

POWER PURCHASE AGREEMENT

Between

Redwood Coast Energy Authority
(as “Buyer”)

and

EDPR CA Solar Park II LLC
(as “Seller”)

POWER PURCHASE AGREEMENT

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APPENDICES

The following Appendices constitute a part of this Agreement and are incorporated into this Agreement by reference:

- Appendix I Form of Letter of Credit
- Appendix II Initial Energy Delivery Date Confirmation Letter
- Appendix III Form of Progress Report
- Appendix IV Construction Start and Commercial Operation Certification Forms and Procedures
 - Appendix IV-1 Construction Start Form of Certification
 - Appendix IV-2 Commercial Operation Certification Procedure
 - Attachment A Commercial Operation Form of Certification
- Appendix V GEP Damages Calculation
- Appendix VI Notification Requirements for Available Capacity and Project Outages
- Appendix VII Form of Consent to Assignment
- Appendix VIII Seller Documentation Condition Precedent
- Appendix IX Form of Actual Availability Report
 - Attachment A Form of Actual Availability Report
- Appendix X Telemetry Parameters for Wind or Solar Facility
- Appendix XI Form of Guaranty
- Appendix XII Project Specifications and Contract Capacity Calculation

POWER PURCHASE AGREEMENT

COVER SHEET

This Power Purchase Agreement (“Agreement”) is entered into between Redwood Coast Energy Authority, a California joint powers authority (“Buyer” or “RCEA”), and EDPR CA Solar Park II LLC, a Delaware limited liability company (“Seller”), as of the Execution Date. The information contained in this Cover Sheet shall be completed by Seller and incorporated into the Agreement.

A. Transaction Type

Seller may not modify the Transaction Type designated in this Part A of the Cover Sheet at any time after the Execution Date.

Product: ☒ As-Available
Portfolio Content Category:

☒ Portfolio Content Category 1

Deliverability:

☐ Energy Only Status

☐ Partial Capacity Deliverability Status (“PCDS”)

a) If PCDS is selected, provide the Expected PCDS Date, or the date the Project received a PCDS finding if already received:
_____ (mm/dd/yyyy);

b) The Partial Capacity Deliverability Status Amount the Project will obtain is _____ MW.

☒ Full Capacity Deliverability Status (“FCDS”)

a) If FCDS is selected, provide the Expected FCDS Date, or the date the Project received a FCDS finding if already received: _____

Seller shall elect one of the following Delivery Terms:

☐ ten (10) Contract Years

☒ fifteen (15) Contract Years

☐ twenty (20) Contract Years

B. Project Description Including Description of Site

Contract Capacity: 100 MW

(i) Project Development:

(a) The Project is an:

☐ Existing Project

☒ New Project

(1) If the Project is a New Project:

(A) The anticipated Construction Start Date: [REDACTED]

(B) The Guaranteed Construction Start Date: [REDACTED]

(C) The Expected Commercial Operation Date: [REDACTED]

(D) The Guaranteed Commercial Operation Date:
[REDACTED]

(b) Project development Milestone schedule

Identify Milestone	Date for Completion
Major Permitting	[REDACTED]
GIA Execution	[REDACTED]
Construction Start	[REDACTED]
Start-Up and Commissioning	[REDACTED]
Guaranteed Commercial Operations Date	[REDACTED]

C. Contract Price

The Contract Price for each MWh of Product as measured by Delivered Energy in the initial Contract Year shall be \$[REDACTED]. In each succeeding Contract Year, the Contract Price shall be adjusted by multiplying the prior year's Contract Price by [REDACTED].

D. Delivery Term Contract Quantity Schedule

Length of Delivery Term (in Contract Years): 15 Contract Years.

Contract Year	Contract Quantity (MWh)
1	[REDACTED]
2	[REDACTED]
3	[REDACTED]
4	[REDACTED]
5	[REDACTED]
6	[REDACTED]
7	[REDACTED]
8	[REDACTED]
9	[REDACTED]
10	[REDACTED]
11	[REDACTED]
12	[REDACTED]
13	[REDACTED]
14	[REDACTED]

Contract Year	Contract Quantity (MWh)
15	

E. Collateral

- Project Development Security (provide dollar amount)

Dollar Amount: \$

- Form: Cash, Letter of Credit, and/or Guaranty

- Delivery Term Security (provide dollar amount)

Dollar Amount: \$

- Form: Cash, Letter of Credit, and/or Guaranty

F. Buyer Bid Curtailment and Buyer Curtailment Orders.

Operational characteristics of the Project for Buyer Bid Curtailment and Buyer Curtailment Orders are listed below. Buyer, as the Scheduling Coordinator, may request that CAISO modify the Master File for the Project to reflect the findings of a CAISO audit of the Project. In addition, Seller agrees to coordinate with Buyer or Third-Party SC, as applicable, to ensure all information provided to the CAISO regarding the operational and technical constraints in the Master File for the Project are accurate and are based on the true physical characteristics of the resource.

- PMax of the Project: 100 MW
- Minimum operating capacity: Not Applicable
- Ramp Rate: Not Applicable
- Advance notification required for Buyer Bid Curtailment and Buyer Curtailment Order: Not greater than the shortest Dispatch Interval in the Real-Time Market (as defined in the CAISO Tariff).
- Maximum number of Start-ups per calendar day (if any such operational limitations exist): Not Applicable

Other Requirements:

- Maximum number of hours annually for Buyer Curtailment Periods: Unlimited hours
- The Project will be capable of receiving and responding to all Dispatch Instruction.
- Start-Up Time (if applicable): Not Applicable
- Minimum Run Time after Start-Up (if applicable): Not Applicable
- Minimum Down Time after Shut-Down (if applicable): Not Applicable

G. Damage Payment (as described under Damage Payment definition in Article One):

\$

H. RA Value Cap: \$/MW-Month.

I. Notices List

Name: **EDPR CA Solar Park II LLC, a Delaware limited liability company** (“Seller”)

All Notices:

Delivery Address:

[REDACTED]
[REDACTED]

Mail Address: (if different from above)

Attn: EVP Asset Operations

Phone: [REDACTED]

Email: [REDACTED]

DUNS: insert information here

Federal Tax ID Number: insert information here

Invoices:

Attn: Settlements

Phone: [REDACTED]

Email: [REDACTED]

Scheduling:

Attn: ROCC Operator

Phone 1: [REDACTED]

Phone 2: [REDACTED]

Email: [REDACTED]

Payments:

Attn: Settlements

Phone: [REDACTED]

Email: [REDACTED]

Wire Transfer:

BNK: [REDACTED]

ABA: [REDACTED]

ACCT: [REDACTED]

Credit and Collections:

Attn: Treasury

Phone: [REDACTED]

Email: [REDACTED]

Notices of an Event of Default to :

Attn: General Counsel

Name: **Redwood Coast Energy Authority,** (“Buyer” or “RCEA”)

All Notices:

Delivery Address:

633 3rd St
Eureka, CA 95501

Mail Address:

Attn: Richard Engel

Director of Power Resources

Phone: 707-269-1700, ext. [REDACTED]

Email: rengel@redwoodenergy.org

DUNS: [REDACTED]

Federal Tax ID Number: [REDACTED]

Invoices:

Attn: Accounting

Phone: 707-269-1700, ext. [REDACTED]

Facsimile: 707-269-1777

Email: [REDACTED]

Scheduling:

Attn: The Energy Authority designated as Buyer’s SC

Day Ahead Desk Phone: [REDACTED]

Real Time Desk Phone: [REDACTED]

Facsimile: [REDACTED]

Payments:

Attn: Accounting

Phone: 707-269-1700, ext. [REDACTED]

Facsimile: 707-269-1777

Email: [REDACTED]

Wire Transfer:

BNK: [REDACTED]

ABA: [REDACTED]

ACCT: [REDACTED]

Credit and Collections:

Attn: Lori Biondini

Director of Business Planning and Finance

Phone: 707-269-1700, ext. [REDACTED]

Email: [REDACTED]

Notices of an Event of Default to:

Attn: Lori Biondini

Phone: [REDACTED]
Facsimile: [REDACTED]

Email: [REDACTED]

With additional Notices of an Event of Default to:

General Counsel

Phone: [REDACTED]
Facsimile: [REDACTED]
Email: [REDACTED]

Director of Business Planning and Finance

Phone: 707-269-1700, ext. [REDACTED]

Facsimile: 707-269-1777

Email: [REDACTED]

With additional Notices of an Event of Default to:

RCEA General Counsel

Nancy Diamond, Law Offices of Nancy Diamond

822 G Street, Suite 3

Arcata, CA 95521

Phone: [REDACTED]

Facsimile: [REDACTED]

PREAMBLE

This Power Purchase Agreement, together with the Cover Sheet, appendices and any other attachments referenced herein, is made and entered into between RCEA and Seller, as of the Execution Date set forth in the Cover Sheet. Buyer and Seller hereby agree to the following:

GENERAL TERMS AND CONDITIONS

ARTICLE ONE: GENERAL DEFINITIONS

1.1 “Actual Availability Report” has the meaning set forth in Section 3.1(l)(i)(G).

1.2 “Affiliate” means, with respect to any person or entity, any other person or entity (other than an individual) that (a) directly or indirectly, through one or more intermediaries, controls, or is controlled by such person or entity or (b) is under common control with such person or entity. 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.

1.3 “Agreement” means this Power Purchase Agreement between Buyer and Seller, which is comprised of the Cover Sheet, Preamble, these General Terms and Conditions, and all appendices, schedules and any written supplements attached hereto and incorporated herein by references, as well as all written and signed amendments and modifications thereto. For purposes of Section 10.10, the word “agreement” shall have the meaning set forth in this definition. For purposes of Section 3.1(k)(viii), the word “contract” shall have the meaning set forth in this definition.

1.4 “Ancillary Services” has the meaning set forth in the CAISO Tariff.

1.5 “As-Available Product” means the Product will be available whenever Energy is capable of being generated from the Project and delivered to the Delivery Point.

1.6 “Availability Workbook” has the meaning set forth in Appendix IX.

1.7 “Available Capacity” means the capacity from the Project, expressed in whole megawatts, that is available to generate Product.

1.8 “Balancing Authority” has the meaning set forth in the CAISO Tariff.

1.9 “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 and such case filed against it is not dismissed in ninety (90) days, (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.

1.10 “Bid” has the meaning set forth in the CAISO Tariff.

1.11 “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.

1.12 “Buyer” has the meaning set forth in the Cover Sheet.

1.13 “Buyer Bid Curtailment” means Buyer as SC or through its Third-Party SC communicates a curtailment instruction to the Seller, requiring Seller to produce less Energy from the Project than the CAISO final market forecast amount to be produced from the Project for a period of time, and Buyer as the SC or through its Third-Party SC either (a) submitted a CAISO final market Energy Supply Bid and such curtailment is solely a result of the CAISO implementing the Energy Supply Bid; or (b) submitted a CAISO final market Self-Schedule for less than the amount of the final-market Energy forecasted to be produced from the Project. However, if the Project is subject to a Planned Outage, Forced Outage, Force Majeure and/or a Curtailment Period during the same period of time, then Buyer Bid Curtailment shall not include any Energy that is subject to such Planned Outage, Forced Outage, Force Majeure or Curtailment Period.

1.14 “Buyer Curtailment Order” means the instruction from Buyer or through its Third-Party SC to Seller to reduce generation from the Project by the amount, and for the period of time set forth in such order, subject to Good Utility Practices, for reasons unrelated to a Planned Outage, Forced Outage, Force Majeure and/or Curtailment Order.

1.15 “Buyer Curtailment Period” means the period of time, as measured using current Settlement Intervals, during which Seller reduces generation from the Project pursuant to (a) Buyer Bid Curtailment (b) a Buyer Curtailment Order, or (c) an Event of Default where Buyer is the Defaulting Party. The Buyer Curtailment Period shall be inclusive of the time required for the Project to ramp down and ramp up; provided that such time periods to ramp down and ramp up shall be consistent with the Ramp Rate designated in the Cover Sheet.

1.16 “Buyer’s Notice of First Offer Acceptance” has the meaning set forth Section 11.1(b)(ii), as applicable.

1.17 “Buyer Performance Assurance” means Phase I Buyer Security, Phase II Buyer Security, and/or Phase III Buyer Security, as applicable.

1.18 “Buyer’s WREGIS Account” has the meaning set forth in Section 3.1(k)(i).

1.19 “CAISO” means the California Independent System Operator Corporation or any successor entity performing similar functions.

1.20 “CAISO Global Resource ID” means the number or name assigned by the CAISO to the Project.

1.21 “CAISO Grid” has the same meaning as “CAISO Controlled Grid” as defined in the CAISO Tariff.

1.22 “CAISO Penalties” means any fees, liabilities, assessments, or similar charges assessed by the CAISO for (a) violation of the CAISO Tariff and all applicable protocols, WECC rules or CAISO operating instructions or orders or (b) as a result of a Party’s failure to follow Good Utility Practices. In either case, “CAISO Penalties” do not include the costs and charges related to scheduling and Imbalance Energy as addressed in Section 4.5(b) of this Agreement.

1.23 “CAISO Tariff” means the California Independent System Operator Corporation, Fifth Replacement FERC Electric Tariff (Open Access Transmission Tariff), as it may be amended, supplemented or replaced (in whole or in part) from time to time.

1.24 “California Renewables Portfolio Standard” or “RPS” means the renewable energy program and policies established by the California Legislature and codified in California Public Utilities Code Sections 399.11 through 399.32 and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time.

1.25 “Capacity Attributes” means any current or future defined characteristic (including the ability to generate at a given capacity level, provide Ancillary Services, and ramp up or ramp down at a given rate), certificate, tag, credit, flexibility, or dispatchability attribute, whether general in nature or specific as to the location or any other attribute of the Project, intended to value any aspect of the capacity of the Project to produce any and all Product, including any applicable accounting construct so that the maximum amount of Contract Capacity of the Project may be counted toward a Resource Adequacy Requirement or any other measure by the CPUC, the CAISO, the FERC, or any other entity invested with the authority under federal or state Law, to require Buyer to procure, or to procure at Buyer’s expense, Resource Adequacy or other such products. For the avoidance of doubt, Capacity Attributes do not include Energy, Environmental Attributes, or Tax Attributes.

1.26 “CEC” means the California Energy Commission or its successor agency.

1.27 “CEC Certification and Verification” means that the CEC has certified (or, with respect to periods before the Project has commenced commercial operation (as such term is defined by and according to the CEC), that the CEC has pre-certified) that the Project is an ERR for purposes of the California Renewables Portfolio Standard and that all Energy produced by the Project qualifies as generation from an ERR for purposes of the Project.

1.28 “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 or expiration of this Agreement.

1.29 “Commercial Operation” means the Project is operating and able to produce and deliver the Product to Buyer pursuant to the terms of this Agreement.

1.30 “Commercial Operation Date” means the date on which Seller (a) notifies Buyer that Commercial Operation has commenced, (b) notifies Buyer that all Reliability Network Upgrades identified in the Project’s Generator Interconnection Agreement have been completed, and (c) provides a certification of a Licensed Professional Engineer, substantially in the form attached hereto as Attachment A to Appendix IV-2, demonstrating satisfactory completion of the Commercial Operation Certification Procedure as provided in Appendix IV-2 hereto.

1.31 “Compliance Costs” has the meaning set forth in Section 10.15.

1.32 “Condition Precedent” means each of, or one of, the conditions set forth in Section 2.4(a)(i) through (ix) and “Conditions Precedent” shall refer to all of the conditions set forth in Section 2.4(a)(i) through (ix).

1.33 “Confidential Information” has the meaning set forth in Section 10.6(a)

1.34 “Construction Start Date” means the later to occur of the date on which Seller delivers to Buyer (a) a copy of the Notice to Proceed that Seller has delivered to the EPC Contractor for the Project, and (b) a written Certification substantially in the form attached hereto as Appendix IV-1.

1.35 “Contract Capacity” has the meaning set forth in Section 3.1(f).

1.36 “Contract Capacity Commitment” means the amount of the Contract Capacity that may be constructed pursuant to the Governmental Approvals received or obtained by Seller as of, for a New Project, the Guaranteed Commercial Operation Date (as may be extended pursuant to Section 3.9(c)), and for an Existing Project, the Expected Initial Energy Delivery Date specified on the Cover Sheet.

1.37 “Contract Price” means the price in United States dollars (\$U.S.) (unless otherwise provided for) to be paid by Buyer to Seller for the purchase of the Product, as specified in the Cover Sheet.

1.38 “Contract Quantity” means the quantity of Delivered Energy expected to be delivered by Seller during each Contract Year as set forth in Section 3.1(e) and Cover Sheet Section D.

1.39 “Contract Year” means a period of twelve (12) consecutive months. The first Contract Year shall commence on the Initial Energy Delivery Date and each subsequent Contract Year shall commence on the anniversary of the Initial Energy Delivery Date.

1.40 “Cost Responsibility Surcharge” means the charges identified in PG&E Electric Rate Schedule CCA-CRS, and further set forth in each PG&E rate schedule, as may be amended, supplemented, or replaced (in whole or in part) from time to time.

1.41 “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 in entering into new arrangements which replace the Terminated Transaction; and (b) all reasonable attorneys’ fees and expenses incurred by the Non-Defaulting Party in connection with the termination of the Transaction.

1.42 “Cover Sheet” means the cover sheet to this Agreement, completed by Seller and incorporated into the Agreement.

1.43 “CPUC” or “Commission” means the California Public Utilities Commission, or successor entity.

1.44 “Credit Rating” means, with respect to any entity, (a) the rating then assigned to such entity’s unsecured senior long-term debt obligations (not supported by third party credit enhancements) or (b) if such entity does not have a rating for its unsecured senior long-term debt obligations, then the rating assigned to such entity as an issuer rating by S&P and/or Moody’s. If the entity is rated by both S&P and Moody’s and such ratings are not equivalent, the lower of the two ratings shall determine the Credit Rating. If the entity is rated by either S&P or Moody’s, but not both, then the available rating shall determine the Credit Rating.

1.45 “Cured Performance Measurement Period” has the meaning set forth in Section 3.1(e)(ii)(C).

1.46 “Cure Payment Period” has the meaning set forth in Section 3.1(e)(ii)(C)(III).

1.47 “Curtailed Order” means any of the following:

(a) the CAISO, Reliability Coordinator, Balancing Authority or any other entity having similar authority or performing similar functions during the Delivery Term, orders, directs, alerts, or communicates via any means, to a Party, including a CAISO Operating Order, to curtail deliveries of Energy from the Facility for the following reasons: (i) any System Emergency, or (ii) any warning of an anticipated System Emergency, or warning of an imminent condition or situation, which jeopardizes the CAISO’s electric system integrity or the integrity of other systems to which the CAISO is connected;

(b) a curtailment ordered by the Participating Transmission Owner, distribution operator (if interconnected to distribution or sub-transmission system), or any other entity having similar authority or performing similar functions during the Delivery Term, for reasons including (i) any situation that affects normal function of the electric system including any abnormal condition that requires action to prevent circumstances such as equipment damage, loss of load, or abnormal voltage conditions, or (ii) any warning, forecast or anticipation of conditions or situations that jeopardize the Participating Transmission Owner’s electric system integrity or the integrity of other systems to which the Participating Transmission Owner is connected;

(c) a curtailment ordered by CAISO or the Participating Transmission Owner due to scheduled or unscheduled maintenance, construction or outages on the Participating Transmission Owner’s or distribution operator’s transmission or distribution facilities that prevents (i) Buyer from receiving or (ii) Seller from delivering Delivered Energy at the Delivery Point; or

(d) a curtailment in accordance with Seller’s obligations under its Generator Interconnection Agreement with the Participating Transmission Owner or distribution operator.

For the avoidance of doubt, if Buyer or Third-Party SC submitted a Self-Schedule and/or an Energy Supply Bid that clears, in full, the applicable CAISO market for the full amount of Energy forecasted to be produced from the Project for any time period, any notice from the CAISO having the effect of requiring a reduction during the same time period is a Curtailment Order, not a Buyer Bid Curtailment.

1.48 “Curtailed Period” means the period of time during which Seller reduces generation from the Project, pursuant to a Curtailment Order. The Curtailment Period shall be inclusive of the time required for the Project to ramp down and ramp up; provided that such time periods to ramp down and ramp up shall be consistent with the Ramp Rate designated in the Cover Sheet.

1.49 “Damage Payment” means [REDACTED] percent (■%) of the annual expected revenue of the Project based on Guaranteed Energy Production and the Contract Price, which will be calculated prior to the Execution Date and set forth in the Cover Sheet.

1.50 “DA Price” means the resource specific locational marginal price (“LMP”) applied to the PNode applicable to the Project in the CAISO Day-Ahead Market.

1.51 “DA Scheduled Energy” means the Day-Ahead Scheduled Energy as defined in the CAISO Tariff.

1.52 “Day-Ahead Availability Notice” has the meaning set forth in Section 3.4(b)(iii)(C).

1.53 “Day-Ahead Market” has the meaning set forth in the CAISO Tariff.

1.54 “Deemed Delivered Energy” means the amount of Energy expressed in MWh that the Project would have produced and delivered to the Delivery Point, but that is not produced by the Project and delivered to the Delivery Point during a Buyer Curtailment Period, which amount shall be equal to (a) the EIRP Forecast, expressed in MWh, applicable to the Buyer Curtailment Period, whether or not Seller is participating in EIRP during the Buyer Curtailment Period, less the amount of Delivered Energy delivered to the Delivery Point during the Buyer Curtailment Period or, (b) if there is no EIRP Forecast available, the result of the equation provided pursuant to Section 3.1(l)(i)(G) and using relevant Project availability, weather and other pertinent data for the period of time during the Buyer Curtailment Period less the amount of Delivered Energy delivered to the Delivery Point during the Buyer Curtailment Period; *provided that*, if the applicable difference calculated pursuant to (a) or (b) above is negative as compared to the amount of metered Energy at the CAISO revenue meter for the Project, the Deemed Delivered Energy shall be zero (0).

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

1.56 “Deficient Month” has the meaning set forth in Section 3.1(k)(v).

1.57 “Deliverability Assessment” has the meaning set forth in the CAISO Tariff.

1.58 “Delivered Energy” means the lesser of either (i) the Contract Capacity, expressed in MW, multiplied by the duration of the Settlement Interval, expressed in hours, or (ii) the Energy produced from the Project during the Settlement Interval as measured in MWh at the CAISO revenue meter of the Project and in accordance with the CAISO Tariff, which shall include any applicable adjustments for power factor and Electrical Losses.

1.59 “Delivery Month” means a period of one calendar month.

1.60 “Delivery Network Upgrade” has the meaning set forth in the CAISO Tariff.

1.61 “Delivery Point” means the point at which Buyer receives Seller’s Product, as identified in Section 3.1(d).

1.62 “Delivery Term” has the meaning set forth in Section 2.5 and shall be of the length specified in the Cover Sheet.

1.63 “Delivery Term Security” means the Seller Performance Assurance that Seller is required to maintain, as specified in Article Eight, to secure performance of its obligations during the Delivery Term.

1.64 “Dispatch Instruction” has the meaning set forth in the CAISO Tariff.

1.65 “Dispatch Interval” has the meaning set forth in the CAISO Tariff.

1.66 “Distribution Loss Factor” is a multiplier factor that reduces the amount of Delivered Energy produced by a Project connecting to a distribution system to account for the electrical distribution losses, including those related to distribution and transformation, occurring between the point of interconnection, where the Participating Transmission Owner’s meter is physically located, and the first Point of Interconnection, as defined in the CAISO Tariff, with the CAISO Grid.

1.67 “Distribution Upgrades” has the meaning set forth in the CAISO Tariff.

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

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

1.70 “Effective Date” means the Execution Date as defined in Section 1.100.

1.71 “Effective FCDS Date” means the date on which Seller provides Buyer Notice and documentation from CAISO that the Project has attained Full Capacity Deliverability Status, which Buyer subsequently finds, in its reasonable discretion, to be adequate evidence that the Project has attained Full Capacity Deliverability Status.

1.72 “Effective PCDS Date” means the date on which Seller provides Buyer Notice and documentation from CAISO that the Project has attained Partial Capacity Deliverability Status, which Buyer subsequently finds, in its reasonable discretion, to be adequate evidence that the Project has attained Partial Capacity Deliverability Status.

1.73 “EIRP Forecast” means the final forecast of the Energy to be produced by the Project prepared by the CAISO in accordance with the Eligible Intermittent Resources Protocol and communicated to Buyer or Third-Party SC for use in submitting a Schedule for the output of the Project in the Real-Time Market.

1.74 “Electrical Losses” means all applicable losses, including the following: (a) any transmission or transformation losses between the CAISO revenue meter(s) and the Delivery Point; and (b) the Distribution Loss Factor, if applicable.

1.75 “Electric System Upgrades” means any Network Upgrades, Distribution Upgrades, or Interconnection Facilities that are determined to be necessary by the CAISO or Participating Transmission Owner, as applicable, to physically and electrically interconnect the Project to the Participating Transmission Owner’s electric system for receipt of Energy at the Point of Interconnection (as defined in the CAISO Tariff) if connecting to the CAISO Grid, or the Interconnection Point, if connecting to a part of the Participating TO’s electric system that is not part of the CAISO Grid.

1.76 “Electrician” means any person responsible for placing, installing, erecting, or connecting any electrical wires, fixtures, appliances, apparatus, raceways, conduits, solar photovoltaic cells or any part thereof, which generate, transmit, transform or utilize energy in any form or for any purpose.

1.77 “Eligible Intermittent Resources Protocol” or “EIRP” means the Eligible Intermittent Resource Protocol, as may be amended from time to time, as set forth in the CAISO Tariff.

1.78 “Eligible LC Bank” means either a U.S. commercial bank, or a foreign bank issuing a Letter of Credit through its U.S. branch that has a Credit Rating of at least: (a) “BBB+, with a stable designation” from S&P and “Baa1, with a stable designation” from Moody’s, if such bank is rated by both S&P and Moody’s; or (b) “BBB+, with a stable designation” from S&P or “Baa1, with a stable designation” from Moody’s, if such bank is rated by either S&P or Moody’s, but not both, even if such bank was rated by both S&P and Moody’s as of the date of issuance of the Letter of Credit but ceases to be rated by either, but not both of those ratings agencies. With respect to Buyer, “Umpqua Bank, N.A.” shall be deemed to meet the requirements for an Eligible LC Bank; provided that Umpqua Bank, N.A. has an Investment Grade Credit Rating.

1.79 “Eligible Renewable Energy Resource” or “ERR” has the meaning set forth in California Public Utilities Code Section 399.12 and California Public Resources Code Section 25741, as either code provision is amended or supplemented from time to time.

1.80 “Energy” means three-phase, 60-cycle alternating current electric energy measured in MWh and net of auxiliary loads and station electrical uses (unless otherwise specified).

1.81 “Energy Deviation(s)” means the absolute value of the difference, in MWh, in any Settlement Interval between (a) the final accepted Bid submitted for the Project; and (b) Delivered Energy.

1.82 “Energy Only Status Seller” or “EOS Seller” means a Seller that has selected Energy Only Status in the Cover Sheet. For avoidance of doubt, an EOS Seller does not have an obligation to have or obtain a Full Capacity Deliverability Status Finding.

1.83 “Energy Supply Bid” has the meaning set forth in the CAISO Tariff.

1.84 “EPC Contract” means the Seller’s engineering, procurement and construction contract with the EPC Contractor.

1.85 “EPC Contractor” means an engineering, procurement, and construction contractor, or if not utilizing an engineering, procurement and construction contractor, the entity having lead responsibility for the management of overall construction activities, selected by Seller, with substantial experience in the engineering, procurement, and construction of power plants of the same type of facility as the Seller’s; provided, however, that the Seller or the Seller’s Affiliate(s) may serve as the EPC Contractor.

1.86 “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.

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

1.88 “Excess Deemed Delivered Energy” has the meaning set forth in Section 4.4(a)(i).

1.89 “Excess Deemed Delivered Energy Price” has the meaning set forth in Section 4.4(a)(ii)(B).

1.90 “Excess Delivered Energy” has the meaning set forth in Section 4.4(a)(i).

1.91 “Excess Delivered Energy Price” has the meaning set forth in Section 4.4(a)(ii)(A).

1.92 “Excess Energy” has the meaning set forth in Section 4.4(a)(i).

1.93 “Exclusivity Period” has the meaning set forth in Section 11.1(b)(i), as applicable.

1.94 “Execution Date” means the latest signature date found on the signature page of this Agreement.

1.95 “Exempt Wholesale Generator” has the meaning provided in 18 C.F.R. Section 366.1.

1.96 “Existing Project” is a Project that has achieved Commercial Operation on or prior to the Execution Date.

1.97 “Expected FCDS Date” means the date set forth in Section A of the Cover Sheet which is the date the Project is expected to achieve Full Capacity Deliverability Status.

1.98 “Expected PCDS Date” means the date set forth in Section A of the Cover Sheet which is the date the Project is expected to achieve Partial Capacity Deliverability Status.

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

1.100 “Final True-Up” means the final payment made pursuant to this Agreement settling all invoices by the Party with an outstanding net amount due to the other Party for Product delivered prior to the end of the Delivery Term or other amounts due pursuant to this Agreement incurred prior to the end of the Delivery Term.

1.101 “First Offer” has the meaning set forth in Section 11.1(b)(i).

1.102 “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 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 negligence or the failure of, or caused by, the Party seeking to have its performance obligations excused thereby.

(a) Subject to the foregoing, events that could qualify as Force Majeure include the following:

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

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

(iii) except as set forth in subsection (b)(viii) 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); or

(iv) emergencies declared by the Transmission Provider or any other authorized successor or regional transmission organization or any state or federal regulator or legislature requiring a forced curtailment of the Project or making it impossible for the Transmission Provider to transmit Energy, including Energy to be delivered pursuant to this Agreement; provided that, if a curtailment of the Project pursuant to this subsection (a)(iv) would also meet the definition of a Curtailment Period, then it shall be treated as a Curtailment Period for purposes of Section 3.1(n).

