Coverage will also apply during inland transit. Such coverage shall allow for reasonable deductibles and sublimits for specific perils as consistent with Good Utility Practice.

Commercial General Liability – Seller will carry commercial general liability coverage as broad as the Insurance Services Office (ISO) with limits of \$2 million per occurrence, \$4 million in aggregate. The insurance will cover Claims brought against Seller for third party bodily injury (including death), personal injury and property damage. The coverage will include provisions for broad form property damage, explosion, collapse and underground hazard coverage (XCU), cross liability, severability of interest, broad form contractual liability, and completed operations.

Excess Liability/Umbrella Coverage – Seller will carry excess liability/umbrella coverage insurance of \$8 million per occurrence so that the total coverage for Commercial General Liability and Excess Liability/Umbrella Coverage shall be at least \$5 million per occurrence, however, such \$10 million total coverage may be made up of any combination of Commercial General Liability and Excess Liability/Umbrella Coverage at Seller's sole discretion.

Workers Compensation – Seller will carry workers compensation insurance covering statutory workers compensation obligations as required by state law. The coverage will also include \$1 million in Employers Liability coverage insuring Claims brought by employees brought outside the California workers' compensation statute.

In addition, Seller will also require any contractors utilized to provide general liability and worker's compensation coverage during maintenance of the Geysers Project with limits as appropriate based on services provided.

10.11. 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.

10.12. General. 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. 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. Except to the extent provided for, no amendment or modification to this Agreement shall be enforceable unless reduced to writing and executed by both Parties. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement). Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default. The headings used herein are for convenience and reference purposes only. Facsimile or Portable Document Format (PDF) transmission will be the same as delivery of an original document; provided that at the request of either party, the other party will confirm facsimile or PDF signatures by signing an original document. This Agreement shall be binding on each Party’s successors and permitted assigns. Absent the agreement of all Parties to the proposed change, the standard of review for changes to any rate, charge, classification, term or condition of this Agreement, whether proposed by a Party, a non-party or 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 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956)(the “Mobile-Sierra” doctrine).

10.13. Severability. If any provision in this Agreement is determined to be invalid, void or unenforceable by any court having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of this Agreement and the Parties shall use their best efforts to modify this Agreement to give effect to the original intention of the Parties.

10.14. Counterparts. This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall be deemed one and the same Agreement. Delivery of an executed counterpart of this Agreement by fax will be deemed as effective as delivery of an originally executed counterpart. Any Party delivering an executed counterpart of this Agreement by facsimile will also deliver an originally executed counterpart, but the failure of any Party to deliver an originally executed counterpart of this Agreement will not affect the validity or effectiveness of this Agreement.

10.15. Forward Contract. The Parties acknowledge and agree that this Agreement constitutes a “forward contract” within the meaning of the United States Bankruptcy Code.

10.16. Sarbanes-Oxley and Securities and Exchange Commission Requirements.

(d) The Parties acknowledge that accounting principles generally accepted in the United States of America (“GAAP”) and SEC rules require Buyer and its independent auditor to evaluate whether Buyer must consolidate Seller’s financial information (but not financial information of Seller’s constituent members unless deemed to be included in the entity under GAAP). Buyer will require access to certain records, including but not limited to financial records, and personnel of Seller to determine if consolidated financial reporting is required. If Buyer and its independent auditor determine at any time that the Buyer must consolidate the Seller’s financial statements to comply with GAAP and/or SEC rules regarding consolidated financial reporting, Buyer shall require

from Seller and Seller agrees to provide to Buyer the following during the Term of this Agreement:

(i) Unaudited financial statements of the Seller prepared in accordance with GAAP as of the end of the quarterly period. The financial statements should include quarter to date and year to date information and are to be provided within fifteen (15) calendar days of the end of the applicable reporting period (or the Business Day thereafter);

(ii) Unaudited financial schedules of the Seller, as deemed necessary for Buyer to prepare its consolidated financial statements and related footnotes to the financial statements in accordance with GAAP as of the end of the quarterly period. The financial schedules should include quarter to date and year to date information underlying the financial statements and footnotes to the financial statements and are to be provided within fifteen (15) calendar days of the end of the applicable reporting period (or the Business Day thereafter);

