

Department of Water and Power



the City of Los Angeles

ANTONIO R. VILLARAIGOSA
Mayor

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BARBARA E. MOSCHOS, *Secretary*

H. DAVID NAHAI,
Chief Executive Officer and General Manager

July 22, 2009

The Honorable City Council
City of Los Angeles
Room 395, City Hall
Los Angeles, California 90012

Dear Members:

Subject: Windy Point/Windy Flats Project Agreements

Pursuant to Charter Section 674(a)(1) and (2), enclosed for approval by your Honorable Body is Resolution No. 010-046, adopted by the Board of Water and Power Commissioners (Board) on July 21, 2009, approved as to form and legality by the City Attorney, which authorizes execution of three agreements relating to the Windy Point/Windy Flats Project (Project), located in Klickitat County, Washington. Agreements are as follows:

1. Power Sales Agreement No. BP 09-17 with the Southern California Public Power Authority (SCPPA), to set forth mutual covenants and agreements for LADWP's acquisition of 242 megawatts of the metered output and associated environmental attributes as produced by the Project.
2. Agency Agreement No. BP 09-18 with SCPPA, to provide for the designation of LADWP as the Project Manager.
3. Contract For Sale and Purchase of Windy Point/Windy Flats Energy, Agreement No. BP 09-19 with SCPPA and the City of Glendale, to provide for LADWP to purchase the City of Glendale's share of 20 megawatts of the metered output and associated environmental attributes as produced by the Project.

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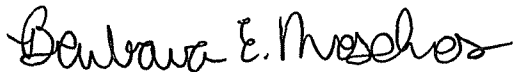
The Honorable City Council

Page 2

July 22, 2009

As directed by the Board, transmitted to you are supporting documents. If there are any questions regarding this item, please contact Ms. Winifred Yancy, Manager – Government and Neighborhood Relations, at (213) 367-0025, or Mr. Randy Howard at (213) 367-0381.

Sincerely,



Barbara E. Moschos
Board Secretary

BEM:rg

Enclosures: LADWP Resolution
Board Letter
Agreements

(Ordinance transmitted under separate cover)

c/enc: Mayor Antonio Villaraigosa
Ms. Jan C. Perry, Chair, Energy and the Environment Committee
Mr. Gerry F. Miller, Chief Legislative Analyst
Mr. Raymond P. Ciranna, Interim City Administrative Officer
Mr. Rafael Prieto, Legislative Analyst, CLA
Mr. William R. Koenig, Chief Administrative Analyst
Ms. Winifred Yancy
Mr. Randy Howard

RESOLUTION NO. 010 046

WHEREAS, the Los Angeles Department of Water and Power (LADWP) Renewable Portfolio Standard established the goal for LADWP to supply 20% of its retail energy from renewable energy sources by 2010; and

WHEREAS, the Water and Power Board of Commissioners approved the Southern California Public Power Authority (SCPPA) Development Agreement No. 96125-76 under Resolution No. 006-157 which authorized LADWP to participate with other members of SCPPA for the purpose of investigating and performing due diligence on potential new renewable resource options; and

WHEREAS, SCPPA pursuant to the needs of its participants, under Agreement No. 96125-76, issued a Request for Proposal (RFP), a competitive bid process, for the purchase and or acquisition of renewable energy resources; and

WHEREAS, SCPPA received over one hundred responses to its RFP one of which, was Windy Flats Partners, LLC, that proposed the sale of 262MW of renewable wind energy from the Windy Point /Windy Flats Project (Project) located in Klickitat County, WA starting December 15, 2009, for a period up to twenty-four (24) years; and

WHEREAS, on June 24, 2009, SCPPA and Windy Flats Partners, LLC entered into a Power Purchase Agreement for SCPPA to purchase all of the energy produced from the 262 MW Project for up to a 24 year term with buyout provisions subject to certain parameters; and

WHEREAS, the Windy Point /Windy Flats Project Power Sales Agreement No. BP 09-17 sets forth mutual covenants and agreements between LADWP and SCPPA for LADWP's acquisition of 242 MW of the metered output and associated environmental attributes as produced by the Project; and

WHEREAS, the Windy Point /Windy Flats Project Agency Agreement No. BP 09-18 provides for the designation of LADWP as the Project Manager to administer the scheduling of the project energy on behalf of and for the benefit of LADWP and the City of Glendale (Participants), and sets forth mutual covenants and agreements between SCPPA and LADWP in order to enable LADWP to carry out activities necessary for the planning, development, acquisition, maintenance, improvement, administration, and operation of the Project on behalf of the Participants; and

WHEREAS, the Contract for Sale and Purchase of Windy Point/Windy Flats Energy, Agreement No. BP 09-19 provides for the City of Los Angeles to purchase City of Glendale's share of 20MW of the metered output and associated environmental attributes as produced by the Project, with the option for City of Glendale to recall their share of 20MW within three years subject to certain parameters; and

NOW, THEREFORE, BE IT RESOLVED that the Windy Point/ Windy Flats Project Power Sales Agreement No. BP 09-17 and the Windy Point/ Windy Flats Project Agency Agreement No. BP 09-18 by and between LADWP and SCPPA; and the Contract for Sale and Purchase of Windy Point/Windy Flats Energy, Agreement No. BP 09-19 between the LADWP and City of Glendale now on file with the Secretary of the Board and approved as to form and legality by the City Attorney, be and the same are hereby approved.

BE IT FURTHER RESOLVED that the energy acquired from Windy Point/ Windy Flats Project Power Sales Agreement No. BP 09-17 and Contract for Sale and Purchase of Windy Point/Windy Flats Energy, Agreement No. BP 09-19, shall be credited towards LADWP's Renewable Portfolio Standard Goal of 20 percent.

BE IT FURTHER RESOLVED that the Chief Accounting Employee of LADWP upon proper certification is authorized and directed to draw demands on the Power Revenue Fund, over the term of the Windy Point/ Windy Flats Project Power Sales Agreement No. BP 09-17, Windy Point/Windy Flats Agency Agreement No. BP 09-18, and the Contract for Sale and Purchase of Windy Point/Windy Flats Energy, Agreement No. BP 09-19, in payment of the obligations incurred by such agreements.

BE IT FURTHER RESOLVED that the President or the Vice President of this Board, or General Manager, or such person as he shall designate in writing as his designee, and the Secretary, Assistant Secretary, or the Acting Secretary of this Board are hereby authorized and directed to execute the Windy Point/ Windy Flats Project Power Sales Agreement No. BP 09-17, Windy Point/Windy Flats Agency Agreement No. BP 09-18, and the Contract for Sale and Purchase of Windy Point/Windy Flats Energy, Agreement No. BP 09-19, for and on behalf of LADWP, subject to City Council approval by ordinance of such agreements.

BE IT FURTHER RESOLVED that the Board of Water and Power Commissioners shall review and act on material matters, to be voted on by LADWP as a member of the coordinating committee established pursuant to the Windy Point/ Windy Flats Project Power Sales Agreement No. BP 09-17, to include any recommendation that SCPPA purchase the Project and approval of the costs of acquisition of the Project that would be borne by LADWP as provided under said agreement.

BE IT FURTHER RESOLVED that the Board requests that the City Council approve, by ordinance, pursuant to §674 a(1) and (2) of the City Charter, Windy Point/ Windy Flats Project Power Sales Agreement No. BP 09-17, Windy Point/Windy Flats Agency Agreement No. BP 09-18, and the Contract for Sale and Purchase of Windy Point/Windy Flats Energy, Agreement No. BP 09-19.

I HEREBY CERTIFY that the foregoing is a full, true, and correct copy of the resolution adopted by the Board of Water and Power Commissioners of the City of Los Angeles at its meeting held JUL 21 2009

APPROVED AS TO FORM AND LEGALITY
ROCKARD J. DELGADILLO, CITY ATTORNEY

Barbara E. Morales
Secretary

JUN 30 2009

BY

For all
DATE

LADWP BOARD APPROVAL LETTER

TO: BOARD OF WATER AND POWER COMMISSIONERS

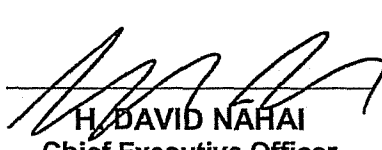
DATE: July 15, 2009

SUBJECT:

Windy Point/Windy Flats Project Power Sales Agreement Between the Los Angeles Department of Water and Power and Southern California Public Power Authority for 262 Megawatts of Wind Capacity from the Windy Point Wind Project, Located in Klickitat County, Washington
(LADWP No. BP 09-17);
Windy Point/Windy Flats Project Agency Agreement Between the Southern California Public Power Authority and the Los Angeles Department of Water and Power for Project Management Services
(LADWP No. BP 09-18);
and Contract for Sale and Purchase of Windy Point/Windy Flats Energy Agreement with the Los Angeles Department of Water and Power, the City of Glendale, and the Southern California Public Power Authority
(LADWP No. BP 09-19)

FOR COMMISSION OFFICE USE:


RAMAN RAJ
Chief Operating Officer


H. DAVID NAHAI
Chief Executive Officer
and General Manager


ARAM BENYAMIN
Senior Assistant General
Manager – Power System

CITY COUNCIL APPROVAL
REQUIRED: Yes X No ☐

IF YES, BY WHICH CITY
CHARTER SECTION: 674(a) (1)
and (2)

PURPOSE

Obtain authority to enter into Windy Point/ Windy Flats Project Power Sales Agreement (PSA) No. BP 09-17 between the Southern California Public Power Authority (SCPPA) and the City of Los Angeles (City) acting by and through the Los Angeles Department of Water and Power (LADWP) which authorizes LADWP to purchase 262 Megawatts (MW) of wind capacity from SCPPA and sets forth mutual covenants and agreements in order to pay SCPPA for its costs of purchaser's share of the energy and capacity of the Windy Point/Windy Flats Project (Project). The PSA enables SCPPA to enter into a Power Purchase Agreement (Windy Point Agreement) between Windy Flats Partners,

LLC, and SCPPA, which provides for the purchase of 262 MW of renewable wind energy from the Project located in Klickitat County, Washington, starting December 15, 2009, for a period of 20 years with the option for four additional years.

Obtain authority to enter into a Windy Point/Windy Flats Project Agency Agreement No. BP 09-18 (Agency Agreement) between SCPPA and LADWP, which provides for the designation of LADWP as the Project Manager to administer the Project on behalf of and for the benefit of all the Project participants, which include the City of Glendale (Glendale), herein "Participants."

Obtain authority to enter into Contract for Sale and Purchase of Windy Point/Windy Flats Energy Agreement (Layoff Agreement) No. BP 09-19 between Glendale, LADWP, and SCPPA, which provides for LADWP to purchase City of Glendale's share of 20MW of the metered output and associated environmental attributes as produced by the Project.

Request City Council approval by ordinance of the PSA, Agency Agreement, and Layoff Agreement.

Obtain authorization to apply the energy received under the PSA and Layoff Agreement towards LADWP's Renewable Portfolio Standard (RPS) goals.

BACKGROUND

SCPPA is a non-profit joint powers agency formed in 1980 to facilitate joint power and transmission projects for the benefit of the Southern California municipal utilities. SCPPA members include LADWP, the cities of Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, Pasadena, Riverside, and the Imperial Irrigation District. LADWP is currently a participant in the following SCPPA projects: Palo Verde Nuclear Power Project, the Southern Transmission System, Mead-Adelanto Transmission System, and Mead-Phoenix Transmission System.

As part of its RPS, LADWP has a goal to supply 20 percent of its retail energy from renewable energy sources by 2010. In achieving this goal, on April 4, 2006, the LADWP's Board of Water and Power Commissioners approved SCPPA Development Agreement No. 96125-76 under Resolution No. 006-157, which authorized LADWP to participate with other SCPPA members for the purpose of investigating and performing due diligence on potential new renewable resource options.

In November 2007, SCPPA issued a Request for Proposal (RFP), a competitive selection process, for the purchase and/or acquisition of renewable energy resources. LADWP jointly participated with multiple municipal utilities for the purpose of acquiring renewable energy resources. Over 100 proposals were received from several firms having the capability to provide renewable energy from sources, such as solar, wind, biomass, landfill gas, and geothermal.

The project proposed by Windy Flats Partners, LLC, is one of the 12 proposals short-listed, and the Participants requested that SCPPA obtain this energy from the Project. SCPPA and the Participants subsequently negotiated the Windy Point Agreement with Windy Flats Partners, LLC, in which Windy Flats Partners, LLC, would sell 262 MW of renewable wind energy to SCPPA from the Project's wind power generating facilities located in Klickitat County, Washington.

Project capacity is 262 MW, a 202 MW primary facility with a 60 MW expansion, with participant shares as follows: LADWP (242 MW, 92.4 percent) and Glendale (20 MW, 7.6 percent). Purchase of 242 MW of renewable energy output annually will enable LADWP to meet approximately 2.75 percent of LADWP's resource requirements. The renewable energy will be delivered to LADWP at the Rock Creek Substation in Klickitat County, Washington.

Through separate PSAs between SCPPA and each Participant, SCPPA sells all of the renewable energy received from the Project and passes through to each Participant in accordance with its respective output entitlement share, the rights, benefits, and obligations provided under the Windy Point Agreement.

The Windy Point Agreement is structured to include a prepayment of guaranteed energy with a purchase option that provides LADWP wind energy at a reduced cost over a 20-year term. This cost reduction is derived from (i) SCPPA issuing approximately \$512 million of low cost tax-exempt bonds to prepay for a guaranteed amount of energy from the entire 262 MW Project; and (ii) receiving from the seller a discount in the cost of the wind energy based on its ability to take advantage of economic stimulus cash grants (Cash Grant) not available to governmental entities, such as LADWP. Security for the prepayment is a first deed of trust on the Project. If the Windy Flats Partners, LLC, receives a final and non-appealable notification that it will not be awarded the Cash Grant for the Project, or has not received the Cash Grant 270 days after the Commercial Operation Date (COD), then SCPPA will purchase the facility. Anticipated cost of purchasing the facility at the COD will be \$684 million if all wind turbines are installed at that time.

Under the Windy Point Agreement, SCPPA will receive energy from the Project for the 20-year term, with the option for up to four additional years. In addition, SCPPA has the option to purchase the Project (i) during the sixth year after the COD (ii) at the end of the initial 20-year term or (iii) at the end of the optional 24-year term of the Windy Point Agreement. SCPPA must purchase at the COD in the event the economic stimulus cash grant is not obtained within 60-days of the COD. If SCPPA does not purchase the Project at either time, SCPPA still has the option to purchase the Project Since LADWP will control greater than 80 percent of the output under the PSA, LADWP will have the sole authority among the Participants to determine whether or not to purchase the Project. If SCPPA acquires ownership of the Project as provided under the Windy Point Agreement, under the PSA upon defeasance of outstanding SCPPA Project bonds, SCPPA will transfer ownership of the Project to the Participants according to each of the Participant's output entitlement share under the PSA.

The Agency Agreement provides for the designation of LADWP as the Project Manager to administer the Project on behalf of SCPPA and for the benefit of all the Participants. SCPPA maintains a very small staff to minimize administrative and general fees charged to the projects, and the largest Participant of each project typically acts as SCPPA's agent for project management and administration. In this case, LADWP is SCPPA's agent for project management and administration, including the management of fiscal matters associated with the bond financing. LADWP will charge SCPPA for this service and SCPPA will charge the Participants, including LADWP, for the cost of this service based on their entitlement shares.

The Layoff Agreement between LADWP, SCPPA, and Glendale provides for LADWP to purchase Glendale's share of 20 MW of the metered output and associated environmental attributes as produced by the Project, with the option for Glendale to recall any portion of their share of 20 MW within three years of the COD subject to certain parameters. If Glendale opts not to exercise their recall option, then Glendale releases all future rights and residual values to the facility.

Delivery of power from the Rock Creek Substation delivery point to Bonneville Power Authority's (BPA) Mid-Century hub is included in the delivered cost. The cost of transmission from the Mid-Century hub to Nevada Oregon Border (NOB) is not included and is expected to be procured in separate transmission contracts. Contracts are being negotiated for at least 18 months of transmission capacity to NOB, and are expected to be in place prior to the COD. Additional contracts for the remainder of the PSA term are in the process of being secured. LADWP owns an undivided interest in and operates the Pacific Intertie and will use the necessary transmission capacity rights to transport the wind energy produced from the Windy Point Agreement from NOB. From experience with the Willow Creek and Pebble Springs Wind Projects, the transmission expenses are estimated to be approximately \$17 per megawatt hour (MWh) depending on the service requested.

Windy Point/Windy Flats Power Sales Agreement Between SCPPA and LADWP No. BP 09-17

Under the PSA, LADWP contractually agrees to mutual covenants and agreements in order to pay SCPPA for its costs of 92.4 percent share of energy and capacity of the Project, which:

- Identifies the roles and obligations of SCPPA and LADWP including, but not limited to, project deliverables, project manager, setting up of an annual budget, and reporting requirements.
- Establishes a Coordinating Committee for the purpose of project control, communication, and coordination between the Participants and SCPPA. All actions taken by the Coordinating Committee shall require an affirmative vote of one or more Participants having prorata generation shares, aggregating at least eighty percent of the Project output.

- Establishes payment mechanisms including, but not limited to, payment pledges, charges and billing procedures, and interest payments.
- Establishes the rights and obligations of SCPPA and LADWP under the PSA to prepay energy, deliver energy, capacity, environmental attributes, and exercise of purchase options of the Participants.
- Encompasses other agreements and obligations including, but not limited to, issuance of SCPPA bonds, excess bond proceeds, nonperformance and payment defaults, and liability conditions to termination or amendments.
- Establishes the PSA term for a period to cover obligations of SCPPA issued bonds during the initial 20-year term and the pass-thru payments for the optional four year extension for a total 24-year term, facility construction, and additional time required for SCPPA administrative and financial matters.
- Establishes step up requirements for a non-defaulting Participant to bear the indenture costs of another Participant that fails meet its payment obligations under its separate PSA with SCPPA.
- Provides bond covenants that restrict the City from selling its Power System.

The proposed contractual arrangements under the Windy Point Agreement have several unique features that include:

1. Ownership – SCPPA and its members have an interest in the ultimate ownership of renewable energy facilities. This will ensure a stable priced long-term supply rather than power purchase contracts that must be periodically re-negotiated with uncertainty of future availability or price. If the Windy Flats Partners, LLC, receives a final and non-appealable notification that it will not be awarded the Cash Grant for the Project or has not received the Cash Grant 270 days after the COD, then SCPPA will purchase the facility. Anticipated cost of purchasing the facility at the COD will be \$684 million if all wind turbines are installed at that time. Accordingly, the provisions allow SCPPA to buy the project from the developer at the end of the sixth year of operation or at the end of the twentieth year of operation.
2. Economic Stimulus Cash Grants – Current tax laws allow for the Cash Grant to be implemented over a five-year period and for favorable depreciation rules to private entities that develop and operate a wind generation facility. The Windy Point Agreement has been structured to allow SCPPA to indirectly receive benefits associated with the economic stimulus Cash Grant.
3. Prepayment for Power – A feature that further improves the economics of the transaction is through the prepayment for the energy with proceeds derived from

tax-exempt revenue bonds that would be issued by SCPPA. The Cash Grant combined with the Windy Point Agreement prepayment of power is estimated to have a beneficial value, on a present value basis, to LADWP of \$123 million.

Windy Point Agreement

Under the terms of the Windy Point Agreement, SCPPA contractually agrees to the following terms:

- Quantity – SCPPA will receive rights to 262 MW, including all associated capacity, energy, and environmental attributes. LADWP's 92.4-percent share is 242 MW of the Project's output or approximately 637,000 MWh of renewable energy per year at the expected annual generation capacity factor of 30 percent.

This is enough energy to meet the energy (2.8 percent RPS) needs of 104,000 City residents.

- Cost

Scenario 1 - Failure to Obtain Economic Stimulus Cash Grant – Under the Windy Point Agreement, the Cash Grant is required as a condition of the pricing offered under Scenarios 2 and 3 below. In the event the Cash Grant is not obtained by Windy Flats Partners, LLC, SCPPA will be obligated to purchase the Project. Anticipated cost of purchasing the facility at the COD will be \$684 million if all wind turbines are installed at that time. However, the actual purchase price will be based on the installed Project capacity at the time of purchase multiplied by \$2,585 kilowatts (kW) of Project capacity and additional acquisition bonds issued by SCPPA to cover the difference between this purchase price and the EBO price.

Scenario 2 - Prepaid Windy Point Agreement – The overall total average cost of the energy at the point of delivery is expected to be based on the scenario described above in which SCPPA would prepay for a guaranteed amount of energy and pay monthly for (i) any excess energy above the guaranteed amount; (ii) the environmental attributes associated with both guaranteed and excess energy; (iii) the Project taxes and insurance; (iv) agency fees and administrative and general expenses; (v) operating and maintenance expenses; and (vi) all transmission including from BPA to NOB. In this case, costs to be passed onto LADWP by SCPPA under the PSA are expected to total \$65.24/MWh, excluding operating and maintenance (O&M) costs, Renewable Energy Credits (REC), and transmission costs to the NOB. The components of this scenario are described in detail below:

- Prepayment Bonds Debt Service – SCPPA would issue tax-exempt revenue bonds to prepay \$512 million on the COD, which would have an annual debt service requirement for the Participants. SCPPA would receive, 10,343,000 MWh of guaranteed energy (based on a 99 percent probability of expected wind at the Project) over the 20-year delivery term in exchange for the prepayment amount. LADWP will receive from SCPPA 9,557,000 MWh of guaranteed generation over the initial 20-year delivery term. LADWP will pay SCPPA a prorata share of bond debt services and expenses paid by SCPPA for the prepayment bonds, based on LADWP's Project output entitlement share of 92.4 percent.
- Excess Energy – On average (based on a 50 percent probability of expected wind at the Project) over the initial 20-year term, the Project is expected to produce an additional 3,448,000 MWh in excess of the guaranteed energy amount. SCPPA is required to purchase this excess energy at \$21/MWh, excluding operating and maintenance (O&M), REC, and transmission to NOB. LADWP will pay SCPPA the same rate for excess energy received by LADWP. SCPPA will have access of up to an additional 2,758,000 MWh under the optional four-year extension at a price of \$19/MWh, excluding O&M and REC.
- Environmental Attributes – LADWP, through SCPPA, will receive all associated renewable energy certificates and all other environmental attributes, including credit for reducing green house emissions by offsetting electric generation from fossil fuels, because environmental attributes of wind energy are considered "intangible" and any prepayment for environmental attributes would be taxed in the year received. The Windy Point Agreement is structured such that SCPPA will pay \$6.00/MWh for all environmental attributes produced by the Project (guaranteed energy and excess energy) on a monthly basis for the initial 20-year term and during the optional four-year extension. LADWP will pay SCPPA the same rate for environmental attributes received by LADWP.
- Operating and Maintenance Costs – SCPPA will reimburse Windy Flats Partners, LLC, for O&M costs associated with the Project, estimated at \$11.90/MWh, for approximately \$9.0 million per year. LADWP will pay SCPPA a prorata share of these costs paid by SCPPA, based on LADWP's Project entitlement share.
- Agency Fees and Administrative and General Expenses – SCPPA will pay LADWP an agency fee based on its cost to manage the project and administer the bond financing and investments. Additionally,

SCPPA will allocate a prorata share of its administrative and general expenses to the Participants. LADWP will pay SCPPA a prorata share of LADWP agency fees and SCPPA administrative and general expenses allocated to the Project, based on LADWP's Project entitlement share.

Scenario 3 - Prepaid Windy Point Agreement with Early Buyout Option (EBO) – Under this scenario, all of the costs described in Scenario 1 will apply for the first six years; LADWP has the option to buy the Project at the end of the sixth year, and the charges shown below would apply starting year seven. The average cost of the energy over the 20-year term is expected to be \$67.82/MWh, excluding O&M, REC, and transmission to NOB, but the Participants would enjoy ultimate ownership of the Project upon exercise of the buyout option.

- Acquisition Bonds Debt Service – SCPPA will issue tax-exempt revenue bonds to purchase the Project from Windy Flats Partners, LLC. The purchase price of the Project would be the fair market value of the Project, subject to the remaining revenue received under the Windy Point Agreement, which is expected to be less than the fair market value based on the expected future market price of energy and environmental attributes in year six and beyond. LADWP will pay SCPPA a prorata share of bond debt services and expenses paid by SCPPA for the acquisition bonds, based on LADWP's Project entitlement share.
- Taxes and Insurance – SCPPA will pay taxes and property insurance premiums directly under this scenario. LADWP will pay SCPPA a prorata share of property taxes and insurance premiums paid by SCPPA, based on LADWP's Project entitlement share.
- Agency Fees and Administrative and General Expenses – Under this scenario, LADWP will be SCPPA's agent for the operation and maintenance of the Project, and SCPPA will pay LADWP an agency fee based on its cost to operate, maintain, and manage the project and administer the bond finances and investments. Additionally, SCPPA will continue to allocate a prorata share of its administrative and general expenses to the Participants. LADWP will pay SCPPA a prorata share of LADWP agency fees and SCPPA administrative and general expenses allocated to the Project, based on LADWP's Project entitlement share.

The average cost per MWh of energy, exclusive of O&M, REC, and transmission to NOB, for the initial 20-year term and for the 24-year term for each scenario are shown below:

Scenario	I	II	III
	Project Purchase at COD	PPA	Six-Year PPA with EBO Project Purchase
Cost (MWh), 20-year term	\$83.78	\$65.24	\$67.82
Cost (MWh), 24-year term	\$69.82	\$57.53	\$56.51

Per the above table, if LADWP exercises its option to buy, as reflected in Scenarios 1 and 3 above, the average price per MWh will continue to decline after year 24 because the initial project capital costs are fully paid at the end of the initial 20-year term.

- Term – The Windy Point Agreement has an initial delivery term of 20 years and has the option to extend the lesser of four additional years or 80 percent of the remaining economic useful life of the Project. It also has an early buyout option at the end of the sixth year and at the expiration of the initial 20-year delivery term. EBO is expected to be exercised by SCPPA and the Participants. The PSA shall expire on the latter of the dates SCPPA's Joint Powers Agreement (including any extensions thereof) expires or the date on which all SCPPA Project bonds are defeased and upon expiration of all Participants' PSA, and any ownership interest that SCPPA has in the Project will be transferred to the Participants. The term commences with the COD, which is currently scheduled for December 31, 2009.

Risk Mitigation Measures

The benefits of the proposed Windy Point Agreement structure require that a prepayment of the wind energy be made by SCPPA to Windy Flats Partners, LLC, a single purpose entity with no assets other than the Project. To mitigate risks of prepayment, the Windy Point Agreement was structured such that the Project itself is used as security for the prepayment. Other risks were mitigated as follows:

- Prepay – To reap the benefits of the proposed structure, a \$512 million prepayment must be made to Windy Flats Partners, LLC. The Windy Point Agreement was structured to use the Project as security for the prepayment by SCPPA receiving a first deed of trust on the Project. The construction financing for the Project is to be paid off prior to SCPPA's obligation to make the prepayment, thus, ensuring SCPPA's first priority position in the event Windy Flats Partners, LLC, defaults on the Windy Point Agreement or seeks bankruptcy protection.

- Energy – The favorable average energy costs are based on a minimum guaranteed volume of 10,343 gigawatt hours (GWh) and excess energy of 3,447 GWh over the initial 20-year term of the project. The Windy Point Agreement is absolute on delivery of the minimum guaranteed volume and Windy Flats Partners, LLC, is required to supply equivalent energy, including REC, for any shortfall of energy. The optional four-year extension is estimated to generate 2,758,000 MWh of energy at a purchase price of \$19/MWh (exclusive of O&M, REC, and transmission to NOB).
- Leases – The Project is to be constructed on property leased from one large landowner and several small individual owners. SCPPA has negotiated a lease form that will ensure the assignability of private leases to SCPPA at the time of purchase and step-in and cure rights for SCPPA should Windy Flats Partners, LLC, fail to meet its obligations pursuant to the leases.
- Wind – The wind resource is weather dependent, but it is relatively predictable on an annual basis. At least 90 days prior to the COD, SCPPA will receive an estimate of guaranteed generation, prepared by a third-party wind expert, based on the contract capacity of the Project.
- Quality – The Windy Point Agreement has a requirement that Wind Flats Partners, LLC, adhere to prudent utility practices and an internal quality assurance program. SCPPA is protected by having the option not to purchase the Project if the quality of construction or maintenance is not satisfactory.
- Economic Stimulus Cash Grant – If the Cash Grant is not available, then SCPPA would be required to purchase the facility for \$2,585 per kW of installed capacity. The anticipated present value cost of purchasing the facility at the COD is \$684 million.
- The PSA will become effective upon execution by the Chief Executive Officer and General Manager which is subject to approval by the LADWP Board of Water and Power Commissioners and City Council Ordinance, provided it is acceptable by the Office of the Los Angeles City Attorney.

Agency Agreement No. BP 09-18

Under the Agency Agreement, LADWP contractually agrees to act as the Project Manager for SCPPA, in order for SCPPA to carry out activities necessary to place the Project in O&M. The mutual covenants and agreements addressed by the Agency Agreement include:

- Providing for the designation of LADWP as the Project Manager to administer all Project Agreements on behalf of SCPPA and for the benefit of all the Participants and sets forth mutual covenants and agreements between SCPPA and LADWP

in order to enable SCPPA to carry out activities necessary for the planning, development, acquisition, maintenance, improvement, administration, and operation of the Project on behalf of SCPPA.

- Identifying the roles and obligations of SCPPA and LADWP in connection with project reviews, monitoring, accounting, billing, reporting, controls, including the setting up of an annual budget and reporting requirements.
- Establishing payment mechanisms, including, but not limited to, payment to LADWP by SCPPA for costs, charges, and billing procedures.
- Referencing the SCPPA Procurement Code, which governs procurement for services and materials for the construction, maintenance, or operation of any facility or project, that LADWP will use while carrying out the duties as Project Manager to the Project. Provided, however, that to the extent authorized by law, LADWP may utilize its own procurement rules when LADWP deems such action to be in the best interest of the Project.
- The term of the Agency Agreement is the same as the PSA, which is for a period to cover the obligations of the SCPPA issued bonds which is inclusive of the 20-year Windy Point Agreement term, facility construction, and additional time required for SCPPA administrative and financial matters.

Layoff Agreement No. BP 09-19

The Layoff Agreement between LADWP, SCPPA, and Glendale, provides for LADWP to purchase Glendale's share of 20MW of the metered output and associated environmental attributes as produced by the Project, with the option for Glendale to recall any portion of their share of 20 MW within three years of the COD subject to certain parameters. If Glendale opts not to exercise their recall option, then Glendale releases all future rights and residual values to the facility. The mutual covenants and agreements addressed by the Layoff Agreement include:

- If there is a change in law that requires Glendale to establish a more aggressive RPS program (currently established at 20 percent by 2017), then Glendale may request any portion or all of its share of the Project prior to the third anniversary from COD with 60-days notification.
- Providing Glendale with energy and associated environmental attributes from the Project from the option execution date through the term of the PSA, Glendale will be a Participant for a 20 MW share under the PSA for the life of the PSA.
- Providing Glendale with energy and associated environmental attributes from the Project under the same terms and conditions, including price, that LADWP is receiving said energy, LADWP will take all of Glendale's project output for the life

of the PSA and reimburse Glendale for all of its SCPPA costs unless Glendale recalls any portion or all of its 20 MW share.

- Glendale will have a one-time option to recall any portion or all of its 20 MW share by providing 60-days notice to LADWP prior to the third anniversary of the Project's COD.
- If Glendale exercises its recall option, Glendale would begin taking its noticed amount on the first day of the month following the third anniversary of the COD.
- Glendale shall have all future rights and residual value for that portion of the amount that is recalled.
- In addition to its own 242 MW share of the project, LADWP shall have all future rights and residual value for that portion of Glendale's 20 MW share that Glendale does not recall.
- For Glendale's share that Glendale has not recalled, LADWP will have the use of that share and reimburse Glendale for all of Glendale's SCPPA costs for that share for the full term of the PSA.

COST AND DURATION

In summary, the PSA has the following terms, and costs include energy, O&M, RECs and transmission to NOB:

- Capacity of 242 MW.
- Expected availability every hour of the year.
- An expected capacity factor of 30 percent.
- LADWP's costs are as follows:
 - Scenario 1 - If the Cash Grant is not obtained, SCPPA will be obligated to purchase the Project at a cost of \$684 million (through the issuance of bonds upfront) which equates to \$115.33/MWh including REC, O&M, and delivery for the initial 20 years and would decline to \$101.37 over a 24-year period.
 - Scenario 2 - If no buy out option is exercised on the Project then the aggregate cost is expected to be \$99.99/MWh including REC, O&M, and delivery over the initial 20-year term and \$92.58/MWh over the combined 24-year term.

- Scenario 3 - If the early buyout option is exercised in the sixth year, then the cost of Renewable Energy, the average cost of the energy, is expected to be \$100.33/MWh including REC, O&M, and delivery over the initial 20-year term due to the cost of the acquisition. However, under this Scenario, LADWP will receive ownership of its prorata share of the Project at the time of the buyout. The aggregate average cost of energy for a 24-year period would be \$88.86/MWh.

FUNDING SOURCE

Funding is budgeted in Power Revenue Fund's Fuel and Purchased Power Budget in FI 305-3148.

FISCAL IMPACT STATEMENT

Including transmission, O&M, and REC, the annual expenditures to LADWP may total:

- Under the PSA, LADWP will receive 242MW from the Project. LADWP's costs are as follows:
 - Scenario 1 - An average of \$79.53 million per year for 20 years, if the purchase option is exercised at the COD or \$1,591 million total over the initial 20-year term.
 - Scenario 2 - An average of \$68.9 million per year for 20 years if the purchase option is not exercised or \$1,378 million total over the initial 20-year term.
 - Scenario 3 - An average of \$69.17 million per year for 20 years if the purchase option is exercised at the sixth contract year or \$1,383 million total over the initial 20-year term.
- Under the Layoff Agreement, if Glendale does not recall its 20MW portion of the Project within the first three years, LADWP shall receive that energy in addition to the 242MW from its PSA. LADWP's total costs are as follows:
 - Scenario 1 - An average of \$73.5 million per year for 20 years, if the purchase option is exercised at the COD or \$1,403 million total over the initial 20-year term.
 - Scenario 2 - An average of \$63.6 million per year for 20 years if the purchase option is not exercised or \$1,272 million total over the initial 20-year term.
 - Scenario 3 - An average of \$63.9 million per year for 20 years if the purchase option is exercised at the sixth contract year or \$1,277 million total over the initial 20-year term.

TYPE OF INSURANCE COVERAGE(S)

X	Workers' Compensation	\$1M	X	Property Damage	Replacement Value
X	Automobile Liability	\$2M	<input type="checkbox"/>	Water Craft	
X	General Liability	\$20M	<input type="checkbox"/>	Pollution	
X	Professional Liability	\$5M	<input type="checkbox"/>	Crime	
<input type="checkbox"/>	Aircraft Liability		<input type="checkbox"/>	Asbestos	

PRE-AWARD CHECKLIST

Yes ☐ No ☐ N/A ☒ Contract Compliance
Yes ☐ No ☐ N/A ☒ Subcontracting Opportunities
Yes ☐ No ☐ N/A ☒ Service Contractor Worker Retention Ordinance
Yes ☐ No ☐ N/A ☒ Child Support Policy
Yes ☐ No ☐ N/A ☒ Living Wage Ordinance
Yes ☐ No ☐ N/A ☒ Labor Relations Notifications
Yes ☐ No ☐ N/A ☒ Charter Section 1022 Findings

CONTRACT ADMINISTRATION

PSA and Agency Agreements will be administered by the Power Supply Contracts Group in the Power System per the requirements of the PSA and Agency Agreement. Agreements require LADWP to act as Project Manager and administer on behalf of all the Participants.

FORMAL OBJECTIONS TO AWARD OF CONTRACT

None.

JOB OPPORTUNITIES AND TRAINING POLICY ☐ Applicable ☒ Not Applicable

INTERNAL AUDIT ☐ Yes ☒ No

EXTERNAL AUDIT ☐ Yes ☒ No

CHARTER SECTION 1022 FINDINGS AND BASIS THEREOF

Not Applicable.

**MEMORANDUM OF UNDERSTANDING PROPOSED CONTRACT REVIEW
PROCESS**

- **Date Proposed Contract Submitted to the Labor Organization:** On May 27, 2009, an overview of the Project was presented to the Joint Labor Management Committee on RPS. All Project agreements were submitted on June 23, 2009, to Labor Relations and to Local 18, International Brotherhood of Electrical Workers (IBEW) for initial review. Final agreements were submitted to Labor Relations and IBEW on July 9, 2009.
- **Description Materials Submitted:** 1) Power Purchase Agreement (between the SCPPA and Windy Flats Partners, LLC); 2) PSA; 3) Agency Agreement; and 4) Contract for Sale and Purchase Energy Agreement (between LADWP and Glendale).
- **Date of Meetings:** None requested.
- **Labor Organization's Response:** Labor Relations stated on July 9, 2009, that per the Settlement Agreement between LADWP and IBEW, agreements related to RPS will not go to Labor Relations, but be sent directly to IBEW. Labor Relations returned agreements to LADWP staff and instructed LADWP staff to send to IBEW. IBEW had no objections to the Agreements.
- **LADWP's Response:** LADWP staff submitted agreements to IBEW on July 9, 2009.
- **30-Day Non-Binding Arbitration:** Non-binding arbitration was not initiated

This contract is for the purchase of renewable energy with an option to purchase the facility at a later date in order to comply with RPS, therefore, is exempt from Appendix B processing procedures.

METHOD OF SELECTION

X Competitive ☐ Cooperative Purchase ☐ Sole Source

OUTREACH EFFORTS TAKEN

SCPPA's RFP was distributed to all of the renewable energy providers, developers, and contractors as well as posting.

**MINORITY/WOMEN BUSINESS ENTERPRISE (MBE/WBE) SUBCONTRACTING
PARTICIPATION**

Under PPAs for out-of-state facilities not owned by LADWP, MBE/WBE policy does not apply.

VENDOR HISTORY

There are many agreements with SPPA, but there have not been any long-term power purchase agreements directly with Windy Flats Partners, LLC. The proposed Windy Point Agreement is for an agreement between SPPA and Windy Flats Partners, LLC. They have demonstrated an ability to perform and have developed several recent projects.

VENDOR PERFORMANCE

Due diligence was conducted on the Project owner, Windy Flats Partners, LLC, and their previous performance developing wind farms and operating similar facilities. Based on review by SPPA's Renewable Development Team, Windy Flats Partners, LLC, appears to have the abilities to perform all requirements of the subject agreements. Additionally, the prepayment will not be made until the Project has achieved commercial operation and SPPA receives a first priority lien (deed of trust) against the Project to secure the prepayment amount.

ENVIRONMENTAL DETERMINATION

The Project will be permitted and constructed pursuant to the National Environmental Policy Act (NEPA). Therefore, the Project is exempt from review pursuant to the California Environmental Quality Act (CEQA) State Guidelines, Article 18, Section 15277.

CONFLICT OF INTEREST STATEMENT

All conflict of interest procedures were followed. No conflict of interest issues were identified.

RECOMMENDATION

It is recommended that your Honorable Board approve the accompanying resolution, approved as to form and legality by the City Attorney, and that the PSA, Agency Agreement, and Layoff Agreement be executed as authorized in the resolution.

City Council approval of the PSA, Agency Agreement, and Layoff Agreement by ordinance is required pursuant to §674 (a) (1) and (2) of the City Charter.

Board of Water and Power Commissioners
Page 17
July 15, 2009

The Executive Directive 4 letter requirement for these agreements has been waived.

RAH/RDC:vmd

Attachment

c/att: H. David Nahai

Raman Raj

Richard M. Brown

Aram Benyamin

James B. McDaniel

Cecilia K.T. Weldon

Jeffery L. Peltola

Kathy Jones Irish

John R. Dennis

Albert A. Stephens

Maria Sison-Roces

Randy S. Howard

Robert D. Castro

WINDY POINT/WINDY FLATS PROJECT

POWER SALES AGREEMENT

BETWEEN

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

AND

**THE CITY OF LOS ANGELES ACTING BY AND THROUGH THE DEPARTMENT OF
WATER AND POWER**

Dated as of August 1, 2009

TABLE OF CONTENTS

Page

1.	PARTIES	1
2.	RECITALS, CONSTRUCTION AND PRELIMINARY MATTERS	1
3.	AGREEMENT	7
4.	DEFINITIONS	7
4.1	Agreement	8
4.2	Effective Date	8
4.3	[Reserved.]	8
4.4	Cost of Acquisition	8
4.5	Indenture Cost Share	11
4.6	Monthly Costs	11
4.7	Total Monthly Costs	11
5.	PURCHASE AND SALE OF FACILITY OUTPUT AND THE ROLES AND OBLIGATIONS OF SCPA AND THE PROJECT PARTICIPANTS	13
5.1	Purchase and Sale of Output Entitlement Share	13
5.2	Facility Output and Deliverables	14
5.3	Project Manager	15
5.4	Adoption of Annual Budget	15
5.5	Reports	16
5.6	Records and Accounts	16
5.7	Provide Information	16
5.8	Consultants and Advisors Available	16
5.9	Deposit of Insurance Proceeds	16
5.10	Compliance with Federal Tax Law Requirements	16
6.	COORDINATING COMMITTEE	17
6.1	Establishment and Authorization of the Coordinating Committee	17
6.2	Coordinating Committee Responsibilities	18
6.3	Management Decisions and the Role of Board of Directors	22
6.4	Periodic Audits	23
6.5	Additional Committees	24
6.6	Written Record	24
6.7	Change in Representative	24
6.8	Costs of Consultants	24
6.9	Representative's Expenses	24
6.10	Inaction by Committee	24
6.11	Compliance with Indenture	25
7.	CHARGES AND BILLINGS	25
7.1	Monthly Costs	25
7.2	Billing Statement	26
7.3	Adoption of Alternative Billing Statement Procedures	26
7.4	Disputed Monthly Billing Statement	26

TABLE OF CONTENTS
(continued)

	Page
7.5 Reconciliation of Monthly Costs	27
7.6 Other or Additional Cost Reconciliation Mechanisms	27
7.7 Interest on Late Payments	27
7.8 Prepayment of Monthly Costs.....	28
7.9 Costs or Expenses Incurred for Sole Benefit of Purchaser	28
8. UNCONDITIONAL PAYMENT OBLIGATIONS; RATE COVENANT; AUTHORIZATIONS; CONFLICTS; LITIGATION	28
8.1 Unconditional Payment Obligation.....	28
8.2 Source of Payments.....	28
8.3 Rate Covenant.....	29
8.4 Authorizations	29
8.5 Conflicts	29
8.6 Litigation.....	29
9. OTHER TERMS AND SERVICES	29
9.1 Delivery Procedures	29
9.2 Other Services and Transmission From Point of Delivery	30
9.3 Energy Services.....	30
9.4 Actions Respecting Facility Purchase.....	30
9.5 Balancing Agent and Dynamic Scheduling	30
9.6 Transfer of Environmental Attributes to Project Participants.....	31
10. FEDERAL TAX LAW REQUIREMENTS	31
10.1 Purchaser to Provide Information Relevant to Compliance with Federal Tax Law Requirements	31
10.2 Compliance with Federal Tax Law Requirements.....	31
10.3 SCPPA to Issue Rules, Procedures and Protocols	32
11. PROJECT SPECIFIC MATTERS AND PROJECT PARTICIPANT RIGHTS AND OBLIGATIONS UNDER PROJECT AGREEMENTS.....	32
11.1 Rights and Obligations under the Project Agreements	32
11.2 Acquisition of the Facility by SCPPA	33
11.3 Layoff of Glendale Output Entitlement Share to LADWP	33
12. PLEDGE OF PAYMENTS	34
13. ISSUANCE OF BONDS	34
13.1 Issuance of Bonds	34
13.2 Additional Bonds	34
13.3 Refunding Bonds.....	34
13.4 Opinions of Counsel.....	34
13.5 Redemption or Payment of Bonds	34
13.6 Bond-Related Documents	35

TABLE OF CONTENTS
(continued)

Page

14.	EXCESS BOND PROCEEDS.....	35
15.	NONPERFORMANCE AND PAYMENT DEFAULT	35
15.1	Nonperformance by Purchaser	35
15.2	Notice of Payment Default.....	35
15.3	Cured Payment Default.....	36
15.4	Failure to Cure Payment Default.....	36
15.5	Treatment of the Defaulting Project Participant's Project Rights and Obligations upon Payment Default of Defaulting Project Participant	36
15.6	Elimination or Reduction of Payment Obligations	38
15.7	Use of Operating Reserve Account.....	38
15.8	Use and Replenishment of Debt Service Reserve Fund(s)	38
15.9	Step-Up Invoices.....	39
15.10	Application of Moneys Received from Step-Up Invoices Relating to the Project	40
15.11	Application of Moneys Received from Default Invoices.....	40
15.12	Application of Moneys Received from Compliance Payments	40
15.13	Application of Moneys Received from Sale of Facility Output.....	41
15.14	Limitation on Cure Period.....	41
16.	CHARACTER, CONTINUITY OF SERVICE.....	42
16.1	Outages, Interruptions and Curtailment of Energy Deliveries.....	42
16.2	Outages, Interruptions and Curtailment of Energy from the Facility	42
16.3	Uncontrollable Forces	42
17.	SEVERAL OBLIGATION; LIABILITY.....	43
17.1	Project Participants' Obligations Several.....	43
17.2	No Liability of SCPPA, Directors, Officers, Etc.; SCPPA Directors, Officers, Employees, Project Manager Not Individually Liable.....	43
17.3	Extent of Exculpation; Enforcement of Rights	43
17.4	Determination or Enforcement of Rights.....	44
17.5	No Relief From Insurer's Obligations.....	44
17.6	No General Liability of SCPPA	44
18.	RESTRICTIONS ON DISPOSITION.....	44
18.1	Limitations Concerning Private Use	44
18.2	Restrictions on Elimination of Payment Obligations.....	45
18.3	Restrictions on Disposition of Purchaser's Entire System.....	45
18.4	Successors and Assigns.....	45
19.	REIMBURSEMENT OF PROJECT DEVELOPMENT COSTS	45
20.	EFFECTIVE DATE, TERM AND EXPIRATION.....	46
20.1	Effective Date; Execution in Counterparts	46
20.2	Termination Conditions	46

TABLE OF CONTENTS
(continued)

	Page
20.3 Expiration.....	46
20.4 Transfer of SCPPA Interest.....	46
20.5 Termination of Agreement before Expiration Date	47
21. RELATIONSHIP TO AND COMPLIANCE WITH OTHER INSTRUMENTS	47
21.1 Agreement Subject to the Indenture.....	47
21.2 Comply With the Indenture.....	47
22. SEVERABILITY	48
23. CONDITIONS TO TERMINATION OR AMENDMENT	48
23.1 No Adverse Effect.....	48
23.2 Rights Among Project Participants	48
23.3 Continuing Compliance with Federal Tax Law Requirements.....	48
24. REPRESENTATION AND GOVERNING LAW	48
25. ARBITRATION AND ATTORNEYS' FEES	49
26. PURCHASER'S CONTRACT ADMINISTRATOR.....	49
27. NOTICES	49
28. AMENDMENTS	49

APPENDICES

A – DEFINITIONS	A-1
B – SCHEDULE OF PROJECT PARTICIPANTS OUTPUT ENTITLEMENT SHARES AND OUTPUT COST SHARES	B-1
C – SCHEDULE OF PROJECT PARTICIPANTS PERCENTAGE OF INDENTURE COST SHARES.....	C-1
D – OPINION OF COUNSEL TO PROJECT PARTICIPANTS	D-1
E – OPINION OF COUNSEL TO SCPPA.....	E-1
F – POWER PURCHASE AGREEMENT BETWEEN SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY AND WINDY FLATS PARTNERS, LLC DATED AS OF JUNE 24, 2009.....	F-1

WINDY POINT/WINDY FLATS PROJECT

POWER SALES AGREEMENT

1. **PARTIES.** This Windy Point/Windy Flats Project Power Sales Agreement (this "Agreement"), is dated for convenience as of the 1st day of August, 2009, by and between the SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, a joint powers agency and a public entity organized under the laws of the State of California, hereinafter designated as "SCPPA," created under the provisions of the Act, and the CITY OF LOS ANGELES acting by and through the Department of Water and Power, a California municipality. The CITY OF LOS ANGELES is also periodically designated in this Agreement as "LADWP" or as "Purchaser," or, depending upon context, as "Project Participant." LADWP and SCPPA are also sometimes herein referred to individually as a "Party" and together as the "Parties." In addition, LADWP and the other member of SCPPA participating in the Project may be referred to collectively, in this Agreement, as "Project Participants."
2. **RECITALS, CONSTRUCTION AND PRELIMINARY MATTERS.** The Recitals set forth herein and the facts, which follow, are incorporated into this Agreement by reference for all purposes. The facts and the circumstances of the Parties contained in the Recitals, among others, represent the background and framework for this Agreement, the aim and purpose of this Agreement and the intendments of the Parties with respect thereto. This Agreement has been reviewed by attorneys for both Parties and shall not be interpreted with reference to the rules of construction providing for construction against a Party responsible for drafting or creating a particular provision or section, but should instead be interpreted in a manner which broadly carries forth the goals and objectives of the Parties as expressed herein. References to "Sections," "Annexes," "Appendices," "Schedules" and "Exhibits" shall be to Sections, Annexes, Appendices, Schedules and Exhibits, as the case may be, of this Agreement unless otherwise specifically provided. Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose nor given any substantive effect. Any of the terms defined herein may, unless the context otherwise requires, be used in the singular or the plural, depending on the reference. The use herein of the word "include" or "including", when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not nonlimiting language (such as "without limitation" or "but not limited to" or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term or matter. This Agreement is made with reference to the following facts among others:
 - 2.1 SCPPA was created pursuant to provisions contained in the Joint Exercise of Powers Act found in Chapter 5 of Division 7 of Title 1 of the Government Code of California, as amended from time to time (the "Act"), by its members, which are municipalities and an irrigation district that supply, among other things, electrical energy, in the State of California, for the purpose of jointly and cooperatively undertaking the planning, financing, development, acquisition, construction, improvement, betterment, operation, and maintenance, of projects for the generation or transmission of electric energy, including the development and

implementation of systems and frameworks for the acquisition and delivery of secure, long-term reliable supplies of renewable electric energy.

- 2.2 Pursuant to the terms of the Act, SCPPA has the power, for the purpose of promoting, maintaining and operating electric generation and transmission, to plan, develop, contract for, finance, acquire, design, undertake, own, construct, manage, operate, maintain and administer projects involving systems, methodologies and programs for the acquisition, supply procurement and delivery of secure, long-term reliable supplies of renewable electric energy and to cause such projects to be planned, developed, contracted for, financed, acquired, designed, undertaken, constructed, managed, operated, maintained and administered and to provide by agreement for the performance and carrying out of any such activities.
- 2.3 Purchaser is a chartered California municipality which provides electric energy to its citizens through its municipally owned electric system. Purchaser is one of the parties to the SCPPA Joint Powers Agreement and is one of the eleven founding member municipalities which formed SCPPA. Since the initial creation of SCPPA pursuant to the Joint Powers Agreement, Purchaser has acted, in part, through SCPPA's Board of Directors to carry out generation, transmission and other projects through SCPPA.
- 2.4 During the past decade Purchaser and other SCPPA members have experienced the imposition of a substantial number of new environmental laws, rules, regulations and policies and revised resource requirements which have effectively required Purchaser and other SCPPA members to shift generation assets to increasingly turn to and rely upon renewable forms of energy generation, including wind generation, as a significant part of the generation resource portfolio necessary and appropriate to their electric systems. This shift to renewable energy and wind generation has created an ever-increasing need for the development of secure long-term arrangements for the acquisition of wind energy resources and the delivery of energy from wind generation facilities so that the Project Participants will be able to carry out their objectives to reliably supply their customers with renewable electric energy. The acquisition for the Project Participants of the resources and output of the wind energy facility reflected herein, including the procurement of the same by way of a prepayment methodology, and the associated ancillary provisions for acquisition and delivery of the resources and output of the facility and the benefits of its associated lines, substations, interconnections, leases, licenses, contract rights, clearances, permits, entitlements and other assets and infrastructure, has been carried forth at the request of the Project Participants to assist the Project Participants in their endeavors to meet their required renewable electric energy resource goals.
- 2.5 Over the course of the past several years members of SCPPA have investigated means and methods by which to acquire renewable energy generation resources and secure necessary long-term reliable supplies of renewable electric energy, especially energy generated by wind generation facilities, to carry forth their generation responsibilities to their citizens.

- 2.6 To facilitate the appropriate review and due diligence studies necessary to carry forth an effective program for the development of renewable resources SCPPA created the "Renewable Electric Energy Resource Project" to be carried forth between SCPPA and those SCPPA members desiring to participate in this renewable energy oriented project under SCPPA's Joint Powers Agreement.
- 2.7 To further the aims of the proposed Renewable Electric Energy Resource Project, on January 19, 2006 the SCPPA Board of Directors approved Resolution 2006-2 which declared its intention to reimburse certain renewable resource expenditures from the proceeds of future financings, as required by United States Department of Treasury Regulations section 1.150-2.
- 2.8 Thereafter on March 17, 2006 the SCPPA Board of Directors by way of Resolution 2006-13 found and declared the proposed Renewable Electric Energy Resource Project to be an official SCPPA Study Project pursuant to the SCPPA Joint Powers Agreement and authorized the execution of a development agreement for the Renewable Electric Energy Resource Project among SCPPA and the SCPPA members participating in this Study Project.
- 2.9 During the ensuing time frame following the creation of the Renewable Electric Energy Resource Project the Board of Directors approved certain additional resolutions declaring its intention to reimburse certain renewable resource expenditures from the proceeds of further future financings, as required by United States Department of Treasury Regulations section 1.150-2.
- 2.10 In pursuit of the goals of the Renewable Electric Energy Resource Project SCPPA has issued Requests for Proposals for potential renewable electric resources to address SCPPA member renewable energy needs, and the Purchaser and other participants in the Renewable Electric Energy Resource Project have identified potential wind energy generation resources which are being developed in Klickitat County in an area north of the Columbia River in the state of Washington known as the Windy Point/Windy Flats Project. The Windy Point/Windy Flats Project is being developed by Windy Flats Partners, LLC, an affiliate of Cannon Power Corporation. The Windy Point/Windy Flats Project resources are situated in the southern part of the state of Washington on an approximately twenty-nine mile long strip of land situated north of the shores of the Columbia River.
- 2.11 At the time of the formation of this Agreement, the Power Purchase Provider as the developer and owner of the Windy Point/Windy Flats Project has undertaken to develop, construct and operate, and pursuant to the Power Purchase Agreement to sell to SCPPA the output from the Windy Point/Windy Flats Project (the developed "Facility," as further described herein). This Facility when fully developed, will entail a wind-powered electricity generating facility, including a primary facility with a planned initial installed capacity of approximately 202 MW and a facility expansion with a planned installed capacity of approximately 60 additional MW (the "Estimated Capacity"). The Facility is located near the Town of Goldendale in Klickitat County, Washington, and will include all structures or improvements erected on wind farm land leases, all alterations thereto or replacements thereof, all fixtures, attachments, appliances, equipment, machinery

and other articles attached thereto or used in connection therewith and all spare parts which may from time to time be incorporated or installed in or attached thereto, all related contracts and agreements for services or for real or personal property or goods related thereto, all real or personal property owned, easements granted upon or leases related thereto, and all other real and tangible and intangible personal property leased or owned by the developer associated with the Project and placed upon or used in connection with the generation of electricity from the Project.

- 2.12 The Project Participants desire to obtain the Facility Output and also to put into place certain acquisition alternatives under which SCPPA would be obligated to, or would be entitled to exercise an option to, purchase or acquire the Facility or to otherwise succeed to the ownership of the Facility and its related resources and intend to provide, as well, for a means by which the Project Participants may secure such transmission and delivery resources as may be necessary to transmit, move or exchange the energy from the Facility as directed by the respective Project Participants.
- 2.13 To carry forth the Project goals, Purchaser and the other participants in the Renewable Electric Energy Resource Project have carried out extensive investigations into the advisability of utilizing a prepayment methodology for the acquisition of a long-term reliable supply of renewable electric energy from the Facility for the purpose of carrying forth the goals of achieving a continuing systematic source of renewable electric energy.
- 2.14 The Project Participants have examined numerous alternatives. Based upon the investigations by Purchaser and the other participants in the Renewable Electric Energy Resource Project, the Project Participants have determined that, in the case of the Windy Point/Windy Flats Project, the purchase of wind energy by way of a transaction through which SCPPA prepays for Guaranteed Generation and pays for Excess Energy and other Facility Output after delivery, together with the alternatives for acquisition of the Facility which are provided for in the Power Purchase and Security Agreements, provides the most desirable commercial structure by which to best achieve the Project Participants' wind energy needs and best satisfy the continuing requirements of the Project Participants' respective renewable portfolio standards.
- 2.15 The Project Participants have participated in the negotiation of a power purchase agreement and related agreements, arrangements and mechanisms for the procurement of the Facility Output of this Washington wind generation facility by way of a transaction through which SCPPA prepays for Guaranteed Generation and pays for Excess Energy and other Facility Output after delivery, and which also provide certain acquisition alternatives under which SCPPA would be obligated to, or would be entitled to exercise an option to, purchase or acquire the Facility or to otherwise succeed to the ownership of the Facility, its various interconnections, its associated transmission arrangements, its resources, its liabilities, its leases, contracts, permits, services and other related facility assets, rights and entitlements. In addition the Project Participants and SCPPA have

further carried forth due diligence investigations and plans and measures by which to provide appropriate project financing.

- 2.16 Purchaser and the other Project Participant have also examined and analyzed alternative methodologies and structures for the potential acquisition of wind generation to determine the most reliable framework with the best pricing attributes to provide the best value to each Project Participant's respective renewable generation portfolio. Purchaser and the other Project Participant have concluded that with respect to the Windy Point/Windy Flats Project, the methodology posed by way of the Power Purchase and Security Agreements set forth herein provides the Project Participants with the most desirable means to achieve secure reliable long-term supplies of wind generation.
- 2.17 The Project Participants have concluded that prepaying for the purchase of wind generation and the potential alternatives for the purchase of wind generation facilities contemplated through the Power Purchase Agreement and the structure, design and planned methodologies contemplated herein, as part of the Project, will materially assist the Project Participants in carrying out their critical operating and business objectives to provide a long-term supply of wind energy for the generation needs of the Project Participants. SCPPA, LADWP and Glendale anticipate that the Facility Output produced by the Project will be utilized to serve the Project Participants' renewable energy needs within their respective service areas and will materially assist each respective utility in meeting its renewable portfolio standard.
- 2.18 To carry forth the objectives set forth herein, SCPPA (i) is entering into the Power Purchase Agreement with Windy Flats Partners, LLC, an affiliate of Cannon Power Corporation, which will provide, in part, for a prepayment of Guaranteed Generation and (ii) in addition, will enter into other Power Purchase and Security Agreements which, along with other applicable provisions of the Power Purchase Agreement, will provide SCPPA with certain purchase rights and obligations or liens and security interests with respect to the Project and certain related facilities and property, all as shall inure to SCPPA for and on behalf of the Project Participants in accordance with each Project Participant's Output Entitlement Share and Output Cost Share, including all of the rights, benefits and entitlements and all of the duties, obligations, and liabilities under the Power Purchase and Security Agreements accruing through SCPPA, including the receipt of Facility Output under and pursuant to the terms of the Power Purchase Agreement and this Agreement.
- 2.19 In order to secure the performance of Power Purchase Provider in connection with all of its obligations and requirements under the Power Purchase and Security Agreements, SCPPA has endeavored to provide for various legal mechanisms including Security Instruments and other contractual provisions under which SCPPA is entitled to exercise certain cure rights in order to assure the provision of electric energy by the Facility to satisfy the requirements of the Power Purchase Agreement. It is the intention of the Parties that the Project Participants, under the Power Sales Agreements, shall be reposed with the rights, benefits, liabilities, obligations and risks accruing to SCPPA pursuant to the provisions of these

instruments in accordance with each Project Participant's Output Entitlement Share and Output Cost Share.

- 2.20 Purchaser has need for a long-term source of renewable energy to satisfy Purchaser's renewable portfolio standard requirements and desires to ensure the reliable delivery of wind powered electric energy generation to fulfill this requirement. Purchaser desires that SCPPA proceed with the economic design, structuring, financing, Acquisition, development, implementation, operation and administration of the Project to procure such a long-term supply of secure renewable wind powered electric generation. To assist in meeting such future renewable generation needs, Purchaser has determined that it is desirable to enter into this Agreement to procure such renewable generation.
- 2.21 The Purchaser and the other Project Participant desire and intend through the Power Sales Agreements to provide for certain potential acquisition alternatives for SCPPA's purchase of the Facility, including certain options under the Power Purchase and Security Agreements.
- 2.22 SCPPA will take or cause to be taken all reasonable steps necessary to cause to be secured, such contracts, instruments, rights and entitlements and all such governmental entitlements, permits, licenses and approvals as are necessary for the Project, and will then proceed as appropriate with, all measures necessary for the economic design, structuring, financing, Acquisition, development, implementation, operation and administration of the Project, including, where applicable and advisable, the prepayment for the Guaranteed Generation. To the extent provided through the Project Agreements, SCPPA will carry forth those measures as directed by Purchaser and the other Project Participant, associated with the operation and maintenance of those interests and facilities designated as part of the Project to provide a secure source of renewable energy for Purchaser and the other Project Participant contracting with SCPPA therefor pursuant to the terms and conditions of the Project Agreements.
- 2.24 The Purchaser and the other Project Participant desire to finance certain costs required for the Acquisition, financing, and development of the Project by way of funds raised through the issuance by SCPPA of Bonds. Except as otherwise provided herein, each Project Participant shall be solely responsible for its respective associated debt obligations, including but not limited to the repayment of its share of the Bonds, as provided in each Project Participant's Power Sales Agreement.
- 2.25 SCPPA intends to finance the costs of acquiring and developing the Project, including the prepayment under the Power Purchase Agreement for Guaranteed Generation produced by the Facility as provided in the Power Purchase Agreement through the issuance of Bonds. In addition, in the event certain other conditions should occur under which SCPPA shall determine to, or shall be obligated to, purchase the Facility pursuant to the Power Purchase and Security Agreements or otherwise acquire ownership thereof, it is anticipated that SCPPA will issue Bonds for the purpose of financing the costs thereof. To pay the costs of acquiring, financing, and developing the Project, SCPPA will enter into the

Power Sales Agreements with the Project Participants which, among other things, will provide for the payment of all debt service associated with the Bonds. In order to enable SCPPA to issue Bonds it is necessary for SCPPA to have binding agreements with the Project Participants to pay all of SCPPA's costs associated with this Project, and all payments required to be made in accordance with the applicable provisions of the Power Sales Agreements entered into by the Project Participants, including payments required to be made under this Agreement, may be pledged by SCPPA as security for the payment of the applicable Bonds, and the interest thereon, subject to the application thereof to such purposes and on such terms as provided in the Indenture and as required by the Act. SCPPA shall further provide for the administration, operation and maintenance of the Project through the application of the payments required to be made by the Project Participants to SCPPA in accordance with the provisions of the Power Sales Agreements.

2.26 In order to enable SCPPA to carry out the activities necessary to the planning, economic design, structuring, financing, Acquisition, development, implementation, operation and administration of the Project on behalf of the Project Participants, it is necessary for SCPPA to have binding agreements with both Purchaser and the other Project Participant in the Project and to employ those payments made under the respective Power Sales Agreements for the purpose of securing and paying for the rights, services, entitlements and deliverables contemplated by each of the Project Participants. SCPPA shall provide for the further investigation, implementation, administration, operation and maintenance of the Project through the application of the payments required to be made pursuant to the Power Sales Agreements in accordance with their provisions.

2.27 To the extent that SCPPA finances any costs of the Project with Bonds that are subject to any Federal Tax Law Requirements, it is necessary that both the Purchaser and the other Project Participant be unconditionally obligated to comply with such Federal Tax Law Requirements as determined and directed by SCPPA until such time as any such Bonds have been fully paid or redeemed and discharged.

2.28 Each Project Participant shall pay from its electric revenue fund, including any and all legally available electric system reserves, all amounts payable to SCPPA under its Power Sales Agreement, including but not limited to its Monthly Costs and all other costs, and such payments shall constitute an operating expense of the Project Participant's electric utility.

3. **AGREEMENT.** For and in consideration of the promises and the mutual covenants and agreements hereinafter set forth, and in order to pay SCPPA for its costs of Purchaser's share of the Facility Output, the Parties agree as herein set forth.

4. **DEFINITIONS.** Appendix A to this Agreement sets forth definitions of certain terms used in this Agreement. The terms defined in Appendix A and this Section 4, whether in the singular or plural, unless specifically provided otherwise, when used herein or in the Appendices hereto and initially capitalized, shall have the meaning ascribed thereto in said Appendix A or as set out below:

- 4.1 Agreement. This Agreement, as it may be amended, modified or supplemented from time to time.
- 4.2 Effective Date. The date described in Section 20.1 hereof.
- 4.3 [Reserved.]
- 4.4 Cost of Acquisition. The Cost of Acquisition shall equal the sum of the amounts described in Sections 4.4.1 through 4.4.18. SCPPA shall apply, as a credit against the Cost of Acquisition, a proportionate share of all receipts, revenues and other moneys received by it from the sale, if any, of surplus equipment, materials and supplies, all if and to the extent held in or paid into (without duplication) Funds, and as provided for in the Indenture.
- 4.4.1 All costs associated with prepaying for Guaranteed Generation pursuant to the Power Purchase Agreement and acquiring the Facility and its associated resources pursuant to any purchase option or requirement or pursuant to the purchase of rights and interests in and to any applicable Facility Credit Agreement or any other agreement, including, if applicable, any other agreement relating to any security in the Facility or any assignment or consent to assignment, including the purchase of the Facility at any foreclosure sale or taking a deed in-lieu-of foreclosure, or otherwise purchasing the Facility pursuant to any provisions in any of the Power Purchase and Security Agreements, including without limitation the following costs, as applicable: (i) the Prepayment Amount, (ii) the cost of acquiring the Facility pursuant to the Power Purchase and Security Agreements, (iii) the cost of purchasing the Facility, as applicable, through any foreclosure sale or by way of any Security Instrument, (iv) the cost of planning, designing, acquiring, constructing, mitigating impacts, installing, and developing the Project or any Capital Improvements, (v) the cost of the exercise of cure rights or enforcement of its rights with respect to any defaults by the Power Purchase Provider or any other counterparty under any agreements, deeds of trust, leases or other instruments relating to or affecting the Project, (vi) the cost of contracting for and facilitating the delivery of the output of the Project at the prescribed Point of Delivery or other prescribed location, (vii) the cost of placing the Project into operation, concluding, terminating and decommissioning (as applicable) the Project, obtaining governmental approvals, certificates, permits, assurances, entitlements and licenses relating to the Project, including, where necessary, environmental entitlements, clearances or credits, heretofore or hereafter paid or incurred by SCPPA, (viii) all costs, expenses, obligations and liabilities associated with exercising all performance rights, options, benefits, entitlements, duties, liabilities and obligations under the Project Agreements, (ix) to the extent deemed appropriate by the Coordinating Committee, the cost of procurement of rights associated with interconnection, transmission, and the dispatching, scheduling and delivery of energy and for otherwise facilitating the sale, disposition, movement, taking and accounting for energy (including planning and design costs) and (x) the cost of those measures taken for the benefit of, and in connection

with, the Project that the Coordinating Committee determines shall be included within this Section 4.4.1.

- 4.4.2 All costs and expenses for investigation and development of the Project, for performance studies, for feasibility, economic, and meteorological modeling and planning, for examination of legal, environmental and regulatory issues and for securing of legal, environmental or regulatory approvals, services for wind modeling, project modeling or projections, economic analyses, meteorological forecasts and weather analyses, as well as costs for leases, lease options, lease related rights, land, land rights, land options, resources, turbines, facilities, regulatory developments, geographic and meteorological investigation and analysis, and, if applicable, engineering, consultants, experts' fees, contractors' fees, processing fees, labor, materials, equipment, utility services and supplies, and legal fees and financing costs relating to and in connection with the Project.
- 4.4.3 The costs and expenses incurred in the issuance and sale of bonds, notes, certificates of participation, commercial paper or other evidences of indebtedness (tax-exempt or taxable) from time to time issued, the proceeds of which have been used or will be required to be applied to one or more purposes for which Bonds could be issued, including, without limitation, legal, accounting, engineering, consulting, financing, technical, fiscal agent and underwriting costs, fees and expenses, bond discount, insurance, rating agency fees, and all other costs and expenses incurred in connection with the authorization, sale and issuance of the Bonds.
- 4.4.4 Interest accruing in whole or in part on Bonds for such period as SCPPA may reasonably determine to be necessary in accordance with the provisions of the Indenture.
- 4.4.5 To the extent not included in Total Monthly Costs, the cost of any administrative, regulatory or judicial proceeding or any litigation associated with the Power Purchase and Security Agreements or other Project Agreement, or any aspect of the operation, management or administration of the Project or in connection therewith.
- 4.4.6 To the extent not included in Total Monthly Costs, all costs incurred by SCPPA related to the acquisition of resources, agreements, facilities and supplies for wind energy acquisition, procurement, interconnection, transmission, sale, dispatching, scheduling, movement and delivery and all other incidental costs necessary for and in connection with the Project.
- 4.4.7 Training and testing costs, which are properly allocable to the cost of acquisition and development of the Project.
- 4.4.8 All costs of insurance, if any, applicable to the development of and in connection with the Project.

- 4.4.9 All costs relating to injury or damage claims or judgments paid by SCPA in connection with the acquisition, development or implementation of the Project less proceeds of insurance, if any.
- 4.4.10 To the extent not included in Total Monthly Costs, legally required or permitted federal, state and local taxes relating to the Project.
- 4.4.11 All other costs incurred by SCPA and properly allocable to the planning, design, acquisition and development of the Project, including, without limitation, all legal fees relating to the Project (including, but not limited to, legal fees incurred by SCPA in the enforcement of any provision or provisions of the Project Agreements).
- 4.4.12 The working capital requirements and reserves in such amounts as shall be required during development of the Project and for placing the Project in operation as deemed reasonably necessary by the Board of Directors, and as may be provided or required in the Indenture, and such additional amounts of working capital and reserves, as may be established pursuant to the Indenture.
- 4.4.13 Interest accrued in whole or in part on Bonds prior to and during development of the Project or during any time period as SCPA may reasonably determine necessary for placing the Project or any component thereof in operation in accordance with the provisions of the Indenture.
- 4.4.14 The deposit or deposits from the proceeds of Bonds issued to finance such costs in any Fund established pursuant to the Indenture to meet the Project Debt Service reserve requirements for the Bonds.
- 4.4.15 Without duplication with respect to amounts otherwise provided in this Section 4.4, the deposit or deposits from the proceeds of Bonds issued to finance such costs in any other Funds established pursuant to the Indenture which deposit or deposits are required or permitted by the Indenture.
- 4.4.16 The payment of principal, premium, if any, and interest when due (whether at the maturity of principal or at the due date of interest or upon redemption) of any note or other evidence of indebtedness, if any should exist, which is issued in anticipation of Bonds for the purpose of financing the Cost of Acquisition.
- 4.4.17 All costs required to be paid to the Project Manager pursuant to any applicable agreement for project management which are applied or are to be applied thereunder to the payment of the Cost of Acquisition.
- 4.4.18 Without duplication, all other costs (including incidental financing costs and the costs of issuance of Bonds) financed by the issuance of Bonds (i) pursuant to Section 13 of this Agreement, (ii) for procurement of rights associated with the acquisition, production, generation, transmission, interconnecting, balancing, firming and delivery and for otherwise

facilitating the dispatching, scheduling, disposition, movement, taking and accounting for Facility Output (including planning and design costs) relating to, or for the benefit of, the Project that the Board of Directors determines shall be included within this Section 4.4.18, (iii) the acquisition of the Facility or the rights and interests under any of the Power Purchase and Security Agreements; and (iv) any amounts required to be paid pursuant to section 148 of the Internal Revenue Code.

- 4.5 Indenture Cost Share. As to any Project Participant, the applicable share (expressed as a percentage) as set forth in Appendix C hereof (entitled "Schedule of Project Participants Percentage of Indenture Cost Shares") as such appendix may be amended in accordance with the requirements of Section 15 or Section 18 of this Agreement, attributable to such Project Participant with respect to costs associated with the Indenture.
- 4.6 Monthly Costs. The costs payable by the Project Participants as described in Section 7.1 hereof.
- 4.7 Total Monthly Costs. All of SCPPA's costs to the extent not paid from the proceeds of Bonds, certificates of participation, commercial paper, notes or other evidences of indebtedness issued in anticipation of Bonds, resulting from SCPPA's contracting for, providing for, accommodating, acquiring, and facilitating the Project, and from its administration, ownership, operation and maintenance of and renewal and replacement of any facility, service or other element or component of the Project, including costs arising under any of the Power Purchase and Security Agreements or other Project Agreements. SCPPA shall apply, as a credit against Total Monthly Costs, any receipts, revenues and other moneys received by SCPPA from surplus equipment, materials, supplies or assets relating to the Project sold prior to the date of Commercial Operation for the benefit of SCPPA (not otherwise applied as a credit against the Cost of Acquisition as provided in Section 4.4) and any other amounts to be so applied as provided in the Indenture. Total Monthly Costs shall consist of (i) an Operating cost component (described in Section 4.7.1), (ii) a Supplementary Services cost component to the extent SCPPA incurs such costs (described in Section 4.7.2), (iii) a Reserve Fund cost component (described in Section 4.7.3), (iv) an Indenture cost component (described in Section 4.7.4), and (v) a Power Purchase and Security Agreements cost component (described in Section 4.7.5), and shall include, but not be limited to, the items of cost and expense referred to in the Power Purchase and Security Agreements and this Section 4.7 that are accrued or paid by SCPPA during each Month of each Power Supply Year. In the event any Power Supply Year shall consist of fewer than twelve Months, the fraction set forth in Sections 4.7.1 and 4.7.4(b) shall be adjusted accordingly and, in the event of any revision of the Annual Budget after the commencement of any Power Supply Year, the amount determined pursuant to said Sections shall be appropriately adjusted so that any increase or decrease in the portion of the Annual Budget applicable to said Sections shall be evenly apportioned over the remaining Months of such Power Supply Year.

- 4.7.1 The Operating cost component of the Total Monthly Costs for each Month shall consist of: one-twelfth of the costs of all Operating Work, operating expenses, and all costs relating to, contracting for, providing for, managing, administering, producing, procuring, transporting and delivering of the Facility Output during such Power Supply Year, including, but not limited to (i) ordinary operation and maintenance costs (including any Monthly O&M Amount and Actual Additional Monthly O&M Amount or other operation and maintenance costs payable by SCPPA under the Power Purchase Agreement), costs of repairs, replacements, reconstitution and reconstruction of the Project (that are not included in any Cost of Acquisition), administrative and general costs, legal fees, costs relating to litigation (including disbursements and other amounts paid as a result of such litigation), insurance costs (including amounts to fund any self-insurance program), overhead costs, taxes required to be paid by SCPPA with respect to the Project, and any other costs payable by SCPPA in connection with Facility Output, (ii) all expenses incurred in enforcing the Power Purchase Agreement and other Power Purchase and Security Agreements and the other Project Agreements and the expenses of enforcing the applicable covenants and provisions of the ground leases, leasehold interests, rights-of-way, estates and other interests in real property, associated with the Facility, including all expenses of foreclosure or otherwise perfecting any property interests or security interest in the Facility, and (iii) all costs related to the conducting of the business of SCPPA with respect to the Project, including the applicable portion of salaries, fees for legal, engineering, financial and other services, all other costs attributable to miscellaneous and incidental expenses in connection with the administration of the Project, and all other expenses properly related to the conduct of such affairs of SCPPA and shall include all operating costs so incurred by SCPPA to provide the Facility Output.
- 4.7.2 The Supplementary Services cost component of the Total Monthly Costs shall consist of: all monthly costs incurred by SCPPA, if any, and to the extent not included in Section 4.7.1, in connection with services for transmission, dispatching, scheduling, tagging, firming, balancing, swapping, exchanging or delivery and for otherwise facilitating the disposition, movement, taking, receiving, crediting and accounting for the Facility Output provided for under this Power Sales Agreement. The Supplementary Services cost component of the Total Monthly Costs shall also entail all monthly costs incurred by SCPPA, if any, which are necessary to move or otherwise handle Purchaser's Output Entitlement Share from the Point of Delivery to one or more specified delivery point(s) as determined by Purchaser pursuant to Sections 9.2 and 9.5.
- 4.7.3 The Reserve Fund cost component of Total Monthly Costs shall consist of: the monthly cost attributable to Project Participant's Output Entitlement Share that is necessary to establish and maintain the Reserve Funds at the level deemed prudent and appropriate by the Coordinating Committee and the SCPPA Board of Directors; provided, however, that to the extent such a Reserve Fund cost component of Total Monthly Costs are paid by the

Project Participants pursuant to the Indenture cost component of Total Monthly Costs, the Project Participants shall be credited for that amount of the monthly Reserve Fund cost component so paid by Project Participants which is contained in such monthly Indenture cost component.

4.7.4 The Indenture cost component of Total Monthly Costs shall consist of:

- (a) The amount, without duplication, which SCPPA is required under the Indenture to pay with respect to Debt Service or to pay or deposit during such Month into Funds established by the Indenture for Debt Service and for any reserve requirements for the Bonds or reserve requirements recommended by the Coordinating Committee and approved by Board of Directors, including replenishment (the timing of which shall be in accordance with the provisions of this Agreement and the Indenture) of any reserves drawn down as a result of a failure of a Project Participant to pay all or any portion of its share of Monthly Costs;
- (b) One-twelfth of the amount (not otherwise included under any item in this Section 4.7.4 or in Section 4.7.1, 4.7.2, 4.7.3, or 4.7.5 hereof) which SCPPA is required under the Indenture to pay or deposit during such Power Supply Year into any other Fund established by the Indenture, including, without limitation, any amounts required to make up a deficiency in any Fund required or permitted by the Indenture;
- (c) The amount of fees, expenses or other charges incurred or payable by SCPPA under the Indenture; and
- (d) Any rebate amount owed to the federal government.

4.7.5 The Power Purchase and Security Agreements cost component of the Total Monthly Costs shall consist of: the monthly costs, without duplication, associated with the Power Purchase and Security Agreements, including all such monthly costs incurred by SCPPA in connection with its enforcement of the Power Purchase and Security Agreements or the performance required of SCPPA under any of the Power Purchase and Security Agreements. Power Purchase and Security Agreement costs shall include, without duplication, and as applicable, any associated ancillary costs under the Power Purchase and Security Agreements, all Direct Reimbursable Costs and any costs SCPPA is required to pay for the Facility Output, including, where applicable, the costs of Early Energy, Excess Energy and the costs of Environmental Attributes associated with Delivered Energy, which are paid by SCPPA apart from the Prepayment Amount.

5. PURCHASE AND SALE OF FACILITY OUTPUT AND THE ROLES AND OBLIGATIONS OF SCPPA AND THE PROJECT PARTICIPANTS.

- 5.1 Purchase and Sale of Output Entitlement Share. In accordance with the terms and conditions of this Agreement, commencing on the earliest of (i) the date

SCPPA is obligated to pay any portion of the costs of the Project, (ii) the date upon which SCPPA first incurs or accrues costs associated with the issuance of the Bonds, (iii) the effective date of the Power Purchase Agreement, or (iv) the date of the first delivery of energy to Purchaser pursuant to this Agreement, and continuing through the term of this Agreement, except as otherwise provided herein, SCPPA shall provide Purchaser its Output Entitlement Share of any and all products, rights, and benefits, whether tangible or intangible received or obtained by SCPPA with respect to the Project, including without limitation Facility Output, and Purchaser shall be responsible for and pay its Output Cost Share of any and all costs, liabilities and obligations associated with the acquisition of such products, rights, and benefits, which shall include without limitation all costs, liabilities and obligations associated with Facility Output under the Power Purchase Agreement and any other applicable Project Agreement, or associated with the purchase and operation of the Facility upon any purchase or acquisition of the Facility by SCPPA, including purchase or acquisition of any rights pursuant to the Power Purchase and Security Agreements and any other applicable Project Agreement, and all costs, credits, liabilities and obligations under the Indenture or Bonds issued by SCPPA to finance the Prepayment Amount, any Cost of Acquisition, or any Capital Improvements.

- 5.2 Facility Output and Deliverables. SCPPA shall provide and Purchaser shall purchase and receive its Output Entitlement Share of Facility Output pursuant to the terms of this Agreement. To the extent permitted by the Power Purchase and Security Agreements, the applicable Project Agreements, or otherwise determined by the Coordinating Committee or the Board of Directors, SCPPA will endeavor to take such actions or implement such measures as may be necessary or desirable for the utilization, maintenance or preservation of the rights and interests of the Project Participants in the Project including, if appropriate, such enforcement actions or other measures as the Coordinating Committee or the Board of Directors deems to be in the Project Participants' best interests. To the extent not inconsistent with the Power Purchase and Security Agreements or other applicable Project Agreements, SCPPA may also be reposed with responsibilities for planning, designing, financing, developing, acquiring, insuring, contracting for, administering, operating and maintaining the Project to effectuate the delivery and sale of such share of Facility Output to Purchaser. To the extent such services are available and can be carried forth in accordance with the Power Purchase and Security Agreements or other applicable Project Agreements, SCPPA shall also provide such other services, as approved by the Coordinating Committee or the Board of Directors, as may be deemed necessary to secure the benefits and/or satisfy the obligations associated with the Power Purchase and Security Agreements or other applicable Project Agreements. SCPPA shall use its best efforts, on behalf of Purchaser and the other Project Participant, to secure the benefits of the transactions contemplated under the Power Purchase and Security Agreements or other applicable Project Agreements including, if appropriate, the prepayment for Guaranteed Generation or, if applicable, SCPPA's acquisition of the Facility and its associated resources, as well as the delivery of the Facility Output contemplated by this Agreement, and shall endeavor to maintain and secure the rights and benefits

accruing to SCPPA through the Power Purchase and Security Agreements and the other applicable Project Agreements in accordance with Purchaser's Output Entitlement Share. SCPPA is authorized to exercise the powers vested in SCPPA pursuant to the Act, its Joint Powers Agreement and this Agreement, as agent for Purchaser to fully carry forth Purchaser's objectives in the Project as set forth herein.

5.3 Project Manager. SCPPA or its designee or designees shall act as Project Manager to develop, operate, maintain and administer the Project, or cause the Project to be developed, operated, maintained and administered, through any development, operating, project management or agency agreement or, as applicable, through the Power Purchase Agreement.

5.4 Adoption of Annual Budget. The Annual Budget and any amendments to the Annual Budget shall be prepared and approved in accordance with Sections 5.4.1 or 5.4.2, respectively.

5.4.1 SCPPA will prepare and submit to Purchaser a proposed Annual Budget at least 60 days prior to the beginning of each Power Supply Year. In connection with the preparation of the Annual Budget, SCPPA shall incorporate therein the Operating Budget (including an energy production costs budget and where appropriate a provision for the payment of costs of renewals, replacements or other costs of acquisition and development which are not being financed by proceeds of Bonds or other sources) for such Power Supply Year as prepared by the Project Manager and approved by the Coordinating Committee. Purchaser and the other Project Participant may then submit to SCPPA, at any time until the Annual Budget is adopted, any matters or suggestions relating to the Annual Budget. SCPPA shall adopt the Annual Budget not less than 30 nor more than 60 days prior to the beginning of such Power Supply Year and shall cause copies of such adopted Annual Budget to be delivered to each Project Participant; provided, however, the Annual Budget for the first Power Supply Year shall be prepared, considered, adopted and delivered in the most practicable manner available prior to Commercial Operation of the Primary Facility. As required from time to time during any Power Supply Year after seven days written notice to each Project Participant, SCPPA may, pursuant to the foregoing provisions for adopting the Annual Budget, adopt an amended Annual Budget for and applicable to such Power Supply Year for the remainder of such Power Supply Year.

5.4.2 Any adjustment, and any other or further mechanism for adjustment, as may be required to address the variability of costs of operation of the Project at any time during the Power Supply Year or the variability of or addition to any other Annual Budget component, may be incorporated into the Annual Budget as provided above, or any amendment to an Annual Budget at any time during any Power Supply Year upon the seven days written notice to each Project Participant as set forth in Section 5.4.1.

- 5.5 Reports. SCPPA will prepare and issue to Purchaser and the other Project Participant the following reports each quarter of a Power Supply Year:
- 5.5.1 Financial and operating statement relating to the Project.
 - 5.5.2 Variance report comparing the costs in the Annual Budget versus actual costs, and the status of other cost-related issues with respect to the Project.
- 5.6 Records and Accounts. SCPPA will keep, or cause to be kept, accurate records and accounts of each of the properties and facilities comprising the Project as well as of the operations relating to the Project, all in a manner similar to accepted accounting methodologies associated with similar projects. All transactions of SCPPA relating to the Project with respect to each Fiscal Year shall be subject to an annual audit. Purchaser shall have the right at its own expense to examine and copy the records and accounts referred to above on reasonable notice during regular business hours.
- 5.7 Provide Information. Purchaser agrees to supply SCPPA, upon request, with such information, documentation and certifications as SCPPA shall reasonably determine to be requisite to and necessary or desirable for the design, financing, refinancing, development, operation, administration, maintenance and ongoing activities of the Project, including information reasonably available to allow SCPPA to respond to requests for such information from any federal, state or local regulatory body or other authority.
- 5.8 Consultants and Advisors Available. SCPPA shall make available to the Coordinating Committee at the latter's request, all consultants and advisors, including, but not limited to, financial advisors, Bond Counsel and Tax Counsel, that are retained by SCPPA, and such consultants and advisors shall be authorized to consult with and advise the Coordinating Committee on Project matters.
- 5.9 Deposit of Insurance Proceeds. Except as otherwise may be required by any of the Project Agreements and unless otherwise provided by the Coordinating Committee, SCPPA promptly shall deposit with the Project Trustee or Lender any insurance proceeds received by SCPPA as a result of injury or damage to any insured interest attributable to any component or all or any portion of the Project. All insurance proceeds collectible by SCPPA as a result of an insured event affecting the Project shall be applied as directed by SCPPA (which directions shall be in accordance with any applicable provisions of the Indenture).
- 5.10 Compliance with Federal Tax Law Requirements. Notwithstanding anything to the contrary in this Agreement, SCPPA and the Purchaser shall each take all actions necessary to comply in all respects with the Federal Tax Law Requirements applicable to any Bonds and shall refrain from taking any action that would result in or cause non-compliance with the Federal Tax Law Requirements applicable to any Bonds.

6. COORDINATING COMMITTEE.

- 6.1 Establishment and Authorization of the Coordinating Committee. The Coordinating Committee is hereby established and duly authorized to act on behalf of the Project Participants as provided in this Section 6 for the purpose of (i) providing coordination among, and information to, the Project Participants and SCPA, (ii) the administration of the Power Purchase Agreement, (iii) the administration of the Project Agreements, (iv) the administration of any operating agreement or any maintenance agreement, (v) otherwise making any recommendations to the Board of Directors regarding the administration of the Project and any acquisitions related thereto, (vi) execution of the Coordinating Committee responsibilities set forth in Section 6.2 hereof, including the various financial, administrative, and technical matters which may arise from time to time in connection with the Project or the administration and operation thereof, and such further developments as may need to be addressed, (vii) making recommendations to the Board of Directors in connection with the exercise of any option to purchase the Facility under and pursuant to any of the Power Purchase and Security Agreements or otherwise purchasing or acquiring the Facility under and pursuant to any of the Power Purchase and Security Agreements, including the purchase of rights and interests under the Facility Credit Agreements or any consents or assignments and any agreements relating thereto, and taking foreclosure action (or deed in-lieu-of foreclosure) under and pursuant to any of the Security Instruments or purchasing the Facility at foreclosure sale or otherwise; provided, however that any decision as to the exercise of an option to purchase the Facility or taking any such foreclosure action or such purchase at a foreclosure sale shall be subject to the approval of the Board of Directors, (viii) exercising any cure rights with respect to any default by the Power Purchase Provider under any agreements, deeds of trust, leases or other instruments and (ix) execution of the Coordinating Committee responsibilities set forth in Section 6.2 hereof, including the various financial, administrative, and technical matters which may arise from time to time in connection with the Project or the administration and operation thereof, and such further developments as may need to be addressed. The Coordinating Committee shall consist of one representative from each Project Participant. Each Project Participant shall be entitled to cast a vote equal to its Output Entitlement Share as set forth in Appendix B hereof. SCPA shall be entitled to one non-voting representative. SCPA and each Project Participant shall, within 30 days after SCPA has entered into Power Sales Agreements for 100 percent (100%) of the Project output, give notice to SCPA and the other Project Participant of its representative on the Coordinating Committee. Alternate representatives may be appointed by similar written notice to act on the Coordinating Committee, or on any subcommittee established by the Coordinating Committee or by the Board of Directors, in the absence of the regular representative or to act on specified occasions with respect to specified matters. An alternate representative may attend all meetings of the Coordinating Committee but may vote only if the representative for whom she/he serves as alternate is absent. No Project Participant's representative shall exercise any greater authority than permitted by the Project Participant or Project Participants, which she/he represents. The chairperson of the Coordinating Committee

("Chairperson") shall be a representative of the Project Manager. The Chairperson shall be responsible for calling and presiding over meetings of the Coordinating Committee. The Chairperson or SCPPA shall promptly call a meeting of the Coordinating Committee at the request of any representative in a manner and to the extent permitted by law. For the purpose of conducting meetings, a quorum shall exist so long as SCPPA's representative and the representative of at least one Project Participant shall be present. Except as may otherwise be provided in an agreement to which all of the Project Participants agree, all actions taken by the Coordinating Committee shall require an affirmative vote of one Project Participant representative having Output Entitlement Shares aggregating at least eighty percent (80%) of the Output Entitlement Shares; provided, however, that (1) if a proposed action before the Coordinating Committee or the Board of Directors relates solely to the interests of a single Project Participant and a Project Participant determines, in good faith, that such proposed action will not adversely affect, economically or otherwise, the Project Participant, such Project Participant agrees that it shall not unreasonably withhold its affirmative vote with respect to such proposed action; and further provided that (2) in the event any vote is contemplated to be taken as to any Project Determination, the minority Project Participant shall be given notice of any proposed action, and its views, if any, shall be considered by the majority Project Participant prior to a vote on the proposed action. All actions with respect to the Project taken by the Board of Directors shall require an affirmative vote of at least eighty percent (80%) of the Project Votes (as defined in SCPPA's Joint Powers Agreement) cast thereon. Conducting of Coordinating Committee meetings and actions taken by the Coordinating Committee may be taken by vote given in an assembled meeting or by telephone, video conferencing, telegraph, telex, letter, e-mail or by any combination thereof, to the extent permitted by law.