- (b) Force Majeure shall not be based on:
- (i) Buyer's inability economically to use or resell the Product 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 permits or approvals of any type for the construction, operation, or maintenance of the Project, including a delay that could constitute a Permitting Delay unless caused solely by an event of Force Majeure of the specific type described in any of subsections (a)(i) through (a)(iv) above;
 - (iv) Seller's inability to obtain sufficient fuel, power or materials to operate the 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)(i) through (a)(iv) 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)(i) through (a)(iv) 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 Project;
 - (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)(i) through (a)(iv) above; or
 - (ix) a Party's inability to pay amounts due to the other Party under this Agreement, except if such inability is caused solely by a Force Majeure event that disables physical or electronic facilities necessary to transfer funds to the payee Party.

1.103 "Force Majeure Failure" has the meaning set forth in Section 11.1(a).

1.104 "Forced Outage" means any unplanned reduction or suspension of the electrical output from the Project or unavailability of the Product in whole or in part from a Unit in response to any control system trip or operator-initiated trip in response to an alarm or equipment malfunction; or any other unavailability of the Project or a Unit for operation, in whole or in part, for maintenance or repair that is not a Planned Outage and not the result of Force Majeure.

1.105 "Forecasting Penalty" has the meaning set forth in Section 4.6(c)(iii), and "Forecasting Penalties" means more than one Forecasting Penalty.

1.106 "Full Capacity Deliverability Status" or "FCDS" has the meaning set forth in the CAISO Tariff except that it applies to any Generating Facility (as defined in the CAISO Tariff).

1.107 “Full Capacity Deliverability Status Finding” or “FCDS Finding” means a written confirmation from the CAISO that the Project is eligible for FCDS.

1.108 “Full Capacity Deliverability Status Seller” or “FCDS Seller” means a Seller that selected Full Capacity Deliverability Status in the Cover Sheet and either has previously obtained, or is obligated to obtain per the terms of the Agreement, a Full Capacity Deliverability Status Finding.

1.109 “Future Environmental Attributes” shall mean any and all generation attributes (other than Green Attributes or Renewable Energy Incentives) that come into existence after the Execution Date under the RPS regulations and/or under any and all other international, federal, regional, state or other Law, rule, regulation, bylaw, treaty or other intergovernmental compact, decision, administrative decision, program (including any voluntary compliance or membership program), competitive market or business method (including all credits, certificates, benefits, and emission measurements, reductions, offsets and allowances related thereto) that are attributable to the generation of electrical energy by the Project.

1.110 “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 Transaction, determined in a commercially reasonable manner, subject to Section 5.3 hereof. Factors used in determining economic benefit may include reference to information either available to it internally or supplied by one or more third parties, including 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 platforms (e.g., NYMEX), all of which should be calculated for the remaining Delivery Term to determine the value of the Product.

1.111 “Generally Accepted Accounting Principles” means the standards for accounting and preparation of financial statements established by the Federal Accounting Standards Advisory Board (or its successor agency) or any successor standards adopted pursuant to relevant SEC rule.

1.112 “Generator Interconnection Agreement” or “GIA” means, for Projects interconnecting at the transmission level, the agreement and associated documents (or any successor agreement and associated documentation approved by FERC) by and among Seller, the Participating Transmission Owner, and the CAISO governing the terms and conditions of Seller’s interconnection with the CAISO Grid, including any description of the plan for interconnecting to the CAISO Grid. For Projects interconnecting at the distribution level, it means the agreement and associated documents (or any successor agreement and associated documentation) by and between Seller and the Participating Transmission Owner governing the terms and conditions of Seller’s interconnection with the Participating TO’s distribution system, including any description of the plan for interconnecting to Participating TO’s distribution system.

1.113 “Generator Interconnection Process” or “GIP” means the Generator Interconnection Procedures set forth in the CAISO Tariff or Participating TO’s tariff, as applicable, and associated documents; provided that if the GIP is replaced by such other successor procedures governing interconnection (a) to the CAISO Grid or Participating TO’s distribution system, as applicable, or (b) of generating facilities with an expected net capacity equal to or greater than the Project’s Contract Capacity, the term “GIP” shall then apply to such successor procedure.

1.114 “GEP Cure” has the meaning set forth in Section 3.1(e)(ii)(C).

1.115 “GEP Damages” has the meaning set forth in Appendix V.

1.116 “GEP Failure” means Seller’s failure to produce Total Energy in an amount equal to or greater than the Guaranteed Energy Production amount for the applicable Performance Measurement Period.

1.117 “GEP Shortfall” means the amount in MWh by which Seller failed to achieve the Guaranteed Energy Production in the applicable Performance Measurement Period.

1.118 “Good Utility Practice” has the meaning provided in the CAISO Tariff.

1.119 “Governmental Approval” means all authorizations, consents, approvals, waivers, exceptions, variances, filings, permits, orders, licenses, exemptions and declarations of or with any governmental entity and shall include those siting and operating permits and licenses, and any of the foregoing under any applicable environmental Law, that are required for the construction, use and operation of the Project.

1.120 “Governmental Authority” means any federal, state, local or municipal government, governmental department, commission, board, bureau, agency, or instrumentality, or any judicial, regulatory or administrative body, having jurisdiction as to the matter in question.

1.121 “Governmental Charges” has the meaning set forth in Section 9.2.

1.122 “Green Attributes” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Project, and its avoided emission of pollutants. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (a) any avoided emission of pollutants to the air, soil or water such as sulfur oxides (SO_x), nitrogen oxides (NO_x), carbon monoxide (CO) and other pollutants; (b) any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by Law, to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere;¹ (c) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Tag Reporting Rights are the right of a Green Tag Purchaser to report the ownership of accumulated Green Tags in compliance with federal or state Law, if applicable, and to a federal or state agency or any other party at the Green Tag Purchaser’s discretion, and include without limitation those Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local Law, regulation or bill, and international or 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) Tax Attributes 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

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.

encumbered or used by the Project for compliance with local, state, or federal operating and/or air quality permits.

1.123 “Guaranteed Commercial Operation Date” shall be the date set forth on the Cover Sheet.

1.124 “Guaranteed Energy Production” or “GEP” has the meaning set forth in Section 3.1(e)(ii).

1.125 “Guarantor” means, with respect to Seller, Energias de Portugal, Sociedade Anonima, Secursal en España; provided that Energias de Portugal, Sociedade Anonima, (a) has an Investment Grade Credit Rating, and (b) has a tangible net worth of at least One Hundred Million Dollars (\$100,000,000), or, with respect to a Party, any Person that (a) is an Affiliate of such Party or a third party reasonably acceptable to the other Party, (c) has a Credit Rating of BBB- or better from S&P or a Credit Rating of Baa3 or better from Moody’s, (d) has a tangible net worth of at least One Hundred Million Dollars (\$100,000,000), (e) is incorporated or organized in a jurisdiction of the United States and is in good standing in such jurisdiction, and (f) executes and delivers a Guaranty for the benefit of the other Party.

1.126 “Guaranty” means a guaranty issued by a Guarantor substantially in the form attached as Appendix XI,² or as otherwise reasonably acceptable to the other Party.

1.127 “Hourly Trading Hub Adjustment” has the meaning set forth in Section 4.2.

1.128 “Imbalance Energy” has the meaning set forth in the CAISO Tariff.

1.129 “Initial Energy Delivery Date” shall be the date listed as the Initial Energy Delivery Date on the Initial Energy Delivery Date Confirmation Letter, the form of which is attached as Appendix II.

1.130 “Interconnection Customer’s Interconnection Facilities” has the meaning set forth in the CAISO Tariff or Participating TO’s tariff, as applicable.

1.131 “Interconnection Facilities” has the meaning set forth in the CAISO Tariff.

1.132 “Interconnection Point” means the physical interconnection point of the Project as identified by Seller in Appendix XII.

1.133 “Interconnection Study” means any of the studies defined in the CAISO Tariff or, if applicable, any distribution provider’s tariff that reflect the methodology and costs to interconnect the Project to the Participating Transmission Owner’s electric grid.

1.134 “Integrated Forward Market” has the meaning set forth in the CAISO Tariff.

1.135 “Interest Amount” means, with respect to an Interest Period, the amount of interest calculated as follows: (a) the sum of (i) the principal amount of Performance Assurance provided in the form of cash during that Interest Period, and (ii) the sum of all accrued and unpaid Interest Amounts accumulated prior to such Interest Period; (b) multiplied by the Interest Rate in effect for that Interest Period; (c) multiplied by the number of days in that Interest Period; (d) divided by 360.

² Seller NTD: RCEA reviewing EDPR’s draft.

1.136 “Interest Payment Date” means the date of returning unused Performance Assurance held in the form of cash.

1.137 “Interest Period” means the monthly period beginning on the first day of each month and ending on the last day of each month.

1.138 “Interest Rate” means the rate per annum equal to the “Monthly” Federal Funds Rate (as reset on a monthly basis based on the latest month for which such rate is available) as reported in Federal Reserve Bank Publication H.15(519), or its successor publication.

1.139 “Investment Grade Credit Rating” means a Credit Rating of BBB- or better from Fitch Ratings or S&P, or a Credit Rating of Baa3 or better from Moody’s.

1.140 “JAMS” means JAMS, Inc. or its successor entity, a judicial arbitration and mediation service.

1.141 “Law” means any statute, law, treaty, rule, regulation, CEC guidance document, ordinance, code, permit, enactment, injunction, order, writ, decision, authorization, judgment, decree or other legal or regulatory determination or restriction by a court or Governmental Authority of competent jurisdiction, including any of the foregoing that are enacted, amended, or issued after the Execution Date, and which becomes effective after the Execution Date; or any binding interpretation of the foregoing. For purposes of 10.1(b), “Seller Representations and Warranties” and 10.9 “Governing Law”, the term “law” shall have the meaning set forth in this definition.

1.142 “Letter of Credit” means an irrevocable, non-transferable standby letter of credit, the form of which must be substantially as contained in Appendix I to this Agreement or such other form reasonably acceptable to the Secured Party and the issuer must be an Eligible LC Bank on the date of Transfer.

1.143 “Licensed Professional Engineer” means a person acceptable to Buyer in its reasonable judgment who (a) is licensed to practice engineering in California, (b) has training and experience in the power industry specific to the technology of the Project, (c) has no economic relationship, association, or nexus with Seller or Buyer, other than to meet the obligations of Seller pursuant to this Agreement, (d) is not a representative of a consultant, engineer, contractor, designer or other individual involved in the development of the Project or of a manufacturer or supplier of any equipment installed at the Project, and (e) is licensed in an appropriate engineering discipline for the required certification being made.

1.144 “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 Transaction, determined in a commercially reasonable manner, subject to Section 5.3 hereof. Factors used in determining the loss of economic benefit may include reference to information either available to it internally or supplied by one or more third parties including 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 platforms (e.g. NYMEX), all of which should be calculated for the remaining term of the Transaction to determine the value of the Product.

1.145 “Master File” has the meaning set forth in the CAISO Tariff.

1.146 “Milestone(s)” means the key development activities required for the construction and operation of the Project, as set forth in Section B(i)(b) of the Cover Sheet.

1.147 “Minimum Load” has the meaning set forth in the CAISO Tariff.

1.148 “Minimum Down Time” has the meaning set forth in the CAISO Tariff.

1.149 “Monthly Payment for Excess Energy” has the meaning set forth in Section 4.4(b).

1.150 “Monthly Payment” has the meaning set forth in Section 4.2.

1.151 “Monthly Trading Hub Adjustment” has the meaning set forth in Section 4.2.

1.152 “Moody’s” means Moody’s Investors Service, Inc., or its successor.

1.153 “MW” means megawatt in alternating current or AC.

1.154 “MWh” means megawatt-hour.

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

1.156 “Net Qualifying Capacity” has the meaning set forth in the CAISO Tariff.

1.157 “Network Upgrades” has the meaning set forth in the CAISO Tariff or the Participating TO’s tariff, as applicable.

1.158 “New Project” is a Project that has not achieved Commercial Operation on or prior to the Execution Date.

1.159 “Non-Bypassable Charges” means all charges that are collected by PG&E from the customers of Buyer, including all applicable charges for transmission, transmission rate adjustments, reliability services, distribution, conservation incentive adjustment, public purpose programs, nuclear decommissioning, the franchise fee surcharge, new system generation charges, and the Cost Responsibility Surcharge.

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

1.161 “Notice,” unless otherwise specified in the Agreement, means written communications by a Party to be delivered by hand delivery, United States mail, overnight courier service, facsimile or electronic messaging (e-mail). The Cover Sheet contains the names and addresses to be used for Notices.

1.162 “Notice to Proceed” means the full notice to proceed, provided by Seller to the EPC Contractor following execution of the EPC Contract between Seller and such EPC Contractor and satisfaction of all conditions to performance of such contract, by which Seller authorizes such EPC Contractor to begin mobilization and construction of the Project without any delay or waiting periods.

1.163 “Operational Deliverability Assessment” has the meaning set forth in the CAISO Tariff.

1.164 “Outage Notification Procedures” means the procedures specified in Appendix VI, attached hereto. RCEA reserves the right to revise or change the procedures upon written Notice to Seller.

1.165 “Partial Capacity Deliverability Status” or “PCDS” has the meaning set forth in the CAISO Tariff.

1.166 “Partial Capacity Deliverability Status Amount” means the number of MW that the Project will obtain, as stated in the Deliverability type selected in Section A of the Cover Sheet.

1.167 “Partial Capacity Deliverability Status Finding” or “PCDS Finding” means a written confirmation from the CAISO that the Project is eligible for PCDS.

1.168 “Participating Intermittent Resource” or “PIRP” has the meaning set forth in the CAISO Tariff.

1.169 “Participating Transmission Owner” or “Participating TO” means an entity that (a) owns, operates and maintains transmission lines and associated facilities and/or has entitlements to use certain transmission lines and associated facilities and (b) has transferred to the CAISO operational control of such facilities and/or entitlements to be made part of the CAISO Grid.

1.170 “Party” means the Buyer or Seller individually, and “Parties” means both collectively. For purposes of Section 10.9, Governing Law, the word “party” or “parties” shall have the meaning set forth in this definition.

1.171 “Performance Assurance” means (a) with respect to Seller, Seller Performance Assurance and (b) with respect to Buyer, Buyer Performance Assurance.

1.172 “Performance Measurement Period” has the meaning set forth in Section 3.1(e)(ii).

1.173 “Performance Tolerance Band” shall be calculated as set forth in Section 4.4(c)(ii).

1.174 “Phase I Buyer Security” means the amount to be delivered to Seller by Buyer pursuant to Section 8.4(a)(i).

1.175 “Phase II Buyer Security” means the amount to be delivered to Seller by Buyer pursuant to Section 8.4(a)(ii).

1.176 “Phase III Buyer Security” means the amount to be delivered to Seller by Buyer pursuant to Section 8.4(a)(iii).

1.177 “Planned Outage” means the removal of equipment from service availability for inspection and/or general overhaul of one or more major equipment groups. To qualify as a Planned Outage, the maintenance (a) must actually be conducted during the Planned Outage, (b) cannot be reasonably conducted during Project operations, and (c) causes the generation level of the Project to be reduced by at least ten percent (10%) of the Contract Capacity.

1.178 “PMax” has the meaning set forth in the CAISO Tariff.

1.179 “PNode” has the meaning set forth in the CAISO Tariff.

1.180 “Portfolio Content Category 1” means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(1), as may be amended from time to time or as further defined or supplemented by Law.

1.181 “Preamble” means the paragraph that precedes Article One: General Definitions to this Agreement.

1.182 “Preschedule Day” has the meaning set forth in Section 3.4(b)(iii)(C).

1.183 “Product” means the Energy, capacity, Ancillary Services, and all products, services and/or attributes similar to the foregoing which are or can be produced by or associated with the Project and which is specified by Seller in the Cover Sheet and thereby committed to Seller by this Agreement, including renewable attributes, Renewable Energy Credits, Capacity Attributes and Green Attributes, but excluding all Tax Attributes.

1.184 “Progress Report” means the report similar in form and content to that attached hereto as Appendix III.

1.185 “Project” means all of the Unit(s) and the Site at which the generating facility is located and the other assets, tangible and intangible, that compose the generation facility, including the assets used to connect the Unit(s) to the Interconnection Point, as more particularly described in the Cover Sheet.

1.186 “Project Development Security” is the collateral required of Seller, as specified and referred to in Section 8.3(a).

1.187 “Project Specifications” has the meaning set forth in Appendix XII.

1.188 “Prolonged Outage” is any period of more than thirty (30) consecutive days during which the Project is or will be unable, for whatever reason, to provide at least sixty percent (60%) of the Contract Capacity.

1.189 “Qualifying Capacity” has the meaning set forth in the CAISO Tariff.

1.190 “RA Deficiency Amount” means the liquidated damages payment that Seller shall pay to Buyer for an applicable RA Shortfall Month as calculated in accordance with Section 3.3(e)(ii).

1.191 “RA Shortfall” means the difference between the Qualifying Capacity and the Net Qualifying Capacity of the Project during the relevant period.

1.192 “RA Shortfall Period” means, for any period in which Buyer is subject to Resource Adequacy compliance requirements under the Resource Adequacy Standards, the period of consecutive calendar months that starts with the calendar month in which the RA Start Date occurs and concludes with the second calendar month following the calendar month in which the Effective FCDS Date or Effective PCDS Date occurs.

1.193 “RA Shortfall Month” means the applicable calendar month within the RA Shortfall Period for purposes of calculating an RA Deficiency Amount under Section 3.3(e)(ii) during which the Net Qualifying Capacity of the Facility for such month was less than the Qualifying Capacity of the Facility for such month.

1.194 “RA Start Date” shall be the later of the Initial Energy Delivery Date or the Expected PCDS Date or FCDS Date according to the deliverability type selected in Section A of the Cover Sheet.

1.195 “RA Value” means the sum of any payment, fines, penalties or other costs reasonably incurred by Buyer for a RA Shortfall Period as a direct result of Seller’s RA Shortfall, including the cost of replacement RA; provided that RA Value shall not exceed the RA Value Cap as set forth in the Cover Sheet.

1.196 “Ramp Rate” has the meaning set forth in the CAISO Tariff.

1.197 “Real-Time Market” means any existing or future intra-day market conducted by the CAISO occurring after the Day-Ahead Market.

1.198 “Real-Time Price” means the Resource-Specific Settlement Interval LMP as defined in the CAISO Tariff. If there is more than one applicable Real-Time Price for the same period of time, Real-Time Price shall mean the price associated with the smallest time interval.

1.199 “Reductions” has the meaning set forth in Section 4.6(b).

1.200 “Reliability Coordinator” has the meaning set forth in the CAISO Tariff.

1.201 “Reliability Network Upgrade” has the meaning set forth in the CAISO Tariff.

1.202 “Renewable Energy Credit” has the meaning set forth in California Public Utilities Code Section 399.12(h) and CPUC Decision 08-08-028, as may be amended from time to time or as further defined or supplemented by Law.

1.203 “Replacement Capacity Rules” means the replacement requirement for Resource Adequacy Capacity (as defined in the CAISO Tariff) associated with a Planned Outage as set forth in the CAISO Tariff or successor replacement requirements as prescribed by the CPUC, CAISO and/or other regional entity.

1.204 “Replacement Product” has the meaning set forth Section 3.9(c)(v).

1.205 “Replacement Product Notice” has the meaning set forth in Section 3.9(c)(v).

1.206 “Resource Adequacy” means the procurement obligation of load serving entities, including Buyer, as such obligations are described in CPUC Decisions D.04-01-050, 04-10-035 and 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 15-06-063, 16-06-045, 17-06-027, 18-06-030, 18-06-031 and any other existing or subsequent decisions, resolutions or rulings addressing Resource Adequacy issues, as those obligations may be altered from time to time in the CPUC Resource Adequacy Rulemakings (R.) 04-04-003, 05-12-013, 14-10-10, and 17-09-020 or by any successor proceeding, and all other Resource Adequacy obligations established by any other entity, including the CAISO.

1.207 “Resource Adequacy Plan” has the meaning set forth in the CAISO Tariff.

1.208 “Resource Adequacy Requirements” has the meaning set forth in Section 3.3.

1.209 “Resource Adequacy Standards” means (a) the Program set forth in Section 40.9 of the CAISO Tariff and (b) any future program or provision under the CAISO Tariff providing for availability standards or similar standards with respect to any flexible Resource Adequacy resource, product, or

procurement obligation; in the case of (a) or (b), as any such program or provision may be amended, supplemented, or replaced (in whole or in part) from time to time, setting forth certain standards regarding the desired level of availability for Resource Adequacy resources and possible changes and incentive payments for performance thereunder.

1.210 “Resource-Specific Settlement Interval LMP” has the meaning set forth in the CAISO Tariff.

1.211 “Revised Offer” has the meaning set forth in Section 3.9(e)(iii), as applicable.

1.212 “S&P” means the Standard & Poor’s Financial Services, LLC (a subsidiary of The McGraw-Hill Companies, Inc.) or its successor.

1.213 “Satisfaction Date” has the meaning set forth in Section 2.5.

1.214 “Schedule” has the meaning set forth in the CAISO Tariff.

1.215 “Scheduling Coordinator” or “SC” means an entity certified by the CAISO as qualifying as a Scheduling Coordinator pursuant to the CAISO Tariff, for the purposes of undertaking the functions specified in “Responsibilities of a Scheduling Coordinator” of the CAISO Tariff, as amended from time to time.

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

1.217 “Secured Party” means the Party that holds or is owed Performance Assurance to secure the other Party’s performance pursuant to this Agreement.

1.218 “Self-Schedule” has the meaning set forth in the CAISO Tariff.

1.219 “Seller” has the meaning set forth in the Cover Sheet.

1.220 “Seller Excuse Hours” means those hours during which Seller is unable to deliver Delivered Energy to Buyer as a result of (a) a Force Majeure event, (b) Buyer’s failure to perform, or (c) Curtailment Period. If Seller does not provide Buyer with oral Notice of an event of Force Majeure within two (2) Business Days of becoming aware of the event of Force Majeure, as specified in Section 3.7(e), then no hours occurring prior to the day on which Seller provides oral Notice to Buyer of the event of Force Majeure shall qualify as Seller Excuse Hours.

1.221 “Seller Performance Assurance” means collateral provided by Seller to Buyer to secure Seller’s obligations hereunder and includes Project Development Security and Delivery Term Security, as applicable. Acceptable forms of collateral are cash, Guaranty or a Letter of Credit.

1.222 “Seller’s WREGIS Account” has the meaning set forth in Section 3.1(k)(i).

1.223 “Settlement Amount” means the amount in US dollars equal to the sum of Losses, Gains, and Costs, which the Non-Defaulting Party incurs as a result of the termination of this Agreement.

1.224 “Settlement Interval” has the meaning set forth in the CAISO Tariff.

1.225 “Settlement Interval Actual Available Capacity” means the sum of the capacity, in MWs, of all generating units of the Project that were available as of the end of such Settlement Interval, as indicated by the Actual Availability Report.

1.226 “Shared Contract Year” has the meaning set forth in section 3.1(e)(ii)(C)(I).

1.227 “Site” means the location of the Project as described in Appendix XII.

1.228 “Start-up” means the action of bringing a Unit from non-operation to operation at or above the Unit’s Minimum Load, or with positive generation output if Minimum Load is zero.

1.229 “Station Use” means all energy consumption necessary for the generation of electricity that can be supplied by the Project itself while it is generating electricity, and any loads not separately metered from any station use load. For a biomass facility, the energy demand to transport the biomass material that has undergone all processing necessary for consumption in the biomass boiler into the boiler, using stationary equipment (or at least stationary while operating) is considered station use.

1.230 “Surplus Delivered Energy” means, in any Settlement Interval, the Energy produced from the Project as measured in MWh at the CAISO revenue meter of the Project and in accordance with the CAISO Tariff, including any applicable adjustments for power factor and Electrical Losses, that exceeds the product of [REDACTED] percent ([REDACTED]%) of Contract Capacity multiplied by the duration of the Settlement Interval.

1.231 “Supply Plan” has the meaning set forth in the CAISO Tariff.

1.232 “System Emergency” has the meaning set forth in the CAISO Tariff.

1.233 “Tangible Net Worth” means Buyer’s total assets minus Buyer’s total liabilities and intangible assets.

1.234 “Tax Attributes” means (a) investment tax credits (including any grants or payments in lieu thereof) and any other tax deductions or tax benefits under federal, state or other applicable Law available as a result of the ownership and operation of the Project or the output generated by the Project (including tax credits, payments in lieu thereof and accelerated and/or bonus depreciation); and (b) present or future (whether known or unknown) cash payments, grants under Section 1603 of the American Recovery and Reinvestment Tax Act of 2009 or outright grants of money relating in any way to the Project.

1.235 “Terminated Transaction” means the Transaction terminated in accordance with Section 5.2 of this Agreement.

1.236 “Termination Payment” means the payment amount equal to the sum of (a) and (b), where (a) is the Settlement Amount and (b) is the sum of all amounts owed by the Defaulting Party to the Non-Defaulting Party under this Agreement, less any amounts owed by the Non-Defaulting Party to the Defaulting Party determined as of the Early Termination Date.

1.237 “Test Energy” means Delivered Energy (a) commencing on the later of (i) the first date that the CAISO informs Seller in writing that Seller may deliver Energy from the Project to the CAISO and (ii) the first date that the PTO informs Seller in writing that Seller has conditional or temporary permission to parallel and (b) ending upon the occurrence of the Commercial Operation Date.

1.238 “Third-Party SC” means a qualified third party designated by Buyer to provide the Scheduling Coordinator functions for the Project pursuant to this Agreement. For purposes of this Agreement, and subject to replacement as provided in Section 3.4(c)(iv)(B), Buyer has designated The Energy Authority (“TEA”) to act as its Third-Party SC. All references and provisions in this Agreement

to Buyer acting in its capacity as Scheduling Coordinator shall mean and include the designated Third-Party SC regardless of whether the reference or provision in this Agreement expressly states “Third-Party SC,” and Buyer shall remain liable for all Scheduling Coordinator obligations under this Agreement regardless of whether the Agreement expressly refers to a “Third-Party SC.”

1.239 “Total Energy” means, for any period, the sum of Delivered Energy plus Deemed Delivered Energy in MWh.

1.240 “Transaction” means the particular transaction described in its entirety in Section 3.1(b) of this Agreement.

1.241 “Transfer” with respect to Letters of Credit means the delivery of the Letter of Credit conforming to the requirements of this Agreement, by a Party or an Eligible LC Bank to the Secured Party or delivery of an executed amendment to such Letter of Credit (extending the term or varying the amount available to the Secured Party thereunder, if acceptable to the Secured Party).

1.242 “Transmission Provider” means any entity or entities transmitting or transporting the Product on behalf of Seller or Buyer to or from the Delivery Point.

1.243 “Uninstructed Imbalance Energy” shall have the meaning set forth in the CAISO Tariff.

1.244 “Unit” means the technology used to produce the Products, which are identified in the Cover Sheet for the Transaction entered into under this Agreement.

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

1.246 “Work” means (a) work or operations performed by a Party or on a Party’s behalf, and (b) materials, parts or equipment furnished in connection with such work or operations, including (i) warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of “a Party’s work”, and (ii) the providing of or failure to provide warnings or instructions.

1.247 “WREGIS” means the Western Renewable Energy Generation Information System or any successor renewable energy tracking program.

1.248 “WREGIS Certificate Deficit” has the meaning set forth in Section 3.1(k)(v).

1.249 “WREGIS Certificates” has the same meaning as “Certificate” as defined by WREGIS in the WREGIS Operating Rules and are designated as eligible for complying with the California Renewables Portfolio Standard.

1.250 “WREGIS Operating Rules” means those operating rules and requirements adopted by WREGIS as of May 1, 2018, as subsequently amended, supplemented or replaced (in whole or in part) from time to time.

ARTICLE TWO: GOVERNING TERMS AND TERM

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

2.2 Interpretation. The following rules of interpretation shall apply in addition to those set forth in Section 10.10:

(a) The term “month” or “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 existing 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 or attachment in or to this Agreement.

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

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

(h) 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.

2.3 Authorized Representatives. Each Party shall provide Notice to the other Party of the persons authorized to nominate and/or agree to a Schedule or dispatch order for the delivery or acceptance of the Product or make other 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 Conditions Precedent.

(a) Conditions Precedent. Except as otherwise agreed by the Parties in writing, the Delivery Term shall not commence until the occurrence of all of the following:

(i) Seller shall have delivered to Buyer a certification of a Licensed Professional Engineer, substantially in the form attached hereto as Attachment A to Appendix IV-2;

(ii) As applicable, a Participating Generator Agreement (as defined in the CAISO Tariff) and a Meter Service Agreement (as defined in the CAISO Tariff) between Seller and CAISO shall have been executed and delivered and be in full force and effect, and a copy of each such agreement delivered to Buyer;

(iii) A GIA between Seller and the PTO shall have been executed and delivered and be in full force and effect and a copy of the GIA delivered to Buyer;

(iv) All applicable regulatory authorizations, approvals and permits necessary to commence operation of the Project have been obtained and all applicable conditions thereof have been satisfied and shall be in full force and effect;

(v) Seller has received the requisite pre-certification of the CEC Certification and Verification;

(vi) Seller (a), with the reasonable participation of Buyer, shall have completed all applicable WREGIS registration requirements that are reasonably capable of being completed prior to the Commercial Operation Date under WREGIS rules, including (as applicable) the completion and submittal of all applicable registration forms and supporting documentation, which may include applicable interconnection agreements, informational surveys related to the Project, QRE service agreements, and other appropriate documentation, all as required to effect Project registration with WREGIS and to enable Renewable Energy Credit transfers related to the Project within the WREGIS system;

(vii) Seller has delivered the Seller Performance Assurance to Buyer in accordance with Section 8.3; and

(viii) Seller has paid Buyer for all undisputed amounts owing under this Agreement and invoiced prior to Seller's delivery of the certification described in Section 2.4(a)(i), if any, including Daily Delay Damages and Commercial Operation Delay Damages.