(iii) Access to Seller's records, accounting and other, and accounting and management personnel as reasonably determined by both Buyer and Seller so that (A) Buyer's independent auditor or its internal auditors may conduct financial audits (in accordance with the standards of the Public Company Accounting Oversight Board (United States)) as well as internal control audits (in accordance with Section 404 of the Sarbanes-Oxley Act of 2002) and (B) Buyer can be provided analytical information, as needed, to enable Buyer to meet its SEC filing requirements, including but not limited to those under Item 2 on Form 10-Q, and Item 7 on Form 10-K, "Management's Discussion and Analysis of Financial Condition and Results of Operations;"

(iv) Upon the request of Buyer, such certifications by a duly authorized representative(s) of Seller as may be reasonably requested by Buyer (which certifications shall presumptively be reasonable if the certifications are substantially identical to those required by Buyer or its parent of business units of Buyer or its parent); and

(v) As reasonably requested by Buyer, such information or schedules, similar to the items noted in clauses (i)-(iv) above, to enable Buyer to prepare consolidated financial statements and schedules as may be required for Buyer to obtain financing or to prepare other reports as required by regulatory bodies, such as the SEC, for periods other than as of the end of the monthly, quarterly or year to date period then ended.

(c) If Buyer (i) in its sole discretion determines that the financial statements of the Seller would be considered material to the Buyer or its parent company's financial statements, financial condition, or internal controls over financial reporting, and (ii) reasonably determines Seller's internal controls over financial reporting are not operating effectively or have resulted in a control deficiency, Buyer shall provide Notice to Seller. Upon receipt of such Notice, Seller will have thirty (30) days to remediate any deficiency in Seller's internal

controls over financial reporting identified by the Buyer, which Buyer and Buyer's independent auditor deem to be necessary to ensure Seller's internal controls over financial reporting are adequate, during or as a result of the audits permitted under Section 10.16(a)(iii) or any other.

(f) As soon as possible, but in no event later than two (2) Business Days following any occurrence that would affect Seller in any material way, Seller shall provide to Buyer a Notice describing such occurrence in sufficient detail to permit the Buyer to file a report on SEC Form 8-K. Such occurrences include all reportable events on the then current Form 8-K that applies to Buyer and its parent company at such time, including but not limited to a material acquisition or disposition of assets, a material direct financial obligation or off-balance sheet financing arrangement, material litigation, and the execution or termination of a material contract.

(g) Any information provided to Buyer shall be treated as confidential except that it may be disclosed in connection with the preparation, review, certification and publication of Buyer's financial statements.

(h) Seller shall notify Buyer at any time during the term of this Agreement of any services provided or proposed to be provided to Seller by Buyer's independent auditor. Seller, and any of Seller's Affiliates, are prohibited from engaging Buyer's independent auditor for any services or in any consulting agreement without the express written consent of partner in charge of Buyer's independent audit.

ARTICLE ELEVEN CONDITIONS; TERMINATION

11.1 Conditions. The "Effective Date" shall occur on the first calendar day after the following condition ("Condition") is either satisfied or waived by agreement of the Parties: CPUC Approval has been obtained and any other approvals have been granted as requested in Buyer's advice letter filing.

11.2. Failure to Meet All Conditions. If each of the Conditions is not satisfied or waived in writing by both Parties on or before two hundred and forty (240) days from the Execution Date, then either Party may terminate this Agreement effective upon receipt of Notice by the other Party. There shall be no liability owed by either Party to the other under Section 5.2 for any termination under this Section 11.2.

11.3. Cooperation Regarding Conditions; Buyer's CPUC Filing. The Parties further acknowledge and agree that each shall act reasonably and in good faith to cooperate and to take all reasonable steps to secure satisfaction of the Conditions specified in Section 11.1 hereof. In connection therewith, each of the Parties acknowledges and agrees that (i) no more than seven (7) Business Days after the Execution Date, Buyer shall provide to Seller for Seller's review and comment the public portion of the final draft of its advice letter with the CPUC seeking CPUC Approval, (ii) Seller shall provide all of its comments to such draft, if any, before close of business three (3) calendar days after receipt of such final draft from Buyer and (iii) Buyer shall file an advice letter with the CPUC seeking CPUC Approval on or before five (5) calendar days after receipt of Seller's comment to such draft.