6.2 Coordinating Committee Responsibilities. The Coordinating Committee shall have the following responsibilities:

- 6.2.1 Provide liaison between SCPPA and the Project Participants at the management or other levels with respect to Acquisition, further developments, operation and ongoing administration of the Project, and maintain a liaison between the Project Participants and all other SCPPA members with respect to the Project, and where the Coordinating Committee deems it appropriate, maintain a liaison with the counterparties to any Project Agreements and with any other entities or utilities engaged in or in connection with other renewable energy projects.
- 6.2.2 If any desired Project design, feasibility or planning studies or activities which are to be completed by SCPPA have not been completed by the Effective Date of this Agreement, oversee, as appropriate, the continuation and completion of such Project design, feasibility or planning studies or activities.
- 6.2.3 Exercise general supervision over any subcommittee established pursuant to Section 6.5.

- 6.2.4 Review, develop, discuss, and, if appropriate, recommend, modify or approve all budgets and revisions thereof prepared and submitted by SCPPA or the Project Manager pursuant to any applicable agreement.
- 6.2.5 Review, develop, discuss, and, if appropriate, modify, approve or otherwise act upon any systems or procedures for adjustment of the Annual Budget or any alternative methodologies for budgeting or billing as set forth in Section 5 and Section 7 of this Agreement.
- 6.2.6 Carry out all other actions reposed in the Coordinating Committee with respect to budgeting and billing as set forth in Section 5 and Section 7 of this Agreement.
- 6.2.7 Review, discuss and attempt to resolve any disputes among the Project Participants or the parties to any Project Agreements including, without limitation, the Power Purchase Provider, the counterparties under the Power Purchase and Security Agreements, the Leases, the Security Instruments, any rights-of-way with respect to the Project, any agreement providing for any interest in real estate with respect to the Project, any common facilities agreements, any transmission provider, any representatives of Turlock Irrigation District, or any other counterparty with respect to any Project Agreement relating to the Project.
- 6.2.8 Make recommendations to the Project Manager, the Board of Directors or to the counterparties to any of the Project Agreements, as appropriate, with respect to the development, operation and ongoing administration of the Project.
- 6.2.9 Review, develop, and if appropriate, modify and approve rules, procedures and protocols for the administration of the Project or Project Agreements, including rules, procedures and protocols for the management of the costs of the Facility and the scheduling, handling, tagging, dispatching and crediting of Facility Output and the handling and crediting of Environmental Attributes associated with the Facility.
- 6.2.10 Review, develop, and if appropriate modify and approve rules, procedures and protocols for the monitoring, inspection and the exercise of due diligence activities in connection with the Acquisitions relating to the Project and the operation of the Facility.
- 6.2.11 Review, and, if appropriate, modify, approve or otherwise act upon, the form or content of any written statistical, administrative, or operational reports, wind data, electric generation information, wind and energy production data, wind turbine mechanical and technical information, wind turbine reliability data, transmission information, forecasting scheduling, dispatching, tagging, parking, firming, exchanging, balancing, movement, or other delivery information, meteorological, climate and wind related matters, regulatory matters or requirements, and other information and other similar records or matters pertaining to the Project which are furnished to

the Coordinating Committee by the Project Manager, the counterparties to Project Agreements, experts, consultants or others.

- 6.2.12 In coordination with the Board of Directors, review, and, if appropriate, recommend, modify or approve rules, procedures, and protocols as provided in Section 10.3.
- 6.2.13 Review, and, if appropriate, modify, approve or otherwise act upon, practices and procedures as formulated by the Project Manager or, if applicable, the counterparty to any Project Agreement, to be followed by the Project Participants for, among other things, the production, scheduling, tagging, transmission, delivery, firming, balancing, exchanging, crediting, tracking, monitoring, remarketing, sale or disposition of Facility Output.
- 6.2.14 Review, modify and approve, if necessary, the schedule of planned activities formulated by the Project Manager or the counterparty with respect to the performance of any Project Agreement, including the policies for selection and utilization of contractors and consultants included in the budgets with respect to the Project. In formulating and approving such schedules, consideration may be given, if possible, to each Project Participant's electric system conditions, which may prevail during such planned activities.
- 6.2.15 Act upon such recommended changes, as the Coordinating Committee shall deem appropriate as set forth in Section 15.5 of the Power Sales Agreements. Such changes as may occur in such manner with respect to Appendix B and Appendix C herein shall be considered an element of the administration of this Agreement and shall be deemed an amendment of this Agreement and shall not require the consent of the Parties hereto.
- 6.2.16 Review, and if appropriate, approve, recommend, modify or otherwise act upon any matters or issues associated with Operating Work and any other matters or issues which may arise in the operation, maintenance or administration of the Project.
- 6.2.17 Review, and if appropriate, recommend, modify or approve practices and procedures formulated by the Project Manager or by any counterparty to any Project Agreements giving due recognition to the needs of both Project Participants.
- 6.2.18 Review and act upon any matters involving the Performance Security and any guarantee or letter of credit delivered to or for the benefit of SCPPA by the Power Purchase Provider or any other counterparty to any Project Agreement in connection with the Project and take such actions or make such recommendations as may be appropriate or desirable in connection therewith.
- 6.2.19 Review, and, if appropriate, recommend, modify or approve practices and procedures formulated by the Project Manager or any counterparty with

respect to any Project Agreement and when requested by a Project Participant review, and, if appropriate, recommend, modify or approve issues associated with the Point of Delivery or any other point or points designated for delivery of energy, delivery arrangements, transmission contracts, or other Project Agreements.

- 6.2.20 Review, and, if appropriate, recommend, modify or approve policies or programs formulated by the Project Manager, any counterparty under any Project Agreement or any other Person for the exchange of energy from the Facility.
- 6.2.21 Review, and, if appropriate, recommend, modify, or approve policies or programs formulated by the Project Manager or any counterparty under any Project Agreement for determining or estimating wind resources or the values, quantities, volumes or costs of renewable energy.
- 6.2.22 Review, modify or approve recommendations of the Project Manager or counterparties made pursuant to the provisions of any Project Agreement.
- 6.2.23 Review, modify and approve all Cost of Acquisition and costs of Operating Work and submit to the Board of Directors any budget revisions or other provisions for the payment or financing thereof.
- 6.2.24 Review, modify and approve SCPPA's insurance program with respect to the Project (as applicable) including, without limitation, the establishment of any self-insurance program and the maximum amount or amounts of any uninsured claim that the Project Manager may settle without prior approval of the Coordinating Committee.
- 6.2.25 Review, modify and where appropriate, recommend or approve the implementation of metering technologies and methodologies appropriate for the delivery, accounting for, transferring and crediting of Facility Output to the Point of Delivery or from the Point of Delivery to other points or destinations, as applicable.
- 6.2.26 Review, modify and where appropriate, recommend or approve the implementation of practices and procedures to carry forth the provisions of Section 9 herein, as may be applicable with respect to either of the Project Participants.
- 6.2.27 Identify, or develop criteria to identify, contracts or agreements relating to work or Operating Work that shall be deemed to be Major Contracts under any applicable project management or operating agreement.
- 6.2.28 Review, and to the extent permitted by this Agreement or any other relevant agreement relating to the Project, modify and approve or disapprove the specifications, vendors' proposals, bid evaluations, form of final agreement, or any other matters with respect to Major Contracts.

- 6.2.29 Review, modify or approve recommendations, including recommendations of the Project Manager with respect to actions, disposition or use, if any, relating to Acquisition activities.
- 6.2.30 Perform such other functions and duties as may be provided for under this Agreement, the Power Purchase Agreement, the Power Purchase and Security Agreements, the Ancillary Documents, the Interconnection Contracts, the Leases, the Security Instruments, any real estate instruments relating to the Facility or any other applicable Project Agreement, or as may otherwise be appropriate or beneficial to the Project.
- 6.3 Management Decisions and the Role of Board of Directors. The rights and obligations of SCPPA under the Project Agreements shall be subject to the ultimate control at all times of the Board of Directors. Purchaser and the other Project Participant shall be entitled to participate in the decisions of the Board of Directors with respect to SCPPA's rights and interests in the Facility and the Project as provided in Section 6.1 herein. SCPPA through the Board of Directors shall have, in addition to the duties and responsibilities set forth elsewhere in this Agreement, the following duties and responsibilities, among others:
- 6.3.1 Future Developments. The Board of Directors shall provide liaison among the Project Participants at the management level with respect to the direction of the Project and future developments arising out of the Power Purchase and Security Agreements, including any purchase or acquisition of the Facility and shall carry out those measures necessary to address such developments, including any purchase or acquisition of the Facility.
- 6.3.2 Dispute Resolution. The Board of Directors shall endeavor to review, discuss and attempt to resolve any disputes among SCPPA, the Project Participants and the counterparties under the Project Agreements relating to the Project, the operation and management of the Facility and SCPPA rights and interests in the Facility.
- 6.3.3 Scheduling procedures. When recommended by the Coordinating Committee, or when otherwise appropriate, the Board of Directors shall act upon and approve or modify the practices and procedures to be followed by the Project Participants for the scheduling, delivering, controlling and allocating Facility Output associated with the Project.
- 6.3.4 Project Agreements. The Board of Directors shall have the authority to approve the Project Agreements and to review modify and approve, as appropriate, all amendments, modifications and supplements to the Project Agreements.
- 6.3.5 Capital Improvements. The Board of Directors shall review, modify and approve if appropriate all Capital Improvements and Acquisitions undertaken with respect to the Project and all financing arrangements for such Capital Improvements or Acquisitions. The Board of Directors shall

approve those budgets or other provisions for the payments associated with the Project and the financing for any development or Acquisitions associated with the Project.

- 6.3.6 Committees. Exercise such review, direction or oversight as may be appropriate with respect to the Coordinating Committee and any other committees established pursuant to the Project Agreements.
- 6.3.7 Bond issuance. The Board of Directors shall have authority to approve any and all of the following: (1) each issuance of SCPPA indebtedness relating to the Project, (2) each supplement or amendment to the Indenture relating to the Project, (3) the Bonds issued to prepay for Guaranteed Generation or to finance the purchase or acquisition of the Facility or Capital Improvements of the Facility or costs related to the exercise or enforcement by SCPPA of its rights with respect to any agreements, deeds of trust, leases or other Power Purchase and Security Agreements relating to or affecting the Project, or the purchase of rights and interests under the Facility Credit Agreements, or other Acquisitions to carry out the objectives of the Project, (4) the selection of underwriters for each series of Bonds, (5) the manner and timing of marketing (including of the manner of sale), amount, interest rates and other terms and conditions of each series of SCPPA indebtedness associated with the Project, and (6) any other action necessary or appropriate to carry forth Section 13 of this Agreement.
- 6.3.8 Budgeting. The Board of Directors shall review, modify and approve each Annual Budget and the revisions thereto in accordance with Section 5.4 of this Agreement.
- 6.3.9 Federal Tax Law Requirements. With respect to any Bonds, the Board of Directors, in consultation with Bond Counsel or Tax Counsel, shall develop and promulgate rules, procedures, and protocols, including the development and maintenance of relevant information and reporting procedures, and shall provide direction to the Purchaser and the other Project Participant with respect to the Federal Tax Law Requirements.
- 6.3.10 Other Matters. The Board of Directors is authorized to perform such other functions and duties, including oversight of those matters and responsibilities addressed by the Coordinating Committee, as may be provided for under this Power Sales Agreement and under the other Project Agreements, or as may otherwise be appropriate.
- 6.4 Periodic Audits. The Board of Directors or the Coordinating Committee may arrange for the annual audit under Section 5.6 of this Agreement by certified accountants, selected by SCPPA and experienced in electric generation or electric utility accounting, of the books and accounting records of SCPPA, and where deemed appropriate the Project Manager (if other than SCPPA), the Power Purchase Provider (to the extent provided under any of the Power Purchase and Security Agreements) and any other counterparty under any Project Agreement to the extent allowable, and any cost reimbursable consultant

or cost reimbursable contractor relevant to the Acquisition, development, administration or operation of the Project, and such audit shall be completed and submitted to SCPPA as soon as reasonably practicable after the close of the Fiscal Year. SCPPA shall promptly furnish to Purchaser and the other Project Participant copies of all audits. No more frequently than once every calendar year, a Project Participant may, at its sole cost and expense, audit or cause to be audited the books and cost records of SCPPA, the Project Manager (if other than SCPPA), the counterparty under any Project Agreement to the extent so provided in the applicable Project Agreement, and any cost reimbursable consultant or cost reimbursable contractor relevant to the Acquisition, development, administration or operation of the Project.

- 6.5 Additional Committees. The Coordinating Committee, or the Board of Directors, as appropriate, may establish as needed subcommittees including, but not limited to, auditing, legal, financial, engineering, mechanical, geologic, wind, meteorologic, operating, insurance, environmental and public information subcommittees. The authority, membership, and duties of any subcommittee shall be established by the Coordinating Committee or Board of Directors; provided, however, such authority, membership or duties shall not conflict with the provisions of any of the Project Agreements. Each such subcommittee shall be initially responsible to the Coordinating Committee.
- 6.6 Written Record. All actions, resolutions, determinations and reports made by the Coordinating Committee as required by this Agreement shall be set forth in a written record or its minutes.
- 6.7 Change in Representative. Each Project Participant shall promptly give written notice to the other Project Participant and SCPPA of any changes in the designation of its representative on the Coordinating Committee or any subcommittee, and SCPPA shall promptly give written notice to the other Project Participant of any changes in the designation of its representative on the Coordinating Committee or any subcommittee.
- 6.8 Costs of Consultants. Costs (or the applicable portion thereof) of consultants and others employed or appointed by the Coordinating Committee to perform the duties required hereunder, to the extent the Coordinating Committee is authorized to so employ or appoint, shall be included in the Cost of Acquisition or Total Monthly Costs, as appropriate, and shall be billed to SCPPA or the Project Manager (if other than SCPPA).
- 6.9 Representative's Expenses. Any expenses incurred by any representative of any Project Participant or group of Project Participants serving on the Coordinating Committee or any other committee in connection with his/her duties on such committee shall be paid by the Project Participant or Project Participants which he/she represents and shall not be an expense payable under this Agreement.
- 6.10 Inaction by Committee. It is recognized by SCPPA and the Project Participants that if the Coordinating Committee is unable or fails to agree with respect to any matter or dispute which it is authorized to determine, resolve, approve,

disapprove or otherwise act upon after a reasonable opportunity to do so, or within the time limits specified herein or in any otherwise applicable Project Agreement, then the Project Manager may take such action as in its discretion is necessary for its timely performance under any applicable Project Agreement pending the resolution of any such inability or failure to agree, but nothing herein shall be construed to allow the Project Manager to act in violation of the express terms of any applicable project management agreement or this Agreement.

- 6.11 Compliance with Indenture. It is recognized by SCPPA and the Project Participants that the planning, financing, development, acquisition, operation and maintenance of, and insurance programs relating to, the Project must comply in all respects with requirements of the Indenture and all licenses, permits and regulatory provisions necessary for such planning, financing, development, acquisition, operation and maintenance and it is therefore agreed that, notwithstanding Section 6.10 or any other provision of this Agreement, no action by the Coordinating Committee or the Project Manager (if a designee other than SCPPA) shall require SCPPA to act in any manner inconsistent with any such requirements or to refrain from acting as required by the Power Sales Agreements and if the Coordinating Committee or the Project Manager (if a designee other than SCPPA) shall fail to make recommendations or act with respect to any matter in connection with an action that is required to be taken pursuant to any of the foregoing, SCPPA shall take such action as is appropriate to assure compliance with the foregoing.

7. CHARGES AND BILLINGS.

- 7.1 Monthly Costs. The amount of Monthly Costs which shall be paid by Purchaser for a particular Month shall be the sum of the following, subject to Section 7.9 hereof:
- 7.1.1 Purchaser's Output Cost Share multiplied by the Operating cost component of Total Monthly Costs (as provided in Section 4.7.1 hereof) for such Month.
 - 7.1.2 Purchaser's share of the Supplementary Services cost component of Total Monthly Costs (as provided in Section 4.7.2 hereof) for such Month based on Purchaser's allocated share of any such services procured by SCPPA on behalf of the Purchaser.
 - 7.1.3 Purchaser's Output Cost Share multiplied by the Reserve Fund cost component of Total Monthly Costs (as provided in Section 4.7.3 hereof) for such Month.
 - 7.1.4 Purchaser's Indenture Cost Share as set forth in the Indenture Cost Shares column of Appendix C hereof multiplied by the Indenture cost component of Total Monthly Costs (as provided in Section 4.7.4 hereof) for such Month as the Indenture cost component has been reduced by interest earned on investments of amounts held under the Indenture if and to the extent not

credited against the Cost of Acquisition or has been off-set or reduced by other amounts made available therefor as provided in the Indenture.

- 7.1.5 Purchaser's Output Cost Share multiplied by the Power Purchase and Security Agreements cost component of Total Monthly Costs (as provided in Section 4.7.5 hereof) for such Month.
- 7.2 Billing Statement. By the fifth calendar day of each Month during each Power Supply Year, SCPPA shall bill Purchaser for the amount of Monthly Costs to be paid by Purchaser for the current Month by providing Purchaser with a Billing Statement in accordance with the charges established pursuant to the provisions of this Agreement; provided, however, that such Billing Statement, with respect to Debt Service and other obligations payable from the Debt Service Fund under the Indenture, shall instead include the amount, if any, to be paid by Purchaser with respect to the applicable Bonds and the other obligations payable from the Debt Service Fund that is due and payable in the immediately succeeding Month or as otherwise provided under the Indenture, and provided further, that such Billing Statement, with respect to the cost of Facility Output provided by SCPPA to Purchaser under this Agreement, shall also include with respect to the performance by SCPPA or the counterparty under and pursuant to applicable Project Agreements, a charge or credit to Purchaser with respect to the costs or revenues attributable to Purchaser pursuant to and under any applicable Project Agreement. Such Billing Statement shall detail the costs described in Section 7.1 hereof and shall set forth, among other things, the amounts due for such Month by Purchaser with respect to the items of Monthly Costs set forth in Section 7.1, as such Monthly Costs may be adjusted from time to time in accordance with Section 5 and this Section 7. Such Billing Statement shall be paid by Purchaser on or before 20 days after receipt of such Billing Statement.
- 7.3 Adoption of Alternative Billing Statement Procedures. The Coordinating Committee may recommend the adoption of an alternative Billing Statement billing methodology in connection with each Project Participant's Billing Statement with respect to the Total Monthly Costs and the costs associated with any Project Agreement. Such alternative Billing Statement procedures may be placed into effect with the approval of the same by resolution of the Board of Directors. Any such alternative Billing Statement billing methodology shall satisfy all requirements of the Indenture and shall be fiscally prudent, financially sound and shall assure coverage of all potential and actual costs and obligations of SCPPA.
- 7.4 Disputed Monthly Billing Statement. In case any portion of any Billing Statement received by Purchaser from SCPPA shall be in bona fide dispute, Purchaser shall pay SCPPA the full amount of such Billing Statement and, upon determination of the correct amount, the difference between such correct amount and such full amount, if any, including interest at the rate received by SCPPA on any overpayment, will be credited to Purchaser by SCPPA after such determination; provided, however, that such interest shall not accrue on any overpayment that is acknowledged by SCPPA and returned to Purchaser by the fifth calendar day following the receipt by SCPPA of the disputed overpayment.

In the event such Billing Statement is in dispute, SCPPA will give consideration to such dispute and will advise Purchaser with regard to SCPPA's position relative thereto within 30 days following receipt of written notification by Purchaser of such dispute.

7.5 Reconciliation of Monthly Costs. As soon as practicable after the end of each Power Supply Year, SCPPA will submit to Purchaser and the other Project Participant a detailed statement of the actual aggregate Monthly Costs and other amounts payable hereunder, including any credits thereto, for all of the Months of such Power Supply Year, and the adjustments of the aggregate Monthly Costs and other amounts payable hereunder, if any, for any prior Power Supply Year, based on the annual audit of accounts provided for in Section 6.4. If, on the basis of the statement submitted as provided in this Section 7.5, the actual aggregate Monthly Costs and other amounts payable by the Project Participants for any Power Supply Year exceed the amount thereof which Purchaser and the other Project Participant have been billed, Purchaser and the other Project Participant shall pay SCPPA, within 20 days of receipt of SCPPA's invoice, the amount to which SCPPA is entitled. If, on the basis of the statement submitted pursuant to this Section 7.5, the actual aggregate Monthly Costs or other amounts payable by the Project Participants for any Power Supply Year are less than the amount therefor which Purchaser and the other Project Participant have been billed, SCPPA shall, unless otherwise directed by Purchaser or the other Project Participant with respect to moneys owed to each, credit such excess against Purchaser's and the other Project Participant's next monthly Billing Statement. In the event that the failure of Purchaser to make its payments in accordance with this Agreement shall have resulted in the application of amounts in any reserve or other Fund under the Indenture or this Agreement to the payment of costs payable from such reserve or Fund and the other Project Participant shall have made up the deficiency created by such application or paid additional amounts as a result of a draw on such reserve or Fund, amounts thereafter paid to SCPPA by Purchaser for application to such past due payments including interest shall be credited on the Billing Statements of such other Project Participant in the next Month or Months as provided in Section 15.

7.6 Other or Additional Cost Reconciliation Mechanisms. The Board of Directors may, by resolution, authorize or prescribe other billing, payment, costing and cost reconciliation mechanisms to address such billing, payment, costing and cost reconciliation issues as may from time to time arise with respect to the Project.

7.7 Interest on Late Payments. If Purchaser fails to pay any Billing Statement when due, interest shall accrue, to the extent permitted by law, at a rate equal to the lesser of (i) one percent per Month (12% per annum) on the unpaid amount of the bill or (ii) the monthly equivalent of the "prime" rate of interest as noticed in the Federal Reserve's HR 15 weekly bulletin (or the subsequent equivalent thereof) as of the date of nonpayment on the unpaid amount of the bill, until such Billing Statement is paid.

7.8 Prepayment of Monthly Costs. Purchaser may, at any time, pay moneys to SCPPA or utilize any credits due or amounts owed by SCPPA to Purchaser with respect to the Project for the purpose of prepaying its monthly Billing Statement. Such moneys and amounts owed by SCPPA under any Project Agreement shall be deposited into an account established by, or at the direction of, SCPPA. Consistent with SCPPA's investment policy, moneys in such account shall be invested pursuant to instructions provided to SCPPA by Purchaser and all investment income shall be credited to such account. Payment of the amount of any monthly Billing Statement or Default Invoice shall be made from moneys available in such account to the extent set forth in written directions from Purchaser to SCPPA received at least five business days prior to the due date of such payment. Any credit or prepayment with respect to its monthly Billing Statement shall not relieve or reduce Purchaser's other obligations under this Agreement.

7.9 Costs or Expenses Incurred for Sole Benefit of Purchaser. Notwithstanding anything to the contrary in this Agreement, if a particular cost or expense is incurred by SCPPA for the sole benefit of Purchaser, unless otherwise determined by the Coordinating Committee, then such cost or expense shall be allocated only to Purchaser, in which event only Purchaser (and no other Project Participant) shall be responsible for the payment thereof under this Agreement. Any such cost or expense incurred by SCPPA for the sole benefit of Purchaser shall be deemed to be paid last from amounts paid by Purchaser for the payment of its Billing Statements.

8. UNCONDITIONAL PAYMENT OBLIGATIONS; RATE COVENANT; AUTHORIZATIONS; CONFLICTS; LITIGATION.

8.1 Unconditional Payment Obligation. Beginning with the earliest of (i) the date SCPPA is obligated to pay any portion of the costs of the Project, (ii) the date upon which SCPPA first incurs or accrues costs associated with the issuance of the Bonds, (iii) the date of Commercial Operation of the Primary Facility, or (iv) the date of the first delivery of Facility Output to Purchaser and continuing through the term of this Agreement, Purchaser shall pay SCPPA the amounts of Monthly Costs set forth in the Billing Statements submitted by or on behalf of SCPPA to Purchaser in accordance with the provisions of Section 7 hereof and, without duplication, any amount set forth in any Step-Up Invoices or Default Invoices received by Purchaser as a result of the operation of Section 15 hereof, whether or not the Project or any part thereof has been completed, is functioning, producing, operating or operable or its output is suspended, interrupted, interfered with, reduced or curtailed or terminated in whole or in part, and such payments shall not be subject to reduction whether by offset or otherwise and shall not be conditional upon the performance or nonperformance by any party of any agreement for any cause whatsoever.

8.2 Source of Payments. The Purchaser hereby represents and warrants that the obligations of Purchaser to make the payments to SCPPA under this Agreement shall constitute a cost of purchased power and an operating expense of Purchaser payable solely from its electric revenue fund, including any and all legally

available electric system reserves. Purchaser will annually in each and every fiscal year of Purchaser during the term of this Agreement include in its power system budget, whether or not any other items are included, an appropriation from the revenues of its electric system (including moneys derived from sales to third parties) sufficient to satisfy all the payments required to be made in such year under this Agreement until all payments required under this Agreement have been paid in full.

- 8.3 Rate Covenant. Purchaser will establish, maintain and collect rates and charges for the electric service of its electric system each year so as to provide revenues sufficient, together with any legally available electric system reserves, to enable Purchaser to pay to SCPPA all amounts payable when due under this Agreement and to pay all other amounts payable from, and all lawful charges against or liens on, the revenues of its electric system.
- 8.4 Authorizations. The Purchaser hereby represents and warrants that no order, approval, consent or authorization of any governmental or public agency, authority or person, is required on the part of the Purchaser for the execution and delivery by the Purchaser of this Agreement, or the performance by the Purchaser of its obligations under this Agreement except for such as have been obtained.
- 8.5 Conflicts. Purchaser represents and warrants to SCPPA as of the Effective Date and as of the date of the opinion of counsel referenced in Section 13.4, that, to Purchaser's knowledge, the execution and delivery of this Agreement by Purchaser, and Purchaser's performance thereunder will not constitute a default under any agreement or instrument to which it is a party, or any order, judgment, decree or ruling of any court that is binding on Purchaser, or a violation of any applicable law of any governmental authority, which default or violation would have a material adverse effect on the financial condition of Purchaser's electric revenue fund.
- 8.6 Litigation. Purchaser represents and warrants to SCPPA as of the Effective Date and as of the date of the opinion of counsel referenced in Section 13.4 that, to Purchaser's knowledge, except as disclosed, there are no actions, suits or proceedings pending against Purchaser (service of process on Purchaser having been made) in any court that questions the validity of the authorization, execution or delivery by Purchaser of this Agreement, or the enforceability on Purchaser of this Agreement.

9. OTHER TERMS AND SERVICES.

- 9.1 Delivery Procedures. Prior to the time at which any Energy will be delivered to Purchaser from the Facility, Purchaser will schedule and shall be obligated to take delivery of its Output Entitlement Share of the Energy to be delivered. The Facility Output generated and produced from the Project shall be scheduled and delivered to Project Participants at the Point of Delivery under any development, operating, project management or agency agreement and/or practices and

procedures approved by the Coordinating Committee pursuant to Section 6.2, as applicable.

- 9.2 Other Services and Transmission From Point of Delivery. It is the obligation of Purchaser to receive its share of Facility Output and to arrange for delivery of such Facility Output to its ultimate destination or destinations after having reached the Point of Delivery, as determined by Purchaser. However, to the extent specified by the Purchaser, and to the extent practicable for SCPPA to do so, SCPPA shall assist in arranging for Supplementary Services and for such additional transmission, interconnection arrangements, energy management, firming, shaping, swaps, exchanges or other services associated with the transmission, use or disposition of Facility Output to be utilized by the Purchaser and to provide for delivery, accounting for, transferring and crediting the ownership and transfer of Facility Output from the Point of Delivery to any other points or destinations, as determined by the Purchaser.
- 9.3 Energy Services. Except as otherwise provided in this Agreement and subject to Section 18.1, nothing herein shall prevent or restrict Purchaser from providing for its own transmission, energy management services, firming, balancing, or exchanging services or otherwise using or dispatching its Energy under this Agreement; provided, however, that such services, use or activities shall not affect any of the obligations of Purchaser under this Agreement or, if applicable, result in or cause non-compliance with the Federal Tax Law Requirements, and shall at all times conform to the applicable requirements of Section 10 of this Agreement.
- 9.4 Actions Respecting Facility Purchase. SCPPA shall endeavor to take those actions and carry forth those measures necessary to maintain and preserve SCPPA's rights with respect to any purchase obligation or purchase or acquisition options contained in the Power Purchase and Security Agreements and, if so determined pursuant to the terms of this Agreement, to facilitate any such purchase or acquisition of the Facility pursuant to the terms of the Power Purchase and Security Agreements or under or pursuant to any consents, assignments or any agreements relating thereto, including any purchase of rights or interests under or pursuant to the Facility Credit Agreements. SCPPA's services in connection with any such purchase obligation or purchase option may include but is not limited to determining the advisability of such purchase, preparing such documents and instruments and carrying forth any wind reporting, economic, modeling or appraisal studies as may be desirable to facilitate any proposed transaction and to obtain any necessary or appropriate information in connection with any such potential purchase or acquisition of the Facility.
- 9.5 Balancing Agent and Dynamic Scheduling. Upon the request of Purchaser, SCPPA shall either (i) retain an agent to maintain and balance Purchaser's hourly Energy schedules in accordance with WECC protocols ("Balancing Agent"), including the provision or absorption of imbalance energy to accommodate intra-hour fluctuations of Facility Output as compared to Purchaser's Energy schedule and maintaining a balancing account of

accumulated imbalance energy to be settled by adjusting future Purchaser Energy schedules, (ii) arrange for Dynamic Scheduling from the Point of Delivery to Purchaser's control area or electric system, including the procurement and installation of scheduling hardware, software, and communications equipment necessary to effectuate Dynamic Scheduling, (iii) procure, contract for or otherwise arrange for any available wind integration services to address any of the above referenced imbalances, fluctuations, variability, intermittency, or like conditions or (iv) address the costs, charges or consequences of such imbalances, fluctuations, variability, intermittency, or like conditions through other mechanisms or methodologies which are mutually agreeable to the Purchaser and SCPPA. Any such arrangements (other than arrangements with LADWP) entered into by SCPPA at the request of Purchaser shall be with third parties and negotiated in arms' length transactions, to the extent applicable.

- 9.6 Transfer of Environmental Attributes to Project Participants. SCPPA shall transfer all Environmental Attributes received by SCPPA either under the Power Purchase Agreement or with respect to Facility Output following its purchase or acquisition of the Facility to Purchaser and the other Project Participant in accordance with their respective Output Entitlement Shares in the same manner by which SCPPA receives Environmental Attributes.

10. FEDERAL TAX LAW REQUIREMENTS.

- 10.1 Purchaser to Provide Information Relevant to Compliance with Federal Tax Law Requirements. At such times and through such means as prescribed by the rules, procedures and protocols promulgated by SCPPA to address compliance with the applicable Federal Tax Law Requirements with respect to any Bonds, or pursuant to any request by SCPPA, Purchaser shall provide SCPPA with a tax certificate relating to such Bonds, and such additional information and representations as necessary to establish Purchaser's compliance with the Federal Tax Law Requirements, including, to the extent applicable, information and representations concerning the disposition or use of electric energy provided under this Agreement or the disposition or use of any assets acquired with the proceeds of such Bonds.
- 10.2 Compliance with Federal Tax Law Requirements. With respect to any Bonds, Purchaser agrees that it will promptly act in accordance with written instructions which SCPPA may reasonably require from time to time in connection with the Federal Tax Law Requirements, and in addition Purchaser will not at any time take any action, or fail to take any action, if such action or failure to take action would result in or cause non-compliance with Federal Tax Law Requirements. The Purchaser agrees to execute new or revised tax certificates or provide such information or other assurance respecting past and future compliance with the Federal Tax Law Requirements applicable to any Bonds as may be reasonably requested by SCPPA. In connection therewith, Purchaser shall cooperate with and provide to SCPPA such other information, representations and certifications as necessary for Bond Counsel or Tax Counsel to render an opinion or advise to the effect that any applicable Federal Tax Law Requirements are met.

- 10.3 SCPPA to Issue Rules, Procedures and Protocols. SCPPA shall develop and promulgate such rules, procedures and protocols, together with amendments thereto, as necessary, in consultation with Bond Counsel or Tax Counsel, to ensure compliance with any applicable Federal Tax Law Requirements, including to establish expectations regarding future compliance under applicable laws and regulations existing from time to time with respect to any Bonds, and shall include, without limitation, the appropriate reporting, documentation and certifications to establish and maintain compliance with the provisions of this Section 10.

11. PROJECT SPECIFIC MATTERS AND PROJECT PARTICIPANT RIGHTS AND OBLIGATIONS UNDER PROJECT AGREEMENTS.

- 11.1 Rights and Obligations under the Project Agreements. Notwithstanding anything to the contrary contained herein: (i) the obligation of SCPPA to deliver Purchaser's Output Entitlement Share of Facility Output hereunder during the Delivery Term of the Power Purchase Agreement is limited to the Facility Output which SCPPA receives from the Facility (or the Power Purchase Provider, as applicable) for redelivery to Purchaser hereunder during such time; (ii) the obligation of SCPPA to pay any amount to Purchaser hereunder or to give credits against amounts due from Purchaser hereunder is limited to amounts SCPPA receives in connection with the transaction to which the payment or credit relates (or is otherwise available to SCPPA in connection with this Agreement for which such payment or credit relates); (iii) any purchase costs, operating costs, energy costs, capacity costs, environmental attribute costs, transmission costs, tax costs, insurance costs, indemnifications, other costs or other charges for which SCPPA is responsible under the Project Agreements shall be considered purchase costs, operating costs, energy costs, capacity costs, environmental attribute costs, transmission costs, tax costs, insurance costs, indemnifications, other costs or other charges incurred by SCPPA and payable by Purchaser and the other Project Participant; and (iv) any Force Majeure under the Power Purchase Agreement or other event of force majeure affecting the delivery of energy pursuant to applicable provisions of the Project Agreements shall be considered an event caused by Uncontrollable Forces affecting SCPPA with respect to the delivery of energy and/or environmental attributes hereunder and SCPPA forwarding to Purchaser notices and information from the Power Purchase Provider concerning an event of Force Majeure upon receipt thereof shall be sufficient to constitute a notice that Uncontrollable Forces have occurred pursuant to Section 16.3 of this Agreement. Any net proceeds received by SCPPA from the sale of Guaranteed Generation by the Power Purchase Provider to any third-party purchaser as a result of a Force Majeure event or failure by SCPPA to accept delivery of Energy pursuant to Section 6.5 of the Power Purchase Agreement shall be remitted by SCPPA to Purchaser and the other Project Participant pro rata based upon the respective Output Entitlement Shares of the Project Participants as adjusted to reflect any portion of Glendale's Output Entitlement Share which at that time is being purchased by LADWP pursuant to the Layoff Contract. Such net proceeds remitted by SCPPA to Purchaser (or an equivalent amount thereto) shall be applied by Purchaser to the costs of Purchaser in securing replacement energy for the Guaranteed Generation not

delivered to Purchaser unless SCPPA shall have waived such requirement after consultation with Bond Counsel or Tax Counsel, or Bond Counsel or Tax Counsel shall have rendered an opinion that such application of such net proceeds shall not be required in order to assure compliance with any applicable Federal Tax Law Requirements.

- 11.2 Acquisition of the Facility by SCPPA. The Parties mutually acknowledge and agree that SCPPA may, under certain circumstances, acquire ownership of the Facility and succeed to the rights and obligations associated with the Facility's ownership pursuant to the provisions of the Power Purchase and Security Agreements, including the purchase of rights and interests under the Facility Credit Agreements or pursuant to any security interest in the Project held by any third party, or through foreclosure action (or a deed in-lieu-of foreclosure) or under and pursuant to any of the Security Instruments, or purchase at foreclosure sale, including but not limited to the rights and obligations under joint operating agreements and the ownership of the leasehold estates, rights-of-way and other real property interests upon which the Facility is situated, at such time and under such terms as provided in the Power Purchase and Security Agreements or on such other terms as may be agreed upon between SCPPA and the Power Purchase Provider, or otherwise. The Parties also anticipate that any such acquisition of the Facility may be carried out with SCPPA financing. If SCPPA shall be required to purchase the Facility pursuant to the Power Purchase and Security Agreements or, subject to a Coordinating Committee recommendation and approval of the Board of Directors, SCPPA exercises any option to purchase or acquire the Facility provided in the Power Purchase and Security Agreements or to purchase rights and interests under the Facility Credit Agreements, or otherwise acquires the Facility pursuant to any of the Security Instruments or any of the foregoing, SCPPA may finance the associated Cost of Acquisition through the issuance of Bonds.
- 11.3 Layoff of Glendale Output Entitlement Share to LADWP. The Parties mutually acknowledge that Glendale and LADWP, by way of the Layoff Contract, will transfer all or part of Glendale's Output Entitlement Share from Glendale to LADWP. Glendale and LADWP shall have the authority to effectuate such a transfer and the terms of such a transfer may provide for LADWP to assume responsibility for all of Glendale's obligations under this Agreement, including without limitation Glendale's Output Cost Share and Indenture Cost Share; provided, however, that Glendale shall continue to be responsible for its Output Cost Share and Indenture Cost Share, notwithstanding any arrangement for the transfer of Glendale's Output Entitlement Shares, in the event of any failure of LADWP to timely pay the same. Purchaser agrees to comply with the Federal Tax Law Requirements for all Facility Output received by it pursuant to the Layoff Contract.

12. **PLEDGE OF PAYMENTS.** All or any portion of the payments required to be made by Purchaser in accordance with or pursuant to any provision of this Agreement may be pledged by SCPPA to secure the payment of the Bonds, and interest thereon, subject to the application thereof to such purposes and on such terms as provided in the Indenture, and as required by the Act. SCPPA may assign, among other rights and security, to the Project Trustee or Lender its rights to receive from Purchaser all or any portion of the payments to be made by Purchaser pursuant to this Agreement. SCPPA may direct Purchaser to make all or any portion of such payments directly to the Project Trustee or Lender for application by the Project Trustee or Lender under the Indenture. Notwithstanding the foregoing or any other provision of this Agreement, SCPPA shall not acquire the Facility unless there shall be compliance with the applicable provisions of Section 10 and with the provisions of the Indenture applicable to the acquisition of the Facility.

13. **ISSUANCE OF BONDS.**

13.1 Issuance of Bonds. Bonds will be issued by SCPPA in accordance with this Agreement, the provisions of the Indenture and the Act for the purpose of financing the Cost of Acquisition, which may entail, among other things, the prepayment for Guaranteed Generation, and, if applicable, the purchase or acquisition of the Facility and all associated assets, rights and interests under or pursuant to the Power Purchase and Security Agreements, all other Acquisitions and all Capital Improvements.

13.2 Additional Bonds. Additional Bonds may be issued by SCPPA in accordance with this Agreement, the provisions of the Indenture and the Act at any time and from time to time in the event funds are required for completion of the Project or for the purpose of financing any further Cost of Acquisition or other Acquisitions or Capital Improvements, including without limitation the cost of acquiring the Facility or the rights and interests otherwise described in Section 11.2, and upon the recommendation of the Coordinating Committee and approval of the Board of Directors, SCPPA shall use its best efforts to issue such additional Bonds.

13.3 Refunding Bonds. In the event that Monthly Costs may be reduced by the refunding of any of the Bonds or in the event it shall otherwise, for one or more of the Project Participants, be advantageous, in the opinion of SCPPA, to refund any Bonds, SCPPA may issue and sell refunding Bonds in accordance with the Indenture and the Act.

13.4 Opinions of Counsel. In connection with the issuance of Bonds, additional Bonds or Refunding Bonds for the purposes described in this Section 13, Purchaser shall provide an opinion of an attorney or firm of attorneys, or the equivalent thereof, in substantially the form as attached hereto as Appendix D as may be reasonably necessary to facilitate the issuance of such Bonds.

13.5 Redemption or Payment of Bonds. SCPPA may issue such bonds, notes, certificates of participation, commercial paper, other evidences of indebtedness or other instruments, in accordance with the Indenture and the Act, as it may deem appropriate to facilitate the redemption or payment of Bonds.

13.6 Bond-Related Documents. Purchaser agrees to supply SCPPA, upon written request, with such additional information and documentation as SCPPA shall reasonably determine to be necessary or desirable to facilitate the issuance of Bonds, additional Bonds or refunding Bonds for the purposes described in this Section 13 and to comply with Federal Tax Law Requirements and continuing disclosure requirements including, but not limited to, requirements under the United States Securities and Exchange Commission Rule 15c2-12.

14. **EXCESS BOND PROCEEDS.** In the event the proceeds derived from the sale of any Bonds exceed the aggregate amount required for the purposes for which such Bonds were issued, the amount of such excess shall be used, after prior consultation with Bond Counsel or Tax Counsel, to make up any deficiency existing in any Funds under the Indenture in the manner therein provided, and any balance shall (i) be used to retire, by purchase or redemption, Bonds in advance of maturity, (ii) be deposited in any applicable account established in accordance with Section 7.8 hereof, (iii) reduce the payments by the applicable Project Participants required pursuant to Section 7 hereof, and in such event SCPPA will reduce the monthly Billing Statements of such Project Participants as are necessary and appropriate, or (iv) be used for other lawful Project expenses or purposes.

15. **NONPERFORMANCE AND PAYMENT DEFAULT.**

15.1 Nonperformance by Purchaser. If Purchaser shall fail to perform any covenant, agreement or obligation under this Agreement or shall cause SCPPA to be in default with respect to any undertaking entered into for the Project or to be in default under the Power Purchase Agreement, or any other Project Agreement, as applicable, or cause a default to occur pursuant to such agreements, SCPPA may, in the event the performance of any such obligation remains unsatisfied after 60 days' prior written notice thereof to the Purchaser and a demand to so perform; take any action permitted by law to enforce its rights under this Agreement, including but not limited to termination of this Agreement, and/or (unless SCPPA has already taken action pursuant to the immediately following sentence) bring any suit, action or proceeding at law or in equity as may be necessary or appropriate to recover damages and/or enforce any covenant, agreement or obligation against the Purchaser with regard to its failure to so perform. In addition to any other rights SCPPA may have under this Agreement as a result of nonpayment by the Purchaser, if the Purchaser fails to pay its share of Debt Service in accordance with this Agreement and the result is that SCPPA defaults on the payment of principal of or interest on any Bond or other obligations payable from the Debt Service Fund under the Indenture, SCPPA may, immediately and without delay, take any action permitted by law to enforce its rights under this Agreement and/or bring any suit, action or proceeding at law or in equity as may be necessary or appropriate to recover damages and/or enforce any covenant, agreement or obligation against the Purchaser with regard to its failure to so perform.

15.2 Notice of Payment Default. On or promptly following the Initial Payment Default Date by Purchaser, SCPPA shall issue a Default Invoice and shall provide written notice to Purchaser that as a result of a Payment Default it is in default under this Agreement and has assumed the status of a Defaulting Project

Participant and that Purchaser's Project Rights are subject to discontinuance, termination and disposal in accordance with Sections 15.4 and 15.5 of this Agreement. Notice of such Payment Default shall be provided promptly by SCPPA to the other Project Participant and to the Project Trustee or Lender. In addition to the foregoing, the Notice of Payment Default shall specify that five days after the issuance of the written notice of Payment Default by SCPPA, deliveries of Facility Output to the Purchaser pursuant to this Agreement shall be thereafter suspended until such time as Purchaser is in Compliance. SCPPA may take any action through or in conjunction with the Power Purchase Provider or any other counterparty under a Project Agreement or with the Project Manager, if applicable, to expeditiously carry forth the provisions of this Section 15.

- 15.3 Cured Payment Default. Except for a Payment Default which causes SCPPA to default on the payment of principal of or interest on Bonds or other obligations payable from the Debt Service Fund under the Indenture, which shall be subject to and addressed as provided in Section 15.4 and the other applicable sections of this Agreement, and except as provided in Section 15.14, if after a Payment Default, Purchaser cures such Payment Default within 60 days (the Cure Period) its Project Rights shall not be subject to discontinuance, termination or disposal as provided for in Sections 15.4 and 15.5 of this Agreement as a result of any Payment Default associated with such Cured Payment Default.
- 15.4 Failure to Cure Payment Default. If at any time 60 days after an uncured Payment Default by Purchaser, Purchaser fails to be in Compliance, or if at any time SCPPA defaults on the payment of principal of or interest on any Bond, or other obligations payable from the Debt Service Fund under the Indenture, due to the failure of the Defaulting Project Participant to pay its share of Debt Service in a timely manner in accordance with this Agreement, Purchaser's Project Rights shall immediately be discontinued and terminated and its Project Rights and Obligations shall be disposed of by SCPPA in accordance with Section 15.5 of the Defaulting Project Participant's Power Sales Agreement; provided, however, the Defaulting Project Participant's obligation to make payments under its Power Sales Agreement shall not be eliminated or reduced except to the extent provided in Section 15.6. SCPPA shall provide to the Defaulting Project Participant a separate monthly invoice of any such payment obligations under its Power Sales Agreement. SCPPA shall immediately notify the Project Manager (if other than SCPPA), the other Project Participant and the Project Trustee or Lender, and such others as SCPPA deems appropriate, of such discontinuance and termination of a Defaulting Project Participant's Project Rights.
- 15.5 Treatment of the Defaulting Project Participant's Project Rights and Obligations upon Payment Default of Defaulting Project Participant. In the event Defaulting Project Participant's Project Rights are discontinued and terminated pursuant to Section 15.4 of its Power Sales Agreement, SCPPA shall undertake or cause to be undertaken the following actions in the order indicated:
- 15.5.1 SCPPA shall offer to convey, transfer and assign to all non-Defaulting Project Participants, on a temporary or permanent basis as determined by

SCPPA, the Project Rights and Obligations of Defaulting Project Participant, and SCPPA shall so convey, transfer and assign on such basis so determined by SCPPA to (i) all requesting non-Defaulting Project Participants the amount of Project Rights and Obligations requested if the aggregate of such requests does not exceed the amount of the Project Rights and Obligations of the Defaulting Project Participant, or (ii) all requesting non-Defaulting Project Participants on a pro-rata basis (based upon the amount requested) if the aggregate of such requests exceeds the amount of the Project Rights and Obligations of the Defaulting Project Participant; provided, however, that SCPPA shall not offer or permit the conveyance, transfer or assignment of Defaulting Project Participant's Project Rights and Obligations in such a manner or in such an amount as, in the opinion of Bond Counsel or Tax Counsel, would violate any provision of the Indenture or result in or cause non-compliance with the Federal Tax Law Requirements relating to (if applicable) the Bonds. Each such requesting non-Defaulting Project Participant shall assume all, but not less than all, Project Rights and Obligations so conveyed, transferred and assigned to it by SCPPA.

- 15.5.2 If all of Defaulting Project Participant's Project Rights and Obligations are not conveyed, transferred and assigned to non-Defaulting Project Participants as provided in Section 15.5.1 of its Power Sales Agreement, SCPPA shall, to the extent SCPPA in its discretion determines it appropriate, offer to convey, transfer and assign, on a temporary or permanent basis as determined by SCPPA, the remaining (or all, if applicable) of Defaulting Project Participant's Project Rights and Obligations to third parties, all in accordance with applicable law; provided, however, that SCPPA shall not offer or permit the conveyance, transfer or assignment of Defaulting Project Participant's Project Rights and Obligations in such a manner or in such an amount as would, in the opinion of Bond Counsel or Tax Counsel, result in or cause non-compliance with the Federal Tax Law Requirements relating to (if applicable) the Bonds. Each such requesting third party shall assume all, but not less than all, Project Rights and Obligations so conveyed, transferred and assigned to it by SCPPA.
- 15.5.3 If, at any time or from time to time, any of the Project Rights and Obligations of a Defaulting Project Participant are not conveyed, transferred and assigned as provided in Sections 15.5.1 or 15.5.2 of its Power Sales Agreement, SCPPA shall use its best efforts, to the extent reasonably possible and economically beneficial, to offer all non-Defaulting Project Participants and third parties, for long-term or short-term sale as determined by SCPPA, Facility Output associated with such Project Rights and Obligations or to remarket or resell such Facility Output, or cause the same to be remarketed or resold; provided, however, that SCPPA shall not offer or permit the sale or remarketing of such Facility Output associated with Defaulting Project Participant's Project Rights in such a manner or in such an amount as would, in the opinion of Bond Counsel or Tax Counsel, result in or cause non-compliance with the Federal Tax Law Requirements

relating to (if applicable) the Bonds; and provided further, however, that without eliminating Defaulting Project Participant's obligation to make payments under its Power Sales Agreement (notwithstanding anything to the contrary in this Agreement), including payment of SCPPA's costs and expenses related to such default and sale, such payment obligation shall be satisfied to the extent that payments are received by SCPPA from the remarketing or sale of Facility Output associated with Defaulting Project Participant's Project Rights. If at the time of any Coordinating Committee meeting, any of Defaulting Project Participant's Project Rights and Obligations are not conveyed, transferred and assigned as provided in Sections 15.5.1 or 15.5.2, the associated voting rights with respect to Defaulting Project Participant's Project Rights and Obligations shall be redistributed pro rata among the non-Defaulting Project Participants, based upon each non-Defaulting Project Participant's Output Entitlement Share, so that the total voting rights remain at 100%.

Except as provided in this Section 15.5 or otherwise in this Agreement, SCPPA may not convey, transfer or assign any Project Participant's Rights and Obligations without the prior written consent of the Project Participant.

- 15.6 Elimination or Reduction of Payment Obligations. Upon termination of Defaulting Project Participant's Project Rights pursuant to Section 15.5 and conveyance, transfer or assignment of Defaulting Project Participant's Project Rights and Obligations pursuant to Sections 15.5.1 or 15.5.2, Defaulting Project Participant's obligation to make payments under its Power Sales Agreement (notwithstanding anything to the contrary in this Agreement) shall not be eliminated or reduced except to the extent of moneys received by SCPPA as a result of the conveyance, transfer and assignment of Defaulting Project Participant's Project Rights and Obligations, less SCPPA's related costs and expenses; provided, however, such payment obligations for Defaulting Project Participant may be eliminated or reduced to the extent permitted by law, if (a) no Bonds are outstanding or adequate provision for the payment thereof has been made in accordance with the applicable provisions of the Indenture and (b) the Board of Directors, by resolution, determines to eliminate or reduce such payment obligations, which determination shall not be unreasonably withheld.
- 15.7 Use of Operating Reserve Account. With respect to a Payment Default by Purchaser, funds in the operating reserve account, if any, under the Indenture may be used, to the extent necessary and to the extent available and consistent with the Indenture, to cover any deficiency with respect to any payment due by SCPPA attributable to Purchaser's participation in the Project under the Indenture during the period prior to the Operating Reserve Depletion Date. Any replenishing of the operating reserve account under the Indenture shall be in accordance with the Indenture.
- 15.8 Use and Replenishment of Debt Service Reserve Fund(s). SCPPA may maintain Debt Service Reserve Fund(s) which shall be funded and maintained in the amount(s) specified in the Indenture. With respect to a Payment Default by Purchaser, funds (or any surety bond, credit facility or similar instrument) in the

Debt Service Reserve Fund(s) under the Indenture shall be used, to the extent necessary and to the extent available, to cover any shortfall in the Debt Service account(s) relating to the Indenture to pay for Debt Service (but, unless otherwise provided in the Indenture, not the payment of other obligations payable from amounts deposited in the Debt Service Fund). The replenishment of the Debt Service Reserve Fund(s) shall be in accordance with the Indenture.

15.9 Step-Up Invoices. Step-Up Invoices shall be issued in accordance with the provisions set forth below.

15.9.1 In the event of a Payment Default by one or more Project Participants, SCPPA shall provide by the fifth day of the month following such Payment Default(s) a separate Step-Up Invoice to each non-Defaulting Project Participant that specifies the non-Defaulting Project Participant's pro rata share, based upon the Indenture Cost Shares of all non-Defaulting Project Participants, of the amount of the Payment Defaults with respect to the Indenture cost component (described in Section 4.7.4 hereof) set forth in the Billing Statement(s) for the Defaulting Project Participant(s). Notwithstanding the previous sentence, (i) the amount of a Step-Up Invoice provided to a non-Defaulting Project Participant under this Section 15.9.1 shall not exceed 10% of the amount that such non-Defaulting Project Participant was billed for the Indenture cost component (described in Section 4.7.4 hereof) in its Billing Statement for the Month preceding such monthly Step-Up Invoice and (ii) following the Operating Reserve Depletion Date, the provisions of Section 15.9.2 hereof shall apply and no additional Step-Up Invoices shall be issued pursuant to this Section 15.9.1 with respect to such Payment Default.

15.9.2 In the event of a Payment Default by one or more Defaulting Project Participants, which is in existence following the Operating Reserve Depletion Date, SCPPA shall provide by the fifth day of the Month following such Operating Reserve Depletion Date, a separate Step-Up Invoice to each non-Defaulting Project Participant that includes a charge equal to the non-Defaulting Project Participant's pro rata share, based upon the Output Cost Shares of all non-Defaulting Project Participants, of the amount of Total Monthly Costs reflected in the unpaid Billing Statements for the previous Month for such Defaulting Project Participant(s). Notwithstanding the foregoing, the amount of each monthly Step-Up Invoice provided to a non-Defaulting Project Participant shall not exceed 10% of the aggregate amount that such non-Defaulting Project Participant was billed with respect to Total Monthly Costs in its Billing Statement for the Month preceding such monthly Step-Up Invoice.

15.9.3 Step Up Invoices shall be due and payable within 20 days of the receipt thereof, and payments to SCPPA with respect to Step-Up Invoices shall be separate from any other payments due under each Project Participant's Power Sales Agreement, including but not limited to monthly Billing Statement payments.

15.10 Application of Moneys Received from Step-Up Invoices Relating to the Project. Moneys received by or on behalf of SCPPA from the payment of Step-Up Invoices relating to a Payment Default of a Project Participant shall be applied in the following manner:

15.10.1 Moneys received from Project Participants with respect to the Indenture cost component (described in Section 4.7.4 hereof), as set forth in the Step-Up Invoices, to the extent such moneys relate to Debt Service, shall be forwarded to the Project Trustee or Lender for deposit directly into the Debt Service Fund under the Indenture, and to the extent such moneys relate to any other portion of the Indenture cost component, shall be forwarded to the Project Trustee or Lender for deposit into such other Funds as are appropriate under the Indenture.

15.10.2 Moneys received from the Project Participants with respect to the amount of Total Monthly Costs (described in Section 4.7 hereof, other than Section 4.7.4) as set forth in the Step-Up Invoices, shall be forwarded to the Project Trustee or Lender for deposit into the Revenue Fund under the Indenture, as appropriate, or into such other Funds as are appropriate under the Indenture.

15.10.3 In the event a Project Participant pays less than the total amount of its Step-Up Invoice, such Project Participant shall be a Defaulting Project Participant and its partial payment shall be allocated in the following order: (i) all Total Monthly Costs (described in Section 4.7 hereof) except the Indenture cost component described in Section 4.7.4 hereof, and (ii) the Indenture cost component (described in Section 4.7.4 hereof).

15.11 Application of Moneys Received from Default Invoices. Moneys received by or on behalf of SCPPA from the payment of Default Invoices shall be forwarded by SCPPA to the Project Trustee or Lender for deposit into the Revenue Fund of the Indenture, as appropriate, or into such other Funds as are appropriate under the Indenture. SCPPA shall credit on each non-Defaulting Project Participant's next monthly Billing Statement or Billing Statements an amount equal to the aggregate amount such non-Defaulting Project Participant paid as a result of Step-Up Invoices with respect to such Default Invoice, plus a pro rata share, based upon the Output Cost Shares of the non-Defaulting Project Participants, of the amount SCPPA received regarding late payment interest charges. In the event a Defaulting Project Participant pays less than the full amount of its Default Invoice, the credit to each non-Defaulting Project Participant shall be adjusted proportionately.

15.12 Application of Moneys Received from Compliance Payments. Moneys received by or on behalf of SCPPA from a Defaulting Project Participant that makes payments to remain in Compliance with respect to a Payment Default shall be applied in the following manner:

15.12.1 With respect to a Defaulting Project Participant's first payment to remain in Compliance, SCPPA shall forward or cause to be forwarded the moneys

received to the Project Trustee or Lender to be deposited into the Revenue Fund of the Indenture, as appropriate, or into such other Funds as are appropriate under the Indenture. SCPPA shall provide a credit on each non-Defaulting Project Participant's next monthly Billing Statement(s) an amount equal to the aggregate amount such non-Defaulting Project Participant paid as a result of Step-Up Invoices with respect to such Compliance payment, plus a pro rata share, based upon the Output Cost Shares of the non-Defaulting Project Participants, of the amount SCPPA received regarding late payment interest charges.

15.12.2 With respect to a Defaulting Project Participant's payments to remain in Compliance other than the first payment (as provided in Section 15.12.1 hereof), SCPPA shall forward or cause to be forwarded the moneys received to the Project Trustee or Lender for deposit into the Revenue Fund of the Indenture, as appropriate, or into such other Funds as are appropriate under the Indenture.

15.13 Application of Moneys Received from Sale of Facility Output. Moneys received by or on behalf of SCPPA from the sale of Facility Output related to a Defaulting Project Participant's Project Rights and Obligations, as provided in Section 15.5.3 hereof, shall be applied in the following manner in order:

15.13.1 SCPPA shall credit on each non-Defaulting Project Participant's next monthly Billing Statement(s) an amount up to, but not in excess of, the aggregate amount paid to SCPPA by such non-Defaulting Project Participant with respect to each such non-Defaulting Project Participants Step-Up Invoices.

15.13.2 SCPPA shall forward or caused to be forwarded to the applicable Project Trustee or Lender for deposit into the Revenue Fund of the Indenture, as appropriate, or into such other Funds as are appropriate under the Indenture, the applicable portion of such moneys.

15.13.3 Following consultation with the non-Defaulting Project Participants, SCPPA shall determine the disposition of any moneys received that are in excess of the aggregate amount of related Step-Up Invoices paid by non-Defaulting Project Participants. Unless the Coordinating Committee determines otherwise, or except as otherwise required by law, the Defaulting Project Participant shall have no claim or right to any such monies.

15.14 Limitation on Cure Period. Notwithstanding anything to the contrary in this Agreement, there shall be no Cure Period with respect to Purchaser's failure to pay those costs constituting its share of Debt Service in a timely manner in accordance with this Agreement, and any such Debt Service not paid by the Purchaser when due shall be immediately due and payable to SCPPA.

16. CHARACTER, CONTINUITY OF SERVICE.

- 16.1 Outages, Interruptions and Curtailment of Energy Deliveries. The Power Purchase Provider or other counterparty may under certain conditions set forth in the applicable provisions of a Project Agreement or other applicable operating agreement, interrupt or curtail deliveries of Facility Output to Purchaser and the other Project Participant (which SCPA will attempt, as appropriate, to cause the Power Purchase Provider or other appropriate counterparty to allocate in proportion to each Project Participant's respective Output Entitlement Shares) under prescribed circumstances pursuant to the applicable provisions of a Project Agreement or other applicable operating agreement. Should such an interruption or curtailment occur Purchaser shall be credited with such revenues as are credited to SCPA on Purchaser's behalf and shall be obligated to pay any costs incurred by SCPA attributable to Purchaser which are payable by SCPA pursuant to the Power Purchase Agreement, other applicable Project Agreement or other applicable operating agreement. SCPA or the Project Manager (if other than SCPA) or SCPA's agent will use its best efforts to apprise Purchaser and the other Project Participant of potential outages, interruptions or curtailments, the reason therefor and the probable duration thereof, when such outages, interruptions or curtailments can be deemed likely to occur.
- 16.2 Outages, Interruptions and Curtailment of Energy from the Facility. Following SCPA's purchase or acquisition of the Facility, SCPA or its agent or the Project Manager, as applicable, may temporarily interrupt or curtail deliveries of Facility Output to Purchaser and the other Project Participant in proportion to their respective Output Entitlement Shares if SCPA or its agent or the Project Manager, as applicable, shall determine that such interruption or curtailment is necessary in the case of an emergency or in order to take out of service the Facility or any portion thereof; or to install equipment in or make repairs to or replacements, investigations and inspections of or to perform other maintenance work on the Facility or any portion thereof; provided, however, that such interruption or curtailment shall not relieve Purchaser or the other Project Participant of its obligations to make payments under its respective Power Sales Agreement. After informing Purchaser and the other Project Participant regarding any such planned interruption or curtailment, giving the reason therefor, and stating the probable duration thereof, SCPA, its agent or the Project Manager, as applicable, will to the best of its ability schedule such interruption or curtailment at a time which will cause the least interference with the system operations of Purchaser and the other Project Participant.
- 16.3 Uncontrollable Forces. SCPA shall not be required to provide, and SCPA shall not be liable for failure to provide, Facility Output or other service under this Agreement when such failure or the cessation or curtailment of or interference with the service is caused by Uncontrollable Forces or by the inability of SCPA, the Power Purchase Provider or other applicable counterparty to obtain any required governmental permits, licenses or approvals to enable SCPA or the Power Purchase Provider, as applicable, to acquire, administer or operate the Project; provided, however, that Purchaser and the other Project Participant shall not thereby be relieved of their obligations to

make payments under their respective Power Sales Agreements except to the extent SCPPA is so relieved pursuant to the Indenture and/or other applicable Project Agreements.

17. SEVERAL OBLIGATION; LIABILITY.

17.1 Project Participants' Obligations Several. Purchaser and the other Project Participant shall be severally responsible and liable for performance under their respective Power Sales Agreements, and for any respective arrangements which are not part of the Project. The obligation of Purchaser to make payments under this Agreement is a several obligation and not a joint obligation with those of the other Project Participant under the other Power Sales Agreement to which such Project Participant is a party.

17.2 No Liability of SCPPA, Directors, Officers, Etc.; SCPPA Directors, Officers, Employees, Project Manager Not Individually Liable. Purchaser agrees that neither SCPPA, the Project Manager, nor any of their directors, officers, or employees shall be liable to Purchaser for any and all claims, including loss of profits, direct or consequential loss, or damage suffered by Purchaser as a result of (i) the performance or non-performance by the Power Purchase Provider or the Project Manager or any of its directors, officers, and employees under this Agreement or any Project Agreement (including negligent or grossly negligent acts or omissions and excluding willful misconduct) or (ii) the performance or non-performance of SCPPA, the Project Manager, or any of their directors, officers, or employees under this Agreement or any Project Agreement (including negligent or grossly negligent acts or omissions and excluding willful misconduct). Purchaser releases SCPPA and its directors, officers, and employees and the Project Manager from any claim or liability that Purchaser may have cause to assert as a result of any actions or inactions of SCPPA under this Agreement or the performance or non-performance by the Project Manager under this Agreement or any Project Agreement (including negligent or grossly negligent acts or omissions and excluding willful misconduct). No such performance or non-performance by the Project Manager, the Power Purchase Provider, or SCPPA shall relieve Purchaser from its obligations under this Agreement, including its obligation to make payments required under this Agreement. The provisions of this Section 17.2 shall not be construed so as to relieve the Project Manager or the Power Purchase Provider from any obligation (or liability in the case of the Power Purchase Provider) under this Agreement, the Power Purchase and Security Agreements or any other applicable Project Agreement. It is also hereby recognized and agreed that no member of the Board of Directors, the Project Manager, nor their officers or employees or member of SCPPA in its capacity as a member of SCPPA, shall be individually liable in respect of any undertakings by SCPPA under this Agreement or any Project Agreement.

17.3 Extent of Exculpation; Enforcement of Rights. The exculpation provision set forth in Section 17.2 hereof shall apply to all types of claims or actions including, but not limited to, claims or actions based on contract or tort. Notwithstanding the foregoing, Purchaser may protect and enforce its rights

under this Agreement by a suit or suits in equity for specific performance of any obligations or duty of SCPPA, and Purchaser shall at all times retain the right to recover, by appropriate legal proceedings, any amount determined to have been an overpayment by Purchaser in accordance with Section 7.4 hereof.

- 17.4 Determination or Enforcement of Rights. Notwithstanding Section 17.2 and 17.3 hereof, Purchaser or SCPPA may determine, protect and enforce its rights under this Agreement or any Project Agreement by a suit(s) in equity for specific performance of, or declaratory action with respect to, any obligation or duty hereunder or thereunder.
- 17.5 No Relief From Insurer's Obligations. Notwithstanding any provision in this Agreement to the contrary, including but not limited to the provisions in this Section 17, the provisions of this Section 17 shall not be construed or applied so as to relieve any insurer of its obligation to pay any insurance claims in accordance with any applicable insurance policy.
- 17.6 No General Liability of SCPPA. The undertakings under this Agreement by SCPPA, or the Project Manager in its capacity as such, shall never constitute a debt or indebtedness of SCPPA or the Project Manager within the meaning of any provision or limitation of the Constitution or statutes of the State of California and shall not constitute or give rise to a charge against its general credit.

18. RESTRICTIONS ON DISPOSITION.

- 18.1 Limitations Concerning Private Use. Purchaser recognizes that certain Federal Tax Law Requirements, if applicable, limit the arrangements permitted with respect to the purchase, sale, assignment or other disposition of Purchaser's Project Rights and Obligations. Purchaser shall comply with the rules, procedures and protocols promulgated by SCPPA pursuant to Section 10.3 with respect to compliance with the Federal Tax Law Requirements, applicable, to any Bonds. Except as provided in Section 11.3 or Section 15 hereof, no sale, assignment or other disposition of all or any portion of Purchaser's Project Rights and Obligations, including the Purchaser's Output Entitlement Share of Facility Output produced by the Project, shall be effective until (i) Purchaser shall have given prior written notice thereof to SCPPA, and (ii) unless waived by the Board of Directors after consultation with Bond Counsel or Tax Counsel, Bond Counsel or Tax Counsel shall have rendered an opinion that such sale, assignment or other disposition will not result in or cause non-compliance with any applicable Federal Tax Law Requirements and will not be inconsistent with the Power Sales Agreements. Notwithstanding the immediately preceding sentence, Purchaser may (without giving such notice or obtaining such opinion) contract to provide or otherwise sell or dispose of the Facility Output to which it is entitled hereunder in a transaction which complies with guidelines established by SCPPA and approved by SCPPA's Bond Counsel or Tax Counsel from time to time.

18.2 Restrictions on Elimination of Payment Obligations. No sale, assignment or other disposition of Purchaser's Project Rights and Obligations to any Person ("Assignee") that occurs when any Bonds are outstanding shall release Purchaser from its payment obligations under this Agreement; provided, however, such payment obligations may be eliminated or reduced if no Bonds are outstanding or adequate provisions for the payment thereof have been made in accordance with the provisions of the Indenture if (i) such Assignee shall assume and agree to fully perform and discharge the Project Rights and Obligations under this Agreement, (ii) such Assignee shall have a corporate or long-term senior unsecured credit rating not less than investment grade, and (iii) the Board of Directors, by resolution, determines to eliminate or reduce such payment obligations, which determination shall not be unreasonably withheld.

18.3 Restrictions on Disposition of Purchaser's Entire System. Purchaser shall not sell, lease or otherwise dispose of all or substantially all of its electric system to any Person ("Acquiring Entity") unless the following conditions shall be met: (A) in the event that Bonds are outstanding then (i) Purchaser shall assign its Project Rights and Obligations hereunder to such Acquiring Entity and such Acquiring Entity shall assume and agree to fully perform and discharge the Project Rights and Obligations under this Agreement, (ii) such sale, lease or other disposition shall not, in and of itself, cause the rating of any Bonds to be downgraded, suspended or withdrawn (which fact shall be evidenced by letters of the rating agencies then rating the Bonds), and (iii) such sale, lease or other disposition will not adversely affect the value of this Agreement as security for the payment of the Indenture cost component; (B) in the event that no Bonds are outstanding or adequate provisions for the payment thereof have been made in accordance with the provisions of the Indenture then (i) such Acquiring Entity shall assume and agree to fully perform and discharge the Project Rights and Obligations under this Agreement, and (ii) such Acquiring Entity shall have a corporate or long-term senior unsecured credit rating not less than investment grade; and (C) in all cases, unless waived by SCPPA after consultation with Bond Counsel or Tax Counsel, Bond Counsel or Tax Counsel shall have rendered an opinion that such sale, lease or other disposition will not result in or cause non-compliance with any applicable Federal Tax Law Requirements with respect to any Bonds.

18.4 Successors and Assigns. Subject in all respects to Sections 15 and 18 hereof, the Project Rights and Obligations under this Agreement shall inure to the benefit of and shall be binding upon the respective successors and assigns of the parties to this Agreement.

19. **REIMBURSEMENT OF PROJECT DEVELOPMENT COSTS.** Within 90 days after the issuance of the first Bonds all of the following project development costs and expenses and other applicable costs for Development Work, paid by Purchaser prior to the date of such issuance, to the extent reimbursable under applicable tax law and regulations, shall be reimbursed to Purchaser by SCPPA from the proceeds of the Bonds (in an amount determined by the Coordinating Committee or Board of Directors, as appropriate): costs of planning and development of the Project; costs relating to any acquisition of the Project; costs of investigation and feasibility studies; technical, legal and financing expenses; legal

costs including but not limited to the costs of Bond Counsel, Tax Counsel, electric utility counsel, secured transaction and real estate specialists, wind energy counsel, environmental counsel, bankruptcy counsel, and counsel experienced in securing and facilitating this transaction under California, Washington, and Federal law, costs of obtaining permits, clearances, licenses, entitlements and approvals or other governmental authorizations, options or rights therein; costs of preparing agreements or other documents; and other costs relating to the Project in amounts determined by the Coordinating Committee.

20. EFFECTIVE DATE, TERM AND EXPIRATION.

- 20.1 Effective Date; Execution in Counterparts. This Agreement shall become effective on the first day when each and all of the following shall have occurred: (i) this Agreement shall have been duly executed and delivered by SCPPA and Purchaser, (ii) the Power Purchase Agreement shall have been duly executed and delivered by SCPPA and the Power Purchase Provider, and (iii) the Power Sales Agreement between SCPPA and the other Project Participant shall have been duly executed and delivered by the parties thereto. Once the Power Purchase Agreement has been executed and delivered as set forth above, SCPPA shall deliver a copy of the same to Purchaser. This Agreement may be executed in any number of counterparts, each of which shall constitute an original.
- 20.2 Termination Conditions. This Agreement shall be effective upon satisfaction of the conditions set forth in Section 20.1 and shall extend for the term specified in Section 20.3 unless earlier terminated pursuant to an express provision of this Agreement, or by operation of the Indenture or of law; provided, however, that (i) any obligation to make payments to SCPPA or any outstanding liability of Purchaser hereunder which either exists or may exist as of the date of termination of this Agreement, or which comes into existence at any future time as a result of any activity or transaction carried forth under this Agreement, shall survive such termination and (ii) any obligation of SCPPA or Purchaser hereunder to comply with the Federal Tax Law Requirements shall continue until such time as provided in Section 23.3.
- 20.3 Expiration. The term of this Agreement shall begin on the day this Agreement becomes effective pursuant to Section 20.1 hereof. Unless terminated earlier pursuant to Sections 20.4 or 20.5 and subject to Section 23 hereof, the term of this Agreement shall expire on the later of: (i) the date SCPPA's Joint Powers Agreement (including any extensions thereof) expires or (ii) the date on which all Bonds and the interest thereon shall have been paid in full or adequate provision for such payment shall have been made and the Bonds are no longer outstanding; provided, however, that in no event shall the term of this Agreement expire so long as the Power Purchase Agreement is of any force or effect.
- 20.4 Transfer of SCPPA Interest. Except as provided in Section 20.5 hereof, and subject to any applicable provisions of any associated operating agreements, upon the expiration of the term of this Agreement pursuant to Section 20.3 hereof, in the event SCPPA shall have purchased or acquired the Facility, SCPPA shall transfer to the Project Participants and each Project Participant shall assume its pro rata share (as adjusted pursuant to Section 4.3 of the Layoff

Contract) of any right, title and interest in the Facility (including all rights and obligations of SCPPA under any Project Agreement) as evidenced by a participation agreement developed by SCPPA and the Project Participants, unless otherwise agreed to by SCPPA and all of the Project Participants. The purchase price and consideration to be paid to SCPPA by Purchaser for such transfer shall consist of the payments made by Purchaser pursuant to this Agreement prior to the date of such transfer plus any remaining costs or obligations incurred by SCPPA in connection with the Facility.

20.5 Termination of Agreement before Expiration Date. Notwithstanding the expiration date set forth in Section 20.3 hereof, this Agreement shall terminate, subject to Section 23 hereof, on the date, if any, by which each and all of the following have occurred:

20.5.1 All Bonds and the interest thereon shall have been paid in full or adequate provision for such payment shall have been made and the Bonds are no longer outstanding under the Indenture;

20.5.2 SCPPA notifies Purchaser that all Power Sales Agreements are superseded as a result of each Project Participant having (i) succeeded to SCPPA's rights through another agreement or agreements, (ii) entered into a replacement power sales agreement or other agreement with SCPPA or (iii) entered into a replacement power sales agreement or other agreement with one or more Project Participants which have become Project Participants in the Project under another agreement. The purchase price and consideration to be paid to SCPPA by Purchaser with respect to any such superseding arrangement shall consist of the payments and satisfaction of all obligations by Purchaser under and pursuant to this Agreement prior to the effective date of the superseding arrangement plus any remaining costs or obligations incurred by SCPPA in connection with the Facility; and

20.5.3 The Power Purchase Agreement shall no longer be of any force or effect.

21. RELATIONSHIP TO AND COMPLIANCE WITH OTHER INSTRUMENTS.

21.1 Agreement Subject to the Indenture. It is recognized by the Parties hereto that SCPPA, in undertaking the planning and financing, development, acquisition, operation and maintenance of the Project, must comply with the requirements of the Indenture and all conditions, permits and approvals or other governmental authorizations necessary for such planning, financing, development, acquisition, operation and maintenance and it is therefore agreed that this Agreement is made subject to the provisions of the Indenture and all such conditions, permits, approvals and governmental authorizations.

21.2 Comply With the Indenture. SCPPA covenants and agrees for the benefit of Purchaser to comply in all material respects with all terms, conditions and covenants of the Indenture and all conditions, permits, approvals and governmental authorizations relating to the Project, provided that SCPPA shall not be prevented from contesting the validity or applicability of any such

conditions, permits, approvals and governmental authorizations in good faith by appropriate proceedings.

22. **SEVERABILITY.** In case any one or more of the provisions of this Agreement shall for any reason be held to be illegal or invalid by a court of competent jurisdiction, it is the intention of each of the Parties hereto that such illegality or invalidity shall not affect any other provision hereof, but this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein unless a court holds that the provisions are not separable from all other provisions of this Agreement.

23. **CONDITIONS TO TERMINATION OR AMENDMENT.**

23.1 No Adverse Effect. So long as any of the Bonds are outstanding under the Indenture, this Agreement shall not be terminated, amended, modified or otherwise altered in such a manner (i) as will materially reduce the payments pledged as security for the Bonds or extend the time of such payments provided herein, (ii) as will materially impair or materially adversely affect the rights of the owners from time to time of any Bonds, or (iii) as would be prohibited by any applicable provision of the Indenture.

23.2 Rights Among Project Participants. None of the Power Sales Agreements may be terminated as to any one or more of the Project Participants, or be amended as to any one or more of the Project Participants so as to provide terms and conditions materially different from those contained therein except, subject to the provisions of Section 23.1 and consistent with the Indenture, upon written notice to and written consent or waiver by the other Project Participant, and upon similar amendment, if appropriate, being made to the Power Sales Agreement of the other Project Participant requesting such amendment after receipt by such Project Participant of written notice of such amendment.

23.3 Continuing Compliance with Federal Tax Law Requirements. Notwithstanding anything contained in the Power Sales Agreements to the contrary, all obligations of SCPPA and the Project Participants with respect to compliance with Federal Tax Law Requirements with respect to any Bonds shall survive any termination of the Power Sales Agreements until such time as all Bonds to which such Federal Tax Law Limitations shall apply shall have been fully paid or redeemed and discharged or such earlier time as SCPPA shall determine upon consultation with Bond Counsel or Tax Counsel, or Bond Counsel or Tax Counsel shall have rendered an opinion to the effect that such Federal Tax Law Requirements shall no longer be applicable.

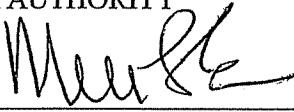
24. **REPRESENTATION AND GOVERNING LAW.** The Parties acknowledge that each Party was represented by counsel in the negotiation and execution of this Agreement. This Agreement was made and entered into in the County of Los Angeles and shall be governed by, interpreted and enforced in accordance with the laws of the State of California. All litigation arising out of, or relating to this Agreement, shall be brought in a State or Federal court in the County of Los Angeles in the State of California. The Parties irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of California and waive any defense of *forum non conveniens*.

25. **ARBITRATION AND ATTORNEYS' FEES.** If a dispute arises between the Parties which the Coordinating Committee or the Board of Directors is unable to resolve, the Parties may by mutual agreement submit the dispute to mediation or non-binding arbitration. With respect to any such dispute the Parties agree that each Party shall bear its own attorneys fees and costs. Notwithstanding the foregoing, Purchaser and SCPPA recognize and agree that SCPPA's attorneys fees associated with any matter relating to the Project or this Agreement, including any dispute relating thereto, shall constitute a Project cost which shall be allocated and billed as set forth in Sections 4 and 7 of this Agreement.
26. **PURCHASER'S CONTRACT ADMINISTRATOR.** Purchaser's contract administrator for this Agreement shall be the person so designated by the individual authorized to receive notices on behalf of Purchaser pursuant to Section 27 herein, and Purchaser's contract administrator shall have the authority to administer this Agreement on behalf of Purchaser. Notwithstanding the foregoing, Purchaser's contract administrator shall have no authority to amend this Agreement on behalf of the Purchaser.
27. **NOTICES.** Any notice, demand or request provided for in this Agreement shall be in writing and shall be deemed properly served, given or made if delivered in person or sent by registered or certified mail, postage prepaid, to the persons specified below:
- Southern California Public Power Authority
Attention: Executive Director
225 South Lake Avenue, Suite 1250
Pasadena, California 91101
- Los Angeles Department of Water and Power
Attention: General Manager
RE: Power System Contract
111 N. Hope Street, Room 921
Los Angeles, California 90012
28. **AMENDMENTS.** The Parties acknowledge and agree that any amendment to this Agreement shall be in writing and duly executed by the Parties.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have duly caused this Agreement to be executed on their respective behalves by their duly authorized representatives.

SOUTHERN CALIFORNIA PUBLIC
POWER AUTHORITY


By: 
MARCIE L. EDWARDS
President

Attest: 
BILL D. CARNAHAN
Assistant Secretary

CITY OF LOS ANGELES acting by and through its
DEPARTMENT OF WATER AND POWER

APPROVED AS TO FORM AND LEGALITY
ROCKARD J. DELGADILLO, CITY ATTORNEY

By: _____
H. DAVID NAHAI
Chief Executive Officer and General Manager

JUN 30 2009
BY 
FAYA CHU
Assistant City Attorney

And: _____
Secretary of the Bd. of Water and Power Commissioners

APPENDIX A

DEFINITIONS

The following terms, whether in the singular or the plural, and initially capitalized, shall have the meanings specified below:

1. Acquisition. Acquisition shall entail the procurement of SCPPA's rights and obligations pursuant to the Power Purchase Agreement and applicable Project Agreements, prepayment for Energy pursuant to the Power Purchase Agreement, any purchase of the Facility, including the purchase of rights and interests under any of the Power Purchase and Security Agreements, SCPPA financing arrangements for the foregoing, and all rights and entitlements associated with the acquisition, development and implementation of the Project, including those resources, contracts, rights, benefits, entitlements and arrangements as may be necessary, desirable or appropriate to the Project to further SCPPA's and the Project Participants' goals and those associated structures and services procured, retained or acquired by and on behalf of the Project Participants as part of the Project and which have been approved by the Coordinating Committee and, where applicable, the Board of Directors. Acquisition also includes the rights and interests under any consents to assignment and related agreements, and taking foreclosure action (or a deed in-lieu-of foreclosure) under and pursuant to any of the Power Purchase and Security Agreements, or a purchase at foreclosure sale, and, if and as applicable, associated financing, and all rights and entitlements of SCPPA under the Power Purchase and Security Agreements or other Project Agreements associated with the development and implementation of the Project.
2. Act. All of the provisions contained in the California Joint Exercise of Powers Act found in Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California, beginning at California Government Code Section 6500 et seq., as amended from time to time.
3. Actual Additional Monthly O&M Amount. "Actual Additional Monthly O&M Amount" shall have the definition set forth in the Power Purchase Agreement.
4. Ancillary Documents. "Ancillary Documents" shall have the definition set forth in the Power Purchase Agreement.
5. Annual Budget. The budget approved by the Coordinating Committee and adopted by SCPPA pursuant to Section 5.4.1 of this Agreement not less than 30 days nor more than 60 days prior to the beginning of each Power Supply Year, including any amendments thereto, which shall show a detailed estimate of the Total Monthly Costs under the Power Sales Agreements and all credits, charges, revenues, income, or other funds to be applied to such costs, for and applicable to such Power Supply Year.
6. Balancing Agent. "Balancing Agent" shall have the meaning set forth in Section 9.5.
7. Billing Statement. The written statement prepared or caused to be prepared each Month by, or on behalf of, SCPPA which shall be based upon certain of the information in the Annual Budget and shall show for such Month the amount to be paid to SCPPA by a Project Participant in accordance with the provisions of Section 7 of its Power Sales Agreement.

8. Board of Directors. The Board of Directors of the Southern California Public Power Authority.
9. Bond Counsel. Nationally recognized legal counsel having background and experience in the issuance of municipal bonds, including the Federal Tax Law Requirements relating thereto, and selected by SCPPA to evaluate and advise regarding the Bonds with respect to specified cases, transactions and matters from time to time.
10. Bonds. The bonds, notes, bond anticipation notes, certificates of participation, commercial paper or other evidences of indebtedness issued or incurred by SCPPA and outstanding pursuant to the provisions of the Indenture to finance or refinance the Cost of Acquisition and any Capital Improvements, including any prepayment for Guaranteed Generation pursuant to the Power Purchase Agreement or by other means, and, where applicable, the purchase of the Facility or any part, portion or component thereof, including purchase of the rights and interests under the Facility Credit Agreements or any consents or agreements relating to any assignment. Bonds shall include but not be limited to the taxable and/or tax-exempt bonds, notes, bond anticipation notes, certificates of participation, commercial paper or other evidences of indebtedness issued or incurred by SCPPA to finance prepaid energy or any purchase of the Facility, including purchase of the rights and interests under the Facility Credit Agreements or other applicable Project Agreement, or bonds, notes, certificates of participation, commercial paper or other evidences of indebtedness issued to redeem or refund such bonds, notes, certificates of participation, commercial paper or evidences of indebtedness, and any and all other obligations which SCPPA issues or incurs relating to the Project. Bonds shall also include any additional Bonds authorized by the Indenture or any supplement thereto and issued or incurred pursuant to the provisions of Section 13.2 of the Power Sales Agreements and any refunding of Bonds issued pursuant to the provisions of Sections 13.3 or 13.5 thereof. Bonds may constitute other categories of bonds eligible for certain tax benefits under the Internal Revenue Code, including but not limited to tax-exempt bonds, tax credit bonds, "build America bonds" or "qualified bonds" within the meaning of Section 54AA of the Internal Revenue Code, "new clean renewable energy bonds" within the meaning of Section 54C of the Internal Revenue Code or "qualified energy conservation bonds" within the meaning of Section 54D of the Internal Revenue Code.
11. Capacity. The ability or potential to generate, produce or transfer electricity, expressed in kilowatts ("kW") or megawatts ("MW"), including, when feasible, ancillary or regulating services or other valuable non-energy products or services from a generating facility.
12. Capacity Rights. "Capacity Rights" means the rights, whether in existence as of the Effective Date or arising thereafter during the term of this Agreement, to Capacity, resource adequacy, associated attributes and/or reserves or any of the foregoing associated with the electric generating capability of the Facility.
13. Capital Improvements. Any unit of property, property right, land or land right which is a replacement, repair, addition, improvement or betterment to the Project or any transmission facilities relating to, or for the benefit of, the Project, the betterment of land or land rights or the enlargement or betterment of any such unit of property constituting a part of the Project or related transmission facilities which is (i) consistent with Prudent Utility Practices and determined necessary and/or desirable by the Board of Directors or (ii) required by any governmental agency having jurisdiction over the Project.

14. Chairperson. "Chairperson" is as defined in Section 6.1.
15. Commercial Operation. "Commercial Operation" shall have the definition set forth in the Power Purchase Agreement.
16. Compliance. Following a Payment Default, a Defaulting Project Participant shall be in compliance with its payment obligations under its Power Sales Agreement if it (i) no later than the last day of the Cure Period fully pays all amounts owed as reflected in any Default Invoice; (ii) pays any monthly Billing Statement which comes due during the Cure Period; and (iii) replenishes any reduction made to the applicable operating reserve account, Debt Service reserves or other Reserve Fund as a result of any Payment Default.
17. Consent Agreements. All consents to assignments and all agreements relating thereto entered into with any lender, financial institution or other Person for the purpose of consenting to the assignment of the rights of the Power Purchase Provider under the Power Purchase Agreement.
18. Coordinating Committee. The Coordinating Committee established in accordance with Section 6 of this Agreement.
19. Cost of Acquisition. "Cost of Acquisition" is defined in Section 4.4.
20. Cure Period. That period of time beginning on the date of a Payment Default and concluding sixty (60) days thereafter.
21. Cured Payment Default. A Payment Default which has been cured in accordance with Section 15.3 of this Agreement. If at any time during the Cure Period the Defaulting Project Participant is in Compliance, then the requirements of a Cured Payment Default shall be deemed to have been satisfied as of the date of receipt of such payments by SCPPA and the Cure Period shall expire.
22. Debt Service. The debt service payable with respect to the Indenture pertaining to any category of Bonds, any Bonds issued pursuant to Section 13 of this Agreement, or other applicable series of Bonds, as determined by the context; provided that in the case of any Bonds, Debt Service may, to the extent provided in the Indenture, be reduced by the amount of any applicable cash grant or rebate payable by the Federal Government to SCPPA (or to the trustee under the Indenture) with respect to interest on such Bonds. Debt Service shall also include any payments required to be deposited into the Debt Service Fund under the Indenture to pay, for example, amounts due under any interest rate swap agreements or other derivative agreements.
23. Debt Service Fund. The Debt Service Fund or account, or similar fund or account, established by the Indenture to pay Debt Service. The Debt Service Fund shall not include the Debt Service Reserve Fund(s) under the Indenture.
24. Deed of Trust. "Deed of Trust" shall have the definition set forth in the Power Purchase Agreement.
25. Default Invoice. An invoice during the Payment Default Period and the Cure Period issued to a Defaulting Project Participant pursuant to Section 15 of this Agreement that identifies the

total defaulted amount owed, including late payment interest, to achieve a Cured Payment Default. During the Cure Period, the Default Invoice shall also include the amount that must be paid to achieve Compliance.

26. Defaulting Project Participant. A Project Participant that causes a Payment Default which has not been remedied and where the Defaulting Project Participant has not effected a Cured Payment Default.
27. Delivered Energy. "Delivered Energy" shall have the definition set forth in the Power Purchase Agreement.
28. Delivery Term of the Power Purchase Agreement. The time period for the delivery of energy pursuant to the Power Purchase Agreement as set forth therein.
29. Development Work. All work and activities in connection with the development of the Project, including, without limitation, all planning, designing, acquiring (by prepayment, purchase or otherwise), mitigating impacts, constructing, installing, investigating, cost monitoring and control activities, negotiating and administering contracts, purchasing, environmental monitoring, scheduling, protecting, erecting, supervising, expediting inspecting, testing and training activities, recruitment and training of technical, operational and administrative personnel, insuring, accounting, budgeting, public information services and activities, services of consultants and legal counsel, preparing of manuals and reports, and activities relating to securing requisite actions, permits, licenses, approvals and certificates from governmental agencies and authorities.
30. Direct Reimbursable Costs. "Direct Reimbursable Costs" shall have the definition set forth in the Power Purchase Agreement.
31. Dynamic Scheduling. "Dynamic Scheduling" shall mean the automated scheduling of Energy from the Point of Delivery to Purchaser's control area or electric system, provided that said dynamic schedules adjust at four second intervals, or other intervals as specified by WECC, to match the amount of Energy actually delivered to the Point of Delivery from the Facility.
32. Early Energy. "Early Energy" shall have the definition set forth in the Power Purchase Agreement.
33. Energy. "Energy" shall include both Energy and any Replacement Energy, as those terms are defined in the Power Purchase Agreement.
34. Environmental Attributes. "Environmental Attributes" shall have the definition set forth in the Power Purchase Agreement.
35. Excess Energy. "Excess Energy" shall have the definition set forth in the Power Purchase Agreement.
36. Facility. "Facility" means all of the facilities including those resources described or defined as the Facility, Related Interests and Rights, Permits and Site Common Facilities in the Power Purchase Agreement and all of the Acquisitions, related assets and accompanying rights and obligations associated therewith and all rights, interests and obligations associated

with such facilities, including the rights interests and obligations under the Ancillary Documents and the Facility Common Facilities Interests. Facility shall also include all Capital Improvements.