2.5 Delivery Term.

(a) The Delivery Term shall mean the period of Contract Years specified on the Cover Sheet and commences on the Initial Energy Delivery Date specified in the Initial Energy Delivery Date Confirmation Letter, which Seller shall deliver to Buyer following Seller's satisfaction of the Conditions Precedent set forth in Section 2.4(a) and shall remain in effect until the conclusion of the Delivery Term unless terminated sooner pursuant to Section 5.2 or Section 11.1 of this Agreement; provided that this Agreement shall thereafter remain in effect (i) until the Parties have fulfilled all obligations with respect to the Transaction, including payment in full of amounts due pursuant to the Final True-Up, the Settlement Amount, or other damages (whether directly or indirectly such as through set-off or netting) and the undrawn portion of the Project Development Security or Delivery Term Security, is released and/or returned as applicable (the "Satisfaction Date") or (ii) in accordance with the survival provisions set forth in subpart (b) below.

(b) Notwithstanding anything to the contrary in this Agreement, (i) all rights under Section 10.4 ("Indemnities") and any other indemnity rights shall survive the Satisfaction Date or the end of the Delivery Term (whichever is later) for an additional twelve (12) months; (ii) all rights and obligations under Section 10.6 ("Confidentiality") shall survive the Satisfaction Date or the end of the Term (whichever is later) for an additional two (2) years; and (iii) the right of first offer in Section 11.1(b) shall survive the Satisfaction Date for three (3) years.

2.6 Binding Nature. This Agreement shall be in full force and effect, enforceable and binding in all respects in accordance with its terms, upon occurrence of the Execution Date.

ARTICLE THREE: OBLIGATIONS AND DELIVERIES

3.1 Seller's and Buyer's Obligations.

(a) Product. The Product to be delivered and sold by Seller and received and purchased by Buyer under this Agreement is As-Available Product, subject to the terms of this Agreement.

(b) Transaction. Unless specifically excused by the terms of this Agreement during the Delivery Term, Seller shall sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, or cause to be received, the Product at the Delivery Point. Buyer shall pay Seller the Contract Price in accordance with the terms of this Agreement. Unless otherwise allowed under this Agreement, Seller shall not have the right to procure any element of the Product from sources other than the Project for sale or delivery to Buyer under this Agreement except with respect to Energy delivered to Buyer in connection with Energy Deviations or Variations, as applicable. Buyer shall have no obligation to receive or purchase Product from Seller prior to or after the Delivery Term, except for Test Energy. Seller shall be responsible for any costs or charges imposed on or associated with the Product or its delivery of the Product up to the Delivery Point. Buyer shall be responsible for any costs or charges imposed on or associated with the Product after its receipt at and from the Delivery Point. Each Party agrees to act in good faith in the performance of its obligations under this Agreement.

(c) Omitted.

(d) Delivery Point. The Delivery Point shall be the PNode designated by the CAISO for the Project.

(e) Contract Quantity and Guaranteed Energy Production.

(i) Contract Quantity. The Contract Quantity during each Contract Year is the amount set forth in the applicable Contract Year in Section D of the Cover Sheet ("Delivery Term Contract Quantity Schedule"), which amount is inclusive of outages.

(ii) Guaranteed Energy Production.

(A) Throughout the Delivery Term, Seller shall be required to provide to Buyer an amount of Total Energy no less than the Guaranteed Energy Production over two (2) consecutive Contract Years during the Delivery Term ("Performance Measurement Period").

"Guaranteed Energy Production" is equal to the product of (x) and (y), where (x) is [REDACTED] ([REDACTED] %) of the average of the Contract Quantities applicable to the [REDACTED] ([REDACTED]) Contract Years comprising the Performance Measurement Period [*Photovoltaic facilities only to use the then-applicable Contract Quantities for the Performance Measurement Period*], and (y) is the difference between (I) and (II), with the resulting difference divided by (I), where (I) is the number of hours in the applicable Performance Measurement Period and (II) is the aggregate number of Seller Excuse Hours in the applicable Performance Measurement Period. Guaranteed Energy Production is described by the following formula:

Guaranteed Energy Production = ([REDACTED] % × average of the Contract Quantities in MWh in Performance Measurement Period) × [(Hrs in Performance Measurement Period – Seller Excuse Hrs in Performance Measurement Period) / Hrs in Performance Measurement Period]

(B) In no event shall any amount of Total Energy in any Settlement Interval that exceeds the Contract Capacity be credited toward or added to Seller's Guaranteed Energy Production requirement.

(C) GEP Failure, GEP Cure, Damages.

(I) If Seller has a GEP Failure, then within forty-five (45) days after the last day of the last month of such Performance Measurement Period, Buyer shall promptly provide Notice to Seller of such failure, provided that Buyer's failure to provide Notice shall not constitute as a waiver of Buyer's rights to collect GEP damages. Seller may cure the GEP Failure by providing to Buyer an amount of Total Energy, if any, that is no less than [REDACTED] percent ([REDACTED]%) of the Contract Quantity, subject to adjustment for Seller Excuse Hours over the next following Contract Year, as set forth in the formula below ("GEP Cure").

GEP Cure = ([REDACTED]% × Contract Quantity in MWh) × [(Hrs in next following Contract Year – Seller Excuse Hrs in next following Contract Year) / Hrs in next following Contract Year]

If Seller fails to provide sufficient Total Energy as adjusted by Seller Excuse Hours, to qualify for the GEP Cure for a given Performance Measurement Period, Seller shall pay GEP Damages, calculated pursuant to Appendix V ("GEP Damages Calculation"). If Seller provides a GEP Cure or pays GEP Damages for the Contract Years in a particular Performance Measurement Period ("Cured Performance Measurement Period"), then for purposes of calculating the Guaranteed Energy Production in the following Performance Measurement Period, the amount of Total Energy in the second Contract Year of the Cured Performance Measurement Period, which is also the first Contract Year of the following Performance Measurement Period ("Shared Contract Year"), shall be deemed equal to the greater of (X) the Total Energy for the Shared Contract Year, subject to adjustment for Seller Excuse Hours, or (Y) [REDACTED] percent ([REDACTED]%) of Contract Quantity in the Shared Contract Year, where X and Y are calculated as follows:

$X = (\text{Total Energy in Shared Contract Year}) \times [\text{Hrs in Shared Contract Year} / (\text{Hrs in Shared Contract Year} - \text{Seller Excuse Hours in Shared Contract Year})]$ or;

$Y = \text{[REDACTED]\%} \times \text{Contract Quantity in Shared Contract Year}$

For the avoidance of doubt, the calculation set forth above for the amount of Total Energy for the Shared Contract Year shall not apply to the cumulative GEP Shortfall under Section 5.1(b)(iv)(B).

(II) The Parties agree that the damages sustained by Buyer associated with Seller's failure to achieve the Guaranteed Energy Production requirement would be difficult or impossible to determine, or that obtaining an adequate remedy would be unreasonably time consuming or expensive and therefore agree that Seller shall pay the GEP Damages to Buyer as liquidated damages, and no other damages or remedies shall apply for failure to achieve the Guaranteed Energy Production requirement so long as Seller remits GEP Damages in accordance with this Agreement; provided, nothing in this section shall limit Buyer's remedies under Section 5.1(b)(iv)(B). In no event shall Buyer be obligated to pay GEP Damages.

(III) After the GEP Cure period has run, if Seller has not achieved the GEP Cure, Buyer shall have forty-five (45) days to notify Seller of such failure. Within forty-five (45) days of the end of the GEP Cure period, Buyer shall provide Notice to Seller in writing of the amount of the GEP Damages, if any, which Seller shall pay within sixty (60) days of receipt of the Notice (the "Cure Payment Period"). If Seller does not pay the GEP Damages within the Cure Payment Period, then Buyer may, at its option, declare an Event of Default pursuant to Section 5.1(b)(iv) within

ninety (90) days following the Cure Payment Period. If Seller has failed to pay the GEP Damages, and Buyer does not (1) notify Seller of the GEP Failure or (2) declare an Event of Default pursuant to Section 5.1(b)(iv) within the ninety (90) day period, then Buyer shall be deemed to have waived its right to declare an Event of Default based on Seller's failure with respect to the Performance Measurement Period which served as the basis for the notice of GEP Failure, GEP Damages, or default, subject to the limitations set forth in Section 5.1(b)(iv)(B).

(f) Contract Capacity. The generation capability designated for the Project shall be the contract capacity in MW designated in the Cover Sheet, (the "Contract Capacity"), which shall be equal to the result of the Contract Capacity calculation performed in accordance with Section II of Appendix XII. Throughout the Delivery Term, Seller shall sell and deliver all Product produced by the Project solely to Buyer except as provided in Sections 3.7(e) and 5.2(e). In no event shall Buyer be obligated to receive, in any Settlement Interval, any Surplus Delivered Energy. Seller shall not receive payment for any Surplus Delivered Energy. To the extent Seller delivers Surplus Delivered Energy to the Delivery Point in a Settlement Interval in which the Real-Time Price for the applicable PNode is negative, Seller shall pay Buyer an amount equal to the Surplus Delivered Energy (in MWh) during such Settlement Interval, multiplied by the absolute value of the Real-Time Price per MWh for such Settlement Interval.

(g) Project.

(i) All Product provided by Seller pursuant to this Agreement shall be supplied from the Project only. Seller shall not make any alteration or modification to the Project which results in a change to the Contract Capacity or the anticipated output of the Project without Buyer's prior written consent. The Project is further described in Appendix XII.

(ii) Seller shall not relinquish its possession or demonstrable exclusive right to control the Project without the prior written consent of Buyer, except under circumstances provided in Section 10.5.

(h) Interconnection Facilities.

(i) Seller Obligations. Seller shall (A) arrange and pay independently for any and all necessary costs under any Generator Interconnection Agreement with the Participating Transmission Owner; (B) cause the Interconnection Customer's Interconnection Facilities, including metering facilities, to be maintained; and (C) comply with the procedures set forth in the GIP and applicable agreements or procedures provided under the GIP in order to obtain the applicable Electric System Upgrades and (D) obtain Electric System Upgrades, as needed, in order to ensure the safe and reliable delivery of Energy from the Project up to and including quantities that can be produced utilizing all of the Contract Capacity of the Project.

(ii) Coordination with Buyer.

(A) Seller shall provide Buyer with written reports of the status of the GIA on a monthly basis. The foregoing shall not preclude Seller from executing a GIA that it reasonably determines allows it to comply with its obligations under this Agreement and applicable Law.

(i) Performance Excuses.

(i) Seller Excuse. Seller shall be excused from achieving the Guaranteed Energy Production only for the applicable time period during Seller Excuse Hours.

(ii) Buyer Excuses. Buyer shall be excused from (A) receiving and paying for the Product only (I) during periods of Force Majeure, (II) by Seller's failure to perform, (III) during Curtailment Periods and (B) receiving (but not from paying for) Product during Buyer Curtailment Periods.

(iii) Curtailment. Notwithstanding Section 3.1(b) and this Section 3.1(i), Seller shall reduce output from the Project during any Curtailment Period or Buyer Curtailment Period.

(j) Greenhouse Gas Emissions Reporting. During the Term, Seller acknowledges that a Governmental Authority may require Buyer to take certain actions with respect to greenhouse gas emissions attributable to the generation of Energy, including reporting, registering, tracking, allocating for or accounting for such emissions. Promptly following Buyer's written request, Seller agrees to take all commercially reasonable actions and execute or provide any and all documents, information or instruments with respect to generation by the Project reasonably necessary to permit Buyer to comply with such requirements, if any. Nothing in this Section 3.1(j) shall cause Buyer to assume any liability or obligation with respect to Seller's compliance obligations with respect to the Project under any new or existing Laws, rules, or regulations.

(k) WREGIS. Seller shall, at its sole expense, take all actions and execute all documents or instruments necessary to ensure that all WREGIS Certificates associated with all Renewable Energy Credits corresponding to all Delivered Energy and Surplus Delivered Energy are issued and tracked for purposes of satisfying the requirements of the California Renewables Portfolio Standard and transferred in a timely manner to Buyer for Buyer's sole benefit. Seller shall comply with all Laws, including the WREGIS Operating Rules, regarding the certification and transfer of such WREGIS Certificates to Buyer and Buyer shall be given sole title to all such WREGIS Certificates. Seller shall be deemed to have satisfied the warranty in Section 3.1(k)(viii), provided that Seller fulfills its obligations under Sections 3.1(k)(i) through (vii) below. In addition:

(i) Prior to the Initial Energy Delivery Date, Seller shall complete all WREGIS registration requirements and actions to establish a WREGIS account ("Seller's WREGIS Account") that are capable of being completed prior to Initial Energy Delivery Date under WREGIS rules, and Seller shall maintain Seller's WREGIS Account until the end of the Delivery Term. Seller shall transfer the WREGIS Certificates using "Forward Certificate Transfers" (as described in the WREGIS Operating Rules) from Seller's WREGIS Account to the WREGIS account(s) of Buyer or the account(s) of a designee that Buyer identifies by Notice to Seller ("Buyer's WREGIS Account"). Seller shall be responsible for all expenses associated with registering the Project with WREGIS, establishing and maintaining Seller's WREGIS Account, paying WREGIS Certificate issuance and transfer fees, and transferring WREGIS Certificates from Seller's WREGIS Account to Buyer's WREGIS Account.

(ii) Seller shall cause Forward Certificate Transfers to occur on a monthly basis in accordance with the certification procedure established by the WREGIS Operating Rules. Since WREGIS Certificates will only be created for whole MWh amounts of Energy generated, any fractional MWh amounts (i.e., kWh) will be carried forward until sufficient generation is accumulated for the creation of a WREGIS Certificate.

(iii) Seller shall, at its sole expense, ensure that the WREGIS Certificates for a given calendar month correspond with the Delivered Energy for such calendar month as evidenced by the Project's metered data.

(iv) Due to the ninety (90) day delay in the creation of WREGIS Certificates relative to the timing of invoice payment under Article 6, Buyer shall make an invoice payment for a

given month in accordance with Article 6 before the WREGIS Certificates for such month are formally transferred to Buyer in accordance with the WREGIS Operating Rules and this Section 3.1(k). Notwithstanding this delay, Buyer shall have all right and title to all such WREGIS Certificates upon payment to Seller in accordance with Article 6.

(v) A “WREGIS Certificate Deficit” means any deficit or shortfall in WREGIS Certificates delivered to Buyer for a calendar month as compared to the Delivered Energy for the same calendar month (“Deficient Month”). If any WREGIS Certificate Deficit is caused, or the result of any action or inaction, by Seller, then the amount of Delivered Energy in the Deficient Month shall be reduced by the amount of the WREGIS Certificate Deficit for the purposes of calculating Buyer’s payment(s) to Seller under Article 6 and the Guaranteed Energy Production for the applicable Performance Measurement Period. Any amount owed by Seller to Buyer because of a WREGIS Certificate Deficit shall be made as an adjustment to Seller’s next monthly invoice to Buyer in accordance with Article 6, and Buyer shall net such amount against Buyer’s subsequent payment(s) to Seller pursuant to Article 6.

(vi) Without limiting Seller’s obligations under this Section 3.1(k), if a WREGIS Certificate Deficit is caused solely by an error or omission of WREGIS, the Parties shall cooperate in good faith to cause WREGIS to correct its error or omission.

(vii) If WREGIS changes the WREGIS Operating Rules after the Execution Date or applies the WREGIS Operating Rules in a manner inconsistent with this Section 3.1(k) after the Execution Date, the Parties promptly shall modify this Section 3.1(k) as reasonably required to cause and enable Seller to transfer to Buyer’s WREGIS Account a quantity of WREGIS Certificates for each given calendar month that corresponds to the Delivered Energy in the same calendar month.

(viii) Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in the Western Renewable Energy Generation Information System will be taken prior to the first delivery under the contract.

(l) Access to Data

(i) Commencing on the first date on which the Project generates Product to be delivered to the CAISO Grid or the Delivery Point, if different, and continuing throughout the Term, Seller shall provide to Buyer, in a form reasonably acceptable to Buyer, the data set forth below on a real-time basis; provided that Seller shall agree to make and bear the cost of changes to any of the data delivery provisions below, as requested by Buyer, throughout the Term, which changes Buyer reasonably determines are necessary to forecast output from the Project, and/or comply with Law:

(A) read-only access to meteorological measurements, inverter and transformer availability, any other facility availability information;

(B) read-only access to energy output information collected by the supervisory control and data acquisition (SCADA) system for the Project;

(C) read-only access to the Project’s CAISO revenue meter and all Project meter data at the Site;

(D) full, real-time access to the Project’s Scheduling and Logging for the CAISO Outage Management System (“OMS”) client application, or its successor system;

(E) net plant electrical output at the CAISO revenue meter;

(F) instantaneous data measurements at sixty (60) second or increased frequency for the parameters set forth in Appendix X (“Telemetry Parameters for Wind or Solar Facilities”), which measurements shall be provided by Seller to Buyer in consolidated data report at least once every five minutes via flat file through a secure file transport protocol (FTP) system with an e-mail backup; and

(G) an equation, updated on an ongoing basis to reflect the potential generation of the Project as a function of solar insolation, temperature, wind speed, and, if applicable, wind direction. Such equation shall take into account the expected availability of the facility.

For any month in which the above information and access is not available to Buyer for longer than twenty-four (24) continuous hours, Seller shall prepare and provide to Buyer upon Buyer’s request a report with the Project’s monthly Settlement Interval Actual Available Capacity in the form set forth in Appendix IX (“Actual Availability Report”). Upon Buyer’s request, Seller shall promptly provide to Buyer any additional and supporting documentation necessary for Buyer to audit and verify any matters set forth in the Actual Availability Report. Buyer shall exercise commercially reasonable efforts to notify Seller of any deficiency by Seller in meeting the requirements of this Section 3.1(l)(i); provided that any failure by Buyer to provide such deficiency notice shall not result in any additional liability to Buyer under this Agreement.

(ii) Seller shall maintain at least a minimum of one hundred twenty (120) days’ historical data for all data required pursuant to Section 3.1(l)(i), which shall be available on a minimum time interval of one hour basis or an hourly average basis, except with respect to the meteorological measurements which shall be available on a minimum time interval of ten (10) minute basis. Seller shall provide such data to Buyer within five (5) Business Days of Buyer’s request.

(iii) Installation, Maintenance and Repair.

(A) Seller, at its own expense, shall install and maintain a secure communication link in order to provide Buyer with access to the data required in Section 3.1(l)(i) of this Agreement.

(B) Seller shall maintain the meteorological stations, telecommunications path, hardware, and software necessary to provide accurate data to Buyer or Third-Party SC (as applicable) to enable Buyer or the Third-Party SC to meet current CAISO scheduling requirements. Seller shall promptly repair and replace as necessary such meteorological stations, telecommunications path, hardware and software and shall notify Buyer as soon as Seller learns that any such telecommunications paths, hardware and software are providing faulty or incorrect data.

(C) If Buyer notifies Seller of the need for maintenance, repair or replacement of the meteorological stations, telecommunications path, hardware or software, Seller shall maintain, repair or replace such equipment as necessary within five (5) days of receipt of such Notice, or, if Seller, acting reasonably, cannot maintain, repair or replace such equipment within five (5) days, as promptly as possible within an additional ten (10) days.

(D) For any occurrence in which Seller’s telecommunications system is not available or does not provide quality data and Buyer notifies Seller of the deficiency or Seller becomes aware of the occurrence, Seller shall transmit data to Buyer through any alternate means of verbal or written communication, including cellular communications from onsite personnel, facsimile,

blackberry or equivalent mobile e-mail, or other method mutually agreed upon by the Parties, until the telecommunications link is re-established.

(iv) Seller agrees and acknowledges that Buyer may seek from third parties any information relevant to its duties as SC for Seller, including from the Participating Transmission Operator. Seller hereby voluntarily consents to allow the Participating Transmission Operator to share Seller's information with Buyer in furtherance of Buyer's duties as SC for Seller, and agrees to provide the Participating Transmission Owner with written confirmation of such voluntary consent at least ninety (90) days prior to the Initial Energy Delivery Date.

(v) No later than ninety (90) days before the Initial Energy Delivery Date, Seller shall provide one (1) year, if available, but no less than six (6) months, of recorded meteorological data to Buyer in a form reasonably acceptable to Buyer from a weather station located at or within ten (10) miles of the Site. Such weather station shall provide, via remote access to Buyer, all data relating to (A) total global horizontal irradiance, plane of array or direct normal insolation as is applicable for project type, air temperature, wind speed and direction, precipitation, barometric pressure, visibility in fog areas (forward scatter sensor) and humidity at the Site, as well as time-average data including 10-minute and hourly values of irradiance or insolation, air temperature, wind speed, wind direction, standard deviation of wind direction, relative humidity, precipitation, barometric pressure and visibility in fog areas. All data, except peak values, should be 1-second samples averaged into 10-minute periods; (B) elevation, latitude and longitude of the weather station; and (C) any other data reasonably requested by Buyer.

(m) Obtaining and Maintaining CEC Certification and Verification. Seller shall take all necessary steps including making or supporting timely filings with the CEC to obtain and maintain CEC Certification and Verification throughout the Term.

(n) Curtailment Requirements.

(i) Order. Subject to Good Utility Practices, Seller shall reduce generation from the Project as required pursuant to a Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order, provided that (A) a Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order shall be consistent with the operational characteristics set forth in Section F of the Cover Sheet; (B) the Buyer Curtailment Period shall be for unlimited hours during the Delivery Term and (C) Buyer shall pay Seller for Deemed Delivered Energy associated with a Buyer Curtailment Period pursuant to Article 4. Seller agrees to reduce the Project's generation by the amount and for the period set forth in the Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order.

(ii) Failure to Comply. If Seller fails to comply with a Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order provided in compliance with Section 3.1(n)(i), then, for each MWh of Delivered Energy that the Project generated in contradiction to the Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order, Seller shall pay Buyer for each such MWh at an amount equal to the sum of (A) + (B) + (C), where: (A) is the amount, if any, paid to Seller by Buyer for delivery of such MWh (for example, the Contract Price) and, (B) is the absolute value of the Real-Time Price for the applicable PNode, if such price is negative, for the Buyer Curtailment Period or Curtailment Period and, (C) is any penalties or other charges resulting from Seller's failure to comply with the Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order.

(o) Seller Equipment Required for Curtailment Instruction Communications. Seller shall acquire, install, and maintain such facilities, communications links and other equipment, and implement such protocols and practices, as necessary to respond and follow instructions, including an electronic signal conveying real time and intra-day instructions, to operate the Units as directed by the

Buyer and/or a Governmental Authority, including to implement a Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order in accordance with the then-current methodology used to transmit such instructions as it may change from time to time. If at any time during the Delivery Term Seller's facilities, communications links or other equipment, protocols or practices are not in compliance with then-current methodologies, Seller shall take the steps necessary to become compliant as soon as commercially reasonably possible. Seller shall be liable pursuant to Section 3.1(n)(ii) for failure to comply with a Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order, during the time that Seller's facilities, communications links or other equipment, protocols or practices are not in compliance with then-current methodologies. For the avoidance of doubt, a Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order communication via such systems and facilities shall have the same force and effect on Seller as any other form of communication.

(p) Test Energy. Buyer shall purchase the Test Energy that is available from the Project prior to the Delivery Term. No less than fourteen (14) days prior to the first day on which Test Energy will be available from the Project, Seller shall notify Buyer of the availability of the Test Energy. Seller shall deliver, and Buyer shall purchase, all Test Energy available from the Project. As compensation for such Test Energy, Buyer shall pay Seller an amount equal to [REDACTED] percent ([REDACTED]%) of the Contract Price for all Test Energy delivered within thirty (30) days of the date on which Test Energy is first delivered, and Buyer shall pay Seller an amount equal to [REDACTED] percent ([REDACTED]%) for all Test Energy delivered thereafter. For the avoidance of doubt, the conditions precedent in Section 2.4(a) are not applicable to the Parties' obligations under this Section 3.1(p).

3.2 Green Attributes.

(a) Seller hereby provides and conveys all Green Attributes associated with all Delivered Energy, Surplus Delivered Energy, and Excess Energy received by Buyer 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) Future Environmental Attributes.

(i) The Parties acknowledge and agree that as of the Effective Date, environmental attributes sold under this Agreement are restricted to Green Attributes; however, Future Environmental Attributes may be created by a Governmental Authority through Laws enacted after the Effective Date. In such event, Buyer shall bear all costs associated with the transfer, qualification, verification, registration and ongoing compliance for such Future Environmental Attributes, but there shall be no increase in the Contract Price. Upon Seller's receipt of Notice from Buyer of Buyer's intent to claim such Future Environmental Attributes, the Parties shall determine the necessary actions and additional costs associated such Future Environmental Attributes. Seller shall have no obligation to alter the Facility unless the Parties have agreed on all necessary terms and conditions relating to such alteration and Buyer has agreed to reimburse Seller for all costs associated with such alteration.

(ii) If Buyer elects to receive Future Environmental Attributes pursuant to Section 3.2, the Parties agree to negotiate in good faith with respect to the development of further agreements and documentation necessary to effectuate the transfer of such Future Environmental Attributes, including agreement with respect to (i) appropriate transfer, delivery and risk of loss mechanisms, and (ii) appropriate allocation of any additional costs, as set forth above; *provided*, that the Parties acknowledge and agree that such terms are not intended to alter the other material terms of this Agreement.

3.3 Resource Adequacy.

(a) During the Delivery Term, Seller grants, pledges, assigns and otherwise commits to Buyer all of the Capacity Attributes from the Project. Seller shall take such actions reasonably requested to enable Buyer to meet its Resource Adequacy or successor program requirements, as the CPUC, CAISO and/or other regional entity may prescribe, including Buyer's submission of a Supply Plan or Resource Adequacy Plan ("Resource Adequacy Requirements"). From the Execution Date, and for the duration of the Delivery Term, Seller shall take all commercially reasonable actions, including complying with all applicable registration and reporting requirements, and execute any and all documents or instruments necessary to enable Buyer to use all of the capacity of the Project, including Capacity Attributes, to be committed by Seller to Buyer pursuant to this Agreement to meet Buyer's Resource Adequacy Requirements during the Delivery Term.

(b) Seller shall be responsible for all costs, charges, expenses, penalties, and obligations resulting from Seller's obligations under Section 3.3(a), if applicable.

(c) Buyer shall be responsible for all costs, charges, expenses, penalties, and obligations resulting from Resource Adequacy Standards, if applicable, and Buyer shall be entitled to retain all credits, payments, and revenues, if any, resulting from Seller achieving or exceeding Resource Adequacy Standards, if applicable.

(d) Buyer shall be responsible for all costs, charges, expenses, penalties, and obligations resulting from the Replacement Capacity Rules, if applicable, provided that Seller has given Buyer Notice of the outages subject to the Replacement Capacity Rules by the earlier of ninety (90) days before the first day of the month for which the outage will occur or forty-five (45) days before Buyer's monthly Resource Adequacy capacity showing in accordance with the CAISO Tariff or decision of the CPUC. If Seller fails to provide such Notice, then Seller shall be responsible for all costs, charges, expenses, penalties, and obligations resulting from the Replacement Capacity Rules for such outage.

(e) Resource Adequacy Failure.

(i) RA Deficiency Determination. Notwithstanding Seller's obligations set forth in Section 3.4(a)(i)(A) or anything to the contrary herein, the Parties acknowledge and agree that:

(A) if Seller is unable to obtain the deliverability type selected in Section A of the Cover Page by the RA Start Date, then Seller shall pay to Buyer the RA Deficiency Amount for each RA Shortfall Month as liquidated damages due to Buyer for the Capacity Attributes that Seller failed to convey to Buyer; and

(B) Seller's payment of the RA Deficiency Amount shall be Buyer's sole remedy if Seller is unable to obtain the deliverability type selected in Section A of the Cover Page by the Deliverability Finding Deadline. So long as Seller pays the RA Deficiency Amount in accordance with this Agreement, Seller shall not be in breach of this Agreement, nor subject to an Event of Default under Sections 5.1(b)(v) - (vi).

(ii) RA Deficiency Amount Calculation.

(A) Buyer shall calculate the RA Deficiency Amount for each RA Shortfall Month using the formula set forth in Section 3.3(e)(ii)(B). Buyer shall notify Seller of the RA Deficiency Amount for a given RA Shortfall Month no later than the last day of that RA Shortfall Month. The Parties agree that these liquidated damages shall be paid to Buyer for each RA Shortfall Month and

constitute a reasonable approximation of the harm or loss suffered by Buyer. The Parties further agree that Buyer may use such liquidated damages for any purpose in its sole discretion. Seller shall pay the RA Deficiency Amount for a given RA Shortfall Month in the form of a deduction from the amount invoiced by Seller in such month pursuant to Section 6.1. In the event that the RA Deficiency Amount for a given RA Shortfall Month exceeds the amount invoiced pursuant to Section 6.1, Buyer shall make no payment to Seller for that month, and the difference between the invoiced amount and the RA Deficiency Amount shall be deducted from the amount(s) invoiced in the succeeding month(s) until all of the RA Deficiency Amount for such RA Shortfall Month has been deducted. Any dispute regarding Buyer's calculation of any RA Deficiency Amount shall be resolved in accordance with Article Twelve.