11.4. Contract Quantity Reduction; No-Fault Termination.

(a) Contract Quantity Reduction. Buyer may elect by providing Seller with thirty (30) days written Notice to reduce the Contract Energy Quantity (and all corresponding calculations and requirements) to an amount equal to the ratable share of the capacity of the Geysers Project that is available if Seller is unable to deliver Contract Energy Quantity, due to a Force Majeure event affecting at least 50% of the generation capacity of those units that cannot be resolved using commercially reasonable efforts within a period of one hundred eighty (180) consecutive days (a “Geysers Catastrophic Event”). In the event that Buyer elects to reduce the quantities of Product sold under this Agreement, Seller shall no longer be in default of any provision of this Agreement as a result of a Geysers Catastrophic Event. In addition, any penalties incurred pursuant to Section 3.4 as of and after the occurrence of the Geysers Catastrophic Event shall be reduced on a pro-rata basis corresponding the new quantities of the Product determined in accordance with this Section 11.4(a).

(b) No-Fault Termination. If Buyer does not elect to reduce the quantities of the Product sold under this Agreement pursuant to subsection (a) above, either Party may with fifteen (15) days written Notice to the other Party within forty-five (45) days of a Geysers Catastrophic Event occurring, terminate this Agreement. In the event of a termination under this Section 11.4(b), neither Party shall owe the other Party any payment for damages nor shall such termination constitute an Event of Default under Section 5.1.

11.5. Termination for Convenience Regarding Interim Period Sales. Either Party may, upon no less than fifteen (15) days’ prior written notice and no earlier than ninety (90) days after the filing of this Agreement for CPUC Approval, for any reason or no reason, terminate the provisions of this Agreement regarding the purchase and sale of Interim Period Product during the Interim Period. Such termination shall be effective as of the date set forth in such written notice but will not affect the Parties’ respective obligations with respect to (i) any Interim Period Product delivered prior to the effective date of such termination or (ii) the other terms and conditions of this Agreement (including, but not limited to, credit, the purchase and sale of the Product from and after the Energy Delivery Date and the Parties’ efforts to obtain CPUC Approval).

**ARTICLE TWELVE
DISPUTE RESOLUTION**

12.1. Intent of the Parties. Except as provided in the next sentence, the sole procedure to resolve any claim arising out of or relating to this Agreement or any related agreement is the dispute resolution procedure set forth in this Article Twelve. Either Party may seek a preliminary injunction or other provisional judicial remedy if such action is necessary to prevent irreparable harm or preserve the status quo, in which case both Parties nonetheless will continue to pursue resolution of the dispute by means of this procedure.

12.2. Management Negotiations.

(a) The Parties will attempt in good faith to resolve any controversy or claim arising out of or relating to this Agreement or any related agreements by prompt

negotiations between each Party's Authorized Representative, or such other person designated in writing as a representative of the Party (each a "Manager"). Either Manager may request a meeting (in person or telephonically) to initiate negotiations to be held within ten (10) Business Days of the other Party's receipt of such request, at a mutually agreed time and place. If the matter is not resolved within fifteen Business Days of their first meeting ("Initial Negotiation End Date"), the Managers shall refer the matter to the designated senior officers of their respective companies ("Executive(s)"), who shall have authority to settle the dispute. Within five (5) Business Days of the Initial Negotiation End Date ("Referral Date"), each Party shall provide one another written notice confirming the referral and identifying the name and title of the Executive who will represent the Party.

(b) Within five (5) Business Days of the Referral Date, the Executives shall establish a mutually acceptable location and date, which date shall not be greater than thirty (30) calendar days from the Referral Date, to meet. After the initial meeting date, the Executives shall meet, as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute.

(c) All communication and writing exchanged between the Parties in connection with these negotiations shall be confidential and shall not be used or referred to in any subsequent binding adjudicatory process between the Parties.