37. Facility Common Facilities Interests. "Facility Common Facilities Interests" shall have the definition set forth in the Power Purchase Agreement.
38. Facility Credit Agreements. All agreements, assignments and security related documents associated with the financing of the Facility, or of the rights or interests held in connection with the Facility, by the Power Purchase Provider or any of its affiliates and any other agreements or documents providing for security for the performance of the obligations of the Power Purchase Provider.
39. Facility Expansion LD Security. "Facility Expansion LD Security" shall have the definition set forth in the Power Purchase Agreement.
40. Facility Output. All output, rights, and other tangible or intangible benefits derived from the Facility, whatsoever, including without limitation all Energy (including Replacement Energy as defined in the Power Purchase Agreement), Capacity Rights and Environmental Attributes, whether received by SCPPA under or pursuant to the Power Purchase Agreement or other applicable Project Agreement or derived from the Facility by SCPPA as owner following SCPPA's purchase of the Facility.
41. Federal Tax Law Requirements. "Federal Tax Law Requirements" shall mean, with respect to the issuer of Bonds, any and all requirements and limitations to which any specified type or category of Bonds are subject under the Internal Revenue Code or related Treasury regulations in order that such specified Bonds initially qualify and maintain qualification as that type or category of Bonds.
42. Fiscal Year. The twelve-month period commencing at 12:01 a.m. on July 1 of each year and ending at 12:01 a.m. on the following July 1, or such other time frame as determined by the Coordinating Committee or Board of Directors.
43. Force Majeure. "Force Majeure" shall have the definition set forth in the Power Purchase Agreement.
44. Fund or Funds. Any fund or account created under the Indenture.
45. Guaranteed Generation. "Guaranteed Generation" shall have the meaning provided in the Power Purchase Agreement.
46. Glendale. The City of Glendale, a California municipality.
47. Indenture. The indenture of trust, trust agreement, credit or loan agreement and other similar agreements with respect to the Bonds, between SCPPA and a Project Trustee or Lender, as from time to time amended and supplemented in conformity with its provisions and of this Agreement. Under such agreements, SCPPA may enter into, or authorize the entering into of, interest rate swap agreements, other derivative agreements, and such other agreements as are authorized or permitted under such agreements. Indenture shall include, but not be limited to, any and all indentures in connection with any bridge loans, bond anticipation notes or other

notes, or draw down bonds or with respect to any other type of bonds, and the indentures of trust, trust agreements or other similar agreements entered into between SCPPA and the Project Trustee or Lender to effect the redemption or refunding of any bridge loans, bond anticipation notes or other notes, draw down bonds or other bonds, as from time to time amended and supplemented in conformity with their provisions and the provisions of this Power Sales Agreement.

48. Indenture cost component. "Indenture cost component" is defined in Section 4.7.4.
49. Indenture Cost Share. "Indenture Cost Share" is defined in Section 4.5.
50. Initial Payment Default Date. The earlier of (i) the end of the fifth day following the first Payment Default for which no remedy in payment has occurred and been received by SCPPA, or (ii) the last day of the Month in which the first Payment Default has occurred for which no remedy in payment has occurred and been received by SCPPA.
51. Interconnection Contracts. The contracts providing for the interconnections and associated facilities which interconnect the Facility with the transmission system and substations and provide for the delivery of Facility Output.
52. Intercreditor Agreement. "Intercreditor Agreement" shall have the definition set forth in the Power Purchase Agreement.
53. Internal Revenue Code. The Internal Revenue Code of 1986, as amended.
54. Joint Powers Agreement. The "Southern California Public Power Authority Joint Powers Agreement" dated as of November 1, 1980, as amended and modified from time to time, entered into pursuant to the provisions of the Act, among SCPPA and its members.
55. LADWP. The City of Los Angeles acting by and through the Department of Water and Power.
56. Layoff Contract. The contract entitled "Contract for Sale and Purchase of Windy Point/Windy Flats Energy" by and among the City of Glendale, California, the City of Los Angeles acting by and through the Department of Water and Power, and the Southern California Public Power Authority dated as of August 1, 2009.
57. Leases. "Leases" shall have the meaning provided in the Power Purchase Agreement.
58. Major Contracts. The Project Agreements and, to the extent not finalized or effective on the effective date of an applicable project management agreement, any other contract or agreement so identified by the Coordinating Committee or the Board of Directors, as such contracts or agreements may be amended or supplemented from time to time.
59. Month. A calendar month.
60. Monthly Costs. "Monthly Costs" is defined in Section 7.1.
61. Monthly O&M Amount. "Monthly O&M Amount" shall have the definition set forth in the Power Purchase Agreement.

62. O&M Agreement. "O&M Agreement" shall mean the O&M Agreement described in the Power Purchase Agreement as the same may be amended from time to time.
63. Operating Budget. The operating budget approved by the Board of Directors, which shall show a detailed estimate of all Project operating costs, including all revenues, income or other funds to be applied to such operating costs, for and applicable to a Power Supply Year.
64. Operating cost component. "Operating cost component" is defined in Section 4.7.1.
65. Operating Reserve Depletion Date. The date that is two Months prior to the date on which SCPPA anticipates, assuming continued Payment Defaults by one or more Defaulting Project Participants, that the moneys in the operating reserve account of the Indenture will be fully depleted; provided, however, if as of the date on which a Payment Default occurs SCPPA determines that the moneys in the operating reserve account will be fully depleted in less than two Months (or currently are fully depleted), then the Operating Reserve Depletion Date shall be deemed to have occurred when such a Payment Default occurs.
66. Operating Work. All work and activities in connection with the administration, operation and maintenance of the Project, including without limitation, negotiating and administering contracts, planning, mitigating impacts, purchasing, repairing, inspecting, maintaining, investigating and monitoring all aspects of the Project, performing modeling functions, economic analysis, quality control, testing and evaluating, recruitment and training of operating entities and personnel, electric energy and environmental attribute procurement, regulatory efforts, tagging, interconnecting, transmission, dispatching, firming, balancing, exchanging and scheduling activities, supervising, expediting, budgeting, insuring, accounting, tracking, registering, protecting, operating and managing activities, public information services and services of consultants, operators, engineers, contactors and legal counsel, renewals, replacements, reconstruction, and improvements, and activities related to securing requisite permits, franchises, licenses, approvals, entitlements, credits and certificates from governmental agencies and authorities.
67. Output Cost Share. For any Power Supply Year and as to any particular Project Participant, the share (expressed as a percentage) set forth in Appendix B of this Agreement (entitled "Schedule of Project Participants Output Entitlement Shares and Output Cost Shares") attributable to such Project Participant with respect to costs, other than financing and refinancing related costs, associated with the Project, as amended from time to time so long as such amendments are in compliance with the Power Sales Agreements and any applicable provisions of the Indenture. Revisions to Appendix B pursuant to Section 15 herein shall be considered an element of the administration of this Power Sales Agreement and shall not require the consent of the Parties hereto.
68. Output Entitlement Share. The percentage entitlement of each Project Participant to the Project and Facility Output in any Power Supply Year, as set forth in Appendix B of the Power Sales Agreements (entitled "Schedule of Project Participants Output Entitlement Shares and Output Cost Shares") attributable to such Project Participant, as amended from time to time so long as such amendments are in compliance with the Power Sales Agreements and any applicable provisions of the Indenture. Revisions to Appendix B pursuant to Section 15 herein shall be considered an element of the administration of this Power Sales Agreement and shall not require the consent of the Parties hereto.

69. Participants. The Project Participants.
70. Payment Default. A failure by a Project Participant to pay when due all of its Billing Statement for any Month.
71. Payment Default Period. That period of time during which a Payment Default exists.
72. Performance Security. "Performance Security" shall have the definition set forth in the Power Purchase Agreement.
73. Permit. "Permit" shall have the definition set forth in the Power Purchase Agreement.
74. Person. "Person" means any individual, corporation, partnership, joint venture, limited liability company, association, joint stock company, trust, unincorporated organization, entity, government or other political subdivision.
75. Point of Delivery. The point at which Energy is to be delivered to the Project Participants pursuant to any agreement with the Power Purchase Provider or, if SCPPA shall purchase or acquire the Facility, the same point of delivery of the Energy or such other point of delivery as authorized and determined by the Coordinating Committee or the Board of Directors.
76. Power Purchase Agreement. The Power Purchase Agreement between Southern California Public Power Authority and Windy Flats Partners, LLC dated as of June 24, 2009 attached hereto as Appendix F, as the same may be amended from time to time.
77. Power Purchase and Security Agreements. The Power Purchase Agreement, the Security Instruments, Consent Agreements, Facility Credit Agreements and any other consent to assignment or other agreement with any financial institution or Person relating to the wind project or any loan or other credit agreement associated with the Facility, or any other agreement under which SCPPA might acquire or otherwise purchase or obtain the Facility or related resources and assets or the output of the Facility or carry forth any Acquisition all as and to the extent applicable to any particular Project matter or matters. The Power Purchase and Security Agreements shall also include any instrument or form of security which affords any opportunity for the purchase of the Facility or Acquisition, whether through foreclosure or otherwise, including the Deed of Trust or any other deed or deed of trust, mortgage, lease, assignment, beneficial interest, collateral instrument or other device or mechanism providing for the ability to acquire the Facility.
78. Power Purchase and Security Agreements cost component. "Power Purchase and Security Agreements cost component" is defined in Section 4.7.5.
79. Power Purchase Provider. Windy Flats Partners, LLC, as the counterparty to SCPPA under the Power Purchase Agreement, and the entity named under any applicable operating agreement to operate or otherwise run or manage the Facility, along with each of their successors, or any successors or assigns to the rights of these entities.
80. Power Sales Agreements. The Windy Point/Windy Flats Project Power Sales Agreements, dated for convenience as of August 1, 2009, as the same may hereafter be amended from time to time, entered into by SCPPA and each of the Project Participants for, among other things, the acquisition of the Output Entitlement Shares.

81. Power Supply Year. The Fiscal Year, except that the first Power Supply Year shall begin on the first to occur of (i) the date SCPPA is obligated to pay any portion of the costs of the Project, (ii) the date upon which SCPPA first incurs or accrues costs associated with the issuance of the Bonds, (iii) 90 days before the scheduled date for issuance of the Bonds, (iv) the date of Commercial Operation of the Primary Facility, or (v) the date of the first delivery of Energy to Purchaser pursuant to this Agreement.
82. Prepayment Amount. "Prepayment Amount" shall have the meaning provided in the Power Purchase Agreement.
83. Primary Facility. "Primary Facility" shall have the meaning provided in the Power Purchase Agreement.
84. Primary Facility LD Security. "Primary Facility LD Security" shall have the definition set forth in the Power Purchase Agreement.
85. Project or Windy Point/Windy Flats Project. The term "Project" or "Windy Point/Windy Flats Project" shall be broadly construed to entail the aggregate of rights, liabilities, interests and obligations of SCPPA pursuant to the Power Purchase Agreement, the Power Purchase and Security Agreements and the other Project Agreements, including but not limited to all rights, liabilities, interests and obligations associated with the Facility Output, or, upon purchase or acquisition by SCPPA, all rights, liabilities, interests and obligations associated with the Facility, and including all aspects of the operation and administration of the Facility and the Project Agreements and the rights, liabilities, interests and obligations associated therewith. The term Project shall also include those rights, liabilities, interests or obligations necessary or appropriate to carry out the functions specified in Section 6 and to utilize or deliver the energy of the Facility as specified in Section 9.
86. Project Agreements. Any project management agreement, the Indenture, the Power Sales Agreements, each of the Power Purchase and Security Agreements, the O&M Agreement, the Service Agreement, the Leases, the Interconnection Contracts, the Ancillary Documents, other contracts and leases, easements, rights of way and other real property arrangements or agreements associated with the Facility, if any, any other Acquisition agreement or agreement for the purchase, procurement, delivery or transmission of Facility Output, including all agreements connected or associated with any purchase of the Facility or passing to SCPPA in connection with any purchase of the Facility, and including the rights and interests under the Facility Credit Agreements or any other consents to assignments or agreements for assignment, any Intercreditor Agreement, any joint ownership agreements, any operating agreements, any maintenance agreements, any warranty agreements, any participation agreements, any agreements for scheduling, dispatching, exchanging, tagging, movement or transmission, any agreements relating to any Capital Improvements and the agreements to which SCPPA is a party relating to the project design, development, administration, management or operation of the Facility and for placing of the Facility into operation or maintaining its operation.
87. Project Determination. "Project Determination" means any matter involving a question pertinent to the studying, investigating, planning, financing, developing, acquiring, constructing, reconstructing, operating, maintaining, administering, managing, improving, enlarging, or bettering of the Project.

88. Project Manager. SCPPA or a designee or designees appointed by SCPPA to assist SCPPA to carry out SCPPA's responsibilities under the Power Sales Agreements.
89. Project Participant(s). Those entities executing Power Sales Agreements, together in each case with each entity's successors or assigns, identified as "Project Participants" in Appendix B of the Power Sales Agreements (entitled "Schedule of Project Participants Output Entitlement Shares and Output Cost Shares") or Appendix C of the Power Sales Agreements (entitled "Schedule of Project Participants Percentage of Indenture Cost Shares").
90. Project Rights. All rights and privileges of a Project Participant under its Power Sales Agreement, including but not limited to its Output Entitlement Share, its right to receive Facility Output from the Facility, and its right to vote on Coordinating Committee matters.
91. Project Rights and Obligations. Purchaser's Project Rights and obligations under the terms of this Agreement.
92. Project Trustee or Lender. Any bank or other financial firm or institution at any time serving as trustee under the Indenture or any bank or financial firm party to the Indenture as a lender or as agent for a lender or lenders thereunder.
93. Prudent Utility Practices. "Prudent Utility Practices" shall have the meaning provided in the Power Purchase Agreement.
94. Related Interests and Rights. "Related Interests and Rights" shall have the meaning provided in the Power Purchase Agreement.
95. Renewable Electric Energy Resource Project. The aggregate of SCPPA's endeavors to acquire renewable energy and capacity and to facilitate acquisition of renewable electric generation and the means to deliver such generation either by way of the development agreement for the Renewable Electric Resource Project as described in Section 2.6 herein.
96. Reserve Fund cost component. "Reserve Fund cost component" is defined in Section 4.7.3.
97. Reserve Fund(s). Those reserve accounts deemed appropriate to afford a reliable source of funds for the payment obligations of the Project and, taking into account the variability of costs associated with the Project for the purpose of providing a reliable payment mechanism to address the ongoing costs associated with the Project.
98. Security and Assignment Agreements. The agreements and instruments entered into by the Power Purchase Provider or any affiliate thereof and, where applicable, SCPPA, including the Security Interest and the agreements and instruments referenced in the Power Purchase Agreement to, among other things, secure certain performance requirements.
99. Security Instruments. The Security and Assignment Agreements, the Primary Facility LD Security, the Facility Expansion LD Security, the Deed of Trust, the Performance Security, the Facility Credit Agreements following a purchase of the rights and interests thereunder by SCPPA if applicable, and any and all instruments, agreements, assignments, mortgages, deeds of trusts or conveyances or other collateral arrangements entered into to secure the performance of the Power Purchase Provider or any affiliate thereof under the Power

Purchase Agreement or any other of the Power Purchase and Security Agreements, or any lease or interest in real property used by or affecting the Facility, including without limitation any security interest conveyed by way of the Power Purchase Agreement or other agreement or instrument relating to the Project or any Project matter creating a security interest enforceable by SCPPA.

100. Security Interest. "Security Interest" shall have the meaning set forth in the Power Purchase Agreement.
101. Service Agreement. "Service Agreement" shall have the meaning set forth in the Power Purchase Agreement.
102. Site Common Facilities. "Site Common Facilities" shall have the meaning set forth in the Power Purchase Agreement.
103. Step-Up Invoice. An invoice sent to a non-Defaulting Project Participant as a result of one or more Payment Defaults, which invoice shall separately identify any amount owed with respect to the monthly Billing Statement of one or more Defaulting Project Participants for, as the case may be, pursuant to Section 15.9.1 or 15.9.2 herein, either the Indenture cost component of the Defaulting Project Participant(s) unpaid monthly Billing Statement or the Total Monthly Costs reflected in the Defaulting Project Participant(s) unpaid monthly Billing Statement.
104. Study Project. "Study Project" has the meaning provided in the Joint Powers Agreement.
105. Supplementary Services. Those services in connection with the delivery of Energy involving additional transmission, interconnection arrangements, energy management, firming, shaping, energy balancing, dispatching, tagging, scheduling, Dynamic Scheduling, transmitting, interconnecting, swapping, exchanging or other services associated with the transmission, use or disposition of Facility Output to be utilized by the Project Participants under the Power Sales Agreements, and to otherwise provide for delivery and facilitate the disposition, movement, taking, receiving, accounting for, transferring and crediting the ownership and transfer of Facility Output from the Point of Delivery to any other points or destinations, as determined by the Project Participants. Supplementary Services include but are not limited to delivery point swaps, stranded energy/transmission curtailments, tiepoint liquidity improvement, transmission loss savings, tiepoint price spread optimization, on-peak/off-peak exchanges, peak shifting exchanges, seasonal exchanges, and both simultaneous or non simultaneous green energy exchanges.
106. Supplementary Services cost component. "Supplementary Services cost component" is defined in Section 4.7.2.
107. Tax Counsel. Nationally recognized legal counsel having background and experience in tax-exempt financing and selected by SCPPA to evaluate and advise regarding the Federal Tax Law Requirements with respect to specified cases, transactions and matters from time to time.
108. Total Monthly Costs. "Total Monthly Costs" has the meaning described in Section 4.7.

109. Uncontrollable Forces. Any Force Majeure event and any cause beyond the control of any Party, and which by the exercise of due diligence such Party is unable to prevent or overcome, including but not limited to, failure or refusal of any other Person to comply with then existing contracts, an act of God, fire, flood, explosion, earthquake, strike, sabotage, pestilence, an act of the public enemy (including terrorism), civil or military authority including court orders, injunctions and orders of governmental agencies with proper jurisdiction or the failure of such agencies to act, insurrection or riot, an act of the elements, failure of equipment, a failure of any governmental entity to issue a requested order, license or permit, inability of any Party or any Person engaged in work on the Project to obtain or ship materials or equipment because of the effect of similar causes on suppliers or carriers; or inability of SCPPA to sell or issue its Bonds. Notwithstanding the foregoing, Uncontrollable Forces as defined herein shall also include events of Force Majeure pursuant to the Power Purchase Agreement, as defined therein.
110. WECC. The Western Electricity Coordinating Council, or its successor.
111. Windy Flats Partners, LLC. Windy Flats Partners, LLC, a limited liability company organized and existing under the laws of the State of Delaware, or its successor.

APPENDIX B

SCHEDULE OF PROJECT PARTICIPANTS OUTPUT ENTITLEMENT SHARES AND OUTPUT COST SHARES

<u>Project Participants</u>	<u>Estimated Capacity (MW) *</u>	<u>Output Entitlement Shares</u>	<u>Output Cost Shares</u>
Glendale	20.0	7.630%	7.630%
LADWP	242.2	92.370%	92.370%
Total	262.2	100.000%	100.000%

* The Estimated Capacity amounts are based upon the capacity assumptions and other provisions of the Power Purchase Agreement; however, the actual capacity of the Facility may differ from the amount shown depending on whether SCPPA acquires the output of the Facility Expansion (as defined in the Power Purchase Agreement), the number of wind turbines installed, wind conditions and other factors. If SCPPA does not acquire the output of the Facility Expansion, the Estimated Capacity is expected to be approximately 15.4431 MW for Glendale and approximately 186.9569 MW for LADWP (for a total of 202.4 MW), which Estimated Capacity amount may differ for the reasons described in the preceding sentence.

APPENDIX C

SCHEDULE OF
PROJECT PARTICIPANTS PERCENTAGE
OF INDENTURE COST SHARES

<u>Project Participants</u>	<u>Output Cost Shares</u>	<u>Indenture Cost Shares</u>
Glendale	7.630%	7.630%
LADWP	92.370%	92.370%
Total	100.000%	100.000%

APPENDIX D

OPINION OF COUNSEL TO PROJECT PARTICIPANTS

[Date]

Southern California Public Power Authority
c/o Executive Director
225 South Lake Avenue, Suite 1250
Pasadena, California 91101

[Underwriters for the Bonds]

[Bond Insurer or credit enhancement entity]

Ladies and Gentlemen:

We have acted as counsel to the [City of Los Angeles, acting by and through the Department of Water and Power][the City of Glendale], as Project Participant (the "Project Participant") under the Windy Point/Wind Flats Project Power Sales Agreement dated for convenience as of August 1, 2009 (the "Power Sales Agreement") between the Project Participant and Southern California Public Power Authority ("SCPPA").

We have examined originals or copies of those records and documents we considered appropriate for purposes of this opinion. As to relevant factual matters, we have relied upon, among other things, the Project Participant's factual representations.

We have assumed the genuineness of all signatures (other than the signatures of persons signing the Power Sales Agreement on behalf of Project Participant), the authenticity of all documents submitted to us as originals and the conformity with originals of all documents submitted to us as copies. To the extent the Project Participant's obligations depend on the enforceability of the Power Sales Agreement against SCPPA, we have assumed that the Power Sales Agreement is enforceable against SCPPA.

From such examination, on the basis of our reliance upon the assumptions in this opinion and our consideration of those questions of law we considered relevant, and subject to the limitations and qualifications in this opinion, we are of the opinion that:

1. The Project Participant is a municipal corporation organized and existing under the laws of the State of California and authorized under [The Los Angeles City Charter][the City Charter of the City of Glendale] to furnish retail electricity within its service area.

2. The Project Participant is empowered under [The Los Angeles City Charter][the City Charter of the City of Glendale] to enter into the Power Sales Agreement and to perform its obligations thereunder.

3. The Power Sales Agreement has been duly authorized, executed and delivered by the Project Participant and, assuming due authorization, execution and delivery by SCPPA of such Power Sales Agreement, constitutes the legal, valid and binding obligation of the Project Participant enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization and other similar laws affecting creditors' rights generally and to general principles of equity, to the exercise of judicial discretion in appropriate cases, and to the limitations on legal remedies against municipal corporations in the State of California.

Certain documents that are ancillary to the Power Sales Agreement provide that they are to be governed by the laws of the State of Washington. We express no opinion as to those laws or their applicability to matters covered by this opinion.

Our opinion in paragraph 3 as to enforceability is subject to the unenforceability of provisions waiving a right to a jury trial. Also, a court may refuse to enforce a provision of the Power Sales Agreement if it deems that such provision is in violation of public policy.

We express no opinion with respect to your ability to collect attorneys' fees and costs in an action if you are not the prevailing party in that action (we call your attention to the effect of Section 1717 of the California Civil Code, which provides that where a contract permits one party thereto to recover attorneys' fees, the prevailing party in any action to enforce any provision of the contract shall be entitled to recover its reasonable attorneys' fees).

We express no opinion as to any provision requiring written amendments or waivers insofar as it suggests that oral or other modifications, amendments or waivers could not be effectively agreed upon by the parties or that the doctrine of promissory estoppel might not apply.

It is our opinion that no person, other than SCPPA, has setoff rights against payments due from Project Participant. We express no opinion with respect to any indemnification, contribution, penalty, choice of law, choice of forum, choice of venue, severability or waiver provisions contained in the Power Sales Agreement.

We express no opinion as to any agreement or document referred to in the Power Sales Agreement or incorporated into the Power Sales Agreement by reference, or any agreement other than the Power Sales Agreement itself, or the effect of any such agreement or document on the opinions herein stated.

The opinions expressed are matters of professional judgment and are not a guarantee of result. The law covered by this opinion is limited to the present law of the State of California. We express no opinion as to the laws of any other jurisdiction.

This opinion may only be relied upon only by the addressees hereto in connection with the issuance of the Bonds (as described in the Power Sales Agreement). It may not be used or relied upon for any other purpose or by any other person, nor may copies be delivered to any other person, without in each instance our prior written consent, except that this opinion may be included in the closing binder memorializing the Power Sales Agreement.

This opinion is expressly limited to the matters set forth above, and we render no opinion, whether by implication or otherwise, as to any other matters. This letter speaks only as of the date hereof and we assume no obligation to update or supplement this opinion to reflect any facts or circumstances that arise after the date of this opinion and come to our attention, or any future changes in laws.

Very truly yours,

APPENDIX E

OPINION OF COUNSEL TO SCPPA

[Date]

[Project Participants]

[Underwriters of the Bonds]

[Bond Insurer or credit enhancement entity]

Ladies and Gentlemen:

I am acting as counsel to the Southern California Public Power Authority ("SCPPA") under each Windy Point/Windy Flats Project Power Sales Agreement dated for convenience as of August 1, 2009, between a Project Participant and SCPPA (collectively, the "Power Sales Agreements"), and I have acted as counsel to SCPPA in connection with the matters referred to herein. As such counsel I have examined and am familiar with (i) those documents relating to the existence, organization and operation of SCPPA, (ii) all necessary documentation of SCPPA relating to the authorization, execution and delivery of the Power Sales Agreements and (iii) the Power Sales Agreements.

Capitalized terms used herein not otherwise defined shall have the respective meanings ascribed thereto in the Power Sales Agreements.

I am of the opinion that:

1. SCPPA is a joint powers authority duly organized and validly existing under the Act, as amended, and the Joint Powers Agreement dated as of November 1, 1980, among SCPPA's members, as amended, and has full legal right, power and authority to execute and deliver, and to perform its obligations under, the Power Sales Agreements.

2. The Power Sales Agreements have been duly authorized, executed and delivered by SCPPA, and, assuming due authorization, execution and delivery by each of the parties thereto other than SCPPA, the Power Sales Agreements constitute the legal, valid and binding obligations of SCPPA, enforceable against SCPPA in accordance with their respective terms.

3. To the best of my knowledge, SCPPA is not in material breach of or default under, and the authorization, execution and delivery of the Power Sales Agreements and compliance with the provisions thereof, will not conflict with or constitute a breach of, or default under: (i) any instrument relating to the organization existence or operation of SCPPA; (ii) any loan agreement, lease agreement, indenture, bond, note, resolution, commitment, agreement or other instrument to which SCPPA is a party or by which it or its property or assets is bound or affected, and no event has occurred and is occurring which with the passage of time or the giving of notice, or both, would constitute a material default or event of default under any such instrument, which breach or default would have a material adverse impact on the Power Sales Agreements or the ability of SCPPA to

comply with its obligations under the Power Sales Agreements; or (iii) any applicable constitutional provision, law, ruling, administrative regulation, ordinance, judgment, order or decree to which SCPPA (or any of its officers in their respective capacities as such) is subject.

4. To the best of my knowledge, as of the date hereof, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, government agency, public board or body, pending or, to the best of my knowledge, threatened against or affecting SCPPA or any of its officers in their respective capacities as such (nor to the best of my knowledge is there any basis therefor), which questions the right, power or authority of SCPPA referred to in paragraph 2 above or the validity of the proceedings taken by SCPPA in connection with the authorization, execution or delivery of the Power Sales Agreements, or wherein any unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated by the Power Sales Agreements, or which, in any way, would adversely affect the validity or enforceability of the Power Sales Agreements or the ability of SCPPA to comply with its obligations thereunder.

Insofar as the foregoing opinions relate to the legal, valid and binding effect, and the enforceability, of any instrument, such opinions are subject to applicable bankruptcy, insolvency and similar laws affecting creditors' rights generally, and are subject, as to enforceability, to general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

The opinions expressed herein are based upon the law and other matters in effect on the date hereof. The opinions expressed are matters of professional judgment and are not a guarantee of result. I assume no obligation to revise or supplement this opinion should such law or other matters be changed by legislative action, judicial decision, or otherwise, or should any facts or other matters upon which I have relied change.

The opinions which are set forth or which are expressed herein are limited to the laws of the State of California.

This opinion is furnished exclusively for the benefit of the recipients to which it is addressed. This opinion may not be provided to, made available to, or relied upon any other party without prior written consent, except that this opinion may be included in the closing binder memorializing the transaction.

Very truly yours,

Richard M. Helgeson, Esq.
General Counsel
Southern California Public Power Authority

APPENDIX F
POWER PURCHASE AGREEMENT
BETWEEN
SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
AND
WINDY FLATS PARTNERS, LLC
DATED AS OF JUNE 24, 2009

EXECUTION COPY

POWER PURCHASE AGREEMENT

BETWEEN

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

AND

WINDY FLATS PARTNERS, LLC

DATED AS OF JUNE 24, 2009

TABLE OF CONTENTS

ARTICLE I. DEFINITIONS AND INTERPRETATION.....	1
Section 1.1 Definitions.....	1
Section 1.2 Interpretation	22
ARTICLE II. EFFECTIVE DATE, TERM, EARLY TERMINATION AND PURCHASE OPTION	23
Section 2.1 Effective Date.....	23
Section 2.2 Agreement Term and Delivery Term	25
Section 2.3 Survivability	25
Section 2.4 Early Termination.....	25
Section 2.5 Buyer Purchase for Failure to Receive Cash Grants	26
Section 2.6 Buyer Purchase Options	27
ARTICLE III. DEVELOPMENT OF THE FACILITY	29
Section 3.1 In General	29
Section 3.2 Certification of Commercial Operation Date; Preliminary Notice	30
Section 3.3 Other Information.....	30
Section 3.4 Milestone Schedule	30
Section 3.5 Liquidated Damages.....	31
Section 3.6 Decommissioning and Other Costs	32
ARTICLE IV. OPERATION AND MAINTENANCE OF THE FACILITY.....	32
Section 4.1 Compliance with Electrical Service Requirements.....	32
Section 4.2 General Operational Requirements.	32
Section 4.3 Operation and Maintenance Plan	32
Section 4.4 Environmental Credits.....	32
Section 4.5 Scheduling of Energy and Scheduled Outages.....	33
Section 4.6 Preparation of Annual Operating Plan	34
Section 4.7 Preparation of Annual Budget.....	35
Section 4.8 Budget Review Period.....	35
Section 4.9 Disputes	36
ARTICLE V. COMPLIANCE DURING CONSTRUCTION AND OPERATION PERIOD.....	36
Section 5.1 In General	36
Section 5.2 Compliance With Standards.....	38
Section 5.3 Quality Assurance Program.....	38
Section 5.4 Effect of Review by Buyer	38
ARTICLE VI. NAMEPLATE CAPACITY; PURCHASE AND SALE OF POWER	39
Section 6.1 Nameplate Capacity	39
Section 6.2 Purchases by Buyer	40

Section 6.3	Conditions Precedent to Prepayment	42
Section 6.4	Performance Security	44
Section 6.5	Energy to Come Exclusively from Facility; Dedicated Facility	44
ARTICLE VII. MAKEUP OF SHORTFALL ENERGY		45
Section 7.1	Makeup of Shortfall.....	45
Section 7.2	No Excess Energy During Shortfall Periods	45
Section 7.3	Replacement Energy.....	45
Section 7.4	Extension of Term	45
ARTICLE VIII. TRANSMISSION AND SCHEDULING; TITLE AND RISK OF LOSS		46
Section 8.1	In General	46
Section 8.2	Costs	46
Section 8.3	Title; Risk of Loss	46
ARTICLE IX. ENVIRONMENTAL ATTRIBUTES; EPS AND RPS COMPLIANCE.....		46
Section 9.1	Transfer of Environmental Attributes	46
Section 9.2	Station Usage Energy	47
Section 9.3	Reporting of Ownership of Environmental Attributes	47
Section 9.4	Environmental Attributes.	47
Section 9.5	Use of Accounting System to Transfer Environmental Attributes.....	47
Section 9.6	Further Assurances	48
Section 9.7	RPS and EPS Compliance	48
ARTICLE X. CAPACITY RIGHTS		48
Section 10.1	Purchase and Sale of Capacity Rights.....	48
Section 10.2	Representation Regarding Ownership of Capacity Rights.....	48
Section 10.3	Further Assurances	48
ARTICLE XI. BILLING; PAYMENT; AUDITS; METERING; ATTESTATIONS.....		49
Section 11.1	Billing and Payment	49
Section 11.2	Disputed Invoices	50
Section 11.3	Buyer's Right of Setoff	50
Section 11.4	Records and Audits	50
Section 11.5	Electric Metering Devices	52
Section 11.6	Taxes	52
ARTICLE XII. REPRESENTATIONS AND WARRANTIES; COVENANTS.....		53
Section 12.1	Representations and Warranties of Buyer	53
Section 12.2	Representations, Warranties and Covenants of Seller.....	53
Section 12.3	Covenant of Seller Related to Seller's Status as Special Purpose Entity	55
Section 12.4	Covenants of Seller Related to the Leases	55

ARTICLE XIII. DEFAULT; TERMINATION AND REMEDIES; PERFORMANCE		
DAMAGE		57
Section 13.1	Default	57
Section 13.2	Default Remedy	59
Section 13.3	Termination for Default	60
Section 13.4	Calculation of Termination Payment	61
ARTICLE XIV. MISCELLANEOUS		63
Section 14.1	Authorized Representative	63
Section 14.2	Notices	63
Section 14.3	Dispute Resolution	63
Section 14.4	Further Assurances	64
Section 14.5	No Dedication of Facilities	64
Section 14.6	Force Majeure	64
Section 14.7	Assignment of Agreement; Deed of Trust	66
Section 14.8	Ambiguity	67
Section 14.9	Attorney Fees & Costs	67
Section 14.10	Voluntary Execution	67
Section 14.11	Entire Agreement	68
Section 14.12	Governing Law	68
Section 14.13	Venue	68
Section 14.14	Execution in Counterparts	68
Section 14.15	Effect of Section Headings	68
Section 14.16	Waiver	68
Section 14.17	Relationship of the Parties	69
Section 14.18	Indemnification; Damage or Destruction; Insurance; Condemnation; Limit of Liability	69
Section 14.19	Severability	70
Section 14.20	Confidentiality	70
Section 14.21	Business Policies	72
APPENDIX A – Monthly Payment Schedule		A-1
APPENDIX B – Guaranteed Annual Quantity		B-1
APPENDIX C – Guaranteed Generation and Prepayment Amounts		C-1
APPENDIX D - Facility Description		D-1
EXHIBITS A-1 and A-2 to APPENDIX D – Description of Facility Generating Premises and Facility Layout		D-3
EXHIBIT B to APPENDIX D – Wind Resource Assessment		D-4
EXHIBIT C to APPENDIX D – Permits and Environmental Documents		D-5

APPENDIX E – Buyer and Seller Billing, Notification and Scheduling Contact Information	E-1
APPENDIX F – Form of Attestation	F-1
APPENDIX G – Form of Security Interest, Deed of Trust, Security Agreement and Fixture Filing.....	G-1
EXHIBIT A.....	G-18
EXHIBIT B.....	G-19
EXHIBIT C.....	G-20
EXHIBIT D.....	G-21
APPENDIX H – Form of Letter of Credit.....	H-1
EXHIBIT I – Demand for Payment.....	I-1
EXHIBIT II – Statement.....	II-1
EXHIBIT III – Amendment.....	III-1
APPENDIX I – Insurance.....	I-1
APPENDIX J – Form of Guarantee.....	J-1
APPENDIX K – Quality Assurance Program	K-1
APPENDIX L – Milestone Schedule.....	L-1
APPENDIX M – KPUD Interconnection Points and Specified Transmission Path.....	M-1
EXHIBIT M – One line diagram	M-2
APPENDIX N – Remaining Prepayment Amount	N-1
APPENDIX O – Closing Conditions for Purchase of Facility	O-1
APPENDIX P – Leases.....	P-1
APPENDIX Q – Intentionally Omitted	Q-1
APPENDIX R – Permits.....	R-1

POWER PURCHASE AGREEMENT

PARTIES

This Power Purchase Agreement (this "**Agreement**"), dated as of June 24, 2009, by and between Southern California Public Power Authority, a public entity and joint powers agency formed and organized pursuant to the California Joint Exercise of Powers Act (California Government section 6500 *et seq.*) ("**Buyer**"), and Windy Flats Partners, LLC, a Delaware limited liability company ("**Seller**"). Each of Seller and Buyer is referred to in this Agreement individually as a "**Party**" and, together they are referred to as the "**Parties**."

RECITALS

WHEREAS, Buyer seeks to provide to certain of its members energy from renewable power sources;

WHEREAS, in response to a Request for Proposals previously issued by Buyer, Seller proposed to develop, finance, construct, own and operate a wind electrical generation facility to be located on the Site (as defined below) in Klickitat County, Washington (the "**Facility**" as further described herein) and to provide a transmission path in accordance with the terms and conditions of this Agreement and sell energy to Buyer for the term of this Agreement, subject to certain early termination events and purchase options exercisable by Buyer as provided in this Agreement;

WHEREAS, Buyer desires to purchase electrical energy ("**Energy**") produced by the Facility from Seller, and Seller desires to sell Energy from the Facility to Buyer; and

WHEREAS, the Parties desire to set forth the terms and conditions pursuant to which such sales and purchases shall be made;

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein set forth, the Parties hereto agree as follows:

ARTICLE I. DEFINITIONS AND INTERPRETATION

Section 1.1 Definitions. The following capitalized terms shall have the following meanings:

"**Achieved Generation**" means, in respect of each Contract Year, the total Delivered Energy, in MWh, achieved during such Contract Year.

"**Actual Additional Monthly O&M Amount**" means, for each month after the First Prepayment Date and during the Delivery Term, an amount equal to the amount, if any, by which the O&M Expenses incurred by Seller in connection with the Facility for a particular month

exceed the Monthly O&M Amount for such month; provided, such amount shall not exceed five percent (5%) of the Monthly O&M Amount.

“Actual O&M Savings” means, for each month after the First Prepayment Date and during the Delivery Term, an amount equal to the amount, if any, by which the O&M Expenses incurred by Seller in connection with the Facility for a particular month are less than the Monthly O&M Amount for such month; provided, such amount shall not exceed five percent (5%) of the Monthly O&M Amount.

“Affiliate” means, as to any Person, any other Person that, directly or indirectly, is in control of, is controlled by or is under common control with such Person or is a director or officer of such Person or of an Affiliate of such Person. As used in this Agreement, “control” shall mean the possession, directly or indirectly, of the power to direct or cause the direction of management, policies or activities of a Person, whether through ownership of voting securities, by contract or otherwise.

“Agreement” means this Power Purchase Agreement.

“Agreement Term” means, unless this Agreement is earlier terminated pursuant to the provisions of this Agreement, the period of time commencing on the Effective Date and ending on the last day of the Delivery Term.

“Ancillary Documents” means all agreements and other documents included in the Performance Security, Primary Facility LD Security, Facility Expansion, LD Security, Deed of Trust and all other instruments, agreements, certificates, and other documents executed or delivered by or on behalf of Buyer or Seller pursuant to or in connection with any thereof or this Agreement.

“Annual Budget” means, for each Contract Year, the annual budget based on the Annual Operating Plan, which is prepared in accordance with Section 4.7.

“Annual O&M Amount” means for each Contract Year, an amount equal to the O&M Expense for such Contract Year.

“Annual Operating Plan” means, for each Contract Year, the annual operating plan, which is prepared in accordance with Section 4.6.

“ASME” means American Society of Mechanical Engineers.

“ASTM” means American Society for Testing and Materials.

“Authorized Auditors” means representatives of Buyer or Buyer’s Agents who are authorized to conduct audits on behalf of Buyer.

“Authorized Representative” means, with respect to each Party, the person designated as such Party’s authorized representative pursuant to Section 14.1.

"AWS" means American Welding Society.

"Bankruptcy" means any case, action or proceeding under any bankruptcy, reorganization, debt arrangement, insolvency or receivership law or any dissolution or liquidation proceeding commenced by or against a Person and, if such case, action or proceeding is not commenced by such Person, such case or proceeding shall be consented to or acquiesced in by such Person or shall result in an order for relief or shall remain undismissed for sixty (60) days.

"Bonds" means those certain tax-exempt prepayment bonds to be issued by Buyer on or about the First Prepayment Date (and in the event the Second Prepayment Date occurs, then on or about the Second Prepayment Date), the proceeds of which will be used to fund the First Prepayment Amount (and in the event the Second Prepayment Date occurs, to fund the Second Prepayment Amount).

"Bond Document" means the Indenture of Trust between Buyer and U.S. Bank National Association, as trustee, pursuant to which Buyer issues its bonds or notes relating to the Facility.

"BPA" means the Bonneville Power Administration.

"BPA Generation Interconnection Agreements" means (a) the Standard Large Generation Interconnection Agreement, Contract No. 09TX-13851, dated May 27, 2009 by and between Seller and BPA, and (b) the Standard Large Generation Interconnection Agreement, Contract No. 06TX-12140, dated January 27, 2007 by and between Windy Point Partners, LLC and BPA.

"Brown Act" has the meaning set forth in Section 14.20(c).

"Business Day" means any calendar day that is not a Saturday, a Sunday, or a day on which commercial banks are authorized or required to be closed in Los Angeles, California or New York, New York.

"Buyer's Agent" means any member or agent of Buyer authorized or designated by Buyer to make a determination or perform an obligation of Buyer under this Agreement.

"Buyer Participants" means LADWP and the City of Glendale, California.

"CAMD" means the Clean Air Markets Division of the United States Environmental Protection Agency, any successor agency and any other state, regional or federal entity or Person that is given jurisdiction over a program involving the registration, validation, certification or transferability of Environmental Attributes.

"Capacity Rights" means the rights, whether in existence as of the Effective Date or arising thereafter during the Agreement Term, to capacity, resource adequacy, associated attributes and/or reserves or any of the foregoing associated with the electric generating capability of the Facility, including the right to resell such rights, excluding, however, all Tax Benefits.

"Cash Grant Purchase Price" has the meaning set forth in Section 2.5(a).

"Cash Grants" means the grants pursuant to Section 1603 of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5.

"CEC" means the California Energy Resources Conservation and Development Commission or any successor agency thereto.

"CEC Performance Standard" means, at any time, the applicable greenhouse gas emissions performance standard in effect at such time for baseload electric generation facilities owned or operated (or both) by local publicly owned electric utilities, as established by the CEC or other Governmental Authority having jurisdiction over Buyer.

"CEQA" means the California Environmental Quality Act, as amended from time to time, and any successor statute.

"Closing" has the meaning set forth in Appendix O.

"Code" means the Internal Revenue Code of 1986, as amended.

"Commercial Operation" means with respect to the Primary Facility or the Facility Expansion, as the case may be, achievement of each of the following conditions:

(a) To the reasonable satisfaction of Buyer, construction of such Facility has been completed in accordance with the terms and conditions of this Agreement;

(b) Such Facility possess all the characteristics, and satisfies all of the requirements set forth for such Facility in Appendix D to this Agreement, as certified by the Independent Engineer;

(c) Such Facility has successfully completed all testing required by Prudent Utility Practices or any Requirement of Law to be completed prior to full commercial operations, as certified by the Independent Engineer;

(d) To the reasonable satisfaction of Buyer, Seller has obtained all Permits required for the construction, operation and maintenance of such Facility in accordance with this Agreement (including those identified in Appendix R, and all such Permits are final and non-appealable;

(e) Such Facility is both authorized and able to operate and deliver Energy at full capacity in accordance with the KPUD Interconnection and Transmission Agreements, the BPA Generation Interconnection Agreements, Prudent Utility Practices, and all Requirements of Law, as certified by the Independent Engineer;

(f) Seller has obtained Insurance coverage for such Facility as required by Appendix I; and

(g) To the reasonable satisfaction of Buyer, the construction of the Specified Transmission Path and the interconnection facilities have been completed, as certified by the Independent Engineer, and the BPA Generation Interconnection Agreements, the KPUD Interconnection and Transmission Agreements and other necessary agreements and arrangements have been executed such that Seller has rights to sufficient capacity of the Specified Transmission Path to furnish Transmission Services for and arrange for the Scheduling of Facility Energy.

“Commercial Operation Date of the Primary Facility” means the date on which Commercial Operation for the Primary Facility has been achieved.

“Commercial Operation Date of the Facility Expansion” means the date on which Commercial Operation of the Facility Expansion has been achieved.

“Contract Year” means (a) for the first Contract Year, the period beginning on the First Prepayment Date and ending at 24:00 hours on December 31 of the year in which the First Prepayment Date occurs, and (b) each succeeding calendar year from January 1 through December 31, inclusive; provided that the final Contract Year shall terminate on the date that this Agreement is terminated or expires in accordance with the terms thereof.

“Costs” means brokerage fees, commissions and other similar transaction costs and expenses reasonably incurred in terminating any specifically related arrangements or entering into arrangements which replace this Agreement, excluding attorneys’ fees, if any, incurred in connection with the Non-Defaulting Party enforcing its rights with regard to this Agreement.

“CPRA” has the meaning set forth in Section 14.20(c).

“Deed of Trust” has the meaning set forth in Section 6.3(a).

“Deemed Delivered Prepaid Energy” has the meaning set forth in Section 4.5(g).

“Deemed Delivered Excess Energy” has the meaning set forth in Section 4.5(g).

“Default” has the meaning set forth in Section 13.1.

“Defaulting Party” has the meaning set forth in Section 13.1.

“Delivered Energy” means the MWh of Facility Energy as metered at the KPUD Interconnection Points, adjusted to include Deemed Delivered Prepaid Energy and Deemed Delivered Excess Energy in accordance with Section 4.5(g).

“Delivered Excess Energy” means the portion of the Delivered Energy which is designated as Excess Energy.

“Delivery Term” means the Initial Delivery Term and, if applicable, the Extension Term.

“Direct Reimbursable Costs” means the following costs incurred by Seller, directly related to the performance of the operation and maintenance of the Facility, in an amount equal to the documented actual cost of such expense: (a) rent, royalties and other payments due under the Leases, (b) all property taxes related to the Site and the Facility, (c) all Taxes imposed upon the sale or use of Facility Energy and Environmental Attributes, (d) premiums and deductibles payable for property, liability and other insurance required to be obtained and maintained by Seller under this Agreement in connection with the ownership, operation and maintenance of the Facility, (e) costs and expenses incurred or paid by Seller under or related to the KPUD Interconnection and Transmission Agreements and the BPA Generation Interconnection Agreements, except for costs or expenses resulting from a breach by Seller of such agreements, (f) any costs and expenses incurred or paid by Seller in connection with Seller’s performance of operation and maintenance obligations pursuant to Section 5.1(d), Section 5.3, and Section 9.2 of this Agreement, and (g) the one-time fee paid by Seller under the Service Agreement to extend the warranty period for the warranty covering the turbines; provided, however, that notwithstanding anything to the contrary, the following shall not be included in Direct Reimbursable Costs: (i) any operating expenses that are the result of the negligence, gross negligence or willful misconduct of Seller, its subcontractors or their respective representatives, (ii) except as expressly provided in clauses (b) and (c) above, Taxes that are the responsibility of Seller under Section 11.6 of this Agreement (including Taxes imposed upon the income of Seller or its shareholders, members or other equity owners, which shall be the sole responsibility of Seller or such shareholders, members or other equity owners), (iii) depreciation, (iv) payments for debt service or internal reserve accounts, (v) O&M Expenses, (vi) the cost of Replacement Energy, and (vii) the cost to Seller of any change to or in the application or interpretation of the Code or other tax law, except to the extent such change requires a modification of the Facility for the benefit of public health, safety or the environment (which, to such extent, shall be included as a Direct Reimbursable Cost).

“Downgrade Event” means any event that results in a Person failing to meet the credit requirements of a Qualified Issuer or the commencement of involuntary or voluntary bankruptcy, insolvency, reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar proceeding (whether under any present or future statute, law, or regulation) with respect to such Person.

“Early Energy” means the MWh of Facility Energy as metered at the KPUD Interconnection Points prior to the First Prepayment Date, and, if applicable, the MWh of Energy produced by the Facility Expansion, as metered at the KPUD Interconnection Points prior to the Second Prepayment Date.

“Early Energy Price” means the price per MWh paid by Buyer to Seller for Early Energy according to the provisions in Appendix A.

“EEI” means Edison Electric Institute.

“Effective Date” means the date on which Buyer executes this Agreement.

“Electric Metering Device(s)” means all meters, metering equipment, and data processing equipment used to measure, record, or transmit data relating to the Facility Energy. Electric Metering Devices include the metering current transformers and the metering voltage transformers.

“End of Term Purchase Price” has the meaning set forth in Section 2.6(c).

“Energy” has the meaning set forth in the Recitals.

“Environmental Attributes” means any and all current or future credits, benefits, emissions reductions, offsets or allowances, howsoever entitled, named, registered, created, measured, allocated or validated (A) that are at any time recognized or deemed of value (or both) by Buyer, applicable law, or any voluntary or mandatory program of any Governmental Authority or other Person and (B) that are attributable to (i) generation by the Facility during the Delivery Term or Replacement Energy required to be delivered by Seller to Buyer during the Delivery Term and (ii) the emissions or other environmental characteristics of such generation or such Replacement Energy or its displacement of conventional or other types of Energy generation; provided, however, that neither tax credits or other tax benefits nor Station Usage RECs shall be included in this definition of Environmental Attribute. Environmental Attribute includes without limitation any of the aforementioned arising out of legislation or regulation concerned with oxides of nitrogen, sulfur, carbon, or any other greenhouse gas or chemical compound, particulate matter, soot, or mercury, or implementing the United Nations Framework Convention on Climate Change (the **“UNFCCC”**), the Kyoto Protocol to the UNFCCC, California’s greenhouse gas legislation (including but not limited to California Assembly Bill 32 (Global Warming Solutions Act of 2006)) or any similar international, federal, state or local program or crediting “early action” with a view thereto, or laws or regulations involving or administered by the CAMD, and all Environmental Attribute Reporting Rights, including all evidences (if any) thereof such as renewable energy certificates of any kind. Environmental Attributes for purposes of this definition are separate from the Energy produced from the Facility.

“Environmental Attribute Reporting Rights” means all rights to report ownership of the Environmental Attributes to any Person, under Section 1605(b) of the Energy Policy Act of 1992, as amended from time to time or any successor statute, or any other current or future international, federal, state or local law, regulation or bill, or otherwise.

“Environmental Documents” has the meaning set forth in Section 3.1(a).

“EPA” means the United States Environmental Protection Agency and any successor agency.

“EPS Compliant,” when used with respect to the Facility or any other facility at any time means that such facility satisfies both the PUC Performance Standard and the CEC Performance Standard in effect at the time; provided, if it is impossible for the facility to satisfy both the PUC Performance Standard and the CEC Performance Standard in effect at any time, the facility shall be deemed EPS Compliant if it satisfies the CEC Performance Standard in effect at the time and those portions of the PUC Performance Standard in effect at the time that it is possible for the

facility to satisfy while at the same time satisfying the CEC Performance Standard in effect at the time.

"EPS Law" means Sections 8340 and 8341 of the California Public Utilities Code as implemented and amended from time to time, or any successor laws or regulations in the State of California.

"Estimated Additional Monthly O&M Amount" means, for a given month and based on the Annual Budget, the amount by which Seller reasonably estimates that the O&M Expenses for the Facility in such month are expected to exceed the Monthly O&M Amount for such month.

"Estimated Direct Reimbursable Costs" means, for a given month and based on the Annual Budget, the estimated amount of Direct Reimbursable Costs for the Facility for such month.

"Excess Energy" means, for any Contract Year, the Energy from the Facility delivered to the KPUD Interconnection Points which is in excess of the Guaranteed Annual Quantity.

"Excess Energy Price" means the price per MWh paid by Buyer to Seller for Excess Energy according to the provisions in Appendix A.

"Expiration Date" has the meaning set forth in Section 2.2(a).

"Extension Term" has the meaning set forth in Section 2.2(a).

"Facility" means the Primary Facility and, if Commercial Operation of the Facility Expansion is achieved, the Primary Facility together with the Facility Expansion.

"Facility Common Facilities Interests" means the rights and interests in and to the properties, structures, equipment and facilities, which (i) includes ownership interests (which may be an undivided interest) and leasehold interests in the Site Common Facilities, including all associated real or personal property, and the rights and interests of the Seller in and to any and all agreements for joint ownership, any third party joint operation, or use of the Site Common Facilities or the capacity or capability thereof, and (2) shall provide Seller with the rights to capability, capacity or use of the Site Common Facilities necessary to support the design capacity of the Primary Facility, the Facility Expansion or the Facility, as applicable, on a prudent and reliable basis.

"Facility Energy" means Energy generated by the Facility, less Station Usage Energy.

"Facility Expansion" means, in the event that the Primary Facility is comprised of wind turbine generators with an aggregate installed nameplate capacity of less than 262.2 MW, and if Seller elects to construct an additional facility pursuant to Section 6.1, such additional facility comprising a number of additional wind turbine generators with an aggregate installed nameplate capacity to be installed on the Site that, when added to the installed nameplate capacity of the Primary Facility, does not exceed 262.2 MW, as designated by Seller pursuant to Section 6.1.

“Facility Expansion LD Security” has the meaning set forth in Section 3.5(b).

“Facility Expansion Notice” has the meaning set forth in Section 6.1(b).

“Facility Lender” means any lender or lenders providing construction, interim or long-term debt or equity financing or refinancing for or in connection with the development, construction, purchase, installation or operation of the Primary Facility and/or Facility Expansion, including any equity and tax investor providing financing or refinancing for the Primary Facility and/or Facility Expansion or purchasing equity ownership interests of Seller and/or its Affiliates, and any trustee or agent acting on their behalf, and any Person or entity providing interest rate protection agreements to hedge any of the foregoing debt obligations.

“Fair Market Value” has the meaning set forth in Section 2.6(b).

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

“Firm Transmission” means transmission that cannot be curtailed within an operating hour for economic reasons or for higher priority transmission.

“First Buyer Purchase Option” has the meaning set forth in Section 2.6(a)

“First Notice” has the meaning set forth in Section 2.6(b).

“First Prepayment Amount” has the meaning set forth in Section 6.2(a)(2).

“First Prepayment Date” means the date on which Buyer pays the First Prepayment Amount to Seller.

“First Option Exercise Date” has the meaning set forth in Section 2.6(b).

“Force Majeure” has the meaning set forth in Section 14.6(b).

“Force Majeure Notice” has the meaning set forth in Section 14.6(a).

“Forced Outage” means the removal of service availability of the Facility or any portion of the Facility or the Transmission System, for emergency reasons or conditions in which the Facility or the Transmission System, as applicable, or any portion thereof, is unavailable due to unanticipated failure of the Facility or the Transmission System, as applicable, including failure resulting from an event of Force Majeure.

“GAAP” means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect as of the relevant date of determination.

“Gains” means the economic benefit (exclusive of Costs), if any, resulting from the termination of this Agreement, determined in a commercially reasonable manner and calculated in accordance with Section 13.4.

“Governmental Authority” means any federal, state, regional, city or local government, any intergovernmental association or political subdivision thereof, or other governmental, regulatory or administrative agency, court, commission, administration, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority, or any Person acting as a delegate or agent of any Governmental Authority.

“Guaranteed Annual Quantity” means, for each Contract Year, the amount set forth on Appendix B, as Appendix B shall be updated by the Parties as of the First Prepayment Date based on P99 Energy of the completed Primary Facility and, if applicable, as of the Second Prepayment Date based on P99 Energy of the completed Facility Expansion.

“Guaranteed Commercial Operation Date” means with respect to the Primary Facility, January 31, 2010, and with respect to the Facility Expansion, September 30, 2010, provided that in each case, as such date may be extended in accordance with Section 14.6 and provided further that such dates shall be extended for the number of days for which Seller has paid liquidated damages pursuant to and in accordance with Section 3.5.

“Guaranteed Generation” means the MWh of Energy prepaid by Buyer to be delivered after the First Prepayment Date and during the Initial Delivery Term from the Facility to the KPUD Interconnection Points as measured at the KPUD Interconnection Points, which shall be equal to P99 Energy for the Facility, multiplied by twenty (20) years.

“IEEE” means Institute of Electrical and Electronics Engineers.

“Independent Engineer” means Garrad Hassan, or such other engineer as may be jointly selected by the Parties.

“Independent Manager” means a manager who is not at the time of initial appointment, or at any time while serving as Independent Manager, and has not been at any time during the preceding five (5) years: (a) a member, stockholder, equityholder, director, manager (except as such Independent Manager of Seller), officer, employee, partner, attorney or counsel of Seller, any member of Seller, or any Affiliate of Seller; (b) a customer, supplier or other Person who derives any of its purchases or revenues from its activities with Seller, any member of Seller, or any Affiliate of Seller (other than for serving as Independent Manager of the Seller); (c) a Person controlling or under common control with any such stockholder, equityholder, partner, manager, customer, supplier or other Person; or (d) a member of the immediate family of any such member, stockholder, equityholder, director, officer, employee, manager, partner, customer, supplier or other Person.

“Initial Delivery Term” has the meaning set forth in Section 2.2(a).

“Insurance” means the policies of insurance as set forth in Appendix I.

“Intercreditor Agreement” means, if applicable, an intercreditor, shared facilities or similar agreement between Buyer and a Facility Lender for the Facility Expansion, in form and substance required for Seller to secure construction financing for the Facility Expansion.

“Interest Rate” means the lesser of (i) an interest rate of one percent (1.0%) per month, or (ii) the maximum rate permitted by applicable Requirements of Law.

“IPT” means, (i) with respect to a Retail Seller, for any year for which an Incremental Procurement Target has been set for the Retail Seller by the PUC under the RPS Law, the incremental procurement target so set, (ii) with respect to a Retail Seller for any year for which an incremental procurement target has not been set for the Retail Seller by the PUC under the RPS Law, the incremental procurement target last set for the Retail Seller by the PUC under the RPS Law, and (iii) with respect to Buyer, means Buyer’s members’ renewable energy portfolio standard or procurement target for the year in which this Agreement is entered into as established by Buyer’s members.

“ISA” means Instrument Society of America.

“KPUD” means Public Utility District No. 1 of Klickitat County, Washington.

“KPUD Interconnection and Transmission Agreements” means: (a) the Generation Interconnection Agreement (Dooley Substation) dated as of March 31, 2009, by and between Seller and KPUD, (b) the Generation Interconnection Agreement (Energizer Substation) dated as of March 31, 2009, by and between Seller and KPUD, (c) the Transmission Services Agreement (Dooley Substation to Rock Creek Substation) dated as of March 31, 2009, by and between Seller and KPUD, and (d) the Transmission Services Agreement (Energizer Substation to Dooley Substation) dated as of March 31, 2009, by and between Seller and KPUD.

“KPUD Interconnection Points” means the physical points on the low side of the transformers at the Dooley substation and the Energizer substation as depicted on Appendix M hereto and as further described in the KPUD Interconnection and Transmission Agreements, and **“KPUD Interconnection Point”** means each such physical point, as applicable.

“LADWP” means the City of Los Angeles, California, acting by and through its Department of Water and Power.

“Leases” means the real property leases and easements for the Facility set forth on Appendix P, and all other property rights of any nature for the Facility including access rights, each as amended, supplemented or otherwise modified from time to time.

“Lessors” means the lessors under any or all of the Leases.

"Lien" means any mortgage, deed of trust, lien, security interest, retention of title or lease for security purposes, pledge, charge, encumbrance, equity, attachment, claim, easement, right of way, covenant, condition or restriction, leasehold interest, purchase right or other right of any kind, including an option, of any other Person in or with respect to any real or personal property.

"Losses" means the economic loss (exclusive of Costs), if any, resulting from the termination of this Agreement, including, in the case of the Buyer, the Remaining Prepayment Amount, determined in a commercially reasonable manner as calculated in accordance with Section 13.4.

"Major Maintenance Blockout" has the meaning set forth in Section 4.5(f).

"Maintenance Reserve" means a reserve for unanticipated maintenance and repairs with respect to the Facility, established by the Parties in consultation with the Independent Engineer and Operator.

"Material Adverse Effect" shall mean any effect that is material and adverse to the operations or physical condition of the Primary Facility or the Facility Expansion, as applicable, or limits the ability of Seller to deliver Energy from the Facility.

"Milestone" has the meaning set forth in Section 3.4.

"Milestone Date" has the meaning set forth in Section 3.4.

"Minimum Nameplate Capacity" means 190 MW.

"Monthly O&M Amount" means in any Contract Year, one-twelfth (1/12) of the Annual O&M Amount for such Contract Year.

"Monthly Payment" means the amount to be paid to Seller by Buyer on a monthly basis for all items set forth in Appendix A.

"MW" means megawatt or megawatts, as applicable.

"MWh" means megawatt-hour or megawatt-hours, as applicable.

"NERC" means the North American Electric Reliability Council or its successor organization, if any.

"Non-Consolidation Opinion" means a reasoned opinion of Hunton & Williams, LLP as to the non-consolidation of the Seller in a bankruptcy proceeding of any member of Seller, addressed and delivered to the Buyer on or before the First Prepayment Date.

"Non-Defaulting Party" has the meaning set forth in Section 13.3(a).

"O&M Agreement" means, for the Primary Facility, the agreement between Seller and Operator for the operation and maintenance of the Facility which shall be amended as specified in Section

2.1(l), and for the Facility Expansion, if applicable, either (i) an extension of the O&M Agreement to apply to the Facility Expansion on the same terms and conditions, or (ii) a separate agreement between Seller and Operator for the Facility Expansion on substantially the same terms and conditions.

“O&M Deductible” has the meaning set forth in Section 4.11.

“O&M Expenses” means: (a) the costs and expenses payable to the Operator under the O&M Agreements; (b) the costs and expenses payable to Service Contractor under the Service Agreements; (c) a contribution to the Maintenance Reserve; and (d) all other operation and maintenance costs for the Facility, including costs incurred in connection with Seller’s performance of its operation and maintenance obligations under Article IV, Section 5.1(a), Section 5.2, and Section 14.21 of this Agreement; provided, however, that O&M Expenses shall not include (i) costs and expenses resulting from breach by Seller of the O&M Agreements, the Service Agreements, or other agreement related to the operation and maintenance of the Facility, or (ii) costs and expenses resulting from the negligence, gross negligence, or willful misconduct of Seller, its subcontractors or their respective representatives.

“Operator” has the meaning set forth in Section 4.2.

“Option Exercise Date” has the meaning set forth in Section 2.6(a).

“OSHA” means Occupational Safety & Health Administration and any successor thereto.

“P99 Energy” means, with respect to the production of Energy from the Facility, the amount of Facility Energy expected to be available for delivery to the KPUD Interconnection Points annually, with a probability of exceedance of 99% as calculated by Ron Nierenberg or another recognized wind expert to be selected by Seller subject to Buyer’s approval, provided, however, that the aggregate annual net capacity factor for the Facility used in determining the production of Energy from the Facility shall not exceed thirty percent (30%).

“Performance Security” has the meaning set forth in Section 6.4.

“Permit” means all applications, permits, licenses, franchises, certificates, concessions, consents, authorizations, approvals, registrations, orders, filings, entitlements and similar requirements of whatever kind and however described which are required to be obtained or maintained by any Person with respect to the development, siting, design, acquisition, construction, equipping, financing, ownership, possession, shakedown, start-up, testing, operation or maintenance of the Facility, the production and delivery of Facility Energy, Capacity Rights and Environmental Attributes, or any other transactions or matter contemplated by this Agreement (including those pertaining to electrical, building, zoning, environmental and occupational safety and health requirements), including those described in Appendix R.

“Permitted Encumbrances” means (i) any Lien expressly identified in this Agreement as a Permitted Encumbrance, (ii) Liens for taxes not yet due or for taxes being contested in good faith

by appropriate proceedings so long as such proceedings do not involve a material risk of the sale, forfeiture, loss or restriction on the use of the Facility or any part thereof; provided that such proceedings end by the expiration of the Agreement Term, (iii) suppliers', vendors', mechanics', workman's, repairman's, employees' or other like Liens arising in the ordinary course of business for work or service performed or materials furnished in connection with the Facility for amounts the payment of which is either not yet delinquent or is being contested in good faith by appropriate proceedings so long as such proceedings do not involve a material risk of the sale, forfeiture, loss or restriction on use of the Facility or any part thereof; provided that such proceedings end by the expiration of the Agreement Term, (iv) easements, rights of way, use rights, exceptions, encroachments, reservations, restrictions, conditions or limitations; provided that in each case the same do not interfere with or impair the operation or use of the Facility or any interest therein as contemplated by the Agreement, or have a material adverse effect on the value, the remaining useful life or the utility of the Facility or any interest therein, and (v) Liens in favor of a Facility Lender; provided that if such Liens are created, incurred, assumed or permitted to exist after the First Prepayment Date, such Liens shall be consistent with the terms and conditions of the Intercreditor Agreement.

"Person" means any individual, corporation, partnership, joint venture, limited liability company, association, joint stock company, trust, unincorporated organization, entity, government or other political subdivision.

"Point of Delivery" means the dead-end structure located inside Rock Creek Substation, as depicted in Appendix A, Attachment 2, to the BPA Generation Interconnection Agreement.

"Power Sales Agreements" means the Power Sales Agreements between Buyer and each Buyer Participant relating to the Facility.

"Preliminary Annual Budget" has the meaning set forth in Section 4.7.

"Preliminary Operating Plan" has the meaning set forth in Section 4.6.

"Prepaid Energy Price" means ninety dollars (\$90.00) per MWh.

"Prepayment Amount" means the total amount to be paid by Buyer for the Guaranteed Generation of the Facility as set forth in Section 6.2. Prepayment Amount shall include the First Prepayment Amount and the Second Prepayment Amount, as applicable.

"Present Value Rate" means six and one-half percent (6.5%) per annum.

"Primary Facility" a wind generation facility with an installed nameplate capacity as designated by Seller pursuant to Section 6.1 which is comprised of up to one hundred fourteen (114) Wind Turbine Generators and having a nameplate capacity equal to or in excess of the Minimum Nameplate Capacity, but not to exceed 262.2 MW, located on the Site in Klickitat County, Washington, including but not limited to all leaseholds, easements and other property interests and related transmission and other facilities described in Appendix D.

“Primary Facility LD Security” has the meaning set forth in Section 3.5(b).

“Prudent Utility Practices” means those practices, methods, and acts, that are commonly used by a significant portion of the wind electric generation industry in prudent engineering and operations to design and operate electric equipment (including wind electric generation powered facilities) lawfully and with safety, dependability, efficiency, and economy, including any applicable practices, methods, acts, guidelines, standards and criteria of FERC, NERC, WECC, and all applicable Requirements of Law.

“Public Utilities Code” means the Public Utilities Code of the State of California.

“PUC or CPUC” means the California Public Utilities Commission and any successor thereto.

“PUC Performance Standard” means, at any time, the greenhouse gas emission performance standard in effect at such time for baseload electric generation facilities owned or operated (or both) by load-serving entities and not local publicly-owned electric utilities, as established by the PUC or other Governmental Authority under the EPS Law.

“Qualified Issuer” means a Person that has a current long-term credit rating (corporate or long-term senior unsecured debt) of (1) “A2” or higher by Moody’s Investors Service, Inc.; or (2) “A” or higher by Standard & Poor’s.

“Quality Assurance Program” has the meaning set forth in Appendix K.

“RECs” or “Renewable Energy Certificates” means tradable environmental commodities that represent proof that one (1) megawatt-hour (MWh) of energy that was generated from an eligible resource as defined by the CEC WREGIS operating rules. These certificates can be sold and traded and the owner of the REC can claim to have purchased renewable energy. RECs are also commonly known as renewable energy credits and green tags.

“Related Interests and Rights” the Facility Common Facilities Interests and the Transmission Rights.

“Remaining Prepayment Amount” means, with respect to the Contract Year in which a termination of this Agreement (other than upon purchase of the Facility and Related Interests and Rights by Buyer), occurs, the amount set forth for such Contract Year in Appendix N; provided that if an amount of Shortfall Energy shall exist at the date of such termination, the Remaining Prepayment Amount set forth for such Contract Year shall be increased by an amount equal to the product of (x) the Shortfall Energy and (y) the Prepaid Energy Price.

“Replacement Energy” has the meaning set forth in Section 7.3.

“Requirements of Law” means federal, state and local laws, statutes, regulations, rules, codes or ordinances (other than those relating to Taxes) enacted, adopted, issued or promulgated by any

Governmental Authority (including those pertaining to electrical, building, zoning, environmental and occupational safety and health requirements).

"Retail Seller" means an "electrical corporation" (as defined in Section 218 of the Public Utilities Code) that is a "retail seller" as defined in Section 399.12(b) of the California Public Utilities Code as amended from time to time and any successor law.

"Rock Creek Substation" means the Rock Creek Substation owned and operated by BPA, as more specifically described in the BPA General Interconnection Agreements.

"RPS Compliant," when used with respect to the Facility or any other facility at any time, means (i) that all Energy generated by such facility at that time would, if purchased by a Retail Seller together with the associated Environmental Attributes, be eligible to be credited against the IPT of the Retail Seller for the year during which the Energy is purchased, and (ii) that all Energy generated by the Facility at that time would, if purchased by Buyer's members together with the associated Environmental Attributes, be eligible to be credited against the IPT of Buyer's members.

"RPS Law" means Sections 399.11 to 399.20 of the Public Utilities Code, as implemented and amended from time to time, and any successor law.

"Schedule or Scheduling" means the actions of Seller and Buyer or their Authorized Representatives, including each Party's Transmission Providers, if applicable, of notifying, requesting and confirming to each other the quantity of energy to be delivered hourly at the KPUD Interconnection Points on any given date during the Delivery Term.

"Scheduler" means a Person or Persons doing Scheduling.

"Scheduled Outage" means any outage with respect to the Facility other than a Forced Outage.

"Scheduled Outage Projection" has the meaning set forth in Section 4.5(f).

"Second Buyer Purchase Option" has the meaning set forth in Section 2.6(a)

"Second Notice" has the meaning set forth in Section 2.6(c).

"Second Option Exercise Date" has the meaning set forth in Section 2.6(c).

"Second Prepayment Amount" has the meaning set forth in Section 6.2(b)(3).

"Second Prepayment Date" means the date on which Buyer pays the Second Prepayment Amount to Seller.

"Security Interest" means (i) with respect to the Primary Facility, a lien on and security interests in and to the Primary Facility and the Related Interests and Rights, including all leasehold interests and real and personal property rights and interests of Seller under the

applicable Leases, to secure the performance of this Agreement by Seller by means of a perfected first lien and priority security interest in the Primary Facility and the Related Interests and Rights, subject only to Permitted Encumbrances, and (ii) with respect to the Facility Expansion, a lien on and security interests in and to the Facility Expansion and the Related Interests and Rights, including all leasehold interests and real and personal property rights and interests of Seller under the applicable Leases, to secure the performance of this Agreement by Seller by means of a perfected first lien and priority security interest in the Facility Expansion and the Related Interests and Rights, subject only to Permitted Encumbrances.

“Service Agreement” means, for the Primary Facility, the Service and Maintenance Agreement dated as of June 19, 2009, by and between Seller and Service Contractor, and for the Facility Expansion, if applicable, either (i) an extension of the Service and Maintenance Agreement to apply to the Facility Expansion on the same terms and conditions or (ii) a separate agreement between Seller and Service Contractor for the Facility Expansion on substantially the same terms and conditions.

“Service Contractor” means Siemens Energy, Inc.

“Shortfall Energy” has the meaning set forth in Section 7.1.

“Shortfall Makeup Period” has the meaning set forth in Section 7.1.

“Site” means the real property on which the Facility will be located.

“Site Common Facilities” means and includes the following properties and facilities that provide support and services for the Facility and for Energy produced by the Facility:

(i) a substation, including switching facilities, and interconnections with the Transmission System and related transmission facilities and the site thereof, including fee ownership interests, leaseholds, rights of way, easements and other related property rights and interests and associated buildings, structures and other improvements therefor;

(ii) access roads and turnaround areas;

(iii) control and data systems;

(iv) operation, maintenance and storage buildings, structures and facilities; and

(v) all equipment and other personal property necessary or useful to provide operational and support services to any of the foregoing.

“Special Purpose Entity” means a limited liability company which at all times prior to, on and after the date hereof:

(a) shall not (i) except as may be necessary to complete the Facility Expansion, engage in any dissolution, liquidation or consolidation or merger with or into any other business entity, (ii) except as may be necessary to complete the Facility Expansion, acquire by purchase or otherwise all or substantially all of the business or assets of or beneficial interest in any other entity, (iii) transfer, lease or sell, in one transaction or any combination of transactions, all or substantially all of its properties or assets except to the extent permitted herein, (iv) modify, amend or waive any provisions of its organizational documents related to its status as a Special Purpose Entity, or (v) terminate its organizational documents or its qualifications and good standing in any jurisdiction;

(b) was, is and will be organized solely for the purpose of acquiring, developing, owning, holding, selling, leasing, transferring, exchanging, managing and operating the Facility, entering into this Agreement with Buyer and transacting lawful business that is incident, necessary and appropriate to accomplish the foregoing;

(c) has not been, is not, and will not be engaged in any business unrelated to the acquisition, development, ownership, management or operation of the Facility;

(d) has not had, does not have and will not have, any assets other than those related to the Facility;

(e) has held itself out and will hold itself out to the public as a legal entity separate and distinct from any other entity and has not failed and will not fail to correct any known misunderstanding regarding the separate identity of such entity;

(f) has maintained and will maintain its financial statements, bank accounts, accounts, books, resolutions, agreements and records separate from any other Person and has filed and will file its own tax returns (except to the extent treated as a "disregarded entity" for tax purposes and is not required to file tax returns under applicable law);

(g) has held itself out and identified itself and will hold itself out and identify itself as a separate and distinct entity under its own name or in a name franchised or licensed to it by an entity other than an Affiliate of Seller and not as a division, department or part of any other Person;

(h) has maintained and will maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any other Person;

(i) has not made and will not make loans or advances to any Person or hold evidence of indebtedness issued by any other Person (other than cash and investment-grade securities issued by an entity that is not an Affiliate of, or subject to common ownership with, such entity) or made any gifts or fraudulent conveyances to any Person;

(j) has not identified and will not identify its members, or any Affiliate of any member, as a division or department or part of it, and has not identified itself and shall not identify itself as a division or department of any other Person;

(k) has not entered into or been a party to, and will not enter into or be a party to, any transaction with its members or Affiliates, except as may be necessary to complete the Facility Expansion or in the ordinary course of its business and on terms which are intrinsically fair, commercially reasonable and are no less favorable to it than would be obtained in a comparable arm's-length transaction with an unrelated third party;

(l) except pursuant to applicable law, has not had and will not have any obligation to indemnify, and has not indemnified and will not indemnify its officers, managers or members, as the case may be, other than the Independent Manager;

(m) has considered and shall consider the interests of its creditors in connection with all limited liability company actions;

(n) except in connection with any construction or other financing for the Facility, does not and will not have any of its obligations guaranteed by any Affiliate and will not hold itself out as being responsible for the debts or obligations of any other Person;

(o) has complied and will comply with all of the terms and provisions contained in its organizational documents including the provision requiring that there be an Independent Manager at all times and has done or caused to be done and will do all things necessary to preserve its existence;

(p) has not commingled, and will not commingle, its funds or assets with those of any Person and has not participated and will not participate in any cash management system with any other Person;

(q) has held and will hold its assets in its own name and conducted and will conduct all business in its own name;

(r) has maintained and will maintain its financial statements, accounting records and other entity documents separate from any other Person and has not permitted and will not permit its assets to be listed as assets on the financial statement of any other entity except as required by GAAP; provided, however, that any such consolidated financial statement shall contain a note indicating that its separate assets and liabilities are neither available to pay the debts of the consolidated entity nor constitute obligations of the consolidated entity;

(s) has paid and will pay its own liabilities and expenses, including the salaries of its own employees, out of its own funds and assets, and has maintained and will maintain a sufficient number of employees in light of its contemplated business operations;

(t) has observed and will observe all limited liability company formalities;

(u) except in connection with any construction or other financing for the Facility, has not assumed or guaranteed or become obligated for, and will not assume or guarantee or become obligated for the debts of any other Person and has not held out and will not hold out its credit as being available to satisfy the obligations of any other Person except as permitted pursuant to this Agreement;

(v) except as may be necessary to complete the Facility Expansion, has not acquired and will not acquire obligations or securities of its members or any Affiliate;

(w) has allocated and will allocate fairly and reasonably any overhead expenses that are shared with any Affiliate, including, but not limited to, paying for shared space and services performed by any employee of an Affiliate;

(x) has maintained and used, now maintains and uses, and will maintain and use separate stationery, invoice and checks bearing its name; such stationery, invoices and checks utilized by it or utilized to collect its funds or pay its expenses have borne and shall bear its own name and have not borne and shall not bear the name of any other entity unless such entity is clearly designated as being its agent;

(y) except in connection with any construction or other financing for the Facility, has not pledged and will not pledge its assets for the benefit of any other Person;

(z) has had, now has, and will have articles of organization, a certificate of formation and/or an operating agreement, as applicable, that provides that it will not: (A) dissolve, merge, liquidate or consolidate; (B) sell, transfer, lease or otherwise convey all or substantially all of its assets; (C) engage in any other business activity, or amend its organizational documents with respect to the matters set forth in this definition without the affirmative vote of its Independent Manager; or (D) without the affirmative vote of its Independent Manager, file a bankruptcy or insolvency petition or otherwise institute insolvency proceedings with respect to itself or to any other entity in which it has a direct or indirect legal or beneficial ownership interest;

(aa) has been, is and intends to remain solvent and has paid and intends to continue to pay its debts and liabilities (including, as applicable, shared personnel and overhead expenses) from its assets as the same shall have or become due, and has maintained, is maintaining and intends to maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations; and

(bb) has no and will have no indebtedness other than (i) a loan made by any Facility Lender providing construction financing for the Facility and any loan in replacement or substitution thereof, (ii) Taxes and Insurance premiums, (iii) liabilities incurred in the ordinary course of business relating to its ownership, leasing and operation of the Facility and its routine administration, which liabilities are not more than sixty (60) days past due, are not evidenced by a note and are paid when due, and which amounts are normal and reasonable under the

circumstances, and in any event not in excess of \$1,000,000 in the aggregate, (iv) the Working Capital Facility, if any, and (v) such other liabilities that are permitted pursuant to this Agreement.

"Specified Transmission Path" means the transmission lines and related facilities owned or leased by Seller or contracted for with KPUD and/or BPA providing the capacity for the delivery of the Facility Energy from the KPUD Interconnection Points to the Rock Creek Substation, as described in Appendix M, hereto.

"Station Usage Energy" means Energy (a) used within the Facility to power the lights, motors, buildings, panels, control systems and other electrical loads that are necessary for operation and maintenance of the Facility; or (b) consumed within the Facility's electric energy distribution/transmission system as losses.

"Station Usage RECs" means any RECs associated with Station Usage Energy.

"System Emergency" means an emergency condition or abnormal situation which in Buyer's sole judgment affects the ability of Buyer or Buyer's Agent to receive Energy at the Point of Delivery.

"Tax" or "Taxes" means each federal, state, county, local and other (a) net income, gross income, gross receipts, sales, use, ad valorem, business or occupation, transfer, franchise, profits, withholding, payroll, employment, excise, property or leasehold tax and (b) customs, duty or other fee, assessment or charge of any kind whatsoever, together with any interest and any penalties, additions to tax or additional amount with respect thereto.

"Tax Benefits" means all tax deductions, tax credits, tax grants, and other tax benefits available to taxpayers, including Cash Grants, as well as any replacements or modification to such tax deductions, credits, or grants; provided, however, Tax Benefits shall not include any future tax deductions or credits in connection with greenhouse gas emission reductions or tax deductions or credits in connection with a "carbon tax" imposed by the federal government.

"Termination Payment" means in the case of a Default, the amount, calculated pursuant to Section 13.4, paid by a Party to effect the liquidation of this Agreement.

"Transmission Credits" means all transmission credits for Interconnection Customer Network Upgrades available to Windy Point Partners, LLC under the BPA Generation Interconnection Agreements.

"Transmission Provider" means the Person(s) operating the Transmission System(s) and providing Transmission Services from the KPUD Interconnection Points to the Point of Delivery and beyond.

“Transmission Rights” means ownership or other property interests or capacity rights in and to the Transmission System and rights to Schedule the use of the capacity of the Transmission System, including the interconnection facilities included in the Specified Transmission Path.

“Transmission Services” means the transmission, Scheduling and other services required to provide Firm Transmission for the delivery of Energy over the Specified Transmission Path.

“Transmission System” means the facilities utilized to provide Transmission Services.

“WECC” means the Western Electricity Coordinating Council, or any successor entity thereto.

“Working Capital Facility” means any credit facility for working capital or any line of credit entered into by Seller in the ordinary course of its business and in any event not in excess of \$1,500,000; provided that such credit facility or line of credit shall not be secured by any portion of the Facility, the Related Interests and Rights or any other property or assets which are necessary to the operation, maintenance and use of the Facility.

“WREGIS” means Western Renewable Energy Generation Information System, and any successor; provided that said successor is capable of performing substantially similar functions and is acceptable to Buyer.

“WREGIS Certificates” has the meaning set forth in Section 9.5.

“WREGIS Operating Rules” means the rules describing the operations of the Western Renewable Energy Generation Information System, as published by WREGIS and as may be amended from time to time.

“6 Year Purchase Price” has the meaning set forth in Section 2.6(b).

Section 1.2 Interpretation. In this Agreement, unless a clear contrary intention appears:

- (a) the singular number includes the plural number and vice versa;
- (b) reference to any Person includes such Person’s successors and assigns but, in case of a Party hereto, only if such successors and assigns are permitted by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity or individually;
- (c) reference to any gender includes the other;
- (d) reference to any agreement (including this Agreement), document, instrument or tariff means such agreement, document, instrument or tariff as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof;

(e) reference to any Article, Section, or Appendix means such Article of this Agreement, Section of this Agreement, or such Appendix to this Agreement, as the case may be, and references in any Article or Section or definition to any clause means such clause of such Article or Section or definition;

(f) "hereunder", "hereof", "hereto" and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Article or Section or other provision hereof or thereof;

(g) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term;

(h) relative to the determination of any period of time, "from" means "from and including," "to" means "to but excluding" and "through" means "through and including";

(i) reference to time shall always refer to Pacific Prevailing Time; and

(j) reference to any "day" shall mean a calendar day unless otherwise indicated.

Section 1.3 Service Contract. Except in the case of any acquisition of the Primary Facility or the Facility Expansion by Buyer as provided in this Agreement, the Parties intend that this Agreement will qualify under the special rule for "alternative energy facilities" in Section 7701(e)(3) of the Code. Except in the case of any acquisition by the Buyer of the Primary Facility or the Facility Expansion as provided in this Agreement, each Party agrees that, unless otherwise required by law, it will not take any position for U.S. federal income tax purposes that is inconsistent with this Agreement constituting a "service contract" as such term is used in Section 7701(e) of the Code.

ARTICLE II.

EFFECTIVE DATE, TERM, EARLY TERMINATION AND PURCHASE OPTION

Section 2.1 Effective Date. Subject to Section 3.1(d), when executed and delivered by both Parties, this Agreement shall become effective as of the Effective Date. On or prior to the Effective Date, each of the following has occurred:

(a) Lessors under the Leases executed amendments to the Leases, in form and substance reasonably acceptable to Buyer and Buyer has received copies of the amended Leases and the corresponding memoranda of Lease that were recorded in the Official Records of Klickitat County, Washington;

(b) Buyer received copies of all requisite resolutions and incumbency certificates of Seller and any other documents evidencing all actions taken by Seller to authorize the execution and delivery of this Agreement and all Ancillary Documents requiring execution.

by Seller, such resolutions to be certified as of the Effective Date by an Authorized Representative of Seller;

(c) Buyer received an executed original of a written legal opinion of Hunton & Williams, LLP, counsel for Seller, concerning this Agreement, the Ancillary Documents and related matters in form and substance satisfactory to Buyer and its counsel dated as of the Effective Date and addressed to Buyer;

(d) The Primary Facility LD Security required under Section 3.5(b) was delivered to Buyer;

(e) Buyer received all certificates and other documents required to establish that the insurance policies required by Appendix I are in full force and effect upon the Effective Date;

(f) Buyer received evidence reasonably satisfactory to Buyer that Seller has obtained all Permits and environmental reports listed in Appendix R, except for any such Permits not yet required to be obtained but which can reasonably be expected to be obtained when needed, and each such Permit is final and all appeal periods applicable to the Permit, as set forth in the Permit or in the Requirement of Law specifically authorizing the issuance of such Permit, have expired;

(g) Seller or an affiliate of Seller, on the one hand, and LADWP, on the other hand, executed a BPA Transmission Rights Assignment Agreement transferring the transmission service agreements associated with transmission service from the Rock Creek substation in form and substance reasonably acceptable to Buyer;

(h) Buyer received a consent in form and substance reasonably acceptable to Buyer from Facility Lenders consenting to and acknowledging Buyer's options to purchase the Facility and Related Interests and Rights under this Agreement;

(i) Seller received copies of all requisite resolutions and incumbency certificates of Buyer and any other documents evidencing all actions taken by Buyer to authorize the execution and delivery of this Agreement and all Ancillary Documents requiring execution by Buyer, such resolutions to be certified as of the Effective Date by an Authorized Representative of Buyer;

(j) Buyer received an executed original of the agreement between Buyer and Turlock Irrigation District regarding the allocation of responsibilities under the permit held by Turlock Irrigation District that applies to certain of the wind turbine generators to be included as part of the Facility;

(k) Buyer shall have received confirmation that the Standard Large Generation Interconnection Agreement, Contract No. 06TX-12140, dated January 27, 2007, by

and between Windy Point Partners, LLC and BPA shall have been partially assigned to Seller with respect to at least 30 MW; and

(l) The O&M Agreement shall have been amended or amended and restated in the form and substance reasonably acceptable to both Buyer and Seller.

Section 2.2 Agreement Term and Delivery Term.

(a) Except as otherwise provided in Section 7.4, this Agreement shall have an initial delivery term (the “*Initial Delivery Term*”) commencing on the Commercial Operation Date of the Primary Facility and ending on (a) the 20th anniversary of the Second Prepayment Date, or (b) in the event the Second Prepayment Date does not occur, the 20th anniversary of the First Prepayment Date, unless sooner terminated in accordance with the terms of this Agreement (the “*Expiration Date*”). Buyer may extend the Initial Delivery Term for an additional term equal to the lesser of (i) four (4) years or (ii) such period that when added to the Initial Delivery Term does not exceed eighty percent (80%) of the remaining economic useful life of the Facility as of the Commercial Operation Date of the Primary Facility as certified by the Shaw Group, Inc., dba Stone & Webster, or another qualified appraisal firm selected by Seller (the “*Extension Term*”) by providing notice to Seller of Buyer’s intent to extend the Initial Delivery Term at least six (6) months prior to the Expiration Date. The appraisal reflecting the economic useful life of the Facility shall be completed and delivered to Buyer within thirty (30) days of the Effective Date.

Section 2.3 Survivability. The provisions of this Article II, Section 3.6, Section 6.1(d), Article XII, Article XIII, Section 14.18 and Section 14.20 shall survive for a period of one (1) year following the termination of this Agreement. The provisions of Article VII shall survive for a period of four (4) years following final payment made by Buyer hereunder or the end of the Agreement Term or termination date of this Agreement, whichever is later. In addition, applicable provisions of this Agreement will continue in effect after termination to the extent necessary for billing, adjustments, and payments related to the period prior to termination of this Agreement, including Article VI and Article IX as well as any provisions of this Agreement applicable to Taxes that are the responsibility of Buyer, including Section 11.6.

Section 2.4 Early Termination.

(a) Early Termination by Mutual Agreement. This Agreement may be terminated by mutual written agreement of the Parties.

(b) Early Termination for Default. Upon the occurrence of a Default, the Non-Defaulting Party may terminate this Agreement as set forth in Section 13.3.

(c) Early Termination for Delay in Primary Facility Commercial Operation Date. Buyer may terminate this Agreement if Seller fails to achieve Commercial Operation with respect to the Primary Facility with a nameplate capacity equal to or in excess of the Minimum Nameplate Capacity by the Guaranteed Commercial Operation Date for the Primary Facility, by

providing notice to Seller of such termination within thirty (30) days following the Guaranteed Commercial Operation Date for the Primary Facility, which notice shall specify a termination date no earlier than thirty (30) days or later than sixty (60) days after delivery of such notice; provided, however, so long as Seller is paying liquidated damages pursuant to and in accordance with Section 3.5, Buyer shall have no right to terminate this Agreement for failure to achieve Commercial Operation of the Primary Facility by the Guaranteed Commercial Operation Date for the Primary Facility. If Seller fails to achieve Commercial Operation with respect to the Primary Facility with a nameplate capacity equal to or in excess of the Minimum Nameplate Capacity by such specified termination date, this Agreement shall, unless Buyer has withdrawn its notice of termination, terminate on such specified termination date, with such provisions surviving as set forth in Section 2.3, but only upon payment by Seller to Buyer of all amounts owed by Seller to Buyer under this Agreement, less amounts owed to Seller by Buyer under this Agreement.

(d) Effect of Termination. Any termination of this Agreement under this Section 2.4 shall be without prejudice to the rights and remedies of either Party for Defaults occurring prior to such termination.

Section 2.5 Buyer Purchase for Failure to Receive Cash Grants.

(a) If (i) Seller receives a final and non-appealable notification that it will not be awarded the Cash Grants for the Primary Facility or, (ii) on the date that is two hundred seventy (270) days following the Guaranteed Commercial Operation Date for the Primary Facility, Seller has not received the Cash Grants related to the Primary Facility, Seller shall promptly notify Buyer thereof, and Buyer shall purchase the Primary Facility and Related Interests and Rights in accordance with this Section 2.5. If Seller, as of the date of such notice, has issued a Facility Expansion Notice and has, prior to the Guaranteed Commercial Operation Date of the Facility Expansion, achieved Commercial Operation of the Facility Expansion, Buyer shall concurrently also purchase the Facility Expansion and Related Rights and Interests in accordance with this Section 2.5. The purchase price for the Facility and Related Interests and Rights and, if applicable, for the Facility Expansion and Related Rights and Interests shall be \$2,585 per installed kW plus the then-current balance of the Transmission Credits ("**Cash Grant Purchase Price**"). The closing of such sale and purchase shall take place in accordance with and pursuant to the terms and conditions set forth in Appendix O. If the date of Seller's notice to Buyer under this Section 2.5(a) is prior to the Guaranteed Commercial Operation Date of the Facility Expansion, and the Facility Expansion has not achieved Commercial Operation as of such date, Buyer shall, upon achievement of Commercial Operation of the Facility Expansion prior to the Guaranteed Commercial Operation Date of the Facility Expansion, purchase the Facility Expansion for the Cash Grant Purchase Price and in accordance with Exhibit O.