(B) The RA Deficiency Amount for a given RA Shortfall Month shall be equal to the product of the RA Shortfall occurring in such month and the RA Value.

(g) Central Buyer and/or Central Procurement Entity Bid Requirements. If the CPUC adopts regulations authorizing a central buyer, central procurement entity, or other similar entity to procure Resource Adequacy on behalf of Buyer, then Seller shall take all reasonable actions to assist Buyer in maximizing the economic value associated with the Capacity Attributes of the Product.

3.4 Transmission and Scheduling.

(a) Transmission.

(i) Seller's Interconnection Service Obligations. Throughout the Term, and consistent with the terms of this Agreement, Seller shall:

(A) arrange and pay independently for any and all necessary electrical interconnection, (and any regulatory approvals required for the foregoing), sufficient to allow Seller to deliver the Product to the Delivery Point for sale pursuant to the terms of this Agreement. Seller's interconnection arrangements shall be sufficient for the deliverability type selected in Section A of the Cover Sheet as of the RA Start Date and throughout the Delivery Term.

(B) If Seller has elected Energy Only Status on the Cover Sheet, this Section 3.4(a)(i)(B) is not applicable. An FCDS or PCDS Seller shall have either previously obtained, or is obligated to obtain per the terms of the Agreement, a FCDS or PCDS Finding. If Seller's Project has not attained Full Capacity Deliverability Status or Partial Capacity Deliverability Status prior to the Execution Date, Seller shall take all actions reasonably within its control that are necessary or appropriate to cause the Delivery Network Upgrades necessary for it to obtain Full Capacity Deliverability Status or Partial Capacity Deliverability Status to be constructed and placed into service. The cost of each Deliverability Assessment and any necessary Delivery Network Upgrades to ensure Full Capacity Deliverability Status or Partial Capacity Deliverability Status shall be borne solely by Seller to the extent that the costs are assigned to Seller as an Interconnection Customer and are not assigned to a third party Interconnection Customer. Buyer shall have no obligation to pay for the cost of any such Deliverability Assessment or necessary Delivery Network Upgrades to ensure Full Capacity Deliverability Status or Partial Capacity Deliverability Status. When the CAISO advises Seller that the Project has Full Capacity Deliverability Status or Partial Capacity Deliverability Status, Seller shall Notify Buyer of such status as of the Execution Date, if applicable, or within five (5) Business Days of the date it receives notification from the CAISO of such status by providing Buyer documentation from the CAISO.

(C) fulfill all contractual, metering and applicable interconnection requirements, including those set forth in the Participating Transmission Owner's applicable tariffs, the CAISO Tariff and implementing CAISO standards and requirements, so as to be able to deliver Energy from the Project according to the terms of this Agreement.

(ii) Buyer's Transmission Service Obligations. During the Delivery Term,

(A) Buyer shall arrange and be responsible for transmission service at and from the Delivery Point.

(B) Buyer shall bear all risks and costs associated with such transmission service, including any transmission outages or curtailment at and from the Delivery Point.

(C) Buyer shall schedule or arrange for Scheduling Coordinator services with its Transmission Providers to receive the Product at the Delivery Point.

(D) Buyer shall be responsible for all CAISO costs and charges, electric transmission losses and congestion at and from the Delivery Point.

(b) EIRP Requirements. Seller shall provide Buyer with a copy of the notice from CAISO certifying the Project as a Participating Intermittent Resource as soon as practicable after Seller's receipt of such notice of certification. As of the first date that (a) the CAISO informs Seller in writing that Seller may deliver Energy from the Project to the CAISO Grid, and (b) the items in Section 3.4(a)(i)(E) have been fulfilled and implemented and until the Project receives certification as a Participating Intermittent Resource, Seller, at its sole cost, shall comply with EIRP and additional protocols issued by the CAISO for Eligible Intermittent Resources. Throughout the Delivery Term, Seller, at its sole cost, shall participate in and comply with EIRP and all additional protocols issued by the CAISO for a Participating Intermittent Resource. Throughout the Delivery Term, Seller, at its sole cost, shall participate in and comply with all other protocols issued by the CAISO for generating facilities providing energy on an intermittent basis; provided that, if multiple options exist, then Seller shall comply with any such protocols, rules or regulations as mutually agreed by the Parties; provided that Seller shall comply in accordance with Buyer's reasonable direction as long as it is commercially reasonable to do so. Throughout the Delivery Term, Buyer in its limited capacity as Seller's Scheduling Coordinator shall facilitate communication with the CAISO and provide other administrative materials to CAISO as necessary to satisfy Seller's obligations as Seller's Scheduling Coordinator and to the extent such actions are at *de minimis* cost to Buyer.

(c) Scheduling Coordinator. Buyer, or Buyer's designated Third-Party SC, shall act as the Scheduling Coordinator for the Project. In that regard, Buyer and Seller shall agree to the following:

(i) Designation as Scheduling Coordinator.

(A) At least ninety (90) days before the beginning of the Delivery Term, Seller shall take all actions and execute and deliver to Buyer all documents necessary to authorize or designate Buyer's Third-Party SC as Seller's Scheduling Coordinator, and the Third-Party SC will take all actions and execute and deliver to Seller or CAISO all documents necessary to become and act as Seller's Scheduling Coordinator. If Buyer replaces its designated Third-Party SC, then Buyer shall give Seller Notice of such designation at least ninety (90) Business Days before the successor Third-Party SC assumes Scheduling Coordinator duties hereunder, and Seller shall be entitled to rely on such designation until it is revoked or a new Third-Party SC is appointed by Buyer upon similar Notice. Buyer shall be

fully responsible for all acts and omissions of Third-Party SC and for all cost, charges and liabilities incurred by Third-Party SC to the same extent that Buyer would be responsible under this Agreement for such acts, omissions, costs, charges and liabilities if taken, omitted or incurred by Buyer directly.

(B) Seller shall not authorize or designate any other party to act as Scheduling Coordinator, nor shall Seller perform, for its own benefit, the duties of Scheduling Coordinator during the Delivery Term.

(ii) Buyer's Responsibilities as Scheduling Coordinator. Buyer or Third-Party SC shall comply with all obligations as Seller's Scheduling Coordinator under the CAISO Tariff and shall conduct all scheduling in full compliance with the terms and conditions of this Agreement, the CAISO Tariff, and all requirements of EIRP (if applicable).

(iii) Available Capacity Forecasting. Seller shall provide the Available Capacity forecasts described below. Seller's availability forecasts below shall include Project availability and updated status of photovoltaic panels, inverters, transformers, and any other equipment that may impact availability. To avoid Forecasting Penalties set forth in Section 4.5(c)(iii), Seller shall use commercially reasonable efforts to forecast the Available Capacity of the Project accurately and to transmit such information in a format reasonably acceptable to Buyer. Buyer and Seller shall agree upon reasonable changes to the requirements and procedures set forth below from time-to-time, as necessary to comply with CAISO Tariff changes, accommodate changes to their respective generation technology and organizational structure and address changes in the operating and Scheduling procedures of Buyer, Third-Party SC (if applicable) and the CAISO, including automated forecast and outage submissions. Notwithstanding anything to the contrary herein, such changes may be made by written agreement of the Parties to update Appendix VI without requiring an amendment to this Agreement.

(A) Annual Forecast of Available Capacity. No later than (I) the earlier of July 1 of the first calendar year following the Execution Date or one hundred and eighty (180) days before the first day of the first Contract Year of the Delivery Term ("First Annual Forecast Date"), and (II) on or before July 1 for each calendar year from the First Annual Forecast Date for every subsequent Contract Year during the Delivery Term, Seller shall provide to Buyer and Third-Party SC (if applicable) a non-binding forecast of the hourly Available Capacity for each day in each month of the following calendar year in a form reasonably acceptable to Buyer.

(B) Monthly Forecast of Available Capacity. Seller shall provide to Buyer and Third-Party SC (if applicable), pursuant to subsections (I) and (II) below, a non-binding forecast of the hourly Available Capacity for each day of the following month in a form reasonably acceptable to Buyer:

(I) by forty-five (45) days before Buyer's monthly Resource Adequacy capacity showing in accordance with the CAISO Tariff or decision of the CPUC, and

(II) throughout the Delivery Term, by the earlier of ninety (90) days before the beginning of each month or forty-five (45) days before Buyer's monthly Resource Adequacy capacity showing must be completed in accordance with the CAISO Tariff or decision of the CPUC.

(C) Daily Forecast of Available Capacity. During the Delivery Term, Seller or Seller's agent shall provide a non-binding day ahead forecast of Available Capacity (the "Day-Ahead Availability Notice") to Buyer or Third-Party SC (as applicable) at [REDACTED] or backup phone [REDACTED] and send an email to [REDACTED] or provide Buyer with

access to Seller's forecast by other media (*e.g.* automatic FTP download), as provided in Appendix VI, for each day no later than fourteen (14) hours before the beginning of the "Preschedule Day" (as defined by the WECC) for such day. The current industry standard Preschedule Day timetable in the WECC is as follows:

- (1) Monday – Preschedule Day for Tuesday
- (2) Tuesday – Preschedule Day for Wednesday
- (3) Wednesday – Preschedule Day for Thursday
- (4) Thursday – Preschedule Day for Friday and Saturday
- (5) Friday – Preschedule Day for Sunday and Monday

Exceptions to this standard Monday through Friday Preschedule Day timetable are presently set forth by the WECC in order to accommodate holidays, monthly transitions and other events. Exceptions are posted on the WECC website (www.wecc.biz) under the document title, "Preschedule Calendar." Each Day-Ahead Availability Notice shall clearly identify, for each hour, Seller's forecast of all amounts of Available Capacity pursuant to this Agreement. If the Available Capacity changes by at least one (1) MW as of a time that is less than fourteen (14) hours prior to the Preschedule Day but prior to the CAISO deadline for submittal of Schedules into the Day-Ahead Market then Seller must notify Buyer of such change by telephone and shall send a revised notice to [REDACTED] or backup phone [REDACTED] and send an email to [REDACTED] (unless Seller has provided Buyer with access to Seller's forecast by other media) as set forth in Appendix VI. Such Notices shall contain information regarding the beginning date and time of the event resulting in the change in Available Capacity, the expected end date and time of such event, the expected Available Capacity in MW, and any other necessary information.

If Seller fails to provide the Third-Party SC with a Day-Ahead Availability Notice as required herein, then, until Seller provides a Day-Ahead Availability Notice, the Third-Party SC may rely on the most recent Day-Ahead Forecast of Available Capacity submitted by Seller to Third-Party SC to the extent Seller's failure contributes to Imbalance Energy, Seller shall be subject to the Forecasting Penalties set forth in Section 4.5(c).

(D) Real-Time Available Capacity. During the Delivery Term, Seller shall notify Third-Party SC of any changes in Available Capacity of one (1) MW or more, whether due to Forced Outage, Force Majeure or other cause, as soon as reasonably possible, but no later than one (1) hour prior to the deadline for submitting Schedules to the CAISO in accordance with the CAISO rules for participation in the Real-Time Market. If the Available Capacity changes by at least one (1) MW as of a time that is less than one (1) hour prior to the Real-Time Market deadline, but before such deadline, then Seller must likewise notify Third-Party SC. Such Notices shall contain information regarding the beginning date and time of the event resulting in the change in Available Capacity, the expected end date and time of such event, the expected Available Capacity in MW, and any other information required by the CAISO or reasonably requested by Third-Party SC. With respect to any Forced Outage, Seller shall use commercially reasonable efforts to notify Third-Party SC of such outage within ten (10) minutes of the commencement of the Forced Outage. Seller shall inform Third-Party SC of any developments that will affect either the duration of such event or the availability of the Project during or after the end of such event. These notices and changes to Available Capacity shall be communicated in a method acceptable to Third-Party SC; provided that Third-Party SC specifies the method no later than 60 days prior to the effective date of such requirement. In the event Third-Party SC fails to provide Notice of an acceptable method for communications under this Section 3.4(b)(iii)(D), then Seller shall send such communications by telephone to Third-Party SC's Real-Time Desk and via email to [REDACTED] as set forth in Appendix VI.

(E) To the extent that Seller obtains, in the normal course of business, other forecasts of energy production at the Project not otherwise specified in this Section 3.4, then Seller shall grant Buyer read-only access to such forecasts.

(iv) Replacement of Scheduling Coordinator.

(A) At least ninety (90) days prior to the end of the Delivery Term, or as soon as practicable before the date of any termination of this Agreement prior to the end of the Delivery Term, Seller shall take all actions necessary to terminate the designation of Buyer or the Third-Party SC, as applicable, as Seller's SC. These actions include (I) submitting to the CAISO a designation of a new SC for Seller to replace Buyer or the Third-Party SC (as applicable); (II) causing the newly-designated SC to submit a letter to the CAISO accepting the designation; and (III) informing Buyer and the Third-Party SC (if applicable) of the last date on which Buyer or the Third-Party SC (as applicable) will be Seller's SC.

(B) Buyer shall submit, or if applicable cause the Third-Party SC to submit, a letter to the CAISO identifying the date on which Buyer (or Third-Party SC, as applicable) resigns as Seller's SC on the first to occur of either (I) thirty (30) days prior to the end of the Delivery Term or (II) the date of any early termination of this Agreement.

3.5 Standards of Care.

(a) General Operation. Seller shall comply with all applicable requirements of Law, the CAISO, NERC and WECC relating to the Project (including those related to construction, safety, ownership and/or operation of the Project). In the event Seller requires any data or information from Buyer in order to comply with any applicable requirements of Law, including the requirements of CAISO, NERC and WECC, relating to the Project (including those related to construction, safety, ownership and/or operation of the Project), then Seller shall request in writing such data from Buyer no less than forty-five (45) calendar days prior to Seller's requested date of Buyer's response; provided that if Seller has less than forty-five (45) calendar days prior notice of the need for such data, Seller shall request in writing such data from Buyer as soon as reasonably practicable. Buyer shall make a good faith effort to provide such data and/or information within the timeframe specified in writing by Seller or as soon thereafter as reasonably practicable.

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

(c) Reliability Standard. Seller agrees to abide by (i) CPUC General Order No. 167, "Enforcement of Maintenance and Operation Standards for Electric Generating Facilities", and (ii) all applicable requirements regarding interconnection of the Project, including the requirements of the interconnected Participating Transmission Owner.

3.6 Metering. All output from the Project must be delivered through a single CAISO revenue meter, that exclusively measures output for the Project described herein, located on the high-voltage side of the Project's final step-up transformer nearest to the Interconnection Point. All Delivered Energy purchased under this Agreement must be measured by the Project's CAISO revenue meter to be eligible for payment under this Agreement. Seller shall bear all costs relating to all metering equipment installed to accommodate the Project. In addition, Seller hereby agrees to provide all meter data to Buyer in a form acceptable to Buyer, and consents to Buyer obtaining from the CAISO the CAISO meter data applicable

to the 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”) web and/or directly from the CAISO meter(s) at the 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.

3.7 Outage Notification.

(a) CAISO Approval of Outage(s). Buyer, acting through its Third-Party SC, is responsible for securing CAISO approvals for Project outages, including securing changes in its outage schedules when CAISO disapproves Buyer’s schedules or cancels previously approved outages and for entering Project outages in the OMS or successor system. Through its Third-Party SC, Buyer shall put forth commercially reasonable efforts to secure and communicate CAISO approvals for Project outages in a timely manner to Seller.

(b) Planned Outages During the Delivery Term, Seller shall notify Buyer of its proposed Planned Outage schedule for the Project for the following calendar year by complying with Section 3.4(c), (“Annual Forecast of Available Capacity”) and Section 3.4(c), (“Monthly Forecast of Available Capacity”) and implementing the notification procedures set forth in Appendix VI no later than July 1st of each year during the Delivery Term. Seller shall also notify Buyer of the proposed Planned Outage schedule for the Project by the earlier of ninety (90) days before the beginning of each month or forty-five (45) days before Buyer’s monthly Resource Adequacy capacity showing must be completed in accordance with the CAISO Tariff or decision of the CPUC. The Planned Outage schedule is subject to Buyer’s approval, which approval may not be unreasonably withheld or conditioned. Seller shall also confirm or provide updates to Buyer regarding the Planned Outage by the earlier of fourteen (14) days prior to each Planned Outage or two (2) Business Days prior to the CAISO deadline for submitting Planned Outages. Seller shall not conduct Planned Outages during the months of January, May through September, and December except as (i) required by equipment warranties, (ii) in accordance with Good Utility Practices, (iii) necessary to avoid damage to the Project, or (iv) expressly approved by Buyer. Seller shall contact Buyer with any requested changes to the Planned Outage schedule if Seller believes the Project must be shut down to conduct maintenance that cannot be delayed until the next scheduled Planned Outage consistent with Good Utility Practices. Seller shall not change its Planned Outage schedule without Buyer’s approval, not to be unreasonably withheld or conditioned, except as (i) required by equipment warranties, (ii) in accordance with Good Utility Practices, or (iii) necessary to avoid damage to the Project. Subject to Section 3.7(a), after any Planned Outage has been scheduled, at any time up to the commencement of work for the Planned Outage, Buyer may direct that Seller change its outage schedule as ordered by CAISO. For non-CAISO ordered changes to a Planned Outage schedule requested by Buyer, Seller shall notify Buyer of any incremental costs associated with such schedule change and an alternative schedule change, if any, that would entail lower incremental costs. If Buyer agrees to pay the incremental costs, Seller shall use commercially reasonable efforts to accommodate Buyer’s request.

(c) Forced Outages. Seller shall notify Buyer and the Third-Party SC of a Forced Outage as promptly as possible, but no later than ten (10) minutes after the commencement of the Forced Outage and in accordance with the notification procedures set forth in Appendix VI. Buyer shall put forth commercially reasonable efforts to submit such outages to CAISO.

(d) Prolonged Outages. Seller shall notify Buyer and the Third-Party SC of a Prolonged Outage as soon as practicable in accordance with the notification provisions in Appendix VI.

Seller shall notify Buyer in writing when the Project is again capable of meeting its Contract Quantity on a *pro rata* basis also in accordance with the notification provisions in Appendix VI.

(e) Force Majeure. Within two (2) Business Days of becoming aware of an event of Force Majeure, the non-performing Party shall provide the other Party with oral notice of the event of Force Majeure, and within two (2) weeks of becoming aware 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, if known, of the occurrence giving rise to the Force Majeure claim. For the avoidance of doubt, failure to provide timely Notice does not constitute 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 Products that Seller fails to deliver or provide as a result of Force Majeure during the term of a Force Majeure. To the extent and for the limited duration that Buyer is excused from receiving any Product due to an event of Force Majeure, the Parties will cooperate in good faith to find a way for Seller to sell Product to third parties.

(f) Communications with CAISO. Buyer, through its Third-Party SC, shall be responsible for all outage coordination communications with CAISO outage coordination personnel and CAISO operations management, including submission to CAISO of updates of outage plans, submission of clearance requests, and all other outage-related communications.

(g) Changes to Operating Procedures. Notwithstanding any language to the contrary contained in Sections 3.4, 3.6, 3.7, 3.8, or 10.13, or Appendix VI, and consistent with Section 3.5, Seller understands and acknowledges that the specified access to data and installation and maintenance of weather stations, transmission and scheduling mechanisms, metering requirements, Outage Notification Procedures and scheduling, forecast, bidding, notification and operating procedures described in the above-referenced sections are subject to change. If such changes are provided by (i) Notice from Buyer, then Seller shall implement any such changes as reasonably deemed necessary by Buyer for the performance of this Agreement; provided that such change does not result in an increased cost of performance to Seller hereunder other than *de minimis* amounts, or (ii) Law, then the Parties shall implement such changes as necessary for Seller and Buyer to perform their respective rights and obligations in accordance with the Law.

3.8 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. Such log shall include information on power production, 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 information that is relevant for the administration of this Agreement electronically to Buyer within thirty (30) days of Buyer's request.

(b) Access Rights. Buyer, its authorized agents, employees and inspectors may, on reasonable advance notice (which no case shall be less than three (3) Business Days) visit the Project during normal business hours for purposes reasonably connected with performance of this Agreement or the exercise of any and all rights secured to Buyer by Law, or its tariff schedules, PG&E Interconnection Handbook, Electric Rule 21, and rules on file with the CPUC. In connection with the foregoing, Buyer, its authorized agents, employees and inspectors must (i) at all times adhere to all safety and security procedures as may be required by Seller; (ii) not interfere with the operation of the Project; and (iii) unless waived in writing by Seller, be escorted by a representative of Seller. Buyer shall make

reasonable efforts to coordinate its emergency activities with the Safety and Security Departments, if any, of the Project operator. Seller shall keep Buyer advised of current procedures for contacting the Project operator's Safety and Security Departments.

3.9 New Generation Facility.

(a) Seller, at no cost to Buyer, shall be responsible to:

(i) Design and construct the Project.

(ii) Perform all studies, pay all fees, obtain all necessary approvals and execute all necessary agreements with the CAISO, the Participating Transmission Owner, and the applicable distribution provider for the Interconnection Facilities to Schedule and deliver the Product.

(iii) Acquire all permits and other approvals necessary for the construction, operation, and maintenance of the Project.

(iv) Complete all environmental impact studies necessary for the construction, operation, and maintenance of the Project.

(v) Omitted.

(vi) Seller shall Notify Buyer of the Construction Start Date by sending to Buyer a written Certification substantially in the form provided in Appendix IV-1 as soon as practical upon issuance of Notice to Proceed.

(vii) Within fifteen (15) days after the close of each quarter from the first quarter following the Execution Date, until the month in which the Construction Start Date has occurred, provide to Buyer a quarterly Progress Report and agree to regularly scheduled meetings between representatives of Buyer and Seller to review such quarterly reports and discuss Seller's construction progress. The quarterly Progress Report shall indicate whether Seller is on target to meet the Guaranteed Commercial Operation Date.

(viii) Within fifteen (15) days after the close of each month following the Construction Start Date until the Commercial Operation Date, provide to Buyer a monthly Progress Report and agree to regularly scheduled meetings between representatives of Buyer and Seller to review such monthly reports and discuss Seller's construction progress. The monthly Progress Report shall indicate whether Seller is on target to meet the Guaranteed Commercial Operation Date.

(b) Buyer shall have the right, but not the obligation, to inspect the Project and Site, or on-site Seller data and information pertaining to the Project and performance of this Agreement during business hours upon reasonable notice in accordance with Section 3.8.

(c) Project Construction and Commercial Operation.

(i) Construction of Project

(A) "Construction Start" will occur following Seller's execution of an EPC Contract (or equivalent) related to the Project and issuance of a Notice to Proceed (or equivalent) for the construction of the Project. The date of Construction Start will be evidenced by Seller's delivery to Buyer of a certificate substantially in the form attached as Appendix IV-1 hereto, and Buyer's acceptance

and written acknowledgement thereof (not to be unreasonably delayed or withheld), and the date certified therein by Seller shall be the "Construction Start Date." The Seller shall cause Construction Start to occur no later than the "Guaranteed Construction Start Date," which is the date set forth in Section B(i)(a)(1)(B) of the Cover Sheet.

(B) If Construction Start is not achieved by the Guaranteed Construction Start Date, Seller shall pay Daily Delay Damages to Buyer on account of such delay. Daily Delay Damages shall be payable for each day for which Construction Start has not begun by the Guaranteed Construction Start Date. Daily Delay Damages shall be payable to Buyer by Seller until Seller reaches Construction Start of the Project. On or before the tenth (10th) day of each month, Buyer shall invoice Seller for Daily Delay Damages, if any, accrued during the prior month and, within ten (10) Business Days following Seller's receipt of such invoice, Seller shall pay Buyer the amount of the Daily Delay Damages set forth in such invoice. Daily Delay Damages shall be refundable to Seller pursuant to Section 3.9(c)(ii). The Parties agree that Buyer's receipt of Daily Delay Damages shall (x) not be construed as Buyer's declaration that an Event of Default has occurred under any provision of Section 5.1 and (y) not limit Buyer's right to receive a Damage Payment upon exercise of Buyer's termination right following an Event of Default under Section 5.2.

(C) Daily Delay Damages shall be an amount equal to [REDACTED] dollars ([REDACTED]) per MW of Contract Capacity.

(ii) Commercial Operation of the Project. Parties agree time is of the essence in regards to the Agreement. As such, Seller shall have demonstrated Commercial Operation per the terms of Appendix IV-2 by the date that is no later than the date set forth in the Cover Sheet (the "Guaranteed Commercial Operation Date").

(A) Seller shall cause Commercial Operation for the Project to occur by the Guaranteed Commercial Operation Date. Seller shall notify Buyer at least sixty (60) days before the anticipated Commercial Operation Date.

(B) If Seller achieves Commercial Operation by the Guaranteed Commercial Operation Date, all Daily Delay Damages paid by Seller shall be refunded to Seller, and all Daily Delay Damages accrued but not yet paid by Seller shall no longer be owed to Buyer. Seller shall include the request for refund of the Daily Delay Damages with the first invoice to Buyer after Commercial Operation.

(C) If Seller does not achieve Commercial Operation by the Guaranteed Commercial Operation Date, Seller shall pay Commercial Operation Delay Damages to Buyer for each day the Project has not been completed and is not ready to produce and deliver Project Energy generated by the Project to Buyer as of the Guaranteed Commercial Operation Date. Commercial Operation Delay Damages shall be payable to Buyer by Seller until the Commercial Operation Date. On or before the tenth (10th) day of each month, Buyer shall invoice Seller for Commercial Operation Delay Damages, if any, accrued during the prior month. The Parties agree that Buyer's receipt of Commercial Operation Delay Damages shall (x) not be construed as Buyer's declaration that an Event of Default has occurred under any provision of Section 5.1 and (y) not limit Buyer's right to receive a Damage Payment upon exercise of Buyer's termination right following an Event of Default under Section 5.2.

(D) Daily Commercial Operation Delay Damages shall be an amount equal [REDACTED] dollars (\$[REDACTED]) per MW of Contract Capacity.

(iii) Termination for Failure to Achieve Commercial Operation. If the Project has not achieved Commercial Operation within 180 days after the Guaranteed Commercial Operation Date, Buyer may elect to terminate this Agreement, which termination shall be effective upon Notice to Seller.

(iv) Extension of the Guaranteed Dates. The Guaranteed Construction Start Date and the Guaranteed Commercial Operation Date shall, subject to notice and documentation requirements set forth below, be automatically extended on a day-for-day basis (the “Development Cure Period”) for the following delays:

(A) Seller has not acquired all material permits, consents, licenses, approvals, or authorizations from any Governmental Authority required for Seller to construct, interconnect, operate or permit the Seller and Project to make available and sell Product by the anticipated Construction Start Date, despite the exercise of diligent and commercially reasonable efforts by Seller;

(B) a Force Majeure Event occurs;

(C) the Interconnection Facilities are not complete and ready for the Project to connect and sell Product at the Delivery Point by the Expected Commercial Operation Date, despite the exercise of diligent and commercially reasonable efforts by Seller; or

(D) Buyer has not made all necessary arrangements to receive the Project Energy at the Delivery Point by the Expected Commercial Operation Date (it being acknowledged that an extension under this paragraph (D) shall not limit other rights and remedies Seller may have for the default by Buyer in obtaining necessary arrangements).

(v) If the Guaranteed Commercial Operation Date is extended pursuant to Section 3.9(c)(iv)(B), then, for every whole calendar month for which the Guaranteed Commercial Operation Date is extended thereby, Seller shall provide Buyer with twenty-five thousand (25,000) MWh of energy and Renewable Energy Credits (“Replacement Product”) meeting at least one of the RPS compliance requirements set forth in California Public Utilities Code Section 399.16(b), provided that Seller shall only be obligated to provide Buyer Replacement Product under this Section 3.9(c)(v) if and to the extent that Seller is able, with the exercise of commercially reasonable efforts, to acquire such Replacement Product in arm’s length transactions for an aggregate cost per MWh (inclusive of administrative costs, brokerage fees and other reasonable expenses) equal to or less than the Contract Price. Buyer shall pay Seller the Contract Price for all Replacement Product provided pursuant to this provision. Subject to the terms of this Section 3.9(c)(v), Seller may provide the Replacement Product during any month within twelve (12) months after the date on which Seller provides Buyer with Notice of the Force Majeure extension. If Seller does not deem it commercially reasonable to provide the full amount or a portion of the full amount of Replacement Product consistent with this Section 3.9(c)(v), such failure shall not be an Event of Default, and Seller shall not be in breach of this Agreement or have any liability whatsoever under this Agreement as a result thereof. Prior to providing any Replacement Product, Seller shall inform Buyer of the type and quantity of the anticipated Replacement Product and any other information reasonably requested by Buyer for purposes of determining the benefit to Buyer of receiving such Replacement Product (“Replacement Product Notice”). If Buyer in its sole discretion elects not to receive the Replacement Product described in Seller’s Replacement Product Notice, Buyer shall promptly inform Seller of its determination and Seller’s failure to provide the Replacement Product described in the Replacement Product Notice shall not be an Event of Default, and Seller shall not be in breach of this Agreement or have any liability whatsoever under this Agreement as a result thereof. If Buyer in its sole discretion elects to receive the Replacement Product described in Seller’s Replacement Product Notice, Buyer shall promptly inform Seller of its determination, and Seller shall, subject to the

first sentence of this Section 3.9(c)(v), provide the Replacement Product described in the Replacement Product Notice consistent with this Section 3.9(c)(v).