(d) If the matter is not resolved within forty-five (45) days of the Referral Date, or if the Party receiving the written request to meet, pursuant to subpart (b) above, refuses or does not meet within the ten (10) Business Day period specified in subpart (b) above, either Party may initiate arbitration of the controversy or claim according to the terms of the following Section 12.3 by filing with the American Arbitration Association ("AAA") a notice of intent to arbitrate.

12.3. Arbitration. If the controversy or claim is referred to arbitration pursuant to Section 12.2(d) above, then the controversy shall be settled by arbitration conducted in accordance with AAA's Commercial Arbitration Rules ("Arbitration") in San Diego, California by a retired judge or justice from the AAA panel. The Arbitration is to be conducted before a single arbitrator whom the Parties shall jointly select. If the Parties are unable to agree upon the arbitrator, either Party may request the AAA to select the arbitrator. Any arbitrator(s) shall have no affiliation with, financial or other interest in, or prior employment with either Party and shall be knowledgeable in the field of the dispute. Each such arbitrator must provide an oath or understanding of impartiality. At the request of a Party, the arbitrator shall have the discretion to order depositions of witnesses to the extent the arbitrator deems such discovery relevant and appropriate. Depositions shall be limited to a maximum of five (5) per Party and shall be held within thirty (30) days of the making of a request. Additional depositions may be scheduled only with the permission of the arbitrator, and for good cause shown. Each deposition shall be limited to a maximum of six (6) hours duration unless otherwise permitted by the arbitrator for good cause shown. All objections are reserved for the arbitration hearing except for objections based on privilege and proprietary and confidential information. The arbitrator shall also have discretion to order the Parties to exchange relevant documents. The arbitrator shall also have discretion to order the Parties to answer interrogatories, upon good cause shown.

(a) The arbitrator shall have no authority to award punitive or exemplary damages or any other damages other than direct and actual damages and the other remedies contemplated by this Agreement.

(b) The arbitrator's award shall be made within nine (9) months of the filing of the notice of intention to arbitrate (demand), and the arbitrator shall agree to comply with this schedule before accepting appointment. However, this time limit may be extended by agreement of the Parties or by the arbitrator, if necessary. The California Superior Court of the City and County of San Diego may enter judgment upon any award rendered by the arbitrator. The Parties are aware of the decision in *Advanced Micro Devices, Inc. v. Intel Corp.*, 9 Cal. 4th 362 (1994) and, except as modified by this Agreement, intend to limit the power of the arbitrator to that of a Superior Court judge enforcing California Law. The prevailing Party in this dispute resolution process is entitled to recover its costs and reasonable attorneys' fees (including reasonably allocated fees of in-house counsel).

(c) The arbitrator shall have the authority to grant dispositive motions prior to the commencement of or following the completion of discovery if the arbitrator concludes that there is no material issue of fact pending before him or her.

(d) Except as may be required by Law, neither a Party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both Parties.

12.4. Expedited Dispute Resolution. In the event of dispute under any of Sections 3.3(b), 3.3(c) or 3.4, the Parties agree that the sole basis for resolving such dispute shall be this Section 12.4 unless otherwise agreed to in writing by the Parties. Such disputes shall be governed by "baseball-style arbitration," in which the scope of the arbitrator's decision shall be limited to which of the Parties' proposals should be adopted. If a dispute arises under one of the Sections identified in this Section 12.4, a Party may initiate arbitration procedures under this Section 12.4, upon notification of such initiation to the other Party. Within five (5) days of such notification, each Party shall submit a proposal of three (3) names of arbitrators from the AAA panel who are identified as available, to the other Party. The Parties shall agree on the selection of an arbitrator (or, if the Parties cannot so agree, the six (6) nominated arbitrators shall elect the arbitrator). Within five (5) Business Days of the date when an arbitrator is chosen, each Party shall submit their best offer to the arbitrator. Within ten (10) Business Days of the receipt of the offers, the arbitrator shall issue a ruling, and is limited to awarding only one of the offers submitted. Except for attorneys' fees and related costs borne by each Party, the Parties shall share equally all costs incurred in connection with resolving a dispute under this Section 12.4.