(b) If Buyer purchases the Primary Facility or Facility Expansion under this Section 2.5, the price paid by Buyer shall be reduced by (i) the amount of all incremental costs incurred by Buyer in connection with the issuance of bonds or notes by Buyer in connection with the purchase of the Primary Facility, the Expansion Facility, if applicable, and Related Interests

and Rights and (ii) any liquidated damages that would have accrued with respect to the Primary Facility and the Facility Expansion, if applicable, from the applicable Guaranteed Commercial Operation Date until the date that Commercial Operation is achieved with respect to the Primary Facility and the Facility Expansion, as applicable.

(c) This Agreement shall terminate under this Section 2.5 (i) upon the Closing of the purchase of the Primary Facility if upon such Closing the Primary Facility includes all of the assets that are intended to comprise the Facility Expansion or (ii) upon the Closing on the purchase of the Facility Expansion (but if Seller does not issue a Facility Expansion Notice, this Agreement shall terminate on the last day provided for issuance of such notice) and in any case provided that the payment in full for the relevant purchase has been made and that Buyer has returned the Performance Security to Seller.

Section 2.6 Buyer Purchase Options.

(a) Seller hereby grants to Buyer an initial purchase option (the “**First Buyer Purchase Option**”) to be exercised within the First Option Exercise Date and an additional purchase option (the “**Second Buyer Purchase Option**”) to be exercised within the Second Option Exercise Date, in each case pursuant to the terms of this Section 2.6.

(b) At any time following the First Prepayment Date and on a date that is within the six (6) month period immediately preceding the sixth (6th) anniversary of the Commercial Operation Date of the Primary Facility or, if the Facility Expansion has become part of the Facility then a date that is within the six (6) month period immediately preceding the sixth (6th) anniversary of the Commercial Operation Date of the Facility Expansion (such date hereinafter referred to as the “**First Option Exercise Date**”), Buyer may deliver to Seller notice (the “**First Notice**”) that it is exercising the First Buyer Purchase Option. Promptly following receipt of the First Notice, the Parties shall in good faith calculate the purchase price of the Facility and Related Interests and Rights within ninety (90) days of Seller’s receipt of the First Notice, which shall be the Fair Market Value of the Facility and Related Interests and Rights (the “**6 Year Purchase Price**”). For purposes of this Agreement, “**Fair Market Value**” shall mean the amount Buyer and Seller agree is the then-current value of the Facility and Related Interests and Rights based on the amount that a third party would be willing to pay if it acquired the Facility subject to this Agreement, and failing agreement, what a panel of three (3) qualified appraisers (one appraiser to be selected by each Party and the third appraiser to be selected by the mutual agreement of the two (2) Party-selected appraisers), agree is the value. Notwithstanding anything herein to the contrary, Buyer shall not be obligated to purchase the Facility and Related Interests and Rights if the 6 Year Purchase Price exceeds three hundred thousand dollars (\$300,000) per installed MW and Seller shall not be obligated to sell the Facility and Related Interests and Rights if the 6 Year Purchase Price is less than one hundred fifty-two thousand dollars (\$152,000) per installed MW. Subject to the foregoing, if Buyer provides the First Notice, Buyer shall purchase and Seller shall sell, convey and assign, the Facility and Related Interests and Rights for the 6 Year Purchase Price, in accordance with the terms and conditions set forth in Appendix O. If Buyer does not provide the First Notice by the

First Option Exercise Date, then Buyer shall forfeit the right to exercise the First Buyer Purchase Option.

(c) If Buyer does not deliver the First Notice by the First Option Exercise Date, Buyer may exercise the Second Buyer Purchase Option to purchase the Facility and Related Interests and Rights at the expiration of the Delivery Term. Buyer shall exercise such option, if at all, by providing Seller with notice (the "**Second Notice**") that it is exercising the Second Buyer Purchase Option at least one hundred eighty (180) days prior to the expiration of the Delivery Term (the "**Second Option Exercise Date**"). Promptly following receipt of the Second Notice, the Parties shall in good faith calculate the purchase price of the Facility and Related Interest and Rights within ninety (90) days of Seller's receipt of the Second Notice which shall be the Fair Market Value thereof (the "**End of Term Purchase Price**"). Notwithstanding anything herein to the contrary, Buyer shall not be obligated to purchase the Facility and Related Interests and Rights if the End of Term Purchase Price exceeds six hundred thousand dollars (\$600,000) per installed MW and Seller shall not be obligated to sell the Facility and Related Interests and Rights if the End of Term Purchase Price is less than three hundred sixty-five thousand (\$365,000) per installed MW. Subject to the foregoing, if Buyer provides the Second Notice, Buyer shall purchase and Seller shall sell, convey and assign, the Facility and Related Interests and Rights for the End of Term Purchase Price in accordance with the terms and conditions set forth in Appendix O. If Buyer does not provide the Second Notice by the Second Option Exercise Date, then Buyer shall forfeit the right to exercise the Second Buyer Purchase Option.

(d) At any time (i) prior to the First Option Exercise Date (but following the fifth (5th) anniversary of the Commercial Operation Date of the Primary Facility) and not during the period in which the Parties are obligated to calculate in good faith the 6 Year Purchase Price, and (ii) during the last year of the Delivery Term, but prior to the date on which Buyer must provide the Second Notice, Buyer may request in writing (but only one time in each time period) Seller's reasonable estimate of the purchase price for the Facility and Related Interests and Rights, and Seller shall provide such estimate with supporting documentation within sixty (60) days of such written request. The reasonable estimate will take into consideration the actual Delivered Energy from the Commercial Operation Date of the Primary Facility through the most recent anniversary of the Commercial Operation Date of the Primary Facility, and, if applicable, the expected Delivered Energy from that date until the First Option Exercise Date. The calculation of the expected Delivered Energy will take into consideration the average annual Delivered Energy since the Commercial Operation Date of the Primary Facility and other analysis and data appropriate under the circumstances.

(e) This Agreement shall be terminated upon the Closing of any such purchase under this Section 2.6, the payment in full by Buyer to Seller of the applicable purchase price for the Facility and Related Interests and Rights and the return by Buyer to Seller of the Performance Security.

ARTICLE III. DEVELOPMENT OF THE FACILITY

Section 3.1 In General.

(a) Permitting. Seller, at its sole cost and expense, shall timely take all steps necessary to obtain all Permits required to construct, maintain or operate the Facility in accordance with the requirements of this Agreement and all applicable Requirements of Law including but not limited to the timely preparation of all environmental documents required to have the Facility reviewed under applicable federal and Washington law (the “*Environmental Documents*”).

(b) Project Design. The location, design, configuration and capacities of the Facility shall be consistent with the requirements of this Agreement and all applicable Requirements of Law, including but not limited to the characteristics and other requirements for the Facility set forth in Appendix D, and also subject to any conditions which are imposed by the lead agency or any responsible agency (including, but not limited to Buyer) as part of the environmental review of the Facility required under applicable Washington law and such conditions that Seller deems acceptable, it being understood that this Agreement will terminate in the absence of Seller’s agreement to any such condition.

(c) Meetings With Governmental Authorities. Seller shall represent the Facility as necessary in all meetings with and proceedings before all Governmental Authorities.

(d) CEQA Exemption. The Parties acknowledge and agree that the Facility has been subject to environmental review pursuant to Washington laws requiring preparation of a document containing essentially the same points of analysis as in an environmental assessment or environmental impact statement prepared under NEPA, and is therefore statutorily exempt from CEQA pursuant to Title 14, California Code of Regulations, Section 15277. The Parties acknowledge and agree that Seller shall have no obligation to sell and Buyer shall have no obligation to purchase any Energy under this Agreement unless and until a notice of exemption pursuant to Title 14, California Code of Regulations, Section 15277 (“*Notice of Exemption*”), shall have been duly filed in the appropriate state and county, and the applicable period for any legal challenges to any action by any such agency or any other Person, including the statute of limitations pertaining to the filing of the Notice of Exemption, shall have expired without any such challenge having been filed or, in the event of any such challenge, the challenge shall have been determined adversely to the challenger by final judgment or by settlement.

(e) Development and Construction of the Facility. Seller shall use commercially reasonable and diligent efforts to site, develop, finance and construct the Facility. Seller shall develop, finance and construct the Facility, at its sole risk and expense, and in compliance with the requirements of this Agreement, all applicable Requirements of Law, Prudent Utility Practices, and applicable manufacturer’s and vendor’s specifications and recommended procedures; provided that meeting these requirements shall not relieve Seller of its other obligations under this Agreement.

(f) **Site Confirmation.** Seller agrees and acknowledges that (i) Seller's agents and representatives have visited, inspected and are familiar with the Site, its surface physical condition relevant to Seller's obligations under this Agreement, including surface conditions, thermal resources (including the thermal ground water), cooling water rights, normal and usual soil conditions, roads, utilities, and topographical, solar radiation, air and water quality conditions; (ii) Seller is familiar with all local and other conditions which may be material to Seller's performance of its obligations under this Agreement (including, transportation, seasons and climate, access, weather, handling and storage of materials and equipment; and availability and quality of labor and utilities); and (iii) based on the foregoing, the Site constitutes an acceptable and suitable site for the construction and operation of the Facility in accordance herewith. Any failure by Seller to take the actions described in this Section will not relieve Seller from any responsibility for estimating properly the difficulty and cost of successfully constructing, maintaining or operating the Facility in accordance with this Agreement or from proceeding to construct, maintain and operate the Facility successfully without any additional expense to Buyer.

Section 3.2 Certification of Commercial Operation Date; Preliminary Notice. Seller shall furnish Buyer at least ninety (90) days prior to the anticipated Commercial Operation Date of the Primary Facility, and if the Facility Expansion has become part of the Facility then at least ninety (90) days prior to the anticipated Commercial Operation Date of the Facility Expansion, a notice of such anticipated Commercial Operation Date. Seller shall provide Buyer with notice when Seller believes that all conditions precedent to achieving Commercial Operation as specified in the definition of "**Commercial Operation**" in Section 1.1 have been satisfied.

Section 3.3 Other Information. Seller shall provide to Buyer such other information that is in the possession of Seller or its Affiliates or is reasonably available to Seller regarding the permitting, engineering, construction or operations, of Seller, its subcontractors or the Facility, financial or otherwise, and other data concerning Seller, its subcontractors or the Facility that Buyer may, from time to time, reasonably request, subject to Seller's obligations of confidentiality to third parties with respect to such information. Until the applicable Commercial Operation Date, Seller shall provide to Buyer monthly written reports describing permitting and development activities in the previous month and anticipated progress and activities for the upcoming month with respect to the Primary Facility and Facility Expansion.

Section 3.4 Milestone Schedule. Seller has provided Buyer with the milestone schedule set forth in Appendix L for the development of the Primary Facility and the development of and arrangements for Transmission Services through the Commercial Operation Date of the Primary Facility. Seller shall include in its monthly reports the status of each Milestone. Seller shall use commercially reasonable efforts to achieve each milestone set forth on Appendix L (each, a "**Milestone**") by the date specified therefor, subject to extension in accordance with this Agreement (each such date as so extended (if at all), a "**Milestone Date**").

Section 3.5 Liquidated Damages.

(a) If Seller fails to achieve Commercial Operation of the Primary Facility by the Guaranteed Commercial Operation Date for the Primary Facility, Seller shall pay liquidated damages to Buyer in an amount equal to 50,000 per day, up to a maximum of \$5 million in the aggregate, for each day intervening between the Guaranteed Commercial Operation Date for the Primary Facility and the earlier of (x) the date Commercial Operation of the Primary Facility is achieved, and (y) the date, if any, on which this Agreement is terminated by Buyer pursuant to Section 2.4(c). If Seller elects to complete the Facility Expansion pursuant to Section 6.1, but fails to achieve Commercial Operation of the Facility Expansion by the Guaranteed Commercial Operation Date for the Facility Expansion, Seller shall pay liquidated damages to Buyer in an amount equal to \$50,000 per day, up to a maximum of \$2.5 million in the aggregate, for each day intervening between the Guaranteed Commercial Operation Date for the Facility Expansion and the earlier of (x) the date Commercial Operation of the Facility Expansion is achieved, and (y) the date, if any, on which this Agreement is terminated by Buyer with respect to the Facility Expansion pursuant to Section 6.1(c).

(b) On the Effective Date, Seller shall furnish and shall maintain, until such time as Seller achieves Commercial Operation with respect to the Primary Facility, either a letter of credit in the amount of \$5 million or a guarantee, substantially in the form attached hereto as Appendix H or J, respectively, or such other form as is acceptable to Buyer which shall secure or guarantee Seller's obligations to pay liquidated damages under Section 3.5(a) ("**Primary Facility LD Security**"). If Seller elects to complete the Facility Expansion pursuant to Section 6.1, from the date of such election Seller shall furnish and maintain until such time as Seller achieves Commercial Operation with respect to the Facility Expansion, either a letter of credit in the amount of \$2.5 million or a guarantee, in the form attached hereto as Appendix H or J, respectively, which shall secure or guarantee Seller's obligations to pay liquidated damages under Section 3.5(a) ("**Facility Expansion LD Security**"). Any letter of credit or guarantee shall be issued by a Qualified Issuer. Seller shall notify Buyer of the occurrence of a Downgrade Event with respect to an issuer of the Primary Facility LD Security or the Facility Expansion LD Security, which notice shall be given by Seller within five (5) Business Days of obtaining knowledge of the occurrence of such event. If at any time there shall occur a Downgrade Event with respect to an issuer of the Primary Facility LD Security or the Facility Expansion LD Security, then Buyer may require that Seller replace the Primary Facility LD Security or the Facility Expansion LD Security from the issuer that has suffered the Downgrade Event with a Primary Facility LD Security or Facility Expansion LD Security from a Qualified Issuer within ten (10) Business Days of notice from Buyer to Seller requesting such replacement. Seller shall, from time to time as requested by Buyer, execute, acknowledge, record, register, deliver and file all such notices, statements, instruments and other documents as may be necessary or advisable to render fully valid, perfected and enforceable under all applicable law the credit support contemplated by this Agreement and the Ancillary Documents and the rights, Liens and priorities of Buyer with respect to such credit support. Buyer shall return the Primary Facility LD Security to Seller on the Commercial Operation Date of the Primary Facility and shall return the Facility Expansion LD Security to Seller on the Commercial Operation Date of the Facility Expansion.

(c) Each Party agrees and acknowledges that (i) the damages that Buyer would incur due to Seller's delay in achieving Commercial Operation of the Primary Facility by the Guaranteed Commercial Operation Date of the Primary Facility, or in achieving Commercial Operation of the Facility Expansion by the Guaranteed Commercial Operation Date of the Facility Expansion, as the case may be, would be difficult or impossible to predict with certainty, and (ii) it is impractical and difficult to assess actual damages in the circumstances stated and, therefore, the delay liquidated damages as agreed to by the Parties and set forth herein are a fair and reasonable calculation of such damages.

Section 3.6 Decommissioning and Other Costs. Unless Buyer elects to purchase the Facility pursuant to this Agreement, Buyer shall not be responsible for any cost of decommissioning or demolition of the Facility or any environmental or other liability associated with the decommissioning or demolition without regard to the timing or cause of the decommissioning or demolition.

ARTICLE IV. OPERATION AND MAINTENANCE OF THE FACILITY

Section 4.1 Compliance with Electrical Service Requirements. Seller shall, at its sole expense, operate and maintain the Facility (i) in accordance with Prudent Utility Practices, the requirements of this Agreement and all applicable Requirements of Law and as recommended by, and required by, any applicable manufacturer's and operator's specifications, (ii) with due regard for the safety, security, and reliability of the interconnected facilities and Transmission System, and (iii) in a manner that is reasonably expected to optimize the output of Energy from the Facility for the Delivery Term; provided that meeting these requirements shall not relieve Seller of its other obligations under this Agreement

Section 4.2 General Operational Requirements. In addition to the requirements set forth in Section 4.1 and elsewhere in this Agreement, Seller shall, at all times employ qualified and trained personnel for managing, operating and maintaining the Facility and for coordinating with Buyer and Buyer's Agent. Seller shall ensure that necessary personnel are available on-site or on-call twenty-four (24) hours per day during the Delivery Term. The Facility shall be operated during the Delivery Term by enXco Service Corporation or such other Person as Buyer shall approve in the exercise of its reasonable discretion (the "*Operator*").

Section 4.3 Operation and Maintenance Plan. Seller shall devise and implement a plan of inspection, maintenance, and repair for the Facility and the components thereof in order to maintain such equipment in accordance with Section 4.1, the O&M Agreements and the Service Agreement, and shall keep records with respect to inspections, maintenance, and repairs thereto. The aforementioned plan and all records of such activities shall be available for inspection by Buyer during Seller's regular business hours upon reasonable notice.

Section 4.4 Environmental Credits. Seller shall, if applicable, obtain in its own name and at its own expense any and all pollution or environmental credits or offsets necessary to operate the Facility in compliance with the Requirements of Law applicable to the Facility.

Section 4.5 Scheduling of Energy and Scheduled Outages.

(a) Buyer or Buyer's designee shall be responsible for Scheduling the forecast of Facility Energy to the Point of Delivery during the Agreement Term. All generation scheduling and Transmission Services shall be performed in accordance with the applicable NERC and WECC operating policies, criteria, and any other applicable guidelines. Seller shall fulfill the contractual, metering and interconnection requirements so as to be able to deliver Energy to the Point of Delivery.

(b) No later than forty-five (45) days before the beginning of each calendar year, Seller or Seller's designee shall provide, or cause to be provided, a non-binding forecast of each month's average-day deliveries of Energy, by hour, for the following eighteen (18) months.

(c) Ten (10) Business Days before the beginning of each month, Seller or Seller's designee shall provide, or cause to be provided, a non-binding forecast of each day's average deliveries of Energy, by hour, for the following month.

(d) By 5:30 AM Pacific Prevailing Time on the Business Day immediately preceding the date of delivery, Seller or Seller's designee shall cause the Facility's scheduling coordinator to provide Buyer, or Buyer's Agent as designated by Buyer, with a copy of a non-binding hourly forecast of deliveries of Energy for each hour of the immediately succeeding day. A forecast provided a day prior to any non-Business Day(s) shall include forecasts for the immediate day, each succeeding non-Business Day and the next Business Day. Seller shall provide Buyer, or Buyer's Agent as designated by Buyer, with a copy of any and all updates to such forecast indicating a change in forecasted Energy from the then current forecast.

(e) In the event of a Forced Outage affecting at least 10% of the capacity of the Facility, to the extent practicable, Seller shall notify Buyer, or Buyer's Agent as designated by Buyer, within two (2) hours following the Forced Outage and provide detailed information concerning the Forced Outage, including (i) the start and anticipated end dates of the Forced Outage; (ii) a description of the cause of the Forced Outage; (iii) a description of the maintenance and/or repair work to be performed during the Forced Outage; and (iv) the anticipated operational MW capacity, if any, during the Forced Outage. Seller shall take commercially reasonable efforts to avoid Forced Outages and to limit the duration and extent of any such outages.

(f) Buyer and Seller shall cooperate to minimize Scheduled Outages in accordance with Prudent Utility Practices during certain consecutive or nonconsecutive weeks of each Contract Year specified by Buyer, which shall not exceed twelve (12) weeks per Contract Year (the "**Major Maintenance Blockout**"). In addition, Seller shall cooperate in good faith with Buyer's maintenance scheduling requests consistent with Prudent Utility Practices. No later than one hundred twenty (120) days prior to the anticipated Commercial Operation Date and the commencement of each Contract Year thereafter, Buyer shall provide Seller with its specified Major Maintenance Blockout. Seller shall attempt to minimize its Scheduled Outages during the Major Maintenance Blockout consistent with Prudent Utility Practices. No later than sixty (60)

days prior to the Commercial Operation Date, and the commencement of each Contract Year thereafter, Seller shall provide Buyer or Buyer's Agent with its non-binding written projection of all Scheduled Outages for the succeeding three (3) Contract Years (the "***Scheduled Outage Projection***") reflecting a minimized schedule of scheduled maintenance during the Major Maintenance Blockout. The Scheduled Outage Projection shall include information concerning all projected Scheduled Outages during such period, including (i) the anticipated start and end dates of each Scheduled Outage; (ii) a description of the maintenance and/or repair work to be performed during each Scheduled Outage; and (iii) the anticipated MW capacity, if any, during each Scheduled Outage. Seller shall notify Buyer or Buyer's Agent of any change in the Scheduled Outage Projection as soon as practicable, but in no event later than thirty (30) days prior to the originally scheduled date of the Scheduled Outage. Seller will use commercially reasonable efforts to accommodate reasonable requests of Buyer with respect to the timing of Scheduled Outages and Seller will, to the extent feasible and consistent with Prudent Utility Practices, arrange for Scheduled Outages to occur between October 1 and May 1 of each year and coincident with planned transmission outages. In the event of a System Emergency, Seller shall make all reasonable efforts to reschedule any Scheduled Outage previously scheduled to occur during the System Emergency.

(g) Seller shall reduce deliveries of Energy for curtailments required by Buyer in the event of a System Emergency, Force Majeure unrelated to the Facility and declared by Buyer that prevents Buyer from accepting Energy at the Point of Delivery or due to scheduled and unscheduled maintenance on Buyer's side of the Point of Delivery that prevent it from accepting Energy at the Point of Delivery. Seller shall be credited against the Guaranteed Generation for all such curtailed Energy that would have been realized had the curtailment not occurred; and such curtailed Energy shall be reasonably estimated by the Parties and deemed Delivered Energy ("***Deemed Delivered Prepaid Energy***") or deemed Delivered Excess Energy ("***Deemed Delivered Excess Energy***"), as applicable, for the purpose of calculating Achieved Generation. Buyer shall pay to Seller all amounts to which Seller would have been entitled for Deemed Delivered Excess Energy. Seller shall install sufficient measuring equipment at the Facility to collect data necessary to reasonably determine the amount of Deemed Delivered Prepaid Energy and Deemed Delivered Excess Energy. Seller shall install sufficient instrumentation at the Facility in conjunction with the wind electric generation facilities comprising the Facility to provide the capability of measuring and recording representative wind electric energy data twenty-four (24) hours per day, which wind electric energy data, in conjunction with actual wind electric generation availability and capability, shall be used to calculate the Deemed Delivered Prepaid Energy and Deemed Delivered Excess Energy.

Section 4.6 Preparation of Annual Operating Plan. No later than sixty (60) days prior to the anticipated First Prepayment Date and thirty (30) days prior to the anticipated Second Prepayment Date, and not later than thirty (30) days prior to the end of each Contract Year thereafter, Seller shall prepare and deliver to Buyer for its review and approval an annual operating plan for the immediately succeeding Contract Year, which plan shall include: (a) a schedule for the planned Scheduled Outages for the immediately succeeding Contract Year and the anticipated start and end dates of each Scheduled Outage; (b) a non-binding estimate of the

projected output of the Facility during each month of the immediately succeeding Contract Year; (c) a forecast of probable unscheduled maintenance for such Contract Year, taking into account the Facility's history, if any, of unscheduled outages and maintenance in preceding years; and (d) the Scheduled Outage Projection (the "**Preliminary Operating Plan**"). Buyer shall, within fifteen (15) days following delivery of the Preliminary Operating Plan, either (i) deliver to Seller notice of Buyer's acceptance of the Preliminary Operating Plan, in which case the Preliminary Operating Plan will be deemed the Annual Operating Plan for the applicable Contract Year or (ii) deliver to Seller notice of Buyer's objections to the Preliminary Operating Plan. If Buyer delivers to Seller notice of Buyer's objections, Seller shall, within five (5) days of receipt of such notice, either (A) notify Buyer that it disputes Buyer's objections, in which case the dispute shall be resolved in accordance with Section 4.9, or (B) promptly revise the Preliminary Operating Plan based on Buyer's objections and resubmit the Preliminary Operating Plan to Buyer for approval. The procedure set forth in the preceding sentence shall be repeated as necessary until both Parties approve the Preliminary Operating Plan in writing, at which point the Preliminary Operating Plan shall be deemed the Annual Operating Plan.

Section 4.7 Preparation of Annual Budget. Not less than thirty (30) days' prior to the planned First Prepayment Date and thirty (30) days' prior to the planned Second Prepayment Date, if applicable, and not later than thirty (30) days' prior to the end of each Contract Year thereafter, Seller shall prepare and deliver to Buyer a preliminary annual budget (each a "**Preliminary Annual Budget**") for such Contract Year consistent with Prudent Utility Practices, which shall be based on the Annual Operating Plan for the immediately succeeding Contract Year, and which shall include:

- (a) the Annual O&M Amount for such Contract Year;
- (b) the Estimated Additional Monthly O&M Amount that Seller reasonably expects will become due and payable during such Contract Year;
- (c) the Estimated Direct Reimbursable Costs that Seller reasonably expects will become due and payable during such Contract Year;
- (d) the amount of Taxes that Seller reasonably expects to incur during such Contract Year;
- (e) the amount of contributions to the Maintenance Reserve; and
- (f) amounts, if any, required to comply with the business policies set forth in Section 14.21 of this Agreement, including the Living Wage Ordinance, Section 10.37 et. seq., of the Los Angeles Administrative Code.

Section 4.8 Budget Review Period. Buyer shall, within fifteen (15) days following delivery of the Preliminary Annual Budget, either (i) deliver to Seller notice of Buyer's acceptance of the Preliminary Annual Budget, in which case the Preliminary Annual Budget will be deemed the Annual Budget for the applicable Contract Year or (ii) deliver to Seller notice of

Buyer's objections to the Preliminary Annual Budget. If Buyer delivers to Seller notice of Buyer's objections, Seller shall, within five (5) days of receipt of such notice, either (A) notify Buyer that it disputes Buyer's objections, in which case the dispute shall be resolved in accordance with Section 4.9, or (B) promptly revise the Preliminary Annual Budget based on Buyer's objections and resubmit the Preliminary Annual Budget to Buyer for approval. The procedure set forth in the preceding sentence shall be repeated as necessary until both Parties approve the Preliminary Annual Budget in writing, at which point the Preliminary Annual Budget is deemed the Annual Budget.

Section 4.9 Disputes. Disputes arising under Section 4.8, shall be resolved by the Independent Engineer. The Independent Engineer shall have five (5) Business Days from the date on which a Party submits the matter in which to determine the matter in dispute. The Independent Engineer's decisions under this Section 4.9 shall bind the Parties. Upon such determination, the Preliminary Annual Budget shall be amended to reflect such resolution and such amended Preliminary Annual Budget shall be deemed the Annual Budget. The costs of the determination by the Independent Engineer under this Section, including fees and expenses, shall be borne one-half by each Party. If the Independent Engineer fails to render a decision within thirty (30) days from receipt of each Party's submissions, either Party may initiate dispute resolution in accordance with Section 14.3.

Section 4.10 Preservation of Facility. Seller shall not sell or otherwise dispose of or create, incur, assume, or permit to exist any Lien (other than the Permitted Encumbrances) on any portion of the Facility, the Related Interests and Rights, or any other property or assets which are necessary to the operation, maintenance, and use of the Facility without the prior written approval of Buyer.

Section 4.11 O&M Deductible. In addition to any Actual O&M Savings, the Monthly O&M Amount shall be reduced by a monthly deductible of \$2.60 per MWh of Facility Energy, fixed for the Initial Delivery Term and no (\$0.00) deductible for the Extension Term, which deductible represents the first portion of operating and maintenance expenses each month that will be for the account of Seller ("*O&M Deductible*").

ARTICLE V.

COMPLIANCE DURING CONSTRUCTION AND OPERATION PERIOD

Section 5.1 In General.

(a) The Facility. Seller warrants and guarantees that it will perform, or cause to be performed, all engineering, design and construction in a good and workmanlike manner and in material compliance with applicable standards, Prudent Utility Practice, all applicable Requirements of Law, and Seller's Quality Assurance Program. Seller warrants and guarantees that throughout the Delivery Term: (i) the Facility, its engineering, design and construction, its components and related work, shall be free from material defects caused by errors or omissions in design, engineering, and construction and (ii) the Facility will comply in all material respects with the requirements of this Agreement and all applicable standards, reports, studies, Permits,

and Requirements of Law. Seller also warrants and guarantees that throughout the Agreement Term it will monitor the operation and maintenance of the Facility and that said operation and maintenance is, and will be, in material compliance with all applicable standards, reports, studies, and Permits, Prudent Utility Practices, Requirements of Law applicable to the Facility, Seller's Quality Assurance Program, and other provisions of this Agreement. Without limiting the foregoing, Seller shall promptly repair and/or replace, consistent with Prudent Utility Practice, any component of the Facility that may be damaged or destroyed or otherwise not operating properly and efficiently. Seller shall, subject to Seller's reasonable judgment consistent with Prudent Utility Practices, exercise commercially reasonable efforts to undertake all recommended or required updates or modifications to the Facility, its equipment and materials, including procedures, programming and software in a timely manner. Seller shall, at its expense, maintain throughout the Agreement Term an inventory of spare parts for the Facility in a quantity that is consistent with Prudent Utility Practice.

(b) Buyer's Right To Monitor In General. Buyer shall have the right and Seller shall permit Buyer and its representatives, advisors, engineers and consultants to observe, inspect and monitor, upon reasonable notice to Seller, all operations and activities at the Facility, including the performance of the contractor(s) under the construction contract(s) pertaining to the Facility, the design, engineering, procurement and installation of the equipment, start up and testing, and Commercial Operation.

(c) Startup and Testing. Prior to the Commercial Operation Date of the Primary Facility and, if applicable, the Commercial Operation Date of the Facility Expansion, and as a condition precedent to the achievement of the Commercial Operation Date of the Primary Facility, and, if applicable, the Commercial Operation Date of the Facility Expansion, Buyer shall have the right to:

(1) review and monitor the contractors' performance and achievement of all initial performance tests and all other tests required under the Facility construction contracts that must be performed in order to achieve completion, with respect to which Seller shall provide to Buyer a schedule for the performance of such tests at least two (2) Business Days before such tests are scheduled to begin; and

(2) be present to witness such initial performance tests and review the results thereof; and

(3) upon notice to Seller, perform such detailed examinations, inspections, quality surveillance and tests as, in the judgment of Buyer, are appropriate and advisable to determine that the Facility equipment and all ancillary components of the Facility have been installed in accordance with this Agreement and the Facility construction contracts, all applicable standards, Prudent Utility Practices, Requirements of Law, the Quality Assurance Program and the Milestones, provided that such examinations, inspections, quality surveillance and tests shall not interfere with the operations of the Facility or Seller's or its subcontractors' work.

(d) Access and Cooperation. Seller shall, and shall cause each of its subcontractors to:

(1) grant to Buyer such rights of access to the Facility at all reasonable times (but subject to applicable safety precautions) and to inspect, make notes about and copy (and make such copies and notes available to Buyer) all documents, drawings, plans, specifications, permits, test results and information as Buyer may reasonably request;

(2) make the personnel of, and consultants to, the contractor(s) and Seller available to Buyer and its agents, representatives and consultants at reasonable times and with prior notice for purpose of discussing any aspect of the Facility or the development, engineering, construction, installation, testing or performance thereof; and

(3) otherwise cooperate in all reasonable respects with Buyer and its Authorized Representatives, advisors, engineers and consultants in order to allow Buyer to exercise its rights under this Section 5.1.

Section 5.2 Compliance With Standards. Seller shall cause the Facility and all parts thereof to be designed, constructed, tested, operated and maintained to meet all of the requirements of this Agreement, all applicable requirements of the latest revision of the ASTM, ASME, AWS, EPA, EEI, IEEE, ISA, National Electrical Code, National Electric Safety Code, OSHA, as applicable, Uniform Building Code, Uniform Plumbing Code, and the applicable local County Fire Department Standards of the applicable county, and any successors thereto, and other codes and standards and operations and maintenance requirements applicable to the services, equipment, and work as generally shown in this Agreement, as well as all applicable Requirements of Law not specifically mentioned in this Section.

Section 5.3 Quality Assurance Program. Seller agrees to maintain and comply with a written quality assurance policy ("*Quality Assurance Program*") attached hereto as Appendix K, and Seller shall cause all work performed on or in connection with the Facility to materially comply with said Quality Assurance Program.

Section 5.4 Effect of Review by Buyer. Any review by Buyer of the design, construction, engineering, operation or maintenance of the Facility is solely for the information of Buyer. Buyer shall have no obligation to share the results of any such review with Seller, nor shall any such review or the results thereof (whether or not the results are shared with Seller) nor any failure to conduct any such review relieve Seller from any of its obligations under this Agreement. By making any such review, Buyer makes no representation as to the economic and technical feasibility, operational capability or reliability of the Facility. Seller shall in no way represent to any third party that any such review by Buyer of the Facility, including, but not limited to, any review of the design, construction, operation or maintenance of the Facility by Buyer, is a representation by Buyer as to the economic and technical feasibility, operational capability or reliability of the Facility. Seller is solely responsible for the economic and technical feasibility, operational capability and reliability thereof.

ARTICLE VI.
NAMEPLATE CAPACITY; PURCHASE AND SALE OF POWER

Section 6.1 Nameplate Capacity.

(a) Seller shall have the right (in its sole discretion) to determine the number of wind turbine generators and the nameplate capacity of the Primary Facility to achieve Commercial Operation of the Primary Facility; provided that the nameplate capacity of such Facility is equal to at least the Minimum Nameplate Capacity and is no more than 262.2 MW.

(b) In the event that the Primary Facility is comprised of a number of wind turbine generators such that the nameplate capacity is higher than the Minimum Nameplate Capacity but less than 262.2 MW, Seller shall have the right (in its sole discretion) to elect to construct and place into operation (for the purpose of selling Energy, Capacity Rights and Environmental Attributes or the assets hereunder) the Facility Expansion comprising a number of wind turbine generators to be specified by Seller such that when the nameplate capacity of the Primary Facility is added together with the nameplate capacity of the Facility Expansion, the total aggregate nameplate capacity of the Facility is not in excess of 262.2 MW. Seller shall provide Buyer with written notice of its aforementioned election (which shall include the number of wind turbine generators to be included in the Facility Expansion and a Milestone Schedule for such Facility Expansion) with respect to any Facility Expansion (the "*Facility Expansion Notice*") at any time prior to, but no later than April 1, 2010.

(c) In the event that Seller elects to provide the Facility Expansion Notice to Buyer as provided in Section 6.1(b) above, Buyer may terminate this Agreement with respect to the Facility Expansion if Seller fails to achieve Commercial Operation of the Facility Expansion by the Guaranteed Commercial Operation Date of the Facility Expansion with the nameplate capacity specified in the Facility Expansion Notice by providing notice to Seller of such termination within thirty (30) days following the Guaranteed Commercial Operation Date for the Facility Expansion, which notice shall specify a termination date no earlier than thirty (30) days nor later than sixty (60) days after delivery of such notice; provided, however, so long as Seller is paying liquidated damages pursuant to and in accordance with Section 3.5, Buyer shall have no right to terminate this Agreement with respect to the Facility Expansion for failure to achieve Commercial Operation of the Facility Expansion by the Guaranteed Commercial Operation Date for the Facility Expansion. This Agreement shall, unless Buyer has withdrawn its notice of termination, terminate only with respect to the Facility Expansion on such specified termination date, with such provisions surviving as set forth in Section 2.3, but only upon payment by Seller to Buyer of all amounts owed by Seller to Buyer under this Agreement, less amounts owed to Seller by Buyer under this Agreement.

(d) In the event that Seller elects not to construct the Facility Expansion under Section 6.1(b), Seller shall not, and shall cause its Affiliates to not, at any time, directly or indirectly transfer, sell or assign the assets comprising the Facility Expansion to, or develop the Facility Expansion for itself or for, any Person other than Buyer or Buyer's members without Buyer's prior written consent.

Section 6.2 Purchases by Buyer.

(a) Primary Facility.

(1) At least ninety (90) days prior to the anticipated Commercial Operation Date of the Primary Facility, Seller shall deliver to Buyer a written declaration setting forth the following:

(A) the planned installed capacity of the Primary Facility;

(B) the planned Guaranteed Generation of the Primary Facility, the calculation of which shall be based on a written certification prepared by a qualified wind consultant, to be selected by Seller subject to Buyer's approval, which approval shall not be unreasonably withheld, to be furnished to Buyer with such declaration, of the P99 Energy of the completed Primary Facility, multiplied by twenty (20) years;

(C) a proposed Appendix B setting forth the Guaranteed Annual Quantity for each Contract Year; and

(D) a non-binding indication of whether and when Seller intends to complete the Facility Expansion and, if applicable, the planned installed capacity and planned Guaranteed Generation of the Facility Expansion.

(2) On a date within ninety (90) days following Seller's achievement of the conditions set forth in Section 6.3(a), Buyer shall pay to Seller the Prepayment Amount for the Guaranteed Generation of the Primary Facility determined pursuant to Appendix C (the "*First Prepayment Amount*").

(b) Facility Expansion.

(1) At least sixty (60) days prior to the anticipated Commercial Operation Date of the Facility Expansion, Seller shall deliver to Buyer a written declaration setting forth the following:

(A) The planned installed capacity of the Facility Expansion;

(B) The planned Guaranteed Generation of the Facility Expansion, the calculation of which shall be based on a written certification prepared by a qualified wind consultant to be selected by Seller subject to Buyer's approval, which approval shall not be unreasonably withheld, to be furnished to Buyer with such declaration, of the P99 Energy of the completed Facility Expansion multiplied by twenty (20) years;

(C) The planned Guaranteed Generation of the total planned Facility, including the Primary Facility and the Facility Expansion, the calculation of which shall be based on a written certification prepared by a qualified wind consultant to be selected by

Seller subject to Buyer's approval, which approval shall not be unreasonably withheld, to be furnished to Buyer with such declaration, of the P99 Energy of the completed Primary Facility multiplied by twenty (20) years; and

(D) a proposed revised Appendix B setting forth the Guaranteed Annual Quantity for each Contract Year.

(2) Prior to the Second Prepayment Date, Buyer shall revise Appendix N and the Remaining Prepayment Amount to reflect the planned Guaranteed Generation for the total Facility, using actual bond rates and otherwise the same methodology and principles used to determine Appendix N attached hereto as of the Effective Date.

(3) On a date within ninety (90) days following Seller's achievement of the conditions set forth in Section 6.3(b), Buyer shall pay to Seller the Prepayment Amount for the Guaranteed Generation of the Facility Expansion determined pursuant to Appendix C (the "*Second Prepayment Amount*").

(c) Purchase and Sale of Energy and Environmental Attributes During the Initial Delivery Term.

(1) Prior to the Commercial Operation Date of the Primary Facility, Seller shall sell and deliver, and Buyer shall accept and purchase the Early Energy attributable to the Primary Facility at the Early Energy Price in accordance with paragraph 2(a) of the payment schedule set forth in Appendix A.

(2) Prior to the Commercial Operation Date of the Facility Expansion, Seller shall sell and deliver, and Buyer shall accept and purchase the Early Energy attributable to the Facility Expansion at the Early Energy Price set forth in paragraph 2(c) of the payment schedule set forth in Appendix A.

(3) Commencing on the Commercial Operation Date of the Primary Facility and continuing until the First Prepayment Date, Seller shall sell and deliver, and Buyer shall accept and purchase the Early Energy attributable to the Primary Facility at the Early Energy Price set forth in paragraph 2(b) of the payment schedule set forth in Appendix A.

(4) Commencing on the Commercial Operation Date of the Facility Expansion and continuing until the Second Prepayment Date, Seller shall sell and deliver, and Buyer shall accept and purchase the Early Energy attributable to the Facility Expansion at the Early Energy Price set forth in paragraph 2(d) of the payment schedule set forth in Appendix A.

(5) Following the First Prepayment Date, Seller shall make available and deliver, and Buyer shall accept, receive and purchase (for which the First Prepayment Amount is Seller's consideration) the Guaranteed Generation from the Primary Facility for the Initial Delivery Term.

(6) Following the Second Prepayment Date, Seller shall make available and deliver, and Buyer shall accept, receive and purchase (for which the Second Prepayment Amount is Seller's consideration) the Guaranteed Generation from the Facility Expansion for the Initial Delivery Term.

(7) For all Excess Energy delivered during the Initial Delivery Term following the First Prepayment Date and the Second Prepayment Date, Buyer shall pay Seller the Excess Energy Price in accordance with paragraph 1 of the payment schedule set forth in Appendix A.

(8) For all Delivered Energy during the Initial Delivery Term, Buyer shall pay Seller the Environmental Attributes Payment in accordance with paragraph 3 of the payment schedule set forth in Appendix A.

(d) Purchase and Sale of Energy and Environmental Attributes During the Extension Term.

(1) During the Extension Term, Seller shall make available and deliver and Buyer shall accept, receive and purchase, Delivered Energy at the price set forth in paragraph 4 of the payment schedule set forth in Appendix A.

(2) For all Delivered Energy during the Extension Term, Buyer shall pay Seller for the Environmental Attributes at the price set forth in paragraph 5 of the payment schedule set forth in Appendix A.

(e) Payment of Direct Reimbursable Costs and O&M Expenses.

(1) Commencing on the First Prepayment Date, Buyer shall reimburse Seller for Direct Reimbursable Costs and shall pay Seller the Monthly O&M Amount net of any Actual O&M Savings and O&M Deductible and any Actual Additional Monthly O&M Amount pursuant to Section 11.1.

(f) Failure to Obtain Cash Grants Related to Facility Expansion. If (i) Seller receives a final and non-appealable notification that it will not be awarded the Cash Grants for the Facility Expansion, or (ii) on the date that is two hundred seventy (270) days following the Guaranteed Commercial Operation Date for the Facility Expansion, Seller has not received the Cash Grants related to the Facility Expansion, Buyer shall purchase all Delivered Energy attributable to the Facility Expansion as Excess Energy for the purposes of this Agreement, except that Buyer shall pay Seller for such Excess Energy at the Early Energy Price in accordance with paragraph 2(d) of the payment schedule set forth in Appendix A.

Section 6.3 Conditions Precedent to Prepayment.

(a) Primary Facility. Notwithstanding anything to the contrary in this Agreement, Buyer's obligation to pay the First Prepayment Amount shall be conditioned upon

satisfaction of each of the following conditions: (i) achievement of Commercial Operation of the Primary Facility, (ii) the release by the Facility Lender providing construction or other financing for the Facility of its lien or liens on the Primary Facility and the applicable Related Interests and Rights, (iii) the receipt by Buyer of Seller's title insurance policy as to the Facility that is reasonably satisfactory to Buyer, (iv) Buyer obtaining the Security Interest with respect to the Primary Facility, in the form of a deed of trust against the Primary Facility as set forth in Appendix G ("Deed of Trust"), which shall be recorded in the applicable counties, (v) Seller obtaining all Permits required for the construction, operation and maintenance of the Primary Facility and all such Permits being final and all appeal periods applicable to the Permit, as set forth in the Permit or in the Requirement of Law specifically authorizing the issuance of such Permit, have expired, (vi) the receipt by Buyer of the Non-Consolidation Opinion, (vii) receipt by Buyer of the Performance Security applicable to the Primary Facility, (viii) Seller receiving the Cash Grant(s) related to the Primary Facility, (ix) there not having occurred a breach of or default under this Agreement by Seller, (x) all representations and warranties of Seller set forth in Section 12.2 being true and accurate as of the First Prepayment Date, (xi) the Leases shall be in full force and effect and no breach or default thereunder shall have occurred and be continuing, nor shall there exist any facts or circumstances that with the passing of time could give rise to a breach or default under such Leases, (xii) Windy Point Partners, LLC having assigned all of the Transmission Credits to Buyer or Buyer's designee, (xiii) no event shall have occurred, and no circumstance shall exist, that has, had or could reasonably be expected to have a Material Adverse Effect on the Primary Facility; and (xiv) Seller shall be reasonably satisfied that the Bond Document will expressly provide (A) that the payment of operating expenses payable by Buyer to Seller under this Agreement is to be made on a basis prior to the periodic payment of debt service due and payable on the bonds or notes to be issued under the Bond Document and (B) that payments for power under the Power Sales Agreements by the Buyer Participants (which are to be used by Buyer for debt service on the Bonds) will be paid as an operating expense by the Buyer Participants.

(b) Facility Expansion. Notwithstanding anything to the contrary in this Agreement, Buyer's obligation to pay the Second Prepayment Amount shall be conditioned upon satisfaction of each of the following conditions: (i) achievement of Commercial Operation of the Facility Expansion, (ii) the release by the Facility Lender providing construction or other financing for the Facility Expansion of its lien or liens on the Facility Expansion and the applicable Related Interests and Rights, (iii) the receipt by Buyer of Seller's title insurance policy as to the Facility that is reasonably satisfactory to Buyer, (iv) Buyer obtaining the Security Interest with respect to the Facility Expansion, in the form of the Deed of Trust, which shall be recorded in the applicable counties, (v) Seller obtaining all Permits required for the construction, operation and maintenance of the Facility Expansion, and all such Permits being final and all appeal periods applicable to the Permit, as set forth in the Permit or in the Requirement of Law specifically authorizing the issuance of such Permit, have expired, (vi) receipt by Buyer of the applicable Performance Security applicable to the Facility Expansion, (vii) the receipt by Buyer of an updated Non-Consolidation Opinion, (viii) Seller receiving the Cash Grant(s) related to the Facility Expansion, (ix) there not having occurred a breach of or default under this Agreement by Seller, (x) all representations and warranties of Seller set forth in Section 12.2 being true and

accurate as of the Second Prepayment Date, and (xi) the Leases applicable to the Facility Expansion shall be in full force and effect and no breach or default thereunder shall have occurred and be continuing, nor shall there exist any facts or circumstances that with the passing of time could give rise to a breach or default under such Leases, (xii) no event shall have occurred, and no circumstance shall exist, that has, had or could reasonably be expected to have a Material Adverse Effect on the Facility Expansion, and (xiii) as applicable, Seller shall be reasonably satisfied that the Bond Document will expressly provide (A) that the payment of operating expenses payable by Buyer to Seller under this Agreement is to be made on a basis prior to the periodic payment of debt service due and payable on the bonds or notes to be issued under the Bond Document and (B) that payments for power under the Power Sales Agreements by the Buyer Participants (which are to be used by Buyer for debt service on the Bonds) will be paid as an operating expense by the Buyer Participants.

Section 6.4 Performance Security.

(a) Concurrently with Commercial Operation Date of the Primary Facility, Seller shall deliver to Buyer a letter of credit or a guarantee in the amount of \$5 million issued by a Qualified Issuer, and in the form attached hereto as Appendix H or J, respectively, (collectively, the "***Performance Security***"). Seller shall notify Buyer of the occurrence of a Downgrade Event with respect to an issuer of Performance Security, which notice shall be given by Seller within five (5) Business Days of obtaining knowledge of the occurrence of such event. If at any time there shall occur a Downgrade Event with respect to an issuer of Performance Security, then Buyer may require that the Seller replace the Performance Security from the issuer that has suffered the Downgrade Event with Performance Security from a Qualified Issuer within twenty (20) Business Days of notice from Buyer to Seller requesting such replacement Performance Security. Seller shall maintain the Performance Security until the later of (i) the seventh (7th) anniversary of the Commercial Operation Date of the Primary Facility or, if applicable, the Commercial Operation Date of Facility Expansion, or (b) such time as Buyer may purchase the Facility and Related Interests and Rights pursuant to Section 2.6.

Section 6.5 Energy to Come Exclusively from Facility; Dedicated Facility. Except as provided in Article VII, in no event shall Seller have the right to procure energy from sources other than the Facility for sale and delivery pursuant to this Agreement. During the Delivery Term and subject to the terms and conditions of this Agreement, all of the Energy from the Facility shall be dedicated to the Buyer; provided that Seller may freely sell any Energy from the Facility to any third-party purchaser if (i) a Force Majeure event shall prohibit Buyer's ability to receive Energy at the Point of Delivery, or (ii) Buyer does not accept Energy at the Point of Delivery (and such Energy is not Deemed Delivered Prepaid Energy or Deemed Delivered Excess Energy) or breaches its payment obligations hereunder (but only during the period of such breach), provided, that Seller shall remit to Buyer any net proceeds resulting from the sale of Guaranteed Generation and such proceeds shall be the property of Buyer. Any proceeds resulting from the sale of Excess Energy to a third-party purchaser shall be the property of Seller.

ARTICLE VII.
MAKEUP OF SHORTFALL ENERGY

Section 7.1 Makeup of Shortfall. If in any Contract Year, the amount of Delivered Energy is less than the Guaranteed Annual Quantity (such difference constituting for such Contract Year, the "*Shortfall Energy*"), then, subject to Section 7.2, Seller shall remedy such shortfall by delivering Energy to Buyer in an amount equal to the Shortfall Energy during the Shortfall Make Up Period. The "*Shortfall Make Up Period*" shall be the two and one-half (2½) succeeding Contract Years following the Contract Year in which the shortfall occurred. In addition, the Shortfall Make Up Period may be extended for Force Majeure events. Buyer shall not be obligated to make any additional payment for any Energy provided to Buyer to replace Shortfall Energy.

Section 7.2 No Excess Energy During Shortfall Periods. During any period in which there is Shortfall Energy due to Buyer, all Energy that would otherwise be designated as Excess Energy shall be provided by Seller to Buyer and Buyer shall not be obligated to make any payment to Seller for such Energy until the Shortfall Energy has been fully made up.

Section 7.3 Replacement Energy. If Seller fails to deliver any Shortfall Energy by the end of the Shortfall Make Up Period, Seller shall provide to Buyer replacement energy to replace such Shortfall Energy not delivered at the Point of Delivery, which shall include associated Environmental Attributes comparable to those associated with Energy produced by the Facility ("*Replacement Energy*"), within 180-days after the end of the Shortfall Make Up Period. Such Replacement Energy shall be delivered on a delivery schedule consistent with the Facility's historic Scheduling for Delivered Energy, or other delivery schedules as mutually agreed to by the Parties, provided that such schedule shall not cause the Replacement Energy to be delivered at a rate greater than 262.2 MW. Buyer shall pay Seller the Environmental Attribute Payment in accordance with paragraph 3 of the payment schedule set forth in Appendix A for all Replacement Energy. If Seller fails to deliver Replacement Energy as described above then Buyer shall purchase Replacement Energy and Seller shall reimburse Buyer for its costs of such Replacement Energy, without the cost of the associated Environmental Attributes, and Buyer shall promptly notify Seller of the costs thereof. Replacement Energy that is delivered to Buyer hereunder need not be either RPS Compliant or EPS Compliant.

Section 7.4 Extension of Term. If Shortfall Energy remains at the end of the Initial Delivery Term and Buyer elects not to exercise its option to extend the Initial Delivery Term pursuant to Section 2.2(a), and the Shortfall Make Up Period would end after the end of the Initial Delivery Term, the Initial Delivery Term shall be extended, for the sole purpose of making up the Shortfall Energy, until the earliest to occur of (i) the date on which Seller has delivered to Buyer Energy in an amount equal to the Shortfall Energy, (ii) the end of the Shortfall Make Up Period, or (iii) the date that is twelve (12) months after the date upon which the Initial Delivery Term would have expired but for the remaining Shortfall Energy. If, at the end of the extended Initial Delivery Term, Seller has failed to deliver Energy to Buyer in an amount equal to the Shortfall Energy, Seller shall elect either to provide Replacement Energy or

reimburse Buyer for Buyer's purchase of Replacement Energy in accordance with Section 7.3. If Buyer elects to extend the Initial Delivery Term pursuant to Section 2.2(a), Buyer shall not be obligated to make any payment to Seller for Delivered Energy during the Extension Term until the Shortfall Energy has been fully made up.

ARTICLE VIII.

TRANSMISSION AND SCHEDULING; TITLE AND RISK OF LOSS

Section 8.1 In General. Seller shall arrange and be responsible for any Transmission Services required to deliver Energy to the Point of Delivery and for forecasting deliveries of Energy to the Point of Delivery in accordance with the procedures that may be established and updated from time to time by agreement between Seller and Buyer. Buyer shall arrange and be responsible for Transmission Services at and from the Point of Delivery, and shall Schedule or arrange for Scheduling services with its Transmission Providers to receive Energy at the Point of Delivery.

Section 8.2 Costs. Seller shall be responsible for any costs or charges imposed on or associated with the delivery of Facility Energy up to the Point of Delivery, including but not limited to control area services, inadvertent energy flows, transmission losses and charges relating to the transmission of Energy. Seller also shall be responsible for the payment of the costs of Transmission Services, including the costs incurred under the Transmission Providers tariff up to the Point of Delivery and for costs of interconnection with the Transmission Provider's system and costs of interconnection at the Facility and at the Point of Delivery.

Section 8.3 Title; Risk of Loss. As between the Parties, Seller shall be deemed to be in exclusive control (and responsible for any damages or injury caused thereby) of all Energy prior to the Point of Delivery and Buyer shall be deemed to be in exclusive control (and responsible for any damages or injury caused thereby) of all Energy at and from the Point of Delivery. Seller warrants that it will deliver all Energy and Environmental Attributes to Buyer free and clear of all Liens created by any Person other than Buyer. Title to all Energy and Environmental Attributes shall pass from Seller to Buyer at the Point of Delivery.

ARTICLE IX.

ENVIRONMENTAL ATTRIBUTES; EPS AND RPS COMPLIANCE

Section 9.1 Transfer of Environmental Attributes. For and in consideration of Buyer entering into this Agreement, and in addition to the agreement by Buyer and Seller to purchase and sell Energy on the terms and conditions set forth herein, Seller shall transfer to Buyer, and Buyer shall receive from Seller, all right, title, and interest in and to all Environmental Attributes, whether now existing or acquired by Seller or that hereafter come into existence or are acquired by Seller during the Agreement Term, for all Facility Energy and Replacement Energy. Buyer agrees to make the monthly payments for Environmental Attributes as set forth in paragraph 3 of Appendix A, which payment includes compensation to Seller for all costs incurred by it in complying with the requirements of this Article IX. Seller agrees to transfer and make such Environmental Attributes available to Buyer immediately to the fullest

extent allowed by applicable law and WREGIS procedures as set forth below upon Seller's production or acquisition of the Environmental Attributes. Seller represents and covenants that it has not assigned, transferred, conveyed, encumbered, sold or otherwise disposed of and will not in the future assign, transfer, convey, encumber, sell or otherwise dispose of all or any portion of such Environmental Attributes to any Person other than Buyer or attempt to do any of the foregoing with respect to any of the Environmental Attributes; provided, however, that Seller may do so with respect to any Environmental Attribute attributable to any Energy sold to any third-party purchaser as permitted under the terms of this Agreement.

Section 9.2 Station Usage Energy. Seller shall be responsible for all Station Usage Energy and shall bear all of the costs associated therewith.

Section 9.3 Reporting of Ownership of Environmental Attributes. During the Agreement Term, Seller shall not report to any Person that the Environmental Attributes granted hereunder to Buyer belong to any Person other than Buyer, and Buyer may report under any program that such Environmental Attributes purchased and paid in full hereunder belong to it.

Section 9.4 Environmental Attributes. Upon Buyer's request, Seller shall take all actions and execute all documents or instruments necessary under applicable law, bilateral arrangements or other voluntary Environmental Attribute programs of any kind, as applicable, to maximize the attribution, accrual, realization, generation, production, recognition and validation of Environmental Attributes throughout the Agreement Term.

Section 9.5 Use of Accounting System to Transfer Environmental Attributes. In furtherance and not in limitation of Section 9.4, Seller shall use WREGIS or any successor system to evidence the transfer of any Environmental Attributes considered RECs under applicable law or any voluntary program ("*WREGIS Certificates*"), associated with Facility Energy or, if applicable, Replacement Energy in accordance with WREGIS reporting protocols. Seller shall be responsible for registering the Facility with WREGIS and for the expenses associated with registering the Facility, maintaining its account, WREGIS Certificate issuance fees, and transferring WREGIS Certificates to Buyer or Buyer's Agent, or any other designees, and Buyer shall be responsible for the WREGIS expenses associated with maintaining its account, or the accounts of its designees, if any, and subsequent transferring or retiring of WREGIS Certificates. As of the Effective Date, the certificate creation time line is established as not later than ninety (90) days following the end of each month. For example, for MWhs generated in January 2009, the certificates will be created in WREGIS not later than April 30, 2009. Seller shall be responsible for, at its expense, validating and disputing data with WREGIS prior to certificate creation each month. In the event that WREGIS is not in operation, or WREGIS does not track Seller's transfer of WREGIS Certificates to Buyer, Buyer's Agent, or its designees for purposes of any RECs attributed, accrued, realized, generated, produced, recognized or validated relative to the Facility Energy or, if applicable, the Replacement Energy, or Buyer chooses not to use WREGIS for any reason, Seller shall document the production and transfer of RECs under this Agreement by delivering to Buyer an attestation for the RECs

produced by the Facility, measured in whole MWh, or by such other method as Buyer shall designate.

Section 9.6 Further Assurances. Seller will document the production of Environmental Attributes by delivering with each invoice to Buyer an attestation for Environmental Attributes associated with the Facility Energy and, if applicable, Replacement Energy. The form of attestation is set forth as Appendix F. At Buyer's request, the Parties shall execute all such documents and instruments and take such other action in order to effect the transfer of the Environmental Attributes specified in this Agreement to Buyer's Agents as Buyer may reasonably request. In the event of the promulgation of a scheme involving Environmental Attributes administered by CAMD, upon notification by CAMD that any transfers contemplated by this Agreement will not be recorded, the Parties shall promptly cooperate in taking all reasonable actions necessary so that such transfer can be recorded. Each Party shall promptly give the other Party copies of all documents it submits to CAMD to effectuate any transfers.

Section 9.7 RPS and EPS Compliance. The Seller warrants and guarantees that when complete, and at all times thereafter, the Facility will be both RPS Compliant and EPS Compliant. From time to time and at any time requested by Buyer, Seller will furnish to Buyer or Governmental Authorities or other Persons designated by Buyer, all certificates and other documentation reasonably requested by Buyer in order to establish compliance with the preceding sentence.

ARTICLE X. CAPACITY RIGHTS

Section 10.1 Purchase and Sale of Capacity Rights. For and in consideration of Buyer entering into this Agreement, and in addition to the agreement by Buyer and Seller to purchase and sell Facility Energy on the terms and conditions set forth herein, Seller hereby transfers to Buyer, and Buyer hereby accepts from Seller, all of the Capacity Rights. Buyer and Seller acknowledge and agree that the consideration for the transfer of Capacity Rights is contained within the relevant prices for Facility Energy. In no event shall Buyer have any obligation or liability whatsoever for any debt pertaining to the Facility by virtue of Buyer's ownership of the Capacity Rights or otherwise.

Section 10.2 Representation Regarding Ownership of Capacity Rights. Seller represents and covenants that it has not assigned, transferred, conveyed, encumbered, sold or otherwise disposed of and will not in the future assign, transfer, convey, encumber, sell or otherwise dispose of any of the Capacity Rights to any Person other than Buyer or attempt to do any of the foregoing with respect to any of the Capacity Rights. Seller shall not report to any Person that any of the Capacity Rights belong to any Person other than Buyer. Buyer may, at its own risk and expense, report to any Person that the Capacity Rights belong to it.

Section 10.3 Further Assurances. Seller shall execute and deliver such documents and instruments and take such other action as Buyer may reasonably request to effect recognition and transfer of the Capacity Rights to Buyer. Seller shall bear the costs associated therewith.

ARTICLE XI.
BILLING; PAYMENT; AUDITS; METERING; ATTESTATIONS

Section 11.1 Billing and Payment. Billing and payment for the Energy purchased by Buyer under this Agreement and for any other amounts due and payable by Buyer hereunder shall be as follows:

(a) On or before the tenth (10th) day of the month following a month in which transactions occur hereunder, Seller shall render one (1) invoice to Buyer showing the following:

(1) Delivered Energy allocated as follows:

(A) the Delivered Energy to be counted toward satisfaction of the Guaranteed Annual Quantity for the applicable Contract Year and an accounting of new or made-up Shortfall Energy and/or Replacement Energy.

(B) Delivered Excess Energy billed pursuant to Appendix A.

(2) Any Early Energy billed pursuant to Appendix A.

(3) Environmental Attributes billed pursuant to Appendix A based on Facility Energy and, if applicable, Replacement Energy.

(4) Any reimbursement to Buyer for the purchase of Replacement Energy.

(5) Any reimbursement to Seller for Direct Reimbursable Costs.

(6) The Monthly O&M Amount net of any Actual O&M Savings and O&M Deductible.

(7) Any Actual Additional Monthly O&M Amount.

(b) Monthly invoices shall be based on meter readings, or if such readings are unavailable, the best available data.

(c) Monthly invoices shall be sent to the address set forth in Appendix E or such other address as is provided by Buyer in writing.

(d) Buyer shall pay the amounts set forth in each monthly invoice by wire transfer to the accounts designated on the invoices rendered by Seller on or before the thirtieth (30th) day after receipt by Buyer of the applicable invoice. Bills or portions of bills which are not paid by the due date shall thereafter accrue interest at the Interest Rate from and including the date after the date payment was due to but excluding the date such payment is made. Seller shall provide payment to Buyer for any reimbursement owed to Buyer with respect to any month as set forth in Section 11.1(a) at the time Seller submits its next monthly invoice to Buyer.

(e) Attestations of Environmental Attribute transfers to Buyer shall accompany monthly invoices as provided in Section 9.6.

Section 11.2 Disputed Invoices. In the event any portion of any invoice is in dispute, the undisputed amount shall be paid when due. The Party disputing a payment shall promptly notify the other Party of the basis for the dispute. Disputes shall be discussed by the Authorized Representatives, who shall use reasonable efforts to amicably and promptly resolve the disputes, and any failure to agree shall be subject to resolution in accordance with Section 14.3. Upon resolution of any dispute, if all or part of the disputed amount is later determined to have been due, then the Party owing such payment or refund shall pay within ten (10) days after receipt of notice of such determination the amount determined to be due plus interest thereon at the Interest Rate from the due date until the date of payment. Buyer may dispute an invoice at any time within twelve (12) months of having received the invoice, provided that Buyer provides Seller with a notification of such dispute, setting forth the details of such dispute in reasonable specificity.

Section 11.3 Buyer's Right of Setoff. In addition to any right now or hereafter granted under applicable law and not by way of limitation of any such rights, Buyer shall have the right at any time or from time to time without notice to Seller or to any other Person, any such notice being hereby expressly waived, to set off against any amount due Seller from Buyer under this Agreement or otherwise any amount due Buyer from Seller under this Agreement or otherwise, including but not limited to any amounts due because of breach of this Agreement or any other obligation and any costs payable by Seller under Section 7.3.

Section 11.4 Records and Audits.

(a) Seller shall maintain, and shall cause Seller's subcontractors and suppliers as applicable to maintain all records pertaining to the management of this Agreement, related subcontracts, and performance of services pursuant to this Agreement (including all billings, costs, metering, and Environmental Attributes), in their original form, including but not limited to, reports, documents, deliverables, employee time sheets, accounting procedures and practices, records of financial transactions, and other evidence, regardless of form (e.g., machine readable media such as disk, tape, etc.) or type (e.g., databases, applications software, database management software, utilities, etc.), sufficient to properly reflect all costs claimed to have been incurred and services performed pursuant to this Agreement. If Seller, Seller's subcontractors and/or suppliers are required to submit cost or pricing data in connection with this Agreement, Seller must maintain all records and documents necessary to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used. Buyer and the Authorized Auditors shall have the right to discuss such records with Seller's officers and independent public accountants (and by this provision Seller authorizes said accountants to discuss such billings and costs), all at such times and as often as may be reasonably requested. All records shall be retained, and shall be subject to examination and audit by the Authorized Auditors, for a period of not less than four (4) years following final payment made by Buyer hereunder or the expiration or termination date of this Agreement, whichever is later. Seller shall

make said records or, to the extent accepted by the Authorized Auditors, photographs, micro-photographs, etc. or other authentic reproductions thereof, available to the Authorized Auditors at Seller's offices located at all reasonable times and without charge. The Authorized Auditors will have the right to reproduce, photocopy, download, transcribe, and the like any such records. Any information provided by Seller on machine-readable media shall be provided in a format accessible and readable by the Authorized Auditors. Seller shall not, however, be required to furnish the Authorized Auditors with commonly available software. Seller, and Seller's subcontractors and suppliers, as applicable to the services provided under this Agreement, shall be subject at any time with fourteen (14) calendar days prior written notice to audits or examinations by Authorized Auditors, relating to all billings and to verify compliance with all Agreement requirements relative to practices, methods, procedures, performance, compensation, and documentation. Examinations and audits will be performed using generally accepted auditing practices and principles and applicable Governmental Authority audit standards. If Seller utilizes or is subject to FAR, Part 30 and 31, et seq. accounting procedures, or a portion thereof, examinations and audits will utilize such information. To the extent that the Authorized Auditor's examination or audit reveals inaccurate, incomplete or non-current records, or records are unavailable, the records shall be considered defective. Consistent with standard auditing procedures, Seller will be provided fifteen (15) calendar days to review the Authorized Auditor's examination results or audit and respond to Buyer's prior to the examination's or audit's finalization and public release. If the Authorized Auditor's examination or audit indicates Seller has been overpaid under a previous payment application, the identified overpayment amount shall be paid by Seller to Buyer within fifteen (15) calendar days of notice to Seller of the identified overpayment. Seller shall contractually require all subcontractors performing services under this Agreement to comply with the provisions of this Section by inserting this Section 11.4 in each subcontractor contract and by contractually requiring each subcontractor to insert this Section 11.4 in any of its subcontract contracts related to services under this Agreement. In addition, Seller and its subcontractors shall also include the following language in each subcontractor contract: "The Southern California Public Power Authority is a third party beneficiary of the foregoing audit provision. The benefits of the audit provision shall inure solely for the benefit of the Southern California Public Power Authority. The designation of the Southern California Public Power Authority as a third party beneficiary of the audit provision shall not confer any rights or privileges on Seller, subcontractor or any other person/entity." Notwithstanding the foregoing, if the audit reveals that Buyer overpayment to Seller is more than five percent (5.0%) of the billings reviewed, Seller shall pay all expenses and costs incurred by the Authorized Auditors arising out of or related to the examination or audit. Such examination or audit expenses and costs shall be paid by Seller to Buyer within fifteen (15) calendar days of notice to Seller of such costs and expenses.

(b) Buyer agrees to replace its Authorized Auditor if Seller can demonstrate that the Authorized Auditor conducting the activities under this Section 11.4 is a direct business competitor of Seller and that allowing such auditor to conduct such activities will place Seller at a material competitive disadvantage.

Section 11.5 Electric Metering Devices.

(a) The Facility Energy made available to Buyer or Buyer's Agent by Seller under this Agreement shall be measured using Electric Metering Devices installed at the KPUD Interconnection Points, as depicted in Appendix M, and owned and maintained by Seller. All Electric Metering Devices used to provide data for the computation of payments shall be sealed and Seller or its designee shall only break the seal when such Electric Metering Devices are to be inspected and tested or adjusted in accordance with this Section 11.5, the BPA Generation Interconnection Agreements or the KPUD Interconnection and Transmission Agreements. Seller or its designee shall specify the number, type, and location of such Electric Metering Devices.

(b) Seller or its designee, at no expense to Buyer, shall inspect and test all Electric Metering Devices upon installation and at least annually thereafter. Seller shall provide Buyer with reasonable advance notice of, and permit a representative of Buyer to witness and verify, such inspections and tests. Upon request by Buyer, Seller or its designee shall perform additional inspections or tests of any Electric Metering Device and shall permit a qualified representative of Buyer to inspect or witness the testing of any Electric Metering Device. The actual expense of any such requested additional inspection or testing shall be borne by Seller. Seller shall provide copies of any inspection or testing reports to Buyer.

(c) If an Electric Metering Device fails to register, or if the measurement made by an Electric Metering Device is found upon testing to be inaccurate by more than one percent (1.0%), an adjustment shall be made correcting all measurements by the inaccurate or defective Electric Metering Device for both the amount of the inaccuracy and the period of the inaccuracy. The adjustment period shall be determined by reference to Seller's check-meters, if any, or as far as can be reasonably ascertained by Seller from the best available data, subject to review and approval by Buyer. If the period of the inaccuracy cannot be ascertained reasonably, any such adjustment shall be for a period equal to one-third of the time elapsed since the preceding test of the Electric Metering Devices. To the extent that the adjustment period covers a period of deliveries for which payment has already been made by Buyer, Buyer shall use the corrected measurements as determined in accordance with this Section 11.5 to recompute the amount due for the period of the inaccuracy and shall subtract the previous payments by Buyer for this period from such recomputed amount. If the difference is a positive number, the difference shall be paid by Buyer to Seller; if the difference is a negative number, that difference shall be paid by Seller to Buyer, or at the discretion of Buyer, may take the form of an offset to payments due to Seller from Buyer. Payment of such difference by the owing Party shall be made not later than thirty (30) days after the owing Party receives notice of the amount due, unless Buyer elects payment via an offset.

Section 11.6 Taxes. Seller shall be responsible for and shall pay, before the due dates therefor, any and all federal, state and local Taxes incurred by it as a result of entering into this Agreement and all Taxes imposed on Seller and assessed with respect to the Facility, the Site, or any other assets of Seller, the sale or use of Energy and Environmental Attributes and all Taxes related to Seller's income, provided, however, that Buyer shall be responsible for all of the Taxes

(other than Taxes based on net income) related to Buyer's purchase of the Facility pursuant to Section 2.5 or Section 2.6.

ARTICLE XII.
REPRESENTATIONS AND WARRANTIES; COVENANTS

Section 12.1 Representations and Warranties of Buyer. Buyer makes the following representations and warranties to Seller as of the Effective Date:

(a) Buyer is a validly existing California Joint Powers Authority and has the legal power and authority to own its properties, to (i) carry on its business as now being conducted, (ii) enter into this Agreement and each Ancillary Document to which Buyer is a party and carry out the transactions contemplated hereby and thereby and, (iii) perform and carry out all covenants and obligations on its part to be performed pursuant to this Agreement and all such Ancillary Documents.

(b) The execution, delivery and performance by Buyer of this Agreement and each Ancillary Document to which Buyer is a party have been duly authorized by all necessary action on the part of each of Buyer's members, and do not and will not require any consent or approval of Buyer's members regulatory/governing bodies, other than that which has been obtained.

(c) This Agreement and each of the Ancillary Documents to which Buyer is a party constitute the legal, valid and binding obligation of Buyer enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws relating to or affecting the enforcement of creditors' rights generally or by general equitable principles, regardless of whether such enforceability is considered in a proceeding in equity or at law and by limitations on legal remedies against public agencies in the State of California.

Section 12.2 Representations, Warranties and Covenants of Seller. Seller makes the following representations, warranties and covenants to Buyer as of the Effective Date:

(a) Seller is a limited liability company duly organized, validly existing and in good standing under the laws of its respective state of incorporation or organization, is qualified to do business in the State of Washington and has the legal power and authority to (i) own and lease its properties, (ii) carry on its business as now being conducted, (iii) enter into this Agreement and each Ancillary Document to which it may be party, and (iv) carry out the transactions contemplated hereby and thereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement and all Ancillary Documents.

(b) The execution, delivery and performance by Seller of this Agreement and all Ancillary Documents to which it is a party have been duly authorized by all necessary action,

and do not and will not require any consent or approval other than those which have already been obtained.

(c) The execution and delivery of this Agreement and all Ancillary Documents, the consummation of the transactions contemplated hereby and thereby and the fulfillment of and compliance with the provisions of this Agreement and the Ancillary Documents, do not and will not conflict with or constitute a breach of or a default under, any of the terms, conditions or provisions of any Requirement of Law, or any organizational documents, agreement, deed of trust, mortgage, loan agreement, other evidence of indebtedness or any other agreement or instrument to which Seller is a party or by which it or any of its property is bound, or result in a breach of or a default under any of the foregoing or result in or require the creation or imposition of any Lien upon any of the properties or assets of Seller (except as contemplated hereby), and Seller has obtained or shall timely obtain all Permits required for the performance of its obligations hereunder and thereunder and operation of the Facility in accordance with Prudent Utility Practices, the requirements of this Agreement, the Ancillary Documents and all applicable Requirements of Law.

(d) Each of this Agreement and the Ancillary Documents to which it is a party constitutes the legal, valid and binding obligation of Seller, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws relating to or affecting the enforcement of creditors' rights generally or by general equitable principles, regardless of whether such enforceability is considered in a proceeding in equity or at law.

(e) There is no pending, or to the knowledge of Seller, threatened action or proceeding affecting Seller before any Governmental Authority, which purports to affect the legality, validity or enforceability of this Agreement or any of the Ancillary Documents.

(f) Seller is not in violation of any Requirement of Law, which violations, individually or in the aggregate, would reasonably be expected to result in a material adverse effect on the business, assets, operations, condition (financial or otherwise) or prospects of Seller or the ability of Seller to perform any of its obligations under this Agreement or any Ancillary Document.

(g) Seller shall inform all investors in Seller of the existence of this Agreement and all Ancillary Documents on or before the date of such investment in Seller.

(h) Seller is a Special Purpose Entity.

(i) Seller has (i) not entered into this Agreement or any Ancillary Document with the actual intent to hinder, delay or defraud any creditor, and (ii) received reasonably equivalent value in exchange for its obligations under this Agreement and the Ancillary Documents. No petition in bankruptcy has been filed against Seller, and neither Seller nor any of its respective constituent Persons has ever made an assignment for the benefit of creditors or taken advantage of any insolvency act for its benefit as a debtor.

(j) All of the assumptions made in the Non-Consolidation Opinion, including, but not limited to, any exhibits attached thereto, are true and correct. Seller has complied with all of the assumptions made with respect to Seller in the Non-Consolidation Opinion.

(k) Seller has no reason to believe that any environmental authorizations under the laws of the state of Washington or other Permits required to construct, maintain or operate the Facility in accordance with the requirements of this Agreement and all applicable Requirements of Law will not be timely obtained in the ordinary course of business.

(l) All Tax returns and reports of Seller required to be filed by it have been timely filed, and all Taxes shown on such Tax returns to be due and payable and all assessments, fees and other governmental charges upon Seller and upon its properties, assets, income, business and franchises that are due and payable have been paid when due and payable. Seller does not know of any proposed Tax assessment against Seller that is not being actively contested by it in good faith and by appropriate proceeding.

(m) Seller owns or possesses, or will own or possess in a timely manner, all patents, rights to patents, trademarks, copyrights and licenses necessary for the performance by the Seller of this Agreement and the Ancillary Documents and the transactions contemplated thereby, without any conflict with the rights of others.

(n) At all times after the Effective Date, Seller shall have "*Site Control*" which means that Seller shall: (i) own the Site; or (ii) be the lessee of the Site under the applicable Leases, easements or other property instruments which permit Seller to perform its obligations under this Agreement and the Ancillary Documents. Seller shall provide Buyer with prompt notice of any change in the status of Seller's Site Control.

Section 12.3 Covenant of Seller Related to Seller's Status as Special Purpose Entity. Seller shall at all times comply with the requirements of, and qualify as, a Special Purpose Entity.

Section 12.4 Covenants of Seller Related to the Leases.

(a) Seller shall at all times keep, perform, observe and comply with, or cause to be kept, performed, observed and complied with, all covenants, agreements, conditions and other provisions required to be kept, performed, observed and complied with by or on behalf of Seller from time to time pursuant to the Leases, and Seller shall not do or permit anything to be done, the doing of which, or refrain from doing anything, the omission of which, could impair or tend to impair the rights of Seller under the Leases, or could be grounds for a Lessor to terminate any of the Leases.

(b) Seller shall give Buyer immediate notice of (i) any default or any event which, with the giving of notice or passage of time, or both, would become a default under any of the Leases or of the receipt by Seller of any notice from the Lessor thereof, or (ii) the commencement or threat of any action or proceeding or arbitration pertaining to the Leases or

any of them. Buyer, at its option, may take any action (but shall not be obligated to take any action) from time to time deemed necessary or desirable by Buyer to prevent or cure, in whole or in part, any default by Seller under the Leases. Seller shall deliver to Buyer, immediately upon service or delivery thereof on, to or by Seller, a copy of each petition, summons, complaint, notice of motion, order to show cause and other pleading or paper, however designated, which shall be served or delivered in connection with any such action, proceeding or arbitration.

(c) As long as this Agreement is in effect, there shall be no merger of any of the Leases or of any leasehold estate created thereby with the fee estate in the property subject to the respective Leases and Seller will not acquire any interest in such fee estate without the prior written consent of Buyer.

(d) Seller shall not modify, subordinate or amend the Leases in any respect, either orally or in writing, and Seller shall not terminate, cancel, sever or surrender, or permit or suffer the modification, subordination, amendment, termination, cancellation, severance or surrender of, the Leases and shall not waive, excuse, condone or in any way release or discharge any of the Lessors of or from the obligations, covenants, conditions and agreements by the any of the Lessors to be kept, performed, observed or complied with thereunder, and any such action taken by Seller without the prior written consent of Buyer shall be void at inception and of no force and effect.

(e) In the event of the termination, rejection, or disaffirmance by any of the Lessors (or by any receiver, trustee, custodian, or other party that succeeds to the rights of any such Lessor) of any of the Leases pursuant to the Bankruptcy Code, Seller hereby presently, absolutely, irrevocably and unconditionally grants and assigns to Buyer the sole and exclusive right to make or refrain from making any election available to lessees under the Bankruptcy Code (including, without limitation, the election available pursuant to Section 365(h) of the Bankruptcy Code, 11 U.S.C. § 365(h), and any successor provision), and Seller agrees that any such election, if made by Seller without the prior written consent of Buyer (which Buyer would not anticipate granting due to the importance of any of the Leases as security), shall be void at inception and of no force or effect. Without limiting the generality of the foregoing sentence, Seller shall not, without Buyer's prior written consent, elect to treat any of the Leases or any leasehold estate created thereby as terminated under Section 365 of the Bankruptcy Code, after rejection or disaffirmance of the Leases by any of the Lessors (whether as debtor in possession or otherwise) or by any trustee of any of the Lessors, and any such election made without such consent shall be void at inception and of no force or effect. At the request of Buyer, Seller will join in any election made by Buyer under the Bankruptcy Code and will take no action in contravention of the rights granted to Buyer pursuant to this Section 12.4.

(f) In the event there is a termination, rejection, or disaffirmance by any of the Lessors (whether as debtor in possession or otherwise) or by any trustee of any of the Lessors pursuant to the Bankruptcy Code and Buyer elects to have Seller remain in possession under any legal right Seller may have to occupy the property pursuant to any of the Leases, then Seller shall remain in such possession and shall perform all acts necessary for Seller to retain its right to

remain in such possession, whether such acts are required under the then existing terms and provisions of any of the Leases or otherwise.

(g) In the event that a petition under the Bankruptcy Code shall be filed by or against Seller and Seller or any trustee of Seller shall decide to reject or disaffirm any of the Leases pursuant to the Bankruptcy Code (or allow same), Seller shall give Buyer at least ten (10) days prior notice of the date on which application shall be made to the court for authority to reject or disaffirm any of the Leases or of any other proceeding in which any of the Leases could otherwise be rejected. Buyer shall have the right, but not the obligation, to serve upon Seller or such trustee within such ten (10) day period a notice stating that (i) Buyer demands that Seller (whether as debtor in possession or otherwise) or such trustee assume and assign the applicable Leases to Buyer pursuant to the Bankruptcy Code, and (ii) Buyer covenants to cure, or to provide adequate assurance of prompt cure of, all defaults under the applicable Leases (except defaults of the type specified in Section 365(b)(2) of the Bankruptcy Code) and to provide adequate assurance of future performance under the applicable Leases. In the event that Buyer serves any such notice as provided above, neither Seller (whether as debtor in possession or otherwise) nor such trustee shall seek to reject or disaffirm any of the Leases and Seller (whether as debtor in possession or otherwise) and such trustee shall comply with such demand within thirty (30) days after such notice shall have been given, subject to Buyer's performance of such covenant.

(h) Upon any payment by Buyer under any provision of the Leases, to cure any default of Seller, as lessee thereunder, and thereby prevent termination of the Lease or the exercise of any other remedy of any of the Lessors thereunder arising out of such default, Seller, as such lessee, within ten (10) days following receipt of notice from Buyer that it made such payment, shall pay the amount of such payment to Buyer plus interest accruing thereon at the Interest Rate, from and including the date of the payment by Buyer to cure such default to but excluding the date of such payment by Seller.

Section 12.5 Bond Documents. Buyer shall maintain its existence as a joint powers authority validly existing under the laws of California.

ARTICLE XIII.

DEFAULT; TERMINATION AND REMEDIES; PERFORMANCE DAMAGE

Section 13.1 Default. Each of the following events or circumstances shall constitute a "*Default*" by the responsible Party (the "*Defaulting Party*");

(a) Payment Default. Failure by a Party to make any payment of a material amount (including not making when due any material portion of the payment) required under this Agreement (other than payments disputed in good faith in accordance with the dispute resolution terms of this Agreement) when and as due which is not cured within thirty (30) calendar days after receipt of notice thereof from the other Party.

(b) Breach of Material Covenants. A breach by Seller that has a materially adverse effect on Seller's ability to deliver Energy or operate the Facility in accordance with the

terms of this Agreement which is not cured within thirty (30) calendar days after receipt of notice thereof from Buyer.

(c) Breach of Representation and Warranty. Inaccuracy at the time made or deemed to be made of any representation, warranty certification or other statement made by Seller in Article XII which has a materially adverse effect on Seller's ability to deliver Energy or operate the Facility in accordance with the terms of this Agreement which is not cured within thirty (30) calendar days after receipt of notice thereof from Buyer.

(d) Bankruptcy. Bankruptcy of a Party.

(e) Security Interest Default. A default shall have occurred and be continuing under the Security Interest or the Security Interest shall fail to be in full force and effect in accordance with the terms of this Agreement or Buyer shall not have or shall cease to have a valid and perfected Lien in the Facility and Related Interests and Rights or Seller shall contest the validity or enforceability of the Security Interest or any provision thereof in writing or deny that it has any further liability thereunder.

(f) Security Failure. The failure of Seller to maintain the Primary Facility LD Security, Facility Expansion LD Security or Performance Security in compliance with Section 3.5(b) or Section 6.4(a), respectively, or replace such Primary Facility LD Security, Facility Expansion LD Security or Performance Security at least fifteen (15) Business Days prior to its expiration, unless alternative Primary Facility LD Security, Facility Expansion LD Security or Performance Security that complies with the requirements of Section 3.5(b) or Section 6.4(a), respectively, is provided within twenty (20) Business Days after notice from Buyer of any such failure; or, with respect to any obligor providing the Primary Facility LD Security, Facility Expansion LD Security or Performance Security for the benefit of Buyer:

(1) the failure of such obligor to honor a drawing or make a payment thereunder;

(2) such obligor fails to meet the acceptance of Buyer or there shall have occurred a material adverse effect on the business, assets, operations, condition (financial or otherwise) or prospects of such obligor;

(3) the Primary Facility LD Security, Facility Expansion LD Security or Performance Security issued by such obligor shall fail to be in full force and effect in accordance with the terms of this Agreement; or

(4) such obligor shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of its Primary Facility LD Security, Facility Expansion LD Security or Performance Security,

and in any such event, Seller fails to provide replacement Primary Facility LD Security, Facility Expansion LD Security or Performance Security within twenty (20) Business Days after notice from Buyer of any such event.

(g) Lease Default. Any of the Leases fails to be in effect or any of the Leases is terminated for any reason or amended in any material respect without Buyer's written consent which is not cured within thirty (30) calendar days thereafter.

(h) Other Breach. Any breach or default under this Agreement not specified in paragraphs (a) – (g) above which is not cured in accordance with this paragraph (h). In the event of such breach or default, and if Seller is the Defaulting Party (or otherwise the party responsible for such breach), Seller shall have the right to correct or cure such Default or breach. within the time specified in the Remedial Plan (as defined below). Within ten (10) days of (i) Seller's receipt of written notice of such default or other breach, or (ii) Seller's delivery of written notice of such default or other breach, as the case may be, Seller shall prepare a written plan to address the specific cause giving rise to such Default or breach of this Agreement (the "**Remedial Plan**"). The Remedial Plan shall, consistent with Prudent Utility Practices, outline a course of action and timeline (which shall not exceed ninety (90) days unless Buyer, in its sole discretion, agrees otherwise) in which Seller shall correct such Default or breach. Buyer shall, within ten (10) days following delivery of the Remedial Plan, either (i) deliver to Seller notice of Buyer's acceptance of the Remedial Plan, or (ii) deliver to Seller notice of Buyer's objections and proposed modifications to the Remedial Plan. Buyer's notice of objection must be reasonable taking into account Prudent Utility Practices and contain reasonable detail and proposed modifications to said Remedial Plan. If Buyer delivers to Seller notice of Buyer's objections and suggested modifications, Seller shall revise the Remedial Plan based on Buyer's objections and thereafter shall have the number of day specified in the Remedial Plan to cure the default or breach.

Seller shall, promptly upon obtaining knowledge thereof, provide written notice to Buyer of the occurrence of any Default of Seller (or breach of this Agreement) or any occurrence, circumstance or event, or any combination thereof, which, with the lapse of time, the giving of notice, or both, would constitute a Default of Seller (or breach of this Agreement).

Section 13.2 Default Remedy.

(a) If Buyer is in Default for nonpayment, subject to any duty or obligation under this Agreement, Seller may continue to provide services pursuant to its obligations under this Agreement; provided that nothing in this Section 13.2(a) shall affect Seller's rights and remedies set forth in this Section 13.2. Seller's continued service to Buyer shall not act to relieve Buyer of any of its duties or obligations under this Agreement.

(b) Notwithstanding any other provision herein, if any Default has occurred and is continuing, the affected Party may, whether or not the dispute resolution procedure set forth in Section 14.3 has been invoked or completed, bring an action in any court of competent

jurisdiction as set forth in Section 14.13 seeking injunctive relief in accordance with applicable rules of civil procedure.

(c) Except as expressly limited by this Agreement, if a Default has occurred and is continuing and Buyer is the Defaulting Party, Seller may without further notice exercise any rights and remedies provided herein or otherwise available at law or in equity, including the right to specific performance and to terminate this Agreement pursuant to Section 13.3. No failure of Seller to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by Seller of any other right, remedy or power hereunder preclude any other or future exercise of any right, remedy or power.

(d) Except as expressly limited by this Agreement, if a Default has occurred and is continuing and Seller is the Defaulting Party, Buyer may without further notice exercise any rights and remedies provided for herein, or otherwise available at law or equity, including (i) application of all amounts available under the Primary Facility LD Security, the Facility Expansion LD Security or Performance Security against any amounts then payable by Seller to Buyer on account of the liquidated damages under this Agreement, (ii) foreclosure of Buyer's Security Interest pursuant to the Deed of Trust, and (iii) termination of this Agreement pursuant to Section 13.3. No failure of Buyer to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by Buyer of any right, remedy or power under this Agreement preclude any other or future exercise of any right, remedy or power.

(e) Liability Cap(s). Notwithstanding anything herein to the contrary, (i) the amount of damages Buyer may recover from Seller with respect to a Default of Seller occurring prior to the Guaranteed Commercial Operation Date of the Primary Facility, including in connection with any termination of the Agreement as a result of the Default of Seller during such period, shall be limited to \$5 million, and (ii) the amount of damages Buyer may recover from Seller with respect to a Default of Seller occurring after Commercial Operation of the Primary Facility and prior to the First Prepayment Date, including in connection with any termination of this Agreement as a result of the Default of Seller during such period, shall be limited to \$5 million without reduction for any damages paid to Buyer for the period specified in clause (i).

Section 13.3 Termination for Default.

(a) If Default occurs, the Party that is not the Defaulting Party (the "**Non-Defaulting Party**") shall, without limiting any other rights or remedies available to the Non-Defaulting Party under this Agreement, possess the right to terminate this Agreement upon notice to the Defaulting Party, which notice shall specify the date on which the termination is to become effective.

(b) Upon termination after the First Prepayment Date, the Non-Defaulting Party shall liquidate this Agreement, as soon as practicable. The Termination Payment shall be calculated in accordance with Section 13.4. With respect to Seller, the Termination Payment

shall be the sole and exclusive remedy for termination of this Agreement after the notice of termination under this Section 13.3 is received.

(c) Upon termination, the Non-Defaulting Party may withhold any payments it owes the Defaulting Party for any obligations incurred prior to termination under this Agreement until the Defaulting Party pays the Termination Payment to the Non-Defaulting Party. The Non-Defaulting Party shall possess the right to set off the amount due it under this Section 13.3 by any such payments due the Defaulting Party.

Section 13.4 Calculation of Termination Payment. The Non-Defaulting Party shall calculate the Termination Payment as follows:

(a) In the event that Seller is the Defaulting Party, upon any termination under Section 13.3, Seller shall pay to Buyer the Remaining Prepayment Amount. In addition to such payment of the Remaining Prepayment Amount, Buyer shall calculate the Gains, Losses, and Costs. The Gains, Losses, and Costs shall include those for the Excess Energy and the Environmental Attributes, which shall be determined by comparing (i) the value of the Excess Energy and Environmental Attributes projected to be delivered for the remaining term giving effect to the Excess Energy Price and the value derived from the Environmental Attributes under this Agreement had it not been terminated (provided that the value from the Environmental Attributes shall not exceed the Environmental Attributes Payment) to (ii) the equivalent quantities and relevant market prices for the remaining Agreement Term either quoted by a bona fide third party offer or which are reasonably expected to be available in the market under a replacement contract for this Agreement. To ascertain the market prices of a replacement contract, Buyer may consider, among other valuations, quotations from dealers in energy contracts and bona fide third party offers, all adjusted for the length of the remaining Agreement Term and differences in transmission. It is expressly agreed that Buyer shall not be required to enter into replacement transactions in order to determine the Termination Payment.