Notwithstanding anything in this Agreement to the contrary, the cumulative extensions granted under the Development Cure Period (other than the extensions granted pursuant to clause 4(D) above) shall not exceed one hundred eighty (180) days, for any reason, including a Force Majeure Event, and no extension shall be given if (i) the delay was the result of Seller's failure to take all commercially reasonable actions to meet its requirements and deadlines, (ii) Seller failed to provide requested documentation as provided below, or (iii) Seller failed to provide written Notice to Buyer as required in the next sentence. Seller shall provide prompt written Notice to Buyer of a delay, but in no case more than thirty (30) days after Seller became aware of such delay, except that in the case of a delay occurring within sixty (60) days of the Expected Commercial Operation Date, or after such date, Seller must provide written Notice within five (5) Business Days of Seller becoming aware of such delay. Upon request from Buyer, Seller shall provide documentation demonstrating to Buyer's reasonable satisfaction that the delays described above did not result from Seller's actions or failure to take commercially reasonable actions.

d) Resize of Project Due to Permit Failure.

(i) If Seller has not received or obtained by the earlier of the Expected Construction Start Date and the date that is six (6) months after the Effective Date final and non-appealable Governmental Approvals required for the construction of the Project with the Contract Capacity set forth in the Cover Sheet, after using commercially reasonable efforts to do so (including timely filings with all applicable Governmental Authorities and timely payment of any required fees) ("Permit Failure"), Seller may make a Contract Capacity Commitment on the Expected Construction Start Date (as may be extended), equal to, at a minimum, seventy percent (70%) of the Contract Capacity set forth in the Cover Sheet, provided that such amount shall also be the maximum amount of the generation capacity permitted under the final and non-appealable Governmental Approvals that Seller has received as of the Expected Construction Start Date (as may be extended), and may not be under one (1) MW, and provided further that for a period of two (2) years from any such resizing pursuant to this Section 3.9(d), Seller must offer Buyer a Right of First Offer for any Products from the Project up to the Contract Capacity set forth in the Cover Sheet as further provided in Section 3.9(e), below. Seller shall provide Notice of such Contract Capacity Commitment to Buyer no later than ten (10) Business Days following the Expected Construction Start Date.

(ii) In the event that the Contract Capacity is reduced pursuant to Section 3.9(d)(i) above, the Contract Quantity during each Contract Year set forth in the Delivery Term Contract Schedule in the Cover Sheet shall be adjusted proportionately with such reduction.

(iii) In the event that the Contract Capacity and Contract Quantity are reduced pursuant to Sections 3.9(d)(i) and (ii), the revised Contract Capacity and Contract Quantity shall be used to determine Seller's performance under the Agreement, including the amount of Guaranteed Energy Production under Section 3.1(e) and the amount of Delivery Term Security or Term Security required under Section 8.4.

(iv) If the final Contract Capacity is less than the initial Contract Capacity due to a resize of the Project pursuant to Sections 3.1(e)(ii) and 3.9(d)(i), then Seller shall forfeit a proportional share of the Project Development Security on a percent-for-percent basis.

(e) Right of First Offer.

(i) If Seller resizes the Project due to Permit Failure, then for a period of three (3) years from the date on which Seller Notifies Buyer of the Contract Capacity Commitment (“Exclusivity Period”), neither Seller, its successors and assigns, nor its Affiliates shall enter into an obligation or agreement to sell or otherwise transfer any Products from the Project in excess of the Contract Capacity Commitment, up to the Contract Capacity set forth in the Cover Sheet, to any third party, unless Seller first offers, in writing, to sell to Buyer such Products from the Project on the same terms and conditions as this Agreement, subject to permitted modifications identified in subpart (ii) below, (the “First Offer”) and Buyer either accepts or rejects such First Offer in accordance with the provisions herein.

(ii) If Buyer accepts the First Offer, Buyer shall Notify Seller within thirty (30) days of receipt of the First Offer subject to Buyer’s management approval and CPUC Approval (“Buyer’s Notice of First Offer Acceptance”), and then the Parties shall have not more than ninety (90) days from the date of Buyer’s Notice to enter into a new power purchase agreement, in substantially the same form as this Agreement, or amend this Agreement, subject to CPUC Approval, if necessary; provided that the Contract Price may only be increased to reflect Seller’s documented incremental costs in overcoming the Permit Failure.

(iii) If Buyer rejects or fails to accept Seller’s First Offer within thirty (30) days of receipt of such offer, Seller shall thereafter be free to sell or otherwise transfer, and to enter into agreements to sell or otherwise transfer, any Products from the Project to any third party, so long as the material terms and conditions of such sale or transfer are not more favorable to the third party than those of the First Offer to Buyer. If, during the Exclusivity Period, Seller desires to enter into an obligation or agreement with a third party, Seller shall deliver to Buyer a certificate of an authorized officer of Seller (A) summarizing the material terms and conditions of such agreement and (B) certifying that the proposed agreement with the third party will not provide Seller with a lower rate of return than that offered in the First Offer to Buyer. If Seller is unable to deliver such a certificate to Buyer, then Seller may not sell or otherwise transfer, or enter into an agreement to sell or otherwise transfer, the Products from the Project without first offering to sell or otherwise transfer such Products to Buyer on such more favorable terms and conditions (the “Revised Offer”) in accordance with subpart (ii) above. If within thirty (30) days of receipt of Seller’s Revised Offer the Buyer rejects, or fails to accept by Notice to Seller, the Revised Offer, then Seller will thereafter be free to sell or otherwise transfer, and to enter into agreements to sell or otherwise transfer, such Products from the Project to any third party on such terms and conditions as set forth in the certificate.

ARTICLE FOUR: COMPENSATION; MONTHLY PAYMENTS

4.1 Price.

(a) Contract Price. The Contract Price for each MWh of Product as measured by Delivered Energy in each Contract Year is set forth in Section C of the Cover Sheet.

For the avoidance of doubt, Seller shall not be compensated for any Surplus Delivered Energy.

(b) Test Energy. Test Energy is compensated in accordance with Section 3.1(p).

4.2 Monthly Payment. Except as otherwise provided in this Article 4, for each Delivery Month, Buyer shall pay Seller, or cause to be paid to Seller, for Total Energy (exclusive of Surplus Delivered Energy) in an amount equal to the product of the Total Energy and the Contract Price.

In addition to Buyer's payment of the applicable Contract Price, Buyer or Seller, as applicable, shall make a Monthly Trading Hub Adjustment Payment for each Month during the period when Test Energy is delivered, and throughout the Delivery Term. If the Monthly Trading Hub Adjustment Payment is positive, then such amount shall be payable by Seller to Buyer. If the Monthly Trading Hub Adjustment Payment is negative, then the absolute value of such amount shall be payable by Buyer to Seller. The "Monthly Trading Hub Adjustment Payment" for a Month shall equal the sum of the Hourly Trading Hub Adjustment for each hour in such Month, where the "Hourly Trading Hub Adjustment" for each hour is calculated pursuant to the following formula:

$$\text{Hourly Trading Hub Adjustment} = (A) \times (B - C)$$

Where:

A = Total Energy for the hour being calculated;

B = Day-Ahead NP-15 Price for such hour; and

C = Day-Ahead Pnode Price for such hour.

The Parties acknowledge that the difference between the Day-Ahead NP-15 Price and the Day-Ahead Pnode Price reflects differences in transmission congestion and electrical losses between the Pnode and the NP-15 Trading Hub, and the Parties agree that Buyer or Seller, as applicable, shall pay the Monthly Trading Hub Adjustment Payment notwithstanding any other provision of this Agreement that allocates to Buyer transmission losses or other fees, costs, or expenses arising after the Delivery Point.

For the avoidance of doubt, Excess Energy shall be compensated as set forth in Section 4.4 and shall not be included in the determination of payment set forth above; and "Total Energy" as used in the payment provisions above excludes Surplus Delivered Energy, for which Seller will receive no compensation.

4.3 Omitted.

4.4 Excess Delivered and Deemed Delivered Energy.

(a) Excess Energy Price. If, at any point in any Contract Year, the amount of Total Energy (exclusive of Surplus Delivered Energy) exceeds [REDACTED] percent ([REDACTED]%) of the annual Contract Quantity amount, then:

(i) each MWh of additional Delivered Energy during such Contract Year shall be deemed "Excess Delivered Energy" and each MWh of additional Deemed Delivered Energy during such Contract Year shall be deemed "Excess Deemed Delivered Energy" (Excess Delivered Energy and Excess Deemed Delivered Energy, cumulatively, "Excess Energy"); and

(ii) for the remainder of such Contract Year:

(A) for every MWh of Excess Delivered Energy, the price paid to Seller shall be the hourly DA Price at the Delivery Point (the "Excess Delivered Energy Price"); and

(B) for every MWh of Excess Deemed Delivered Energy the price paid to Seller shall be the hourly DA Price at the Delivery Point (the "Excess Deemed Delivered Energy Price").

Excess Delivered Energy Price_{hour} = (DA Price_{hour})

Excess Deemed Delivered Energy Price_{hour} = (DA Price_{hour})

For the avoidance of doubt, Excess Energy shall not include any Surplus Delivered Energy.

(b) Monthly Payment for Excess Energy. Buyer shall pay Seller for Excess Energy in each hour (“Monthly Payment for Excess Energy”) the amount resulting from (i) multiplying the Excess Delivered Energy Price applicable to that hour times the Excess Delivered Energy for such hour plus (ii) the Excess Deemed Delivered Energy Price applicable to that hour times the amount of Excess Deemed Delivered Energy for such hour:

Monthly Payment for Excess Energy = {sum over all hours} (Excess Delivered Energy Price_{hour} × Excess Delivered Energy MWh_{hour}) + (Excess Deemed Delivered Energy Price_{hour} × Excess Deemed Delivered Energy MWh_{hour})

4.5 CAISO Charges.

(a) Seller shall assume all liability and reimburse Buyer for any and all CAISO Penalties incurred by Buyer because of Seller’s failure to perform any covenant or obligation set forth in this Agreement. Buyer shall assume all liability and reimburse Seller for any and all CAISO Penalties incurred by Seller as a result of Buyer’s actions, including those resulting in a Buyer Curtailment Period.

(b) Buyer, acting through its Third-Party SC, shall (i) be responsible for all costs and charges assessed by the CAISO with respect to scheduling and Imbalance Energy, subject to Sections 4.5(a) and (c) and (ii) retain the credits and other payments received as a result of Energy from the Project delivered to the Integrated Forward Market or Real-Time Market, including revenues associated with CAISO dispatches. Seller and Buyer shall cooperate to minimize such charges and Uninstructed Imbalance Energy to the extent possible. Seller shall use commercially reasonable efforts to monitor imbalances and shall promptly notify Buyer as soon as possible after it becomes aware of any material imbalance that is occurring or has occurred. Such notification shall not alter Seller’s and Buyer’s respective responsibilities for payment for Imbalance Energy and costs and CAISO Penalties under this Agreement. Throughout the Delivery Term, Buyer shall be entitled to all Integrated Forward Market Load Uplift Obligation credits (as defined or required for MRTU under the CAISO Tariff) associated with the Energy generated from the Project.

(c) Forecasting Penalties.

(i) Subject to Force Majeure, in the event Seller does not in a given hour either (A) provide the access and information required in Section 3.1(l)(i); (B) comply with the installation, maintenance and repair requirements of Section 3.1(l)(iii); or (C) provide the forecast of Available Capacity required in Section 3.4(c)(iii), and the sum of Energy Deviations for each of the Settlement Intervals in the given hour exceeded the Performance Tolerance Band defined below, then Seller will be responsible for Forecasting Penalties as set forth below.

(ii) The Performance Tolerance Band is [REDACTED] percent ([REDACTED]) multiplied by Contract Capacity multiplied by one (1) hour.

(iii) Forecasting Penalties. The Forecasting Penalty shall be equal to the greater of (A) [REDACTED] percent ([REDACTED]%) of the Contract Price or (B) the absolute value of the Real-Time Price, in each case for each MWh of Energy Deviation outside the Performance Tolerance Band, or any portion thereof, in every hour for which Seller fails to meet the requirements in Section 4.5(c)(i). Settlement of Forecasting Penalties shall occur as set forth in Section 6.1 of this Agreement.

4.6 Additional Compensation.

(a) To the extent not otherwise provided for in this Agreement, in the event that Seller is compensated by a third party for any Products produced by the Project, including compensation for Resource Adequacy or Green Attributes, Seller shall remit all such compensation directly to Buyer; provided that for avoidance of doubt, nothing herein precludes Seller from retaining credits or reimbursements related to Electric System Upgrades contemplated in Section 3.1(h)(i).

(b) To the extent that during the Delivery Term Seller (at a nominal or no cost to Seller) is exempt from, reimbursed for or receives any refunds, credits or benefits from CAISO for congestion charges or Congestion Revenue Rights (as defined in the CAISO Tariff), whether due to any adjustments in Congestion Revenue Rights or any Locational Marginal Price (as defined in the CAISO Tariff), market adjustments, invoice adjustments, or any other hedging instruments associated with the Product (collectively, any such refunds, credits or benefits are referred to as "Reductions"), then, at Buyer's option, either (i) Seller shall transfer any such Reductions and their related rights to Buyer less any costs incurred by Seller in connection with such Reductions; or (ii) Buyer shall reduce payments due to Seller under this Agreement in amounts equal to the Reductions less any costs incurred by Seller in connection with such Reduction and Seller shall retain the Reductions.

ARTICLE FIVE: EVENTS OF DEFAULT; PERFORMANCE REQUIREMENT; REMEDIES

5.1 Events 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 written Notice is received by the Party failing to make such payment;

(ii) any representation or warranty made by such Party herein is false or misleading in any material respect when made, and such breach is not remedied within thirty (30) days after Notice thereof, except with respect to Section 10.1(b), which shall have the same cure period as a breach of covenant set forth in Section 5.1(a)(iii). If a change in Law occurs after the Execution Date that causes the representation and warranty made by Seller in Section 10.1(b) to be materially false or misleading, such breach of the representation or warranty in Section 10.1(b) shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in Law during the Delivery Term in order to make the representation and warranty no longer false or misleading;

(iii) the 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 forty-five (45) days after Notice from the Non-Defaulting Party, which time period shall be extended if the Defaulting Party is making diligent efforts to cure such failure to perform, provided that such extended period shall not exceed forty-five (45) additional days;

(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) failure to satisfy the creditworthiness/collateral requirements agreed to pursuant to Sections 8.2, 8.3, or 8.4 of this Agreement and such failure is not cured within any applicable cure period; or

(vii) Such Party fails to replace a Guaranty provided as Performance Assurance within ten (10) Business Days of the date on which the Guarantor or Guaranty no longer satisfies the applicable requirements in accordance with Section 8.6.

(b) with respect to Seller as the Defaulting Party, the occurrence of any of the following:

(i) if at any time during the Delivery Term of this Agreement, Seller delivers or attempts to deliver to the Delivery Point for sale under this Agreement Energy that was not generated by the Project;

(ii) failure by Seller to achieve the Guaranteed Energy Production requirement as set forth in Section 3.1(e)(ii) of this Agreement as follows:

(A) after the one (1) year GEP Cure period Seller has failed to cure the GEP Failure and has failed to pay GEP Damages in the time period set forth in Section 3.1(e)(ii); or

(B) if, after any Performance Measurement Period, the cumulative GEP Shortfall for the immediately preceding three consecutive Performance Measurement Periods occurring during the Delivery Term equals or exceeds two times the Contract Quantity (as may be adjusted pursuant to Section 3.1(e)(ii)); provided, however, that if all or a portion of the GEP Shortfall during an applicable Performance Measurement Period is principally caused by a non-Force Majeure major equipment malfunction, breakdown, or failure resulting in a reduction of Energy production of the Project by at least fifty percent (50%) of the Contract Quantity in one or both years of the Performance Measurement Period, as applicable, and such malfunction, breakdown, or failure was not caused by Seller and could not have been avoided through the exercise of Good Utility Practice, such failure shall be excluded from the calculation of the cumulative GEP Shortfall for purposes of this subsection;

5.2 Remedies. If an Event of Default with respect to a Defaulting Party shall have occurred and is continuing, the other Party ("Non-Defaulting Party") shall have the following rights:

(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") on which to (i) collect the Damage Payment (in the case of any Event of Default of Seller that arose at any time prior to the commencement of the Delivery Term), or (ii) collect the Termination Payment (in the case of any Event of Default of Seller that arose during the Delivery Term or in the case of any Event of Default of Buyer at any time);

(b) accelerate all amounts owing between the Parties, terminate the Transaction and end the Delivery Term effective as of the Early Termination Date;

(c) collect the Termination Payment or Damage Payment, as applicable;

(d) withhold any payments due to the Defaulting Party under this Agreement;

- (e) suspend performance;
- (f) exercise its rights pursuant to Section 8.2 to draw upon and retain Performance Assurance;
- (g) demand payment for damages due to Buyer's unexcused failure to take delivery or pay for Product; and
- (h) exercise any other rights or remedies available at Law or in equity (including the collection of monetary damages) to the extent otherwise permitted under this Agreement.

Notwithstanding anything to the contrary contained herein, Seller may exercise the rights or remedies set forth in Sections 5.2(e), (g), and (h) without terminating this Agreement.

5.3 Calculation of Termination Payment.

(a) In the case where the Non-Defaulting Party is entitled to collect the Termination Payment pursuant to Section 5.2(a), the Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for the Terminated Transaction as of the Early Termination Date. Third parties supplying information for purposes of the calculation of Gains or Losses may include dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. 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 shall be obtained in a commercially reasonable manner and shall be: (i) for a like amount, (ii) of the same Product, (iii) at the same Delivery Point, and (iv) for the remaining Delivery Term. Regardless of the method chosen by the Non-Defaulting Party to calculate the Settlement Amount, the Settlement Amount must still be reasonable under the circumstances.

(b) If the Non-Defaulting Party's aggregate Gains exceed its aggregate Losses and Costs, if any, resulting from the termination of the Terminated Transaction, the Settlement Amount shall be zero.

(c) The Non-Defaulting Party shall not have to enter into replacement transactions to establish a Settlement Amount.

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 the 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. The Termination Payment shall be made to the Non-Defaulting Party, as applicable, 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 ten (10) 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. Disputes regarding the Termination Payment shall be determined in accordance with Article Twelve.

5.6 Rights and Remedies are Cumulative. The rights and remedies of a Party pursuant to this Article Five shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

5.7 Duty to Mitigate. Buyer and Seller shall each have a duty to mitigate damages pursuant to this Agreement, and each shall use reasonable efforts to minimize any damages it may incur as a result of the other Party's non-performance of this Agreement, including with respect to termination of this Agreement.

5.8 Seller Pre-COD Liability Limitations. Notwithstanding any other provision of this Agreement, Seller's aggregate liability for the failure of Seller to achieve the Guaranteed Construction Start Date, Guaranteed Commercial Operation Date, as those dates may be adjusted pursuant to Section 3.9, shall be limited to the total amount of the required Project Development Security.

ARTICLE SIX: PAYMENT

6.1 Billing and Payment; Remedies. On or about the tenth (10th) day of each month beginning with the second month of the first Contract Year, and every 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 of Product by the Project for any CAISO settlement time interval during the preceding months; (b) access to any records, including invoices or settlement data from the CAISO, necessary to verify the accuracy or amount of any Reductions; and (c) an invoice, in the format specified by Buyer, covering the services provided in the preceding month determined in accordance with the applicable provisions of Article Four. Seller shall continue to provide to Buyer an invoice of CAISO charges, net any sums Buyer owes Seller under this Agreement, on or about the tenth (10th) day of each month until the date of the Final True-Up. Buyer shall pay the undisputed amount of such invoices less the amount of any RA Deficiency Amount and the amount of any Forecasting Penalties, as applicable on or before the later of the twenty-fifth (25th) day of each month and fifteen (15) 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 following 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 or other methods of providing Notice.

6.2 Disputes and Adjustments of Invoices. 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 3.6, 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 Product delivered under the Transaction 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) days of such resolution along with interest accrued at the Interest Rate from and including the due date, 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, 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; provided that, such waiver shall not apply to any adjustment or dispute related to Seller's performance under any applicable RMR Contract; and provided further that, any disputes with respect to a statement of CAISO Revenues is waived unless Seller notifies Buyer in accordance with this Section 6.2 within one (1) month after the last statement of CAISO Revenues is provided. If an invoice is not rendered within twelve (12) months after the close of the month during which performance under the Transaction occurred, the right to payment for such performance is waived.

ARTICLE SEVEN: LIMITATIONS

7.1 Limitation of Remedies, Liability and Damages. EXCEPT AS MAY OTHERWISE BE EXPRESSLY PROVIDED IN THIS AGREEMENT, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED UNLESS EXPRESSLY HEREIN PROVIDED. 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; PROVIDED, HOWEVER, THAT THE FOREGOING LIMITATION WILL NOT APPLY IN THE CASE OF AMOUNTS OWED TO THIRD PARTIES FOR WHICH INDEMNIFICATION IS PROVIDED UNDER THIS AGREEMENT. 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.

THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF.

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: CREDIT AND COLLATERAL REQUIREMENTS

8.1 Seller Financial Information.

(a) Prior to the Execution Date, Seller shall provide Buyer the documentation listed in Appendix VIII (Seller Documentation).

(b) If requested by Buyer, Seller shall deliver to Buyer (a) within one hundred twenty (120) days following the end of each of Seller's fiscal years, a copy of Seller's or Seller's guarantor's, if

applicable, annual report containing unaudited consolidated financial statements for such fiscal year (or audited consolidated financial statements for such fiscal year if otherwise available) and (b) within sixty (60) days after the end of each of its first three fiscal quarters of each fiscal year, a copy of such Party's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and shall be prepared in accordance with Generally Accepted Accounting Principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as such Party diligently pursues the preparation, certification and delivery of the statements.

8.2 Grant of Security Interest/Remedies. To secure its obligations under this Agreement and to the extent a Party delivers Performance Assurance, as applicable hereunder, the delivering Party hereby grants to the Secured Party, as the secured party, a first priority security interest in, and lien on (and right of setoff against), and assignment of, all such Performance Assurance posted in the form of cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, the Secured Party. Within thirty (30) days of the delivery of Performance Assurance, the delivering Party agrees to take such action as the Secured Party reasonably requires in order to perfect a first-priority security interest in, and lien on (and right of setoff against), such Performance Assurance and any and all proceeds resulting therefrom or from the liquidation thereof. Upon or any time after the occurrence and during the continuation of an Event of Default or an Early Termination Date, the Secured Party, as the Non-Defaulting Party, may do any one or more of the following: (a) to the extent the Performance Assurance is in the form of cash, exercise any of the rights and remedies of a secured party with respect to all Performance Assurance, including any such rights and remedies under the Law then in effect; (b) exercise its rights of setoff against any and all property of the Defaulting Party in the possession of the Secured Party or its agent; or (c), to the extent the Performance Assurance is in the form of a Letter of Credit or Guaranty and the Party providing such Performance Assurance fails to pay any undisputed sums owed under this Agreement within thirty (30) days of receipt of a detailed invoice from the Secured Party, then the Secured Party may satisfy the debt by (i) drawing on any outstanding Letter of Credit or Guaranty issued for its benefit; and (ii) liquidating all Performance Assurance, as applicable, then held by or for the benefit of the Secured Party free from any claim or right of any nature whatsoever of the other Party, including any equity or right of purchase or redemption. The Secured Party shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce the other Party's obligations under the Agreement (the Party in breach remaining liable for any amounts owing to the Secured Party after such application), subject to the Secured Party's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

8.3 Seller Performance Assurance.

(a) Seller Security. Seller agrees to deliver to Buyer collateral to secure its obligations under this Agreement, which Seller shall maintain in full force and effect for the period posted with Buyer, as follows:

(i) Project Development Security pursuant to this Section 8.3(a)(i) in the amount of \$■/kW multiplied by the capacity of the Project as reflected in Section B of the Cover Sheet, within five (5) Business Days following the Effective Date of this Agreement until Seller posts Delivery Term Security pursuant to Section 8.3(a)(ii) below with Buyer.

(ii) Delivery Term Security pursuant to this Section 8.3(a)(ii) in the amount equal to the Damage Payment from the Initial Energy Delivery Date until the end of the Term; provided that, with Buyer's consent, not to be unreasonably conditioned or withheld, Seller may elect to apply the

Project Development Security posted pursuant to Section 8.3(a)(i) toward the Delivery Term Security posted pursuant to this Section 8.3(a)(ii).

(b) Except as otherwise set forth in Section 5.8 with respect to Seller's liability under this Agreement prior to the Commercial Operation Date, the amount of Seller Performance Assurance required under this Agreement shall not be deemed a limitation of damages. Except as specifically provided for in this Section 8.3(a), Buyer acknowledges that Seller shall not be required to post any additional security.

(c) Termination of Project Development Security. If after the Initial Energy Delivery Date no damages are due and owing to Buyer under this Agreement, then Seller shall no longer be required to maintain the Project Development Security, and Buyer shall return to Seller the Project Development Security, less the amounts drawn in accordance with Section 8.3(b). The Project Development Security (or portion thereof) due to Seller shall be returned to Seller within five (5) Business Days of Seller's provision of the Delivery Term Security, as applicable unless, with Buyer's consent, Seller elects to apply the Project Development Security posted pursuant to Section 8.3(a)(i) toward the Delivery Term Security posted pursuant to Section 8.3(a)(ii), as applicable.

(d) Payment and Transfer of Interest. Buyer shall pay interest to Seller on cash held as Project Development Security, Delivery Term Security or Term Security, as applicable, at the Interest Rate; provided that, the interest on Project Development Security shall be retained by Buyer until Seller posts the Delivery Term Security pursuant to Section 8.3(a)(ii). Upon Seller's posting of the Delivery Term Security, all accrued interest on the unused portion of Project Development Security shall be transferred from Buyer to Seller in the form of cash by wire transfer to the bank account specified under "Wire Transfer" in the Cover Sheet (Notices List). After Seller posts the Delivery Term Security or Term Security, Buyer shall transfer (as described in the preceding sentence) on or before each Interest Payment Date the Interest Amount due to Seller for such Delivery Term Security or Term Security.

(e) Return of Seller Performance Assurance. Buyer shall return the unused portion of Project Development Security, Delivery Term Security or Term Security, as applicable, including the payment of any interest due thereon, pursuant to Section 8.3(d) above, to Seller promptly after the following has occurred: (i) the Term of the Agreement has ended, or subject to Section 8.2, an Early Termination Date has occurred, as applicable; and (ii) all payment obligations of the Seller arising under this Agreement, including payments pursuant to Section 4.5 ("CAISO Charges"), Termination Payment, indemnification payments or other damages are paid in full (whether directly or indirectly such as through set-off or netting).

8.4 Buyer Performance Assurance.

(a) Buyer Security. Buyer agrees to deliver to Seller collateral to secure its obligations under this Agreement, which Buyer shall maintain in full force and effect for the period posted with Seller, as follows:

(i) Phase I Buyer Security pursuant to this Section 8.4(a)(i) in the amount of \$██████████, within five (5) Business Days following the Effective Date of this Agreement. Phase I Buyer Security may be posted as cash, Letter of Credit, or Guaranty at the Buyer's discretion.

(ii) Phase II Buyer Security pursuant to this Section 8.4(a)(ii) in the amount of \$██████████, by April 1, 2021. Phase II Buyer Security may be posted as cash, Letter of Credit, or Guaranty at the Buyer's discretion.

(iii) Phase III Buyer Security pursuant to this Section 8.4(a)(iii) in the amount of \$ [REDACTED], by June 1, 2022. Phase III Buyer Security may be posted as cash, Letter of Credit, or Guaranty at the Buyer's discretion.

(b) Seller acknowledges that Buyer shall not be required to post any security in addition to that prescribed in Section 8.4(a).

(c) Payment and Transfer of Interest. Seller shall pay interest to Buyer on cash held as Phase I Buyer Security, Phase II Buyer Security, and Phase III Buyer Security, as applicable, at the Interest Rate. After Buyer posts any and all Buyer Performance Assurance described in Section 8.4(a), Seller shall transfer on or before each Interest Payment Date the Interest Amount due to Buyer for such Phase I Buyer Security, Phase II Buyer Security, and Phase III Buyer Security.

(d) Return of Buyer Performance Assurance. Seller shall return the unused portion of Phase I Buyer Security, Phase II Buyer Security, and Phase III Buyer Security, as applicable, including the payment of any interest due thereon, pursuant to Section 8.4(c) above, to Buyer promptly after the following has occurred: (i) any one or more of the following terms A, B, or C has occurred: (A) the Term of the Agreement has ended, or an Early Termination Date has occurred, as applicable; (B) Buyer is assigned an Investment Grade Credit Rating as defined in Article 1 by one or more of the following credit rating agencies: Moody's, Fitch Ratings, and Standard & Poor; (C) Buyer attains and sustains for at least six consecutive monthly balance sheet reports prepared and published for Buyer's Board of Directors a Tangible Net Worth as defined in Article 1 of at least \$35,000,000.00; and (ii) all payment obligations of the Buyer arising under this Agreement are paid in full (whether directly or indirectly such as through set-off or netting).

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

(a) If a Party has provided a Letter of Credit pursuant to any of the applicable provisions in this Article Eight, then such Party shall renew or cause the renewal of each outstanding Letter of Credit on a timely basis in accordance with this Agreement.

(b) In the event the issuer of such Letter of Credit at any time (i) fails to maintain the requirements of an Eligible LC Bank or Letter of Credit, (ii) indicates its intent not to renew such Letter of Credit, or (iii) fails to honor the Secured Party's properly documented request to draw on such Letter of Credit, the responsible Party shall cure such occurrence by complying with either (A) or (B) below in an amount equal to the outstanding Letter of Credit, and by completing the action within five (5) Business Days after the date of the Secured Party's Notice of an occurrence listed in this subsection (a Party's compliance with either (A) or (B) below is considered the "LC Cure"):

(A) providing a substitute Letter of Credit that is issued by an Eligible LC Bank, other than the bank which is the subject of the Secured Party's Notice in Section 8.4(b) above; or

(B) posting cash.