ARTICLE THIRTEEN NOTICES

Whenever this Agreement requires or permits delivery of a Notice (or requires a Party to "notify"), the Party with such right or obligation shall provide a written communication in the manner specified herein. A Notice sent by facsimile transmission or e-mail will be recognized and shall be deemed received on the Business Day on which such Notice was transmitted if received before 5:00 p.m. (and if received after 5:00 p.m., on the next Business Day) and a notice

of overnight mail or courier shall be deemed to have been received two (2) Business Days after it was sent or such earlier time as is confirmed by the receiving Party. Either Party may periodically change any address, phone number, e-mail, or contact to which Notice is to be given it by providing written notice of such change to the other Party.

[The remainder of page intentionally left blank.]

Appendix I

Form of Letter of Credit

[see attached]

FORM OF LETTER OF CREDIT

[DATE]

To: San Diego Gas & Electric Company
555 W. Fifth Street
Mail Code: GT10E3
Los Angeles, CA 90013

Re: Our Irrevocable Standby Letter of Credit No. _____
In the Amount of US \$ _____

Gentlemen:

We hereby open our irrevocable standby Letter of Credit Number _____ in favor of San Diego Gas & Electric Company ("Secured Party"), by order and for account of [insert counterparty name exactly as it appears on the underlying contract], a California Corporation ("Account Party"), available at sight upon demand at our counters, at _____ for an amount of US\$ _____ (_____) against presentation one of the following documents:

1- Statement signed by a person purported to be an authorized representative of Secured Party stating that: "An Event of Default has occurred or is occurring with respect to [insert counterparty name exactly as it appears on the underlying contract] ("Account Party") under [insert the name of the agreement] (the "Agreement") between Secured Party and Account Party dated [insert the date of the agreement] as such term is defined by the Agreement. The amount due to Secured Party is US \$ _____."

or

2- Statement signed by a person purported to be an authorized representative of Secured Party stating that: "as of the close of business on _____ [insert date, which is less than 30 days prior to the expiration date of the Letter of Credit] you have provided written notice to us indicating your election not to extend this Letter of Credit beyond its current expiry date. The amount due to Secured Party, whether or not a default has occurred, is U.S. \$ _____."

Special Conditions:

- All costs and banking charges pertaining to this Letter of Credit are for the account of Account Party.
- Partial and multiple drawings are permitted.

Facsimile of the drawn documents is acceptable to 1-336-735-0952. If presentation is made by fax phone notification must be given to 1-800-776-3862. The fax presentation shall be deemed the original presentation. In the event of a full or final drawing the original standby letter of credit must be returned to us by overnight courier at the time of fax presentation.

- This Letter of Credit is not transferable.

This Letter of Credit expires on _____ at our counters.

We hereby engage with Secured Party that upon presentation of a document as specified under and in compliance with the terms of this Letter of Credit, this Letter of Credit will be duly honored in the amount stated in Document 1 or 2 above. If a document is so presented by 11:00 am on any North Carolina banking day, payment of the amount specified in such draft shall be made on the third succeeding business day. If such draft is presented after 11:00 am on a North Carolina banking day, payment of the amount specified in such draft shall be made on the fourth succeeding business day.

It is a condition of this Letter of Credit that it shall be deemed automatically extended without an amendment for a one year period beginning on the present expiry date hereof and upon each anniversary of such date, unless at least sixty (60) days prior to any such expiry date we have sent you written notice by regular and registered mail or courier service that we elect not to permit this Letter of Credit to be so extended beyond, and will expire on its then current expiry date. No presentation made under this Letter of Credit after such expiry date will be honored.

We agree that if this Letter of Credit would otherwise expire during, or within 30 days after, an interruption of our business caused by an act of god, riot, civil commotion, insurrection, act of terrorism, war or any other cause beyond our control or by any strike or lockout, then this Letter of Credit shall expire on the 30th day following the day on which we resume our business after the cause of such interruption has been removed or eliminated and any drawing on this Letter of Credit which could properly have been made but for such interruption shall be permitted during such extended period.