(b) In the event that Buyer is the Defaulting Party, upon any termination under Section 13.3, Seller shall pay to Buyer the Remaining Prepayment Amount. In addition to such payment of the Remaining Prepayment Amount, Seller shall calculate the Gains, Losses, and Costs. The Gains, Losses, and Costs shall include those for the Excess Energy and the Environmental Attributes, which shall be determined by comparing (i) the value of the Excess Energy and Environmental Attributes projected to be delivered for the remaining term giving effect to the Excess Energy Price and the value derived from the Environmental Attributes under this Agreement had it not been terminated to (ii) the equivalent quantities and relevant market prices for the remaining Agreement Term either quoted by a bona fide third party offer or which are reasonably expected to be available in the market under a replacement contract for this Agreement. To ascertain the market prices of a replacement contract, Seller may consider, among other valuations, quotations from dealers in energy contracts and bona fide third party offers, all adjusted for the length of the remaining Agreement Term and differences in transmission. It is expressly agreed that Seller Party shall not be required to enter into replacement transactions in order to determine the Termination Payment.

(c) The Gains and Losses for Excess Energy and Environmental Attributes shall be discounted to present value using the Present Value Rate as of the time of termination (to take account of the period between the time notice of termination was effective and when such amount would have otherwise been due if this Agreement had been performed in full).

(d) Each Party shall use reasonable efforts to mitigate or eliminate Costs.

(e) In no event, however, shall a Party's Gains, Losses or Costs include any penalties or similar charges imposed by the Non-Defaulting Party.

(f) The Non-Defaulting Party shall set off or aggregate, as appropriate, the Gains and Losses and Costs and notify the Defaulting Party. If the Non-Defaulting Party's aggregate Losses and Costs exceed its aggregate Gains with respect to Excess Energy and Environmental Attributes, the Defaulting Party shall, within three (3) Business Days of receipt of such notice, pay the resulting Termination Payment, after any aggregation or set off under Section 13.4(g), to the Non-Defaulting Party, which amount shall bear interest at the Present Value Rate from the time notice of termination was received until paid. If the Non-Defaulting Party's aggregate Gains exceed its aggregate Losses and Costs, the Termination Payment shall be zero.

(g) The Non-Defaulting Party shall aggregate or set off, as applicable, at its election, any or all other amounts owing between the Parties under this Agreement with or against the Termination Payment so that all such amounts are aggregated and/or netted to a single liquidated amount, which shall be the amount of the Termination Payment. Such Termination Payment shall be paid within three (3) Business Days following the date notice of termination is received. Notwithstanding any other provision of this Section 13.4, if Buyer shall be the Non-Defaulting Party, in no event shall the amount of the Termination Payment due the Buyer be less than the Remaining Prepayment Amount, subject, however, to aggregation or setoff, as applicable, of any amounts owing between the Parties under this Agreement other than Gains, Losses and Costs.

(h) If the Defaulting Party disagrees with the calculation of the Termination Payment and the Parties cannot otherwise resolve their differences, the calculation issue shall be submitted to informal dispute resolution as provided in Section 14.3. Pending resolution of the dispute, the Defaulting Party shall pay the full amount of the Termination Payment calculated by the Non-Defaulting Party within three (3) Business Days of receipt of notice of termination as set forth in Section 13.3(a) subject to the Non-Defaulting Party refunding, with interest, at the Present Value Rate, any amounts determined to have been overpaid.

Section 13.5 Limitation of Liability. The Parties agree that none of the owners, members, shareholders, affiliates, employees, officers, directors or representatives of Seller shall have any liability whatsoever for any loss, remedy or damage arising from any cause of action or dispute in connection with this Agreement or any Ancillary Document or the transactions contemplated herein or therein and Buyer shall have no recourse to such parties whatsoever.

ARTICLE XIV. MISCELLANEOUS

Section 14.1 Authorized Representative. Each Party hereto shall designate an authorized representative who shall be authorized to act on its behalf with respect to those matters contained herein (each an “*Authorized Representative*”), which shall be the functions and responsibilities of such Authorized Representatives. Each Party may also designate an alternate who may act for the Authorized Representative. Within thirty (30) calendar days after execution of this Agreement, each Party shall notify the other Party of the identity of its Authorized Representative, and alternate if designated, and shall promptly notify the other Party of any subsequent changes in such designation. The Authorized Representatives shall have no authority to alter, modify, or delete any of the provisions of this Agreement.

Section 14.2 Notices. With the exception of billing invoices pursuant to Section 11.1 hereof, all notices, requests, demands, consents, waivers and other communications which are required under this Agreement shall be in writing and shall be deemed properly sent if delivered in person or sent by facsimile transmission, reliable overnight courier, or sent by registered or certified mail, postage prepaid to the persons specified in Appendix E. In addition to the foregoing, the Parties may agree in writing at any time to deliver notices, requests, demands, consents, waivers and other communications through alternate methods, such as electronic mail.

Section 14.3 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 14.3, but excluding any dispute arising out of Section 4.6, Section 4.8, or Section 4.9) (a “*Dispute*”), either Party (the “*Notifying Party*”) may deliver to the other Party (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 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 Section 14.3(a) and Section 14.3(b) by the expiration of the thirty (30) day period set forth in

Section 14.3(a), then either Party may pursue any legal or equitable remedy available to it under applicable law.

(d) Notwithstanding anything to the contrary in the foregoing provisions of this Section 14.3, the procedures set forth above in this Section 14.3 are in addition to and not as an alternative to or in substitution for, the statutory claims procedures set forth in Sections 905 and 910 of the California Government Code which must be complied with prior to the filing of any lawsuit or pursuing any other legal or equitable remedy available under applicable law.

Section 14.4 Further Assurances. Each Party agrees to execute and deliver all further instruments and documents, and take all further action not inconsistent with the provisions of this Agreement that may be reasonably necessary to effectuate the purposes and intent of this Agreement.

Section 14.5 No Dedication of Facilities. Any undertaking by one Party hereto to the other Party under any provisions of this Agreement shall not constitute the dedication of the system or any portion thereof of either Party to the public or to the other Party or any other Person, and it is understood and agreed that any such undertaking by either Party shall cease upon the termination of such Party's obligations under this Agreement.

Section 14.6 Force Majeure.

(a) A Party shall not be considered to be in default in the performance of any of its obligations under this Agreement (other than the obligations of a Party to make payment of amounts due under this Agreement) when and to the extent such Party's performance is prevented by a Force Majeure that, despite the exercise of due diligence, such Party is unable to prevent or mitigate; provided the Party has given a written detailed description of the full particulars of the Force Majeure to the other Party reasonably promptly after becoming aware thereof (and in any event within fourteen (14) days after the initial occurrence of the claimed Force Majeure) (the "*Force Majeure Notice*"), which notice shall include information with respect to the nature, cause and date and time of commencement of such event, and the anticipated scope and duration of the delay. The Party providing such notice shall be excused from fulfilling its obligations under this Agreement until such time as the Force Majeure has ceased to prevent performance or other remedial action is taken, at which time the Party shall promptly notify the other Party of the resumption of its obligations under this Agreement. If Seller is unable to deliver, or Buyer is unable to receive, Excess Energy due to a Force Majeure Buyer shall have no obligation to pay Seller for the Excess Energy not delivered or received by reason thereof. It is understood by the Parties that the foregoing provisions shall not excuse any obligations of Seller with respect to delivery of the Guaranteed Generation under Article VI. Shortfall Energy and Replacement Energy provided under Article VII, in each case, which accrued prior to such Force Majeure or Buyer's obligation to make Monthly Payments up to the time that Seller ceases deliveries of Energy due to Force Majeure. In no event shall Buyer be obligated to compensate Seller or any other Person for any losses, expenses or liabilities that Seller or such other Person may sustain as a consequence of any Force Majeure.

(b) The term "*Force Majeure*" means any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, change in law or any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities (i) which prevents one Party from performing any of its obligations under this Agreement, (ii) which could not reasonably be anticipated as of the date of this Agreement, (iii) which is not within the reasonable control of, or the result of negligence, willful misconduct, breach of contract, intentional act or omission or wrongdoing on the part of the affected Party (or any subcontractor or Affiliate of that Party, or any Person under the control of that Party or any of its subcontractors or Affiliates, or any Person for whose acts such Affiliate or subcontractor is responsible), and (iv) which by the exercise of due diligence the affected Party is unable to overcome or avoid or cause to be avoided; provided nothing in this clause (iv) shall be construed so as to require either Party to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or labor dispute in which it may be involved. Any Party rendered unable to fulfill any of its obligations by reason of a Force Majeure shall exercise reasonable efforts to remove such inability with reasonable dispatch within a reasonable time period and mitigate the effects of the Force Majeure. The relief from performance shall be of no greater scope and of no longer duration than is required by the Force Majeure. Without limiting the generality of the foregoing, a Force Majeure does not include any of the following (each an "*Unexcused Cause*"): (1) any requirement to meet a renewable portfolio standard or any change (whether voluntary or mandatory) in any renewable portfolio standard that may affect the value of the Energy purchased hereunder; (2) events arising from the failure by Seller to construct, operate or maintain the Facility in accordance with this Agreement, unless such failure was itself caused by an event of Force Majeure; (3) any increase of any kind in any cost; (4) delays in or inability of a Party to obtain financing or other economic hardship of any kind; (5) Seller's ability to sell any Energy at a price in excess of that provided in this Agreement or Buyer's ability to purchase any Energy at a price less than those provided in this Agreement; (6) curtailment or other interruption of any Transmission Service except as otherwise expressly provided in Section 14.6(c); (7) failure of third parties to provide goods and services essential to a Party's performance, unless such failure was itself caused by an event of Force Majeure; (8) Facility or related equipment failure of any kind, including wells, machinery and lines of pipe; or (9) any changes in the financial condition of Buyer, Seller, the Facility Lender or any subcontractor or supplier affecting the affected Party's ability to perform its obligations under this Agreement.

(c) Seller may not raise a claim of Force Majeure based in whole or in part on curtailment or other interruption of Transmission Services for any Energy entitled to Firm Transmission provided on the Specified Transmission Path, unless the curtailment or interruption is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided the existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in Section 14.6(b) has occurred.

(d) For purposes of this Agreement, a Force Majeure shall be deemed to excuse Buyer from receiving Energy at the Point of Delivery if the Force Majeure is not related to the Facility, is declared by Buyer, and prevents Buyer from receiving such Energy at the Point of Delivery.

(e) If based on a Force Majeure Notice, the unaffected Party reasonably concludes that a Force Majeure or its impact on the affected Party or the Facility will continue (i) for a period of one hundred eighty (180) or more consecutive days or (ii) for an aggregate period of three hundred sixty-five (365) or more non-consecutive days, the unaffected Party shall have the right to terminate this Agreement effective upon notice to the affected Party. If the termination occurs after the First or Second Prepayment Date, Buyer shall be entitled to be paid and Seller shall pay to Buyer the Remaining Prepayment Amount. Any termination of this Agreement in the circumstances described in this Section shall be without prejudice to the rights and remedies of either Party for Defaults occurring prior to such termination.

Section 14.7 Assignment of Agreement; Deed of Trust.

(a) Except as set forth in this Section 14.7, neither Party hereto shall, directly or indirectly, assign or transfer this Agreement, in whole or in part, or any of its interests hereunder to any other Person without the prior written consent of the other Party hereto. Such consent shall not be unreasonably withheld by either Party. Any attempt to transfer or assign this Agreement, or any privilege hereunder, without such prior written consent, except as provided herein, shall be void and confer no right on any Person that is not a party to this Agreement.

(b) Seller's consent shall not be required for Buyer to assign this Agreement to any of Buyer's members; provided that at the time of assignment each of the assignees shall have at least an investment grade credit rating from a national credit rating agency.

(c) Buyer's consent shall not be required for Seller to assign this Agreement to an Affiliate of Seller, subject however to compliance with Section 12.3; provided that Seller provides reasonable assurances and executes documents reasonably required by Buyer regarding Seller's continued liability for all of Seller's obligations under this Agreement in the event of any nonperformance on the part of such assignee.

(d) Except as otherwise provided in Buyer's indenture of trust or similar agreement under which Buyer issues or has issued bonds or other obligations relating to the Facility, it is specifically agreed that there are no third party beneficiaries of this Agreement, and that, except as provided in this Section 14.7, this Agreement shall not grant any rights enforceable by any Person not a party to this Agreement. Notwithstanding the foregoing, Buyer's consent shall not be required for Seller to assign this Agreement for collateral purposes to any Facility Lender; provided, however, that the terms of such financing and the documentation relating thereto shall comply with the applicable terms and conditions of this Agreement. Seller shall provide Buyer with written notice of any such assignment to any Facility Lender no later than thirty (30) days after the assignment. Notwithstanding the foregoing or anything else expressed or implied herein to the contrary, Seller shall not assign,

transfer, convey, encumber, sell or otherwise dispose of all or any portion of the Energy, Capacity Rights or Environmental Attributes (not including the proceeds thereof) to any Facility Lender.

(e) To facilitate Seller's obtaining of financing to construct and operate the Facility, Buyer shall provide such consents to assignment or other documents as may be reasonably requested by Seller or any Facility Lender in connection with the financing of the Facility, including the acquisition of equity for the development, construction and operation of the Facility; provided, however, that the terms of such financing and the documentation relating thereto shall comply with the applicable terms and conditions of this Agreement. Seller may provide to the Facility Lender as security for its performance under a credit agreement or other agreement for financing of the Facility, a Lien on and security interests in and to the Facility under a deed of trust and related documentation, but only with the consent by Buyer provided under an agreement by and among Buyer, Seller and the Facility Lender in form and substance reasonably acceptable to Buyer. Seller shall reimburse, or shall cause the Facility Lender to reimburse, Buyer for the incremental direct expenses reasonably incurred by Buyer in the preparation, negotiation, execution and/or delivery of any documents requested by Seller or the Facility Lender, and provided by Buyer, pursuant to this Section 14.7(e).

(f) Seller may subcontract its duties or obligations under this Agreement without the prior written consent of Buyer; provided that no such subcontract shall relieve Seller of any of its duties or obligations hereunder.

In no event shall Buyer be liable to any Facility Lender for any claims, losses, expenses or damages whatsoever, other than liability Buyer may have under this Agreement.

Section 14.8 Ambiguity. The Parties acknowledge that this Agreement was jointly prepared by them, by and through their respective legal counsel, and any uncertainty or ambiguity existing herein shall not be interpreted against either Party on the basis that the Party drafted the language, but otherwise shall be interpreted according to the application of the rules on interpretation of contracts.

Section 14.9 Attorney Fees & Costs. Both Parties hereto agree that in any action to enforce the terms of this Agreement that each Party shall be responsible for its own attorney fees and costs. Each of the Parties to this Agreement was represented by its respective legal counsel during the negotiation and execution of this Agreement.

Section 14.10 Voluntary Execution. Both Parties hereto acknowledge that they have read and fully understand the content and effect of this Agreement that the provisions of this Agreement have been reviewed and approved by their respective counsel. The Parties to this Agreement further acknowledge that they have executed this Agreement voluntarily, subject only to the advice of their own counsel, and do not rely on any promise, inducement, representation or warranty that is not expressly stated herein.

Section 14.11 Entire Agreement. This Agreement (including all Appendices and Exhibits) contains the entire understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, discussions or agreements between the Parties, or any of them, concerning that subject matter, whether written or oral, except as expressly provided for herein. This is a fully integrated document. Each Party acknowledges that no other party, representative or agent, has made any promise, representation or warranty, express or implied, that is not expressly contained in this Agreement that induced the other Party to sign this document. This Agreement may be amended or modified only by an instrument in writing signed by each Party.

Section 14.12 Governing Law. This Agreement shall be governed by, interpreted and enforced in accordance with the laws of the State of California, without regard to conflict of law principles.

Section 14.13 Venue. All litigation arising out of, or relating to this Agreement, shall be brought in a state or federal court in the **County of Los Angeles** in the State of California. The Parties irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of California and waive any defense of forum non conveniens.

Section 14.14 Execution in Counterparts. This Agreement may be executed in counterparts and upon execution by each signatory, each executed counterpart shall have the same force and effect as an original instrument and as if all signatories had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signature thereon, and may be attached to another counterpart of this Agreement identical in form hereto by having attached to it one or more signature pages.

Section 14.15 Effect of Section Headings. Section headings appearing in this Agreement are inserted for convenience only and shall not be construed as interpretations of text.

Section 14.16 Waiver. The failure of either Party to this Agreement to enforce or insist upon compliance with or strict performance of any of the terms or conditions hereof, or to take advantage of any of its rights hereunder, shall not constitute a waiver or relinquishment of any such terms, conditions or rights, but the same shall be and remain at all times in full force and effect. Notwithstanding anything expressed or implied herein to the contrary, nothing contained herein shall preclude either Party from pursuing any available remedies for breaches not rising to the level of a Default, including without limitation recovery of damages caused by the breach of this Agreement and specific performance or any other remedy given under this Agreement or now or hereafter existing in law or equity or otherwise. Seller acknowledges that money damages may not be an adequate remedy for violations of this Agreement and that Buyer may, in its sole discretion, seek and obtain from a court of competent jurisdiction specific performance or injunctive or such other relief as such court may deem just and proper to enforce this Agreement or to prevent any violation hereof. Seller hereby waives any objection to specific performance or injunctive relief. The rights granted herein are cumulative.

Section 14.17 Relationship of the Parties. This Agreement shall not be interpreted to create an association, joint venture or partnership between the Parties hereto or to impose any partnership obligation or liability upon either such Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as an agent or representative of, the other Party.

Section 14.18 Indemnification; Damage or Destruction; Insurance; Condemnation; Limit of Liability.

(a) Seller Indemnification. Seller undertakes and agrees to indemnify and hold harmless Buyer and all of Buyer's members, officers and employees, and, at the option of Buyer, to defend Buyer, and any and all of its directors, officers, agents, employees, advisors, assigns and successors in interest from and against any and all suits and causes of action, claims, charges, damages, demands, judgments, civil fines and penalties, or losses of any kind or nature whatsoever, for death, bodily injury or personal injury to any person, including Seller's employees and agents, or direct, indirect or environmental damage or destruction to any property or loss of use of either Party, or third persons in any manner arising out of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Agreement on the part of Seller, or any of Seller's officers, agents, employees, or subcontractors of any tier, except to the extent caused by the gross negligence or willful misconduct of Buyer, its members, officers, agents, or employees.

(b) Damage or Destruction. In the event of any damage or destruction of the Facility or any part thereof during the Delivery Term, the Facility or such part thereof shall be diligently repaired, replaced or reconstructed by Seller so that the Facility or such part thereof shall be restored to substantially the same general condition and use as existed prior to such damage or destruction, unless a different condition or use is approved by Buyer. Proceeds of Insurance with respect to such damage or destruction maintained as provided in this Agreement shall be applied to the payment for such repair, replacement or reconstruction of the damage or destruction

(c) Insurance. Seller shall obtain and maintain the Insurance coverages listed in Appendix I on substantially the terms set forth therein.

(d) Condemnation Or Other Taking. For the Agreement Term, Seller shall immediately notify Buyer of the institution of any proceeding for the condemnation or other taking of the Facility, or any portion thereof. Buyer may participate in any such proceeding and Seller will deliver to Buyer all instruments necessary or required by Buyer to permit such participation. Without Buyer's prior written consent, Seller (i) shall not agree to any compensation or award, and (ii) shall not take any action or fail to take any action which would cause the compensation to be determined. All awards and compensation for the taking or purchase in lieu of condemnation of the Facility or any portion thereof shall be applied toward the repair, restoration, reconstruction or replacement of the Facility.

(e) Limitation of Liability. Except to the extent included in the liquidated damages, indemnification obligations related to third party claims and other specific charges expressly provided for herein, neither Party shall be liable for special, incidental, exemplary, indirect, punitive or consequential damages arising out of a Party's performance or non-performance under this Agreement, whether based on or claimed under contract, tort (including such Party's own negligence) or any other theory at law or in equity.

Section 14.19 Severability. In the event any of the terms, covenants or conditions of this Agreement, or the application of any such terms, covenants or conditions, shall be held invalid, illegal or unenforceable by any court having jurisdiction, all other terms, covenants and conditions of this Agreement and their application not adversely affected thereby shall remain in force and effect; provided that the remaining valid and enforceable provisions materially retain the essence of the Parties' original bargain.

Section 14.20 Confidentiality.

(a) Each Party agrees, and shall use reasonable efforts to cause its parent, subsidiary and Affiliates, and its and their respective members, directors, officers, employees and representatives, as a condition to receiving confidential information hereunder, to keep confidential, except as required by law, all documents, data, drawings, studies, projections, plans and other written information that relate to economic benefits to or amounts payable by either 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 14.20 shall survive and shall continue to be binding upon the Parties for period of one (1) year following the date of termination of this Agreement. Notwithstanding the foregoing, information shall not be considered confidential which (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) Either Party may, without violating this Section 14.20, disclose matters that are made confidential by this Agreement:

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

(2) to governmental officials and parties involved in any proceeding in which either Party is seeking a permit, certificate, or other regulatory approval or order necessary or appropriate to carry out this Agreement; to governmental officials or the public as required by

any law, regulation, order, rule, order, ruling or other Requirement of Law, including without limitation 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. If a Party is requested or required, pursuant to any applicable law, regulation, order, rule, order, ruling or other Requirement of Law, 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.

(c) Notwithstanding the foregoing or any other provision of this Agreement, Seller acknowledges that Buyer, as a California joint powers authority, is subject to disclosure as required by the California Public Records Act, Cal. Govt. Code §§ 6250 et. seq. ("**CPRA**") and the Ralph M. Brown Act, Cal. Govt. Code §§ 54950 et. seq. ("**Brown Act**"). Confidential Information of Seller provided to Buyer pursuant to this Agreement will 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's copying or releasing to a third party any of the Confidential Information of Seller pursuant to the CPRA or Brown Act. 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 Ancillary Documents and the rights, Liens and priorities of Buyer with respect to such credit support.

(d) If Buyer receives a CPRA request for Confidential Information of Seller, and Buyer determines that such Confidential Information, is subject to disclosure under the CPRA, then Buyer will notify Seller of the request and its intent to disclose the documents. The Buyer, as required by the CPRA, will 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 from and against all suits, claims, and causes of action brought against Buyer 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 reasonable and actual costs incurred by Buyer, and specifically including costs of experts and consultants, as well as all damages or liability of any nature whatsoever arising out of any such suits, claims, and causes of action brought against Buyer, through and including any appellate proceedings. Seller's obligations to Buyer 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, as well as all damages or liability of any nature.

(e) Notwithstanding anything to the contrary set forth herein or in any other agreement to which Seller and Buyer are parties or by which they are bound, the obligations of

confidentiality contained herein and therein, as they relate to this transaction, shall not apply to the U.S. federal tax structure or U.S. federal tax treatment of this transaction, and each Party (and any employee, Representative, or agent of any party hereto) may disclose to any and all persons, without limitation of any kind, the U.S. federal tax structure and U.S. federal tax treatment of this transaction. The preceding sentence is intended to cause this transaction not to be treated as having been offered under conditions of confidentiality for purposes of Section 1.6011-4(b)(3) (or any successor provision) of the Treasury Regulations promulgated under Section 6011 of the Code and shall be construed in a manner consistent with such purpose. In addition, Seller and Buyer each acknowledges that it has no proprietary or exclusive rights to the tax structure of this transaction or any tax matter or tax idea related to this transaction.

(f) The provisions of this Section 14.20 shall survive the expiration or termination of this Agreement.

Section 14.21 Business Policies.

(a) Recycling Policy.

(1) Buyer supports the use of recycled-content products of all types. Recycled-content products help conserve natural resources, including water and energy, and reduce demands upon landfills.

(2) Seller shall use its best efforts to submit all written documents on paper with a minimum of thirty percent (30%) post-consumer recycled content. Existing company/corporate letterhead/stationery that accompanies these documents is exempt from this requirement. Documents of four (4) or more pages in length shall be duplex-copied (double-sided pages). Neon or fluorescent paper shall not be used in any written documents submitted to Buyer.

(b) Non-Discrimination/Equal Employment Practices/Affirmative Action Construction & Non-Construction Agreements.

(1) During the performance of this Agreement, Seller shall not discriminate in its employment practices against any employee or applicant for employment because of race, religion, national origin, ancestry, sex, age or physical handicap. All subcontracts awarded by Seller under this Agreement shall, following the date Seller executes this Agreement, contain a like nondiscrimination provision. The applicable provisions of Executive Order No. 11246 of September 24, 1965; Part 60-741 of 41 Code of Federal Regulations pertaining to handicapped workers, including 60-741.4 Affirmative Action Clause are incorporated herein by reference and made a part hereof as if they were fully set forth herein.

(2) An Affirmative Action plan shall be in effect and on file with Buyer for the duration of this Agreement.

(c) Supplier Diversity. It is the policy of Buyer to provide Minority Business Enterprises (“**MBEs**”), Women Business Enterprises (“**WBEs**”) and all other business enterprises an equal opportunity to participate in the performance of all Buyer agreements/contracts. Seller shall assist Buyer in implementing this policy and shall use commercially reasonable efforts to attain MBE and WBE participation of fifteen percent (15%) and seven percent (7%), respectively, and to ensure that all available business enterprises, including MBEs and WBEs, have an equal opportunity to compete for and participate in the work of this Agreement following the date Seller executes this Agreement.

(1) MBE/WBE Defined. “Minority Business Enterprise” (“**MBE**”) or “Women’s Business Enterprise” (“**WBE**”), as used herein means a business enterprise that meets both of the following criteria:

- (A) A business that is at least fifty-one percent (51%) owned by one or more minority person(s) or women or, in the case of any business whose stock is publicly held, at least fifty-one percent (51%) of the stock is owned by one or more minority person(s) or women.
- (B) A business whose management and daily business operations are controlled by one or more minority person(s) or women.

(d) Service Contract Worker Retention And Living Wage Policy.

(1) General Provisions. Seller acknowledges that the Service Contractor Worker Retention Ordinance (“**SCWRO**”), Section 10.36 et. seq., and the Living Wage Ordinance (“**LWO**”), Section 10.37 et. seq., of the Los Angeles Administrative Code require that, unless specific exemptions apply, employers who are awarded service contracts that involve expenditures in excess of \$25,000, and have a duration of at least three (3) months; and any persons who receive City of Los Angeles financial assistance of one million dollars or more in any twelve (12) month period, shall comply with the following provisions of the ordinances:

- (A) Retention for a ninety (90) day transition period, the employees who were employed for the preceding 12 months or more by the terminated contractor or subcontractor, if any, as provided for in the SCWRO; and
- (B) Payment of a minimum initial wage rate to employees as defined in the LWO, of ... \$9.08 per hour, with health benefits of at least \$1.25 per hour, or otherwise \$10.33 per hour without benefits ... and periodically updated.

(2) Seller agrees to use its best efforts to comply with SCWRO and LWO and to include the following statement on all invoices submitted pursuant to this Agreement after the date Seller executes this Agreement:

"The Seller/Contractor fully complies with Section 10.36 et. seq. And Section 10.37 et. seq., SCWRO and LWO, respectively, of the Los Angeles Administrative Code."

(e) Child Support Policy. Seller agrees to fully comply with all applicable state and federal employment reporting requirements for Seller's employees. Seller agrees to fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with the California Family Code. At Buyer's request, Seller agrees to certify that the principal owner(s) of Seller are in compliance with any Wage and Earnings Assignment Orders or Notices of Assignment applicable to them personally in accordance with the California Family Code and that such compliance will be maintained throughout the term of this Agreement. Failure of Seller to fully comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignments or Notices of Assignment or failure of the principal owner(s) to comply with any Wage and Earnings Assignments or Notices of Assignment applicable to them personally shall constitute a breach of this Section 14.21. Failure of Seller or Seller's principal owner(s) to cure the breach within ninety (90) days of notice of such default by Buyer shall entitle Buyer to liquidated damages pursuant to Section 14.21(h).

(f) Current Los Angeles City Business Tax Registration Certificate Required. The Seller shall obtain and keep in full force and effect during the term of this Agreement all Business Tax Registration Certificates required by the City of Los Angeles Business Tax Ordinance, Article 1, Chapter II, Section 21.00 and following, of the Los Angeles Municipal Code. Seller's Vendor Registration Number must be shown on all invoices submitted for payment. Failure to do so, may delay payment. For additional information regarding applicability of the City Business Tax Registration, contact the City of Los Angeles Clerk's Office at (213) 978-1521.

(g) Taxpayer Identification Number (TIN). Seller declares that its authorized TIN is 26-4129783. No payment will be made under this Agreement without a valid TIN number.

(h) Remedies. To the extent that Seller fails to comply with the covenants set forth in this Section 14.21 in any material manner, Seller shall pay Buyer, as liquidated and agreed damages, an amount equal to Five Hundred Dollars (\$500) for each day that Seller is out of material compliance with this Section following written notice of such non-compliance. The Parties agree that it would be impracticable and difficult to ascertain the actual damages suffered by Buyer as a result of Seller's failure to materially comply with this Section 14.21, and that the liquidated damages provided for in this Section represent a fair and reasonable estimate of the damages that Buyer will incur as a result of such failure. The Parties acknowledge that the payment of such liquidated damages is not intended as a forfeiture or penalty but is intended to constitute liquidated damages to Seller. Buyer agrees and acknowledges that its sole and exclusive remedy for Seller's failure to comply with the covenants set forth in this Section 14.21 is to collect the liquidated damages provided in this Section 14.21(h) and that Buyer shall not be

entitled to terminate this Agreement or pursue other legal remedies that may be available as a result of such failures.

(i) Quarterly Reports. Throughout the Delivery Term, Seller shall provide a written report to Buyer, prior to the end of each calendar quarter, describing in reasonable detail its compliance with each of the provisions of this Section 14.21.

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IN WITNESS WHEREOF, each Party was represented by legal counsel during the negotiation and execution of this Agreement and the Parties hereto have executed this Agreement as of the date set forth at the beginning of this Agreement.

SOUTHERN CALIFORNIA PUBLIC
POWER AUTHORITY

Date: _____

By: _____
MARCIE L. EDWARDS
President

Attest: _____
BILL D. CARNAHAN
Assistant Secretary

WINDY FLATS PARTNERS, LLC

Date: June 24, 2009

By: _____
Michael Toke, Senior Vice President

APPENDIX A
Monthly Payment Schedule

1. Monthly Energy Payment (MEP) for Excess Energy. The monthly payment for Excess Energy shall be made in accordance to the following formula:

$$\text{MEP} = \text{EEP} \times \text{DEE}$$

Where:

EEP is the Excess Energy Price, which is \$21 per MWh fixed for the Delivery Term.

DEE is the MWh of Delivered Excess Energy and any Deemed Delivered Excess Energy delivered or deemed to be delivered to the Point of Delivery during the month, as metered according to Section 11.5.

2. Monthly Payment for Early Energy. Buyer shall purchase Early Energy as follows:

(a) prior to Commercial Operation of the Primary Facility, Buyer shall purchase Early Energy from the Primary Facility at a price equal to \$59 per MWh of Early Energy delivered to the Point of Delivery;

(b) following Commercial Operation of the Primary Facility and prior to the First Prepayment Date, Buyer shall purchase Early Energy from the Primary Facility at a price equal to \$86 per MWh of Early Energy delivered to the Point of Delivery;

(c) prior to Commercial Operation of the Facility Expansion, Buyer shall purchase Early Energy from the Facility Expansion at a price equal to \$59 per MWh of Early Energy delivered to the Point of Delivery; and

(d) if applicable, following Commercial Operation of the Facility Expansion and prior to the Second Prepayment Date, Buyer shall purchase Early Energy attributable to the Facility Expansion (as determined by reference to Seller's SCADA system) at a price equal to \$86 per MWh of such Early Energy delivered to the Point of Delivery.

All Early Energy shall be scheduled in accordance procedures in Section 4.5. Buyer shall receive any and all Environmental Attributes associated with the Early Energy, the value of which is included in the Early Energy price.

3. Monthly Environmental Attributes Payment during the Initial Delivery Term.

After the First Prepayment Date, in exchange for the transfer of Environmental Attributes pursuant to Article IX during the Initial Delivery Term, Buyer shall make a monthly payment to the Seller of \$6.00 per MWh of Facility Energy, fixed for the Initial Delivery Term.

4. Monthly Energy Payment (MEP) for Delivered Energy During the Extension Term.

During the Extension Term, Buyer shall purchase Delivered Energy at a price equal to \$18.00 per MWh of Delivered Energy.

5. Monthly Environmental Attributes Payment During the Extension Term.

During the Extension Term, in exchange for the transfer of Environmental Attributes pursuant to Article IX, Buyer shall make a monthly payment to the Seller of \$6.00 per MWh of Facility Energy, fixed for the Extension Term.

APPENDIX B
Guaranteed Annual Quantity

At or before the Commercial Operation Date of the Primary Facility and, if applicable, again at or before the Commercial Operation Date of the Facility Expansion, the Parties shall complete the following table setting forth the Guaranteed Annual Quantity for each Contract Year. To the extent applicable, prior to the Second Prepayment Date, the Guaranteed Annual Quantity shall reflect only the Guaranteed Annual Quantity attributable to the Primary Facility and, following the 20th anniversary of the First Prepayment Date, the Guaranteed Annual Quantity shall reflect only the Guaranteed Annual Quantity attributable to the Facility Expansion.

<u>Contract Year</u>	<u>Guaranteed Annual Quantity (MWh)</u>
	<u>Primary Facility¹</u>
1.0	516,796
1.5	258,398
2.0	258,398
2.5	259,106
3.0	259,106
3.5	258,398
4.0	258,398
4.5	258,398
5.0	258,398
5.5	258,398
6.0	258,398
6.5	259,106
7.0	259,106
7.5	258,398
8.0	258,398

¹ Assumes a Primary Facility size of 262.2 MW.

<u>Contract Year</u>	<u>Guaranteed Annual Quantity (MWh)</u>
----------------------	---

<u>Primary Facility¹</u>

8.5	258,398
9.0	258,398
9.5	258,398
10.0	258,398
10.5	259,106
11.0	259,106
11.5	258,398
12.0	258,398
12.5	258,398
13.0	258,398
13.5	258,398
14.0	258,398
14.5	259,106
15.0	259,106
15.5	258,398
16.0	258,398
16.5	258,398
17.0	258,398
17.5	258,398
18.0	258,398
18.5	259,106
19.0	259,106
19.5	258,398
20.0	258,398

APPENDIX C
Guaranteed Generation and Prepayment Amounts

1. Guaranteed Generation (GG) for the Primary Facility. Guaranteed Generation for the Primary Facility shall be determined in accordance with the following formula:

$$GG = P99 \text{ Energy} \times 20$$

Where P99 Energy is determined based on the written certification of the wind expert delivered pursuant to Section 6.2(a)(1)(B).

2. Guaranteed Generation for the Facility Expansion. If Applicable, the Guaranteed Generation for the Facility Expansion shall be determined in accordance to the following formula:

$$GG = P99 \text{ Energy} \times 20$$

Where P99 Energy is determined based on the written certification of the wind expert delivered pursuant to Section 6.2(b)(1)(B).

3. Guaranteed Generation for the Facility. Guaranteed Generation for the Facility shall be determined as follows:

(a) in the event Seller elects not to construct the Facility Expansion pursuant to Article VI of this Agreement, Guaranteed Generation for the Facility shall equal Guaranteed Generation for the Primary Facility, and

(b) in the event Seller elects to construct the Facility Expansion, following the Second Prepayment Date the Guaranteed Generation for the Facility shall equal the sum of (i) remaining Guaranteed Generation for the Primary Facility *plus* (ii) the Prepaid for the Facility Expansion.

4. First Prepayment Amount. The First Prepayment Amount shall equal to the Guaranteed Generation for the Primary Facility *multiplied by* \$49.33.

5. Second Prepayment Amount. If Applicable, the Second Prepayment Amount shall equal to (a) the Guaranteed Generation for the Facility Expansion *multiplied by* \$49.33, *less* (b) \$500,000.

APPENDIX D

Facility Description

The Site for the Primary Facility is comprised of approximately 7,542 acres; if and as constructed, the Site for the Facility Expansion will be comprised of an additional approximately 1,643 acres, (collectively, the "Site") as shown more specifically in Exhibit A (shown as A-1, A-2 hereto) to this Appendix D. The combined Facility Site will be comprised of leasehold interests and other real property rights and grants under the Leases more specifically described in Appendix P ("Facility Generating Premises"). Exhibit A also provides a Facility layout showing the planned Facility configuration (which is subject to revision so as to show the actual Facility configuration and approximate location and 114 Facility wind turbine generators and infrastructure facilities). Attached as Exhibit B to this Appendix D is a copy of the Wind Resource Assessment for the planned Facility dated April 20, 2009, prepared by Ron Nierenberg. Attached as Exhibit C to this Appendix D is a list of material Permits and Environmental Documents associated with the planned Facility or the Facility Generating Premises.

The Facility includes the following:

1. Rights of way and easements associated with all of the wind turbine generators and all other fixtures and personal property associated with the Facility Generating Premises.
2. Fee ownership of all wind turbine generators associated with the Facility, which is currently expected to include up to one hundred fourteen (114) 2.3-MW wind turbine generators supplied by Siemens Energy, Inc. and pad-mounted transformers, and all other fixtures and personal property located on or associated with the Facility Generating Premises, with the exception of certain interconnection and transmission facilities located at the Dooley Substation and the Energizer Substation, which belong to KPUD. Up to three (3) permanent meteorological towers appropriately located on the Facility Generating Premises, which are necessary to operate the Facility in accordance with this Agreement.
3. All Site Common Facilities, including but not limited to the following:
 - (a) Two permanent operations and maintenance facilities located on the Dooley and Linden properties, and a temporary mobile operations and maintenance building located on the Dooley property.
 - (b) One substation and all associated buildings and interconnection facilities and assets located on the Dooley property.
 - (c) A recloser station and all associated building and interconnection facilities and assets located on the Maryhill property.
 - (d) A 34.5-kV power collection system linking each turbine to the next and to the main step-up transformers located at the Dooley and Energizer Substations.
 - (e) One main step-up transformer to interconnect the 34.5-kV collection system to the KPUD 230-kV Transmission Line at the Dooley Substation.

4. The KPUD Interconnection and Transmission Agreements and the BPA Generation Interconnection Agreements associated with the operation of the Primary Facility and, to the extent applicable, the Facility Expansion, and all associated rights thereto.

Certain project facilities are described in the Balance of Plant Agreement by and between Windy Flats Partners, LLC and Cannon Power Construction Company LLC, dated January 30, 2009, which shall reflect in accurate terms the construction and development requirements for all Facility infrastructure facilities.

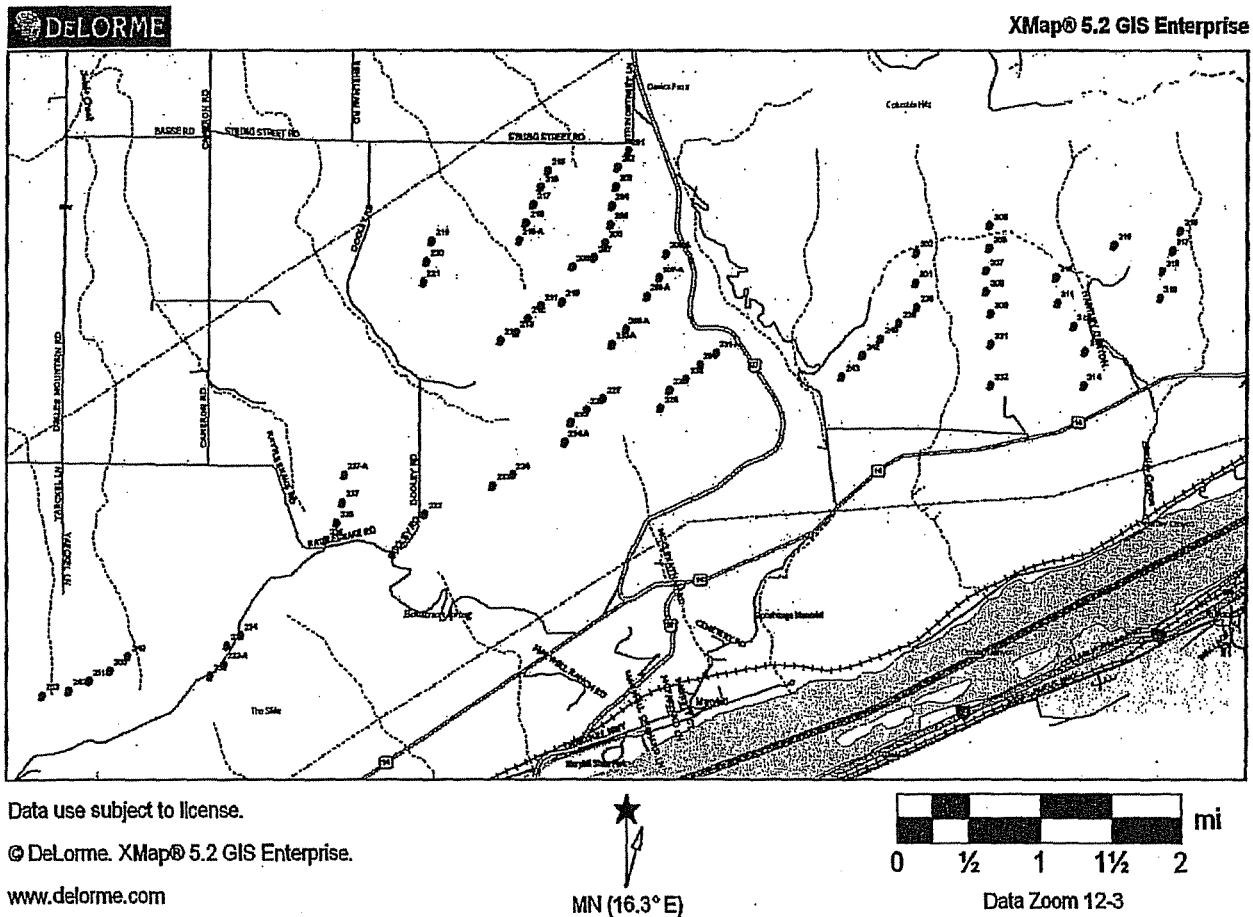
Initially, the operation and maintenance services for the Facility will be provided by enXco Services Corporation pursuant to Operation & Maintenance Agreement dated as of May 28, 2009 (as amended).

EXHIBITS A-1 and A-2 TO APPENDIX D

Description of Facility Generating Premises and Facility Layout

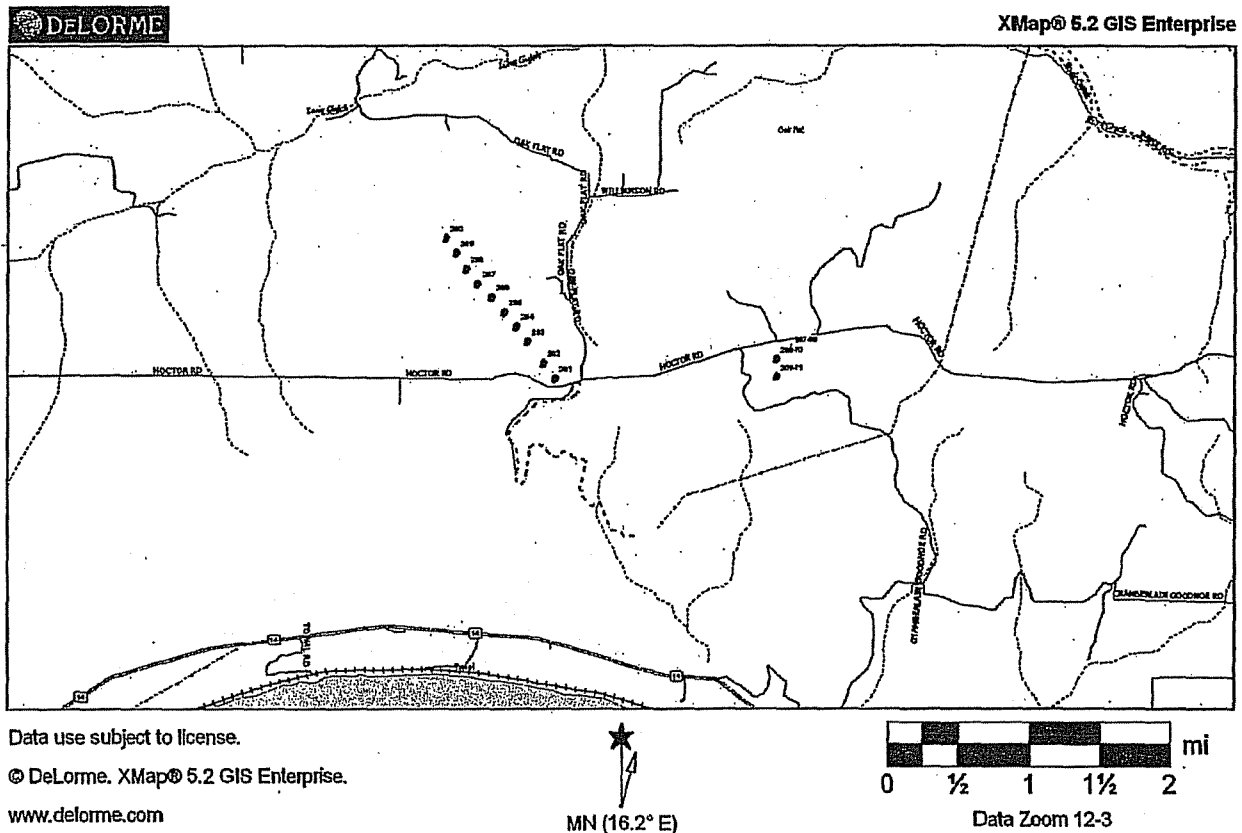
See Attached

ATTACHMENT A-1 **ENERGY FACILITY LAYOUT OF THE WINDY POINT/WINDY FLATS WIND FARM** **WIND ENERGY FACILITIES**



The area depicted on this map shows the turbines and locations within the Windy Flats/Windy Point II EOZ Permit areas located on ridge lines above the Columbia River in Klickitat County.

ATTACHMENT A-2 **ENERGY FACILITY LAYOUT OF THE WINDY POINT/WINDY FLATS WIND FARM** **WIND ENERGY FACILITIES**



The area depicted on this map is east of the area shown on Attachment A-1 and shows the turbines and locations within the Windy Flats/Windy Point II and Windy Point I EOZ Permit areas located on ridge lines above the Columbia River in Klickitat County.

ATTACHMENT A-3
ENERGY FACILITY LAYOUT OF THE WINDY POINT/WINDY FLATS WIND FARM
WIND ENERGY FACILITIES (26 Turbine Expansion)

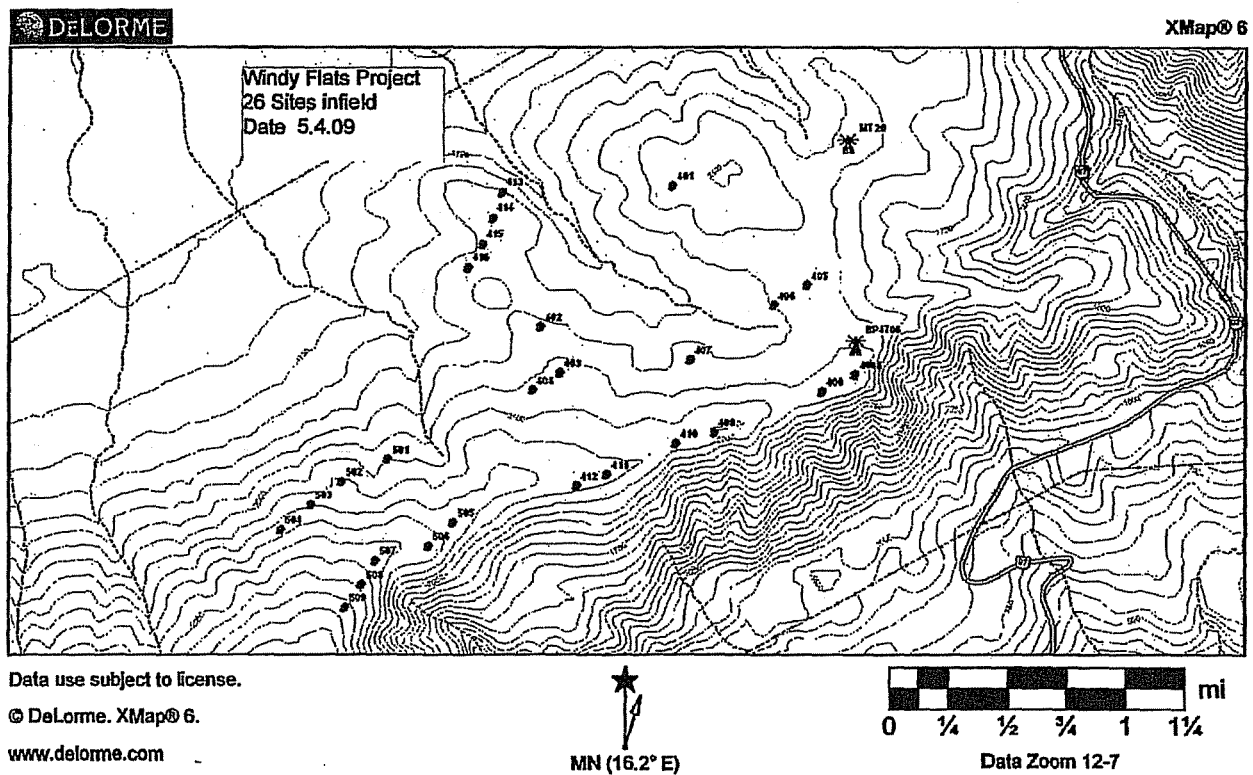


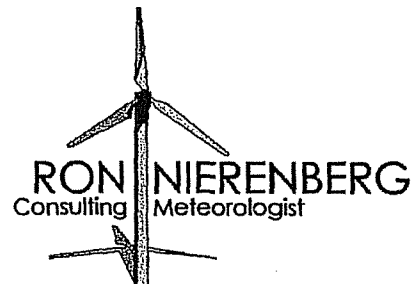
EXHIBIT B TO APPENDIX D
Wind Resource Assessment for the Planned Facility

See Attached

Prepared for Cannon Power Corporation

Wind Resource Assessment for Windy Point 2, 2a Windfarm near Goldendale, WA

**by Ron Nierenberg
4/20/2009**



**Wind Resource Assessment for the Windy Point 2, 2a
Windfarm near Goldendale, WA**

Table of Contents

Summary.....	2
Meteorological Towers and Analysis.....	2
Turbine layouts	3-5
Wind Rose	10
Methodology and Estimates	11
Estimates and Analysis.....	13
Wind Speed Distribution	15
Energy Estimates	17
Conclusions	19
Appendices	20

Wind Resource Assessment for the Windy Point 2, 2a Windfarm near Goldendale, WA

Summary

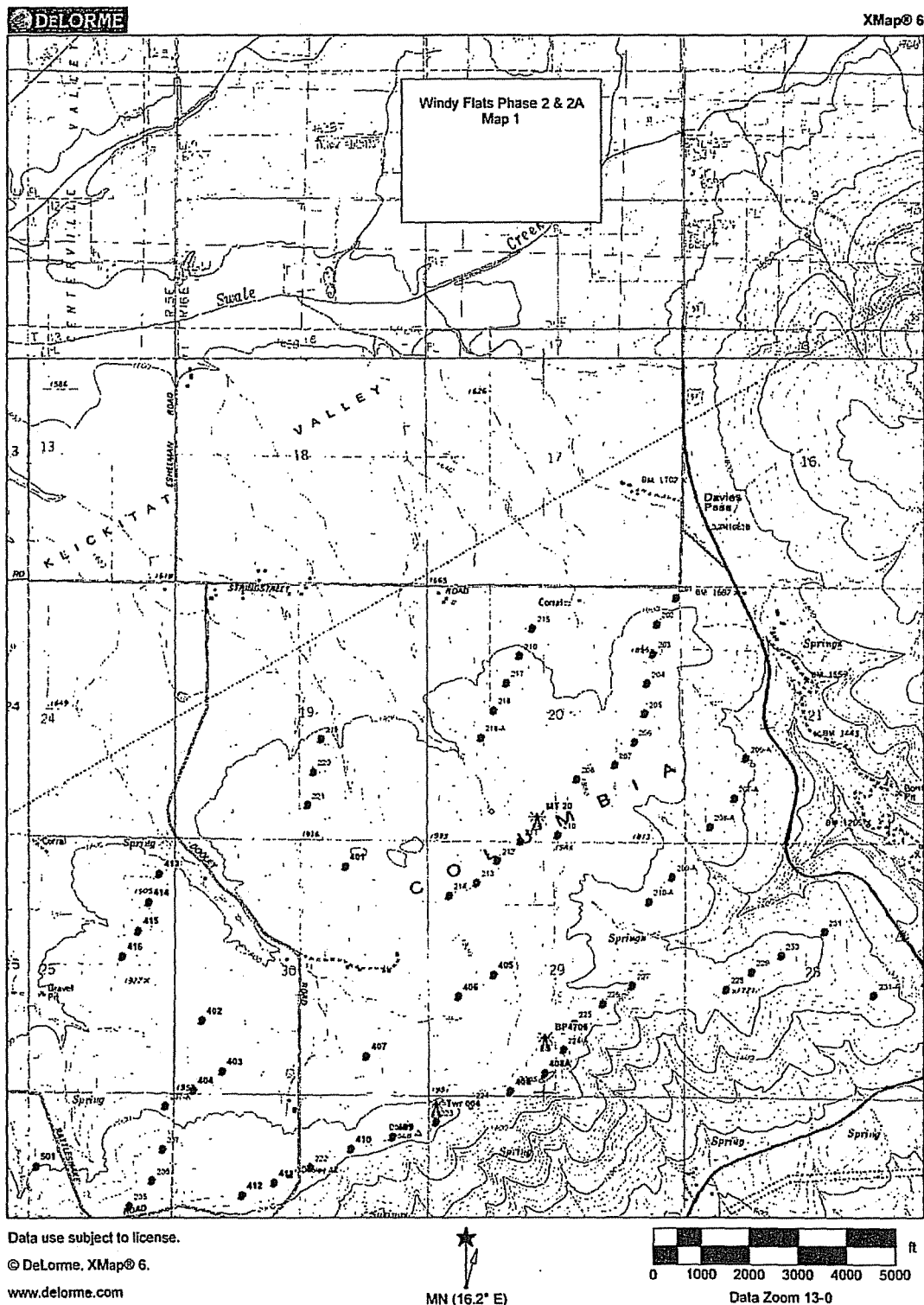
A 262.2-MW windfarm is being built in the Columbia Hills area south of Goldendale, in south central Washington. Phase 1, which is nearing completion is adjacent to Phase 2 and 2a, however this report will focus on phase 2 and 2a. The project will consist of 114 Siemens 2.3 MW 93m turbines installed on 80m towers.

This report summarizes 13 years of wind data collected at a local reference site plus ~40 meteorological (met) towers on the proposed project site. Long-term wind speed and energy estimates have been made for the proposed windfarm. The estimated mean wind speed for the 114 turbines, at 80m is 7.0 mps, (15.6 mph) plus/minus 0.75 mps, or +/-10.7%. The estimated net output per turbine (P50) is 6,082 MWh for the Siemens turbines plus or minus 14.5% at the P90 level. This is equivalent to a P50 net capacity factor of 30.2%.

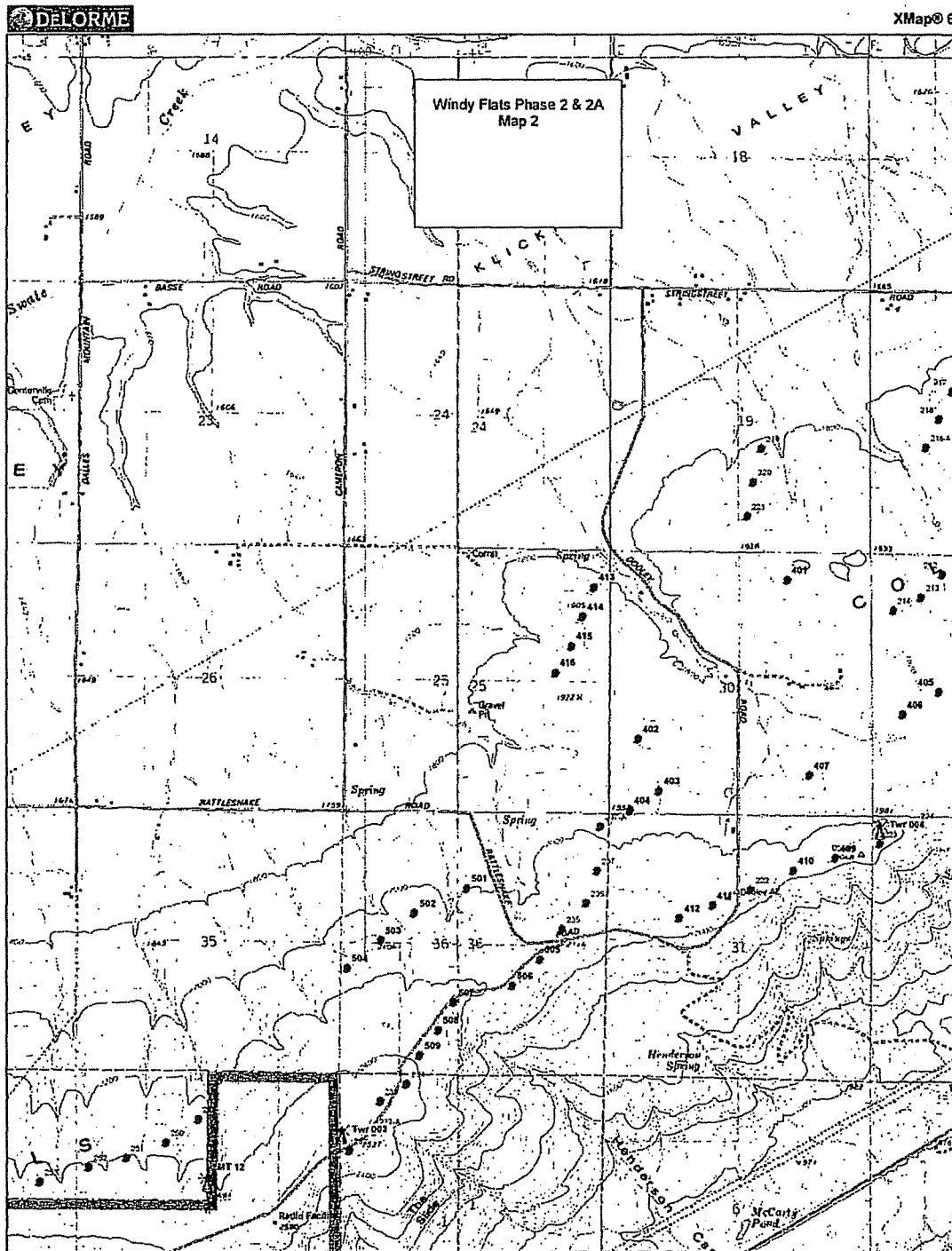
Meteorological towers and Analysis

Four topographic maps, two for the area west of Highway 97, one for the MaryHill – Linden area just east of Highway 97, and one for the Hactor Road north/east areas, are attached and show the locations of the proposed turbine strings and some of the meteorological (met) towers. The proposed Phase 2, 2a turbines are shown in blue as circles or blue turbine symbols. Turbine numbers are plotted adjacent to the symbols. Phase 2a turbines, which are adjacent to Phase 2 are shown as red circles or darker blue circles. The Phase 2a turbines are numbered either in the 400s or 500s. Meteorological towers are shown as red tower symbols.

Wind Resource Assessment for the Windy Point 2, 2a Windfarm near Goldendale, WA



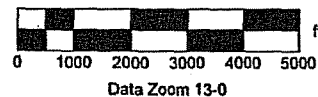
Wind Resource Assessment for the Windy Point 2, 2a Windfarm near Goldendale, WA



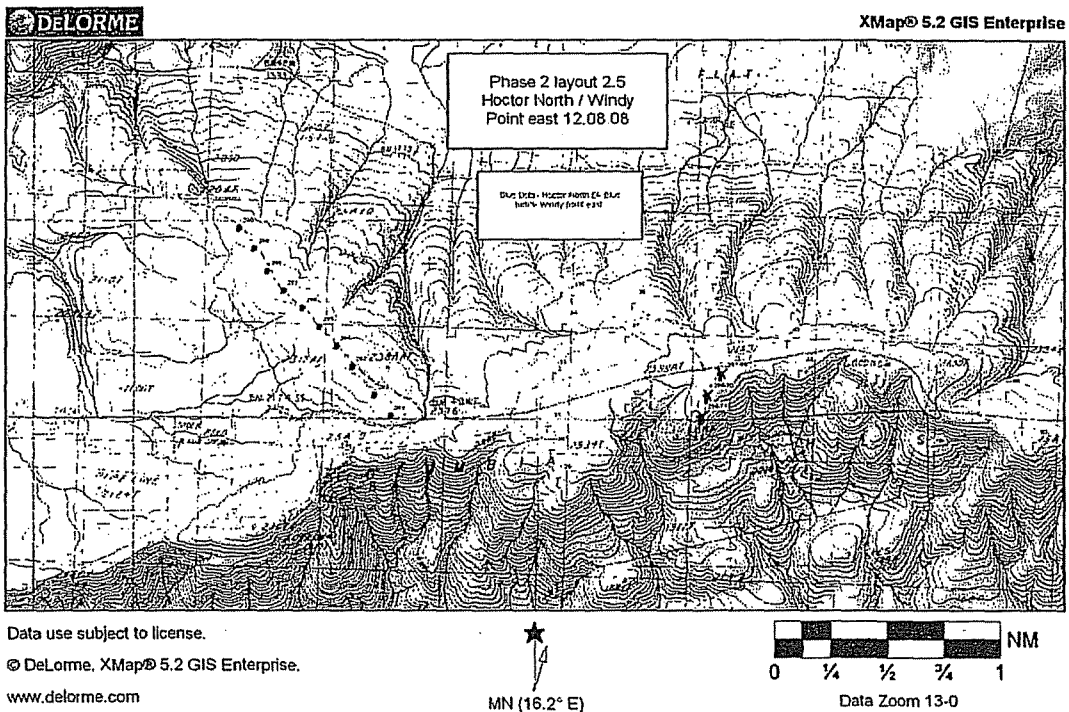
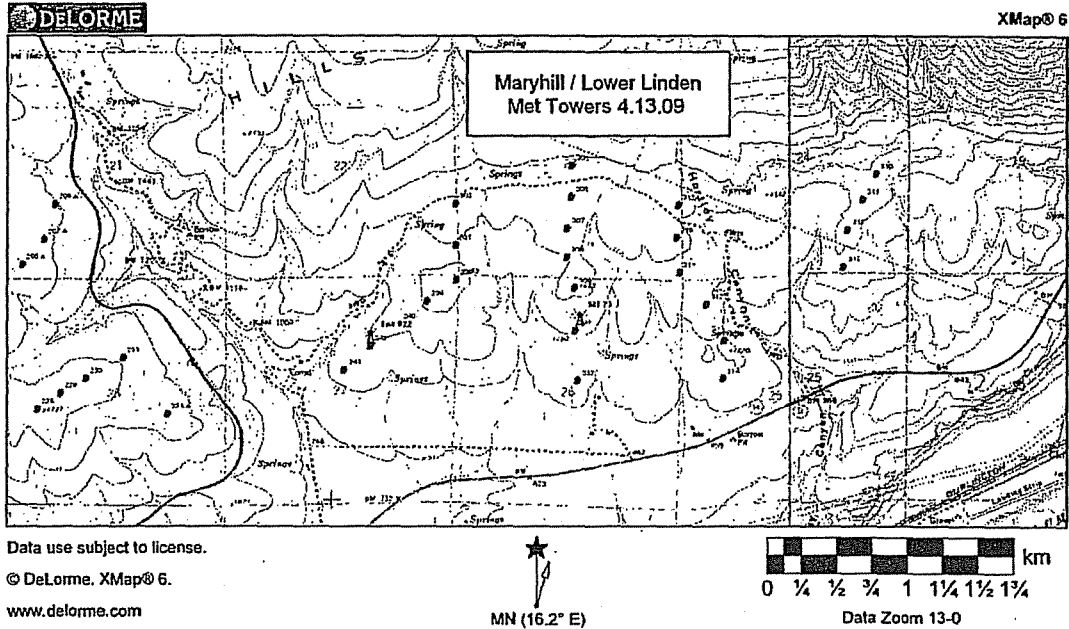
Data use subject to license.

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Wind Resource Assessment for the Windy Point 2, 2a Windfarm near Goldendale, WA



Wind Resource Assessment for the Windy Point 2, 2a Windfarm near Goldendale, WA

The estimates contained in this report are for the turbine symbols on these layout maps. The estimates are for the 114 turbines shown on Table 4.

At the east end of the project area, near proposed turbine row 267-69, is a 195-ft (59.5m) meteorological (met) tower known as BPA/Goodnoe Hills. This site is the longest continuously operating met tower in the area and has been operating since the May 1980. Due to its longevity it serves as a reference tower for the Project. Numerous analyses contained in this report are based on the records from this tower. This tower is operated by Oregon State University (OSU) Mechanical Engineering Department and funded in part by BPA for the purpose of collecting continuous long term wind data in the area for wind resource assessment. Data from another met tower installed in the 1980s with instrumentation up to 105 meters are also analyzed and used for vertical shear estimates.

Monthly diurnal patterns

Table one, below, is a monthly diurnal wind speed summary for a 13-year period at the 195-ft level at the reference tower. The table is a 12 by 24 matrix of monthly and diurnal (time-of-day) mean speeds. The table shows that the monthly mean speeds (bottom row) are highest in the late spring and summer and lowest in winter. The annual mean speed at 195-ft is shown at the bottom of the table and is 14.9 mph. The bottom of the table shows the monthly and total data recovery, which was 95%.

**Wind Resource Assessment for the Windy Point 2, 2a
Windfarm near Goldendale, WA**

Table 1 Monthly Diurnal Mean Wind Speeds

**Columbia River gorge and plateau, WA
Goodnoe Hills 195-ft level (MPH)**

Sep 1, 1994 - Dec 31, 2007

Hour	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Mean
01	13.0	13.6	15.5	16.4	17.8	19.5	19.3	17.3	14.9	14.6	13.6	13.1	15.7
02	12.9	13.3	15.4	16.4	17.4	19.0	19.0	16.9	14.9	14.6	13.7	13.0	15.5
03	13.0	13.4	15.2	16.4	17.0	18.8	18.5	16.6	14.7	14.6	13.9	13.2	15.4
04	13.2	13.4	15.3	16.1	16.7	18.4	17.8	16.3	14.5	14.5	13.7	13.3	15.3
05	13.1	13.2	15.2	15.9	16.4	17.7	17.1	15.9	14.2	14.4	13.4	13.3	15.0
06	12.9	13.1	14.9	15.3	15.3	16.2	15.8	15.2	13.8	14.0	13.2	13.3	14.4
07	12.8	12.8	14.7	14.3	13.9	14.4	13.8	13.5	13.0	13.8	13.3	13.2	13.6
08	12.7	12.5	13.8	13.2	13.1	13.5	12.5	12.1	11.6	13.0	13.5	13.1	12.9
09	12.5	12.0	13.2	12.9	13.0	13.1	11.9	11.4	10.8	12.2	13.0	13.2	12.4
10	12.3	11.7	13.1	13.1	13.1	13.2	12.1	11.3	11.0	12.0	12.2	12.8	12.3
11	12.3	11.7	13.5	13.5	13.6	14.0	12.6	11.9	11.4	12.2	12.1	12.4	12.6
12	12.5	12.0	13.8	13.9	14.1	14.5	13.3	12.7	12.3	12.6	12.3	12.3	13.0
13	12.9	12.6	14.6	14.4	14.9	15.3	14.3	13.5	12.8	13.0	12.6	12.1	13.6
14	13.3	12.9	15.1	14.9	15.8	16.2	15.2	14.5	13.4	13.7	12.9	12.5	14.2
15	13.5	13.3	15.6	15.6	16.6	17.0	16.0	15.2	14.2	14.3	13.0	12.7	14.7
16	13.7	13.5	16.0	15.9	17.5	18.0	17.0	16.1	15.0	14.9	13.2	12.9	15.3
17	13.7	13.5	16.3	16.6	17.9	18.8	18.1	17.0	15.5	15.3	13.5	13.3	15.8
18	13.8	13.9	16.9	16.7	18.2	19.3	18.7	17.9	16.5	16.0	13.8	13.4	16.3
19	13.4	14.0	17.1	17.5	18.8	19.9	19.5	18.9	17.3	16.3	13.6	13.3	16.7
20	13.2	13.9	16.8	17.5	19.5	21.0	20.7	19.6	17.2	16.1	13.5	13.2	16.9
21	13.6	13.9	16.7	17.3	19.4	20.9	21.0	19.3	16.6	15.4	13.4	13.3	16.7
22	13.3	14.0	16.3	17.2	19.1	20.6	20.8	18.8	16.0	15.0	13.4	13.2	16.5
23	13.1	13.8	15.9	16.7	18.5	20.2	20.3	18.3	15.6	15.1	13.5	13.1	16.2
24	13.0	13.8	15.7	16.6	18.2	19.8	19.9	17.7	15.1	14.9	13.6	13.1	15.9
Mean	13.1	13.2	15.3	15.6	16.5	17.5	16.9	15.8	14.2	14.3	13.3	13.0	14.9

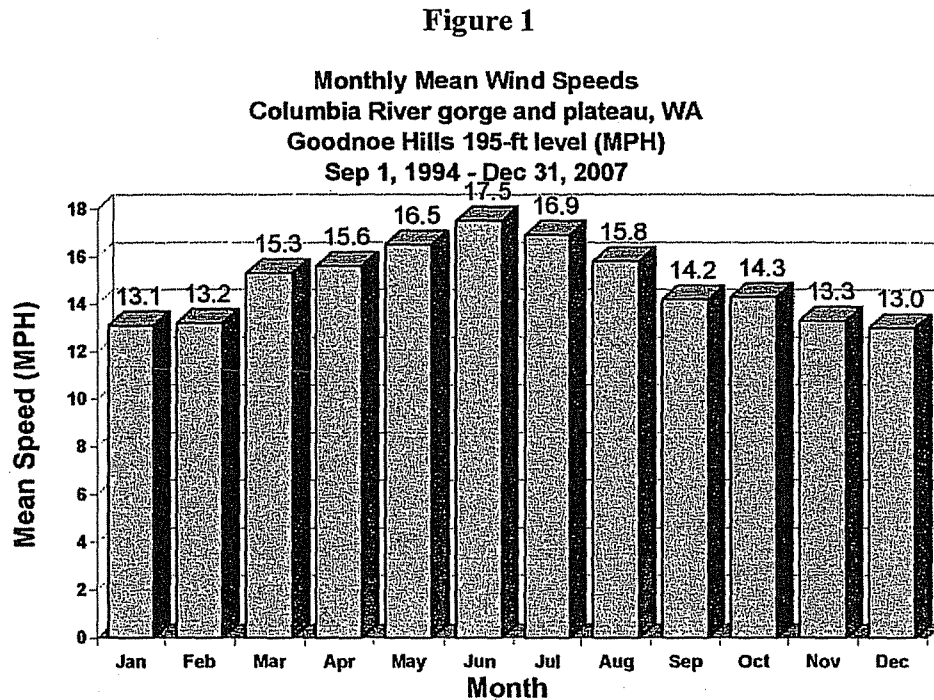
Valid Hrs	8510	8120	9073	9097	9552	9064	8928	9346	10073	10368	9945	9301
Missing Hrs	1162	688	599	263	120	296	744	326	7	48	135	1115

111,377 hours of valid data, 5,503 hours missing, 95.3% data recovery

Mean of monthly means: 14.9

Wind Resource Assessment for the Windy Point 2, 2a Windfarm near Goldendale, WA

Figure 1 is a bar chart which graphically depicts the monthly mean speeds listed on the bottom of Table 1.



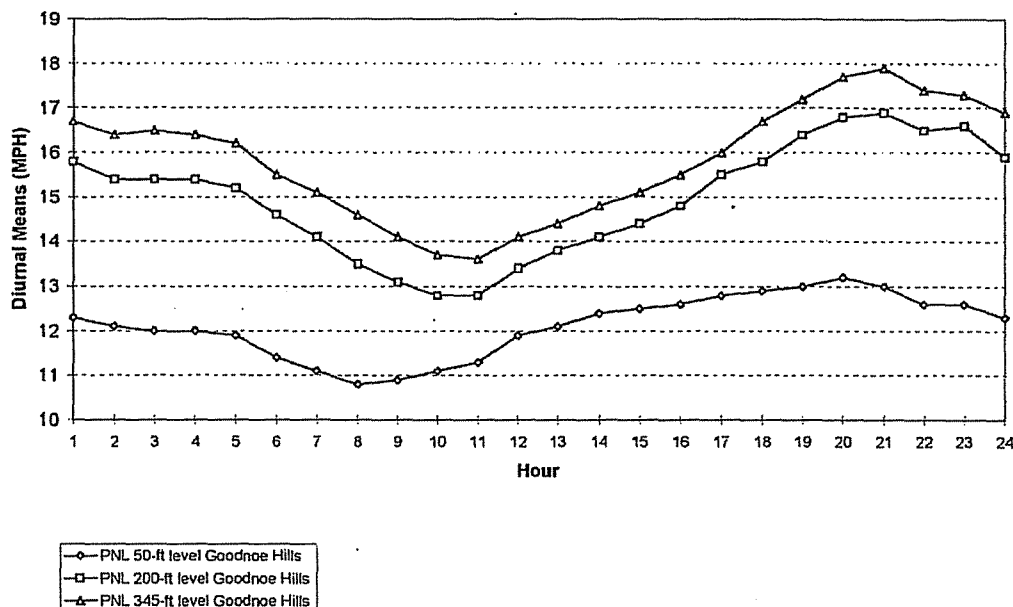
Appendix A contains the monthly diurnal wind speeds for the period of record for the ~dozen on site met towers installed in more recent years by the developer.

Table 1 listed the diurnal mean speeds at the 195-ft level of the BPA tower. In the early 1980s, when the U.S. DOE was experimenting with the first megawatt scale turbines, three Boeing MOD-2 2.5 MW turbines were installed at this same site. At that time there was a 105m met tower near proposed turbine 69, operated by Battelle, Pacific Northwest Lab (PNL). Figure 2 is a plot which shows the diurnal mean wind speeds for three levels from this tower, 15m, 61m and 105 meters. The graph shows that there is a diurnal peak in the evening hours, with lowest winds at 10 am to 11 am, at the upper levels of this tower. The shear exponents measured over a 2-year period at this tower were 0.14 in the 15m to 105m layer and 0.12 in the 61m to 105m layer. There was slightly higher shear in the lower layer from 15m to 61m, probably due to the low scrub and small trees. The shear exponent in the lower layer was 0.15. The shear value measured in the upper layer; 0.12, is consistent with estimates made in subsequent portions of this report.

Wind Resource Assessment for the Windy Point 2, 2a Windfarm near Goldendale, WA

Figure 2

Diurnal Summary By Parameter
Columbia River gorge and plateau, WA
Jul 17, 1980 - Apr 26, 1982

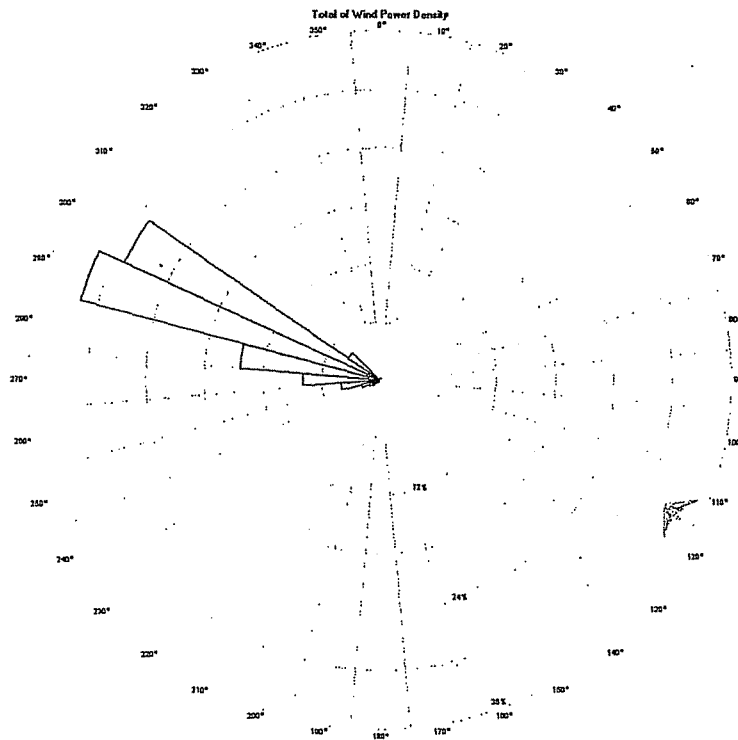


Wind Rose

Figure 3, is a wind energy rose using 10-deg bins from site 9, 50m level and is representative of most of the Project site. The windrose shows the percent of the annual energy budget in the 36 ten-deg bins. The windrose shows that the prevailing winds blow from the west through northwesterly (270-300 deg) directions. 85% of the annual energy budget comes from these three sectors. The highest wind speeds are from the west-northwest direction. The proposed turbine rows are oriented quasi-normal to the prevailing directions, and the windrose shows that only 1% to 2% of the annual energy budget comes from wind directions that would be parallel to the proposed turbine rows. This will result in fairly low array or wake losses. Turbine string 281-290 in the eastern portion of the Project area, on the north side of Hctor road, has a slightly different prevailing wind direction. Instead of the 290 degrees prevalent for most of the project, the prevailing direction is 260 degrees, based on measurements from both met towers in this turbine string. The slight shift in prevailing direction is due to the splitting of the flow around the Goodnoe Hills area. Turbine row 281-290 is oriented differently from the other rows to take advantage of this local characteristic.

**Wind Resource Assessment for the Windy Point 2, 2a
Windfarm near Goldendale, WA**

Figure 3 Site 9 50m wind energy rose



Turbulence and Peak Gusts

Turbulence intensity is quite low at the site due to relatively smooth terrain with low roughness. In the 15 mps bin, typical values are 9% for mean turbulence and 12% for characteristic turbulence. Standard deviation of wind direction is 7 deg.

The long term reference site known as Goodnoe Hill has a continuous record at 59.5m since May 1980, or 28 years. The met tower has a long term mean speed (extrapolated to 80m) of 7.0 mps. Over the 28-year period of record the highest hourly average wind speed was 31.3 mps, and the wind direction was from prevailing for this event. Translating this to 80m yields a peak hourly wind speed of 33.1 mps. Using existing peak gust data and standard deviation data, the equivalent 10-minute 50-year peak value is 37 mps and the 50-year peak 3-second gust is 44 mps. These 28-year statistics show that the peak values are far below the IEC Class IIa criteria.

All 28 years of data were used for analysis of the peak gusts, but only the last 13 years were used for calculating the mean speed. A sensor change took place in September 1994. In the earlier data period the sensor used had a high starting threshold and read low in winds below 3 or

Wind Resource Assessment for the Windy Point 2, 2a Windfarm near Goldendale, WA.

4 mps. However in high winds, especially those associated with peak gusts, the sensor read close to true, perhaps slightly higher than true. This could yield a slightly conservative (high) estimate for peak gusts.

Methodology and Estimates

The methodology used in making the long-term speed and energy estimates includes the following steps.

- Quality check the wind data,
- calculate the long-term statistics at the Goodnoe hills reference tower,
- correlate the 40 on-site met towers' data to the long-term reference tower to estimate the long-term mean speed at each met tower,
- calculate the vertical shear exponent (change in wind speed with height) at the on-site met towers including the 105m tower, and the sodar site,
- using the vertical shear exponents, adjust the measured 27m, 40m and 50m mean speeds to 80m, the proposed hub-height,
- estimate mean wind speeds at each turbine string or sub-string and calculate an aggregate mean speed for the entire Project
- generate wind speed distributions to calculate gross energy output, and
- estimate array and other losses, and estimate net energy. The results of these steps are long-term mean speed estimates and net energy output estimates for the proposed turbines.

Wind data, sensor and hardware discussion

The wind data collected in the 1980s at the long term reference towers were screened and archived by PNL, which had a large staff of professional meteorologists. The wind data collected from 1980 through mid-2008, were archived and supplied by OSU. OSU has a small staff of professional meteorologists and these data have already been thoroughly validated. I have also screened these data as well. After discussion with OSU meteorologist, Dr. Stel Walker and my own analysis, it was decided to exclude the data from January 1980 -September 1994 from the Goodnoe Hills tower dataset for purposes of calculating the long term mean speed. This was because the earlier dataset had slightly lower mean speeds and a much higher percentage of calm winds. A sensor change took place in September 1994. Data collected before the sensor change were excluded since the performance of the previous sensor, a Belfort Aerovane is not the same as the R.M. Young, due to the heavy weight and high starting threshold of the Aerovane sensor. There are 13 years of continuous data available since the sensor change, from October 1994 through December 2007, making this a true long term reference site.

Wind Resource Assessment for the Windy Point 2, 2a Windfarm near Goldendale, WA

In late December 2007 a new EnXco windfarm became operational in this area and there are several REpower turbines that cause wind speed deficits at the Goodnoe Hills reference tower. A preliminary analysis using data from three Cannon met towers that have operated for close to two years was conducted to determine the wind speed deficits at the Goodnoe Hills tower. The wind speed ratios between the Goodnoe Hills tower and the three Cannon met towers showed a ~3% drop in 2008. Therefore, it is assumed that the wake effect is 3% and all 2008 and 2009 data from this tower have been adjusted upwards by that amount.

Seventy-six 27-meter met towers were installed at the Project site in the 1990s by the windfarm developer known as Kenetech WindPower Inc., and operated from 1991 through 1996. Of these 76 met towers, approximately 2/3rds were in the Phase 1 area, and 30 were in the phase 2 area. Data summaries and topo maps showing the locations of these towers are contained in Appendix B. All of these data have been analyzed as part of this assessment report. Data recovery at these 76 met towers averaged 82.3%. Table R, attached in Appendix B, lists the number of hours of valid data at each tower and the data recovery. The table shows that the average number of data hours per tower is 9,993 or the equivalent of 1.2 years of data at each tower.

The Kenetech 27m towers are tube type towers manufactured by NRG Systems of Vermont. Each tower had wind speed and wind direction sensors at two levels; 50-ft and 85 feet. The wind speed sensors were the Maximum Type 40 cup anemometer, the standard instrument used throughout the U.S. The wind directions sensors were the NRG 200, also an industry standard. The data loggers were the NRG 9200 type. The wind speed and directions sensors at the 50-ft level were mounted on side mount booms that are generally consistent with today's standards. However, the 85-ft level sensors were mounted on top mount booms (stub masts) that are not consistent with IEC standards, although it was a standard at the time of installation. It has been documented that these stub masts produce a 3% over speed on the wider and taller 50m NRG towers. No documentation has been published on the possible overspeed on the smaller 27m towers. Based on my own research I have found an overspeed of 2%, and I have deducted 2% from the wind speeds from the 85-ft sensor level at all of these towers. The slope and offsets used for the Maximum 40 cups are consistent with today's standards as measured by Thomas Lockhart and published by NREL.

GE Wind Energy installed three 40m towers on the same hills in August 2000 and data from these towers were also analyzed. Two of these towers were very close to Phase 2 turbines, and met tower 203 was in the Phase 2 area. Wind speed sensors were installed at 33-ft, 90-ft and 130-ft on these towers with wind direction sensors at 130-ft. No stub masts were used and no overspeed problem exists at these three towers. The sensors and towers are manufactured by NRG and are the same as discussed above (Maximum 40 cups and NRG vanes). The data loggers are NRG 9200+ type.

Wind Resource Assessment for the Windy Point 2, 2a Windfarm near Goldendale, WA

BP-Orion installed and operated a 50m lattice met tower in the Phase 2, 2a area for six years and data from this tower were analyzed. Sensors were installed at 30m and 50m and wind data were recorded on a Campbell Scientific data logger.

The Project developer, Cannon has also installed nine multi-level towers on the Phase 2, 2a site over the last two+ years. Most of these are 50m towers, but there are two 60m towers, one 30m and one 40m tower. These towers use side mount booms that are consistent with IEC standards. No stub masts were used and no overspeed problem exists at these towers. Slope and offset are consistent with today's standard for the NRG Maximum Type 40 cup. In addition to the tall towers installed by the developer, a state-of-the-art Sodar has also been installed on the site to collect data up to 200 meters above ground level. Appendix A contains more detailed information regarding these met towers including exact coordinates as well as sensor types and boom orientations and monthly diurnal wind speed summaries.

In the last year there have been many reports of problems with the NRG Maximum Type 40 cup sensor. Under-reporting of wind speeds has been observed due to an apparent resonance or vibration of the sensor, as reported at two recent AWEA Conferences. This apparent phenomena has only been a problem at two Phase 2 locations, at the 40m level at tower 17 and the top level of tower 22. This is believed to be the reason for the low shear at tower 22. This tower has only been operating for four months and none of the data have been used from either of these sensors in the estimates in this report.

Estimates and analysis

I have reviewed the wind data collected in the 1990s at the 40+ on-site met towers and I have screened all the data by several techniques including visual scans and inter-site correlations. At the time these data were collected by Kenetech Windpower, Mr. Robert Baker, a well respected wind energy meteorologist was in charge of this met tower network. The datasets were screened by Kenetech staff, and generally all the invalid data were deleted from the dataset at the time it was collected. As discussed above, 2% was deducted from the upper level sensors.

Table 2, in Appendix B contains the long term wind speed estimates at the 30 on-site Kenetech met towers in the Phase 2 area, i.e. steps 3, 4 and 5, above. The wind speed data from the 30 on-site met towers plus two reference towers were correlated to the Goodnoe Hills reference site and the speed ratios are shown in column 5. The average shear exponent at the 30 on-site met towers was slightly lower then the so-called normal value of 0.14, as shown in column 3. Shear exponents at the higher wind sites average about 0.12. Column 4, lists the estimated shear exponents between 27m and 80m. The average shear value used to extrapolate up to 80m is 0.10, which is consistent with the measured shear at the 105m met tower, discussed above and shown on figure 2. Based on the speed ratios and vertical shear, the average long term estimate for the 30 sites, at 80m is 17.1 mph or 7.65 mps. Column 6 shows the wind speed estimates at sensor height and column 7 and 8 show the estimates at 80 meters. The speed estimates have a

**Wind Resource Assessment for the Windy Point 2, 2a
Windfarm near Goldendale, WA**

correction factor of 0.98 to compensate for possible stub mast effects at these 27m NRG tilt-up towers.

The wind speed distributions for calculating theoretical energy are based on the upper sensor at each tower. Numerous (65) distributions were generated and integrated with the Siemens power curve. Table 3 on the following page is a sample wind speed frequency distribution integrated with the Siemens 2.3 MW warranty power curve. The wind speed data are from site 4, located near the center of the western part of the project. The power curve was supplied by the manufacturer, for an air density of 1.15 kg/m³. The table shows that with a 7.1 mps mean annual wind speed the Siemens turbine would produce 7,705.5 MWh (gross). The bar chart at the bottom of the table shows the frequency distribution.

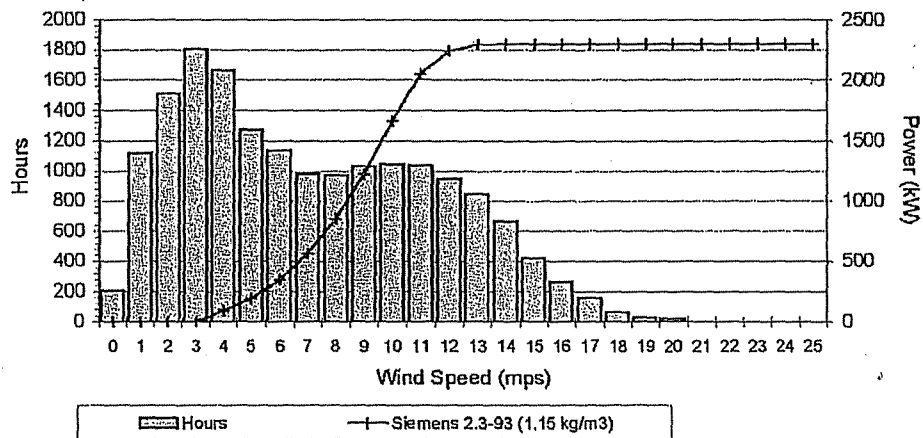
**Wind Resource Assessment for the Windy Point 2, 2a
Windfarm near Goldendale, WA**

Table 3 Linear Adjusted Wind Speed Distribution
Columbia Hills, WA adj to 7.1 mps
Site 4 40m May 8, 2006 - Jun 5, 2008

Siemens 2.3-93 (1.15 kg/m³)

Speed (mps)	Hours	Power kW	Energy kWh
0	207	0	0
1	1117	0	0
2	1511	0	0
3	1810	0	0
4	1668	92	153,456
5	1272	196	249,312
6	1137	350	397,950
7	982	566	555,812
8	974	851	828,874
9	1034	1,222	1,263,548
10	1042	1,662	1,731,804
11	1039	2,053	2,133,067
12	949	2,243	2,128,607
13	847	2,292	1,941,324
14	669	2,299	1,538,031
15	427	2,300	982,100
16	262	2,300	602,600
17	161	2,300	370,300
18	70	2,300	161,000
19	29	2,300	66,700
20	18	2,300	41,400
21	2	2,300	4,600
22	2	2,300	4,600
23	0	2,300	0
24	0	2,300	0
25	0	2,300	0
26	0	0	0
27+	0	0	0
Totals:	17229 hrs		15,155,090 kWh

Adjusted (0.861) mean wind speed = 7.1 mps
17,229 hours of data, normalized to one year = 7,705,528 kWh



A regression equation between mean annual wind speed and gross energy output was developed from the 65 wind speed distributions. This equation was used to convert the hub height wind speed estimates to gross energy estimates for the Siemens turbines. Using this regression equation, the wind speed estimates contained in columns 7 and 8 of Table 2, are converted to Siemens gross energy estimates and are shown in column 9. Column 10 (Table 2) lists the

**Wind Resource Assessment for the Windy Point 2, 2a
Windfarm near Goldendale, WA**

equivalent value expressed as a capacity factor. The average gross capacity factor for the 30 met towers is 41.5%.