If a Party fails to provide an LC Cure or if such Letter of Credit expires or terminates without a full draw thereon by the Secured Party, or fails or ceases to be in full force and effect at any time that such Letter of Credit is required pursuant to the terms of this Agreement, then the responsible Party shall have failed to meet the creditworthiness or collateral requirements of Article Eight.

(c) Notwithstanding the foregoing in Section 8.5(b), if, at any time, the issuer of such Letter of Credit has a Credit Rating that only satisfies the minimum credit requirements in the definition of an Eligible LC Bank and its Credit Rating is put on “credit watch” negative or developing by S&P, or is placed on Moody’s “watch list” under review for downgrade or uncertain ratings action (either a “Watch”), then the Secured Party may make a demand to the other Party by Notice (“LC Notice”) to provide a substitute Letter of Credit that is issued by an Eligible LC Bank, other than the bank on a Watch (“Substitute Letter of Credit”). The Parties shall have thirty (30) Business Days from the LC Notice to negotiate a Substitute Letter of Credit (“Substitute Bank Period”).

(i) If the Parties do not agree to a Substitute Letter of Credit by the end of the Substitute Bank Period, then the Secured Party shall provide the other Party with Notice within five (5) Business Days following the expiration of the Substitute Bank Period (“Ineligible LC Bank Notice Period”) that either:

(A) The Secured Party agrees to continue accepting the then currently outstanding Letter of Credit from the bank that is the subject of the LC Notice, but such bank shall no longer be an Eligible LC Bank (“Ineligible LC Bank”) and the Secured Party will not accept future or renewals of Letters of Credit from the Ineligible LC Bank; or

(B) the bank that is the subject of the LC Notice is an Ineligible LC Bank and the responsible Party shall then have thirty (30) days from the date of the Secured Party’s Notice to provide an LC Cure pursuant to Section 8.5(b) and, if the responsible Party fails to provide an LC Cure, then the last paragraph in Section 8.5(b) shall apply to such Party.

(ii) If the Parties have not agreed to a Substitute Letter of Credit and the Secured Party fails to provide a Notice during the Ineligible LC Bank Notice Period above, then the responsible Party may continue providing the Letter of Credit posted immediately prior to the LC Notice.

(d) In all cases, the reasonable costs and expenses of establishing, renewing, substituting, canceling, increasing, reducing, or otherwise administering the Letter of Credit shall be borne by the Party responsible for providing the Letter of Credit.

8.6 Guaranty. If at any time a Guarantor or Guaranty no longer satisfies the applicable requirements established in its respective definition, then the Party on whose behalf the Guaranty is issued shall immediately upon becoming aware of such failure provide Notice to the other Party of this occurrence. The Notice must be provided no later than the earlier of (a) five (5) Business Days following a Guarantor’s failure to meet the Credit Rating requirements of an eligible Guarantor, or (b) fifteen (15) Business Days following the date on which the Guarantor’s audited financial statements are published that demonstrate a failure of the Guarantor to meet the tangible net worth requirements of an eligible Guarantor. In addition to providing such notice, the responsible Party must also deliver to the other Party replacement Performance Assurance in the form of a replacement Guaranty, Letter of Credit, or cash in an amount equal to the applicable amount of the Guaranty issued pursuant to this Agreement. In the event a Party fails to provide replacement Performance Assurance as required in the preceding sentence, then the Secured Party may declare an Event of Default pursuant to Section 5.1(a)(vii) by providing Notice thereof in accordance with Section 5.2.

8.7 Performance Assurance Replacement. A Party may change all or part of the Performance Assurance previously provided at any time and from time to time upon reasonable prior written notice to the Secured Party; provided that the Performance Assurance shall at all times fully satisfy the requirements of this Agreement.

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 Authority ("Governmental Charges") on or with respect to the Product or the Transaction arising prior to the Delivery Point, including ad valorem taxes and other taxes attributable to the Project, land, land rights or interests in land for the Project. Buyer shall pay or cause to be paid all Governmental Charges on or with respect to the Product or the Transaction at and from the Delivery Point. 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. A Party that is exempt at any time and for any reason from one or more Governmental Charges bears the risk that such exemption shall be lost or the benefit of such exemption reduced; and thus, in the event a Party's exemption is lost or reduced, each Party's responsibility with respect to such Governmental Charge shall be in accordance with the first four sentences of this Section.

ARTICLE TEN: MISCELLANEOUS

10.1 Representations and Warranties.

(a) General Representations and Warranties. On the Execution Date, each Party represents and warrants to the other Party that:

(i) it is duly organized, validly existing and in good standing under the Laws of the jurisdiction of its formation;

(ii) it has all regulatory authorizations necessary for it to perform its obligations under this Agreement, except all permits and authorizations necessary to install, operate and maintain the Project and make sales therefrom or that are otherwise not required as of the Execution Date in the case of Seller;

(iii) it is a "forward contract merchant" and this Agreement and the transactions contemplated by this Agreement constitute a "forward contract" within the meaning of the United States Bankruptcy Code (as in effect as of the Execution Date of this Agreement);

(iv) the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any Laws applicable to it;

(v) this Agreement and each other document executed and delivered in accordance with this Agreement constitute legally valid and binding obligations enforceable against it in accordance with its terms, subject to any Equitable Defenses;

(vi) 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;

(vii) 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;

(viii) 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;

(ix) 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; and

(x) 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.

(b) Seller Representations and Warranties. The representations and warranties in this Section 10.1(b)(i) – (ii) apply as of the date the Project obtains CEC certification as an Eligible Renewable Energy Resource.

(i) 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; (ii) the Product meets the RPS compliance requirements for Portfolio Content Category 1 as set forth in California Public Utilities Code Section 399.16(b)(1)(A) in a manner consistent with Commission Decision 11-12-052, as it may be subsequently revised; and (iii) 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 become 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.

(ii) Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement the Renewable Energy Credits transferred to Buyer conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law.

(iii) Seller, and, if applicable, its successors, represents and warrants that beginning with the Execution Date and throughout the Delivery Term of this Agreement, the Project is operated in compliance with all applicable Laws as determined by the Governmental Authority charged with implementation and/or enforcement of the specific Law at issue.

(c) Buyer's Representations and Warranties.

As of the Effective Date, Buyer represents and warrants as follows:

(i) Buyer is a joint powers authority and a validly existing community choice aggregator, duly organized, validly existing and in good standing under the laws of the State of California and the rules, regulations and orders of the California Public Utilities Commission, and is qualified to conduct business in each jurisdiction of the Joint Powers Agreement members. All Persons making up the governing body of Buyer are the elected or appointed incumbents in their positions and hold their positions in good standing in accordance with the Joint Powers Agreement and other Law.

(ii) Buyer has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Buyer's performance under this Agreement. The execution, delivery and performance of this Agreement by Buyer has been duly authorized by all necessary action on the part of Buyer and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Buyer or any other party to any other agreement with Buyer.

(iii) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Buyer with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Buyer, including but not limited to community choice aggregation, the Joint Powers Act, competitive bidding, public notice, open meetings, election, referendum, or prior appropriation requirements, the documents of formation of Buyer or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Buyer is a party or by which any of its property is bound.

(iv) This Agreement has been duly executed and delivered by Buyer. This Agreement is a legal, valid and binding obligation of Buyer enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(v) Buyer warrants and covenants that with respect to its contractual obligations under this Agreement, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (1) suit, (2) jurisdiction of court, (3) relief by way of injunction, order for specific performance or recovery of property, (4) attachment of assets, or (5) execution or enforcement of any judgment.

(vi) Buyer is a "local public entity" as defined in Section 900.4 of the Government Code of the State of California.

(vii) Buyer cannot assert sovereign immunity as a defense to the enforcement of its obligations under this Agreement.

10.2 Covenants.

(a) General Covenants. Each Party covenants that throughout the Delivery Term:

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

(ii) 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 and the Transaction; and

(iii) it shall perform its obligations under this Agreement and the Transaction in a manner that does not materially violate any of the terms and conditions in its governing documents, or any Law, rule, regulation, order or the like applicable to it.

(b) Seller Covenants.

(i) Seller covenants throughout the Delivery Term that it will take no action or permit any other person or entity (other than Buyer) reasonably within its control to take any action that would impair in any way Buyer's ability to rely on the Project in order to satisfy its Resource Adequacy Requirements;

(ii) Seller covenants that it shall comply with all CAISO Tariff requirements and/or Participating TO tariff requirements (as defined in the CAISO Tariff or Participating TO's tariff, as applicable) and shall take any other necessary action, each as applicable to Seller as an Interconnection Customer, including payment of fees and submission of requests, applications or other documentation, to promote the completion of any applicable Electric System Upgrades prior to the RA Start Date.

(iii) Seller covenants that it shall take such actions reasonably requested to enable Buyer to meet its RPS requirements or integrated planning requirements related to the Project.

10.3 Title and Risk of Loss. Title to and risk of loss related to the Product shall transfer from Seller to Buyer at the Delivery Point. Seller warrants that 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 or entity arising prior to or at the Delivery Point.

10.4 Indemnities.

(a) Indemnity by Seller. Seller shall release, indemnify and hold harmless Buyer or Buyers' respective directors, officers, 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, or (ii) Seller's operation and/or maintenance of the Project, including any loss, Claim, action or suit, for or on account of injury to, bodily or otherwise, 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 as may be caused solely by the willful misconduct or gross negligence of Buyer, its Affiliates, or Buyers' and Affiliates' respective agents, employees, directors, or officers.

(b) Indemnity by Buyer. Buyer shall release, indemnify and hold harmless Seller, its directors, officers, 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 by Seller under this Agreement at or after the Delivery Point, (ii) Buyer's access to the Project site, or (iii) Buyer's, or Third-Party SC's, performance as Scheduling Coordinator for the Project, including any loss, Claim, action or suit, for or on account of injury to, bodily or otherwise, 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 as may be caused solely by the willful misconduct or gross negligence of Seller, its Affiliates, or Seller's and Affiliates' respective agents, employees, directors or officers.

(c) No Dedication. Without limitation of each Party's obligations under Sections 10.5(a) and 10.5(b) herein, 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 or entity 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.

(a) General Assignment. Except as provided in Sections 10.5 (b) and (c), 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 so long as among other things (i) the assignee assumes the transferring Party's payment and performance obligations under this Agreement, (ii) the assignee agrees in writing to be bound by the terms and conditions hereof, (iii) the transferring Party delivers evidence satisfactory to the non-transferring Party of the proposed assignee's technical and financial capability to fulfill the assigning Party's obligations hereunder and (iv) the transferring Party delivers such tax and enforceability assurance as the other Party may reasonably request. Notwithstanding the foregoing and except as provided in Section 10.5(b), consent shall not be required for an assignment of this Agreement where the assigning Party remains subject to liability or obligation under this Agreement, provided that (i) the assignee assumes the assigning Party's payment and performance obligations under this Agreement, (ii) the assignee agrees in writing to be bound by the terms and conditions hereof, and (iii) the assigning Party provides the other Party hereto with at least thirty (30) days' prior written notice of the assignment.

(b) Assignment to Financing Providers. Notwithstanding anything to the contrary herein, Seller shall be permitted to transfer, pledge, encumber or assign this Agreement or the account, revenues or proceeds thereof, or any part of its ownership interest in the Project, as collateral for any debt or tax equity financing or refinancing of the Project without the prior written consent of the Buyer, but without relieving itself from liability hereunder. Upon Seller's reasonable request, Buyer will provide consent to such collateral assignment in a form substantially similar to the Form of Consent to Assignment attached hereto as Appendix VII or other documents (including estoppel certificates related to a tax equity financing) provided that (i) Buyer shall not be required to consent to any additional terms or conditions beyond those contained in Appendix VII, including extension of any cure periods or additional remedies for financing providers, and (ii) Seller shall be responsible at Buyer's request for Buyer's reasonable costs associated with the review, negotiation, execution and delivery of documents in connection with such assignment, attorneys' fees.

(c) Notice of Change in Control. Except in connection with public market transactions of the equity interests or capital stock of Seller or Seller's Affiliates', Seller shall provide Buyer notice of any direct change of control of Seller (whether voluntary or by operation of Law).

(d) Unauthorized Assignment. Any assignment or purported assignment in violation of this Section 10.5 is void.

10.6 Confidentiality.

(a) Each Party agrees, and shall use reasonable efforts to cause its parent, subsidiary and Affiliates, and its and their respective directors, officers, employees and representatives, as a condition to receiving confidential information hereunder, to keep confidential, except as required by Law, including without limitation the California Public Records Act (Government Code §§ 6250 et seq, “CPRA”), all documents, data (including operating data provided in connection with the scheduling of energy or otherwise pursuant to this Agreement), drawings, studies, projections, plans and other written information that relate to economic benefits to, or amounts payable by, any Party under this Agreement, and with respect to documents that are clearly marked “Confidential” at the time a Party shares such information with the other Party (“Confidential Information”). The provisions of this Section 10.6 shall survive and shall continue to be binding upon the Parties for a period of one (1) year following the date of termination or expiration of this Agreement. Notwithstanding the foregoing, information shall not be considered Confidential Information if such information (i) is disclosed with the prior written consent of the originating Party, (ii) was in the public domain prior to disclosure or is or becomes publicly known or available other than through the action of the receiving Party in violation of this Agreement, (iii) was lawfully in a Party’s possession or acquired by a Party outside of this Agreement, which acquisition was not known by the receiving Party to be in breach of any confidentiality obligation, or (iv) is developed independently by a Party based solely on information that is not considered confidential under this Agreement.

(b) Subject to the CPRA, either Party may, without violating this Section 10.6, disclose matters that are made confidential by this Agreement:

(i) to its counsel, accountants, auditors, advisors, other professional consultants, credit rating agencies, actual or prospective co-owners, investors, purchasers, lenders, underwriters, contractors, suppliers, and others involved in construction, operation, and financing transactions and arrangements for a Party or its subsidiaries or Affiliates;

(ii) to governmental officials and parties involved in any proceeding in which a Party is seeking a Permit, certificate, or other regulatory approval or order necessary or appropriate to carry out this Agreement; and

(iii) to governmental officials or the public as required by any law, regulation, order, rule, order, ruling or other Requirement of Law, including oral questions, discovery requests, subpoenas, civil investigations or similar processes and laws or regulations requiring disclosure of financial information, information material to financial matters, and filing of financial reports.

(c) If a Party is requested or required, pursuant to any applicable Law, regulation, order, rule, or ruling, discovery request, subpoena, civil investigation or similar process to disclose any of the Confidential Information, such Party shall provide prompt written notice to the other Party of such request or requirement so that at such other Party’s expense, such other Party can seek a protective order or other appropriate remedy concerning such disclosure.

(d) Notwithstanding the foregoing or any other provision of this Agreement, Seller acknowledges that Buyer is subject to disclosure as required by CPRA. Confidential Information of Seller provided to Buyer pursuant to this Agreement shall become the property of Buyer, and Seller acknowledges that Buyer shall not be in breach of this Agreement or have any liability whatsoever under this Agreement or otherwise for any claims or causes of action whatsoever resulting from or arising out of Buyer copying or releasing to a third party any of the Confidential Information of Seller pursuant to CPRA; *provided* that Seller shall (i) provide notice to Seller prior to any such disclosure in accordance with Section 10.6(c) endeavor, in good faith, not to disclose any of Seller’s “trade secrets” as consistent

with the CPRA and (iii) support, to the extent in compliance with Buyer's rights and obligations under applicable laws, Seller in its efforts to obtain a protective order or other appropriate remedy with respect to the disclosure of operating data from the Project or any engineering drawings, project plans, technical specifications or other similar information regarding the Project.

(e) Notwithstanding the foregoing or any other provision of this Agreement, Buyer may record, register, deliver and file all such notices, statements, instruments and other documents as may be necessary or advisable to render fully valid, perfected and enforceable under all applicable law the credit support contemplated by this Agreement, and the rights, Liens and priorities of Buyer with respect to such credit support.

(f) If Buyer receives a CPRA request for Confidential Information of Seller, and Buyer determines that such Confidential Information is subject to disclosure under CPRA, then Buyer shall notify the other Buyer and Seller of the request and its intent to disclose the documents. Buyer, as required by CPRA, shall release such documents unless Seller timely obtains a court order prohibiting such release. If Seller, at its sole expense, chooses to seek a court order prohibiting the release of Confidential Information pursuant to a CPRA request, then Seller undertakes and agrees to defend, indemnify and hold harmless Buyer and the Indemnitees from and against all suits, claims, and causes of action brought against Buyer or any Indemnitees for Buyer's refusal to disclose Confidential Information of Seller to any person making a request pursuant to CPRA. Seller's indemnity obligations shall include, but are not limited to, all actual costs incurred by Buyer and any Indemnitees, and specifically including costs of experts and consultants, as well as all damages or liability of any nature whatsoever arising out of any suits, claims, and causes of action brought against Buyer or any Indemnitees, through and including any appellate proceedings. Seller's obligations to Buyer and all Indemnitees under this indemnification provision shall be due and payable on a Monthly, on-going basis within thirty (30) days after each submission to Seller of Buyer's invoices for all fees and costs incurred by Buyer and all Indemnitees, as well as all damages or liability of any nature.

(g) Each Party acknowledges that any disclosure or misappropriation of Confidential Information by such Party in violation of this Agreement could cause the other Party or their Affiliates irreparable harm, the amount of which may be extremely difficult to estimate, thus making any remedy at law or in damages inadequate. Therefore, each Party agrees that the non-breaching Party shall have the right to apply to any court of competent jurisdiction for a restraining order or an injunction restraining or enjoining any breach or threatened breach of this Agreement and for any other equitable relief that such non-breaching Party deems appropriate. This right shall be in addition to any other remedy available to the Parties in law or equity, subject to the limitations set forth in Section 7.1.

10.7 Audit. Each Party has the right, at its sole expense and during normal working hours, after reasonable Notice, 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 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.

10.8 Insurance. Seller shall, at its sole cost and expense, obtain and maintain the following insurance coverages and be responsible for its subcontractors, including Seller's EPC Contractors, maintaining sufficient limits of the appropriate insurance coverage. The obligations of the Seller in this Section 10.8 constitute material obligations of the Agreement.

(a) Workers' Compensation and Employers' Liability.

(i) Workers' Compensation insurance indicating compliance with any applicable labor codes, acts, Laws or statutes, state or federal, where Seller performs Work.

(ii) Employers' Liability insurance shall be five million dollars (\$5,000,000.00) for injury or death occurring as a result of each accident.

(b) Commercial General Liability.

(i) Coverage shall be as broad as the Insurance Services Office Commercial General Liability Coverage "occurrence" form, with no alterations to the coverage form.

(ii) The limit shall be five million dollars (\$5,000,000.00) each occurrence for bodily injury, property damage, personal injury and products/completed operations. Defense costs shall be included within the limits of liability. Coverage limits may be satisfied using an umbrella or excess liability policy or an Owners Contractors Protective (OPC) policy. Limits shall be on a per project basis.

(iii) Coverage shall:

(A) by "Additional Insured" endorsement add as additional insureds RCEA, its directors, officers, agents and employees only with respect to liability arising out of the Work performed by or for the Seller under this Agreement. In the event the Commercial General Liability policy includes a "blanket endorsement by contract," the following language added to the certificate of insurance will satisfy Buyer's requirement: "RCEA, its directors, officers, agents and employees with respect to liability arising out of the Work performed under the Agreement (as such terms are defined in the Power Purchase Agreement entered into by RCEA and EDPR CA Solar Park II LLC on _____, 2020) by or for the Seller has been endorsed by blanket endorsement;"

(B) be endorsed (blanket or otherwise) to specify that the Seller's insurance is primary and that any insurance or self-insurance maintained by RCEA shall not contribute with it but only to the extent of Work performed by or for Seller under this Agreement; and

(C) include a severability of interest clause.

(c) Business Auto.

(i) Coverage shall be at least as broad as the Insurance Services Office Business Auto Coverage form covering Automobile Liability, code 1 "any auto".

(ii) The limit shall be five million dollars (\$5,000,000.00) each accident for bodily injury and property damage.

(iii) If scope of Work involves hauling hazardous materials, coverage shall be endorsed in accordance with Section 30 of the Motor Carrier Act of 1980 (Category 2) and the CA 99 48 endorsement.

(d) Additional Insurance Requirements.

(i) Before commencing performance of the Work, Seller shall furnish Buyer with certificates of insurance and endorsements of all required insurance for Seller.

(ii) The documentation shall state that coverage shall not be cancelled except after thirty (30) days prior written Notice has been given to Buyer.

(iii) Certificates of insurance and endorsements shall be signed and submitted by a person authorized by that insurer to issue certificates of insurance and endorsements on its behalf, and shall be Noticed and delivered to Buyer's authorized representative.

(iv) Reviews of such insurance may be conducted by Buyer on an annual basis.

(v) Upon request, Seller shall furnish Buyer evidence of insurance for its subcontractors.

(e) Form and Content.

All policies or binders with respect to insurance maintained by Seller shall waive any right of subrogation of the insurers hereunder against Buyer, its officers, directors, employees, agents and representatives of each of them, and any right of the insurers to any setoff or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under such policy but only to the extent set forth in this Agreement.

10.9 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.

10.10 General. 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. The Parties acknowledge and agree that this Agreement is a "forward contract" (within the meaning of the Bankruptcy Code, as in effect as of the Execution Date). 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 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 and delivering an original document; provided, however, that the execution and delivery of this Agreement and its counterparts shall be subject to Section 10.12. This Agreement shall be binding on each Party's successors and permitted assigns.

10.11 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.

10.12 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.

10.13 Mobile Sierra. Notwithstanding any provision of this Agreement, neither Party shall seek, nor shall they support any third party seeking, to prospectively or retroactively revise the rates, terms or conditions of service of this Agreement through application or complaint to the FERC pursuant to the provisions of the Federal Power Act, absent prior written agreement of the Parties. Further, absent the prior written agreement in writing by both Parties, the standard of review for changes to the rates, terms or conditions of service of this Agreement proposed by a Party, a non-Party, or the FERC acting *sua sponte* shall be the “public interest” standard of review set forth in *United States 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).

10.14 Public Announcements. Seller shall make no public announcement regarding any aspect of this Agreement or the role of Seller in regards to the development or operation of the Project without the prior written consent of Buyer, which consent shall not be unreasonably withheld. Any public announcement by Seller must comply with California Business and Professions Code § 17580.5 and with the *Guides for the Use of Environmental Marketing Claims*, published by the FTC, as it may be updated from time to time.

10.15 Compliance Cost Cap

(a) Compliance Expenditure Cap. If Seller establishes to Buyer’s reasonable satisfaction that a change in Laws occurring after the Effective Date has increased Seller’s cost above the cost that could reasonably have been contemplated as of the Effective Date to take all actions to comply with Seller’s obligations under the Agreement with respect to obtaining, maintaining, conveying or effectuating Buyer’s use of (as applicable), the items listed in Sections 10.15(a)(i), (ii) and (iii), then the Parties agree that the maximum amount of costs and expenses Seller shall be required to bear during the Delivery Term shall be capped at [REDACTED] dollars (\$[REDACTED]) per MW of Contract Capacity in the aggregate over the Delivery Term (“Compliance Expenditure Cap”):

- (i) CEC Certification and Verification;
- (ii) Green Attributes, WREGIS and Future Environmental Attributes;
- (iii) Capacity Attributes

(b) Any actions required for Seller to comply with its obligations set forth in the Section 10.15(a) above, the cost of which will be included in the Compliance Expenditure Cap, shall be referred to collectively as the “Compliance Actions.”

(c) If Seller reasonably anticipates the need to incur out-of-pocket expenses in excess of the Compliance Expenditure Cap in order to take any Compliance Action Seller shall provide Notice to Buyer of such anticipated out-of-pocket expenses. Buyer will have sixty (60) days to evaluate such Notice (during which time period Seller is not obligated to take any Compliance Actions described in the Notice) and shall, within such time, either (1) agree to reimburse Seller for all or some portion of the costs that exceed the Compliance Expenditure Cap (such Buyer-agreed upon costs, the “Accepted Compliance Costs”), or (2) waive Seller’s obligation to take such Compliance Actions, or any part thereof for which Buyer has not agreed to reimburse Seller.

(d) If Buyer agrees to reimburse Seller for the Accepted Compliance Costs, then Seller shall take such Compliance Actions covered by the Accepted Compliance Costs as agreed upon by the Parties and Buyer shall reimburse Seller for Seller's actual costs to effect the Compliance Actions, not to exceed the Accepted Compliance Costs, within sixty (60) days from the time that Buyer receives an invoice and documentation of such costs from Seller.

10.16 Service Contract. The Parties acknowledge and agree that this Agreement purports to be a "service contract" within the meaning of Section 7701(e) of the Internal Revenue Code, the Parties hereto intend it to be such, and this Agreement should be construed accordingly.

ARTICLE ELEVEN: TERMINATION EVENT

11.1 Force Majeure Termination Event.

(a) Force Majeure Failure. Either Party shall have the right, but not the obligation, to terminate this Agreement after the occurrence of any of the following (each constituting a "Force Majeure Failure"):

(i) If during the Delivery Term:

(A) the Project fails to deliver at least forty percent (40%) of the Contract Quantity to the Delivery Point for a period of twelve (12) consecutive rolling months following a Force Majeure event that materially and adversely impacts the Project and Buyer has provided Notice to Seller of such failure; provided that, if Seller within forty-five (45) days of receipt of Notice from Buyer, presents Buyer with a plan for mitigation of the effect of the Force Majeure within a period not to exceed six (6) months, unless Buyer, in Buyer's sole discretion, agrees in writing to extend this time period, from the above-mentioned Notice date, which plan is commercially reasonable and satisfactory to Buyer, as evidenced by Buyer's written acknowledgement of such plan, then Buyer shall not have the right to terminate this Agreement pursuant to this Section 11.1(a) until the expiration of the mitigation period deemed necessary by Seller to repair the Project (which shall not exceed six (6) months, unless Buyer, in Buyer's sole discretion, agrees in writing to extend this time period); provided that Seller diligently pursues such mitigation plan throughout the mitigation period, and after which time Buyer may terminate this Agreement unless the Project has been repaired, and the Seller has resumed and is satisfying all of its obligations under this Agreement; or

(B) the Project is destroyed or rendered inoperable by a Force Majeure event caused by a catastrophic natural disaster; provided that Seller shall have up to ninety (90) days following such Force Majeure event to obtain a report from an independent, third party engineer stating whether the Project is capable of being repaired or replaced no later than twenty-four (24) months from the date of the report and Seller shall provide Buyer with a copy of the engineer's report, at no cost to Buyer; provided further that if such engineer's report concludes that the Project is capable of being repaired or replaced within such twenty-four (24) month period and Seller undertakes and continues such repair or replacement with due diligence, then Buyer shall not have the right to terminate this Agreement pursuant to this Section 11.1(a) until the expiration of the period deemed necessary by the engineer's report (which shall not exceed twenty-four (24) months), after which time, Buyer may terminate this Agreement unless the Project has been repaired or replaced, as applicable, and the Seller has resumed and is satisfying all of its obligations under this Agreement.

(b) Termination and Right of First Offer.

(i) If Buyer exercises its termination right in connection with the Force Majeure Failure, then the Agreement shall terminate without further liability of either Party to the other, effective upon the date set forth in Buyer's Notice of termination, subject to each Party's satisfaction of all of the final payment and survival obligations set forth in Sections 2.5(a) and (b). The Parties agree that for a period of three (3) years from the date on which Buyer Notifies Seller of termination due to the Force Majeure Failure ("Exclusivity Period"), neither Seller, its successors and assigns, nor its Affiliates shall enter into an obligation or agreement to sell or otherwise transfer any Products from the Project to any third party, unless Seller first offers, in writing, to sell to Buyer such Products from the Project on the same terms and conditions as this Agreement, subject to permitted modifications identified in subpart (ii) below, (the "First Offer") and Buyer either accepts or rejects such First Offer in accordance with the provisions herein.

(ii) If Buyer accepts the First Offer, Buyer shall Notify Seller within thirty (30) days of receipt of the First Offer subject to Buyer's governing board approval ("Buyer's Notice of First Offer Acceptance"), and then the Parties shall have not more than ninety (90) days from the date of Buyer's Notice of First Offer Acceptance to enter into a new power purchase agreement, in substantially the same form as this Agreement, or amend this Agreement, if necessary; provided that the Contract Price may only be increased to reflect Seller's documented incremental costs in overcoming the Force Majeure event.

(iii) If Buyer rejects or fails to accept Seller's First Offer within thirty (30) days of receipt of such offer, Seller shall thereafter be free to sell or otherwise transfer, and to enter into agreements to sell or otherwise transfer, any Products from the Project to any third party, so long as the material terms and conditions of such sale or transfer are not more favorable to the third party than those of the First Offer to Buyer. If, during the Exclusivity Period, Seller desires to enter into an obligation or agreement with a third party, Seller shall deliver to Buyer a certificate of an authorized officer of Seller (A) summarizing the material terms and conditions of such agreement and (B) certifying that the proposed agreement with the third party will not put Seller in a worse overall contractual position than it would have under the terms offered in the First Offer to Buyer. If Seller is unable to deliver such a certificate to Buyer, then Seller may not sell or otherwise transfer, or enter into an agreement to sell or otherwise transfer, the Products from the Project without first offering to sell or otherwise transfer such Products to Buyer on such more favorable terms and conditions (the "Revised Offer") in accordance with subpart (ii) above. If within thirty (30) days of receipt of Seller's Revised Offer the Buyer rejects, or fails to accept by Notice to Seller, the Revised Offer, then Seller will thereafter be free to sell or otherwise transfer, and to enter into agreements to sell or otherwise transfer, such Products from the Project to any third party on such terms and conditions as set forth in the certificate..