This Letter of Credit is subject to and governed by the International Standby Practices, International Chamber of Commerce (ICC) publication No. 590 ("ISP98"), except to the extent that the terms hereof are inconsistent with the provisions of the IS98, in which case the terms of this Letter of Credit shall govern. As to matters not addressed by the ISP98, and to the extent not inconsistent with the ISP98 and the terms of this Letter of Credit, this Letter of Credit shall be governed by and construed in accordance with the laws of the State of New York (including, without limitation, article 5 of the Uniform Commercial Code of the State of New York).

[Name of Bank]

Authorized Signature(s)

Exhibit 3.4(a)

Examples of Application of Section 3.4(a)

[see attached]

Geothermal Renewable Product - 25 MW

This calculation is performed monthly to determine the Monthly Product Payment reduction, if any, pursuant to Section 3.4(a) of the Agreement. Four illustrative examples are provided. In the event of any conflict between any of the examples and the express terms of the Agreement, the terms of the Agreement will govern.

3.4(a)(i)(a) Assume:
 MG = 25 MW * 744 hours in the month = 18,600 MWh
 DGAE = 18,600,000 MWh (verified by CAISO meter readings)
 EGAE = 0 MWh
 Then: MGADF = (18,600,000 MWh + 0 MWh) / (25 MW * 744 hour) = 100%
 [Partial Data Subset from Invoice shown below]

Day	Hour	Final Allocation Forecast	Delivered Energy	Excused Energy	GA Shortfall Quantity	Real-Time Index Energy Price	Replacement Damage
5	11	25	25,0000	0	0	47.10	\$0.00
5	12	25	25,0000	0	0	47.69	\$0.00
5	13	25	25,0000	0	0	48.51	\$0.00
5	14	25	25,0000	0	0	50.34	\$0.00
5	15	25	25,0000	0	0	50.26	\$0.00
5	16	25	25,0000	0	0	48.21	\$0.00
5	17	25	25,0000	0	0	50.85	\$0.00
Total Replacement Damage =							\$0.00

3.4(a)(i)(b) Assume:
 MG = 25 MW * 744 hours in the month = 18,600 MWh
 DGAE = 18,597,2948 MWh (verified by CAISO meter readings)
 EGAE = 0 MWh
 Then: MGADF = (18,597,2948 MWh + 0 MWh) / (25 MW * 744 hour) = 99.9%
 [Partial Data Subset from Invoice shown below]

Day	Hour	Final Allocation Forecast	Delivered Energy	Excused Energy	Final Allocation Shortfall	Real-Time Index Energy Price	Replacement Damage
11	11	25	25,0000	0	0	117.10	\$0.00
11	12	25	25,0000	0	0	117.69	\$0.00
11	13	25	24,1232	0	0.8768	118.51	\$3.96
11	14	25	24,2172	0	0.7828	120.34	\$4.96
11	15	25	24,0831	0	0.9169	120.26	\$5.74
11	16	25	24,8713	0	0.1287	119.21	\$0.67
11	17	25	25,0000	0	0	120.85	\$0.00
Total Replacement Damage =							\$15.33

3.4(a)(i)(a) Assume:
 MG = 25 MW * 744 hours in the month = 18,600 MWh
 DGAE = 17,947,2345 MWh (verified by CAISO meter readings)
 EGAE = 0 MWh
 The example below assumes that the deficient hours are outside of the chronologically first three percent of undelivered CEO that are not Excused GA Energy.
 Then: MGADF = (17,947,2345 MWh + 0 MWh) / (25 MW * 744 hour) = 96.49%
 [Partial Data Subset from Invoice shown below]

Day	Hour	Final Allocation Forecast	Delivered Energy	Excused Energy	Final Allocation Shortfall	Real-Time Index Energy Price	Replacement Damage
21	11	25	23,6548	0	1.3452	55.60	\$50.00
21	12	25	25,0000	0	0.0000	87.69	\$50.00
21	13	25	21,0000	0	4.0000	104.53	\$50.00
21	14	25	18,0000	0	7.0000	120.34	\$50.00
21	15	25	5,3325	0	19.6675	120.26	\$50.00
21	16	25	0.0000	0	25.0000	119.21	\$50.00
21	17	25	2,3650	0	22.6350	120.86	\$50.00
Total Replacement Damage =							\$4,330.27