The table below lists the results of the correlation of the towers installed by Cannon, the Project developer as well as the GE (203), Mike Kitchen tower (501) and BP (4076) tower. Appendix A contains monthly diurnal wind speed summaries for the top level sensor for each of these met towers, for the period of record. The appendix also contains pertinent details about the tower configuration.

<u>Tower</u>	<u>ht</u>	<u>data length</u>	<u>Vertical shear</u>	<u>hourly corel coeff</u>	<u>long term 80m estimate</u>
MK-501	50m	18 months	.13	.96	15.9 mph
GE-203	40m	3 years	.05	.75	17.5
BP-4076	50m	6 years	.08	.83	18.1
3 Hall	40m	7 months	.06	.87	18.9
4 Dooley	40m	2+ years	.06	.77	18.4
8 Hactor N	30m	2.5 years	.13	.89	15.0
9 (T60)	50m	14 months	.08	.90	17.1
12 west	50m	2 years	.12	.85	16.8
17 Hactor N	50m	1.5 years	.13	.92	15.3
20 Dooley	50m	9 months	.07	.84	14.9
22 Linden	60m	4 months	.05	insufficient data	
23 Linden	60m	6 months	.12	.83	14.2

In mid-October a Sodar unit was installed adjacent to the new 60m met tower site 22. The sodar is uniquely qualified to measure 3-dimensional winds and quantify inflow angles that a turbine would experience at this site. Data from the sodar site have not been used for Phase 2 estimates. However wind speed and direction data from 40m to 120m were analyzed to determine vertical wind shear and veer (change of direction with height) to confirm site suitability for Siemens.

Table 4, on the following page contains the wind speed and array efficiency estimates for each proposed turbine string in Phase 2 and 2a. The wind speed estimate for each string is based on the met towers that were in or near that proposed turbine string as well as adjustments for terrain effects. The gross energy is calculated by using the regression equations between mean wind speed and annual energy output, discussed above. Table 4 also shows the estimated array efficiency for each turbine string, and the net energy output for that turbine string. The estimates in the table include terrain effects (exposure and elevation) array effects, and all estimated losses. The table shows that the wind speed estimates range from 13.0 mph to 18.3 mph (5.8 to 8.2 mps). The sitewide average estimated wind speed is shown at the bottom and it is 15.6 mph or 7.0 mps, at 80 meters. Net energy estimates for the Project are listed for each string and at the bottom of Table 4.

Wind Resource Assessment for the Windy Point 2, 2a Windfarm near Goldendale, WA

Table 4: Speed, adjusted gross and net energy estimates (P50)
including terrain effects and wake losses for Windy Point 2 and 2a, map = April 7, 2009

All western turbines, Haystack Butte to Highway 97

Turbines	number of Slem.	80m est. Speed	Speed mps	Prevailing in line array effc.	wake loss	total wake loss	Net Energy Siemens MW	Net CF	
251-253	3	15.0	6.7	98%	97%	95.1%	6,019	29.9%	
249-250	2	14.0	6.3	98%	97%	95.1%	5,481	27.1%	
232-234	4	18.0	8.0	93%	97%	90.2%	7,302	36.2%	
505-509	5	18.0	8.0	92%	97%	89.2%	7,187	35.7%	Phase 2a
501-504	4	14.0	6.3	98%	97%	95.1%	5,433	27.0%	Phase 2a
237a	1	14.5	6.5	99%	97%	98.0%	5,799	28.8%	
235-237	3	17.0	7.6	96%	97%	93.1%	6,991	34.7%	
401-402	2	14.0	6.3	98%	100%	98.0%	5,601	27.8%	Phase 2a
403-407	5	14.5	6.5	98%	98%	98.0%	5,770	28.6%	Phase 2a
413	1	13.0	5.8	98%	98%	98.0%	4,928	24.5%	Phase 2a
414-416	3	13.5	6.0	98%	98%	98.0%	5,208	25.9%	Phase 2a
408-412	5	18.3	8.2	93%	94%	87.4%	7,188	35.8%	Phase 2a
222-224	3	18.3	8.2	91%	96%	87.4%	7,200	35.7%	
224a-227	4	18.0	8.0	91%	96%	87.4%	7,071	35.1%	
219-221	3	13.5	6.0	98%	98%	95.6%	5,208	25.9%	
216	1	13.0	5.8	98%	97%	95.1%	4,902	24.3%	
216-218a	4	14.0	6.3	98%	97%	95.1%	5,461	27.1%	
201	1	13.5	6.0	98%	97%	95.1%	5,182	25.7%	
202	1	14.0	6.3	98%	97%	95.1%	5,461	27.1%	
203-14 ex210	10	15.0	6.7	94%	97%	91.2%	5,774	28.7%	
210	1	14.5	6.5	90%	97%	87.3%	5,272	26.2%	
228-231	4	16.5	7.4	87%	97%	84.4%	6,087	30.2%	
231a	1	16.5	7.4	94%	100%	94.1%	8,088	30.1%	
206a-201a	5	14.5	6.5	90%	97%	87.3%	5,272	26.2%	
Totals	77	15.6	7.0	94.4%	96.9%	91.5%	6,090	30.2%	

177.1 MW of turbines

Turbines	Number	80m Estimate	Speed mps	Prevailing in line wake	total wake loss	Siemens Net MWh	Siemens Net CF
301-302	2	14.5	6.48	94%	98%	5,583	27.6%
238-239	2	16.8	7.51	93%	99%	8,769	33.6%
240	1	15.5	6.93	93%	99%	6,070	30.1%
242-243	2	15.0	6.71	93%	99%	5,901	28.8%
305-307	3	15.5	6.93	94%	98%	6,073	30.1%
308	1	15.0	6.71	92%	98%	5,680	28.2%
309	1	16.8	7.51	92%	98%	6,628	32.9%
331-332	2	13.5	6.03	94%	98%	4,998	24.8%
310a-312	4	17.0	7.60	90%	95%	8,419	31.9%
313-314	2	14.0	6.28	90%	95%	4,912	24.4%
316-317	2	16.2	7.24	94%	98%	6,483	32.2%
318	1	17.4	7.78	90%	98%	8,828	33.9%
319	1	16.5	7.38	90%	98%	6,362	31.6%
24	24	15.7	7.0	92.3%	97.2%	6,021	29.9%

55.2 MW of turbines

Eastern Area, east of Phase 1, and Hocter Road north

Turbines	number of Slem.	80m est. Speed	Speed mps	array effc.	In line wake	wake loss	Energy Siemens MW	CF
287-289	3	18.0	8.0	91%	99%	90.1%	7,292	36.2%
281-290	10	15.1	6.8	98%	98%	97.0%	5,803	28.8%
total	13	15.8	7.0	97.2%	98.2%	95.4%	6,147	30.5%

capacity 29.9 MW of turbines

overall array 94.3% 97.1% 91.5%

Totals: 15.6 7.0 mps
net array: 6,081.9 MWh
174 turbines: 653.334 MWh
782.2 MWh 30.13% CF

Windy Point Phase II Ila April 9, 2009.xls

**Wind Resource Assessment for the Windy Point 2, 2a
Windfarm near Goldendale, WA**

The array loss estimate is based on the alignment and spacing between turbines and several wind energy roses. The array loss estimates include potential losses from all land parcels, including the Cosner and DNR parcels (Phase 2a turbines). Proposed Phase 2a turbine locations have been plotted on the layout maps and are shown as red or dark blue circles. The array loss estimates also include losses from the neighboring windfarm developed by EnXco. The EnXco windfarm only impacts a few turbines. However, you can see in table 4, that proposed turbines 267 to 269, which are in the eastern part of the project have an estimated loss of 9%. This is due to its proximity (about 6 to 13 rotor diameters) to the EnXco windfarm; turbines 29-36. The map dated December 8, 2008 shows EnXco turbines 26-28.

The proposed spacing between turbines is 2.0 to 2.5 rotor diameters, in the crosswind (north-south) direction. The spacing between rows is dependent to a great extent upon the topography. The spacing varies from a minimum of 5.5 rotor diameters (RD) to up to 20 RD. The array loss estimate for prevailing winds is 5.7% for this proposed array of 114 turbines. Most of the energy blows from the west and west-northwest directions as discussed above. When winds blow parallel to the turbine rows, i.e. from the north-northeast and south-southwest there are in-line array losses. The in-line wake losses are 2.9%. Together these losses are 8.5%. Array loss estimates are based on my own research as published by NREL (SERI) in 1989. In addition, array loss estimates were made with the WindPro model which yielded identical loss estimates (8.5%). Siemens has stated that there will be no wind direction sector management or curtailment of turbines with this layout.

In addition to the array losses, the following loss assumptions are within industry norms and have been used; availability = 3.5%, electrical/transmission losses = 1.5% (per Cannon), icing 1%, and miscellaneous (parasitic such as controller, blade soiling and power curve) losses = 2%. Availability during the project's first year may be less than 96.5%. An additional loss for shut down in temperatures below -10 deg C has been deducted, however this occurs very infrequently and the loss is only 0.17%. And finally high wind speed shut down losses (hysteresis) have been calculated at 0.2%. Combining all these losses by multiplication, we obtain a ratio for net/adjusted gross energy of 91.88%. These losses have been applied and are included on table 4. The P50 net output estimate for the 114 turbines, accounting for all losses is:

Per turbine output			
Height	Siemens	NCF	Project Output
80m	6,081.9 MWh	30.2%	693,334 MWh

The adjusted gross energy estimate has an error band of plus/minus 14.5% at the P90 confidence level, which is due to a variety of factors, including the complex terrain, the lack of hub-height data, and the accuracy of the Maximum cup anemometer (+/-3%). At this site, a 14.5% error band on energy at the P90 Level corresponds to error bands of +/- 7.7% at the P75 level, +/- 18.7% at the P95 level, and +/- 24.6% at the P99 level. The error bands discussed above do not reflect uncertainties due to electrical/transmission losses, mechanical availability and other non-meteorological losses.

**Wind Resource Assessment for the Windy Point 2, 2a
Windfarm near Goldendale, WA**

Conclusions

Wind data from 40 on-site meteorological towers, one 105m tower and two long term reference towers have been analyzed and long-term wind speed and energy estimates have been made for the proposed Windy Point Phase 2 and 2a Project in the Columbia Hills. The estimated mean wind speed is 7.0 mps at 80m, plus or minus 10.7%. The net energy output estimate for the 114 turbines is 6,081.9 MWh/Siemens turbine, or 30.2% capacity factor, or 693.3 GWh for the project. This estimate includes all losses. The error band associated with this energy estimate is plus/minus 14.5% at the P90 confidence level and +/- 7.7% at the P75 level. The error band at the P95 level is +/- 18.7% and at the P99 level it is +/-24.6%. The error bands do not reflect uncertainties due to electrical/transmission losses, mechanical availability and other non-meteorological losses.

Appendix A – Cannon met towers

**Tower configuration data
Monthly diurnal summaries**

Prepared by : Mike McCormick

Windy Point/Windy Flats

		Site Removed	Operational	Awaiting Install	Awaiting Repair					
Map Datum	WGS 84	Logger S/N	Latitude	Longitude	Deg/Min.mmm	Deg/Min.mmm	UTM East	UTM North	Tower Height	
Met Tower 008	New Location (Removed)	30907477	45° 46' 01" N	120° 33' 28" W	45° 46' 01" N	120° 33' 28" W	10 688998 E	5071999 N	50 Meters	
Met Tower 008		309010297	45° 47' 03" N	120° 35' 37" W	45° 47' 04" N	120° 35' 36" W	10 687051 E	5072870 N	30 Meters	
Met Tower 009		309011869	45° 46' 21" N	120° 36' 03" W	45° 46' 34" N	120° 36' 04" W	10 686534 E	6071569 N	50 Meters	
Met Tower 017	Not Built (Mike's)	N/A	45° 46' 40" N	120° 34' 40" W	45° 46' 40" N	120° 34' 38" W	10 688743 E	5072122 N	50 Meters	
Met Tower 017		30908953	45° 47' 35" N	120° 36' 09" W	45° 47' 57" N	120° 36' 16" W	10 686331 E	5073842 N	50 Meters	

Windy Flats

Map Datum	WGS 84	Logger S/N	Latitude	Longitude	Deg/Min.mmm	Deg/Min.mmm	UTM East	UTM North	Tower Height	
Met Tower 008	Site Removed	30908953	45° 47' 22" N	120° 33' 07" W	45° 47' 22" N	120° 33' 05" W	10 684661 E	5061775 N	40 Meters	
Met Tower 009	Site Removed	30908953	45° 47' 24" N	120° 30' 18" W	45° 47' 24" N	120° 30' 59" W	10 685893 E	5066723 N	40 Meters	
Met Tower 017	Site Removed	309011871	45° 47' 41" N	120° 33' 55" W	45° 47' 41" N	120° 33' 57" W	10 685448 E	5061432 N	50 Meters	
Met Tower 017	Site Removed	309011872	45° 47' 23" N	120° 30' 06" W	45° 47' 23" N	120° 30' 06" W	10 684368 E	5065560 N	50 Meters	
Met Tower BP4706		N/A	45° 42' 37" 946" N	120° 50' 3" 967" W	45° 42' 632339" N	120° 50' 06489" W	10 668556 E	5084168 N	50 Meters	

Mary Hill / Linden

Map Datum	WGS 84	Logger S/N	Latitude	Longitude	Deg/Min.mmm	Deg/Min.mmm	UTM East	UTM North	Tower Height	
Met Tower 009	Site Removed	309011871	45° 43' 51" 856" N	120° 47' 21" 348" W	45° 43' 51" 856" N	120° 47' 3555" W	10 672048 E	5066108 N	50 Meters	
Met Tower 009	Site Removed	309011872	45° 43' 51" 858" N	120° 46' 12" 492" W	45° 43' 51" 858" N	120° 46' 12" 492" W	10 672048 E	5066250 N	50 Meters	
Met Tower 009	Site Removed	N/A	45° 43' 51" 858" N	120° 47' 51" 552" W	45° 43' 51" 858" N	120° 47' 51" 552" W	10 672048 E	5066559 N	N/A	



Meteorological Tower Information: Windy Point, Washington

Site Name/Number	Windy Point 1/0001 New	Sensor Type	Logger Channel	Sensor Height (m)	Boom Length (in)	Boom Orientation (pls specify Magnetic or True)
Installation Date	7/7/2006	Anemometer	1	50	43"	305° True- walking with GPS
Logger Type/Serial Number	Symphonie/7477	Anemometer	2	49	43"	125° True- walking with GPS
Tower Height (m)	50	Anemometer	3	37	43"	305° True- walking with GPS
Tower Diameter (in)	6"	Anemometer	4	26	43"	305° True- walking with GPS
Latitude (WGS84)	45° 46.525 N	Wind Vane	7	50	43"	North True- walking with GPS
Longitude (WGS84)	120° 33.392 W	Wind Vane	8	31	43"	South True- walking with GPS
Elevation (m)	638 meters / 2092 ft					
Site exposure:	Rolling Hills / Grassland	Temperature	9	6		North True- walking with GPS
Site pictures taken	Yes					
Property Owner	Ruth Davenport					
ipack	Yes	ipack serial #	31211455			

Site Name/Number	Windy Point 8/0008	Anemometer	1	30	60"	125° True-walking with GPS
Installation Date	9/21/2006	Anemometer	2	29	60"	305° True-walking with GPS
Logger Type/Serial Number	Symphonie/0297	Anemometer	3	23	60"	305° True-walking with GPS
Tower Height (m)	30	Anemometer	4	10	60"	305° True-walking with GPS
Tower Diameter (in)	6"					
Latitude (WGS84)	45° 47.043 N	Wind Vane	7	28.3	60"	North True-walking with GPS
Longitude (WGS84)	120° 35'.619 W	Wind Vane	8	21	60"	South True-walking with GPS
Elevation (m)	717 meters / 2352 ft					
Site exposure:	Rolling hills / Grassland	Temperature	9	5		North True-walking with GPS
Site pictures taken	Yes					
Property owner	Wayne Hctor					
ipack	Yes	ipack Serial #	35311268	Esu	22D221C1	

Site Name/Number	Windy Point 9/0009	Anemometer	1	49.5	60"	227° True-walking with GPS
Installation Date	3/29/2007	Anemometer	2	49.5	60"	47° True-walking with GPS
Logger Type/Serial Number	Symphonie/1869	Anemometer	3	40	60"	227° True-walking with GPS
Tower Height (m)	50	Anemometer	4	30	60"	227° True-walking with GPS
Tower Diameter (in)	6"	Anemometer	5	10	60"	227° True-walking with GPS
Latitude (WGS84)	45° 46.349 N	Wind Vane	7	49	60"	North True-walking with GPS
Longitude (WGS84)	120° 36'.048 W	Wind Vane	8	40	60"	North True-walking with GPS
Elevation (m)	721 meters / 2366 ft					
Site exposure:	Rolling hills / Grassland	Temperature	9	2		North True-walking with GPS
Site pictures taken	Yes					
Property owner	Jay Hoy					
IP pack	Yes	ipack serial #	35310732			

Site Name/Number	Windy Point 17/0017	Anemometer	1	50	60"	280° True-walking with GPS
Installation Date	12/12/2007	Anemometer	2	49	60"	190° True-walking with GPS
Logger Type/Serial Number	Symphonie / 8953	Anemometer	3	40	60"	280° True-walking with GPS
Tower Height (m)	50 meters	Anemometer	4	30	60"	280° True-walking with GPS
Tower Diameter (in)	6 inches	Anemometer	5	10	60"	280° True-walking with GPS
Latitude (WGS84)	45° 47.579 N	Wind Vane	7	50	60"	North True-walking with GPS
Longitude (WGS84)	120° 36' 152 W	Wind Vane	8	30	60"	180° South-walking with GPS
Elevation (m)	2241 Ft / 683 meters					
Site exposure:	Sagebrush / Grass	Temperature	9	6	Tower Mt.	North True-walking with GPS
Site pictures taken	Yes 2 looking 330					
Property owner	Wayne Hootor					
I pack	Yes	ipack serial #	35310733	Esri:	214-00066303	

Meteorological Tower Information: Windy Flats, Wahington

		Sensor Type	Logger Channel	Sensor Height (m)	Boom Length (in)	Boom Orientation (pls specify Magnetic or True)
Site Name/Number	Windy Flats 3/003	Anemometer	1	40	60"	125° True- walking with GPS
Installation Date	5/11/2006	Anemometer	2	39	60"	305° True- walking with GPS
Logger Type/Serial Number	Symphonie/8953	Anemometer	3	21	60"	305° True- walking with GPS
Tower Height (m)	40					
Tower Diameter (in)	6"					
Latitude (WGS84)	45° 41.397 N	Wind Vane	7	38	60"	North True-walking with GPS
Longitude (WGS84)	120° 53'.115 W	Wind Vane	8	3	Twr Mounted	North True-walking with GPS
Elevation (m)	779 meters / 2556 ft					
Site exposure:	Rolling Hills / Grassland	Temperature	9	6	Twr Mounted	North True-walking with GPS
Site pictures taken	No					
Property Owner	Scott Hall					
ipack	Yes	ipack serial #	31211492			SITE REMOVED
Site Name/Number	Windy Flats 4/004	Anemometer	1	40	60"	125° True- walking with GPS
Installation Date	5/9/2006	Anemometer	2	40	60"	305° True- walking with GPS
Logger Type/Serial Number	Symphonie/8952	Anemometer	3	21	60	305° True- walking with GPS
Tower Height (m)	40	Anemometer	4	10	60	305° True- walking with GPS
Tower Diameter (in)	6"					
Latitude (WGS84)	45° 42.405 N	Wind Vane	7	38	60"	North True-walking with GPS
Longitude (WGS84)	120° 50'.594 W	Wind Vane	8	3	Twr Mounted	North True-walking with GPS
Elevation (m)	626 meters / 2054 ft					
Site exposure:	Rolling hills / Grassland	Temperature	9	6	Twr Mounted	North True-walking with GPS
Site Pictures Taken	Yes					
Property owner	Dennis Jackel / Martin Nye					
ipack	Yes	ipack serial #	31211494			Site Removed 11-07-08
Site Name/Number	Windy Flats 12/0012	Anemometer	1	49	60"	250° True-walking with GPS
Installation Date	3/31/2007	Anemometer	2	49	60"	70° True-walking with GPS
Logger Type/Serial Number	Symphonie/1871	Anemometer	3	40	60"	250° True-walking with GPS
Tower Height (m)	50	Anemometer	4	30	60"	250° True-walking with GPS
Tower Diameter (in)	6"	Anemometer	5	10	60"	250° True-walking with GPS
Latitude (WGS84)	45° 41.240 N	Wind Vane	7	48	60"	North True-walking with GPS
Longitude (WGS84)	120° 53'.748 W	Wind Vane	8	40	60"	North True-walking with GPS
Elevation (m)	761 meters / 2497 ft					
Site exposure:	Rolling Hills / Grassland	Temperature	9	5	Twr Mounted	North True-walking with GPS
Site pictures taken	Yes					
Property owner	James Sizemore					
ipack	Yes	ipack serial #	35310734			Site Tell / Removed 11-16-09

Name/Number	Windy Flats 20/0020	Anemometer	1	50	60	325° True-walking with GPS
Installation Date	5/12/2008	Anemometer	2	49	60	235° True-walking with GPS
Logger Type/Serial Number	309011873	Anemometer	3	40	60	325° True-walking with GPS
Logger Height (m)	50 Meters	Anemometer	4	30	60	325° True-walking with GPS
Logger Diameter (in)	5"	Anemometer	5	10	60	325° True-walking with GPS
Latitude (WGS84)	45° 43.385 N	Wind Vane	7	50	60	North True-walking with GPS
Longitude (WGS84)	120° 50' 105 W	Wind Vane	8	30	60	180 South-walking with GPS
Elevation (m)	1918 Ft / 585 Meters					
Site exposure:	Grassy Mougals	Temperature	9	6	Twr Mounted	North True-walking with GPS
Site pictures taken	Yes 2 Taken					
Property owner	Dooley					
Check	35310730	ipack serial #	35310730			Site Fell / Removed 1-15-09
Name/Number	BP4706	Anemometer		48.8	NRG 1943	315° True-walking with GPS
Installation Date	7/23/2004	Anemometer		48.8	NRG 1943	135° True-walking with GPS
Logger Type/Serial Number	Campbell CR10	Anemometer		30.35	NRG 1943	315° True-walking with GPS
Logger Height (m)	50	Anemometer		30.35	NRG 1943	135° True-walking with GPS
Logger Diameter (in)	4.5 Dia	Wind Vane		47.58	NRG 1943	North True-walking with GPS
Latitude (WGS84)	N45° 42.63239'	Wind Vane		28.4	NRG 1943	North True-walking with GPS
Longitude (WGS84)	W120° 50.06489'					
Elevation (m)	1976 Ft					
Site exposure:	Rolling hills					
Site pictures taken	No					
Property owner	Consner					
Check	N/A					Operational

Meteorological Tower Information: Maryhill / Lower Linden

		Sensor Type	Logger Channel	Sensor Height (m)	Boom Length (in)	Boom Orientation (pls specify Magnetic or True)
Site Name/Number	Maryhill / Linden 022	Anemometer	1	60	95"	325° True- walking with GPS
Installation Date	10/15/2008	Anemometer	2	60	95"	235° True- walking with GPS
Logger Type/Serial Number	Symphonie / 9419	Anemometer	3	45	95"	325° True- walking with GPS
		Anemometer	4	30	95"	325° True- walking with GPS
		Anemometer	5	30	95"	235° True- walking with GPS
		Anemometer	6	10	95"	325° True- walking with GPS
Tower Height (m)	60 Meters					
Tower Diameter (in)	10"					
Latitude (WGS84)	45° 43.0886 N	Wind Vane	7	59	95"	North True-walking with GPS
Longitude (WGS84)	120° 47.3558 W	Wind Vane	8	29	95"	South Walking with GPS
Elevation (m)	357 meters / 1171 ft					
Site exposure:	Rolling Hills / Grassland	Temperature	9	6	Twr Mounted	North True-walking with GPS
Site pictures taken	Yes					
Property Owner	Maryhill					
ipack	Yes	ipack serial #	35311995			Site Removed 02/2009
Site Name/Number	Maryhill / Linden 023	Anemometer	1	60	95"	325° True- walking with GPS
Installation Date	10/19/2008	Anemometer	2	60	95"	235° True- walking with GPS
Logger Type/Serial Number	Symphonie / 9420	Anemometer	3	45	95"	325° True- walking with GPS
		Anemometer	4	30	95"	325° True- walking with GPS
		Anemometer	5	30	95"	235° True- walking with GPS
		Anemometer	6	10	95"	325° True- walking with GPS
Tower Height (m)	60 Meters					
Tower Diameter (in)	10" Dia					
Latitude (WGS84)	45° 43.1583 N	Wind Vane	7	59	95"	North True-walking with GPS
Longitude (WGS84)	120° 46.2174 W	Wind Vane	8	29	95"	South Walking with GPS
Elevation (m)	378 meters / 1240 ft					
Site exposure:	Rolling hills / Grassland	Temperature	9	6	Twr Mounted	North True-walking with GPS
Site Pictures Taken	Yes					
Property owner	Linden					
ipack	Yes	ipack serial #	35311996			Site Removed 04/14/2009

Monthly Diurnal Mean Wind Speeds

Columbia Hills, WA
Site MK-501 49m level (MPH)

Apr 30, 2002 - Oct 12, 2003

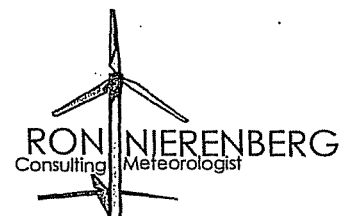
Hour	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Mean
01	13.3	14.9	17.7	18.2	18.7	19.7	21.7	17.4	15.7	15.1	10.3	13.7	17.2
02	13.9	13.1	16.5	17.8	17.8	19.4	21.5	17.4	15.6	14.6	9.9	12.3	16.7
03	13.0	13.5	16.3	18.1	16.5	18.9	21.2	17.1	15.4	13.8	10.1	13.2	16.4
04	12.7	14.4	16.3	17.2	16.4	18.5	20.4	16.9	14.4	13.3	10.3	13.9	16.1
05	13.1	12.2	16.9	16.3	16.2	18.0	19.6	16.6	13.3	12.8	9.9	13.8	15.5
06	12.7	12.8	16.6	15.0	14.9	17.0	17.8	15.8	12.1	12.9	10.3	14.9	14.8
07	12.9	12.8	17.1	12.8	13.3	14.8	15.4	14.4	11.9	12.6	10.1	14.4	13.7
08	13.7	12.9	16.3	10.5	12.3	13.2	13.4	12.6	10.3	11.9	9.9	14.6	12.5
09	12.5	12.0	15.6	10.3	11.6	12.5	12.2	11.2	9.6	10.5	9.3	14.5	11.6
10	11.1	11.4	15.7	10.9	12.2	12.9	12.1	10.7	9.5	10.1	9.1	14.4	11.6
11	9.8	11.4	16.8	11.4	13.0	13.6	12.9	11.1	10.1	10.5	9.2	14.5	12.1
12	10.7	12.6	17.2	12.4	14.1	14.9	13.7	12.0	11.1	10.6	8.7	14.6	12.9
13	10.8	13.1	18.1	12.7	14.6	16.1	14.5	13.2	12.7	11.5	8.8	14.0	13.7
14	10.6	12.9	18.7	12.8	15.6	16.9	15.8	13.9	13.5	11.9	9.5	14.1	14.3
15	11.8	13.2	18.8	13.2	17.8	17.7	16.8	14.8	14.4	12.5	10.5	13.5	15.2
16	13.3	13.6	19.4	13.4	17.4	18.3	17.7	15.7	15.2	13.0	10.6	14.6	15.8
17	11.7	14.0	20.6	14.7	17.6	19.5	19.1	16.4	15.8	13.3	11.4	15.2	16.4
18	12.6	15.3	20.5	15.1	17.9	20.0	19.3	17.7	15.6	15.0	12.4	14.4	17.0
19	12.4	15.4	19.4	16.9	17.9	20.2	19.5	18.6	16.6	16.7	11.0	13.7	17.3
20	12.6	15.8	19.7	18.1	19.3	21.5	20.5	20.1	16.8	16.9	11.4	14.6	18.2
21	13.1	15.6	19.5	17.1	19.6	21.8	21.8	20.9	16.4	16.3	10.0	13.6	18.2
22	12.7	14.7	18.3	17.2	19.7	21.1	22.1	20.2	16.0	15.3	10.2	13.7	17.9
23	12.1	15.1	18.2	17.9	18.9	21.2	22.2	19.0	15.6	15.0	10.1	13.4	17.6
24	13.3	15.5	17.2	18.0	18.2	21.0	21.9	18.2	15.5	15.6	10.3	14.4	17.5
Mean	12.3	13.7	17.8	14.9	16.3	17.9	18.0	15.9	13.9	13.4	10.1	14.1	15.4

Valid Hrs	404	665	744	728	1488	1440	1460	1412	1388	1019	668	462
Missing Hrs	340	7	0	16	0	0	28	76	52	13	52	282

11,878 hours of valid data, 866 hours missing, 93.2% data recovery

Mean of monthly means: 14.9

August 3, 2008



Monthly Diurnal Mean Wind Speeds

Linden Ranch, Columbia Hills Site 203 130-ft level (MPH)

Aug 16, 2000 - Oct 3, 2005

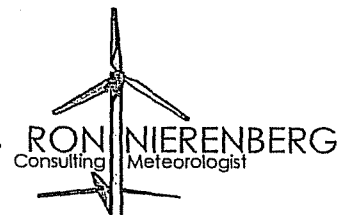
Hour	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Mean
01	13.0	12.6	18.7	18.9	20.8	21.2	21.6	20.6	18.0	15.3	12.0	16.0	18.0
02	13.7	12.7	19.0	18.6	20.1	20.9	21.9	19.7	17.7	15.4	11.7	16.0	17.8
03	14.3	12.4	18.8	18.8	19.5	20.7	21.8	19.3	17.1	15.3	11.7	17.2	17.7
04	15.0	13.1	18.3	17.9	19.1	20.7	21.6	19.0	16.8	14.8	11.4	17.6	17.5
05	15.2	12.7	17.8	18.1	18.3	20.1	21.3	18.8	16.3	14.7	12.0	18.1	17.2
06	14.3	11.9	17.8	17.2	17.5	19.1	20.3	17.8	16.0	14.0	12.8	19.4	16.7
07	14.2	11.2	17.0	16.6	16.0	17.7	19.1	17.4	15.1	14.1	12.3	19.1	15.9
08	14.6	11.6	16.7	15.3	15.3	16.9	17.4	15.9	14.0	13.0	12.7	19.4	15.2
09	14.8	11.7	15.5	15.6	14.5	16.2	15.7	13.9	13.4	12.7	13.1	17.3	14.5
10	14.4	10.3	16.1	15.8	14.4	15.9	14.3	13.3	13.2	13.1	13.2	16.7	14.2
11	14.3	10.3	16.1	16.2	14.7	16.8	14.3	13.7	13.8	13.8	12.5	17.1	14.5
12	14.2	10.6	17.2	16.8	15.5	17.8	14.7	14.8	14.7	14.2	12.4	15.9	15.1
13	14.8	12.2	18.5	17.1	16.5	19.0	15.5	15.7	15.5	15.1	12.2	15.7	15.9
14	15.7	13.4	19.4	18.8	17.8	20.2	17.3	17.2	16.1	15.7	12.2	15.1	16.9
15	15.9	14.1	20.4	19.9	19.0	21.5	19.9	19.0	17.4	16.1	12.4	15.6	18.0
16	16.2	14.6	20.7	20.8	20.0	23.1	22.3	20.9	18.9	16.8	13.3	16.3	19.1
17	16.5	14.9	20.8	22.2	21.2	24.5	24.0	21.4	20.4	17.8	13.4	16.3	20.0
18	16.7	15.7	21.4	22.8	21.7	25.0	25.1	22.9	20.8	18.1	13.3	14.9	20.6
19	16.1	16.3	20.7	22.6	22.0	24.7	25.4	23.0	20.8	18.2	13.2	13.6	20.4
20	16.3	16.3	20.3	22.0	21.6	24.7	24.5	22.5	20.9	17.3	12.5	12.2	20.0
21	15.1	16.4	19.8	21.3	22.0	24.5	24.5	22.5	19.9	17.3	12.0	13.7	19.8
22	14.8	16.1	19.9	20.7	22.0	24.3	24.2	21.6	19.0	16.7	11.4	14.8	19.5
23	13.6	15.4	20.3	20.5	21.5	23.0	23.2	21.3	18.4	16.1	11.7	15.4	19.0
24	13.0	14.7	19.6	19.6	20.8	21.6	22.4	20.4	18.2	15.2	11.5	16.0	18.3
Mean	14.9	13.4	18.8	18.9	18.8	20.9	20.5	18.9	17.2	15.4	12.4	16.2	17.6

Valid Hrs	1062	1207	1472	1521	2228	2208	1471	1857	2139	1539	1387	878
Missing Hrs	2658	2177	2248	2079	1492	1392	2249	2247	2181	2253	2213	2842

18,969 hours of valid data, 26,031 hours missing, 42.2% data recovery

Mean of monthly means: 17.2

August 3, 2008



Monthly Diurnal Mean Wind Speeds

Columbia Hills, WA
Site 3 39.6m level Scott Hall (MPH)

May 10, 2006 - Dec 24, 2006

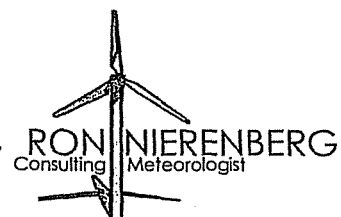
Hour	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Mean
01	0	0	0	0	15.9	22.8	24.6	21.3	18.4	19.1	17.8	16.9	19.9
02	0	0	0	0	15.7	22.1	24.2	20.3	16.9	18.2	18.7	17.4	19.5
03	0	0	0	0	16.0	21.6	24.0	19.7	17.5	18.0	19.3	14.9	19.3
04	0	0	0	0	16.7	21.6	22.4	19.6	17.7	17.8	19.5	15.5	19.2
05	0	0	0	0	17.0	20.6	21.4	18.0	17.4	18.3	18.9	16.4	18.7
06	0	0	0	0	17.4	18.7	21.3	16.9	17.5	18.2	18.7	17.1	18.3
07	0	0	0	0	17.0	17.5	20.2	16.2	15.9	17.4	18.8	17.3	17.6
08	0	0	0	0	16.4	16.4	18.9	14.9	14.8	16.3	17.8	16.3	16.5
09	0	0	0	0	15.2	14.9	18.2	14.7	14.2	15.8	17.2	17.0	15.8
10	0	0	0	0	13.8	14.1	16.6	14.0	14.2	14.8	16.7	17.9	15.2
11	0	0	0	0	13.7	14.6	16.2	14.4	13.7	14.2	15.6	17.1	14.9
12	0	0	0	0	16.0	15.6	16.6	15.3	14.7	14.8	16.9	15.2	15.6
13	0	0	0	0	17.1	16.7	17.4	15.7	15.9	15.7	16.7	15.8	16.4
14	0	0	0	0	17.6	18.4	18.9	16.8	16.4	16.1	16.8	16.6	17.2
15	0	0	0	0	17.8	19.6	20.8	17.9	17.2	16.7	17.3	15.8	18.0
16	0	0	0	0	19.7	21.4	22.0	19.4	18.5	17.2	17.9	16.5	19.2
17	0	0	0	0	22.0	22.8	24.8	21.1	19.3	19.1	19.9	16.7	20.9
18	0	0	0	0	21.9	23.6	26.8	21.5	20.8	19.8	19.1	15.8	21.5
19	0	0	0	0	21.9	24.5	27.8	23.6	21.5	20.1	19.2	17.0	22.3
20	0	0	0	0	21.8	25.4	28.7	25.7	21.3	20.6	18.8	17.1	22.8
21	0	0	0	0	20.5	25.1	27.9	26.2	20.5	19.7	17.6	15.8	22.1
22	0	0	0	0	20.0	23.5	26.1	24.2	19.2	18.5	16.7	15.0	20.8
23	0	0	0	0	18.8	23.8	25.6	21.9	19.4	18.3	17.9	15.8	20.6
24	0	0	0	0	17.0	23.5	25.2	21.5	20.0	18.5	18.3	15.2	20.3
Mean	0	0	0	0	17.8	20.4	22.4	19.2	17.6	17.6	18.0	16.3	18.9

Valid Hrs	0	0	0	0	515	720	744	744	720	744	707	384
Missing Hrs	0	0	0	0	13	0	0	0	0	0	13	192

5,278 hours of valid data, 218 hours missing, 96.0% data recovery

Mean of monthly means: 18.7

August 3, 2008



Monthly Diurnal Mean Wind Speeds

Columbia Hills, WA Site 4 40m level Jackel (MPH)

May 8, 2006 - Nov 9, 2008

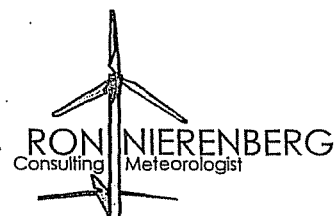
Hour	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Mean
01	14.6	15.4	17.9	21.6	23.1	26.2	27.2	23.0	18.5	15.5	13.4	15.2	20.0
02	14.5	14.4	17.4	21.0	22.8	25.9	26.1	22.2	17.9	15.0	13.5	15.3	19.5
03	14.4	14.4	16.4	20.3	22.0	24.8	25.5	21.8	17.4	14.5	13.7	14.8	19.0
04	14.2	15.0	15.8	20.0	20.6	24.5	25.1	21.2	17.2	14.5	14.3	15.4	18.8
05	14.0	14.5	15.4	19.0	20.2	24.0	24.2	20.7	16.6	13.9	13.5	14.7	18.2
06	13.5	13.8	15.4	18.3	20.4	23.1	23.1	20.0	16.5	13.8	14.0	15.1	17.8
07	13.3	13.5	15.5	17.3	20.0	22.1	21.5	18.8	15.9	14.2	13.8	15.1	17.2
08	13.2	12.0	14.9	16.7	19.4	20.7	20.3	17.8	14.8	13.6	13.3	14.9	16.4
09	13.3	12.4	14.8	16.9	18.1	19.5	18.9	16.9	14.0	13.2	13.2	14.9	15.8
10	12.4	11.9	14.5	16.6	17.7	18.3	17.2	16.4	13.7	13.1	12.7	15.3	15.2
11	13.0	11.4	15.1	17.0	16.8	17.9	16.6	16.4	13.8	13.0	13.0	13.9	15.1
12	12.9	12.3	15.0	17.6	16.2	17.6	16.5	16.8	14.2	13.0	13.2	15.3	15.2
13	13.6	13.3	14.3	18.2	16.6	18.0	16.8	17.5	14.8	13.7	12.5	15.4	15.6
14	13.4	13.5	15.7	19.0	17.2	19.1	17.8	17.9	15.3	14.1	12.7	14.4	16.1
15	15.3	14.2	17.4	20.2	18.4	20.1	19.2	19.2	16.6	14.8	13.7	14.1	17.2
16	15.5	15.4	19.5	21.1	19.2	21.4	21.0	19.8	17.7	15.8	13.8	14.3	18.2
17	16.7	16.6	20.8	22.0	20.7	23.1	23.1	20.7	19.1	16.5	14.2	14.6	19.4
18	15.5	18.3	21.9	21.9	21.1	24.5	25.0	22.3	20.1	16.4	14.7	14.6	20.2
19	14.6	18.5	22.8	22.6	22.5	25.8	26.0	23.7	20.9	16.4	14.2	15.1	20.9
20	15.4	18.0	23.2	23.2	23.7	27.3	27.4	24.2	21.7	16.4	14.5	15.3	21.5
21	15.5	17.7	22.8	23.5	24.1	27.9	28.6	24.3	21.3	16.3	14.1	14.9	21.7
22	15.9	17.3	22.2	23.4	24.4	27.6	28.8	24.1	20.9	16.2	14.4	15.2	21.6
23	16.3	16.7	20.6	23.4	24.2	27.3	28.7	24.3	20.4	16.0	13.5	16.1	21.4
24	15.2	16.4	18.8	22.6	23.8	26.9	27.9	23.8	19.3	15.5	12.9	15.6	20.7
Mean	14.4	14.9	17.8	20.1	20.6	23.1	23.0	20.6	17.4	14.8	13.6	15.0	18.5

Valid Hrs	1267	1245	1452	1440	2051	2160	2232	2232	2160	2232	1455	1058
Missing Hrs	221	123	36	0	13	0	0	0	0	0	201	430

20,984 hours of valid data, 1,024 hours missing, 95.3% data recovery

Mean of monthly means: 17.9

December 11, 2008



Monthly Diurnal Mean Wind Speeds

Columbia Hills, WA Site 8 30m (MPH)

Sep 22, 2006 - Mar 10, 2009

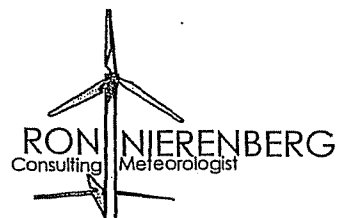
Hour	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Mean
01	13.4	12.0	13.9	14.9	15.5	16.7	16.5	14.2	11.9	11.6	11.6	11.4	13.4
02	13.6	11.6	13.4	14.2	15.1	16.7	16.1	13.7	11.8	11.3	11.4	11.9	13.2
03	13.2	11.3	14.0	13.8	15.2	16.8	15.4	13.1	11.1	11.1	11.9	11.6	13.0
04	12.7	11.5	13.6	13.6	15.4	16.3	15.1	13.1	10.5	11.3	11.5	12.0	12.9
05	12.7	11.1	13.0	13.6	14.9	16.1	14.6	12.8	10.9	11.1	10.8	11.9	12.6
06	12.6	10.7	12.6	12.7	13.8	15.2	14.1	12.9	10.8	11.2	11.3	11.9	12.4
07	12.1	10.8	12.2	12.1	13.3	14.7	13.3	12.2	10.2	10.9	11.2	11.5	11.9
08	12.0	10.5	12.0	12.9	13.3	14.7	12.9	12.0	9.6	10.7	11.4	11.1	11.8
09	11.9	10.0	12.1	13.5	13.3	14.9	12.9	12.6	10.0	10.2	11.3	11.8	11.9
10	11.3	10.1	12.7	14.8	14.0	15.1	12.7	13.0	10.8	10.7	11.7	12.0	12.3
11	11.8	10.6	13.5	15.7	13.9	15.2	12.9	13.3	11.1	11.4	12.0	11.8	12.6
12	12.7	11.3	14.7	16.3	14.3	15.8	13.4	14.1	11.3	12.0	12.0	12.3	13.2
13	13.7	11.7	15.2	16.5	15.0	16.6	14.1	14.7	12.1	12.5	12.1	12.8	13.7
14	14.6	12.6	15.7	17.0	15.7	17.6	14.9	15.5	12.5	12.9	12.3	13.0	14.3
15	14.7	13.0	16.3	17.7	16.5	18.9	15.6	16.3	13.5	13.0	13.0	13.0	14.9
16	14.8	13.2	17.3	18.3	17.3	19.7	16.7	17.1	14.4	13.0	13.2	11.9	15.3
17	15.4	12.9	17.5	18.7	18.2	20.3	17.8	17.4	15.0	12.7	12.8	12.2	15.6
18	15.5	13.1	17.4	18.2	17.9	20.9	19.1	17.5	15.3	12.7	12.5	12.6	15.7
19	15.6	13.0	17.3	16.8	17.5	21.3	19.6	17.8	15.1	12.7	12.3	12.6	15.6
20	15.6	12.8	16.8	16.9	17.6	20.2	19.1	17.4	14.5	12.1	12.1	11.8	15.2
21	15.3	12.7	15.6	17.2	17.2	19.5	18.2	17.2	13.5	11.7	11.7	11.9	14.8
22	14.4	12.8	14.8	16.3	17.0	18.9	17.5	16.1	13.2	11.3	10.7	11.9	14.3
23	14.3	12.7	13.8	15.5	16.4	18.6	16.9	15.6	12.8	11.3	10.6	11.6	13.9
24	14.3	12.6	14.0	15.1	16.2	17.4	16.7	15.0	12.4	11.4	10.8	11.4	13.7
Mean	13.7	11.9	14.6	15.5	15.6	17.4	15.7	14.8	12.3	11.7	11.8	12.0	13.7

Valid Hrs	1639	1808	1697	1440	1488	1440	1488	1488	1656	2136	1988	1873
Missing Hrs	593	232	31	0	0	0	0	0	0	96	172	359

20,141 hours of valid data, 1,483 hours missing, 93.1% data recovery

Mean of monthly means: 13.9

April 18, 2009



Monthly Diurnal Mean Wind Speeds

Columbia Hills, WA
Site 9.49.5m level (MPH)

Mar 28, 2007 - May 31, 2008

Hour	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Mean
01	16.1	16.3	17.7	20.8	22.2	24.5	26.8	19.8	20.9	14.8	15.1	16.0	19.7
02	15.6	16.1	17.2	20.0	22.0	25.0	25.3	19.6	19.4	14.6	15.2	15.4	19.2
03	15.6	15.3	17.3	19.3	22.4	24.3	23.9	20.5	18.1	14.8	16.4	14.4	18.9
04	15.0	15.1	17.6	19.0	22.3	24.9	22.9	18.3	19.5	13.5	14.7	15.8	18.7
05	14.5	15.5	16.2	18.3	21.2	23.3	21.2	18.3	18.9	13.2	13.4	15.8	17.9
06	14.4	16.0	15.1	16.9	19.2	21.5	19.7	17.3	17.6	12.7	13.3	15.6	16.9
07	13.4	14.9	14.7	15.2	16.6	19.4	16.7	15.4	15.4	13.6	13.3	15.8	15.5
08	12.9	15.5	13.5	14.1	14.7	16.6	13.4	14.3	15.4	12.9	14.6	15.0	14.4
09	12.6	15.1	12.5	13.2	13.8	15.2	11.2	12.5	13.0	10.9	14.7	15.3	13.3
10	11.4	14.2	13.1	14.0	13.4	14.8	10.6	11.7	11.8	9.9	13.2	15.1	12.9
11	12.0	12.6	13.7	15.0	14.0	15.6	11.7	12.7	11.8	10.7	12.5	13.7	13.2
12	11.6	13.2	15.2	16.0	14.7	16.3	12.5	13.5	13.1	11.6	12.6	14.0	14.0
13	12.4	13.7	15.5	16.4	15.5	17.5	13.4	14.4	13.8	11.9	12.4	14.9	14.6
14	12.6	14.5	16.5	17.5	17.1	18.9	14.7	16.0	15.1	12.8	11.3	14.6	15.6
15	13.0	15.2	17.5	18.6	18.1	19.9	16.5	17.8	15.5	13.8	11.7	14.7	16.5
16	13.8	17.1	19.4	20.1	19.5	21.7	19.3	19.6	17.3	15.6	12.9	14.6	18.1
17	14.7	17.1	20.4	21.2	20.1	23.5	22.5	20.7	18.9	17.0	13.1	14.9	19.1
18	14.3	18.9	21.5	21.0	21.0	25.6	24.3	21.4	21.2	18.0	14.3	14.2	20.0
19	13.4	20.0	22.8	21.5	22.0	25.6	25.3	23.7	23.2	16.9	13.2	15.0	20.7
20	13.5	20.2	22.7	23.3	23.6	25.9	27.3	27.1	22.9	16.6	13.3	15.3	21.6
21	13.2	19.1	21.7	24.1	24.7	26.6	26.9	25.3	23.7	16.8	13.0	16.5	21.8
22	13.1	19.1	20.3	22.9	24.0	26.4	26.0	24.4	24.0	15.0	11.9	17.8	21.1
23	13.6	18.4	18.9	21.8	23.5	24.1	26.7	23.3	23.7	14.3	11.9	17.5	20.4
24	14.7	17.8	18.7	21.2	23.3	23.3	27.7	21.1	22.7	13.6	13.1	17.2	20.1
Mean	13.6	16.3	17.5	18.8	19.5	21.7	20.3	18.7	18.2	14.0	13.4	15.4	17.7

Valid Hrs	642	695	824	1440	1487	720	720	744	720	744	544	668
Missing Hrs	102	1	16	0	1	0	24	0	0	0	176	76

9,948 hours of valid data, 396 hours missing, 96.2% data recovery

Mean of monthly means: 17.3

Monthly Diurnal Mean Wind Speeds

Columbia Hills, WA Haystack 12 49.5m level (MPH)

Mar 31, 2007 - Jan 15, 2009

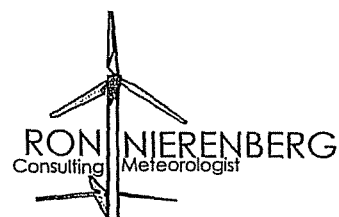
Hour	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Mean
01	17.5	18.6	17.4	19.5	20.3	21.7	20.2	16.9	14.2	11.9	14.5	15.1	17.3
02	16.9	17.5	16.8	18.7	19.7	21.3	19.5	16.8	13.6	11.9	14.1	14.5	16.8
03	15.9	18.0	17.0	18.5	19.1	20.9	19.0	16.6	13.1	12.4	14.8	14.0	16.6
04	16.1	18.6	15.3	18.5	19.3	20.6	18.3	15.6	13.1	13.4	14.7	14.9	16.5
05	16.8	18.0	15.3	18.1	18.5	20.4	17.6	15.4	13.4	13.2	14.1	15.4	16.3
06	17.0	17.5	15.9	17.5	17.9	18.2	16.4	14.5	13.6	13.0	14.5	15.3	15.8
07	17.3	16.3	16.2	16.4	16.6	16.8	14.6	13.6	13.1	13.4	14.1	15.5	15.2
08	17.5	15.7	15.0	14.9	16.3	16.2	13.5	13.5	11.8	12.7	14.1	15.5	14.6
09	17.3	15.1	14.3	14.7	15.7	15.7	13.2	13.6	11.9	11.6	13.7	15.7	14.3
10	16.7	14.3	14.5	14.9	15.2	15.4	13.1	13.7	12.2	11.6	14.0	15.4	14.1
11	16.0	14.5	14.9	15.8	14.5	16.4	13.6	14.3	13.0	11.9	13.7	15.4	14.4
12	16.4	15.1	15.8	16.4	15.3	17.2	14.1	15.3	13.4	12.4	13.7	15.4	15.0
13	16.2	15.2	15.4	17.1	15.9	18.6	14.9	16.5	14.3	12.6	13.6	16.0	15.6
14	15.5	15.6	16.2	17.6	16.1	19.6	16.2	17.5	14.9	13.4	13.0	16.6	16.1
15	16.5	16.3	18.0	18.5	17.2	21.1	17.7	18.3	15.5	13.7	13.3	16.1	16.9
16	17.4	17.8	19.7	19.3	18.5	22.2	19.6	18.8	16.5	14.2	13.4	16.0	17.8
17	18.3	19.1	20.6	20.5	19.3	23.8	21.3	19.2	17.2	14.9	14.1	16.0	18.7
18	18.3	20.7	20.7	20.4	19.3	23.8	22.5	20.3	17.9	15.0	13.9	16.4	19.0
19	17.1	21.1	20.9	19.9	20.1	23.9	22.9	21.4	18.9	14.6	13.9	16.6	19.2
20	17.2	20.9	21.2	20.7	21.1	24.2	23.3	21.8	18.8	14.6	13.3	16.8	19.5
21	17.7	20.3	20.6	20.6	21.5	24.7	23.0	21.4	18.4	14.4	13.2	16.5	19.4
22	17.9	19.8	18.8	20.4	22.0	24.3	22.2	19.9	17.1	14.0	13.2	16.0	18.8
23	17.8	18.2	18.2	20.0	21.1	23.3	21.0	18.8	16.3	13.1	13.3	16.2	18.2
24	17.2	18.1	18.3	19.6	21.2	22.5	20.8	17.9	15.0	12.8	13.1	15.8	17.7
Mean	17.0	17.6	17.4	18.3	18.4	20.5	18.3	17.1	14.9	13.2	13.8	15.7	16.8

Valid Hrs	1050	668	756	1439	1486	1440	1488	1485	1440	1488	1235	1410
Missing Hrs	54	28	12	1	2	0	0	3	0	0	205	78

15,385 hours of valid data, 383 hours missing, 97.6% data recovery

Mean of monthly means: 16.9

April 18, 2009



Monthly Diurnal Mean Wind Speeds

Columbia Hills, WA
Hector 17 49.5m level (MPH)

Dec 14, 2007 - Mar 6, 2009

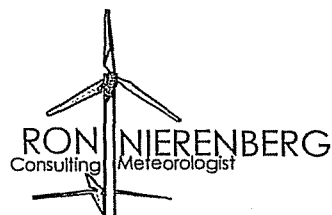
Hour	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Mean
01	16.4	13.4	15.1	16.0	17.4	20.1	16.6	15.0	10.2	12.1	12.3	12.9	14.7
02	15.9	12.5	14.7	15.3	16.9	19.4	16.8	14.4	10.0	11.7	11.2	12.7	14.2
03	15.8	12.2	14.8	14.7	17.1	18.9	16.4	13.9	10.0	12.5	10.4	12.8	14.1
04	15.4	12.8	15.6	14.8	17.0	18.8	16.4	13.2	9.5	12.9	11.1	13.0	14.2
05	15.2	12.3	14.9	14.6	16.5	18.1	16.2	13.7	9.4	13.0	10.4	13.1	13.9
06	15.2	12.1	13.9	13.2	15.2	16.4	15.1	13.4	9.0	13.2	11.3	13.4	13.5
07	13.9	11.6	13.2	12.7	13.8	15.6	13.6	12.6	8.5	12.3	10.9	12.7	12.6
08	14.3	11.5	12.7	14.0	13.7	15.6	13.4	12.7	8.5	11.6	10.5	12.8	12.6
09	14.7	11.4	12.8	14.6	14.1	15.6	13.8	13.5	9.0	11.6	11.0	12.8	12.9
10	14.1	11.2	13.7	16.1	15.0	15.9	13.7	14.4	10.7	11.7	12.3	12.6	13.3
11	14.4	11.3	14.6	17.8	15.5	15.8	13.7	14.8	11.0	12.1	12.7	12.4	13.7
12	16.1	11.8	15.6	18.6	15.6	16.3	14.3	16.0	10.9	12.7	12.7	13.2	14.4
13	16.7	12.4	16.1	18.5	16.4	17.6	15.4	16.3	11.3	13.2	12.6	13.7	14.9
14	17.1	13.1	16.4	18.8	17.2	19.1	15.9	16.7	12.1	14.0	12.8	14.4	15.5
15	16.6	13.7	17.1	20.0	18.0	20.6	16.7	17.5	12.9	14.1	13.8	14.6	16.1
16	16.3	14.2	18.5	21.3	19.1	21.5	17.7	17.8	14.8	13.4	13.8	14.1	16.7
17	17.2	14.4	18.6	21.5	19.2	22.0	18.9	18.1	15.4	13.3	13.8	13.9	17.0
18	18.0	14.5	18.0	20.3	18.7	22.4	19.5	18.4	15.4	12.9	13.2	14.4	17.0
19	17.2	14.2	18.4	18.8	18.6	22.0	20.3	19.0	15.6	12.3	13.1	14.5	16.8
20	17.8	13.9	17.9	18.6	19.2	22.4	20.5	17.7	14.1	11.2	12.9	14.3	16.5
21	17.8	13.7	16.7	19.1	18.9	22.9	18.8	16.3	12.6	11.3	12.3	14.4	16.1
22	16.2	13.6	15.8	17.8	18.4	21.9	18.6	15.1	11.5	11.4	11.3	14.0	15.4
23	17.3	13.5	15.1	16.6	18.0	22.1	18.1	15.6	10.5	12.4	11.3	13.6	15.3
24	17.1	13.4	15.5	16.8	18.0	21.3	17.1	15.1	10.5	11.9	12.1	13.4	15.1
Mean	16.1	12.9	15.7	17.1	17.0	19.3	16.6	15.5	11.4	12.5	12.1	13.5	14.9

Valid Hrs	1099	1234	888	720	744	720	744	744	720	744	690	1141
Missing Hrs	389	134	0	0	0	0	0	0	0	0	30	35

10,188 hours of valid data, 588 hours missing, 94.5% data recovery

Mean of monthly means: 15.0

April 18, 2009



Monthly Diurnal Mean Wind Speeds

Columbia Hills, WA Dooley 20 49.5m level (MPH)

May 12, 2008 - Jan 14, 2009

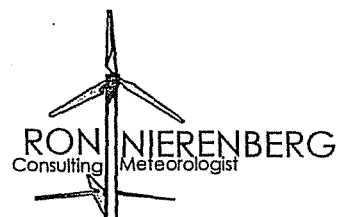
Hour	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Mean
01	15.4	0	0	0	17.2	21.6	19.4	16.4	11.1	11.3	10.5	11.5	14.9
02	16.9	0	0	0	18.1	21.0	18.3	16.7	10.9	10.4	10.2	11.2	14.7
03	16.9	0	0	0	17.8	20.3	17.8	15.9	11.5	10.5	10.0	11.8	14.5
04	17.6	0	0	0	17.1	20.2	18.0	15.3	11.3	11.8	10.3	11.6	14.6
05	18.4	0	0	0	16.3	18.9	17.1	15.2	11.0	11.6	11.2	11.6	14.3
06	17.5	0	0	0	15.9	17.6	16.1	14.5	10.9	11.8	12.0	12.7	14.1
07	18.9	0	0	0	15.8	16.1	15.1	13.5	10.5	11.6	11.7	12.1	13.6
08	18.7	0	0	0	16.1	15.8	14.5	12.9	9.4	11.0	10.9	12.4	13.1
09	19.5	0	0	0	15.6	15.2	14.5	13.4	9.3	10.8	11.0	13.4	13.1
10	18.5	0	0	0	16.3	15.4	14.2	14.1	10.4	11.3	11.3	12.0	13.3
11	20.6	0	0	0	16.3	16.0	14.4	15.1	11.9	11.7	12.4	13.1	14.2
12	21.3	0	0	0	16.1	17.4	15.1	16.5	12.2	12.0	12.1	14.4	14.8
13	22.5	0	0	0	16.9	19.6	16.0	17.3	13.3	13.1	12.3	15.4	15.8
14	23.9	0	0	0	18.3	20.6	16.8	17.6	14.3	13.7	13.0	15.4	16.5
15	24.1	0	0	0	19.4	21.7	17.9	18.8	15.7	14.3	13.3	16.2	17.5
16	24.1	0	0	0	19.9	23.2	19.9	19.1	16.7	14.2	14.2	15.9	18.2
17	25.5	0	0	0	21.2	24.4	21.7	19.0	17.0	14.5	13.1	15.6	18.7
18	25.3	0	0	0	21.3	25.6	23.0	19.6	17.7	14.2	12.7	15.7	19.1
19	23.4	0	0	0	21.9	25.1	23.3	20.0	17.9	14.4	12.4	14.7	19.0
20	20.4	0	0	0	22.2	24.6	23.5	19.5	17.3	13.4	11.3	14.1	18.4
21	20.8	0	0	0	21.7	25.0	22.9	19.4	15.2	12.8	10.9	12.0	17.7
22	19.7	0	0	0	21.5	24.1	22.0	17.8	13.6	12.4	10.9	12.3	16.9
23	18.8	0	0	0	21.8	23.5	20.7	16.3	12.5	11.7	10.9	12.7	16.3
24	17.3	0	0	0	19.5	21.7	19.7	16.0	11.4	11.7	10.5	12.9	15.5
Mean	20.2	0	0	0	18.5	20.6	18.4	16.7	13.1	12.3	11.6	13.3	15.8

Valid Hrs	302	0	0	0	480	720	744	744	720	744	701	566
Missing Hrs	34	0	0	0	0	0	0	0	0	0	19	178

5,721 hours of valid data, 231 hours missing, 96.1% data recovery

Mean of monthly means: 16.1

April 18, 2009



Monthly Diurnal Mean Wind Speeds

Columbia Hills, WA
Site 22 60m level (MPH)

Oct 15, 2008 - Feb 26, 2009

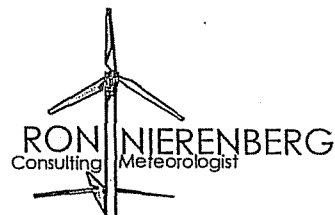
Hour	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Mean
01	11.5	6.3	0	0	0	0	0	0	0	9.0	8.0	9.3	8.8
02	11.6	6.6	0	0	0	0	0	0	0	8.8	8.0	9.2	8.8
03	11.1	6.0	0	0	0	0	0	0	0	8.7	7.8	8.6	8.4
04	11.3	7.2	0	0	0	0	0	0	0	9.2	7.6	7.9	8.6
05	12.9	6.9	0	0	0	0	0	0	0	9.6	7.0	7.8	8.7
06	12.7	6.3	0	0	0	0	0	0	0	9.0	7.6	9.4	9.0
07	13.4	6.6	0	0	0	0	0	0	0	7.6	8.1	10.4	9.3
08	12.6	7.1	0	0	0	0	0	0	0	7.6	7.9	11.2	9.3
09	12.5	7.2	0	0	0	0	0	0	0	6.8	8.2	10.8	9.2
10	11.3	6.6	0	0	0	0	0	0	0	7.4	8.7	10.8	9.1
11	12.3	6.8	0	0	0	0	0	0	0	7.2	9.5	12.1	9.8
12	14.0	7.7	0	0	0	0	0	0	0	9.3	9.4	12.7	10.7
13	14.9	7.6	0	0	0	0	0	0	0	10.6	10.3	13.8	11.5
14	14.7	7.6	0	0	0	0	0	0	0	11.0	11.6	13.6	11.8
15	14.6	7.2	0	0	0	0	0	0	0	11.5	11.4	14.2	11.8
16	15.6	7.1	0	0	0	0	0	0	0	11.2	11.9	14.0	12.0
17	16.9	7.3	0	0	0	0	0	0	0	12.1	11.1	14.3	12.4
18	15.9	7.9	0	0	0	0	0	0	0	11.5	10.0	14.1	11.9
19	17.0	7.9	0	0	0	0	0	0	0	12.4	10.0	13.6	12.1
20	16.4	6.1	0	0	0	0	0	0	0	12.1	9.5	13.0	11.3
21	15.9	6.4	0	0	0	0	0	0	0	11.3	9.3	13.2	11.1
22	15.5	6.8	0	0	0	0	0	0	0	11.1	9.1	12.6	10.9
23	14.4	6.2	0	0	0	0	0	0	0	9.3	8.8	10.9	10.0
24	12.2	5.9	0	0	0	0	0	0	0	9.7	8.0	11.2	9.3
Mean	13.8	6.9	0	0	0	0	0	0	0	9.8	9.1	11.6	10.2

Valid Hrs	612	575	0	0	0	0	0	0	0	395	719	536
Missing Hrs	132	49	0	0	0	0	0	0	0	13	1	208

2,837 hours of valid data, 403 hours missing, 87.6% data recovery

Mean of monthly means: 10.3

April 18, 2009



Monthly Diurnal Mean Wind Speeds

Columbia Hills, WA
Site 23 60m level (MPH)

Oct 19, 2008 - Apr 14, 2009

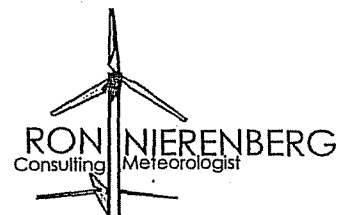
Hour	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Mean
01	14.3	7.4	13.7	20.4	0	0	0	0	0	5.8	8.9	10.9	11.4
02	13.6	7.3	14.0	19.3	0	0	0	0	0	6.7	9.2	9.8	11.3
03	13.2	7.2	12.8	21.1	0	0	0	0	0	7.5	8.1	10.0	10.9
04	13.5	7.8	13.3	19.9	0	0	0	0	0	7.7	8.7	9.7	11.2
05	15.6	7.3	13.1	18.3	0	0	0	0	0	10.1	7.9	10.0	11.3
06	15.1	6.6	12.1	17.1	0	0	0	0	0	10.0	8.3	11.2	11.0
07	14.9	7.1	12.3	16.3	0	0	0	0	0	8.0	8.6	11.8	11.0
08	14.6	7.7	11.7	14.7	0	0	0	0	0	7.7	9.1	12.4	11.0
09	14.6	8.4	12.2	13.9	0	0	0	0	0	6.3	9.6	12.1	11.1
10	14.4	8.1	14.0	14.5	0	0	0	0	0	7.3	9.9	11.6	11.4
11	15.2	8.7	16.4	16.2	0	0	0	0	0	7.7	10.0	12.9	12.5
12	16.0	9.3	18.6	17.9	0	0	0	0	0	8.9	10.1	14.1	13.6
13	17.6	9.7	18.8	17.7	0	0	0	0	0	10.5	11.3	14.9	14.4
14	17.5	9.8	20.5	18.4	0	0	0	0	0	11.1	12.1	14.6	14.9
15	17.6	9.7	21.6	19.1	0	0	0	0	0	11.6	12.3	15.4	15.4
16	18.2	9.9	21.3	19.4	0	0	0	0	0	11.3	13.5	15.4	15.6
17	19.6	9.6	21.3	19.0	0	0	0	0	0	12.4	12.3	15.3	15.6
18	19.7	10.0	20.2	18.7	0	0	0	0	0	11.5	11.3	15.2	15.1
19	19.6	10.0	19.5	19.5	0	0	0	0	0	11.6	11.6	14.8	15.1
20	19.0	8.7	18.9	21.8	0	0	0	0	0	11.6	10.4	14.7	14.6
21	18.6	8.8	17.8	20.9	0	0	0	0	0	10.7	10.4	14.3	14.1
22	18.9	8.8	17.0	19.9	0	0	0	0	0	8.4	10.1	13.0	13.5
23	16.7	7.6	15.7	18.2	0	0	0	0	0	7.1	10.0	11.0	12.2
24	14.5	7.1	14.6	20.0	0	0	0	0	0	6.5	9.3	12.2	11.7
Mean	16.4	8.5	16.3	18.4	0	0	0	0	0	9.1	10.1	12.8	12.9

Valid Hrs	509	632	742	319	0	0	0	0	0	300	717	539
Missing Hrs	235	40	2	17	0	0	0	0	0	12	3	205

3,758 hours of valid data, 514 hours missing, 88.0% data recovery

Mean of monthly means: 13.1

April 18, 2009



Monthly Diurnal Mean Wind Speeds

Columbia Hills, WA
Site BP-4706 50m level (MPH)

Jul 23, 2004 - Nov 30, 2008

Hour	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Mean
01	15.1	14.6	15.4	17.1	18.5	25.3	23.9	21.9	18.1	15.6	13.6	12.5	17.9
02	14.7	14.8	14.9	18.2	17.7	24.2	23.3	21.7	17.8	15.0	13.2	12.3	17.5
03	14.6	15.0	14.1	17.9	17.5	23.6	22.9	20.9	17.5	14.5	13.5	13.0	17.3
04	14.4	13.6	13.7	16.4	17.0	23.5	22.7	20.4	17.1	14.6	13.4	13.8	17.0
05	14.7	12.9	14.1	15.6	16.2	22.3	21.8	20.0	16.2	14.4	13.1	13.5	16.5
06	14.7	11.9	13.3	14.9	15.3	21.0	21.0	19.3	16.2	14.2	12.8	12.8	15.9
07	14.5	12.0	13.0	14.2	14.8	18.8	19.6	17.5	15.5	14.1	13.0	12.4	15.2
08	14.2	12.2	12.4	13.5	13.9	17.7	17.5	15.6	14.1	13.3	13.1	12.5	14.3
09	12.6	11.9	11.6	13.7	13.6	16.8	15.8	14.4	13.4	12.6	13.1	12.3	13.6
10	12.6	13.0	11.3	14.1	14.5	16.6	15.1	13.7	13.0	12.2	12.5	12.3	13.3
11	13.2	13.4	11.9	15.1	15.5	17.6	15.6	14.5	13.5	12.3	12.4	13.1	13.9
12	13.5	13.6	12.7	16.3	16.6	19.3	16.5	15.7	14.4	12.6	12.8	12.4	14.5
13	13.5	14.7	13.7	16.3	17.4	21.3	17.4	16.9	15.4	14.3	13.1	11.7	15.4
14	13.9	15.4	15.1	18.2	18.7	22.7	18.7	17.7	16.4	15.4	14.0	12.5	16.4
15	14.3	16.3	16.5	18.9	19.1	24.4	20.1	19.2	17.5	16.1	14.6	12.6	17.4
16	14.4	16.3	18.0	19.9	20.3	26.0	22.0	20.5	18.6	16.7	14.9	13.4	18.4
17	15.3	15.9	19.4	20.2	21.7	27.3	24.1	21.7	19.9	17.4	15.5	13.2	19.4
18	15.0	16.3	19.9	20.2	22.4	28.9	26.3	23.1	20.9	17.9	15.2	13.1	20.1
19	15.5	16.5	20.2	20.1	22.0	28.9	27.8	24.5	21.8	18.2	15.3	13.7	20.7
20	15.3	15.6	19.3	20.3	21.5	29.0	28.7	25.2	22.0	17.9	14.9	13.8	20.7
21	15.9	15.8	18.0	19.8	21.5	29.3	28.8	25.0	20.9	16.9	14.7	13.2	20.3
22	15.0	15.7	16.7	19.6	20.6	28.6	27.6	23.6	19.6	16.4	14.6	12.7	19.5
23	15.5	14.7	16.6	18.4	19.9	27.4	26.4	22.3	18.8	16.1	14.4	12.2	18.8
24	15.4	14.4	15.9	17.3	19.3	26.4	24.8	21.8	18.3	15.4	13.9	12.0	18.2
Mean	14.5	14.5	15.3	17.3	18.2	23.6	22.0	19.9	17.4	15.2	13.8	12.8	17.2

Valid Hrs	1304	1261	1477	953	1209	1440	2437	2976	2880	2976	2657	1465
Missing Hrs	1672	1451	1499	1927	1767	1440	755	744	720	744	943	1511

23,035 hours of valid data, 15,173 hours missing, 60.3% data recovery

Mean of monthly means: 17.0

Appendix B

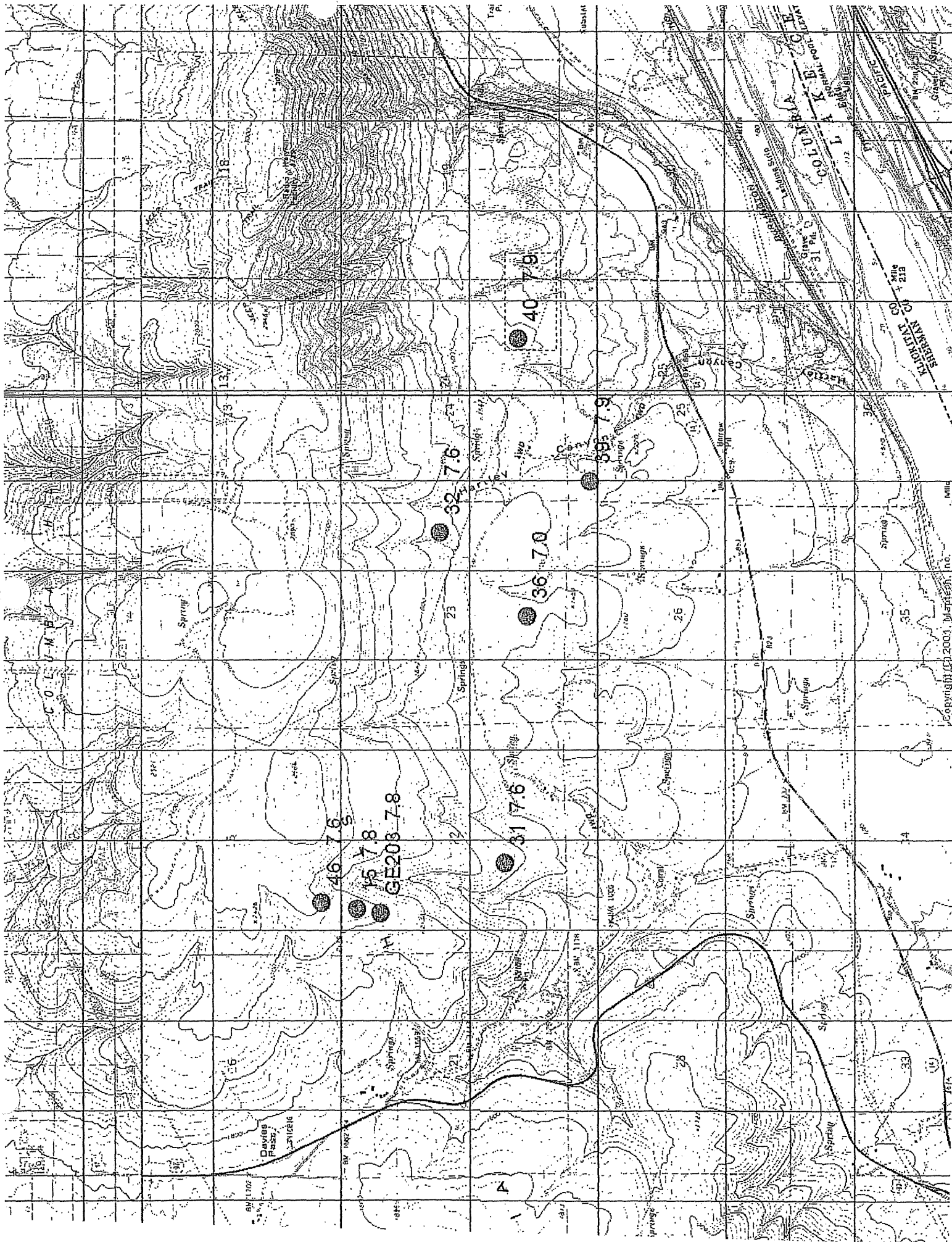
Kenetech met towers

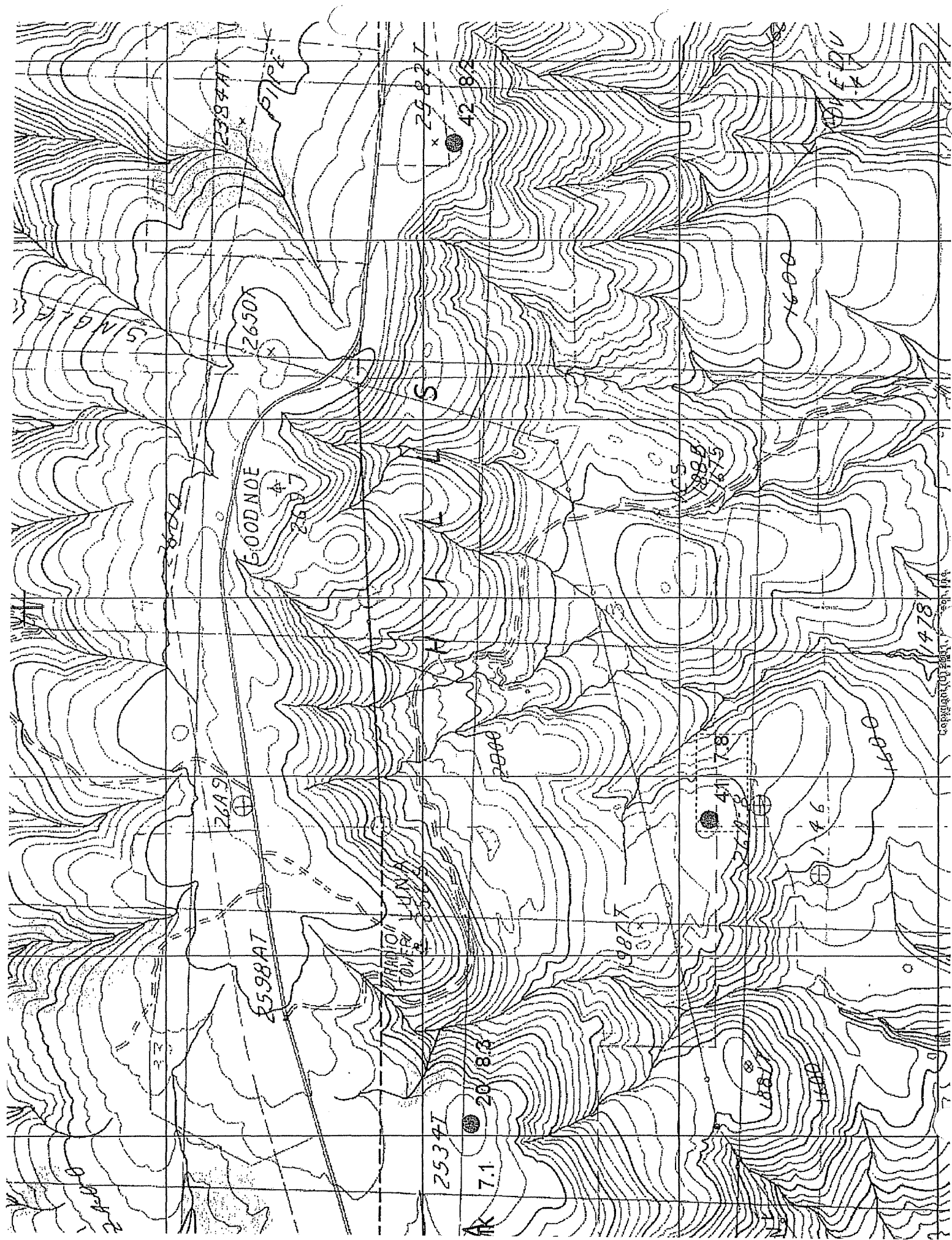
Topo maps (3)

Data recovery table

Wind speed estimates table

Monthly diurnal wind speed summaries





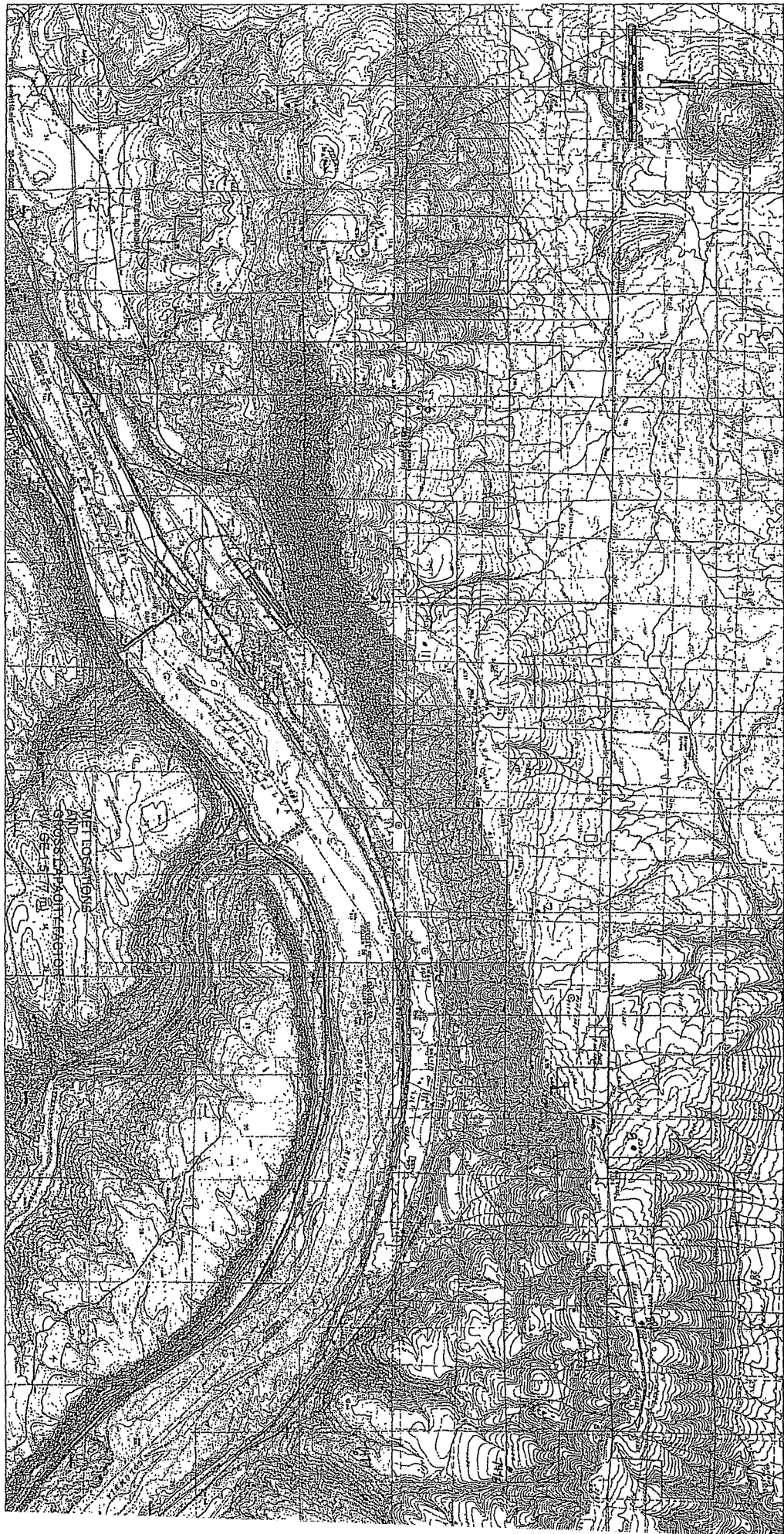


Table R

Kenetech, Columbia Hills, Windy Point met tower summary

Met	hours of data	equivalent years	% recov
1	36,731	4.2	92.1%
2	33,065	3.8	87.5%
3	30,233	3.5	81.8%
4	26,631	3.1	84.6%
5	8,547	1.0	93.5%
6	8,348	1.0	93.3%
7	4,774	0.5	88.8%
8	2,658	0.3	90.0%
9	2,829	0.3	91.4%
10	2,778	0.3	90.4%
11	2,694	0.3	94.3%
12	12,745	1.5	58.0%
13	12,992	1.5	54.8%
14	5,179	0.6	99.0%
15	20,442	2.3	92.4%
16	5,139	0.6	24.8%
17	13,418	1.5	93.6%
18	6,858	0.8	30.9%
19	20,438	2.3	85.5%
20	12,627	1.5	75.9%
21	7,236	0.8	84.7%
22	21,826	2.5	94.5%
23	6,492	0.7	79.3%
24	1,973	0.2	96.7%
25	6,184	0.7	61.6%
26	19,743	2.3	92.7%
27	17,332	2.0	82.5%
28	12,742	1.5	94.1%
29	14,958	1.7	80.7%
30	15,091	1.7	83.0%
31	14,938	1.7	97.6%
32	15,196	1.7	94.5%
33	10,131	1.2	72.0%
34	11,863	1.4	95.1%
35	13,849	1.6	82.2%
36	14,951	1.7	81.2%
37	10,280	1.2	58.1%
38	8,608	1.0	87.5%

Met	hours of data	equivalent years	% recov
39	12,894	1.5	78.9%
40	15,895	1.8	98.0%
41	11,530	1.3	83.4%
42	9,356	1.1	97.0%
43	12,541	1.4	82.7%
44	12,214	1.4	80.7%
45	7,558	0.9	66.7%
46	14,261	1.6	95.2%
47	12,407	1.4	83.7%
48	11,748	1.3	89.8%
49	7,786	0.9	95.7%
50	6,389	0.7	79.2%
51	4,422	0.5	81.9%
52	4,507	0.5	83.1%
53	5,857	0.7	37.4%
54	7,590	0.9	97.0%
55	6,348	0.7	93.8%
56	5,889	0.7	87.0%
57	5,758	0.7	83.0%
58	6,663	0.8	86.8%
59	6,285	0.7	93.9%
60	6,036	0.7	91.8%
61	6,296	0.7	95.7%
62	6,539	0.8	85.9%
63	5,617	0.6	97.9%
64	3,742	0.4	25.3%
65	3,519	0.4	58.7%
66	4,336	0.5	72.0%
67	4,288	0.5	71.5%
68	3,875	0.4	73.7%
69	1,214	0.1	21.3%
70	6,146	0.7	97.7%
71	5,717	0.7	90.9%
72	5,815	0.7	92.1%
73	6,645	0.8	97.1%
74	1,665	0.2	99.1%
75	3,568	0.4	92.9%
76	4,024	0.5	94.7%
Means	9,993	1.15	82.3%

**Table 2 Measured speed ratios to Goodnoe Hills and estimates for Columbia Hills
Kenetech Windpower met towers installed in the Windy Point Phase 2 area**

Met Tower Site	Tower height	measured shear exponent	est. shear exponent	Speed Ratio	Estimated Speed at sensor	Estimated Speed at 80m	80m (mps)	Gross Energy Siemens 2.3 MW	Gross Cap. Fac. Siemens 2.3 MW
JP3	85	0.141	0.08	136%	19.8	21.7	9.68	11,152	55.4%
GH4	50		0.10	81%	11.8	13.9	6.21	6,188	30.7%

Phase 2:

15	50	0.042	0.07	107%	15.5	17.5	7.80	8,461	42.0%
16	85	0.165	0.10	116%	16.8	18.8	8.41	9,333	46.3%
20	85	0.166	0.10	114%	16.5	18.5	8.28	9,145	45.4%
25	85	0.074	0.09	106%	15.4	17.0	7.61	8,182	40.6%
31	85	0.067	0.08	106%	15.4	17.0	7.58	7,985	39.6%
32	85	0.131	0.12	102%	14.8	16.9	7.56	8,114	40.3%
36	85	0.044	0.07	99%	14.5	15.7	7.01	7,334	36.4%
38	85	0.207	0.15	94%	13.7	16.3	7.28	7,713	38.3%
39	85	0.102	0.10	109%	15.8	17.7	7.92	8,458	42.0%
40	85	0.114	0.11	108%	15.7	17.7	7.91	8,609	42.7%
41	85	0.138	0.12	105%	15.3	17.5	7.84	8,518	42.3%
42	85	0.087	0.09	114%	16.5	18.4	8.22	9,059	45.0%
45	47		0.08	125%	18.2	20.9	9.33	10,639	52.8%
46	85	0.087	0.09	106%	15.4	17.1	7.64	8,231	40.9%
52	130	0.109	0.10	105%	15.3	16.5	7.37	7,847	38.9%
53	85	0.094	0.10	116%	16.8	18.8	8.38	9,292	46.1%
54	85	0.032	0.07	102%	14.8	16.0	7.14	7,517	37.3%
57	85	0.233	0.17	90%	13.1	15.8	7.06	7,395	36.7%
58	85	0.113	0.11	85%	12.3	13.9	6.22	6,200	30.8%
59	30	0.202	0.15	103%	15.1	20.9	9.33	10,652	52.9%
60	85	0.133	0.12	86%	12.5	14.3	6.37	6,265	31.1%
61	85	0.08	0.09	95%	13.9	15.4	6.87	6,970	34.6%
62	30		0.06	115%	16.7	19.0	8.52	9,480	47.1%
63	85	0.127	0.11	112%	16.3	18.5	8.26	9,115	45.2%
70	50		0.10	101%	14.7	17.3	7.73	8,363	41.5%
71	85		0.10	91%	13.3	14.9	6.65	6,812	33.8%
72	85	0.253	0.18	93%	13.5	16.5	7.36	7,827	38.8%
73	85	0.099	0.10	98%	14.2	15.9	7.12	7,483	37.1%
75	85	0.149	0.12	106%	15.5	17.8	7.95	8,674	43.0%
76	85	0.026	0.06	96%	14.0	15.0	6.71	6,903	34.3%
Means:		0.118	0.104	103%	15.1	17.1	7.65	8219.2	40.8%

Monthly Diurnal Mean Wind Speeds

LINDEN, COLUMBIA HILLS, WASHINGTON SITE 15 - 50 FT WIND SPEED (MPH)

Sep 9, 1993 - Mar 18, 1996

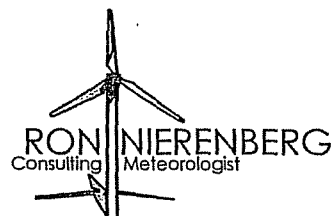
Hour	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Mean
01	12.6	12.7	13.2	18.4	16.3	20.4	20.4	19.5	15.2	16.0	14.4	12.3	15.6
02	12.3	12.4	12.9	17.8	16.9	20.0	20.4	19.5	15.3	15.3	14.4	12.6	15.4
03	12.3	11.9	12.8	18.0	17.2	20.1	20.0	18.7	14.5	15.2	14.3	12.4	15.2
04	12.4	11.5	12.8	17.8	16.6	19.6	19.6	18.8	14.1	16.4	14.4	12.8	15.3
05	12.5	11.5	12.4	18.1	16.4	18.9	19.2	17.9	13.4	15.0	13.9	13.2	14.8
06	12.5	10.9	11.8	17.6	16.1	17.7	18.4	17.2	12.8	14.4	13.3	13.4	14.3
07	12.9	10.6	11.3	17.0	15.2	17.0	17.3	16.4	12.4	14.3	12.7	13.2	13.9
08	12.8	10.1	11.1	17.1	13.7	16.5	16.1	16.4	11.6	13.8	11.8	12.7	13.3
09	11.9	9.6	10.8	17.4	13.3	15.9	15.2	16.0	11.2	13.3	11.2	11.4	12.8
10	11.3	9.8	11.6	17.4	13.1	15.1	14.4	15.1	11.5	13.7	11.7	11.5	12.8
11	12.3	9.9	12.6	17.1	13.5	15.7	15.0	15.2	12.6	14.0	12.0	12.1	13.3
12	12.8	10.4	13.7	16.8	14.0	16.2	16.2	16.3	13.8	15.5	12.3	11.7	13.9
13	12.8	11.5	14.7	17.5	14.8	17.2	17.2	17.2	15.0	15.2	13.8	11.2	14.6
14	13.1	12.0	15.7	18.0	15.8	18.5	18.1	18.6	16.3	16.0	14.7	11.5	15.5
15	13.8	12.5	16.6	18.8	17.0	20.1	19.5	19.9	16.8	16.5	14.8	12.2	16.3
16	13.8	12.7	17.1	19.1	18.4	20.7	21.4	21.5	17.8	16.9	14.5	11.7	16.8
17	13.3	12.9	16.7	19.7	18.9	22.2	23.1	23.3	17.8	16.5	14.9	12.4	17.2
18	13.0	13.6	15.5	19.8	19.7	22.7	24.0	24.2	17.5	15.7	14.8	12.8	17.2
19	13.5	13.3	15.3	19.3	18.9	22.2	23.3	23.2	17.8	15.8	13.9	13.0	17.0
20	13.5	12.9	15.1	19.1	19.3	20.9	22.6	22.0	18.2	16.4	13.7	13.0	16.8
21	13.4	13.7	15.0	19.6	19.2	20.6	22.5	22.0	17.6	15.8	13.6	12.8	16.7
22	12.8	12.7	14.9	19.0	18.5	20.2	21.9	21.3	17.0	15.6	13.7	12.0	16.2
23	12.6	12.5	14.3	19.1	17.1	20.5	21.8	20.8	15.8	15.5	13.7	12.0	15.9
24	12.2	12.5	13.8	18.7	16.7	20.2	20.9	19.9	15.9	15.7	14.2	11.8	15.7
Mean	12.8	11.8	13.8	18.2	16.5	19.1	19.5	19.2	15.1	15.4	13.6	12.3	15.3