ARTICLE TWELVE: DISPUTE RESOLUTION

12.1 Dispute Resolution.

(a) In the event of any claim, controversy or dispute between the Parties arising out of or relating to or in connection with this Agreement (including any dispute concerning the validity of this Agreement or the scope and interpretation of this Section 12.1) (a "Dispute"), any Party (the "Notifying Party") may deliver to the other Parties (the "Recipient Party") notice of the Dispute with a detailed description of the underlying circumstances of such Dispute (a "Dispute Notice"). The Dispute Notice shall include a schedule of the availability of the Notifying Party's senior officers (having a title of senior vice president (or its equivalent) or higher) duly authorized to settle the Dispute during the thirty (30) day period following the delivery of the Dispute Notice.

(b) The Recipient Party shall, within five (5) Business Days following receipt of the Dispute Notice, provide to the Notifying Party a brief summary of the Recipient Party's position on the Dispute and a parallel schedule of availability of the Recipient Party's senior officers (having a title of senior vice president (or its equivalent) or higher) duly authorized to settle the Dispute. Following delivery of the respective senior officers' schedules of availability, the senior officers of the Parties shall meet and confer as often as they deem reasonably necessary during the remainder of the thirty (30) day period in good faith negotiations to resolve the Dispute to the satisfaction of each Party.

(c) In the event a Dispute is not resolved pursuant to the procedures set forth in Sections 12.1(a) and (b) by the expiration of the thirty (30) day period set forth in Section 12.1(b), then a Party may pursue any legal remedy available to it in accordance with this Agreement.

ARTICLE THIRTEEN: NOTICES

Whenever this Agreement requires or permits Notice (or requires a Party to "notify"), the Party with such right or obligation shall provide a written communication in the manner specified herein; provided, however, that notices of Outages or other Scheduling or dispatch information or requests, as provided in Appendix VI, shall be provided in accordance with the terms set forth in the relevant section of this Agreement. 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, website, or contact, including such information in Appendix VI and the "Notices List" in the Cover Sheet, to which Notice is to be given it by providing Notice of such change to the other Party.

SIGNATURES

Agreement Execution

In WITNESS WHEREOF, each Party has caused this Agreement to be duly executed by its authorized representative as of the dates provided below:

EDPR CA Solar Park II LLC, a Delaware limited liability company

REDWOOD COAST ENERGY AUTHORITY,
a California joint powers authority

Signature: _____

Signature: _____

Name: Miguel Angel Prado

Name: _____

Title: Chief Executive Officer

Title: _____

Date: _____

Date: _____

EDPR CA Solar Park II LLC, a Delaware limited liability company

Signature:	_____	_____
Name:	<u>Steve Irvin</u>	_____
Title:	<u>Executive Vice President</u>	_____
Date:	_____	_____

APPENDIX I³

FORM OF LETTER OF CREDIT

Issuing Bank Letterhead and Address

STANDBY LETTER OF CREDIT NO. XXXXXXXXX

Date: [insert issue date]

Beneficiary:

Applicant: [Insert name and address of Applicant]

Attention:

Letter of Credit Amount: [insert amount]

Expiry Date: [insert expiry date]

Ladies and Gentlemen:

By order of **[insert name of Applicant]** (“Applicant”), we hereby issue in favor of [_____] (the “Beneficiary”) our irrevocable standby letter of credit No. **[insert number of letter of credit]** (“Letter of Credit”), for the account of Applicant, for drawings up to but not to exceed the aggregate sum of U.S. \$ **[insert amount in figures followed by (amount in words)]** (“Letter of Credit Amount”). This Letter of Credit is available with **[insert name of issuing bank, and the city and state in which it is located]** by sight payment, at our offices located at the address stated below, effective immediately, and it will expire at our close of business on **[insert expiry date]** (the “Expiry Date”).

Funds under this Letter of Credit are available to the Beneficiary against presentation of the following documents:

1. Beneficiary’s signed and dated sight draft in the form of Exhibit A hereto, referencing this Letter of Credit No. **[insert number]** and stating the amount of the demand; and
2. One of the following statements signed by an authorized representative or officer of Beneficiary:
 - A. “Pursuant to the terms of that certain **[insert name of the agreement]** (the “Agreement”), dated **[insert date of the Agreement]**, between Beneficiary and **[insert name of Seller or Buyer, as applicable, under the Agreement]**, Beneficiary is entitled to draw under Letter of Credit No. **[insert number]** amounts owed by **[insert name of applicable party under the Agreement]** under the Agreement; or

³ NTD: Appendices subject to further review.

B. “Letter of Credit No. **[insert number]** will expire in thirty (30) days or less and **[insert name of the applicable party under the Agreement]** has not provided replacement security acceptable to Beneficiary.

Special Conditions:

1. Partial and multiple drawings under this Letter of Credit are allowed;
2. All banking charges associated with this Letter of Credit are for the account of the Applicant;
3. This Letter of Credit is not transferable; and
4. The Expiry Date of this Letter of Credit shall be automatically extended without a written amendment for a period of one year and on each successive Expiry Date, unless at least sixty (60) days before the then current Expiry Date, we notify you by registered mail or courier that we elect not to extend the Expiry Date of this Letter of Credit for such additional period.

We engage with you that drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored upon presentation, on or before the Expiry Date (or after the Expiry Date as provided below), at our offices at **[insert issuing bank’s address for drawings]**.

All demands for payment shall be made by presentation of originals or copies of documents; or by facsimile transmission of documents to **[insert fax number]**, Attention: **[insert name of issuing bank’s receiving department]**, with originals or copies of documents to follow by overnight mail. If presentation is made by facsimile transmission, you may contact us at **[insert phone number]** to confirm our receipt of the transmission. Your failure to seek such a telephone confirmation does not affect our obligation to honor such a presentation.

Our payments against complying presentations under this Letter of Credit will be made no later than on the sixth (6th) banking day following a complying presentation.

Except as stated herein, this Letter of Credit is not subject to any condition or qualification. It is our individual obligation, which is not contingent upon reimbursement and is not affected by any agreement, document, or instrument between us and the Applicant or between the Beneficiary and the Applicant or any other party.

Except as otherwise specifically stated herein, this Letter of Credit is subject to and governed by the *Uniform Customs and Practice for Documentary Credits, 2007 Revision*, International Chamber of Commerce (ICC) Publication No. 600 (the “UCP 600”); provided that, if this Letter of Credit expires during an interruption of our business as described in Article 36 of the UCP 600, we will honor drafts presented in compliance with this Letter of Credit within thirty (30) days after the resumption of our business and effect payment accordingly.

The law of the State of California shall apply to any matters not covered by the UCP 600.

For telephone assistance regarding this Letter of Credit, please contact us at **[insert number and any other necessary details]**.

Very truly yours,

[insert name of issuing bank]

By: _____
Authorized Signature

Name: _____ **[print or type name]**

Title: _____

Exhibit A SIGHT DRAFT

TO
[INSERT NAME AND ADDRESS OF PAYING BANK]

AMOUNT: \$ _____ DATE: _____

AT SIGHT OF THIS DEMAND PAY TO THE ORDER OF [_____] THE AMOUNT OF
U.S.\$ _____ (_____ U.S. DOLLARS)

DRAWN UNDER [INSERT NAME OF ISSUING BANK] LETTER OF CREDIT NO. XXXXXX.

REMIT FUNDS AS FOLLOWS:

[INSERT PAYMENT INSTRUCTIONS]

DRAWER

BY: _____
NAME AND TITLE

APPENDIX II

INITIAL ENERGY DELIVERY DATE CONFIRMATION LETTER

In accordance with the terms of that certain Power Purchase Agreement dated _____ (“Agreement”) by and between _____ (“Buyer”) and _____ (“Seller”), this letter (“Initial Energy Delivery Date Confirmation Letter”) serves to document the Parties’ further agreement that (i) the Conditions Precedent to the occurrence of the Initial Energy Delivery Date have been satisfied, and (ii) Buyer has accepted delivery of the Product, as specified in the Agreement, as of this _____ day of _____, _____ (the “Initial Energy Delivery Date”). All capitalized terms not defined herein shall have the meaning set forth in the Agreement.

IN WITNESS WHEREOF, each Party has caused this Initial Energy Delivery Date Confirmation Letter to be duly executed by its authorized representative as of the date of last signature provided below:

[SELLER]

REDWOOD COAST ENERGY AUTHORITY

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPENDIX III
FORM OF PROGRESS REPORT

Progress Report

of

("Seller")

provided to

REDWOOD COAST ENERGY AUTHORITY
("Buyer")

[Date]

Instructions.

Any capitalized terms used in this report which are not defined herein shall have the meaning ascribed to them in the Power Purchase Agreement by and between _____, (“Seller”) and Redwood Coast Energy Authority dated _____, (the “Agreement”).

Seller shall review the status of each Milestone of the construction schedule for the Project and Seller shall identify such matters referenced in clauses (i)-(v) below as known to Seller and which in Seller’s reasonable judgment are expected to adversely affect the schedule, and with respect to any such matters, shall state the actions which Seller intends to take to ensure that the Milestones will be attained by their required dates. Such matters may include, but shall not be limited to:

(i) Any material matter or issue arising in connection with a Governmental Approval, or compliance therewith, with respect to which there is an actual or threatened dispute over the interpretation of a Law, actual or threatened opposition to the granting of a necessary Governmental Approval, any organized public opposition, any action or expenditure required for compliance or obtaining approval that Seller is unwilling to take or make, or in each case which could reasonably be expected to materially threaten or prevent financing of the Units or related Project, attaining any Milestone, or obtaining any contemplated agreements with other parties which are necessary for attaining any Milestone or which otherwise reasonably could be expected to materially threaten Seller’s ability to attain any Milestone.

(ii) Any development or event in the financial markets or the independent power industry, any change in taxation or accounting standards or practices or in Seller’s business (including a change of 50% or more of any ownership interest in Seller’s business) or prospects which reasonably could be expected to materially threaten financing of the Project, attainment of any Milestone or materially threaten any contemplated agreements with other parties which are necessary for attaining any Milestone or could otherwise reasonably be expected to materially threaten Seller’s ability to attain any Milestone;

(iii) A change in, or discovery by Seller of, any legal or regulatory requirement which would reasonably be expected to materially threaten Seller’s ability to attain any Milestone, including any failure or delay in obtaining necessary easements;

(iv) Any material change in the Seller’s schedule for initiating or completing any material aspect of Project;

(v) The status of any matter or issue identified as outstanding in any prior Progress Report and any material change in the Seller’s proposed actions to remedy or overcome such matter or issue.

For guidance, each “overview” subsection shall include a summary of the status and progress of major activities associated with that section, whether planned, in progress, or completed, including relevant dates. Each “recent activities” subsection shall include details of activities during the previous month. Each “expected activities” subsection shall include a brief list of major activities planned for the current month.

Seller shall complete, certify, and deliver this form of Progress Report to Richard Engel, together with all attachments and exhibits, with copies of this report delivered to insert information here and insert information here.

1. Executive Summary

Please provide a brief chronological cumulative summary of the **major** activities completed for each of the following aspects of the Project. Include the date each item was added to the summary (e.g., in Milestone section “January 2020 – notice of Construction Start Date milestone achieved was reported to RCEA on January 15, 2020” and in Construction section “January 2020 - Notice to Proceed was issued to EPC contractor on January 10, 2020”):

1.1 Milestones

1.2 Governmental Approvals

1.3 Financing

1.4 Property Acquisition

1.5 Design and Engineering

1.6 Major Equipment procurement

1.7 Construction

1.8 Interconnection

1.9 Startup

2. Milestones

In this section, please include information on each Milestone listed in the Cover Sheet, plus any additional significant milestones related to the project.

1.1 Milestone schedule

Please state the status and progress of each Milestone. Provide the date of completion of completed Milestone(s) and the expected date of completion of uncompleted Milestone(s). The expected date is the current best estimate, and may change from time to time as better information becomes available.

1.2 Remedial Action Plan (applicable if Seller fails to achieve a Milestone by the Milestone Date)

Please describe in detail any delays (actual or anticipated) beyond the scheduled Milestone dates. Describe the cause of the delay (e.g., governmental approvals, financing, property acquisition, design activities, equipment procurement, project construction, interconnection, or any other factor). Describe Seller’s Remedial Action Plan which shall include detailed plans to achieve the missed Milestone and subsequent Milestones.

3. Governmental Approvals

In this section, please include information on each of the Governmental Approvals required for the construction of the Units and the status thereof. List the applicable government agency, the type of application/approval requested, and the dates (expected or actual) of significant activity. Significant activity includes, but is not limited to, application submission, notice of complete

application, notice of preparation, public hearing or comment period, draft documents and/or approvals, final documents and/or approvals, notice of determination, and/or issuance of permit. If the government agency maintains a website with information on the approval process for the Project, please provide a link.

1.3 Environmental Impact Report/Statement (EIR/EIS)

Please describe the environmental review process and each of the Governmental Approval(s) to be obtained for the Project. Provide the status and completion date (expected or actual) of each significant activity in the process.

1.4 Other Governmental Approvals

Please describe each of the other Governmental Approvals to be obtained for the Project. Provide the status and completion date (expected or actual) of each significant activity.

1.5 Recent Governmental Approval activities

Please describe in detail the Governmental Approval activities that occurred during the previous calendar month.

1.6 Expected Governmental Approval activities

Please list all Governmental Approval activities that are expected to be performed during the current calendar month.

1.7 Governmental Approval Notices received

Please attach to this Progress Report copies of any Notices related to Governmental Approval activities received during the previous calendar month.

4. Financing Activities

In this section, please include information on each separate phase of financing for the Project. Include information on debt, equity, and/or federal or state loans or grants.

1.8 Overview of financing activities

Please provide a summary of the status and progress of each major financing activity, including the date of execution of significant documents, and information on the expected timing of future significant activities.

1.9 Recent financing activities

Please describe in detail the financing activities that occurred during the previous calendar month.

1.10 Expected financing activities

Please list the financing activities that are expected to be performed during the current calendar month.

5. Property Acquisition Activities

In this section, please include information on property acquisition or site control activities for the Project.

1.11 Overview of property acquisition activities

Please provide a summary of the status and progress of each major property acquisition activity, including the date of execution of significant documents, and information on the expected timing of future significant activities.

1.12 Recent property acquisition activities

Please describe in detail the property acquisition activities that occurred during the previous calendar month.

1.13 Expected property acquisition activities

Please list the property acquisition activities that are expected to be performed during the current calendar month.

6. Design and Engineering Activities

In this section, please include information on the status of design and engineering for the Project.

1.14 Overview of design activities

Please provide a summary of the status and progress of each major design or engineering activity, including dates of completion of significant activities and expected timing of future activities.

1.15 Recent design activities

Please describe in detail the design activities that occurred during the previous calendar month.

1.16 Expected design activities

Please list the design activities that are expected to be performed during the current calendar month.

7. Major Equipment Procurement

In this section, please include information on all major equipment to be procured for all portions of the Project to be completed by Seller, including switchyards, substations and any other interconnection equipment, in addition to generating and auxiliary equipment.

1.17 Overview of major equipment procurement activities

For each type of equipment, list the number of each major item to be procured, the manufacturer, model number (if applicable), and rating. List the delivery schedule

(expected or actual as applicable), breaking out the number of each item (to be) procured or delivered in each month.

1.18 Recent major equipment procurement activities

Please describe in detail the major equipment procurement activities that occurred during the previous calendar month.

1.19 Expected major equipment procurement activities

Please list the major equipment procurement activities that are expected to be performed during the current calendar month.

8. Construction Activities

In this section, please include information on the status of any construction-related factors that may affect the ability of the Project to deliver Product to the Buyer. Include information on the Project infrastructure, generating equipment, and major auxiliary equipment. Also include information on the substations, switchyards, gen-ties, telecommunications equipment or other interconnection facilities that are the direct responsibility of the Project.

1.20 Overview of major construction activities

Please provide a summary of the status and progress of each major construction activity for all portions of the Project, including a schedule showing expected or actual dates as applicable. Provide the name of the EPC Contractor, the date of execution of the EPC Contract, and the date of issuance of a full Notice to Proceed (or equivalent). For each major type of equipment, break out the number of each item (to be) installed and/or commissioned in each month.

1.21 Recent construction activities

Please describe in detail the construction activities that occurred during the previous calendar month.

1.22 Expected construction activities

Please list the interconnection activities that are expected to be performed during the current calendar month.

1.23 EPC Contractor Progress Report

Please attach a copy of the Progress Reports received during the previous calendar month from the EPC Contractor pursuant to the construction contract between Seller and EPC Contractor, certified by the EPC Contractor as being true and correct as of the date issued.

1.24 Look-ahead construction schedule

Please provide a look-ahead construction schedule covering at least three months.

1.25 OSHA Recordables

Please list all OSHA recordables from the previous calendar month.

1.26 Work stoppages

Please describe any work stoppage from the previous calendar month and its effect on the construction schedule.

9. Interconnection Activities

In this section, please include information on interconnection-related factors that may affect the ability of the Project to deliver Product to the Buyer. Include information on the status of interconnection studies, Interconnection Agreements, design and construction of Interconnection Facilities (e.g., substations, switchyards, gen-ties, system protection schemes, telecommunications equipment to the extent not already covered in the Project construction information in Section 8), Network Upgrades, and grid outage and/or interconnection schedules.

1.27 Overview of interconnection activities

Please provide a summary of the status and progress of each major interconnection activity including dates of completion of significant activities and expected timing of future activities.

1.28 Recent interconnection activities

Please describe in detail the interconnection activities that occurred during the previous calendar month.

1.29 Expected interconnection activities

Please list the interconnection activities that are expected to be performed during the current calendar month.

10. Startup

In this section, please include information on the status of activities related to preparation for Commercial Operation, including equipment testing, commissioning, release to operations, requirements of the grid operator, and any other activities that must be conducted before the Project may deliver Energy to the grid and/or declare Commercial Operation.

1.30 Overview of startup activities

Please provide a summary of the status and progress of each major startup activity including dates of completion of significant activities and expected timing of future activities.

1.31 Recent startup activities

Please describe in detail the startup activities that occurred during the previous calendar month.

1.32 Expected startup activities

Please list the startup activities that are expected to be performed during the current calendar month.

I, _____, on behalf of and as an authorized representative of _____, do hereby certify that any and all information contained in this Seller's Progress Report is true and accurate, and reflects, to the best of my knowledge, the current status of the construction of the Project as of the date specified below.

By: _____

Name: _____

Title: _____

Date: _____

APPENDIX IV

CONSTRUCTION START AND COMMERCIAL OPERATION CERTIFICATION FORMS AND PROCEDURES

Appendix IV-1: CONSTRUCTION START FORM OF CERTIFICATION

Appendix IV-2: COMMERCIAL OPERATION CERTIFICATION PROCEDURE

Attachment A Commercial Operation Form of Certification

APPENDIX IV-1

**CONSTRUCTION START
FORM OF CERTIFICATION**

_____(Date)_____

Director of Power Resources
Redwood Coast Energy Authority
633 3rd St
Eureka, CA 95501

Re: Construction Start Date

This certification ("Certification") of the Construction Start Date is delivered by _____ ("Seller") to Redwood Coast Energy Authority ("Buyer") in accordance with the terms of that certain Power Purchase Agreement dated _____ ("Agreement") by and between Seller and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement. Seller hereby certifies and represents to Buyer all of the following:

- a) the EPC Contract related to the Project was executed on _____;
- b) [permitting agency name] _ issued grading permits to the Seller on _____; and
- c) the Notice to Proceed was issued on _____ (attached), and.
- d) mobilization at the Project Site commenced on _____.

IN WITNESS WHEREOF, the undersigned has executed this certificate on behalf of the Seller as of the ____ day of _____.

(Seller)

(Name)

(Position)

[LICENSED PROFESSIONAL ENGINEER]

By: _____

Name: _____

Title: _____

Date: _____

Engineering Stamp

APPENDIX IV-2

COMMERCIAL OPERATION CERTIFICATION PROCEDURE

In accordance with the terms of that certain Power Purchase Agreement dated _____, 20__ by and between Redwood Coast Energy Authority (“Buyer”) and _____ (“Seller”) to declare and recognize the Commercial Operation Date of the Project, Seller shall provide all of the documents set forth herein to Buyer as of the Commercial Operation Date. All terms not defined herein shall have the meaning set forth in the Agreement.

- (1) A certification from an authorized officer of Seller, substantially in the form of Attachment A to this Appendix IV-2, dated as of the Commercial Operation Date; and
- (2) A certificate or report from a Licensed Professional Engineer containing all of the following:
 - (a) A statement that the Project has achieved Mechanical Completion and the date on which it was achieved;
 - (b) A statement that the Project has successfully completed Project Testing and the dates on which Seller has accepted the test results; and
 - (c) A statement that the Project has achieved Substantial Completion and the date on which it was achieved.
- (3) Seller has provided to Buyer all documents which demonstrate that Seller has satisfied all of the CAISO agreement, interconnection agreement, and metering requirements in Sections 3.4 and 3.6 and has enabled Buyer to schedule the Facility with the CAISO for the Facility’s full unrestricted output.
- (4) Definitions.
 - (a) “Mechanical Completion” means that (i) all components and systems of the Project have been properly constructed, installed and functionally tested according to EPC Contract requirements in a safe and prudent manner that does not void any equipment or system warranties or violate any permits, approvals or Laws; (ii) the Project is ready for startup testing and commissioning; (iii) Seller has provided written acceptance to the EPC Contractor of mechanical completion as that term is specifically defined in the EPC Contract.
 - (b) “Project Testing Completion” means the written acceptance to the EPC Contractor of the completion of startup testing / commissioning, emissions testing (as applicable), and performance / acceptance / warranty testing (all such testing shall be collectively referred to as “Project Testing”) as required under the EPC Contract. The objectives of the tests shall be generally (i) to verify that the Project has been properly designed and constructed to meet the performance and operating requirements of the EPC Contract; (ii) to assure warranty coverage for equipment and systems over their warranty periods.
 - (c) “Substantial Completion” means when the following has occurred: (i) the Project is sufficiently complete, in accordance with the EPC Contract, that Seller has full and unrestricted use and benefit of the Project in the use for which it is intended; (ii) the Project has achieved Mechanical Completion; (iii) utilities are fully connected and operating normally; (iv) all necessary permits have been issued; (v) the Project is fully and properly interconnected and synchronized with the electrical grid and is capable of producing electricity in accordance with the EPC Contract; (vi) the operating manual has been approved by Seller; (vii) all work other than incidental corrective and incidental punch list work is complete; and (viii) Seller has provided written acceptance to the EPC Contractor of substantial completion as that term is specifically defined in the EPC Contract.

APPENDIX IV-2 –Attachment A

**COMMERCIAL OPERATION
FORM OF CERTIFICATION**

This certification (“Certification”) of Commercial Operation is delivered by _____ (“Seller”) to Redwood Coast Energy Authority (“Buyer”) in accordance with the terms of that certain Power Purchase Agreement dated _____ (“Agreement”) by and between Seller and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Seller hereby certifies and represents to Buyer the following:

- (1) Mechanical Completion of the Project was achieved on ____ [DATE] ____.
- (2) Project Testing Completion successfully occurred on:

[Seller to indicate each type of Project Testing and date completed]

- (a) NAME OF TEST [DATE]
- (b) NAME OF TEST [DATE]
- (c) NAME OF TEST [DATE]
- (3) Substantial Completion of the Project was achieved on ____ [DATE] ____
- (4) Pre-parallel inspection of the Project was successfully completed on ____ [DATE] ____
- (5) Authorization to parallel the Project was obtained on ____ [DATE] ____
- (6) Telemetry / SCADA visibility with PTO and CAISO grid control and power dispatch centers was obtained for the Project on ____ [DATE] ____
- (7) Reliability Network Upgrades (as defined in the CAISO Tariff) were completed on the Project on ____ [DATE] ____
- (8) Power system stabilizer testing and calibration was obtained for the Project on ____ [DATE] ____
or, ☐ was not required
- (9) Full Capacity Deliverability Status Finding from CAISO was obtained for the Project on ____ [DATE] ____ or, ☐ was not required because the Project is Energy Only.
- (10) The Participating Transmission Provider or Distribution Provider has provided documentation supporting full unrestricted release for Commercial Operation by [Name of Participating Transmission Owner as appropriate] on ____ [DATE] ____.
- (11) The CAISO has provided notification supporting Commercial Operation, in accordance with the CAISO tariff on ____ [DATE] ____.

A certified statement of the Licensed Professional Engineer, attached hereto, has been provided as evidence of Commercial Operation of the Project to provide Product and meet, at a minimum, the requirements indicated herein.

EXECUTED by SELLER this _____ day of _____, 20__.

		[Licensed Professional Engineer]	
Signature: _____		Signature: _____	
Name: _____		Name: _____	
Title: _____		Title: _____	
		Date: _____	
	License Number and LPE Stamp	_____	

APPENDIX V

GEP DAMAGES CALCULATION

In accordance with the provisions in Section 3.1(e)(ii), GEP Damages means the liquidated damages payment due by Seller to Buyer, calculated as follows:

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

Where:

A = the Guaranteed Energy Production for the Performance Measurement Period, in MWh

B = Total Energy over the Performance Measurement Period, in MWh

C = Replacement price for the Performance Measurement Period, in \$/MWh, which is the sum of (a) the simple average of the Integrated Forward Market hourly price for all the hours in the Performance Measurement Period, as published by the CAISO, for the Existing Zone Generation Trading Hub (as defined in the CAISO Tariff), in which the PNode resides

D = the unweighted Contract Price specified in the Cover Sheet for the Performance Measurement Period, in \$/MWh

The Parties agree that in the above calculation of GEP Damages, the result of “(C-D)” is less than \$■/MWh, the “(C-D)” will be replaced with \$■/MWh.

APPENDIX VI

NOTIFICATION REQUIREMENTS FOR AVAILABLE CAPACITY AND PROJECT OUTAGES

A. NOTIFICATION REQUIREMENTS FOR ROUTINE START-UP AND SHUTDOWNS

Prior to paralleling or after disconnecting from the electric system, ALWAYS follow your balancing authority rules and notify the applicable Participating Transmission Owner's (PTO) switching center

- Call the applicable Participating Transmission Owner's (PTO) switching center and TEA's Real-Time Desk to advise of the intent to parallel before any Start-up.
- Call the applicable Participating Transmission Owner's (PTO) switching center and TEA's Real-Time Desk after the unit has been paralleled and report the parallel time and intended unit output.
- Call the applicable Participating Transmission Owner's (PTO) switching center and TEA's Real-Time Desk after any routine separation and report the separation time as well as the date and time estimate for return to service.

B. SUBMISSION OF AVAILABLE CAPACITY AND PLANNED OUTAGES

1. Implement the procedures set forth below:

- a. For all email correspondence, enter the following in the email subject field: Delivery Date Range, Company Name, Contract Name, Email Purpose, Date Range (For example: "dd/mm/yyyy through dd/mm/yyyy, XYZ Company Project #2, Daily Forecast of Available Capacity,")
- b. For Annual Forecasts of Available Capacity, email to [REDACTED].
- c. For Daily Forecasts of Available Capacity after fourteen (14) hours before the WECC Preschedule Day, but before the CAISO deadline for submitting Schedules into the Day-Ahead Market, call primary phone [REDACTED] or backup phone [REDACTED]. Also send email to [REDACTED] or provide Buyer with access to Seller's forecast by other media (*e.g.* automatic FTP download).
- d. For Hourly Forecasts of Available Capacity, call TEA's Real Time Desk at [REDACTED] and email to [REDACTED]
- e. For Planned Outages and Prolonged Outages, complete the specifics below and submit by email to [REDACTED]

- i. *Email subject field:* Company Name, Contract Name, Email Purpose, Date Range (For example: “dd/mm/yyyy through dd/mm/yyyy, XYZ Company Project #2, Daily Forecast of Available Capacity”)
- ii. Email body:
 1. Type of Outage: Planned Outage or Prolonged Outage
 2. Start Date and Start Time
 3. Estimated or Actual End Date and End Time for Outage
 4. Date and time when reported to TEA and name(s) of TEA representative(s) contacted
 5. Text description of additional information as needed, including, but not limited to, changes to a Planned Outage or Prolonged Outage.
 6. Contact name: first and last name of the individual at the Unit to contact regarding the outage(s) at issue in the email.

C. FORCED OUTAGE REPORTING

1. Forced Outages – Seller shall notify TEA’s Real Time Desk verbally at [REDACTED] within ten (10) minutes of event or as soon as reasonably possible, after the safety of all personnel and securing of all facility equipment.
 - a. Verbal notification shall include time of forced outage, cause, current availability and estimated return date and time.
 - b. After verbally notifying TEA’s Real Time Desk of the forced outage, Seller shall also submit the following information via email to [REDACTED]
 - i. *Email subject field:* Company Name, Contract Name, Email Purpose, Date Range (For example: “dd/mm/yyyy through dd/mm/yyyy, XYZ Company Project #2, Daily Forecast of Available Capacity”)
 - ii. Email body:
 1. Type of Outage: Forced Outage
 2. Start Date and Start Time
 3. Estimated or Actual End Date and End Time
 4. Date and time when reported to TEA and name(s) of TEA representative(s) contacted.
 5. Text description of additional information as needed.

6. Primary and secondary causes of Forced Outage, including a detailed description of specific equipment involved and the nature of the problem or condition.
7. Equipment description and nature of work being performed. For generation outages, include NERC Generation Availability Data System (GADS) numbers (as available) that identify the specific equipment and type of work that affect restrictions. Include additional equipment designations as available.
8. Text description of additional information as needed, including, but not limited to, changes to a previously scheduled Outage, links/cross-references to related outage cards and log entries, outage classifications per the CAISO Tariff, etc.
9. Associated events, e.g. operation of Special Protection Schemes.
10. Impact on CAISO-controlled Grid.