Note: Zero since only positive differences are included in Replacement Damage

3.4(a)(i)(b) Assume:
 MG = 25 MW * 744 hours in the month = 18,600 MWh
 DGAE = 17,947,2345 MWh (verified by CAISO meter readings)
 EGAE = 0 MWh
 The example below also assumes that the deficient hours are outside of the chronologically first three percent of undelivered CEO that are not Excused GA Energy.
 Then: MGADF = (17,947,2345 MWh + 0 MWh) / (25 MW * 744 hour) = 96.49%
 [Partial Data Subset from Invoice shown below]

Day	Hour	Final Allocation Forecast	Delivered Energy	Excused Energy	GA Shortfall Quantity	Day-Ahead Index Energy Price	Replacement Damage
19	4	25	25,0000	0	0.0000	31.39	\$50.00
19	5	25	25,0000	0	0.0000	30.28	\$50.00
19	6	25	21,0000	0	4.0000	59.89	\$50.00
19	7	18	18,0000	0	7.0000	64.57	\$50.00
19	8	25	24,2172	0	0.7828	65.26	\$50.00
19	9	25	25,0000	0	0.0000	35.04	\$50.00
19	10	25	25,0000	0	0.0000	41.50	\$50.00
Total Replacement Damage =							\$3.99

Note: Does not include Replacement Damage under 3.4(a)(i)(a) for this hour

Note: Does not include Replacement Damage under 3.4(a)(i)(a) for this hour

Exhibit 6.1

Sample Seller's Invoice

[see attached]



Invoice Number: September 2010
Production Month: October 5, 2010
Invoice Date: October 25, 2010
Contract Number:

Mail To:
 San Diego Gas and Electric Company
 8315 Century Park Court, CP21D
 San Diego, CA 92123-1548
 Attn: Energy Accounting Manager

Wire Funds To:
 Bank: Deutsche Bank
 ABA Number: 021001033
 Account Number: 00449262
 City/State: New York, NY

Billing Inquiries
 Contact: Cynthia Gloria
 Phone Number: 713-830-2064
 Fax Number: 713-830-8749

Internal Billing Inquiries
 Contact: Cynthia Gloria
 Phone Number: 713-830-2064
 Fax Number: 713-830-8749

Deal Key	Deal Type	Flow Date	Product	Volume	Price	Amount Due	Currency
SALES							
Product:							
526104	Delivered GA Energy	09/01/10-09/30/10		17,998.00	\$114-CAISO Day Ahead Index Energy Price	\$1,442,308.87	USD
Product:							
526xxx	Load Uplift	09/01/10-09/30/10		17,998.00	(Included above)	\$0.00	USD
Product:							
5264xx	SCP-RA	09/01/10-09/30/10		25.00	(Included above)	\$0.00	USD
Final Allocation Forecas							
Replacement Damages					TOTAL	\$1,442,308.87	USD
Final Allocation Forecast Shortfall	2.00	Delivered GA Energy	17,998.00	MGADF Value	100.00%	Replacement Damage	\$0.00
Excused GA Energy	2.00	Maximum Generation	18,000.00	GRAND TOTAL		\$1,442,308.87	

Energy Payment (THEQP)