Valid Hrs	1980	1882	1896	1216	1114	1440	1488	1487	1930	2228	2160	1621
Missing Hrs	252	158	24	224	374	0	0	1	38	4	0	611

20,442 hours of valid data, 1,686 hours missing, 92.4% data recovery

Mean of monthly means: 15.6

August 4, 2008



Monthly Diurnal Mean Wind Speeds

LUNA PT AREA COLUMBIA HILLS, WASHINGTON SITE 20 - 85 FT WIND SPEED (MPH)

Jun 22, 1993 - May 15, 1995

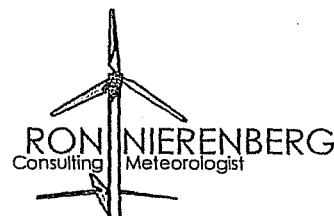
Hour	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Mean
01	14.4	14.8	14.4	18.0	18.4	21.0	22.8	22.2	15.7	17.4	13.7	11.4	17.9
02	14.5	14.8	14.0	17.2	18.4	20.9	22.1	21.4	16.0	16.7	13.7	12.0	17.5
03	14.4	13.7	14.4	18.0	19.6	21.3	21.6	20.3	15.2	16.5	12.8	11.3	17.3
04	14.4	12.7	13.9	18.1	19.4	20.9	20.9	19.9	14.7	16.3	13.3	11.4	17.1
05	14.2	11.4	13.2	18.0	18.6	21.3	20.4	20.4	14.2	15.4	12.5	11.2	16.7
06	13.0	10.8	12.0	17.2	17.3	20.5	19.5	19.6	13.7	15.2	12.4	11.7	16.0
07	12.7	11.8	11.7	15.8	15.7	17.4	17.4	17.3	12.7	14.8	12.6	11.8	14.8
08	12.1	11.1	11.8	15.0	14.5	15.8	15.0	14.7	10.7	14.3	12.5	12.1	13.6
09	12.6	10.1	10.8	15.0	13.6	15.1	13.7	13.7	9.7	12.6	11.5	12.1	12.7
10	12.7	11.5	11.5	14.3	13.6	15.5	13.6	13.0	9.9	12.3	11.4	12.0	12.7
11	12.5	12.5	12.2	14.5	14.9	16.4	14.5	13.7	10.3	12.3	10.5	11.9	13.1
12	12.6	13.4	13.3	15.2	14.8	17.5	15.5	14.8	11.7	12.8	10.2	11.4	13.8
13	13.1	14.6	14.4	15.1	14.9	18.6	16.9	15.5	13.4	13.9	11.1	12.4	14.7
14	12.6	14.5	14.6	15.8	15.4	19.4	17.8	16.0	14.4	14.5	12.4	12.0	15.3
15	12.3	15.6	14.9	16.3	15.7	20.5	19.2	17.1	14.8	14.9	11.9	12.2	15.9
16	13.0	15.8	15.2	16.7	16.1	21.7	19.6	18.1	15.5	15.1	12.0	12.6	16.4
17	13.1	15.1	16.2	17.3	17.4	22.0	20.5	20.2	15.9	15.7	13.4	14.0	17.3
18	14.5	15.6	15.6	18.3	18.0	21.8	21.0	22.0	16.0	16.6	13.8	12.9	17.8
19	14.6	15.4	15.7	19.1	18.4	21.9	22.3	22.9	16.3	16.4	12.7	14.1	18.2
20	15.1	15.6	16.8	20.0	20.5	22.0	23.6	24.4	17.5	16.3	12.6	14.5	19.0
21	14.9	15.3	16.6	19.9	21.0	23.4	24.0	25.1	16.6	16.4	11.9	12.9	19.1
22	15.1	15.6	15.0	19.7	19.8	22.6	23.5	24.6	15.8	16.8	12.2	12.1	18.7
23	14.4	14.5	14.7	19.8	19.1	22.9	22.8	23.6	15.5	17.1	13.2	12.6	18.4
24	13.6	14.9	14.8	19.5	18.6	21.8	22.9	22.8	15.7	17.0	13.5	11.2	18.1
Mean	13.6	13.8	14.1	17.3	17.2	20.1	19.6	19.3	14.2	15.3	12.4	12.2	16.3

Valid Hrs	730	521	744	1351	1097	923	1488	1487	1440	1488	922	436
Missing Hrs	758	823	744	89	7	13	0	1	0	0	518	1052

12,627 hours of valid data, 4,005 hours missing, 75.9% data recovery

Mean of monthly means: 15.8

August 4, 2008



Monthly Diurnal Mean Wind Speeds

LINDEN, COLUMBIA HILLS, WASHINGTON SITE 31 - 85 FT WIND SPEED (MPH)

Mar 26, 1994 - Dec 23, 1995

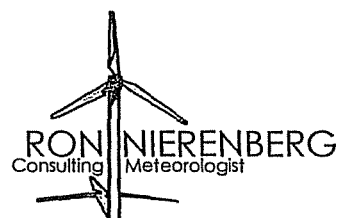
Hour	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Mean
01	8.0	11.0	11.5	17.4	17.7	21.2	22.3	20.6	16.3	16.9	15.4	11.4	16.8
02	8.1	10.2	11.6	16.8	17.6	21.3	22.2	20.5	15.5	16.6	15.0	11.8	16.6
03	8.0	10.4	11.3	16.6	18.0	21.3	21.4	20.0	15.2	15.8	14.8	11.8	16.3
04	7.1	10.1	11.4	16.1	17.4	20.2	20.9	19.8	14.3	15.9	14.7	11.9	15.9
05	7.0	10.9	10.2	16.2	17.0	19.2	21.3	19.5	13.0	15.5	14.5	12.7	15.6
06	7.3	11.0	9.6	15.2	16.3	18.3	19.9	18.4	12.0	14.2	14.3	12.8	14.9
07	6.8	9.0	9.4	14.7	14.5	17.0	17.5	17.1	11.4	13.8	13.2	12.6	13.8
08	6.7	8.5	8.9	14.8	12.7	15.4	15.1	15.6	10.5	13.7	12.5	12.3	12.8
09	7.2	7.6	9.1	15.0	12.8	14.7	13.6	14.4	9.0	13.0	11.8	10.8	12.1
10	7.6	6.9	9.4	15.2	13.2	14.7	13.9	14.2	9.2	13.2	12.3	11.0	12.3
11	7.4	8.2	11.2	16.0	13.7	15.6	14.7	15.1	10.6	14.1	12.7	11.1	13.1
12	7.6	8.6	11.6	16.3	14.0	16.0	16.3	16.1	12.1	15.5	12.6	11.2	13.8
13	8.8	9.2	12.6	16.9	15.3	17.3	17.2	17.5	13.6	16.1	13.8	11.3	14.8
14	9.0	10.4	13.2	17.0	16.4	18.5	18.1	18.4	14.5	16.7	14.8	11.6	15.6
15	10.3	10.7	14.2	18.0	17.2	19.6	19.3	19.4	15.4	17.0	14.3	11.9	16.3
16	11.0	11.7	15.3	17.8	17.6	20.1	20.9	20.3	16.0	16.9	14.0	11.5	16.7
17	9.7	13.4	15.5	17.3	17.6	20.7	21.8	21.0	16.4	16.3	15.6	11.6	17.1
18	10.3	13.4	14.7	17.1	17.6	20.8	21.2	20.9	17.4	15.7	15.6	12.2	17.1
19	9.9	13.6	14.9	18.0	18.6	21.1	21.0	21.9	19.0	16.4	15.2	12.7	17.6
20	8.9	13.8	14.7	19.1	20.0	21.7	22.8	24.0	20.0	16.5	15.1	12.6	18.3
21	8.4	13.5	14.7	19.3	20.1	22.4	23.9	24.4	18.7	16.8	14.8	13.0	18.5
22	8.4	12.2	14.6	18.3	19.2	22.3	23.5	23.4	17.6	16.1	14.1	12.8	17.8
23	8.0	11.4	12.9	17.9	18.6	22.5	23.7	22.8	17.2	15.7	14.6	11.9	17.4
24	8.7	11.1	12.2	17.9	18.5	22.3	23.0	21.5	17.1	16.1	15.2	11.5	17.3
Mean	8.4	10.7	12.3	16.9	16.7	19.3	19.8	19.4	14.7	15.6	14.2	11.9	15.8

Valid Hrs	686	661	872	1440	1488	1440	1488	1487	1440	1460	1413	1063
Missing Hrs	58	11	16	0	0	0	0	1	0	28	27	233

14,938 hours of valid data, 374 hours missing, 97.6% data recovery

Mean of monthly means: 15.0

August 4, 2008



Monthly Diurnal Mean Wind Speeds

LINDEN, COLUMBIA HILLS, WASHINGTON SITE 32 - 85 FT WIND SPEED (MPH)

Mar 28, 1994 - Jan 26, 1996

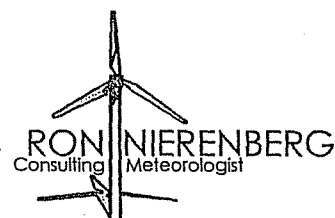
Hour	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Mean
01	10.3	12.1	11.9	16.9	18.0	22.1	23.5	20.6	14.8	16.4	14.2	10.9	16.4
02	10.4	11.9	11.6	16.7	17.7	21.6	23.3	21.2	13.6	16.0	13.2	11.3	16.1
03	10.1	11.7	11.3	17.0	18.1	21.1	22.4	19.9	13.1	15.4	13.4	12.0	15.9
04	10.2	10.3	11.3	16.3	17.9	20.2	21.2	19.9	12.4	15.0	13.0	11.8	15.4
05	10.2	10.4	10.9	16.2	16.8	18.9	20.2	19.9	11.6	14.1	13.1	12.3	15.0
06	10.8	9.4	10.8	15.9	16.7	17.1	18.0	19.0	11.4	14.1	13.4	12.9	14.6
07	11.0	8.3	9.9	14.9	13.7	15.7	15.3	17.4	10.8	13.4	12.3	12.2	13.3
08	10.5	8.2	9.3	14.4	12.3	14.8	13.9	16.5	10.4	12.6	11.9	11.6	12.5
09	9.8	6.3	9.3	14.3	12.1	14.7	14.0	15.6	10.0	12.2	11.2	10.2	12.0
10	9.7	6.4	9.6	14.4	12.6	14.7	13.5	14.7	10.8	12.1	10.8	10.4	12.0
11	9.5	7.7	10.6	14.9	13.2	15.6	14.0	13.8	11.2	13.1	11.5	10.7	12.5
12	9.3	8.3	11.6	15.1	13.5	16.4	15.5	15.5	12.6	14.3	11.9	10.6	13.2
13	9.7	8.6	12.9	15.6	14.4	17.3	16.4	16.1	13.3	15.1	12.7	10.8	13.9
14	9.9	9.6	13.7	15.7	15.5	18.3	17.2	16.8	13.8	15.3	12.8	10.6	14.4
15	11.0	10.6	14.1	16.2	16.0	19.4	18.2	18.0	14.7	15.2	13.2	11.3	15.1
16	11.6	11.9	15.6	16.5	16.5	19.7	19.6	18.3	15.9	15.9	13.8	10.8	15.8
17	11.3	13.1	15.9	16.6	17.6	20.6	20.8	18.4	16.3	15.6	15.1	10.7	16.2
18	11.9	12.5	13.7	17.1	18.1	20.9	21.9	19.5	16.6	15.0	15.1	11.6	16.4
19	12.0	12.0	14.3	18.0	18.5	20.8	22.8	20.5	17.3	15.7	14.9	11.7	16.9
20	11.2	12.4	15.5	18.3	19.3	21.1	22.8	22.3	18.3	16.1	14.8	11.7	17.4
21	11.0	11.7	15.5	19.1	19.7	21.8	24.1	23.2	17.5	16.5	14.4	12.0	17.6
22	11.2	10.6	15.3	18.3	19.0	21.8	24.1	23.1	16.9	15.9	14.4	11.4	17.3
23	10.1	10.6	14.2	17.9	18.8	22.5	24.6	22.7	16.3	15.5	14.3	10.9	17.1
24	10.3	11.3	13.1	17.7	18.6	22.4	24.3	22.1	15.3	15.8	14.6	10.8	16.9
Mean	10.6	10.2	12.6	16.4	16.4	19.2	19.6	19.0	13.9	14.8	13.3	11.3	15.2

Valid Hrs	1218	628	826	1440	1488	1146	1488	1404	1440	1483	1433	1202
Missing Hrs	150	44	14	0	0	294	0	84	0	5	7	286

15,196 hours of valid data, 884 hours missing, 94.5% data recovery

Mean of monthly means: 14.8

August 4, 2008



Monthly Diurnal Mean Wind Speeds

LINDEN, COLUMBIA HILLS, WASHINGTON SITE 36 - 85 FT WIND SPEED (MPH)

Dec 21, 1993 - Jan 26, 1996

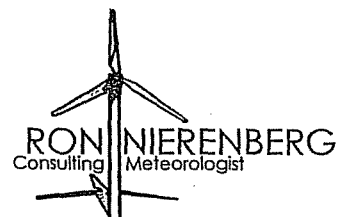
Hour	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Mean
01	9.6	9.2	11.1	12.9	16.5	21.0	22.3	20.4	15.9	16.0	13.7	9.2	15.1
02	9.3	9.3	10.5	12.0	16.7	20.6	22.1	20.1	14.8	15.4	12.5	9.6	14.7
03	9.4	9.3	10.8	12.3	17.2	20.4	21.5	19.4	13.9	14.8	12.4	9.9	14.5
04	9.3	8.7	10.3	12.7	17.4	19.1	20.5	19.5	12.4	14.8	12.3	9.5	14.1
05	9.3	8.6	10.4	12.7	15.9	18.5	19.5	18.3	11.4	13.7	12.3	9.6	13.5
06	10.1	7.8	9.0	12.7	15.2	17.6	17.2	17.1	11.4	13.3	11.4	9.8	12.9
07	10.0	7.2	8.5	13.4	13.9	16.4	15.4	16.5	11.2	13.3	10.1	10.0	12.3
08	9.6	6.9	8.3	15.4	12.2	15.3	14.1	14.7	10.5	12.4	9.9	9.8	11.5
09	9.1	6.8	8.3	16.7	12.3	14.9	14.0	14.8	9.4	12.7	9.0	8.7	11.2
10	9.0	7.4	8.8	17.2	12.5	14.6	13.9	14.4	10.0	13.4	9.6	8.8	11.4
11	9.0	8.4	10.6	18.3	13.0	15.4	14.5	14.7	10.9	13.3	9.9	8.8	11.9
12	10.0	9.3	11.8	17.8	13.8	16.0	16.1	15.8	12.0	14.4	9.8	8.6	12.7
13	10.3	10.2	13.4	18.1	14.8	17.1	16.7	16.8	13.7	15.2	11.1	8.5	13.6
14	10.4	10.5	14.5	16.9	15.9	18.0	17.6	17.8	15.1	15.7	12.1	8.9	14.2
15	10.8	10.6	14.5	17.2	16.5	19.4	19.0	19.0	16.1	15.4	11.7	9.2	14.8
16	11.5	11.3	14.9	19.0	17.4	20.1	20.6	20.1	17.6	15.4	12.4	8.8	15.6
17	11.0	12.0	14.9	18.2	18.2	21.3	22.0	21.9	18.4	15.3	14.2	8.5	16.2
18	11.8	12.2	14.5	17.9	18.9	22.1	23.0	22.8	19.2	15.0	13.6	9.6	16.7
19	12.1	11.3	15.6	18.5	19.5	22.3	23.5	23.3	20.2	15.5	13.8	10.4	17.1
20	11.1	11.6	15.1	19.1	20.9	22.3	24.3	24.0	20.8	15.8	14.3	10.9	17.4
21	10.9	11.7	15.7	17.8	20.5	22.3	24.6	24.3	19.9	16.1	13.9	10.8	17.4
22	10.3	9.9	14.4	17.1	19.5	22.2	24.1	23.8	17.9	15.2	13.4	9.7	16.5
23	9.6	9.7	13.8	15.4	18.6	22.6	24.3	23.3	17.7	15.0	13.3	9.3	16.2
24	9.6	9.8	12.3	14.7	18.1	22.3	23.4	21.9	17.3	15.4	13.8	9.3	15.8
Mean	10.2	9.6	12.2	16.0	16.5	19.2	19.8	19.4	14.9	14.7	12.1	9.4	14.5

Valid Hrs	1914	1249	1079	387	1278	1440	1488	1488	1072	1259	941	1356
Missing Hrs	198	95	409	1053	210	0	0	0	368	229	499	396

14,951 hours of valid data, 3,457 hours missing, 81.2% data recovery

Mean of monthly means: 14.5

August 4, 2008



Monthly Diurnal Mean Wind Speeds

LINDEN, COLUMBIA HILLS, WASHINGTON SITE 39 - 85 FT WIND SPEED (MPH)

Mar 17, 1994 - Jan 26, 1996

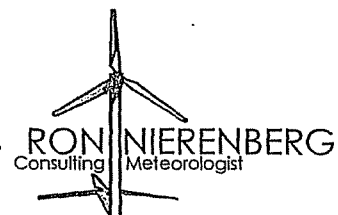
Hour	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Mean
01	9.0	9.2	11.6	17.8	17.0	21.1	21.1	18.2	14.1	19.0	14.5	10.5	15.9
02	9.3	9.6	11.9	17.3	16.8	20.6	21.0	17.5	13.4	18.2	14.0	10.4	15.6
03	10.1	10.2	11.6	16.4	17.0	20.4	20.0	17.6	13.3	16.6	15.1	10.6	15.5
04	9.8	9.6	11.4	16.0	16.9	19.7	18.2	17.7	13.1	15.8	14.7	11.6	15.1
05	9.9	10.1	10.2	16.0	15.1	18.0	17.0	17.3	12.9	14.5	14.7	11.5	14.4
06	11.4	9.8	9.8	15.5	14.4	17.5	15.4	15.9	11.7	13.9	14.9	11.2	13.8
07	10.0	8.7	9.1	15.0	13.6	16.8	14.8	15.0	11.6	13.8	13.8	10.9	13.1
08	9.6	7.7	8.5	14.9	12.7	16.2	15.2	14.7	10.4	13.1	12.1	10.6	12.6
09	9.1	7.1	9.1	15.3	13.5	16.0	15.0	15.5	9.5	12.0	11.3	9.3	12.4
10	9.4	6.8	9.8	15.6	13.7	15.9	14.9	15.2	9.7	12.4	12.3	8.6	12.6
11	9.2	7.7	11.0	16.2	14.2	16.9	15.8	15.5	10.2	13.8	13.6	9.5	13.3
12	9.1	8.4	12.4	16.4	15.1	17.4	17.7	17.2	11.4	15.1	14.8	9.1	14.2
13	9.7	8.7	14.2	17.2	16.0	18.5	18.6	18.4	13.0	17.4	15.4	9.9	15.2
14	10.8	9.1	15.0	17.3	17.0	19.3	19.7	19.5	14.8	17.4	16.4	9.9	16.1
15	12.0	10.2	16.2	18.5	17.8	21.0	20.7	20.7	16.0	17.4	16.2	10.1	17.1
16	13.4	10.7	17.4	18.7	18.4	21.7	22.4	21.9	17.4	18.4	16.6	9.7	17.9
17	12.2	12.0	17.9	19.1	19.7	23.0	23.7	22.9	17.7	18.8	17.8	9.3	18.6
18	11.7	12.6	17.2	19.0	20.2	23.4	24.4	23.7	19.4	19.7	18.1	10.6	19.1
19	12.1	11.8	17.8	20.2	21.4	23.8	25.2	24.5	20.5	19.9	17.1	10.7	19.6
20	11.1	12.4	17.9	20.9	22.5	23.8	25.2	25.5	21.1	19.5	14.9	11.8	19.9
21	10.2	11.0	17.4	20.7	22.1	24.2	24.7	25.2	18.9	18.2	15.2	11.2	19.3
22	10.2	9.1	16.5	18.9	20.1	23.3	22.9	23.4	16.4	16.3	13.8	10.3	17.8
23	10.1	8.9	15.3	18.2	18.4	22.6	23.2	22.1	15.0	16.8	14.4	10.6	17.2
24	10.4	9.4	13.2	18.3	17.7	21.5	22.0	19.4	13.9	17.4	15.1	9.6	16.4
Mean	10.4	9.6	13.5	17.5	17.1	20.1	19.9	19.4	14.4	16.5	14.9	10.3	16.0

Valid Hrs	959	672	1093	1440	1488	1438	1207	1134	1290	742	720	711
Missing Hrs	409	0	11	0	0	2	281	354	150	746	720	777

12,894 hours of valid data, 3,450 hours missing, 78.9% data recovery

Mean of monthly means: 15.3

August 4, 2008



Monthly Diurnal Mean Wind Speeds

LINDEN, COLUMBIA HILLS, WASHINGTON SITE 40 - 85 FT WIND SPEED (MPH)

Mar 22, 1994 - Jan 26, 1996

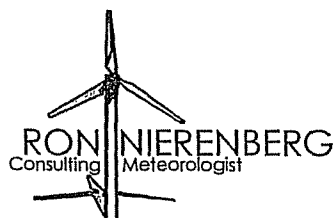
Hour	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Mean
01	10.4	9.9	11.4	18.9	18.0	21.9	22.5	20.9	14.5	17.1	13.9	11.7	16.5
02	10.5	10.5	11.5	17.9	17.7	20.8	21.4	20.2	13.7	16.4	13.6	12.3	16.1
03	11.0	10.0	10.9	17.8	18.3	20.8	19.8	19.9	13.1	15.3	14.0	12.3	15.8
04	11.1	9.6	10.8	16.6	18.1	19.9	18.3	19.2	12.8	15.1	13.5	12.3	15.3
05	11.1	9.5	10.0	16.6	16.1	18.7	16.7	18.7	12.1	14.0	13.5	12.2	14.5
06	11.9	8.8	9.8	15.7	15.2	18.1	15.5	17.0	11.1	13.8	13.5	12.0	13.9
07	11.5	8.2	9.5	15.3	14.3	17.0	14.8	15.5	10.6	13.4	12.4	12.3	13.3
08	10.7	7.4	9.1	14.7	13.0	16.0	14.5	14.7	10.1	12.8	12.1	11.7	12.6
09	10.3	6.4	9.2	15.1	13.3	15.6	15.0	15.4	9.5	13.2	11.1	10.6	12.5
10	10.7	6.7	9.5	15.3	13.5	15.4	14.9	15.3	9.6	13.2	11.8	11.0	12.7
11	10.7	8.1	10.4	15.9	14.0	16.2	15.7	15.5	10.4	14.0	12.4	11.0	13.2
12	9.9	8.6	11.3	15.8	14.7	16.8	17.2	16.5	12.0	14.9	12.9	10.8	13.8
13	10.3	9.2	13.0	16.5	15.4	17.9	18.2	17.3	13.4	16.2	13.6	11.2	14.7
14	10.6	9.3	13.9	16.9	16.6	18.8	19.0	18.4	14.9	17.0	14.3	11.1	15.5
15	11.3	10.1	14.9	17.7	17.3	20.3	20.0	19.8	15.9	17.0	14.4	11.3	16.2
16	12.8	11.3	16.2	18.1	17.7	20.9	21.2	21.1	17.6	17.6	15.4	11.1	17.1
17	12.5	13.7	17.0	18.4	18.7	22.2	22.6	22.7	18.0	17.7	16.5	11.3	18.0
18	13.1	13.3	16.2	18.3	19.6	22.6	23.7	23.9	19.1	17.8	16.1	12.7	18.5
19	13.0	12.2	16.4	19.7	20.5	23.3	25.3	24.6	20.6	18.4	15.9	12.9	19.1
20	11.7	12.2	16.8	20.6	22.2	23.9	26.0	27.1	20.6	17.8	15.5	13.6	19.6
21	11.3	11.3	16.7	21.0	22.3	24.8	26.0	27.5	18.8	18.0	14.8	13.1	19.4
22	10.9	9.4	16.6	20.0	21.3	24.2	25.6	26.9	17.2	16.4	14.3	11.8	18.5
23	10.8	9.2	14.6	19.0	19.7	23.5	25.3	24.9	16.0	15.7	14.3	11.5	17.7
24	11.2	10.2	13.0	19.4	18.7	22.9	23.7	22.7	14.7	16.1	14.4	10.8	17.1
Mean	11.2	9.8	12.9	17.6	17.3	20.1	20.1	20.2	14.4	15.8	13.9	11.8	15.9

Valid Hrs	1263	605	969	1440	1488	1439	1487	1488	1440	1488	1440	1348
Missing Hrs	105	67	15	0	0	1	1	0	0	0	0	140

15,895 hours of valid data, 329 hours missing, 98.0% data recovery

Mean of monthly means: 15.4

August 4, 2008



Monthly Diurnal Mean Wind Speeds

DAVENPORT, COLUMBIA HILLS, WASHINGTON SITE 41 - 85 FT WIND SPEED (MPH)

Apr 14, 1994 - Nov 10, 1995

Hour	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Mean
01	5.3	12.8	13.8	17.4	19.7	21.7	22.6	22.5	15.7	14.1	13.0	14.4	16.9
02	7.3	12.6	13.3	17.3	19.4	22.2	21.7	21.6	14.5	13.7	11.9	14.8	16.5
03	5.8	11.6	13.1	16.9	19.6	22.0	20.3	21.1	13.1	13.7	12.3	18.1	16.0
04	5.9	11.9	12.6	16.8	18.5	20.7	18.7	21.1	12.8	13.1	11.8	18.3	15.4
05	6.2	12.1	11.8	16.4	18.3	19.2	17.9	21.2	12.3	12.9	11.4	17.6	15.0
06	5.9	9.5	10.8	16.3	16.8	17.2	16.0	18.4	11.2	12.0	11.4	15.8	13.7
07	5.9	9.0	10.3	16.5	14.6	15.5	13.6	15.7	9.6	12.0	11.0	12.1	12.5
08	5.4	8.2	11.1	14.9	14.0	15.1	13.2	15.0	8.3	12.6	10.8	9.7	12.0
09	6.2	7.9	11.6	14.9	13.6	15.7	13.9	15.8	8.1	12.9	11.1	8.8	12.2
10	6.0	8.1	12.0	15.1	14.0	16.4	14.3	15.6	9.0	13.5	11.4	9.9	12.6
11	6.0	8.4	14.0	15.4	15.0	16.6	15.4	16.6	10.5	13.7	12.8	9.5	13.4
12	6.8	8.2	14.3	15.4	16.0	17.8	17.2	17.5	12.6	14.7	14.3	13.3	14.5
13	7.4	8.7	15.1	15.3	16.7	19.0	18.3	17.8	13.7	15.5	14.8	11.7	15.2
14	8.2	9.5	15.7	14.7	17.1	20.3	19.3	18.6	14.3	16.4	15.0	12.1	15.8
15	9.6	10.8	16.1	14.0	17.7	20.9	20.7	19.4	14.9	15.5	14.6	14.2	16.3
16	10.1	10.9	16.8	12.9	18.0	21.2	20.8	20.8	15.8	15.5	14.6	13.6	16.5
17	9.7	12.3	16.4	12.5	19.1	22.1	22.1	23.2	16.4	15.4	14.9	15.3	17.1
18	9.2	13.6	16.9	13.0	19.8	22.4	22.6	25.1	16.1	15.0	14.5	16.5	17.5
19	8.9	13.8	17.1	14.7	20.0	22.2	23.3	26.3	17.6	15.2	15.0	17.7	18.1
20	7.7	13.5	16.3	15.7	21.2	21.8	22.9	27.4	18.7	14.9	14.3	19.0	18.2
21	8.3	13.2	15.8	16.7	22.5	22.0	22.6	27.5	18.1	15.3	13.3	18.0	18.2
22	7.7	12.6	15.4	17.6	20.6	22.7	23.2	26.9	16.5	15.7	13.0	15.9	18.0
23	7.3	12.7	14.2	17.3	20.5	22.9	23.8	26.0	16.4	15.1	12.9	12.9	17.7
24	7.3	12.0	12.9	17.3	20.0	22.5	23.8	24.1	15.9	15.7	13.4	12.2	17.5
Mean	7.3	11.0	14.1	15.6	18.0	20.0	19.5	21.0	13.8	14.3	13.1	14.1	15.7

Valid Hrs	628	650	707	1112	912	1359	1344	744	1424	1488	891	271
Missing Hrs	116	22	37	16	576	81	144	744	16	0	69	473

11,530 hours of valid data, 2,294 hours missing, 83.4% data recovery

Mean of monthly means: 15.2

Monthly Diurnal Mean Wind Speeds

DAVENPORT, COLUMBIA HILLS, WASHINGTON SITE 42 - 85 FT WIND SPEED (MPH)

Mar 30, 1994 - May 5, 1995

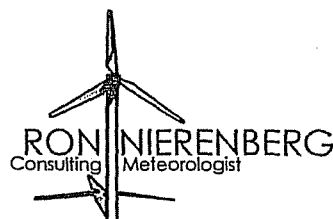
Hour	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Mean
01	10.4	15.2	14.8	17.6	17.7	20.1	19.6	20.7	15.3	19.1	15.6	13.8	16.9
02	11.0	15.2	15.8	17.6	17.4	19.5	20.0	19.4	15.6	18.1	16.6	14.3	16.9
03	12.5	15.3	15.0	18.0	17.4	20.9	18.9	18.8	15.4	17.6	16.2	14.4	16.9
04	11.4	15.3	14.5	18.3	17.0	21.5	18.4	18.7	13.9	17.6	16.4	17.4	16.9
05	11.7	16.0	14.6	17.9	16.5	21.0	17.4	19.1	14.4	16.6	15.6	18.0	16.7
06	12.2	15.3	13.1	17.4	15.5	19.4	15.7	19.1	13.2	16.5	16.3	16.7	16.0
07	10.8	13.9	12.9	16.6	14.2	16.8	13.0	16.5	11.8	15.0	15.8	17.0	14.7
08	9.6	13.0	11.0	15.7	12.4	15.4	10.4	14.1	10.7	15.0	15.5	15.1	13.3
09	9.6	11.1	12.0	15.1	12.2	15.3	11.0	13.7	9.1	14.4	15.3	14.9	13.0
10	9.6	10.1	12.9	15.1	13.5	16.7	12.3	14.7	9.2	14.7	14.6	13.3	13.3
11	9.5	9.7	12.9	16.0	15.1	17.6	14.2	15.9	11.1	15.6	14.6	11.9	14.0
12	10.1	9.9	14.6	16.8	15.8	18.8	15.6	17.1	13.2	16.8	16.2	12.6	15.1
13	10.5	10.1	14.8	17.2	15.8	19.9	17.3	17.4	15.2	17.9	16.8	13.7	15.8
14	12.1	11.3	15.6	17.4	16.5	20.9	18.5	17.9	15.6	19.0	17.4	13.3	16.5
15	13.2	12.3	16.6	17.5	16.7	22.1	20.1	18.9	15.6	19.0	17.2	14.2	17.1
16	13.3	13.6	17.8	17.9	17.7	22.2	21.5	20.0	16.0	19.6	17.1	13.9	17.7
17	14.8	14.2	18.5	18.2	18.3	22.8	21.6	22.0	17.1	19.6	18.2	13.2	18.3
18	14.4	15.1	17.7	18.3	19.0	22.8	21.3	23.9	17.2	19.1	18.7	13.8	18.5
19	13.7	16.2	17.4	19.5	18.9	23.1	22.1	25.3	18.3	19.1	17.6	14.4	19.0
20	12.9	17.5	17.9	20.1	20.6	23.6	22.1	26.9	18.1	19.4	17.4	15.4	19.5
21	11.8	16.6	17.4	19.4	21.3	24.1	21.0	27.0	17.8	19.0	16.3	16.1	19.2
22	11.7	16.1	17.1	19.5	20.5	22.1	19.4	26.2	16.6	18.5	15.6	16.2	18.6
23	10.8	15.9	16.5	19.1	19.4	22.5	19.0	24.9	16.2	18.8	16.0	16.2	18.2
24	10.4	15.3	16.0	18.7	18.4	20.7	18.5	22.8	15.3	18.7	16.1	14.9	17.4
Mean	11.6	13.9	15.3	17.7	17.0	20.4	17.9	20.0	14.7	17.7	16.4	14.8	16.7

Valid Hrs	578	672	780	1415	850	720	744	744	720	744	720	669
Missing Hrs	166	0	12	25	14	0	0	0	0	0	0	75

9,356 hours of valid data, 292 hours missing, 97.0% data recovery

Mean of monthly means: 16.4

August 4, 2008



Monthly Diurnal Mean Wind Speeds

LINDEN, COLUMBIA HILLS, WASHINGTON SITE 46 - 85 FT WIND SPEED (MPH)

May 4, 1994 - Jan 17, 1996

Hour	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Mean
01	12.9	12.2	13.8	13.9	16.1	19.4	19.4	18.6	14.8	16.1	15.6	14.2	16.1
02	14.0	11.9	14.0	13.4	16.5	19.3	19.1	18.4	14.5	15.9	16.1	13.7	16.1
03	14.1	12.2	13.0	13.7	16.7	19.3	18.7	17.8	14.0	15.8	15.8	13.8	15.9
04	13.1	12.6	13.3	14.3	16.7	18.5	18.2	17.6	13.8	16.0	16.1	14.1	15.8
05	13.4	13.3	13.3	15.2	16.2	18.0	18.0	17.0	13.2	16.1	15.2	14.7	15.6
06	14.0	13.7	12.4	15.1	15.7	16.9	17.2	16.7	12.8	15.0	14.9	15.0	15.2
07	14.2	12.8	12.8	14.5	14.5	16.1	15.9	15.6	12.7	14.8	14.2	14.6	14.6
08	13.5	11.2	12.5	14.1	14.1	15.8	15.2	15.4	11.4	14.5	13.5	14.9	14.0
09	12.3	9.5	12.2	14.8	14.3	15.5	14.6	15.2	10.5	13.5	12.8	13.6	13.5
10	11.4	9.0	12.1	16.0	14.6	15.0	14.2	14.7	11.0	14.0	13.1	13.5	13.5
11	11.4	9.7	12.7	16.2	15.0	15.4	15.0	15.1	12.5	14.8	13.1	13.7	14.0
12	11.9	10.7	13.3	15.5	15.2	16.1	16.4	16.2	13.8	15.7	13.4	13.3	14.6
13	11.8	11.7	14.1	16.0	15.8	17.4	17.1	17.2	14.9	16.5	14.8	13.2	15.4
14	12.3	12.3	14.4	16.4	16.4	18.5	17.7	18.6	15.7	16.9	15.9	12.8	16.1
15	12.3	12.6	15.4	17.1	17.2	19.7	19.0	19.4	16.3	17.4	15.8	13.1	16.7
16	12.9	13.6	17.1	17.3	18.3	20.4	20.8	20.7	17.1	17.6	15.4	12.4	17.4
17	13.3	14.9	17.1	17.1	18.6	21.5	22.2	22.4	17.5	16.7	15.6	13.2	18.0
18	13.0	14.9	15.4	16.6	19.0	21.3	22.8	22.7	17.0	15.8	15.8	13.8	17.9
19	13.3	14.8	15.0	16.9	18.7	20.7	21.7	21.6	17.2	16.3	15.5	14.2	17.7
20	13.7	14.0	14.8	17.1	18.8	19.8	21.1	21.1	17.7	16.0	15.4	14.6	17.5
21	13.2	13.7	15.4	16.6	18.2	19.5	21.1	20.9	17.4	16.4	15.3	14.6	17.3
22	12.8	13.2	15.8	15.7	17.3	19.4	20.8	20.4	16.5	15.9	15.6	14.4	17.0
23	12.3	12.5	14.8	15.2	16.7	19.5	20.7	19.9	15.7	15.7	15.2	13.9	16.5
24	12.2	12.4	14.0	15.0	16.3	19.3	19.9	19.0	15.8	15.8	15.4	14.0	16.3
Mean	12.9	12.5	14.1	15.6	16.5	18.4	18.6	18.4	14.7	15.8	15.0	13.9	15.9

Valid Hrs	837	666	743	720	1406	1440	1488	1488	1440	1488	1440	1105
Missing Hrs	315	6	1	0	10	0	0	0	0	0	0	383

14,261 hours of valid data, 715 hours missing, 95.2% data recovery

Mean of monthly means: 15.5

EXHIBIT C TO APPENDIX D
Permits and Environmental Documents

- Klickitat County Energy Overlay Zone Permit for the Windy Flats Wind Energy Project, issued on November 2, 2007, including, without limitation, documents that evidence compliance with all separate project permits, reports, environmental studies, plans, mitigation requirements and all other approvals required therein.
- Klickitat County Energy Overlay Zone Permit for the Windy Point Wind Project, issued on April 24, 2006, extension granted November 6, 2007, including, without limitation, documents that evidence compliance with all separate project permits, reports, environmental studies, plans, mitigation requirements and all other approvals required therein.
- Klickitat County Energy Overlay Zone Permit No. EOZ2008-04 for the Windy Point II Wind Farm, issued on March 19, 2009, including, without limitation, documents that evidence compliance with all separate project permits, reports, environmental studies, plans, mitigation requirements and all other approvals required therein.
- All United States Federal Aviation Administration Determinations of No Significance and Notices of Actual Construction for each wind turbine in the Primary Facility.
- United States Army Corps of Engineers Joint Aquatic Resources Permit.
- All Washington Department of Ecology National Pollutant Discharge Elimination System Construction Stormwater General Permits, including Permit No. WAR-011131, covering Windy Flats, Windy Point, and "Expansion Facility" projects, and Permit No. WAR-001177, covering the Windy Point II wind energy project.
- All Washington State Department of Archaeology and Historic Preservation permits for construction related activities for the Primary Facility wind energy facilities, and, to extent available, the Expansion Facility wind energy facilities.
- All Washington Department of Ecology Temporary Water Rights Permits and authorizations related to water wells.
- All Washington State Department of Transportation General Permits, including, without limitation, General Permit No. 47445.
- All Washington State Department of Transportation Utility Permits, including, without limitation, Utility Permit No. 47445.
- All Klickitat County Department of Public Works Utility Permits, including, without limitation, Permit No. P040709.
- All Klickitat County Haul Route Agreements, including Agreement No. CL12908 related to the Windy Point project, Agreement No. 18808 related to the Windy Flats project, and a

Letter of Understanding regarding the Windy Point II project, and to the extent available, any such agreement or permit associated with the Expansion Facility wind energy project.

- All Klickitat County Permissions to Work within Klickitat County Rights of Way for the Primary Facility wind energy facilities, and, to the extent available, the Expansion Facility wind energy facilities.
- All Klickitat County Right of Way Approach Permits for the Primary Facility wind energy facilities, and, to the extent available, the Expansion Facility wind energy facilities.
- All Klickitat County Building Permits for all Primary Facility project structures including, without limitation, all foundations, towers, turbines, substations and related equipment, Operations and Maintenance Buildings (temporary and permanent), wells and/or related above ground structures and Met towers, as applicable, and each permit, approval, certificate of occupancy or completion for each such structure as required or necessary for compliance with any applicable local, state or federal building, fire, health and safety, environmental statute, law, regulation or ordinance.
- Other Klickitat County, Washington State, or Federal authorizations related to construction of buildings for use as part of the Primary Facility, including but not limited to Klickitat County On-Site Sewage System Installation Permits.

APPENDIX E
Buyer and Seller Billing, Notification and Scheduling Contact Information

1. Authorized Representative. Correspondence pursuant to Section 14.1 shall be transmitted to the following addresses:

1.1 If to Buyer:

Executive Director
Southern California Public Power Authority
225 S. Lake Avenue, Suite 1250
Pasadena, CA 91101
Telephone: 626-793-9364
Facsimile: 626-793-9461

With a copy to:

Los Angeles Department of Water and Power
Attention: Manager of Power Contracts
RE: SCPPA Contract _____
111 N. Hope Street, Room 1246
Los Angeles, California 90012

1.2 If to Seller:

Windy Flats Partners, LLC
12555 High Bluff Drive, Suite 385
San Diego, CA 92130
Telephone: 858-356-5360
Facsimile: 858-461-1261

With a copy to:

Cannon Power Group
3591 Sacramento Street, Suite 106
San Luis Obispo, CA 93401
Telephone: 805-784-0714
Facsimile: 805-980-4026

2. Billings and payments pursuant to Section 11.1 and Appendix A shall be transmitted to the following addresses:

2.1 If Billing to Buyer:

Finance and Accounting Manager
Southern California Public Power Authority
225 S. Lake Avenue, Suite 1250
Pasadena, CA 91101
Telephone: 626-793-9364
Facsimile: 626-793-9461

With a copy to:

Los Angeles Department of Water and Power
Accounting Division – Accounts Payable Section
P.O. Box 51211
Room 424 JFB
RE: SCPPA Contract _____
Los Angeles, California 90012

2.2 If Payment to Buyer:

Finance and Accounting Manager
Southern California Public Power Authority
225 S. Lake Avenue, Suite 1250
Pasadena, CA 91101
Telephone: 626-793-9364
Facsimile: 626-793-9461

With a copy to:

Los Angeles Department of Water and Power
Accounting Division – Accounts Payable Section
P.O. Box 51211
Room 424 JFB
RE: SCPPA Contract _____
Los Angeles, California 90012

3. All notices (other than scheduling notices) required under the Agreement shall be sent by registered or certified mail, postage prepaid, to the address specified below.

If to Buyer:

Executive Director
Southern California Public Power Authority
225 S. Lake Avenue, Suite 1250
Pasadena, CA 91101
Telephone: 626-793-9364
Facsimile: 626-793-9461

With a copy to:

Los Angeles Department of Water and Power
Attention: Manager of Power Contracts
RE: SCPPA Contract _____
111 N. Hope Street, Room 1246
Los Angeles, California 90012

If to Seller:

Windy Flats Partners, LLC
12555 High Bluff Drive, Suite 385
San Diego, CA 92130
Telephone: 858-356-5360
Facsimile: 858-461-1261

With a copy to:

Cannon Power Group
3591 Sacramento Street, Suite 106
San Luis Obispo, CA 93401
Telephone: 805-784-0714
Facsimile: 805-980-4026

4. All notices related to scheduling of the Facility shall be sent to the following address:

If to Buyer:

Energy Systems Manager
Southern California Public Power Authority
225 S. Lake Avenue, Suite 1250
Pasadena, CA 91101
Telephone: 626-793-9364
Facsimile: 626-793-9461

With a copy to:

Los Angeles Department of Water and Power
Attention: Manager of Power Contracts
RE: SCPPA Contract _____
111 N. Hope Street, Room 1246
Los Angeles, California 90012

If to Seller:

Windy Flats Partners, LLC
c/o Cannon Power Group
12555 High Bluff Drive, Suite 385
San Diego, CA 92130
Telephone: 858-356-5360
Facsimile: 858-461-1261

APPENDIX F
Form of Attestation

(Seller) Environmental Attribute Attestation and Bill of Sale

("Seller") hereby sells, transfers and delivers to Southern California Public Power Authority ("Buyer") the Environmental Attributes and Environmental Attribute Reporting Rights associated with the generation from the Facility described below:

Facility name and location:

Fuel Type:

Capacity (MW): _____ Operational Date:

As applicable: CEC Reg. no. _____ Energy Admin. ID no. _____ Q.F. ID no. _____

Dates

MWhrs generated

in the amount of one Environmental Attribute or its equivalent for each megawatt hour generated.

Seller further attests, warrants and represents as follows:

- i) the information provided herein is true and correct;
- ii) its sale to Buyer is its one and only sale of the Environmental Attributes and associated Environmental Attribute Reporting Rights referenced herein;
- iii) the Facility generated and delivered to the grid the Energy in the amount indicated as undifferentiated Energy; and
- iv) Seller owns the Facility and each of the Environmental Attributes and Environmental Attribute Reporting Rights associated with the generation of the indicated Energy for delivery to the grid have been generated and sold by the Facility.

This serves as a bill of sale, transferring from Seller to Buyer all of Seller's right, title and interest in and to the Environmental Attributes and Environmental Attribute Reporting Rights associated with the generation of the Energy for delivery to the grid.

Contact Person: _____ tel: _____

APPENDIX G
Form of Security Interest, Deed of Trust,
Security Agreement and Fixture Filing

After Recording Return To:

Deed of Trust, Security Agreement and Fixture Filing

GRANTOR: Windy Flats Partners, LLC

GRANTEE/TRUSTEE:

GRANTEE/BENEFICIARY: Southern California Public Power Authority

Legal Description:

Abbreviated form: _____

Additional legal on Exhibits A B

Assessor's Tax Parcel ID No(s): _____

THIS INSTRUMENT CONTAINS AFTER-ACQUIRED PROPERTY AND FUTURE ADVANCE PROVISIONS.

THIS INSTRUMENT IS TO BE FILED FOR RECORD, AMONG OTHER PLACES, IN THE REAL ESTATE RECORDS OF KLICKITAT COUNTY. THIS INSTRUMENT AND THE LIENS CREATED PURSUANT HERETO COVER, AMONG OTHER THINGS, FIXTURES IN WHICH GRANTOR OWNS AN INTEREST. THIS INSTRUMENT CONTAINS AN ASSIGNMENT OF LEASES.

THE REAL PROPERTY SUBJECT TO THIS DEED OF TRUST IS NOT USED PRINCIPALLY FOR AGRICULTURAL PURPOSES.

A POWER OF SALE HAS BEEN GRANTED IN THIS DEED OF TRUST. A POWER OF SALE MAY ALLOW BENEFICIARY TO TAKE THE COLLATERAL ENCUMBERED BY THIS DEED OF TRUST AND SELL IT WITHOUT GOING TO COURT IN A FORECLOSURE ACTION UPON DEFAULT BY GRANTOR UNDER THIS DEED OF TRUST.

THIS DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING ("Deed of Trust") is by and among Windy Flats Partners, LLC, a Delaware limited liability company, having an office and mailing address c/o _____ (hereinafter "**Grantor**"), [_____ (hereinafter "**Trustee**")], and Southern California Public Power Authority, a joint power agency created pursuant to the laws of the State of California and having an office and mailing address at 225 South Lake Ave, Pasadena, CA 91101 (hereinafter "**Beneficiary**").

RECITALS

A. Grantor and Beneficiary are parties to that certain Power Purchase Agreement dated _____, 2009, between Grantor, as Seller, and Beneficiary, as Buyer (as defined in that Agreement and as amended, supplemented or modified from time to time, the "Power Purchase Agreement"). Initially capitalized terms used in this Deed of Trust that are not otherwise defined in this Deed of Trust shall have the meanings given them in the Power Purchase Agreement.

B. As and to the extent provided in the Power Purchase Agreement, Grantor will develop, finance, construct, own, and operate a wind electrical generation facility to be located on the Site in Klickitat County, Washington (the "Facility" or "Facility Site, "which includes the "Primary Facility" and which may include the "Expansion Facility" as these terms are defined in the Power Purchase Agreement) and to provide a transmission path in accordance with the terms and conditions of the Power Purchase Agreement and sell energy to Buyer for the term of the Power Purchase Agreement, subject to early termination events and purchase options exercisable by Buyer as provided in the Power Purchase Agreement.

C. Sections 6.3(a) and (b) of the Power Purchase Agreement require that, for the purpose of securing obligations of the Grantor under the Power Purchase Agreement, (i) Grantor shall execute and deliver to Beneficiary this Deed of Trust covering the Subject Property

(as defined below), (ii) Grantor will deliver to Beneficiary Title Insurance for the Facility and Subject Property in a form that is reasonably satisfactory to Beneficiary and that provides for coverage in an amount that is no less than the value of the completed Facility and Subject Property, and (iii) this Deed of Trust is to be a first priority lien and security interest in all of the Facility and the Subject Property and any part or portion thereof subject to the Permitted Encumbrances.

WITNESSETH:

1. Grant. For and in consideration of the Prepayment Amount under the Power Purchase Agreement and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and subject in all respects to the provisions of Section 12 hereof, Grantor hereby irrevocably and unconditionally grants, bargains, sells, releases, conveys, mortgages, transfers, assigns, conveys and warrants to Trustee, for the benefit of Beneficiary, and its successors and assigns, IN TRUST, WITH POWER OF SALE AND RIGHT OF ENTRY AND POSSESSION, all right, title and interest, which Grantor now has or may later acquire in and to all of the Subject Property. The "Subject Property" means all of the following:

a. the leasehold interests in each of the parcels of real property described on Exhibit A that are identified as a "Leasehold Parcel" thereon (each a "Leasehold Parcel" and collectively the "Leasehold Parcels"), created by each of the ground leases described on Exhibit B attached hereto and made a part hereof (as the same may be amended, restated, supplemented or otherwise modified from time to time (each a "Ground Lease" and collectively, the "Ground Leases"); and the leasehold estates in the Leasehold Parcels created by the Ground Leases, and all other rights of Grantor under the Ground Leases, including all of Grantor's unexpired estate, title, interest and term of years by virtue of the Ground Leases and any and all credits, deposits, options to renew or extend, options to purchase, rights of first refusal, and any other rights and privileges of Grantor thereunder;

b. all appurtenances now or hereafter belonging or in anywise appertaining to the Land, including, without limitation, all easements, rights-of-way and rights in favor of Grantor used in connection with or as a means of access to any portion of the Land, all right, title or interest of Grantor in and to any road or highway adjoining the Land or any part thereof and all strips and gores held by Grantor belonging, adjacent or pertaining to the Land; any after-acquired title to any of the foregoing (all of the foregoing is referred to collectively as the "Appurtenances");

c. all buildings, structures, replacements, furnishings, fixtures, fittings and other improvements and property of every kind and character now or hereafter located or erected on the Land and owned or purported to be owned by Grantor, or leased or purported to be leased to Grantor, together with all building or construction materials, equipment, appliances, machinery, fittings, apparatus, fixtures and other articles of any kind or nature whatsoever now or hereafter found on, affixed to or attached to the Land and owned or purported to be owned by Grantor or leased or purported to be leased to Grantor, (all of the foregoing is herein referred to collectively as the "Improvements"). The Land, Improvements and Appurtenances are herein referred to collectively as the "Real Estate";

d. all equipment now or hereafter owned or purported to be owned by Grantor and used or useful in connection with the Real Estate, regardless of whether located on the Real Estate or located elsewhere including, without limitation, all rights of Grantor under any lease to equipment and fixtures and other items of personal property at any time (all of the foregoing is herein referred to collectively as the "Equipment");

e. all option rights, purchase or sale contracts, capacity rights and agreements, including the BPA Generation Interconnection Agreements, the KPUD Interconnection and Transmission Agreements, the O&M Agreement, the Service Agreement condemnation claims, demands, awards and settlement payments, insurance contracts, insurance payments and proceeds, unearned insurance premiums, warranties, guarantees, utility deposits, books and records and general intangibles of Grantor relating to the Real Estate or the Equipment and any other intangible property of Grantor related to the Real Estate, the Equipment, the Facility Transmission Line Interests or the Facility Common Facilities Interests, Capacity Rights, Transmission Rights, Transmission Services, Facility Energy, Replacement Energy, Environmental Attributes, Environmental Attribute Reporting Rights, and Renewable Energy Certificates (as defined hereinafter or in the Power Purchase Agreement) (all of the foregoing is herein referred to collectively as the "Intangibles");

f. all rents, issues, profits, royalties, avails, income and other benefits derived or owned by Grantor directly or indirectly from the Real Estate or the Intangibles (all of the foregoing is herein collectively called the "Revenues");

g. all rights of Grantor, if any, to all plans and specifications, designs, drawings and other matters prepared in connection with the Real Estate or the Equipment (all of the foregoing is herein called the "Plans");

h. all rights of Grantor under any contracts executed by Grantor with any provider of goods or services for or in connection with any development, construction, operation, maintenance or services performed or to be performed in connection with the Facility, the Real Estate or the Equipment, including, without limitation, any construction contracts and management contracts (all of the foregoing are herein referred to collectively as the "Contracts for Construction or Services");

i. all applications, permits, licenses, franchises, certificates, concessions, consents, authorizations, development rights, approvals, registrations, orders, filings, entitlements, and similar requirements of whatever kind and however described, and obtained or maintained by Grantor or any other person on behalf of Grantor with respect to the development, siting, design, acquisition, construction, equipping, ownership, possession, shakedown, startup, testing operation or maintenance of the Subject Property, the production and delivery of Facility Energy, Capacity Rights and Environmental Attributes, or any other transactions or matter contemplated by the Power Purchase Agreement (including those pertaining to electrical, building, zoning, environmental and occupational safety and health requirements) (all of the foregoing is herein referred to collectively as the "Permits");

j. to the extent not included in (a) through (i) above, all rights of Grantor in and to the properties, easements, license agreements, crossing permits, right-of-way agreements,

line crossing agreements and other rights in land running in favor of Grantor, structures, equipment and facilities, including, without limitation, those described in Exhibit C as the Facility Transmission Line Interests (the "Facility Transmission Line Interests");

k. to the extent not included in (a) through (k) above, all rights of Grantor in and to the properties, structures, equipment and facilities described in Exhibit D as the Facility Common Facilities Interests ("the Facility Common Facilities Interests"); and

l. All other property or rights of Grantor of any kind or character related to the Real Estate, the Equipment, the Intangibles, the Revenues, the Plans, the Contracts for Construction or Services, the Permits, the Facility Transmission Line Interests or the Facility Common Facilities Interests, and all substitutions, replacements and additions thereto, whether now existing or hereafter acquired, and all proceeds (including insurance and condemnation proceeds) and products of any of the foregoing.

2. Secured Obligations. Grantor makes the grant, conveyance, transfer and assignment set forth above for the purpose of securing the payment and performance of (i) all obligations of Grantor, as Seller, under the Power Purchase Agreement which provides for remedies for Beneficiary that may be exercised following a "Default," as defined under Section 13.2 of the Power Purchase Agreement (a "Default" hereunder); and (ii) Grantor's performance pursuant to its covenants and warranties of this Deed of Trust (collectively, the "Secured Obligations"). The amount of the Secured Obligations secured by this Deed of Trust is indefinite, but in no event shall the amount secured hereunder exceed _____ and No/100 Dollars (\$ _____ or the "Maximum Amount").¹

3. Grantor Covenants and Warranties. Grantor hereby covenants with and warrants to the Trustee and Beneficiary that: (a) it is a Delaware limited liability company and has all the requisite power and authority to develop, construct, own, operate use, lease and license the Subject Property, and duly qualified to do business as a foreign entity and is in good standing in the State of Washington; (b) at the execution and delivery hereof it is the owner or lessee of a valid fee or leasehold interest in the Leasehold Parcels, and that it is the owner or lessee of all other Subject Project or has such other use rights with respect to the Subject Property that are necessary for Grantor to perform its obligations under the Power Purchase Agreement or this Deed of Trust and all other Subject Property are free from all encumbrances whatsoever other than Permitted Encumbrances; (c) each of the Ground Leases is in full force and effect and has not been modified (except as set forth herein) or terminated and that Grantor is not in default under any of the Ground Leases, (d) Grantor has good and lawful right to sell, mortgage and convey the Subject Property to the extent permitted under applicable law; (e) the Subject Project

¹If Washington law requires that a maximum amount be specified, the amount will be the sum of the maximum Remaining Prepayment Amount and an estimate of the maximum damages recoverable for Excess Energy upon termination of the Power Purchase Agreement, plus a margin determined by Beneficiary to cover all potential additional damages, including collection costs, such margin not to exceed 50% of the foregoing. If Washington law does not require that a maximum amount be stated, the concept of Maximum Amount will be deleted.

is not used principally for agricultural or farming purposes; and (f) Grantor and its successors and assigns will forever warrant and defend the Subject Property against all claims and demands whatsoever.

To protect the security of this Deed of Trust, Grantor agrees with the Trustee and Beneficiary as follows:

a. Payment of Taxes. Grantor will pay or cause to be paid when due all taxes and assessments, general or special, and any and all levies, claims, charges, expenses and liens, ordinary or extraordinary, governmental or non-governmental, statutory or otherwise, due or to become due, that may be levied, assessed, or charged on or against the Subject Property, and will submit to Beneficiary such evidence showing payment of all of such taxes, assessments and charges as Beneficiary may reasonably require promptly after Beneficiary's written request therefor.

b. Maintenance and Repair. Grantor will develop, construct, operate and maintain the Subject Property as required by the Power Purchase Agreement.

c. Sales; Liens. Except as permitted by the Power Purchase Agreement, Grantor will not sell, contract to sell, assign, transfer or convey, or permit to be transferred or conveyed, the Subject Property or any part thereof or any interest or estate in any thereof.

d. Insurance. Grantor will at all times maintain or cause to be maintained on the Subject Property, all insurance required under the Power Purchase Agreement and the Ground Leases. Nothing contained in this Deed of Trust shall create any responsibility or obligation on Beneficiary to collect any amounts owing on any insurance policy or resulting from any condemnation, to rebuild or replace any damaged or destroyed Improvements or other portions of the Subject Property or to perform any other act hereunder. Beneficiary shall not by the fact of approving, disapproving, accepting, preventing, obtaining or failing to obtain any insurance, incur any liability for or with respect to the amount of insurance carried, the form or legal sufficiency of insurance contracts, solvency of insurance companies, or payment or defense of lawsuits, and Grantor hereby expressly assumes full responsibility therefor and all liability, if any, with respect thereto.

e. Eminent Domain. If the Subject Property, or any part or interest in any thereof, is threatened or taken by condemnation, Grantor shall, promptly upon its notice thereof, take all action reasonably required by Beneficiary in order to protect Grantor's and Beneficiary's rights with respect to any such taking, including the commencement of, appearance in or prosecution of any appropriate action or proceeding. Grantor and Beneficiary shall apply all condemnation awards as provided in the Power Purchase Agreement.

f. Governmental Requirements. Grantor will at all times fully comply in all material respects with, and cause the Subject Property and the use and condition thereof fully to comply in all material respects with, all federal, state, county, municipal, local and other governmental statutes, ordinances, requirements, regulations, rules, orders and decrees of any kind whatsoever that apply or relate to Grantor or the Subject Property or the use thereof (including, without limitation, those relating to land use and development, construction, access,

water rights and use, and hazardous waste and substances), and will comply with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits, privileges, franchises and concessions which are applicable to Grantor or have been granted for the Subject Property or the use thereof, in each case to the extent required under the Power Purchase Agreement. Unless required by applicable law, or unless Beneficiary has otherwise first agreed in writing or under the Power Purchase Agreement, Grantor shall not make or allow any changes to be made in the nature of the occupancy or use of the Subject Property or any portion thereof for which the Subject Property or such portion was intended at the time this Deed of Trust was delivered. Grantor shall not initiate or acquiesce in any change in any zoning or other land use classification now or hereafter in effect and affecting the Subject Property or any part thereof without in each case obtaining Beneficiary's prior written consent thereto.

g. No Mechanics' Liens. Grantor will use its best efforts to not suffer any construction, mechanic's, laborer's or materialmen's lien or similar liens to be created and shall not suffer any such lien to remain outstanding upon the Subject Property or any part thereof, other than those liens that are Permitted Encumbrances; provided, however, that Grantor shall have the right to contest such lien(s) by appropriate proceedings conducted in good faith with due diligence at its sole cost. Grantor agrees to promptly deliver to Beneficiary a copy of any notices that Grantor receives with respect to any recorded lien or the foreclosure thereof.

h. Continuing Priority. Grantor will pay such fees, taxes and charges, execute and record or file (at Grantor's expense) such deeds, conveyances, mortgages and financing statements and do all such other acts and things as Beneficiary may from time to time reasonably request to establish and maintain this Deed of Trust as a valid and perfected first and prior lien on and security interest in the Subject Property, subject only to Permitted Encumbrances.

i. Environmental Laws. Grantor shall take all appropriate response actions, including any removal and remedial actions, in the event of a release, emission, discharge or disposal of Hazardous Materials, as defined hereinafter, in, on, under, or about the Subject Property and shall operate and maintain the Subject Property in compliance with all Environmental Laws, as defined hereinafter. The term "Hazardous Materials" shall mean dangerous, toxic, or hazardous pollutants, contaminants, chemicals, wastes, materials or substances, as defined in or governed by the provisions of any Environmental Law. The term "Environmental Laws" shall mean any federal, state or local laws, statutes, ordinances, rules, regulations, orders, or permits now in effect or hereinafter enacted, pertaining to the release, emission, discharge or disposal of Hazardous Materials.

j. Corrective Action. In the event Grantor is in material breach of any of its representations, warranties or agreements as set forth in this Deed of Trust, then, without limiting Beneficiary's other rights hereunder, Grantor, at its sole expense, shall take all actions required, including, without limitation, environmental cleanup of the Subject Property, to comply with the representations, warranties, and covenants contained herein and with all applicable legal requirements and, in any event, shall take all actions deemed necessary under all applicable Environmental Laws.

k. Right of Inspection. Grantor hereby grants to Beneficiary, its agents, attorneys, employees, consultants, contractors, successors and assigns, an irrevocable license and authorization, upon reasonable notice, to enter upon and inspect the Subject Property and facilities thereon, and perform such tests (including without limitation, if a Phase I Environmental Site Assessment, as hereinafter defined, provides evidence of a breach of Grantor's covenants with respect to Hazardous Materials hereunder, subsurface testing, soils and groundwater testing, and other tests which may physically invade the Subject Property, but may not interfere with the operation of the Facility) as Beneficiary, in its reasonable discretion, determines are necessary to protect its interest in the Subject Property or in connection with the exercise of Beneficiary's rights or remedies under the Power Purchase Agreement or any foreclosure (or transfer in lieu of foreclosure) with respect to the Subject Property; provided, however, that under no circumstances shall Beneficiary be obligated to perform such inspections or tests, and provided, further, that Beneficiary indemnifies Grantor for gross negligence or willful misconduct of Beneficiary with respect to any such tests. In making such inspections, Beneficiary shall be accompanied by a representative of Grantor, if requested by Grantor, and shall comply with Grantor's safety requirements. Grantor, upon reasonable notice, shall make its representative reasonably available to Beneficiary in order to accommodate Beneficiary's inspections as provided in this paragraph. The term "Phase I Environmental Site Assessment" shall mean an assessment of the environmental condition of the Real Estate conducted in accordance with American Society for Testing Materials ("ASTM") standards.

l. Indemnity. Grantor agrees to indemnify and hold Beneficiary, its directors, employees, agents, and its successors and assigns, harmless from and against any and all claims, losses, damages, liabilities, fines, penalties, charges, judgments, administrative orders, remedial action requirements, enforcement actions of any kind, and all costs and expenses incurred in connection therewith (including without limitation attorneys' fees and expenses) arising directly or indirectly, in whole or in part, out of any failure of Grantor to comply with the environmental representations, warranties, and covenants contained herein. This indemnity shall in no way diminish any additional indemnification obligations of the parties set forth in the Power Purchase Agreement.

m. Continuation of Representations, Warranties, Covenants and Indemnities. Grantor's indemnities contained herein shall survive the occurrence of any event whatsoever, including, without limitation, the satisfaction of the obligations secured hereby, the reconveyance or foreclosure of this Deed of Trust, the acceptance by Beneficiary of a deed in lieu of foreclosure, or any transfer or abandonment of the Subject Property, as applicable to breaches or defaults prior to termination of this Deed of Trust.

n. Beneficiary's Performance. If Grantor fails to pay or perform any of its obligations herein contained (including payment of expenses of foreclosure and court costs), Beneficiary may (but need not), as agent or attorney-in-fact of Grantor, make any payment or perform (or cause to be performed) any obligation of Grantor hereunder, in any form and manner deemed expedient by Beneficiary, and any amount so paid or expended (plus reasonable compensation to Beneficiary for its out-of-pocket and other expenses for each matter for which it acts under this Deed of Trust), with interest thereon at the rate of one percent (1%) per month, or the maximum rate permitted by law, whichever is less (the "Default Rate"), shall be added to

amount hereby secured and shall be repaid to Beneficiary upon demand. By way of illustration and not in limitation of the foregoing, Beneficiary may (but need not) do all or any of the following: make lease payments, payments of principal or interest, or other amounts on the Ground Leases and any other lien, encumbrance or charge on any of the Subject Property; complete construction; make payments with respect to maintaining and operating the Subject Property, make repairs; obtain insurance and pay premiums therefor; purchase, discharge, compromise or settle any tax lien or any other lien, encumbrance, suit, proceeding, title or claim thereof; contest any tax or assessment; and redeem from any tax sale or forfeiture affecting the Subject Property. In making any payment or securing any performance relating to any obligation of Grantor hereunder, Beneficiary shall be the sole judge of the legality, validity and amount of any lien or encumbrance and of all other matters necessary to be determined in satisfaction thereof. No such action of Beneficiary shall ever be considered as a waiver of any right accruing to it on account of the occurrence of any matter which constitutes a Default or a breach of Grantor's obligations under this Deed of Trust.

o. Subrogation. To the extent that Beneficiary, on or after the date hereof, pays any sum under any provision of law or any instrument or document creating any lien or other interest prior or superior to the lien of this Deed of Trust, Beneficiary shall have and be entitled to a lien or other interest on the Subject Property equal in priority to the lien or other interest discharged and Beneficiary shall be subrogated to, and receive and enjoy all rights and liens possessed, held or enjoyed by, the holder of such lien, which shall remain in existence and benefit Beneficiary in securing the obligations secured hereby.

p. Covenants Regarding Ground Leases. Grantor as Seller under the Power Purchase Agreement covenants to Beneficiary that Grantor shall at all times comply in all material respects with each of the following provisions in Section 12.4 (Covenants of Seller Related to the Leases) of the Power Purchase Agreement as set forth below:

(i) Grantor shall at all times keep, perform, observe and comply with, or cause to be kept, performed, observed and complied with, all covenants, agreements, conditions and other provisions required to be kept, performed, observed and complied with by or on behalf of Grantor from time to time pursuant to the Ground Leases, and Grantor shall not do or permit anything to be done, the doing of which, or refrain from doing anything, the omission of which, could impair or tend to impair the rights of Grantor under the Ground Leases, or could be grounds for a Lessor to terminate any of the Ground Leases.

(ii) Grantor shall give Beneficiary immediate notice of (i) any default or any event which, with the giving of notice or passage of time, or both, would become a default under any of the Ground Leases or of the receipt by Grantor of any notice from the Lessor thereof, or (ii) the commencement or threat of any action or proceeding or arbitration pertaining to the Leases or any of them. Beneficiary, at its option, may take any action (but shall not be obligated to take any action) from time to time deemed necessary or desirable by Beneficiary to prevent or cure, in whole or in part, any default by Grantor under the Ground Leases. Grantor shall deliver to Beneficiary, immediately upon service or delivery thereof on, to or by Grantor, a copy of each petition, summons, complaint, notice of motion, order to show cause and other

pleading or paper, however designated, which shall be served or delivered in connection with any such action, proceeding or arbitration.

(iii) As long as the Power Purchase Agreement is in effect, there shall be no merger of any of the Ground Leases or of any leasehold estate created thereby with the fee estate in the property subject to the respective Ground Leases and Grantor will not acquire any interest in such fee estate without the prior written consent of Beneficiary.

(iv) Grantor shall not modify, subordinate or amend the Ground Leases in any respect, either orally or in writing, and Grantor shall not terminate, cancel, sever or surrender, or permit or suffer the modification, subordination, amendment, termination, cancellation, severance or surrender of, the Ground Leases and shall not waive, excuse, condone or in any way release or discharge any of the Lessors of or from the obligations, covenants, conditions and agreements by the any of the Lessors to be kept, performed, observed or complied with thereunder, and any such action taken by Grantor without the prior written consent of Beneficiary shall be void at inception and of no force and effect.

(v) In the event of the termination, rejection, or disaffirmance by any of the Lessors (or by any receiver, trustee, custodian, or other party that succeeds to the rights of any such Lessor) of any of the Ground Leases pursuant to the Bankruptcy Code, Seller hereby presently, absolutely, irrevocably and unconditionally grants and assigns to Beneficiary the sole and exclusive right to make or refrain from making any election available to Lessees under the Bankruptcy Code (including, without limitation, the election available pursuant to Section 365(h) of the Bankruptcy Code, 11 U.S.C. § 365(h), and any successor provision), and Grantor agrees that any such election, if made by Grantor without the prior written consent of Buyer (which Beneficiary would not anticipate granting due to the importance of any of the Ground Leases as security under this Deed of Trust), shall be void at inception and of no force or effect. Without limiting the generality of the foregoing sentence, Grantor shall not, without Buyer's prior written consent, elect to treat any of the Leases or any leasehold estate created thereby as terminated under Section 365 of the Bankruptcy Code, after rejection or disaffirmance of the Leases by any of the Lessors (whether as debtor in possession or otherwise) or by any trustee of any of the Lessors, and any such election made without such consent shall be void at inception and of no force or effect. At the request of Beneficiary, Grantor will join in any election made by Beneficiary under the Bankruptcy Code and will take no action in contravention of the rights granted to Beneficiary pursuant to Section 12.4 of the Power Purchase Agreement or this Section 3(p)(v).

(vi) In the event there is a termination, rejection, or disaffirmance by any of the Lessors (whether as debtor in possession or otherwise) or by any trustee of any of the Lessors pursuant to the Bankruptcy Code and Beneficiary elects to have Grantor remain in possession under any legal right Grantor may have to occupy the property pursuant to any of the Ground Leases, then Grantor shall remain in such possession and shall perform all acts necessary for Grantor to retain its right to remain in such possession, whether such acts are required under the then existing terms and provisions of any of the Ground Leases or otherwise.

(vii) In the event that a petition under the Bankruptcy Code shall be filed by or against Grantor and Grantor or any trustee of Grantor shall decide to reject or disaffirm any of the Ground Leases pursuant to the Bankruptcy Code (or allow same), Grantor shall give Beneficiary at least ten (10) days prior notice of the date on which application shall be made to the court for authority to reject or disaffirm any of the Ground Leases or of any other proceeding in which any of the Ground Leases could otherwise be rejected. Beneficiary shall have the right, but not the obligation, to serve upon Grantor or such trustee within such ten (10) day period a notice stating that (x) Beneficiary's demands that Grantor (whether as debtor in possession or otherwise) or such trustee assume and assign the applicable Ground Leases to Beneficiary pursuant to the Bankruptcy Code, and (y) Beneficiary covenants to cure, or to provide adequate assurance of prompt cure of, all defaults under the applicable Leases (except defaults of the type specified in Section 365(b)(2) of the Bankruptcy Code) and to provide adequate assurance of future performance under the applicable Ground Leases. In the event that Beneficiary serves any such notice as provided above, neither Grantor (whether as debtor in possession or otherwise) nor such trustee shall seek to reject or disaffirm any of the Ground Leases and Grantor (whether as debtor in possession or otherwise) and such trustee shall comply with such demand within thirty (30) days after such notice shall have been given, subject to Beneficiary's performance of such covenant.

Upon any payment by Buyer under any provision of the Ground Leases, to cure any default of Grantor, as lessee thereunder, and thereby prevent termination of the Ground Lease or the exercise of any other remedy of any of the Lessors thereunder arising out of such default, Grantor, as such lessee, within ten (10) days following receipt of notice from Beneficiary that it made such payment, shall pay the amount of such payment to Beneficiary plus interest accruing thereon at the Interest Rate, from and including the date of the payment by Buyer to cure such default to but excluding the date of such payment by Grantor.

q. Covenants Regarding Facility Transmission Line Interests and the Facility Common Facilities Interests.

i. Grantor has provided Beneficiary with true and correct copies of all easements, rights of way, common ownership, maintenance and other material agreements existing with regard to the Facility Transmission Line Interests and the Facility Common Facilities Interests (collectively, the "Transmission and Common Facility Agreements"). Each of the Transmission and Common Facility Agreements is a valid and existing agreement, is in full force and effect in accordance with the terms thereof and has not been modified, except as set forth herein. All of payments and other charges payable by Grantor under the Transmission and Common Facility Agreements prior to the execution hereof have been paid, all of the terms, conditions and agreements contained in the Transmission and Common Facility Agreements have been performed and no default exists under the Transmission and Common Facility Agreements. This Deed of Trust is and will be kept a valid lien on the rights and interests of Grantor therein.

ii. Grantor will promptly pay, or cause to be paid, all rents, charges and other sums or amounts required to be paid by Grantor under the terms of the Transmission and Common Facility Agreements, will further timely and fully keep and perform all of the

covenants, terms, conditions and provisions of the Transmission and Common Facility Agreements required to be performed and complied with by Grantor thereunder, and will not do or suffer to be done anything the doing of which, or refrain from doing anything the omission of which, will impair the security of this Deed of Trust. Grantor shall provide evidence of such payments immediately upon the request of Beneficiary. Until the obligations secured hereby have been indefeasibly paid in full, Grantor shall keep the Transmission and Common Facility Agreements in full force and effect. Grantor shall do, or cause to be done, all things necessary to preserve and keep unimpaired the rights of Grantor under the Transmission and Common Facility Agreements and to prevent any default under the Transmission and Common Facility Agreements, or any termination, surrender, cancellation, forfeiture or impairment thereof.

iii. Grantor covenants that it will not modify, extend, supplement or cancel any of the Transmission and Common Facility Agreements without Beneficiary's prior written consent, which consent shall be granted upon confirmation by Beneficiary that such action is not likely to have an adverse effect on, or increase the risk of Beneficiary with regard to, the security provided to Beneficiary under this Deed of Trust. Grantor agrees to promptly notify Beneficiary of any breach by any party to the Transmission and Common Facility Agreements and to enforce the obligations of the other parties to the Transmission and Common Facility Agreements, to the end that Grantor may enjoy all of its rights under the Transmission and Common Facility Agreements. In the event of a Default or a material breach by Grantor of its obligations under this Deed of Trust, Beneficiary shall have the sole right to choose either (x) to proceed against such other parties in Grantor's name or in Beneficiary's name as agent for Grantor, and Grantor agrees to cooperate with Beneficiary in such action and to execute all documents required by Beneficiary in furtherance of such action, or (y) to have Grantor proceed on its and Beneficiary's behalf, in which event Beneficiary may participate in such proceedings, and Grantor will deliver to Beneficiary all documents required by Beneficiary for such participation. Grantor shall, at its expense, diligently prosecute such proceedings, shall deliver to Beneficiary copies of all papers served in connection therewith and shall consult and cooperate with Beneficiary and its attorneys and agents, provided that no settlement of such proceedings may be made by Grantor without Beneficiary's prior written consent.

iv. Grantor shall promptly give Beneficiary notice of any material default by Grantor under the Transmission and Common Facility Agreements or of the receipt by it of any notice of default from any party thereunder or notice of termination of any of the Transmission and Common Facility Agreements pursuant to the provisions thereof and shall furnish to Beneficiary immediately any and all information which Beneficiary may reasonably request concerning the performance by Grantor of the covenants of the Transmission and Common Facility Agreements. Upon the request of Beneficiary, Grantor shall promptly deposit with Beneficiary a copy of the Transmission and Common Facility Agreements, certified as true, correct and complete by Grantor, and any and all documentary evidence received by it showing compliance by Grantor with the provisions of the Transmission and Common Facility Agreements.

r. Bankruptcy Rights and Remedies. The lien of this Deed of Trust attaches to all of Grantor's rights and remedies at any time arising under or pursuant to Section 365 of the Bankruptcy Code (the "Bankruptcy Code"), including, without limitation, all of Grantor's rights

to remain in possession of the Subject Property. Grantor shall not commence any action, suit, proceeding or case, or file any application or make any motion, in respect of the Ground Leases in any such case under the Bankruptcy Code without the prior written consent of Beneficiary (except to exercise its option to remain in possession for the balance of the term of the Ground Leases). Grantor shall promptly, after obtaining knowledge thereof, notify Beneficiary orally of any filing by or against the lessor or Grantor of a petition under the Bankruptcy Code. Grantor shall thereafter forthwith give written notice of such filing to Beneficiary, setting forth any information available to Grantor as to the date of such filing, the court in which such petition was filed and the relief sought therein. Grantor shall promptly deliver to Beneficiary, following receipt, any and all notices, summons, pleadings, applications and other documents received by Grantor in connection with any such petition and any proceedings relating thereto.

s. Beneficiary's Lease. Notwithstanding the provisions of the foregoing paragraphs regarding termination of the Ground Leases, upon a termination or rejection of one or more of the Ground Leases by or for Grantor as a debtor under the Bankruptcy Code, Grantor acknowledges that Beneficiary may enter into (i) an instrument recognizing, confirming and giving legal effect to the continued existence of such Ground Lease in favor of Beneficiary or its designee, or (ii) a new lease or right-of-way grant in favor of Beneficiary or its designee (in either event the "Beneficiary's Lease") for the Subject Property pursuant to the terms of such Ground Lease or the provisions of a separate agreement between Beneficiary and the lessor, in such event, Beneficiary's execution of Beneficiary's Lease shall not be deemed to be in satisfaction in whole or in part of the obligations secured hereby and all of the other terms, covenants and conditions contained in this Deed of Trust shall remain as a lien on the Subject Property. Grantor hereby releases, remises, and quitclaims to Beneficiary any interest Grantor may have in Beneficiary's Lease and further agrees and acknowledges that Beneficiary may assign Beneficiary's Lease without notice, consent or joinder of Grantor. Grantor further waives any right Grantor may have to challenge the adequacy of any consideration received therefore.

4. Default and Remedies. Upon (a) the occurrence of any Default, or (b) Grantor's failure to perform any of its other material duties or obligations under this Deed of Trust, which failure is not cured within thirty (30) days after receipt of written notice of such failure from Beneficiary (provided, (A) if a cure cannot be completed within such thirty (30) days, (B) such breach is susceptible of cure within an additional thirty (30) days, (C) Grantor is proceeding with diligence and in good faith to cure such breach, (D) the existence of such breach has not resulted in, and would not after considering the nature of the cure be reasonably expected to give rise to, a termination by the counterparty to any Ground Lease, or Transmission and Common Facility Agreement, which is subject to breach, or to otherwise have a material adverse effect on the Subject Property or the validity or priority of Beneficiary's security interests and lien on the Subject Property, then such cure period shall be extended an additional thirty (30) days), then Beneficiary shall have the right to foreclose the lien of this Deed of Trust. In addition, Beneficiary may exercise any remedy available at law or in equity to Beneficiary's or under the Power Purchase Agreement, including but not limited to those listed below, in such sequence or combination as Beneficiary may determine in Beneficiary's sole discretion:

a. Performance of Defaulted Obligations. Beneficiary may make any payment or perform any other obligation under this Deed of Trust which Grantor has failed to

make or perform as provided for herein. All payments made and expenses (including attorney's fees) incurred by Beneficiary in this connection, together with interest thereon at the Default Rate from the date paid or incurred until repaid, will be part of the obligations secured by this Deed of Trust and will be immediately due and payable by Grantor to Beneficiary. In lieu of advancing Beneficiary's own funds for such purposes, Beneficiary may use any funds of Grantor which may be in Beneficiary's possession, including but not limited to insurance or condemnation proceeds and amounts deposited for taxes, insurance premiums, or other purposes.

b. Specific Performance and Injunctive Relief. Notwithstanding the availability of legal remedies, Beneficiary will be entitled to obtain specific performance, mandatory or prohibitory injunctive relief, or other equitable relief requiring Grantor to cure or refrain from repeating any default.

c. Possession of Subject Property. Beneficiary may enter and take possession of the Subject Property without seeking or obtaining the appointment of a receiver, may employ a managing agent for the Subject Property, and may lease or rent all or any part of the Subject Property, either in Beneficiary's name or in the name of Grantor, and may collect the rents, issues, and profits of the Subject Property. Any revenues collected by Beneficiary under this section will be applied first toward payment of all expenses (including attorney's fees) incurred by Beneficiary, together with interest thereon at the Default Rate from the date incurred until repaid, and the balance, if any, will be applied against the obligations secured hereby.

d. Other Remedies. Beneficiary may exercise all rights and remedies set forth in the Power Purchase Agreement or in this Deed of Trust, including all rights of a secured party under the UCC, as defined in Article V hereof.

e. Foreclosure.

i. Trustee's Sale. Beneficiary may foreclose this Deed of Trust by way of a trustee's sale pursuant to the provisions of Chapter 61.24 Revised Code of Washington, as currently in effect, as amended, or in any other manner then permitted by law ("Trustee Sale"). After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of default and notice of sale having been given as then required by law, Trustee, without demand on Grantor, shall sell the Subject Property on the date and at the time and place designated in said notice of sale, either as a whole or in separate parts or parcels, and in the absence of direction by Grantor, in such order as it may determine, at public auction to the highest bidder, the purchase price payable in lawful money of the United States at the time of the sale. To the extent allowed by law, the person conducting the sale may, for any cause he or she deems expedient, postpone the sale from time to time until it shall be completed and, in every such case, postponement shall be given by public declaration thereof at the time and place last appointed for sale. Trustee shall execute and deliver to the purchaser its trustee's deed conveying said property so sold, but without any covenant or warranty, express or implied. The recitals in the trustee's deed of any matters or facts shall be conclusive proof as to bona fide third parties of the truthfulness thereof. Any person, including Beneficiary, may bid at the sale. Trustee shall apply the proceeds of the sale to payment of (x) the costs and expenses of exercising the power of sale and of the sale, including the payment of Trustee's and attorney's

fees; (y) the Secured Obligations; and (z) the remainder, if any, to the person or persons entitled thereto.

ii. Judicial Foreclosure. Beneficiary shall also have the right to foreclose this Deed of Trust as a mortgage by appropriate proceedings in any court of competent jurisdiction ("Judicial Foreclosure").

iii. Expenses of Trustee's Sale or Foreclosure. All reasonable fees, costs and expenses of any kind incurred by Beneficiary in connection with foreclosure of this Deed of Trust, including, without limitation, the reasonable costs of any appraisals of the Subject Property obtained by Beneficiary, all reasonable costs of any receivership for the Subject Property advanced by Beneficiary, and all reasonable attorneys' and consultants' fees incurred by Beneficiary, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and costs (which may be estimates as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examination and similar data and assurances with respect to title, as Trustee or Beneficiary may deem necessary either to prosecute such suit or to evidence to bidders at the sales that may be had pursuant to such proceedings the true conditions of the title to or the value of the Subject Property, together with and including a reasonable compensation to Trustee, shall constitute a part of the obligations secured hereby and may be included as part of the amount owing from Grantor to Beneficiary at any foreclosure sale.

iv. Proceeds of Trustee's or Foreclosure Sale. The proceeds of foreclosure sale of the Subject Property shall be distributed and applied in the following order of priority: first, on account of all costs and expenses incident to the foreclosure proceedings, second, to the obligations secured hereby, and lastly, to Grantor, or, if applicable to such person or persons legally entitled thereto.

v. Insurance Upon Foreclosure. In case of an insured loss after Judicial Foreclosure or Trustee Sale proceedings have been instituted, the proceeds of any insurance policy or policies, if not applied to rebuilding or restoring the buildings or improvements, shall be used to pay the amount due under the obligations secured hereby. In the event of Judicial Foreclosure or Trustee Sale, Beneficiary or Trustee is hereby authorized, without the consent of Grantor, to assign any and all insurance policies to the purchaser at the sale, or to take such other steps as Beneficiary or Trustee may deem advisable to cause the interest of such purchaser to be protected by any of the said insurance policies.

f. Appointment of Receiver. Beneficiary shall be entitled to the appointment of a receiver. Such receiver and his agents shall be empowered (i) to take possession of the Subject Property and any businesses conducted by Grantor or any other person (other than the lessor or other persons authorized by the lessor with respect to any rights to use portions of the Subject Property retained by the lessor as provided in the Ground Leases thereon and any business assets used in connection therewith and, if the receiver deems it appropriate, to operate the same, (ii) to exclude Grantor and Grantor's agents and employees from the Subject Property, (iii) to collect the rents, issues, profits, and income therefrom, (iv) to complete any construction which may be in progress, (v) to do such maintenance and make such repairs and alterations as

the receiver deems necessary, (vi) to pay all taxes and assessments against the Subject Property and all premiums for insurance thereon, (vii) to pay all utility and other operating expenses, and all sums due under any prior or subsequent encumbrance, and (viii) generally to do anything which Grantor could legally do if Grantor were in possession of the Subject Property. All reasonable expenses incurred by the receiver or his agents shall constitute a part of the obligations secured hereby. Any revenues collected by the receiver shall be applied first to the expenses of the receivership, including attorneys' fees incurred by the receiver and by Beneficiary, together with interest thereon at the Default Rate from the date incurred until repaid, and the balance shall be applied toward the obligations secured hereby and then to Grantor or in such other manner as the court may direct. Unless sooner terminated with the express consent of Beneficiary, any such receivership will continue until the obligations secured hereby have been discharged in full, or until title to the Subject Property has passed after foreclosure sale and all applicable periods of redemption have expired.

g. Right to Make Repairs, Improvements. Should any part of the Subject Property come into the possession of Beneficiary, as provided herein, Beneficiary may use, operate, and/or make repairs, alterations, additions and improvements to the Subject Property for the purpose of preserving it or its value, subject to provisions of the Power Purchase Agreement. Subject to the provisions of the Power Purchase Agreement, Grantor covenants to promptly reimburse and pay to Beneficiary, at the address set forth in the first paragraph of this Deed of Trust, or at such other place as may be designated by Beneficiary in writing, the amount of all reasonable expenses (including the cost of any insurance, taxes, or other charges) incurred by Beneficiary in connection with its custody, preservation, use or operation of the Subject Property, together with interest thereon from the date incurred by Beneficiary at the Default Rate, and all such expenses, costs, taxes, interest, and other charges shall be a part of the obligations secured hereby. It is agreed, however, that the risk of accidental loss or damage to the Subject Property is undertaken by Grantor and, except for Beneficiary's willful misconduct or gross negligence, Beneficiary shall have no liability whatsoever for decline in value of the Subject Property, for failure to obtain or maintain insurance, or for failure to determine whether any insurance ever in force is adequate as to amount or as to the risks insured.

h. Waivers. To the full extent that the covenants and waivers contained in this paragraph are permitted by law, but not otherwise, Grantor hereby waives any and all rights under, and covenants and agrees that it will not at any time insist upon or plead or in any manner whatsoever claim or take advantage of, any stay, exemption, moratorium or extension law now or hereafter in effect or any law now or hereafter in effect providing for the valuation or appraisal of the Subject Property or any part thereof prior to any sale or sales thereof and Grantor will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any right, power or remedy herein or otherwise granted or delegated to Trustee or Beneficiary, but will suffer and permit the execution of every such right, power and remedy as though no such law or laws have been made or enacted.

5. Uniform Commercial Code. This Deed of Trust, to the extent that it conveys or otherwise deals with (a) personal property, or (b) items of personal property which are or may become fixtures, shall also be construed as a security agreement under RCW 62A.9A of the Uniform Commercial Code as in effect in the State of Washington ("UCC"), and this Deed of

Trust constitutes a financing statement filed as a fixture filing in the Official Records of the county recorder of the county or counties in which the Subject Property, or any portion thereof is located with respect to any and all fixtures included within the term "Subject Property" as used herein and with respect to any personal property that may now be or hereafter become such fixtures. For purposes of the foregoing, Grantor is the debtor and owner of the Subject Property (with its address as set forth above), Beneficiary is the secured party (with its address as set forth below). Grantor grants to Beneficiary a valid and effective first priority security interest in all of Grantor's right, title and interest in and to all portions of the Subject Property which constitute personal property, together with all replacements, additions, and proceeds. Grantor authorizes Beneficiary to file financing statements describing the Subject Property and, at Beneficiary's request, agrees to join with Beneficiary in the execution of any financing statements and to execute any other instruments that may be necessary or desirable, in Beneficiary's determination, for the perfection or renewal of such security interest under the UCC. Except for Permitted Encumbrances, Grantor agrees that, without the written consent of Beneficiary and except as otherwise permitted under the Power Purchase Agreement, no other security interest will be created under the provisions of the UCC and no lease will be entered into with respect to any goods, fixtures, equipment, appliances, or articles of personal property now attached to or used or to be attached to or used in connection with the Subject Property. Subject to the cure provisions of Section 4 herein, upon Grantor's failure to perform any of its material obligations under this Deed of Trust or upon the occurrence of a Default, Beneficiary shall have the remedies of a secured party under the UCC and, at Beneficiary's option, may also invoke the power of sale and all other remedies provided in this Deed of Trust as to the personal property and any other items of the Subject Property subject to this security interest. In exercising any remedies, Beneficiary may proceed against the items of Real Estate and any other items specified in Article I as part of the Subject Property separately or together and in any order whatsoever, without in any way affecting the availability of Beneficiary's remedies under the UCC or of the remedies provided in this Deed of Trust.