APPENDIX VII

FORM OF CONSENT TO ASSIGNMENT

CONSENT AND AGREEMENT

This CONSENT AND AGREEMENT ("Consent and Agreement") is entered into as of [_____, 2____], between REDWOOD COAST ENERGY AUTHORITY ("RCEA"), and [_____] , as collateral agent (in such capacity, "Financing Provider"), for the benefit of various financial institutions (collectively, the "Secured Parties") providing financing to [_____] ("Seller"). RCEA, Seller, and the Financing Provider shall each individually be referred to as a "Party" and collectively as the "Parties".

Recitals

A. Pursuant to that certain Power Purchase Agreement dated as of _____, 2____ (as amended, modified, supplemented or restated from time to time, as including all related agreements, instruments and documents, collectively, the "Assigned Agreement") between RCEA and Seller, RCEA has agreed to purchase energy from Seller.

B. The Secured Parties have provided, or have agreed to provide, to Seller financing (including a financing lease) pursuant to one or more agreements (the "Financing Documents"), and require that Financing Provider be provided certain rights with respect to the "Assigned Agreement" and the "Assigned Agreement Accounts," each as defined below, in connection with such financing.

C. In consideration for the execution and delivery of the Assigned Agreement, RCEA has agreed to enter into this Consent and Agreement for the benefit of Seller.

Agreement

1. Definitions. Any capitalized term used but not defined herein shall have the meaning specified for such term in the Assigned Agreement.

2. Consent. Subject to the terms and conditions below, RCEA consents to and approves the pledge and assignment by Seller to Financing Provider pursuant to the Loan Agreement and/or Security Agreement of (a) the Assigned Agreement, and (b) the accounts, revenues and proceeds of the Assigned Agreement (collectively, the "Assigned Agreement Accounts").

3. Limitations on Assignment. Financing Provider acknowledges and confirms that, notwithstanding any provision to the contrary under applicable law or in any Financing Document executed by Seller, Financing Provider shall not assume, sell or otherwise dispose of the Assigned Agreement (whether by foreclosure sale, conveyance in lieu of foreclosure or otherwise) unless, on or before the date of any such assumption, sale or disposition, Financing Provider or any third party, as the case may be, assuming, purchasing or otherwise acquiring the Assigned Agreement (a) cures any and all defaults of Seller under the Assigned Agreement which are capable of being cured and which are not personal to the Seller, (b) executes and delivers to RCEA a written assumption of all of Seller's rights and obligations under the Assigned Agreement in form and substance reasonably satisfactory to RCEA, (c) otherwise satisfies and complies with all requirements of the Assigned Agreement, (d) provides such tax and enforceability assurance as RCEA may reasonably request, and (e) is a Permitted Transferee (as defined below). Financing Provider further acknowledges that the assignment of the Assigned Agreement

and the Assigned Agreement Accounts is for security purposes only and that Financing Provider has no rights under the Assigned Agreement or the Assigned Agreement Accounts to enforce the provisions of the Assigned Agreement or the Assigned Agreement Accounts unless and until an event of default has occurred and is continuing under the Financing Documents between Seller and Financing Provider (a “Financing Default”), in which case Financing Provider shall be entitled to all of the rights and benefits and subject to all of the obligations which Seller then has or may have under the Assigned Agreement to the same extent and in the same manner as if Financing Provider were an original party to the Assigned Agreement.

“Permitted Transferee” means any person or entity who is reasonably acceptable to RCEA. Financing Provider may from time to time, following the occurrence of a Financing Default, notify RCEA in writing of the identity of a proposed transferee of the Assigned Agreement, which proposed transferee may include Financing Provider, in connection with the enforcement of Financing Provider’s rights under the Financing Documents, and RCEA shall, within thirty (30) business days of its receipt of such written notice, confirm to Financing Provider whether or not such proposed transferee is a “Permitted Transferee” (together with a written statement of the reason(s) for any negative determination) it being understood that if RCEA shall fail to so respond within such thirty (30) business day period such proposed transferee shall be deemed to be a “Permitted Transferee”.

4. Cure Rights.

(a) Notice to Financing Provider by RCEA. RCEA shall, concurrently with the delivery of any notice of an event of default under the Assigned Agreement (each, an “Event of Default”) to Seller (a “Default Notice”), provide a copy of such Default Notice to Financing Provider pursuant to Section 9(a) of this Consent and Agreement. In addition, Seller shall provide a copy of the Default Notice to Financing Provider the next business day after receipt from RCEA, independent of any agreement of RCEA to deliver such Default Notice.

(b) Cure Period Available to Financing Provider Prior to Any Termination by RCEA. Upon the occurrence of an Event of Default, subject to (i) the expiration of the relevant cure periods provided to Seller under the Assigned Agreement, and (ii) Section 4(a) above, RCEA shall not terminate the Assigned Agreement unless it or Seller provides Financing Provider with notice of the Event of Default and affords Financing Provider an Additional Cure Period (as defined below) to cure such Event of Default. For purposes of this Agreement “Additional Cure Period” means (i) with respect to a monetary default, ten (10) days in addition to the cure period (if any) provided to Seller in the Assigned Agreement, and (ii) with respect to a non-monetary default, thirty (30) days in addition to the cure period (if any) provided to Seller in the Assigned Agreement.

(c) Failure by RCEA to Deliver Default Notice. If neither RCEA nor Seller delivers a Default Notice to Financing Provider as provided in Section 4(a), the Financing Provider’s applicable cure period shall begin on the date on which notice of an Event of Default is delivered to Financing Provider by either RCEA or Seller. Except for a delay in the commencement of the cure period for Financing Provider and a delay in RCEA’s ability to terminate the Assigned Agreement (in each case only if both RCEA and Seller fail to deliver notice of an Event of Default to Financing Provider), failure of RCEA to deliver any Default Notice shall not waive RCEA’s right to take any action under the Assigned Agreement and will not subject RCEA to any damages or liability for failure to provide such notice.

(d) Extension for Foreclosure Proceedings. If possession of the Project (as defined in the Assigned Agreement) is necessary for Financing Provider to cure an Event of Default and Financing Provider commences foreclosure proceedings against Seller within thirty (30) days of receiving notice of

an Event of Default from RCEA or Seller, whichever is received first, Financing Provider shall be allowed a reasonable additional period to complete such foreclosure proceedings, such period not to exceed ninety (90) days; provided, however, that Financing Provider shall provide a written notice to RCEA that it intends to commence foreclosure proceedings with respect to Seller within ten (10) business days of receiving a notice of such Event of Default from RCEA or Seller, whichever is received first. In the event Financing Provider succeeds to Seller's interest in the Project as a result of foreclosure proceedings, the Financing Provider or a purchaser or grantee pursuant to such foreclosure shall be subject to the requirements of Section 3 of this Consent and Agreement.

5. Setoffs and Deductions. Each of Seller and Financing Provider agrees that RCEA shall have the right to set off or deduct from payments due to Seller each and every amount due RCEA from Seller whether or not arising out of or in connection with the Assigned Agreement. Financing Provider further agrees that it takes the assignment for security purposes of the Assigned Agreement and the Assigned Agreement Accounts subject to any defenses or causes of action RCEA may have against Seller.

6. No Representation or Warranty. Seller and Financing Provider each recognizes and acknowledges that RCEA makes no representation or warranty, express or implied, that Seller has any right, title, or interest in the Assigned Agreement or as to the priority of the assignment for security purposes of the Assigned Agreement or the Assigned Agreement Accounts. Financing Provider is responsible for satisfying itself as to the existence and extent of Seller's right, title, and interest in the Assigned Agreement, and Financing Provider releases RCEA from any liability resulting from the assignment for security purposes of the Assigned Agreement and the Assigned Agreement Accounts.

7. Amendment to Assigned Agreement. Financing Provider acknowledges and agrees that RCEA may agree with Seller to modify or amend the Assigned Agreement, and that RCEA is not obligated to notify Financing Provider of any such amendment or modification to the Assigned Agreement. Financing Provider hereby releases RCEA from all liability arising out of or in connection with the making of any amendment or modification to the Assigned Agreement.

8. Payments under Assigned Agreement. RCEA shall make all payments due to Seller under the Assigned Agreement from and after the date hereof to [____], as depositary agent, to ABA No. [____], Account No. [____], and Seller hereby irrevocably consents to any and all such payments being made in such manner. Each of Seller, RCEA and Financing Provider agrees that each such payment by RCEA to such depositary agent of amounts due to Seller from RCEA under the Assigned Agreement shall satisfy RCEA's corresponding payment obligation under the Assigned Agreement.

9. Miscellaneous.

(a) Notices. All notices hereunder shall be in writing and shall be deemed received (i) at the close of business of the date of receipt, if delivered by hand or by facsimile or other electronic means, or (ii) when signed for by recipient, if sent registered or certified mail, postage prepaid, provided such notice was properly addressed to the appropriate address indicated on the signature page hereof or to such other address as a party may designate by prior written notice to the other parties, at the address set forth below:

If to Financing Provider:	
Name:	
Address:	
Attn:	
Telephone:	
Facsimile:	
Email:	

If to RCEA:	
Name:	
Address:	
Attn:	
Telephone:	
Facsimile:	
Email:	

(b) No Assignment. This Consent and Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of RCEA, and shall be binding on and inure to the benefit of the Financing Provider, the Secured Parties and their respective successors and permitted transferees and assigns under the loan agreement and/or security agreement.

(c) No Modification. This Consent and Agreement is neither a modification of nor an amendment to the Assigned Agreement.

(d) Choice of Law. The parties hereto agree that this Consent and Agreement shall be construed and interpreted in accordance with the laws of the State of California, excluding any choice of law rules which may direct the application of the laws of another jurisdiction.

(e) No Waiver. No term, covenant or condition hereof shall be deemed waived and no breach excused unless such waiver or excuse shall be in writing and signed by the party claimed to have so waived or excused.

(f) Counterparts. This Consent and Agreement may be executed in one or more duplicate counterparts, and when executed and delivered by all the parties listed below, shall constitute a single binding agreement.

(g) No Third Party Beneficiaries. There are no third party beneficiaries to this Consent and Agreement.

(h) Severability. The invalidity or unenforceability of any provision of this Consent and Agreement shall not affect the validity or enforceability of any other provision of this Consent and Agreement, which shall remain in full force and effect.

(i) Amendments. This Consent and Agreement may be modified, amended, or rescinded only by writing expressly referring to this Consent and Agreement and signed by all parties hereto.

IN WITNESS WHEREOF, each of RCEA and Financing Provider has duly executed this Consent and Agreement as of the date first written above.

Redwood Coast Energy Authority (RCEA)

By: _____
Name: _____
Title: _____

[_____]
(Financing Provider), as collateral agent

By: _____
Name: _____
Title: _____

ACKNOWLEDGEMENT

The undersigned hereby acknowledges the Consent and Agreement set forth above, makes the agreements set forth therein as applicable to Seller, including the obligation of Seller to provide a copy of any Default Notice it receives from RCEA to Financing Provider the next business day after receipt by Seller, and confirms that the Financing Provider identified above and the Secured Parties have provided or are providing financing to the undersigned.

[_____] [name of Seller]

By: _____
Name: _____
Title: _____

APPENDIX VIII

SELLER DOCUMENTATION

Seller shall provide to Buyer all of the following documentation prior to the Execution Date:

1. A copy of each of (A) the articles of incorporation, certificate of incorporation or organization, operating agreement or similar applicable organizational documents of Seller and (B) the by-laws or other similar documents of Seller (collectively, "Charter Documents") as in effect, or anticipated to be in effect, on the Execution Date.
2. A certificate signed by an authorized officer of Seller (who must be a different person than the officers listed in clause (C) below), dated no earlier than ten (10) Business Days prior to the Execution Date, certifying (A) that attached thereto is a true and complete copy of the Charter Documents of the Seller, as in effect at all times from the date on which the resolutions referred to in clause (B) below were adopted to and including the date of such certificate; (B) that attached thereto is a true and complete copy of resolutions duly adopted by the board of directors (or other equivalent body) or evidence of all corporate or limited liability company action, as the case may be, of Seller, authorizing the execution, delivery and performance of this Agreement, and that such resolutions have not been modified, rescinded or amended and are in full force and effect, and (C) as to the name, incumbency and specimen signature of each officer of Seller executing this Agreement.
3. A certificate from the jurisdiction of Seller's incorporation or organization certifying that Seller is duly organized, validly existing and in good standing under the laws of such jurisdiction.
4. Evidence of Site control (e.g. lease with redacted price terms) satisfactory to Buyer.
5. A copy of the most recent financial statements (which may be unaudited) from Seller together with a certificate from the Chief Financial or equivalent officer of Seller, dated no earlier than ten (10) Business Days prior to the Execution Date, to the effect that, to the best of such officer's knowledge, (A) such financial statements are true, complete and correct in all material respects and (B) there has been no material adverse change in the financial condition, operations, Properties, business or prospects of Seller since the date of such financial statements.

APPENDIX IX

FORM OF ACTUAL AVAILABILITY REPORT

Pursuant to Section 3.1(l)(i), Seller shall prepare an Actual Availability Report in accordance with the procedures described in this Appendix IX.

- (a) Availability Workbook. Seller shall (i) collect the measurement data, listed in (b) below, in one (1) or more Microsoft Excel Workbooks (the “Availability Workbook”) provided in a form and naming convention approved by Buyer and (ii) electronically send the Availability Workbook to an address provided by Buyer. The Actual Availability Report shall reflect the sum of the Settlement Interval Actual Available Capacity of all generators as measured by such generator’s internal turbine controller.
- (b) Log of Availability. The Availability Workbook shall be created on a single, dedicated Excel worksheet and shall be in the form of Attachment A to this Appendix IX.

APPENDIX IX

Attachment A

Form of Actual Availability Report

Seller's Actual Availability Report

All amounts are in MWs

<u>Settlement Interval No.</u>	<u>Date</u>	<u>HE1</u>	<u>HE2</u>	<u>HE3</u>	<u>HE4</u>	<u>HE5</u>	<u>HE6</u>	<u>HE7</u>	<u>HE8</u>	<u>HE9</u>	<u>HE10</u>	<u>HE11</u>	<u>HE12</u>	<u>HE13</u>	<u>HE14</u>	<u>HE15</u>	<u>HE16</u>	<u>HE17</u>	<u>HE18</u>	<u>HE19</u>	<u>HE20</u>	<u>HE21</u>	<u>HE22</u>	<u>HE23</u>	<u>HE24</u>
1	mm/dd/yyyy																								
2	mm/dd/yyyy																								
3	mm/dd/yyyy																								
4	mm/dd/yyyy																								
5	mm/dd/yyyy																								
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6	mm/dd/yyyy																								

Date/Time of Submittal

APPENDIX X

TELEMETRY PARAMETERS FOR WIND OR SOLAR FACILITY

Technology Type	Telemetry Parameters	Units
Solar Photovoltaic	Back Panel Temperature	°C
	Global Horizontal Irradiance	W/m ²
	Plane of Array Irradiance (If PV is fixed)	W/m ²
	Direct Normal Irradiance (If PV is Tracking)	W/m ²
	Wind Speed	m/s
	Peak Wind Speed (Within 1 minute)	m/s
	Wind Direction	Degrees
	Ambient Air Temperature	°C
	Dewpoint Air Temperature or Relative Humidity	°C
	Horizontal Visibility	m
	Precipitation (Rain Rate)	mm/hr
	Precipitation (Running 30 day total)	mm
	Barometric Pressure	Millibars or Hecto Pascals (HPa)
Solar Thermal or Solar Trough	Global Horizontal Irradiance	W/m ²
	Plane of Array Irradiance (If PV is fixed)	W/m ²
	Direct Normal Irradiance (If PV is Tracking)	W/m ²
	Wind Speed	m/s
	Peak Wind Speed (Within 1 minute)	m/s
	Wind Direction	Degrees
	Ambient Air Temperature	°C
	Dewpoint Air Temperature or Relative Humidity	°C
	Horizontal Visibility	m
	Precipitation (Rain Rate)	mm/hr
	Precipitation (Running 30 day total)	mm
	Barometric Pressure	Millibars or Hecto Pascals (HPa)
	Individual Tracking Assembly Angle Set Points (Solar Trackers Only)	Degrees
	Actual Tracking Assembly Angles (Solar Trackers Only)	Degrees
Wind	Wind Speed (measured at hub height)	m/s
	Peak Wind Speed (Within 1 minute, measured at hub height)	m/s
	Wind Direction	Degrees
	Wind Speed Standard Deviation	--
	Wind Direction Standard Deviation	--
	Barometric Pressure (measured at hub height)	Millibars or Hecto Pascals (HPa)
	Ambient Temperature (measured at hub height)	°C

APPENDIX XI

FORM OF GUARANTY

[STILL UNDER DISCUSSION]



**EDP – Energias de Portugal, Sociedade Anonima
Sucursal en España**

Calle Serrano Galvache, 56

28033 Madrid – España

Telephone. +34 91 781 90 53

Fax.: +34 91 431 80 38

To:

[Beneficiary]

Att.: [●]

[Address]

[Zip Code]

[Country]

[Place], [month] [day], [year]

Subject: Guarantee of certain obligations of [Company]

Dear Sirs,

[Redacted line]

[Redacted line]

[Redacted line]

[Redacted line]

[Redacted line]

[Redacted line]

[Redacted line]

[Redacted line]

[Redacted line]

[Redacted line]

[Redacted line]

[Redacted line]

[Redacted line]

[Redacted line]



2. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
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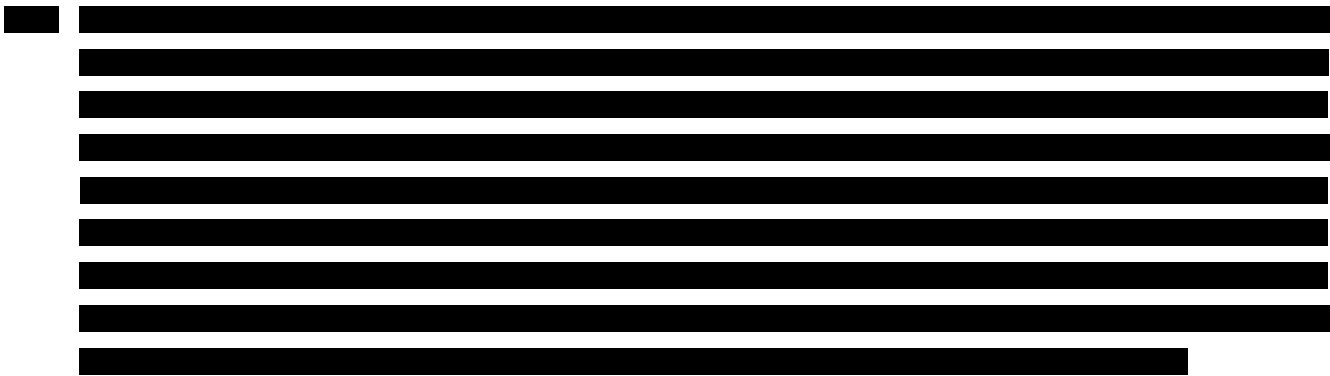
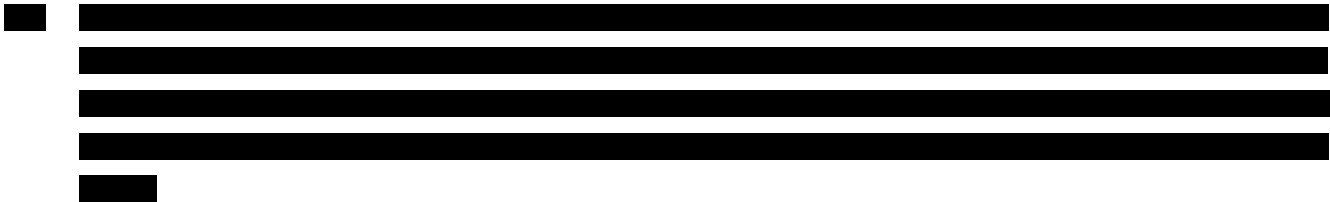
[REDACTED]

[REDACTED]
[REDACTED]

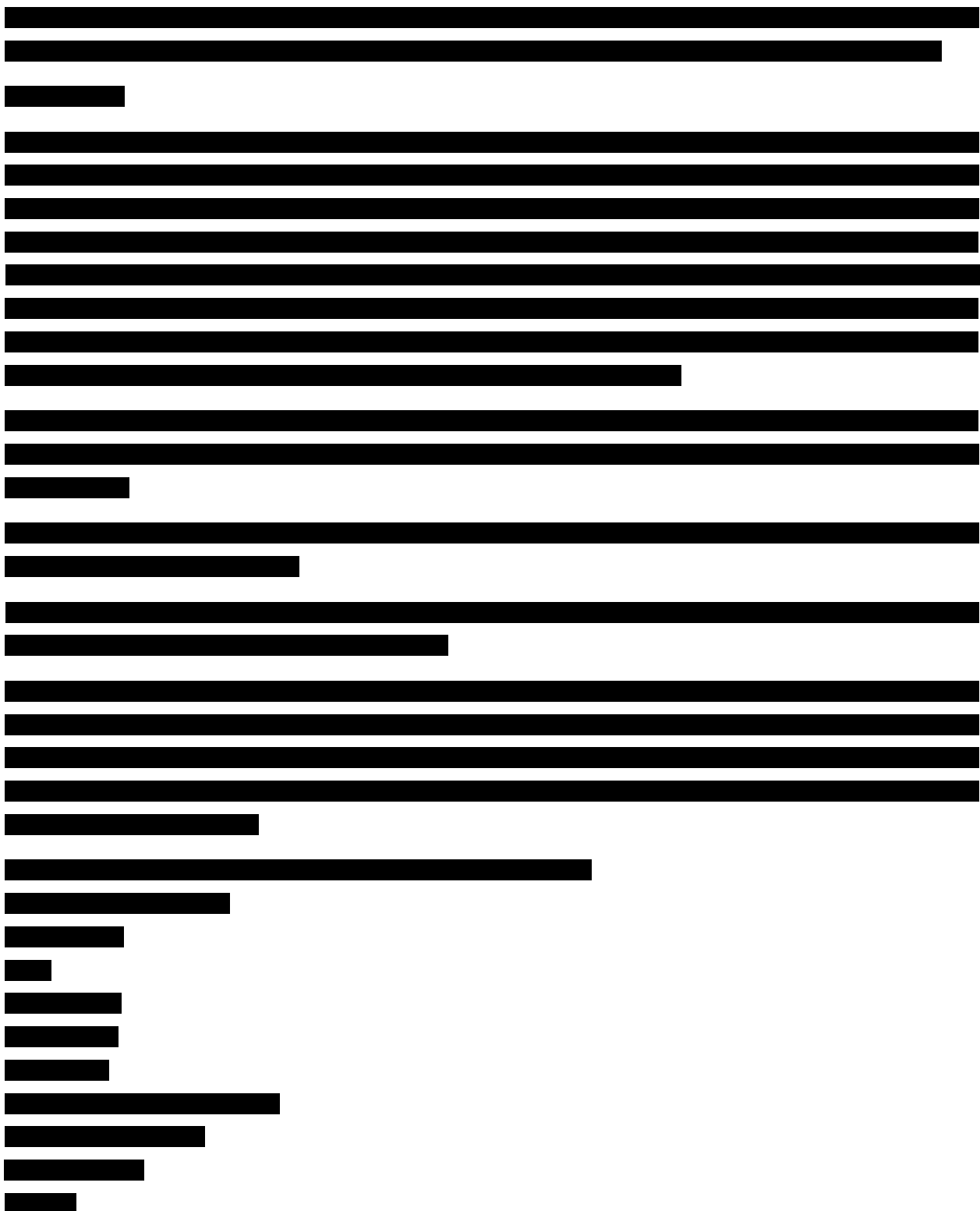
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]



4





[Redacted text block containing multiple lines of blacked-out content]

Yours truly,

By: _____

Name: _____

Title: _____

APPENDIX XII

PROJECT SPECIFICATIONS AND CONTRACT CAPACITY CALCULATION

I. PROJECT SPECIFICATIONS

“MVA” means megavolt ampere, the unit of apparent power.

“Nameplate Rated Output” means, with respect to an inverter or electric generator, the MVA that the manufacturer of the inverter or generator has designed such equipment to produce under normal operating conditions as specified by such manufacturer.

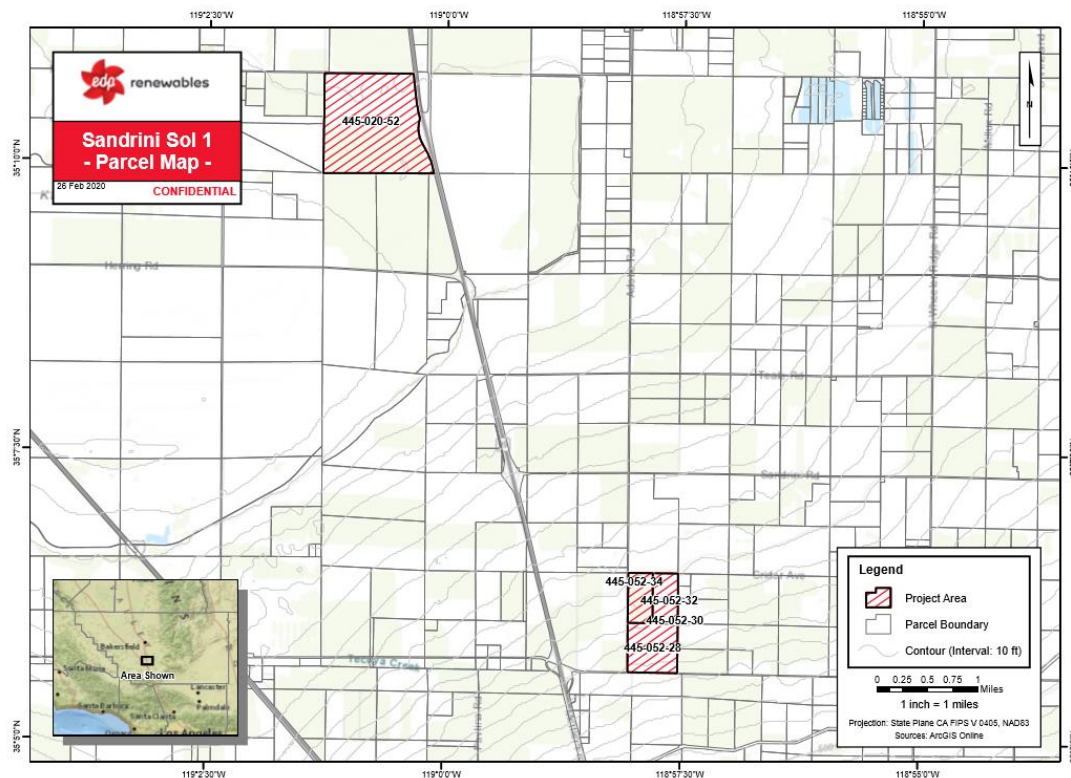
“Designated Power Factor” means, with respect to an inverter or electric generator, the power factor required to satisfy the portion of the Project’s reactive power requirements that are specified in *[please identify the applicable source, such as the PTO’s Interconnection Handbook, the CAISO’s Phase II Study, or the Generator Interconnection Agreement for the Project]* and are not being satisfied by other sources of reactive power within the Project.

“Nameplate Rated Power” means, with respect to an inverter or electric generator, the multiplication product of the Nameplate Rated Output and the Designated Power Factor for such inverter or generator, in MWs.

The project specifications shall consist of the following eleven (11) items (each item of which shall be a “Project Specification”). As provided in Section 3.1(g), Seller shall not make any change or modification to any Project Specification without Buyer’s prior written consent.

1. Project name: EDPR CA Solar Park II LLC
2. Project Site name: Sandrini Sol 1
3. Project physical address: 808 Travis Street, Suite 700 Houston, TX 7002
4. Total number of Units at the Project: 31
5. Technology Type: Solar photovoltaic
6. Interconnection Point of Project: Wheeler Ridge 70kV
7. Service Territory of Project: PG&E
8. Substation: Wheeler Ridge
9. CAISO Pricing Node: To be assigned by CAISO
10. CAISO Resource ID: To be assigned by CAISO
11. Description of Units:
 - a. For each steam turbine, specify the rated conditions (MW rating, steam inlet temperature, steam inlet pressure, condensing temperature, mass flow rate):
 - b. For each electric generator, specify the Nameplate Rated Output, Designated Power Factor and Nameplate Rated Power: 4200 kVA, PF 0.89, 3424 kVA
12. Description of Land:

14. Maps: The Site is identified in the following topographical map:



II. CONTRACT CAPACITY CALCULATION

The Contract Capacity specified in Section B of the Cover Sheet shall be the factor (A) minus each of the factors (B) through (E) provided below:

A	Sum of the Nameplate Rated Power of all inverters/generators	106.44 MW
B	Calculated electrical losses from inverter/generator output terminals to Delivery Point (with all inverters/generators operating at Nameplate Rated Outputs)	3.57 MW
C	Electrical Losses	_____ MW
D	Auxiliary and station loads coincident with inverters/generators operating at Nameplate Rated Outputs	0.35 MW
E	Other factors (explain below)	2.22 MW controlled by PPC
F	Contract Capacity at the Delivery Point ($F = A - B - C - D - E$), which shall be the same as the MW amount specified for the Contract Capacity in Section B of the Cover Sheet	100 MW

Inputs for the Nameplate Rated Power calculation:

Designated Power Factor:

	Leading	Lagging
Project power factor requirements	0.95	0.95
Seller's Designated Power Factor for inverters/generators	0.89	0.89

Power factor requirement is measured at (check one):

☐ inverter/generator terminals; ☒ Point of Interconnection; ☐ Other: _____