	Metered Generation (Geyzers 20)	Final Allocation Forecast	Delivered GA Energy	THEQP	Contract Price	Total THEQP	Day-Ahead Index Energy Price	
							(\$/MWh)	Payment Amount
19:00	45.2235	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	39.86	\$1,853.53
20:00	45.1220	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	37.70	\$1,907.42
21:00	45.3670	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	36.42	\$1,939.56
22:00	43.4245	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	33.93	\$2,001.84
23:00	40.7385	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	33.00	\$2,025.06
24:00	40.4460	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	28.52	\$2,137.05
28-Sep 01:00	40.1765	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	27.39	\$2,165.20
02:00	40.0855	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	24.72	\$2,232.02
03:00	40.0610	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	19.84	\$2,354.00
04:00	40.1590	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	20.88	\$2,333.02
05:00	40.4355	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	20.20	\$2,345.09
06:00	40.5335	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	21.26	\$2,318.58
07:00	40.4320	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	17.21	\$2,419.88
08:00	40.2045	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	18.79	\$2,380.31
09:00	39.7845	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	21.55	\$2,311.13
10:00	39.5850	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	24.25	\$2,243.63
11:00	39.6270	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	25.87	\$2,203.22
12:00	39.7005	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	25.89	\$2,202.78
13:00	39.6270	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	25.70	\$2,207.60
14:00	39.7285	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	22.90	\$2,277.40
15:00	39.8580	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	22.49	\$2,287.70
16:00	39.9595	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	22.77	\$2,280.67
17:00	40.0155	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	26.82	\$2,179.59
18:00	40.1170	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	36.36	\$1,940.82
19:00	40.2010	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	36.30	\$1,942.44
20:00	40.3340	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	35.01	\$1,974.69
21:00	40.2150	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	33.10	\$2,022.56
22:00	40.2185	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	31.56	\$2,061.07
23:00	40.2605	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	31.75	\$2,056.35
24:00	40.2465	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	27.87	\$2,153.16
29-Sep 01:00	40.2605	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	26.44	\$2,189.12
02:00	40.1345	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	25.61	\$2,209.86
03:00	40.1870	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	23.42	\$2,264.56
04:00	40.3620	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	23.89	\$2,252.83
05:00	40.2605	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	25.01	\$2,224.81
06:00	40.2745	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	25.67	\$2,209.23
07:00	40.3200	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	25.41	\$2,214.87
08:00	39.7705	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	25.31	\$2,217.21
09:00	39.4635	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	26.19	\$2,195.19
10:00	39.3260	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	28.64	\$2,134.02
11:00	39.2245	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	28.64	\$2,134.00
12:00	39.0985	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	28.67	\$2,133.33
13:00	38.9515	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	28.75	\$2,131.14
14:00	38.7785	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	27.44	\$2,164.07
15:00	39.6130	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	27.39	\$2,165.35
16:00	39.7880	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	28.04	\$2,149.07
17:00	40.0715	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	35.30	\$1,967.61
18:00	40.1485	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	45.55	\$1,711.31
19:00	39.9700	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	44.48	\$1,738.09
20:00	39.9175	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	43.65	\$1,758.65
21:00	39.6860	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	41.45	\$1,813.84
22:00	39.8125	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	38.24	\$1,854.11
23:00	39.8720	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	33.67	\$2,008.34
24:00	39.9035	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	28.16	\$2,146.12
30-Sep 01:00	39.8300	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	31.29	\$2,067.70
02:00	39.8580	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	27.26	\$2,168.62
03:00	39.9700	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	25.64	\$2,208.68
04:00	39.9910	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	25.72	\$2,206.96
05:00	40.0435	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	30.81	\$2,079.63
06:00	40.0435	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	39.51	\$1,862.27
07:00	40.1785	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	40.25	\$1,843.83
08:00	40.2150	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	41.93	\$1,801.79
09:00	40.1590	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	40.48	\$1,837.96
10:00	40.1310	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	40.49	\$1,837.82
11:00	40.0750	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	40.45	\$1,838.73
12:00	39.9735	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	40.40	\$1,840.03
13:00	39.8545	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	39.00	\$1,874.90
14:00	39.7740	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	35.74	\$1,956.62
15:00	39.6970	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	35.55	\$1,961.15
16:00	39.7285	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	34.90	\$1,977.38
17:00	39.8125	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	39.18	\$1,870.53
18:00	39.8580	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	48.33	\$1,641.73
19:00	39.9840	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	44.30	\$1,742.61
20:00	40.1170	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	43.06	\$1,773.57
21:00	40.1135	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	40.89	\$1,827.70
22:00	40.1590	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	40.05	\$1,848.74
23:00	40.2290	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	34.92	\$1,977.04
24:00	39.9875	25.0000	25.0000	25.0000	\$114.00	\$2,850.00	33.27	\$2,018.21
						17998.0000	\$2,051,772.00	\$1,442,308.87