6. Beneficiary's Actions. Without affecting the lien of this instrument, Beneficiary may, from time to time, release any obligation, extend, alter or renew the terms of payment or performance, substitute security, and/or release any portion of the Subject Property.

7. Reconveyance by Trustee. Trustee may from time to time and only upon the written request of Beneficiary, reconvey, without warranty, any part of said property and/or join in any agreement subordinating the lien or charge hereof.

8. Partial Payment. The acceptance by Beneficiary of any sum in payment, or part payment, of any obligation secured hereby, after the same is due or after the recording of a notice of default, shall not be considered a waiver of the right to require prompt payment when due, of other sums, nor shall such acceptance cure or waive any remaining default or invalidate any sale held pursuant to Notice for any remaining default.

9. Severability. The invalidity of any one or more covenants, phrases, clauses, sentences or paragraphs of this Deed of Trust shall not affect the remaining portions of this Deed of Trust or any part thereof, and this Deed of Trust shall be construed as if such invalid covenants, phrases, clauses, sentences or paragraphs, if any, had not been inserted herein.

10. Successors and Assigns. This Deed of Trust shall inure to the benefit of and be binding upon the heirs, legatees, devisees, administrators, executors, successors and assigns of the parties hereto. The use of the singular number shall include the plural number and the use of the plural number shall include the singular number. The use of the masculine gender shall include the feminine gender, and corporation or corporations that may be a party or parties hereto. The term Beneficiary shall mean the owners and holders of the obligation secured hereby, whether or not named as Beneficiary herein.

11. Notices. Grantor requests all notices to be given to it shall be made to the address stated on the first page of this Deed of Trust. All notices required or permitted to be given hereunder shall be in writing and may be given in person or by United States mail, by commercial delivery service or by electronic transmission with verified receipt. Any notice directed to a party to this Deed of Trust shall become effective upon the earliest of the following: (i) actual receipt by that party; (ii) delivery to the designated address of that party, addressed to that party; or (iii) if given by certified or registered United States mail, two (2) days after deposit with the United States Postal Service, postage prepaid, addressed to that party at its designated address. Notwithstanding the foregoing, any copy of a notice of default recorded pursuant to Washington law and any notice of sale shall be sent to Grantor by certified or registered mail. The designated address of a party shall be the address of that party shown at the beginning of this Deed of Trust or such other address as that party, from time to time, may specify by notice to the other parties.

12. Termination of Deed of Trust. This Deed of Trust shall terminate and be of no further force or effect upon the expiration or termination of the Power Purchase Agreement and the payment by Grantor of the Termination Payment, if any, as defined in and required in accordance with the Power Purchase Agreement and any other payments due to Beneficiary thereunder. Beneficiary agrees to deliver to Trustee (with a copy to Grantor) a release, satisfaction and request for reconveyance in recordable form within ten (10) days after such occurrence as provided in the preceding sentence. Upon receipt of such release, satisfaction and request for reconveyance and this Deed of Trust for cancellation (if required under applicable law), Trustee shall reconvey, without warranty, the estate in the Subject Property then held by Trustee. The grantee in such reconveyance may be designated and described as the "person or persons legally entitled thereto."

13. Time of Essence and Waiver. Time is declared to be of the essence in this Deed of Trust. If Beneficiary chooses to waive any covenant, section, or provision of this Deed of Trust, or if any covenant, section, or provision of this Deed of Trust is construed by a court of competent jurisdiction to be invalid or unenforceable, it shall not affect the applicability, validity, or enforceability of the remaining covenants, paragraphs, or provisions.

14. Conflicts and Governing Law. This Deed of Trust shall be governed by, interpreted and enforced in accordance with the laws of the State of Washington, without regard to conflict of laws principles. In the event of a conflict or inconsistency with the terms of this Deed of Trust and the terms of the Power Purchase Agreement, the terms of the Power Purchase Agreement shall control. Notwithstanding the foregoing, the rights and remedies afforded to beneficiaries under deeds of trust and provided to Beneficiary in this Deed of Trust shall be in

addition to, and not in lieu of, rights and remedies provided to Beneficiary under the Power Purchase Agreement.

15. Estoppel Certificate. Beneficiary agrees to use commercially reasonable efforts to obtain from each landowner under the Ground Leases an estoppel certificate specifying whether there are any defaults under the applicable Ground Lease, within thirty (30) days after Grantor's written request therefor.

**ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY,
EXTEND CREDIT OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT
ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.**

Executed as of this _____ day of _____, 200__.

[TO BE EXECUTED AND DELIVERED AFTER RELEASE OF
CONSTRUCTION FINANCING]

GRANTOR:

By: _____

Its: _____

Title: _____

STATE OF _____)

: ss.

COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of
_____, 200__, by _____, the
_____ of _____, a _____ limited
liability company.

My Commission Expires:

NOTARY PUBLIC

Residing at: _____

EXHIBIT A

[Legal Descriptions of Leasehold Parcels, which include the Site, to be provided prior to execution of the Deed of Trust]

EXHIBIT B

[Descriptions of each Ground Lease to be provided prior to the execution of the Deed of Trust]

EXHIBIT C

[Legal description of the real property interests and description of all improvements, supporting equipment and property agreements pertaining to the Facility Transmission Line Interests, as described below, to be provided prior to the execution of the Deed of Trust]

EXHIBIT D

[Facility Common Facilities Interests, as defined in the Power Purchase Agreement, to be provided prior to execution of the Deed of Trust]

APPENDIX H
Form of Letter of Credit

**IRREVOCABLE AND UNCONDITIONAL DOCUMENTARY LETTER OF CREDIT
NO.**

Applicant:

Beneficiary:

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
225 S. Lake Avenue, Suite 1250
Pasadena, CA 91101
Telephone: (626) 793-9364
Facsimile: (626) 793-9461

Amount:

Expiry Date:

Expiration Place:

Ladies and Gentlemen:

We hereby issue our Irrevocable Unconditional Documentary Letter of Credit in favor of the beneficiary by order and for the account of the applicant which is available at sight for USD \$XX,XXX,XXX by sight payment

- (a) upon presentation to us at our office at [bank's address],³ of: (i) your written demand for payment containing the text of Exhibit I and (ii) your signed statement containing the text of Exhibit II; or
- (b) upon both your telephone or fax advice of demand to the attention of _____ at telephone and/or fax number _____ and presentation to us by fax of: (i) your written demand for payment containing the text of Exhibit I and (ii) your statement containing the text of Exhibit II.⁴ Funds may be drawn

³ Note to Issuer: The Letter of Credit must be payable in U.S. dollars within the continental U.S.

⁴ Note to Issuer: If the office specified for presentation is outside of Los Angeles, California, alternative (b) must appear in the Letter of Credit when issued. If the office is in Los Angeles, California, alternative

under this Letter of Credit, from time to time, in one or more drawings, in amounts not exceeding in the aggregate the amount specified above.

Upon presentation to us in conformity with the foregoing, we will, within sixty (60) minutes after such presentation (unless such presentation occurs after 3:00 p.m., Pacific Standard Time, on the day of such presentation, in which event payment will be made within sixty (60) minutes after the opening of business at the office specified above on the next business day), but without any other delay whatsoever, irrevocably and without reserve or condition: (a) if the office set forth above for presentation is in Los Angeles, California, pay to your order in the account at the bank designated by you in the demand, the full amount demanded by you in the same-day funds which are immediately available to you, or (b) if the office set forth above for presentation is not in Los Angeles, California, issue payment instructions to the Federal Reserve wire transfer system in proper form to transfer to the account at the bank designated by you in the demand, the full amount demanded by you in the same-day funds which are immediately available to you in Los Angeles, California. We agree that if, on the expiration date of this Letter of Credit, the office specified above is not open for business, this Letter of Credit will be duly honored if the specified statements are presented by you within three (3) full banking days after such office is reopened for business.

Payment hereunder shall be made regardless of: (a) any written or oral direction, request, notice or other communication now or hereafter received by us from the Applicant or any other person except you, including without limitation any communication regarding fraud, forgery, lack of authority or other defect not apparent on the face of the documents presented by you, but excluding solely an effective written order issued otherwise than at our instance by a court of competent jurisdiction which order is legally binding upon us and specifically orders us not to make such payment; (b) the solvency, existence or condition, financial or other, of the Applicant or any other person or property from whom or which we may be entitled to reimbursement for such payment; and (c) without limiting clause (b) above, whether we are in receipt of or expect to receive funds or other property as reimbursement in whole or in part for such payment. We agree that we will not take any action to cause the issuance of an order described in clause (a) of the preceding sentence. We agree that the time set forth herein for payment of any demand(s) for payment is sufficient to enable us to examine such demand(s) and the related documents(s) referred to above with care so as to ascertain that on their face they appear to comply with the terms of this credit and that if such demand(s) and document(s) on their face appear to so comply, failure to make any such payment within such time shall constitute dishonor of such demand(s) and this credit.

The stated amount of this Letter of Credit may be increased or decreased, and the expiration date of this Letter of Credit may be extended, by an amendment to this Letter of Credit in the form of

Cont'd.

(b) may be included only if the bank establishes and maintains with the Southern California Public Power Authority the necessary electronic arrangements.

Exhibit III. Any such amendment shall become effective only upon acceptance by your signature on a hard copy amendment.

You shall not be bound by any written or oral agreement of any type between us and the Applicant or any other person relating to this credit, whether now or hereafter existing.

We hereby engage with you that your demand(s) for payment in conformity with the terms of this credit will be duly honored as set forth above. All fees and other costs associated with the issuance of and any drawing(s) against this Letter of Credit shall be for the account of the Applicant. All of the rights of the Southern California Public Power Authority ("SCPPA") set forth above shall inure to the benefit of your successors. In this connection, in the event of a drawing made by a party other than SCPPA, such drawing must be accompanied by the following signed certification:

"The undersigned does hereby certify that _____ [drawer] _____ is the successor by operation of law to SCPPA, a beneficiary named in [name of Bank] Letter of Credit no. _____.

[name and title]

Except so far as otherwise expressly stated herein, this documentary credit is subject to the "Uniform Customs and Practices for Documentary Credits," International Chamber of Commerce, in effect on the date of issuance of this credit.

Yours faithfully,

(name of issuing bank)

By _____

Title _____

EXHIBIT I
Demand for Payment

Re: Irrevocable and Unconditional Documentary Letter of Credit

No. _____ Dated _____, 20__

To Whom It May Concern:

Demand is hereby made upon you for payment to us of \$ _____ by deposit to our account no. _____ at [insert name of bank]. This demand is made under, and is subject to and governed by, your Irrevocable and Unconditional Documentary Letter of Credit no. _____ dated _____, 20__ in the amount of \$ _____ established by you in our favor for the account of _____ as the Applicant.

DATED: _____, 20__.

SOUTHERN CALIFORNIA PUBLIC POWER
AUTHORITY

By _____

Title _____

EXHIBIT II
Statement

Re: Your Irrevocable and Unconditional Documentary Letter of Credit

No. _____ Dated _____, 20 _____

To Whom It May Concern:

Reference is made to your Irrevocable and Unconditional Documentary Letter of Credit
no. _____, dated _____, 20 _____ in the amount of \$ _____
established by you in our favor for the account of _____.

We hereby certify to you that \$ _____ is due and owing to us by the
Applicant.

DATED: _____, 20 _____.

SOUTHERN CALIFORNIA PUBLIC POWER
AUTHORITY

By _____

Title _____

EXHIBIT III
Amendment

Re: Irrevocable and Unconditional Documentary Letter of Credit

No. _____ Dated _____, 20__

Beneficiary:

Applicant:

Southern California Public Power Authority
225 S. Lake Avenue, Suite 1250
Pasadena, CA 91101

To Whom It May Concern:

The above referenced Irrevocable and Unconditional Documentary Letter of Credit is hereby amended as follows: by increasing / decreasing / leaving unchanged (*strike two*) the stated amount by \$ _____ to a new stated amount of \$ _____ or by extending the expiration date to _____ from _____. All other terms and conditions of the Letter of Credit remain unchanged.

This amendment is effective only when accepted by Southern California Public Power Authority, which acceptance may only be valid by a signature of an authorized representative.

Dated: _____

Yours faithfully,

(name of issuing bank)

By _____
Title _____

ACCEPTED

Southern California Public Power Authority

By _____
Title _____
Date _____

APPENDIX I
Insurance

I. GENERAL REQUIREMENTS

Prior to the start of work, but not later than thirty (30) days after the date of award of contract, Seller shall furnish Buyer evidence of coverage from insurers acceptable to Buyer and in a form acceptable to Buyer's Risk Manager. Such insurance shall be maintained by Seller at Seller's sole cost and expense.

Such insurance shall not limit or qualify the liabilities and obligations of Seller assumed under this Agreement. Buyer shall not by reason of its inclusion under these policies incur liability to the insurance carrier for payment of premium for these policies.

Any insurance carried by Buyer which may be applicable shall be deemed to be excess insurance and Seller's insurance is primary for all purposes despite any conflicting provision in Seller's policies to the contrary.

Said evidence of insurance shall contain a provision that the policy cannot be canceled or reduced in coverage or amount without first giving thirty (30) calendar days prior notice thereof (ten (10) days for non-payment of premium) by registered mail to Southern California Public Power Authority, 225 S. Lake Avenue, Suite 1250, Pasadena, CA 91101.

Should any portion of the required insurance be on a "Claims Made" policy, Seller shall, at the policy expiration date following completion of work, provide evidence that the "Claims Made" policy has been renewed or replaced with the same limits, terms and conditions of the expiring policy, or that an extended discovery period has been purchased on the expiring policy at least for the contract under which the work was performed.

Failure to maintain and provide acceptable evidence of the required insurance for the required period of coverage shall constitute a breach of contract, upon which Buyer may immediately terminate or suspend the Agreement.

Seller shall be responsible for all subcontractors' compliance with the insurance requirements as deemed necessary by Seller, with the specific understanding Seller is always fully responsible for subcontractors' actions, errors, or omissions.

II. SPECIFIC COVERAGES REQUIRED

A. Commercial Automobile Liability

The Seller shall provide Commercial Automobile Liability insurance which shall include coverages for liability arising out of the use of owned, non-owned, and hired vehicles for performance of the work as required to be licensed under the California or any other applicable state vehicle code. The Commercial Automobile Liability insurance shall have not less than

\$2,000,000 combined single limit per occurrence and shall apply to all operations of Seller.

The Commercial Automobile Liability policy shall include Buyer and its members, officers, agents, and employees while acting within the scope of their employment, as additional insureds with Seller, and shall insure against liability for death, bodily injury, or property damage resulting from the performance of this Agreement. The form of evidence of insurance shall be a Buyer's Additional Insured Endorsement or an endorsement to the policy acceptable to Buyer's Risk Manager

B. Commercial General Liability

The Seller shall provide Commercial General Liability insurance with Blanket Contractual Liability, Independent Contractors, Broad Form Property Damage, Premises and Operations, Products and Completed Operations, Sudden and Accidental Pollution, Fire Legal Liability and Personal Injury coverages included. Such insurance shall provide coverage for total limits actually arranged by Seller, but not less than \$10,000,000 combined single limit per occurrence. Should the policy have an aggregate limit and single limits of less than \$20,000,000, such aggregate limits should not be less than \$20,000,000 and be specific for this contract. Umbrella or Excess Liability coverages may be used to supplement primary coverages to meet the required limits. Evidence of such coverage shall be on Buyer's Additional Insured Endorsement form or on an endorsement to the policy acceptable to the Risk Management Section, and shall provide for the following:

1. Include Buyer and its members, officers, agents, and employees as additional insureds with the Named Insured for the activities and operations under this Agreement.
2. Severability-of-Interest or Cross-Liability Clause such as: "The policy to which this endorsement is attached shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the company's liability."
3. A description of the coverages included under the policy.

C. Excess Liability

The Seller may use an Umbrella or Excess Liability Coverage to meet coverage limits specified in this Agreement. The Seller shall require the carrier for Excess Liability to properly schedule and to identify the underlying policies as provided for Buyer on Buyer Additional Insured Endorsement Form, or on an endorsement to the policy acceptable to Buyer's Risk Management Section. Such policy shall include, as appropriate, coverage for Commercial General Liability, Commercial Automobile Liability, Employer's Liability, or other applicable insurance coverages.

D. Workers' Compensation/Employer's Liability Insurance

Coverage shall comply with any statutory obligation imposed by Workers Compensation, Occupational Disease Laws, or similar laws, including where applicable, the United States

Longshoremen's and Harbor Workers' Act, the Federal Employers' Liability Act and the Jones Act. Employers' Liability insurance shall have limits of not less than \$1,000,000 per accident, \$1,000,000 disease-policy limit and \$1,000,000 disease-each employee.

Seller specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act, Title 51 RCW. Further, Seller's indemnification obligation under the Agreement shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable to or for any third party under workers' compensation acts, disability benefits acts, or other employee benefits acts; provided, however, that Seller's waiver of immunity by the provisions of this paragraph extends only to claims for indemnity against Seller by Buyer, and does not include, or extend to, any claims by Seller's employees directly against Seller.

E. Professional Liability

Seller shall provide Professional Liability insurance with contractual liability coverage included covering Seller's liability arising from errors and omissions made directly or indirectly during the execution of this Agreement and shall provide coverage for the total limits actually arranged by Seller, but not less than \$5,000,000, combined single limit. Such policy shall be maintained for not less than three (3) years after the date of final acceptance and completion of the work performed under this Agreement. Evidence of such insurance shall be in the form of a special endorsement of insurance and shall include a Waiver of Subrogation in favor of Buyer, its members, officers, agents and employees.

F. Builders' Risk – Course of Construction Phase

Builder's Risk insurance shall be of the "all risk" type, shall be written in completed value form, and shall protect Seller and Buyer against risks of damage to the physical plant, buildings, structures, and materials and equipment whether on site or in transit from any location world wide. The amount of such insurance shall be not less than the insurable value of the work at completion. Buyer shall be a named additional insured on the policy. The Builder's Risk insurance shall provide for losses to be payable to Seller and the aforementioned additional insured, as their interests may appear. The policy shall contain a provision that in the event of payment for any loss under the coverage provided, the insurance company shall have no rights of recovery against Seller and the aforementioned named additional insured. The Builders' Risk policy shall insure against all risks of direct physical loss or damage to property from any cause including testing, ensuing loss, commissioning, earthquake and flood. The policy shall be in full force and effect until Commercial Operation Date or final completion of the Facility whichever date is the later.

G. Property All Risk Insurance – Operation Phase

Seller shall procure and maintain an All Risk Physical Damage policy to insure the full replacement value of the property located at Facility as described in this Agreement. The policy shall include coverage for expediting expense, extra expense, Business Interruption, ensuing loss from faulty workmanship, faulty materials, and/or faulty design. This policy shall be in full force and effect prior to the expiration of the Builder's Risk Policy. This policy shall have the same

insureds, and all losses shall be payable in the same manner, as provided for the Builders' Risk Policy in Paragraph II.F.

APPENDIX J
Form of Guarantee

This Guarantee dated as of [] is made by [] (the "**Guarantor**") in favor of SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, a public entity and joint powers agency formed and organized pursuant to the California Joint Exercise of Powers Act (California Government Section 6500 et seq.) (the "**Beneficiary**").

ARTICLE ONE

Section 1.01. Guarantee.

(a) For valuable consideration in connection with [identify PPA, and other Ancillary Documents as appropriate, as each may hereafter be amended, supplemented or otherwise modified from time to time, collectively, the "**Guaranteed Contract**"] with (Counterparty/Seller name and description to the underlying Guaranteed Contract, the "**Counterparty**") subject to the terms and conditions set forth herein and effective from the date herein, the Guarantor irrevocably and unconditionally guarantees to the Beneficiary, its successors and permitted assigns, the prompt payment on demand, in lawful money of the United States, of any amount due and payable to the Beneficiary arising out of or under the Guaranteed Contract, when the same shall become due, whether at stated maturity, by acceleration, demand or otherwise (including amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code) subject to any applicable grace period thereunder and the prompt and proper performance by the Counterparty of all of its other obligations to the Beneficiary pursuant to the Guaranteed Contract (collectively, the "**Guaranteed Obligations**"). This is a guarantee of payment and performance and not merely a guarantee of collection, and the Guarantor is liable as a primary obligor for the amounts and other obligations due hereunder. The Beneficiary shall make demands for payment or performance hereunder, as the case may be, by providing the Guarantor with written notice as provided below, and the Guarantor shall make payments or perform, as the case may be, within five (5) business days after receipt of any such notice. The Guarantor shall make each payment to the Beneficiary in U.S. Dollars in immediately available funds as directed by the Beneficiary.

(b) The obligations of Guarantor hereunder are irrevocable, absolute, independent and unconditional and shall not be affected by any circumstance which constitutes a legal or equitable discharge of a guarantor or surety other than payment in full in cash and performance of the Guaranteed Obligations. In furtherance of the foregoing and without limiting the generality thereof, Guarantor agrees that: (a) Beneficiary may enforce this Guarantee upon the occurrence and during the continuance of a default or early termination event under the Guaranteed Contracts notwithstanding the existence of any dispute between Counterparty and any Beneficiary with respect to the existence of such event; (b) the obligations of Guarantor hereunder are independent of the obligations of Counterparty under the Guaranteed Contracts and the obligations of any other guarantor of obligations of Counterparty and a separate action or actions may be brought and prosecuted against Guarantor whether or not any action is brought against Counterparty or any of such other guarantors and whether or not Counterparty is joined

in any such action or actions; and (c) Guarantor's payment or performance of a portion, but not all, of the Guaranteed Obligations shall in no way limit, affect, modify or abridge Guarantor's liability for any portion of the Guaranteed Obligations that has not been paid or performed. This Guarantee is a continuing guaranty and shall be binding upon Guarantor and its successors and assigns, and Guarantor irrevocably waives any right (including without limitation any such right arising under California Civil Code Section 2815) to revoke this Guarantee as to future transactions giving rise to any Guaranteed Obligations.

(c) Any interest on any portion of the Guaranteed Obligations that accrues after the commencement of any proceeding, voluntary or involuntary, involving the bankruptcy, insolvency, receivership, reorganization, liquidation or arrangement of Counterparty (or, if interest on any portion of the Guaranteed Obligations ceases to accrue by operation of law by reason of the commencement of said proceeding, such interest as would have accrued on such portion of the Guaranteed Obligations if said proceeding had not been commenced) shall be included in the Guaranteed Obligations because it is the intention of Guarantor and Beneficiary that the Guaranteed Obligations should be determined without regard to any rule of law or order that may relieve Counterparty of any portion of such Guaranteed Obligations.

(d) Upon the failure of Counterparty to pay or perform any of the Guaranteed Obligations when and as the same shall become due, Guarantor will upon demand pay, or cause to be paid, in cash, to Beneficiary an amount equal to the aggregate of the unpaid Guaranteed Obligations, or perform any such outstanding Guaranteed Obligations, as the case may be.

(e) This Guarantee shall terminate only upon the full satisfaction of the Guaranteed Obligations. If, notwithstanding the foregoing, Guarantor shall have any non-waivable right under applicable law or otherwise to terminate or revoke this Guarantee, Guarantor agrees that the termination or revocation shall not be effective until a written notice of the termination or revocation is received by Beneficiary and shall not affect the rights and powers of Beneficiary to enforce rights arising prior to receipt of the notice. Any rights arising out of advances or actions by Beneficiary after Guarantor's termination or revocation but prior to receipt of the requisite notice shall be the same as if the termination or revocation had not occurred.

Section 1.02. Guarantee Absolute.

(a) To the extent required hereunder, the Guaranteed Obligations will be paid strictly in accordance with the terms of the Guaranteed Contract, regardless of any bankruptcy or other law affecting any of such terms or the rights of the Beneficiary with respect thereto. The Guarantor's obligations under this Guarantee shall not be impaired by any increase, reduction, extension, rearrangement or subordination of the Guaranteed Obligations, any amendment, supplement, or other modification of the Guaranteed Contracts, any grant or impairment of any security or support for the Guaranteed Obligations, the failure to give notice of any default or event of default, however denominated, under the Guaranteed Contracts or of the bringing of action to enforce the payment or performance of the Guaranteed Obligations or any other notice of any kind relating to the Guaranteed Obligations, or any other action which affects the Guaranteed Obligations.

(b) Guarantor further agrees that, to the extent that the Counterparty or the Guarantor makes a payment or payments to the Beneficiary which payment or payments or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, and/or required to be repaid to the Counterparty or the Guarantor or their respective estate, trustee, receiver, or any other party under any bankruptcy law, state or federal law, common law, or equitable cause, then to the extent of such payment or repayment, this guarantee and the advances or part thereof which have been paid, reduced, or satisfied by such amount shall be reinstated and continued in full force and effect as of the date such initial payment, reduction, or satisfaction occurred.

ARTICLE TWO

Section 2.01. Severability.

(a) In case any one or more of the provisions of this Guarantee shall for any reason be held to be illegal or invalid by a court of competent jurisdiction, it is the intention of each of the parties to this Guarantee that such illegality or invalidity shall not affect any other provision hereof, but this Guarantee shall be construed or enforced as if such illegal or invalid provision had not been contained herein unless such a court holds that such provisions are not separable from other provisions of this Guarantee.

(b) The obligations hereunder are joint and several, and independent of the obligations of Counterparty, and a separate action or actions may be brought and prosecuted against Guarantor, whether or not action is brought against Counterparty or whether or not Counterparty is joined in any such action or actions.

ARTICLE THREE

Section 3.01. Guarantor's Warranties.

Guarantor makes the following representations and warranties to Beneficiary:

(a) (i) this Guarantee is executed at Beneficiary's request; (ii) Guarantor has not and will not without prior written consent of Beneficiary, sell, lease, assign, encumber, hypothecate, transfer or otherwise dispose of all or substantially all of Guarantor's assets, or any interest therein; and (iii) Guarantor has adequate means of obtaining from Counterparty on a continuing basis financial and other information pertaining to Counterparty's financial condition without relying on Beneficiary therefor;

(b) Guarantor agrees to keep adequately informed from such means of any facts, events or circumstances which Guarantor consider material or which might in any way affect Guarantor's risks hereunder. With respect to information or material acquired in the normal course of Beneficiary's relationship with Counterparty, Guarantor agrees that Beneficiary shall have no obligation to disclose such information or material to Guarantor;

(c) Guarantor is a [____], duly organized, validly existing and in good standing under the laws of the State of [____], and has the legal power and authority

to own its properties, to carry on its business as now being conducted and to enter into this Guarantee and effect the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Guarantee;

(d) the execution, delivery and performance by Guarantor of this Guarantee and has been duly authorized by all necessary action, and do not and will not require any consent or approval of Guarantor's managing member or equity holders or other Person other than that which has been obtained;

(e) the execution and delivery of this Guarantee and the fulfillment of and compliance with the provisions of this Guarantee do not and will not conflict with or constitute a breach of or a default under, any of the terms, conditions or provisions of any federal, state and local laws, statutes, regulations, rules, codes or ordinances enacted, adopted, issued or promulgated by any federal, state, local or other governmental authority, or any organizational documents, agreement, deed of trust, mortgage, loan agreement, other evidence of indebtedness or any other agreement or instrument to which Guarantor is a party or by which it or any of its property is bound, or result in a breach of or a default under any of the foregoing or result in or require the creation or imposition of any lien or encumbrance upon any of the properties or assets of Guarantor; and

(f) this Guarantee constitutes the legal, valid and binding obligation of Guarantor enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws relating to or affecting the enforcement of creditors' rights generally or by general equitable principles, regardless of whether such enforceability is considered in a proceeding in equity or at law.

ARTICLE FOUR

Section 4.01. Waivers.

(a) It shall not be necessary for the Beneficiary, in order to enforce this Guarantee, to exhaust the Beneficiary's remedies against the Counterparty, to enforce any security or support for the payment or performance of the Guaranteed Obligations, or to enforce any other means of obtaining payment or performance of the Guaranteed Obligations. The Guarantor waives any rights under applicable state law related to the foregoing. Until irrevocable payment in full and performance of the Guaranteed Obligations, the Guarantor will not exercise any right of subrogation (including any statutory rights of subrogation under Section 509 of the Bankruptcy Code, 11 U.S.C. § 509, or under applicable state law) or any right to participate in any claim or remedy of the Beneficiary against the Counterparty, but this standstill is not intended as a permanent waiver of the subrogation rights of the Guarantor. To the extent permitted by law, Guarantor waives the benefit of any statute of limitations affecting its liability hereunder or the enforcement thereof, and agrees that any payment of any obligation or other act which shall toll any statute of limitations applicable to the obligation shall also operate to toll such statute of limitations applicable to Guarantor's liability hereunder. The liability of Guarantor hereunder shall be reinstated and revived and the rights of Beneficiary shall continue with respect to any amount paid by Counterparty on account of the obligations guaranteed hereby, which shall thereafter be required to be restored or returned by Beneficiary

upon the bankruptcy, insolvency or reorganization of Counterparty or for any other reason, all as though such amount had not been paid. The Guarantor hereby waives notice of acceptance of this Guarantee and notice of any obligation or liability to which it may apply, and waives presentment, demand for payment or performance, protest, notice of dishonor or non-payment or non-performance of any such obligation or liability, suit or the taking of other action by Beneficiary against, and any other notice to, the Counterparty, the Guarantor or others. Any other suretyship defenses are hereby waived by the Guarantor. This Guarantee and the obligations of Guarantor hereunder shall be valid and enforceable and shall not be subject to any limitation, impairment or discharge for any reason (other than payment in full in cash and performance of the Guaranteed Obligations). The Beneficiary shall not be required to inquire into the capacity or powers of Guarantor or Counterparty or the officers, directors or any agents acting or purporting to act on behalf of any of them.

(b) In addition to the foregoing, Guarantor specifically waives:

(i) any right to require Beneficiary to (A) proceed against any person, including Counterparty; (B) proceed against or exhaust any collateral held from Counterparty, and other endorser or guarantor or any other person; (C) give notice of terms, time and place of any public or private sale of personal property or real property security held from Counterparty or comply with any other provisions of Section 9504 of the California Uniform Commercial Code or sections 2924 through 2924k of the California Civil Code, to the extent allowed by law; (D) pursue any other remedy in Beneficiary's power; or (E) make any presentments, demands for performance, or give any notices of nonperformance, protests, notices of protests or notices of dishonor in connection with any obligations or evidences of indebtedness held by Beneficiary as security, in connection with any obligations or evidences of indebtedness which constitute in whole or in part the obligations guaranteed hereunder, or in connection with the creation of new or additional obligations;

(ii) in accordance with Section 2856 of the California Civil Code, any and all rights and defenses available to it by reason of Sections 2787 to 2855, inclusive, of the California Civil Code;

(iii) any defense arising by reason of (A) any defense arising by reason of the incapacity, lack of authority or any disability or other defense of Counterparty, any other endorser or guarantor or any other person, including, without limitation, any defense based on or arising out of the lack of validity or the unenforceability of the Guaranteed Obligations or any agreement or instrument relating thereto or by reason of the cessation of the liability of Counterparty from any cause other than payment in full in cash and performance of the Guaranteed Obligations; (B) the cessation from any cause whatsoever, other than payment and performance in full of the obligations of Counterparty, of the liability of Counterparty, any endorser or guarantor or any other person; (C) the application by Counterparty of the proceeds of any obligations for purposes other than the purpose represented by Counterparty to Beneficiary or intended or understood by Beneficiary or Guarantor; (D) any act or omission by Beneficiary which directly or indirectly results in or aids the discharge of Counterparty or any obligations by operation of law or otherwise; (E) any modification of the obligations, in any form whatsoever, including any modification made after revocation hereof to any obligations incurred prior to such revocation, and including without limitation the renewal, extension, acceleration or other change

in time for payment of the obligations, or other change in the terms of the obligations or any part thereof, including increase or decrease of the rate of interest thereon; (F) any defense based upon (i) any principles or provisions of law, statutory or otherwise which provide that the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal or that are or might be in conflict with the terms of this Guarantee and any legal or equitable discharge of Guarantor's obligations hereunder, (ii) the benefit of any statute of limitations affecting Guarantor's liability hereunder or the enforcement hereof, (iii) any rights to set-offs, recoupments and counterclaims, and (iv) promptness, diligence and any requirement that any Beneficiary protect, secure, perfect or insure any Lien or any property subject thereto; (G) any defense based upon Beneficiary's errors or omissions in the administration of the Guaranteed Obligations, except behavior that amounts to bad faith; (H) any defense based upon notices, demands, presentments, protests, notices of protest, notices of dishonor and notices of any action or inaction, including acceptance of this Guarantee, notices of default or early termination under the Guaranteed Contracts or any agreement or instrument related thereto, notices of any renewal, extension or modification of the Guaranteed Obligations or any agreement related thereto and notices of any extension of credit to Counterparty; and (I) to the fullest extent permitted by law, any defenses or benefits that may be derived from or afforded by law which limit the liability of or exonerate guarantors or sureties, or which may conflict with the terms of this Guarantor;

(iv) any right to enforce any remedy which Beneficiary now has or may hereafter have against Counterparty, any other endorser or guarantor or any other person, and waives any benefit of, or any right to participate in any security whatsoever now or hereafter held by Beneficiary, and waives any rights or benefits which Guarantor might have under California Code of Civil Procedure Sections 580a and 726 (limiting the amount of any deficiency judgment to the difference between the amount of any indebtedness owed and the greater of the fair value of the security or the amount for which the security was actually sold), 580b (barring deficiencies with respect to real property purchase money obligations), and 580d (barring recovery of a deficiency judgment after real property security is sold under a power of private sale) as from time to time amended and Guarantor shall have no right of subrogation;

(v) all rights and defenses arising out of an election of remedies by the Beneficiary, even though that election of remedies, such as a non-judicial foreclosure with respect to security for a guaranteed obligation, has destroyed the Guarantor's rights of subrogation and reimbursement against the Counterparty by operation of Section 580d of the California Code of Civil Procedure or otherwise;

(vi) waives all rights and defenses that the Guarantor may have because the Counterparty's debt is secured by real property, which shall allow the Beneficiary to collect from the Guarantor without first foreclosing on any real or personal property collateral pledged by the Counterparty and, if the Beneficiary forecloses on any real property collateral pledged by the Counterparty (A) the amount of the debt may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price; and (B) the Beneficiary may collect from the Guarantor even if the Beneficiary, by foreclosing on the real property collateral, has destroyed any right the Guarantor may have to collect from the Counterparty. The waiver contained in this Section 4.01(b)(vi) is an unconditional and irrevocable waiver of any rights and defenses the Guarantor may have because the

Counterparty's debt is secured by real property. These rights and defenses include, but are not limited to, any rights or defenses based upon Sections 580a, 580b, 580d or 726 of the California Code of Civil Procedure.

Section 4.02. Guarantor's Understandings With Respect To Waivers.

(a) Guarantor warrants and agrees that Guarantor has had all necessary opportunity to secure any advice which Guarantor desires with respect to each of the waivers set forth above, that such waivers are made with Guarantor's full knowledge of its significance and consequences, and that under the circumstances, the waivers are reasonable and not contrary to public policy or law.

(b) Guarantor acknowledges that Guarantor would or might have a defense to enforcement of this Guarantee if, in the absence of an effective waiver or authorization by Guarantor, Beneficiary were to take any of the actions or exercise any of the remedies (i) that are otherwise authorized by Guarantor herein or (ii) that are described in Sections 4.01 and 4.02 and as to which Guarantor waives any defenses. Without limiting the foregoing, in the absence of an effective waiver, Beneficiary's foreclosure against real property security by power of sale under Section 580d of the California Code of Civil Procedure would destroy Guarantor's subrogation and reimbursement rights against Counterparty and would thus provide Guarantor with a defense to Beneficiary's enforcement of this Guarantee. It is Guarantor's intention in executing this Guarantee to waive all such defenses, including without limitation the defense described in the preceding sentence, in advance.

(c) Until the Guaranteed Obligations are satisfied in full, Guarantor shall withhold exercise of (a) any claim, right or remedy, direct or indirect, that Guarantor now has or may hereafter have against Counterparty or any of its assets in connection with this Guarantee or the performance by Guarantor of its obligations hereunder, in each case whether such claim, right or remedy arises in equity, under contract, by statute (including without limitation under California Civil Code Section 2847, 2848 or 2849), under common law or otherwise and including without limitation (i) any right of subrogation, reimbursement or indemnification that Guarantor now has or may hereafter have against Counterparty, (ii) any right to enforce, or to participate in, any claim, right or remedy that any Beneficiary now has or may hereafter have against Counterparty, and (iii) any benefit of, and any right to participate in, any collateral or security now or hereafter held by any Beneficiary and (b) any right of contribution Guarantor now has or may hereafter have against any other guarantor of any of the Guaranteed Obligations. Guarantor further agrees that, to the extent the agreement to withhold the exercise of its rights of subrogation, reimbursement, indemnification and contribution as set forth herein is found by a court of competent jurisdiction to be void or voidable for any reason, any rights of subrogation, reimbursement or indemnification Guarantor may have against Counterparty or against any collateral or security, and any rights of contribution Guarantor may have against any such other guarantor, shall be junior and subordinate to any rights Beneficiary may have against Counterparty, to all right, title and interest Beneficiary may have in any such collateral or security, and to any right Beneficiary may have against such other guarantor.

(d) Notwithstanding the foregoing, all waivers in this Guarantee shall be effective only to the extent permitted by law.

Section 4.03. Beneficiary's Rights With Respect To Guarantor's Property. In addition to all liens upon, and rights of setoff against the moneys, securities or other property of Guarantor given to Beneficiary by law, Beneficiary shall have a lien upon and a right of setoff against all moneys, securities or other property of Guarantor now or hereafter in possession of or on deposit with Beneficiary, whether held in a general or special account or deposit, or for safekeeping or otherwise, and every such lien and right of setoff may be exercised without demand upon or notice to Guarantor. No lien or right of setoff shall be deemed to have been waived by any act or conduct on the part of Beneficiary, or by any neglect to exercise such right to setoff or to enforce such lien, or by any delay in so doing, and every right of setoff and lien shall continue in full force and effect until such right of setoff or lien is specifically waived or released by any instrument in writing executed by Beneficiary.

Section 4.04. Subordination of Counterparty's Debts to Guarantor. Any obligation of Counterparty now or hereafter held by Guarantor is hereby subordinated in right of payment to the Guaranteed Obligations, and any such obligation of Counterparty to Guarantor collected or received by Guarantor after a default or early termination event has occurred and is continuing, and any amount paid to Guarantor on account of any subrogation, reimbursement, indemnification or contribution rights referred to in the preceding paragraph when all Guaranteed Obligations have not been paid in full, shall be held in trust for Beneficiary and shall forthwith be paid over to Beneficiary to be credited and applied against the Guaranteed Obligations. Such obligation of Counterparty to Guarantor is assigned to Beneficiary as security for this Guarantee and the obligation and, if Beneficiary requests, shall be collected and received by Guarantor, as trustee for Beneficiary and paid over to Beneficiary on account of the obligation of Counterparty to Beneficiary but without reducing or affecting in any manner the liability of Guarantor under the other provisions of this Guarantee. Any such notes now or hereafter evidencing such obligation of Counterparty to Guarantor shall be marked with a legend that the same are subject to this Guarantee, and, if Beneficiary so requests, shall be delivered to Beneficiary. Guarantor will, and Beneficiary is hereby authorized, in the name of Guarantor from time to time to execute and file financing statements and continuation statements and execute such other documents and take such other action as Beneficiary deems necessary or appropriate to perfect, preserve and enforce its rights hereunder.

Section 4.05. Waiver of Authentication of Validity of Certain Acts. Where any one or more of Counterparties are corporations, partnerships, or limited liability companies it is not necessary for Beneficiary to inquire into the power of Counterparties or the officers, directors, partners, managers, members or agents acting or purporting to act in their behalf, and any obligations made or created in reliance upon the professed exercise of such power shall be guaranteed hereunder.

Section 4.06. Authorizations To Beneficiary. Guarantor authorizes Beneficiary, without notice or demand and without affecting its liability hereunder, from time to time to (a) renew, extend, accelerate or otherwise change the time for payment or performance of, or otherwise change the terms of the obligations or any part thereof, including increase or decrease of the rate of interest thereon; (b) take and hold security for the payment or performance of this Guarantee or the obligations guaranteed, and exchange, enforce, waive and release any such security; (c) apply such security and direct the order or manner of sale thereof, including without limitation, a non-judicial sale permitted by the terms of the controlling security agreement or

deed of trust, as Beneficiary in its discretion may determine; and (d) release or substitute any one or more of the endorsers or guarantors of any obligations. Beneficiary may without notice assign this Guarantee in whole or in part.

ARTICLE FIVE

Section 5.01. Miscellaneous.

(a) All notices and other communications between the Guarantor and the Beneficiary provided for in this Guarantee shall be in writing, including facsimile, and delivered or transmitted to the addresses set forth below, or to such other address as shall be designated by the Guarantor in written notice to the other party.

If to the Guarantor:

[Guarantor Name]

[Guarantor Address]

Attn: Chief Financial Officer

Telephone: []

Facsimile: []

If to the Beneficiary:

Southern California Public Power Authority

225 S. Lake Avenue, Suite 1250

Pasadena, CA 91101

Attn: Executive Director

Telephone: 626-793-9364

Facsimile: 626-793-9461

(b) This Guarantee was made and entered into in the [] and shall be governed by, interpreted and enforced in accordance with the laws of the State of California, without regard to conflict of law principles. All litigation arising out of, or relating to this Guarantee, shall be brought in a state or federal court in the [County of Los Angeles] in the State of California. The Guarantor hereby irrevocably agrees to submit to the exclusive jurisdiction of such courts in the State of California and waive any defense of forum non conveniens.

(c) The provisions of this Guarantee may be waived or amended only in writing signed by both the Guarantor and Beneficiary. This Guarantee shall bind and inure to the benefit of the Guarantor and the Beneficiary and their respective successors and permitted assigns, including without limitation, the trustee, but neither party may assign its rights under this Guarantee without the prior written consent of the other party. The Guarantor may not assign its rights nor delegate its obligations under this Guarantee, in whole or in part, without prior written consent of the Beneficiary, and any purported assignment or delegation absent such consent is void.

(d) The rights, powers and remedies given to Beneficiary by this Guarantee are cumulative and shall be in addition to and independent of all rights, powers and remedies

given to Beneficiary by virtue of any statute or rule of law or in the Guaranteed Contracts or any agreement between Guarantor and Beneficiary or between Counterparty and Beneficiary. Any forbearance or failure to exercise, and any delay by Beneficiary in exercising, any right, power or remedy hereunder shall not impair any such right, power or remedy or be construed to be a waiver thereof, nor shall it preclude the further exercise of any such right, power or remedy.

(e) Guarantor hereby agrees that in any dispute relating to this Guarantee, each party shall be responsible for its own attorneys' fees and costs. Each of Guarantor and Beneficiary was represented by its respective legal counsel during the negotiation and execution of this Guarantee.

Executed as of the date first above written.

[GUARANTOR]

By: _____

Name: _____

Title: _____

APPENDIX K

Quality Assurance Program

Seller shall implement a Quality Assurance (“Q/A”) Program to ensure that the performance of the development, design and construction of the Facility fulfills the requirements of this Agreement. The Q/A Program shall provide assurance that design, purchasing, manufacturing, shipping, storage, construction, testing and examination of all equipment, materials, services and maintenance of the Facility will comply with the requirements of this Agreement, all applicable Requirements of Law and the manufacturers and/or suppliers requirements for successful operation of the Facility.

Quality at Seller

What is quality? Quality is the unit of measure for assessing fulfillment of project goals. A quality project meets or exceeds the contract requirements and accepted standards of professional and industry practice. Furthermore, high quality projects are those that address client and societal needs more successfully than “low” quality projects. While this may seem like a straightforward definition, the process to ensure quality is much more involved and includes quality management, quality planning, quality control, quality assurance, a quality system, and total quality management.

“Quality assurance” refers to a process that reduces the potential for error throughout the phases of a project. On projects with a Q/A Program, the chances of producing a poor quality deliverable are substantially reduced. Quality control procedures are an integral part of quality assurance. Historically, industry has used the term “quality control” to indicate a checking procedure for verifying the quality of deliverables. This checking commonly occurs at the end of the process, long after an error may have been made and compounded by subsequent work. While quality control checks at the end of a project are an essential exercise, scheduled periodic reviews at each phase of project conceptual and final design are integral to the Q/A Program. In addition, quality maintenance which meet or exceed manufacturers’ and/or suppliers’ requirements and best industry practices must be an integral part of the Q/A Program.

The Quality Management Process

The surest way to achieve satisfactory quality is to adhere to a proven quality process. The term “quality” most accurately refers to a project’s ability to satisfy needs when considered as a whole and each part of the process meets or exceeds the standards of Prudent Utility Practices.

The Seller project management team is responsible for proactively planning and directing the quality of the work process, services, and deliverables. The Seller project management team will target six areas to monitor quality:

- 1) A written work plan with accompanying Q/A Manual.
- 2) Detailed review of the project design at the planning and conceptual design phase
- 3) Detailed review of project final design prior to construction.
- 4) A quality control program during construction to verify implementation is in compliance with design documents and document any changes.
- 5) Independent engineering review of the entire project process, from design review through commercial operation.
- 6) A written maintenance manual for the Facility for the duration of the commercial operation that complies with the maintenance manuals of the manufacturers and suppliers from whom Sellers have purchased equipment and/or material and best industry practices.

Written Work Plan and Q/A Manual

The idea of a written work plan and Q/A manual is to incorporate quality assurance in all areas of project execution. Quality needs to be institutionalized into the project process, not only in the budgeting process, but everywhere. For example, specific tasks and duties need to be allocated to specific individuals; roles and interface points need to be clearly defined; individual assignments need to be realistic; special attention needs to be paid to complex areas within projects; schedules need to be realistic and achievable; and lastly the work culture needs to be enjoyable and open so that employees are empowered to react quickly to symptoms of quality problems before they actually manifest.

Seller's quality program shall be documented in a written work plan and Quality Assurance manual (the "*Q/A Manual*"). The form and the format of the Q/A Manual shall be developed by Seller, but must comply with Prudent Utility Practices and follow manufacturers and suppliers recommendations without deviation. The content of the Q/A Manual shall provide written descriptions of policies, procedures and methodology to accomplish a quality project. Seller shall submit three (3) copies of the Q/A Manual within ninety (90) days after the Effective Date to Buyer or Buyer's Agent. The Q/A Manual shall be kept current by Seller throughout the term of this Agreement through the submittal of revisions, as appropriate, by Seller to Buyer or Buyer's Agent.

The Q/A Manual shall describe the authority and the responsibility of the Persons in charge of the Q/A Program and inspection activities. It shall also provide the plan for detailed review of project conceptual design and final design, hold points, and methodology for document control and comment. Furthermore, it shall provide the plan and strategy for quality control and review during the construction project and for maintenance and operations during commercial operation. The Q/A Manual shall strive; at a minimum, to define control procedures or methods to assure the following:

(a) The design documents, drawings, specifications, Q/A procedures, records, inspection procedures and purchase documents are maintained to be current, accurate and in compliance with all applicable law.

(b) The purchased materials, equipment and services comply with the requirements of this Agreement and all applicable Requirements of Law.

- (c) The materials received at the site are inspected for compliance with specifications.
- (d) The subcontracted work is adequately inspected by third parties.
- (e) Proper methods are employed for the qualification of personnel who are performing work for the development, design and construction of the Facility.
- (f) Proper documentation, control and disposition of nonconforming equipment and materials is maintained.
- (g) Proper records are kept and available following project completion to ensure accurate documentation of as-built conditions.
- (h) Detailed and complete plan for maintenance and operation during commercial operations consistent with manufacturers and suppliers recommendations and best industry practices.

Conceptual Design Review

Seller has a team of professionals who develop and review the project layout and project conceptual design. The team consists of specialists in land-use and planning, permitting, meteorology, engineering, construction, project management, and finance. A preliminary site plan is developed and meetings are held to assess optimization of the resource, constructability, minimization of cultural and biological impacts, land use restrictions, and landowner requirements. Preliminary road design will also be started and access to the site will be reviewed in detail. When this plan is ready for review, a formal plan and map is created and a final internal review is conducted. Following that is detailed studies for biological, cultural and other types of impacts by third parties. The site plan is then reviewed, modified as necessary, and then used to begin the permitting and public review process. The site plan is further modified based on comments in that process. At that point, the site plan can be issued for construction, and final engineering can commence.

In parallel with this process, preliminary conceptual design is started for the major areas of the project, including the substation, transmission line, any applicable internal project collection systems, communications system, and road and grading is done to develop construction estimates as well as materials specifications. All of these areas of conceptual designs are used to check and verify the assumptions used for development of the site plan.

Final Engineering Design

Following finalization of the site plan, the detailed design is done for the collection system, fiber-optic network, foundations, roads & grading, transmission line, and substation by third party engineering firms licensed to practice in the state in which the project is to be constructed. Each firm has their own quality assurance and checking procedures, however Seller reviews the final work products in detail to check with conformance with this Agreement and provides comments as a second round of quality assurance. When Seller's comments have been incorporated, the design of each area is considered final, that design is then submitted to an independent engineer for review and comment. This ensures that another entity, in addition to

Seller, has done a comprehensive review of all project areas and details to ensure conformance with this Agreement.

In parallel with final design and checking activities, final geotechnical studies will be conducted at the site, and a final resource assessment will be performed with the issued-for-construction project layout. Any changes based on the assessment would be documented in as-built design drawings and approved in advance by Buyer.

Quality Assurance at the Construction Site

Seller may hire a third party general contractor to construct the project. This contractor will be required to have its own quality assurance program in place using its own staff, as well as third party inspectors. The two primary areas of focus at the site are assuring conformance of construction to design drawings, and conformance of materials to specifications. The general contractor will be required to provide third party inspectors and testing for materials including concrete slump testing; rebar and concrete placement; cable trenching, etc. The general contractor will also be required to maintain a set of red-line drawings during the course of construction to document any changes to the design documents. Proposed project changes would be reviewed and approved in the field by Seller construction management team prior to implementation.

Quality assurance of equipment installation is achieved through a combination of procedures and processes. The general contractor will provide rigorous inspection of its installation crew. The equipment supplier will have technical advisors on site to inspect and sign off on any components received, oversee and monitor installation, and approve mechanical completion. In addition, Seller will have its own construction management team on site consisting of a construction manager and quality inspectors who will observe performance of all areas of the work and ensure compliance with design documents. A team consisting of the equipment supplier, Seller, and the general contractor will examine every element of the equipment at mechanical completion to develop a comprehensive punchlist of any un-finished or incorrect work. This punchlist is maintained by the contractor, and is signed off by Seller upon completion of the punchlist items. Lastly, the independent engineer performs periodic audits during construction to oversee critical items, spot checks, confirms construction progress, reports on any perceived issues, and provides independent reporting and assessments to the project stakeholders.

Following completion of the project, the general contractor will be required to provide as-built all design drawings and records of all materials testing conducted at the site. This documentation will be maintained at the project site during operations of the Facility.

Quality Assurance During Commercial Operation

Seller shall supply a quality Assurance Plan for Buyer's review and approval, such approval not to be reasonably withheld, sixty (60) days prior to the anticipated Commercial Operation date for the Primary Facility.

APPENDIX L
Milestone Schedule

Primary Facility

<u>MILESTONE</u>	<u>DATE</u>
◦ First Energy Overlay Zone Permit for Development and Operation of Windy Flats Wind Energy Project issued by Klickitat County	Achieved
◦ Wind Turbine Generators purchased – 88 Siemens SWT 2.3 MW	Achieved
◦ Construction commences on site	Achieved
◦ Wind turbines arrive on site	Achieved
◦ Interconnection and transmission agreements with KPUD executed	Achieved
◦ Final Energy Overlay Zone Permit for Development and Operation of Windy Flats Wind Energy Project issued by Klickitat County	Achieved
◦ Interconnection agreements with BPA executed	Achieved
◦ Energization of Energizer Substations	Achieved
◦ Wind Turbine Generators reserved – 26 Siemens SWT 2.3 MW	Achieved
◦ Construction of 230-kV transmission line completed	September 30, 2009
◦ Energization of Dooley Substations	October 31, 2009
◦ Testing & commissioning of Facility	December 15, 2009
◦ Commercial Operation Date of Primary Facility	January 31, 2010
◦ Final punchlist items	February 27, 2010

APPENDIX M
KPUD Interconnection Points, Specified Transmission Path
and BPA Transmission Rights and BPA Transmission Agreements

1. KPUD Interconnection Points. The planned Facility will be interconnected at the following KPUD Interconnection Points:

(a) up to thirteen (13) wind turbine generators, with an aggregate installed capacity up to 30 MW, will interconnect to KPUD-owned transmission facilities at the point where 34.5 kV bus work is connected to the generation side of the BPA metering rack in the Energizer Substation, as more specifically described in that certain Generator Interconnection Agreement (Energizer Substation), dated as of March 31, 2009, between Seller and KPUD, and other similar or related documents; and

(b) of the remainder of the Facility wind turbine generators, 75 will interconnect to KPUD-owned transmission facilities at the downstream terminals of the 230 kV disconnect switches located between the 230 kV breakers and KPUD transmission facilities in the Dooley Substation, as more specifically described in that certain Generator Interconnection Agreement (Energizer Substation), dated as of March 31, 2009, between Seller and KPUD and all other similar or related documents; of these 75 wind turbine generators, 24 will connect through Dooley from the Maryhill recloser collector station.

Exhibit A to this Appendix M depicts the transmission path and interconnection points of the wind turbine generators that comprise the Facility.

2. Specified Transmission Path. The Specified Transmission Path is (a) the approximately 8.5 miles of 230 kV transmission line between the Dooley Substation and the KPUD Willis Substation, (b) the approximately 7.23 miles of 230 kV transmission line between the Willis Substation and the Energizer Substation, and (c) the approximately 1.42 miles of 230 kV transmission line between the Energizer Substation to the Point of Delivery at the Rock Creek Substation, as more accurately described in the KPUD Interconnection and Transmission Agreements and all related documents.

3. BPA Transmission Rights. Five (5) 50 MW Transmission Service Requests submitted by Windy Point Partners, LLC to BPA: 72324461 and 72324579 from Rock Creek Substation to BPAT.PSEI (Covington); and 72324582, 72324589 and 72324600 from Rock Creek Substation to NWH.

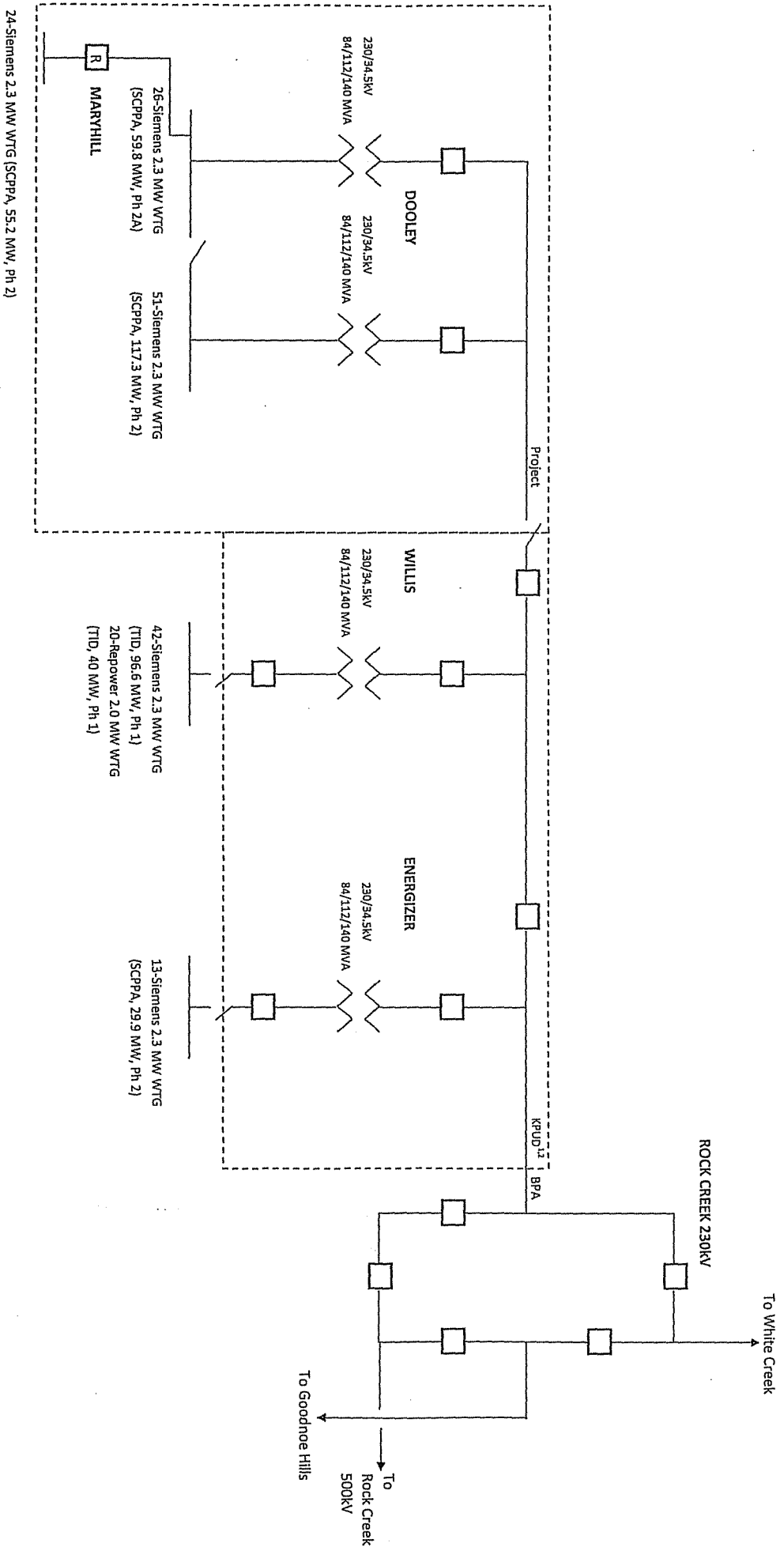
4. BPA Interconnection Rights. Allocation of the BPA Generation Interconnection Agreements (Contract Nos. 09TX-13851 and 06TX-12140) as necessary to secure the interconnection rights for the Primary Facility and Facility Expansion to BPA's Rock Creek Substation.

5. Additional Transmission Rights Required for Facility Expansion. Additional Transitional Service Requests by Windy Point Partners, LLC to BPA to secure additional transmission service from Rock Creek Substation to Mid-C as required for full operation of the Expansion Facility in accordance with the Power Purchase Agreement.

Exhibit A
to
APPENDIX M

[See Attached]

WINDY POINT / WINDY FLATS ONE-LINE DIAGRAM



1. Project is responsible for paying all KPUD transmission service costs
2. KPUD transmission service agreement has a term of 20 years beginning on the commercial operation date with an option to extend the term for an additional 10 years

APPENDIX N
Remaining Prepayment Amount

<u>Contract Year</u>	<u>Remaining Prepayment Amount for Primary Facility</u>
1.0	522,450,000
1.5	513,177,500
2.0	503,905,000
2.5	494,472,500
3.0	485,040,000
3.5	475,420,000
4.0	465,800,000
4.5	455,955,000
5.0	446,110,000
5.5	435,990,000
6.0	425,870,000
6.5	415,427,500
7.0	404,985,000
7.5	394,187,500
8.0	383,390,000
8.5	372,197,500
9.0	361,005,000
9.5	349,375,000
10.0	337,745,000
10.5	325,637,500
11.0	313,530,000

<u>Contract Year</u>	<u>Remaining Prepayment Amount for Primary Facility</u>
11.5	300,905,000
12.0	288,280,000
12.5	275,095,000
13.0	261,910,000
13.5	248,125,000
14.0	234,340,000
14.5	219,912,500
15.0	205,485,000
15.5	190,370,000
16.0	175,255,000
16.5	159,407,500
17.0	143,560,000
17.5	126,930,000
18.0	110,300,000
18.5	92,832,500
19.0	75,365,000
19.5	57,002,500
20.0	38,640,000

APPENDIX O

The closing for the purchase and sale (the "**Closing**") of the Facility and Related Interests and Rights shall take place at the offices of Southern California Public Power Authority, 225 South Lake Ave, Pasadena, CA 91101 on the third Business Day after the conditions to Closing have been satisfied or waived, or at such place as Buyer and Seller mutually agree in writing ("**Closing Date**"). The Closing shall be deemed effective as of 12:01 a.m. (Pacific Prevailing Time) on the date of the Closing. The obligation of Buyer to purchase the Facility and Related Interests and Rights shall be subject to the following terms and conditions:

1. Representations and Warranties. Seller shall provide representations and warranties customary for transactions involving the purchase and sale of wind generating facilities, including, without limitation, those identified on Appendix O-1 and the warranties and guaranties provided for in Article V of this Agreement. In addition, Seller shall certify its compliance with the requirements provided under Article V of this Agreement.

2. Adjustments. All items relating to the ownership and operation of the Facility and Related Interests and Rights, which are customarily prorated, including without limitation Taxes, Insurance premiums, and rentals or other payments under leases and property agreements, shall be prorated as of the date of the Closing. Any unknown or disputed adjustments will not delay the Closing, but will be estimated and escrowed for post-Closing resolution.

3. Liabilities. Seller shall be liable with respect to items or obligations that relate to any time period prior to 12:01 a.m. (Pacific Prevailing Time) on the Closing Date and Buyer shall be liable with respect to items or obligations relating to time periods after 12:01 a.m. (Pacific Prevailing Time) on the Closing Date. There shall be no third party liabilities with respect to the Facility and Related Interests and Rights that are payable by Seller the payment of which has not been settled as provided in (5) herein, and no amounts shall remain payable by Seller to Buyer under the Agreement.

4. Conditions to Closing. The obligation of Buyer to Close will be subject to satisfaction of the following conditions:

(a) Seller shall not be in Default under the Agreement.

(b) Buyer shall have received copies of all requisite resolutions and incumbency certificates of Seller and any other documents evidencing all actions taken by Seller to authorize the consummation of the transactions contemplated by the Closing, such resolutions to be certified as of the Closing Date by an Authorized Representative of Seller.

(c) All representations and warranties made by Seller shall be true and correct in all material respects.

(d) Title to the Facility and Related Interests and Rights shall be good and marketable, subject only to Permitted Encumbrances.

(e) Buyer shall have obtained or Seller shall have validly assigned to Buyer at Closing, all Permits necessary or desirable for Buyer's ownership and operation of the Facility.

(f) Buyer shall have confirmed, in its reasonable determination, that no facts or circumstances exist that do or could reasonably be expected to materially and adversely affect the value of the Facility.

(g) Buyer shall have secured financing for the acquisition of the Facility.

(h) All amounts owed by Seller to Buyer under the Agreement, including amounts associated with any Shortfall Energy (an amount equal to the product of (x) the Shortfall Energy and (y) the Prepaid Energy Price) that have not been made up as of the Closing and any amounts owed under Section 7.3 for Replacement Energy shall be fully paid.

5. Actions at Closing. Buyer shall release and return to Seller the Performance Security provided under the Agreement and Seller shall transfer the Facility and Related Interests and Rights to Buyer, free and clear of all liens and encumbrances, other than Permitted Encumbrances. Seller shall assign and transfer to Buyer all of its right, title and interest in: (i) all raw materials, consumables and spare parts; (ii) all tangible personal property; (iii) all intangible personal property, including permits and any intellectual property rights; (iv) all buildings and fixtures; (v) computerized and non-computerized records, reports, data, files, and information; (vi) all design, construction and equipment warranties and guarantees related to the Facility and Related Interests and Rights in which Seller has any remaining rights against engineers, contractors, suppliers, equipment manufacturers or other Persons; (vii) the Leases, water rights and any other property agreements related to the Facility and Related Interests and Rights, (viii) all common or joint ownership, construction and operating agreements entered into by Seller with respect to the Facility and Related Interests and Rights, and (ix) all other agreements for third-party operation of the Facility and Related Interests and Rights or any portion thereof or of any capacity or capability of the Transmission Rights, all of which shall be assignable and transferable to Buyer in accordance with the terms thereof; provided, however, that assignments of interests under leases or other agreements with the USBLM or the State of Washington may be subject to the prior approval of the USBLM and the State of Washington, respectively.

6. Further Assurances. At any time or from time to time after the Closing, at either Party's request and without further consideration, the other Party shall execute and deliver to the requesting Party such other instruments of sale, transfer, conveyance, assignment and confirmation, provide such materials and information and take such other actions as the requesting Party may reasonably deem necessary or desirable in order to more effectively (i) transfer, convey and assign to Buyer, and confirm Buyer's title to, all of the transferred assets, free and clear of all liens other than Permitted Encumbrances; (ii) to the full extent permitted by law, put Buyer in actual possession of the transferred assets and assist Buyer in

exercising all rights with respect to such transferred assets; (iii) include within the transferred assets, and transfer, convey and assign to Buyer, free and clear of all liens other than Permitted Encumbrances, any assets that are held or owned by Seller but that have not been expressly identified in paragraph (4) of this Appendix M and that Buyer has requested be transferred to it; and (iv) otherwise to consummate the transactions contemplated by this Agreement.

7. Post-Closing Training. For a period of six (6) months after Closing, Seller shall make available to Buyer at least eight (8) of Seller's qualified and trained personnel or cause the Operator to make available at least eight (8) of Operator's qualified and trained personnel to provide further information, advice, guidance and training to Buyer's employees or independent contractors in connection with matters related to the operation, maintenance and compliance with technical, regulatory and other requirements of the Facility in a manner designed to allow an Operator engaged by Buyer to operate and maintain the Facility following expiration or termination of the O&M Agreements competently and independently without any future assistance from Seller or its representatives.

APPENDIX O-1

Representations and Warranties

1. Seller is duly organized, validly existing and in good standing under the laws of the State of its organization, and is duly qualified to carry on its business in the State of Washington.

2. Seller has all requisite power and authority to carry on its business, to enter into each document, instrument or agreement to be executed by the Parties at or in connection with the Closing (the "*Transaction Documents*"), and to perform its obligations under each Transaction Document.

3. The consummation of the transactions contemplated by the Transaction Documents will neither violate nor be in conflict with (i) any provision of Seller's constituent documents, (ii) provided that all consents are obtained, any material agreement or instrument to which Seller is a party or is bound, or (iii) any judgment, decree, order, writ, injunction, statute, rule or regulation applicable to Seller that individually or in the aggregate would reasonably be expected to materially and adversely affect the consummation of the transactions contemplated by the Transaction Documents.

4. The execution, delivery and performance of each of the Transaction Documents, and the transactions contemplated thereby, have been duly authorized by all requisite action on the part of Seller.

5. Each Transaction Document has been duly executed and delivered on behalf of Seller and, subject to customary limitations, constitutes a valid and binding obligation of Seller.

6. Seller has incurred no liability for brokers or finder's fees relating to the transactions contemplated by the Transaction Documents for which Buyer shall have any responsibility or which might result in any liens on the Facility and Related Interests and Rights.

7. There are no liens or encumbrances on the Facility and Related Interests and Rights, other than (i) Permitted Encumbrances, and (ii) liens and encumbrances which Seller will cause to be released at or prior to Closing.

8. Seller has paid all taxes on or in respect of the Facility required to have been paid to date, and has filed all tax returns with respect thereto, as and when due.

9. The agreements to be transferred to Buyer are all of the material agreements necessary for Buyer's ownership and operation of the Facility. Seller is not in default under any of such contracts. Each of such contracts is in full force and effect, and is enforceable against the applicable counterparty thereto, except to the extent enforceability may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting the

enforcement of creditors' rights and subject to general equitable principles. There have not occurred any events that (with notice and/or the passage of time) would place Seller in default under any such contract. To the best of Seller's knowledge, no counterparty is in default under any such contract.

10. Seller has not commenced bankruptcy, reorganization or insolvency proceedings in respect of Seller, nor has Seller taken any action in furtherance of initiating any such proceedings. To Seller's knowledge, no third party is threatening to file any bankruptcy or insolvency proceedings against Seller.

11. Except as may be set forth on disclosure schedules:

(a) The Facility is in good working order and repair, ordinary wear and tear excepted, with major maintenance performed as disclosed.

(b) The Facility conforms and has been operated by Seller in conformity in all material respects with all applicable laws, regulations, rules, orders, judgments and decrees (whether judicial or administrative in nature).

(c) There is no action, suit, arbitration or other proceeding pending (or to Seller's knowledge threatened) against Seller in any court or before any arbitrator or before or by any governmental body related to the Facility which, if adversely determined, would reasonably be expected to (A) materially and adversely affect the Facility, or (B) result in a material liability to Buyer.

(d) Seller holds all Permits necessary for Seller's ownership and operation of the Facility.

(e) All of Seller's Permits have been duly issued, are currently valid and are not subject to any pending or, to Seller's knowledge, threatened revocation proceeding.

(f) Seller has not, and to Seller's knowledge no other Person has, used, released, discharged, generated, manufactured, produced, stored or disposed of hazardous substances in, on, under or about the Facility in violation of any environmental laws or in a manner that could reasonably be expected to subject Buyer to material liability under any environmental law.

(g) There are no underground storage tanks on the Land.

12. Except as may be forth on the disclosure schedules, Seller has received no notice from any Governmental Authority asserting a claim for or stating that:

(h) any special assessment or taxing district not reflected in the most recent tax notice for the Facility has been or is being formed;

(i) the existing use or occupancy of the Facility violates any zoning, land use or environmental law, including set back or height restrictions, in any material respect;

(j) the Facility violates any building code; or

(k) any action for eminent domain or condemnation has been commenced or threatened against any portion of the Facility.

APPENDIX P

Leases and Easements

1. Amended and Restated Wind Energy Lease and Agreement (Windy Flats East) dated as of November 25, 2008, by and between Windy Point Partners, LLC and Kayser and Sons, Inc., a Washington corporation;
2. Amended and Restated Wind Energy Lease and Agreement (Windy Flats East) dated as of December 16, 2008, by and between Windy Point Partners, LLC and Martin N. Nye and Cherie C. Nye, husband and wife;
3. Amended and Restated Wind Energy Lease and Agreement (Windy Flats East) dated as of November 25, 2008, by and between Windy Point Partners, LLC and James A. Sizemore and Nancy Sizemore, husband and wife;
4. Amended and Restated Wind Energy Lease and Agreement (Windy Flats East) dated as of November 25, 2008, by and between Windy Point Partners, LLC and Wendy D. Jaekel Hall, a/k/a/ Wendy D. Jaekel and Scott Hall, husband and wife;
5. Wind Energy Lease and Agreement dated as of June 26, 2006, by and between Windy Point Partners, LLC and Eleanor Dooley, a widow, as her separate estate, as amended by that First Amendment to Lease Agreement dated as of October 23, 2008 by and between Windy Point Partners, LLC and Eleanor Dooley, a widow, as her separate estate, and by that Second Amendment to Lease Agreement dated as of January 5, 2009 by and between Windy Point Partners, LLC and Eleanor Dooley, a widow, as her separate estate;
6. Wind Energy Lease and Agreement dated as of October 23, 2008, by and between Windy Point Partners, LLC and Eleanor Dooley, a widow, as her separate estate, as amended by that First Amendment to Lease Agreement dated as of April 22, 2009, by and between Windy Flats Partners, LLC and Eleanor Dooley, a widow, as her separate estate;
7. Wind Energy Lease and Agreement dated as of June 8, 2006, by and between Windy Point Partners, LLC and Maryhill Museum of Art, a Washington nonprofit corporation, as amended by that First Amendment to Lease Agreement dated as of February 20, 2009, by and between Windy Flats Partners, LLC and Maryhill Museum of Art, a Washington nonprofit corporation;
8. Wind Energy Lease and Agreement dated as of May 16, 2008, by and between Windy Point Partners, LLC and Pyramid Land and Cattle Company, Inc., a Washington corporation;
9. Amended and Restated Grant of Easement and Easement Agreement dated as of July 29, 2008, by and between Windy Point Partners, LLC and Calvin G. Linden, a married individual as to his separate estate, and Terry L. Linden, a married individual as to his separate estate;
10. Amended and Restated Grant of Easement and Easement Agreement dated as of July 29, 2008, by and between Windy Point Partners, LLC and Calvin G. Linden, a married individual as to his separate

estate, as amended by that First Amendment to Amended and Restated Grant of Easement and Easement Agreement dated as of May 20, 2009, by and between Windy Flats Partners, LLC and Calvin G. Linden, a married individual as to his separate estate;

11. Amended and Restated Wind Energy Lease and Agreement (Phase II-North) dated as of November 26, 2008, by and between Windy Point Partners, LLC and Davenport Ranches, Inc., a Washington corporation, as amended by that First Amendment to Amended and Restated Lease Agreement (Phase II-North) dated as of February 3, 2009, by and between Windy Point Partners, LLC and Davenport Ranches, Inc., a Washington corporation;
12. Amended and Restated Wind Energy Lease and Agreement (Phase II) dated as of July 3, 2008, by and between Windy Point Partners, LLC and Wayne Hctor, a/k/a Walter Wayne Hctor, as his separate property, and Daniel Hctor, as his separate property, as amended by that First Amendment to Amended and Restated Lease Agreement (Phase II) dated as of February 12, 2009, by and between Windy Point Partners, LLC and Wayne Hctor, a/k/a Walter Wayne Hctor, as his separate property, and Daniel Hctor, as his separate property, and by that Second Amendment to Amended and Restated Lease Agreement (Phase II) dated as of June 16, 2009, by and between Windy Flats Partners, LLC and Wayne Hctor, a/k/a Walter Wayne Hctor, as his separate property, and Daniel Hctor, as his separate property;
13. Wind Energy Lease and Agreement dated as of March 16, 2009, by and between Cannon Northwest Wind Partners, LLC and Robert Eshelman, a single individual;
14. Wind Power Development Lease No. 60-079549 dated as of January 1, 2007 by and between Cannon Northwest Wind Partners, LLC, as successor-in-interest to Orion Energy, LLC, and the State of Washington, Department of Natural Resources;
15. Wind Energy Lease and Agreement dated as of March 6, 2009, by and between Cannon Northwest Wind Partners, LLC and Louis H. Cosner and Patricia S. Cosner, husband and wife, in joint tenancy with right of survivorship, as to Parcel 1, and Louis H. Cosner and Patricia S. Cosner, husband and wife as to Parcel 2;
16. Substation Easement Agreement dated as of October 23, 2008, by and between Windy Point Partners, LLC and Eleanor Dooley, a widow, as her separate estate;
17. Substation Easement Agreement dated as of November 14, 2008, by and between Windy Point Partners, LLC and Maryhill Museum of Art, a Washington nonprofit corporation;
18. Operations and Maintenance Building Easement Agreement dated as of October 23, 2008 by and between Windy Point Partners, LLC and Eleanor Dooley, a widow, as her separate estate;
19. Operations and Maintenance Building Easement Agreement dated as of _____, by and between Windy Flats Partners, LLC and Calvin G. Linden, a married individual as his separate estate, and Terry L. Linden, a married individual as his separate estate;
20. Right of Way Easement Agreement dated as of October 23, 2008, by and between Windy Point Partners, LLC and Eleanor Dooley, a widow, as her separate estate;

21. Right of Way and Access Easement Agreement dated as of December 26, 2008, by and between Windy Point Partners, LLC and Duane Johnson and Janet Johnson, husband and wife;
22. Right of Way and Access Easement Agreement dated as of November 25, 2008, by and between Windy Point Partners, LLC and Neil Kayser and Jill Kayser, husband and wife;
23. Right of Way and Access Easement Agreement dated as of November 14, 2008 by and between Windy Point Partners, LLC and Maryhill Museum of Art, a Washington nonprofit corporation;
24. Road and Utility Easement Agreement No. 50-084256 dated as of April 6, 2009, by and between Windy Flats Partners, LLC and State of Washington, Department of Natural Resources;
25. Right of Way and Access Easement Agreement dated as of December 12, 2008 by and between Windy Point Partners, LLC and Louis H. Cosner and Patricia S. Cosner, husband and wife;
26. Right of Way and Access Easement Agreement dated as of December 12, 2008, by and between Windy Point Partners, LLC and Daniel G. Gunckel as his separate estate as to an undivided one-half interest and Ronald Gunckel as his separate estate as to an undivided one-half interest.

APPENDIX Q

[Intentionally Omitted]

APPENDIX R

Permits

- Klickitat County Energy Overlay Zone Permit for the Windy Flats Wind Energy Project, issued on November 2, 2007, including, without limitation, documents that evidence compliance with all separate project permits, reports, environmental studies, plans, mitigation requirements and all other approvals required therein.
- Klickitat County Energy Overlay Zone Permit for the Windy Point Wind Project, issued on April 24, 2006, extension granted November 6, 2007, including, without limitation, documents that evidence compliance with all separate project permits, reports, environmental studies, plans, mitigation requirements and all other approvals required therein.
- Klickitat County Energy Overlay Zone Permit No. EOZ2008-04 for the Windy Point II Wind Farm, issued on March 19, 2009, including, without limitation, documents that evidence compliance with all separate project permits, reports, environmental studies, plans, mitigation requirements and all other approvals required therein.
- All United States Federal Aviation Administration Determinations of No Significance and Notices of Actual Construction for each wind turbine in the Primary Facility.
- United States Army Corps of Engineers Joint Aquatic Resources Permit.
- All Washington Department of Ecology National Pollutant Discharge Elimination System Construction Stormwater General Permits, including Permit No. WAR-011131, covering Windy Flats, Windy Point, and "Expansion Facility" projects, and Permit No. WAR-001177, covering the Windy Point II wind energy project.
- All Washington State Department of Archaeology and Historic Preservation permits for construction related activities for the Primary Facility wind energy facilities, and, to extent available, the Expansion Facility wind energy facilities.
- All Washington Department of Ecology Temporary Water Rights Permits and authorizations related to water wells.
- All Washington State Department of Transportation General Permits, including, without limitation, General Permit No. 47445.
- All Washington State Department of Transportation Utility Permits, including, without limitation, Utility Permit No. 47445.
- All Klickitat County Department of Public Works Utility Permits, including, without limitation, Permit No. P040709.

- All Klickitat County Haul Route Agreements, including Agreement No. CL12908 related to the Windy Point project, Agreement No. 18808 related to the Windy Flats project, and a Letter of Understanding regarding the Windy Point II project, and to the extent available, any such agreement or permit associated with the Expansion Facility wind energy project.
- All Klickitat County Permissions to Work within Klickitat County Rights of Way for the Primary Facility wind energy facilities, and, to the extent available, the Expansion Facility wind energy facilities.
- All Klickitat County Right of Way Approach Permits for the Primary Facility wind energy facilities, and, to the extent available, the Expansion Facility wind energy facilities.
- All Klickitat County Building Permits for all Primary Facility project structures including, without limitation, all foundations, towers, turbines, substations and related equipment, Operations and Maintenance Buildings (temporary and permanent), wells and/or related above ground structures and Met towers, as applicable, and each permit, approval, certificate of occupancy or completion for each such structure as required or necessary for compliance with any applicable local, state or federal building, fire, health and safety, environmental statute, law, regulation or ordinance.
- Other Klickitat County, Washington State, or Federal authorizations related to construction of buildings for use as part of the Primary Facility, including but not limited to Klickitat County On-Site Sewage System Installation Permits.

WINDY POINT/WINDY FLATS PROJECT

AGENCY AGREEMENT

BETWEEN

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

AND

**THE CITY OF LOS ANGELES ACTING BY AND THROUGH
THE DEPARTMENT OF WATER AND POWER**

Dated as of August 1, 2009

1.	PARTIES	1
2.	RECITALS	1
3.	AGREEMENT	6
4.	DEFINITIONS	7
	4.1 Agency Costs	7
	4.2 Agency Work.....	7
	4.3 Agent	7
	4.4 Agreement.....	7
	4.5 Effective Date	7
	4.6 Project.....	7
5.	APPOINTMENT OF AGENT.....	7
	5.1 Appointment of Agent	7
	5.2 Agent's Performance of Agency Work in Accordance with Laws, Rules Regulations.....	7
	5.3 Other Agents.....	8
	5.4 SCPPA Procurement Code	8
	5.5 Compliance with Federal Tax Requirements.....	8
6.	RIGHTS, DUTIES AND RESPONSIBILITIES OF SCPPA.....	8
	6.1 SCPPA's Role.....	8
7.	ACTIVITIES TO BE PERFORMED BY LADWP	9
	7.1 Make Periodic Reports	9
	7.1 Submit Recommendations	9
	7.1 Billings.....	9
	7.2 Inform SCPPA	9
	7.3 Expend Funds for Agency Costs	9
	7.4 Investments	9
	7.5 Arrange for Services etc. for Agency Work	9
	7.6 Comply with Laws and Regulations.....	9
	7.7 Keep Accounting Records of Expenditures.....	9
	7.8 Prepare and Submit Estimates of Agency Costs.....	10
	7.9 Obtain Cost Data.....	10
	7.10 Assist in Budget Preparation	10
	7.11 Render Requisitions.....	10
	7.12 Communicate with Project Trustee or Lender.....	10
	7.13 Provide Information.....	10
	7.14 Provide Interface.....	10
	7.15 Furnish Assistance and Information	10
	7.16 Place and Maintain Insurance	10
	7.17 Conduct of Other Activities Relating to Agency Work.....	10
	7.18 Place and Maintain Insurance	10
	7.19 Provide Information Regarding Defaults.....	11
	7.20 Address Administrative and Operating matters in connection with the Layoff Contracts	11
	7.21 Other Activities Relating to Agency Work, Operating Work and Supplementary Services	11
8.	AGENCY COSTS	11
	8.1 Agency Costs	11
	8.2 Costs Not Agency Costs	11
	8.3 No Profit	12
	8.4 Budget and Review Process.....	12
9.	PAYMENT TO AGENT OF AGENCY COSTS; AUDITS	12
	9.1 Payment and Audit Procedures.....	12
10.	LIABILITY.....	13

10.1	No Liability of SCPPA, Agent, Directors, Officers, Etc.; SCPPA Directors, Officers, Employees, Project Manager Not Individually Liable.	13
10.2	Extent of Exculpation; Enforcement of Rights in Equity	13
10.3	No Relief From Insurer's Obligations	13
10.4	SCPPA, Directors, Officers, Employees, Agents Not Liable; No General Liability of SCPPA	13
11.	ALTERNATIVE DISPUTE RESOLUTION	13
11.1	Non Binding Dispute Resolution	14
11.2	Role of the Coordinating Committee and the SCPPA Board	14
12.	RELATIONSHIP OF THE PARTIES	14
12.1	Separate and Several Interests	14
13.	UNCONTROLLABLE FORCES	14
13.1	Excuse of Performance by Reason of Uncontrollable Forces	14
14.	BINDING OBLIGATIONS	14
14.1	All Obligations Binding	15
15.	GENERAL PROVISIONS GOVERNING AGREEMENT	15
15.1	Severability	15
15.2	Waiver Not to Effect Subsequent Events	15
15.3	Headings Not Binding	15
16.	GOVERNING LAW	15
17.	TERM AND EXPIRATION	15
17.1	Effective Date	15
17.2	Termination	15
18.	SEVERABILITY	15
19.	VENUE	15
20.	ATTORNEYS FEES	15
21.	CONTRACT ADMINISTRATOR	16
22.	REPRESENTATION AND NOTICE	16
23.	ADMENDMENTS	16

APPENDICES

- A - CONVENIENCE COPY FOR INFORMATIONAL PURPOSES OF APPENDIX A TO THE POWER SALES AGREEMENTS - DEFINITIONS

WINDY POINT/WINDY FLATS PROJECT

AGENCY AGREEMENT

1. **PARTIES.** This Windy Point/Windy Flats Project Agency Agreement, dated for convenience as of this 1st day of August 2009, by and between the SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, a joint powers agency and a public entity organized under the laws of the State of California, hereinafter designated as "SCPPA," or "the Authority" created under the provisions of the Act, and the CITY OF LOS ANGELES acting by and through the DEPARTMENT OF WATER AND POWER a California municipal utility created by and existing pursuant to the Charter of the City of Los Angeles. The CITY OF LOS ANGELES acting by and through the DEPARTMENT OF WATER AND POWER is also periodically referred to in this Agreement as "LADWP" or "the Department" or as "Agent". LADWP and SCPPA are also sometimes referred to herein, with respect to this Agreement, individually as the "Party" and together as the "Parties". In addition, LADWP and certain members of SCPPA participating in the Project may be referred to collectively, in this Agreement, as "Project Participants."
2. **RECITALS, CONSTRUCTION AND PRELIMINARY MATTERS.** The Recitals set forth herein and the facts which follow are incorporated into this Agreement by reference for all purposes. This Agreement has been reviewed by attorneys for both Parties and shall not be interpreted with reference to the rules of construction providing for construction against a Party responsible for drafting or creating a particular provision or section, but should instead be interpreted in a manner which broadly carries forth the goals and objectives of the Parties as expressed herein. References to "Sections," "Annexes," "Appendices," "Schedules" and "Exhibits" shall be to Sections, Annexes, Appendices, Schedules and Exhibits, as the case may be, of this Agreement unless otherwise specifically provided. Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose or be given any substantive effect. Any of the terms defined herein may, unless the context otherwise requires, be used in the singular or the plural, depending on the reference. The use herein of the word "include" or "including", when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not nonlimiting language (such as "without limitation" or "but not limited to" or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term or matter. This Agreement is made with reference to the following facts among others:
 - 2.1 SCPPA was created pursuant to provisions contained in the Joint Exercise of Powers Act found in Chapter 5 of Division 7 of Title 1 of the Government Code of California, as amended from time to time (the "Act"), by its members, which are municipalities and an irrigation district that supply, among other things, electrical energy, in the State of California, for the purpose of jointly and cooperatively undertaking the planning, financing, development, acquisition, construction, improvement, betterment, operation,

and maintenance, of projects for the generation or transmission of electric energy, including the development and implementation of systems and frameworks for the acquisition and delivery of secure, long term reliable supplies of renewable electric energy.

- 2.2 LADWP is a California municipal utility, created and existing pursuant to the Los Angeles City Charter, which provides electric energy to its citizens through its municipally owned electric system. LAPWD is one of the parties to the SCPPA Joint Powers Agreement and is one of the eleven founding member municipalities which formed SCPPA. Since the initial creation of SCPPA pursuant to the Joint Powers Agreement LADWP has acted, in part, through SCPPA's Board of Directors to carry out generation, transmission and other projects through SCPPA.
- 2.3 SCPPA was established, designed and brought to fruition principally through the substantial devotion of resources, the creative efforts, and the prescience, foresight and vision of LADWP, in order to create a viable joint powers authority with the objective of representing and carrying forth the common goals, the common aspirations and the common objectives of all municipally owned electric utilities, both large and small, which are situated in Southern California.
- 2.4 Pursuant to the terms of the Act, and its Joint Power Agreement, SCPPA has the power, for the purpose of promoting, maintaining and operating electric generation and transmission, to plan, develop, contract for, finance, acquire, design, undertake, own, construct, operate and administer projects involving systems, methodologies and programs for the acquisition, supply procurement and delivery of secure, long term reliable supplies of renewable electric energy and to cause such projects to be planned, developed, contracted for, financed, acquired, designed, constructed, operated, maintained, and administered and to provide by agreement for the performance and carrying out of any such activities.
- 2.5 During the past decade the Project Participants have experienced the imposition of a substantial number of new environmental laws, rules, regulations and policies and revised resource requirements which have effectively required the Project Participants to shift generation assets to increasingly turn to and rely upon renewable forms of energy generation, including wind generation, as a significant part of the generation resource portfolio necessary and appropriate to their electric systems. This shift to renewable energy and wind generation has created an ever increasing need for the development of secure long term arrangements for the delivery of energy from wind generation facilities so that the Project Participants will be able to carry out their objectives to reliably supply their customers with renewable electric energy.
- 2.6 Over the course of the past several years members of SCPPA, including LADWP, have investigated means and methods by which to acquire renewable energy generation resources and secure necessary long term reliable supplies of renewable electric energy, especially energy generated by wind generation facilities, to carry forth their generation responsibilities to their citizens.
- 2.7 To facilitate the appropriate review and due diligence studies necessary to carry forth an effective program for the development of renewable resources SCPPA created the

“Renewable Electric Energy Resource Project” to be carried forth between SCPPA and those SCPPA members desiring to participate in this renewable energy oriented project under SCPPA’s Joint Powers Agreement.

- 2.8 In pursuit of the goals of the Renewable Electric Energy Resource Project SCPPA has issued Requests for Proposals for potential renewable electric resources to address SCPPA member renewable energy needs, and the Department and other participants in the Renewable Electric Energy Resource Project have identified potential wind energy generation resources in the Windy Point and Windy Flats areas north of the Columbia River in the state of Washington which are being developed for and are anticipated to be owned and operated by Windy Flats Partners, LLC, an affiliate of Cannon Power Corporation. Such identified wind project resources will be located near the town of Goldendale, Klickitat County, Washington, in the southern part of the state of Washington on a twenty-nine mile long strip of land situated north of the shores of the Columbia River. At the time of this Agreement, Windy Flats Partners, LLC is the owner of the Windy Point/Windy Flats wind farm currently under development, including a first phase having a planned initial installed capacity of approximately 202 Megawatts and a second phase having a planned installed capacity of approximately 60 additional Megawatts, entailing a combined capacity, when complete, of approximately 262 Megawatts (the “Facility,” as further described herein).
- 2.9 The Project to be carried forth contemplates a prepayment for electric energy with added associated ancillary provisions for acquisition and delivery of the resources and output of the facility and the benefits of its associated lines, substations, interconnections, leases, licenses, contract rights, clearances, permits, entitlements and other assets and infrastructure and has been carried forth at the request of the Project Participants to assist the Project Participants in their endeavors to meet their required renewable electric energy generation goals.
- 2.10 The Facility when fully developed, will be a wind-powered electricity generating facility with an expected nameplate capacity up to 262.2 MW, and will include all structures or improvements erected on wind farm land leases, all alterations thereto or replacements thereof, all fixtures, attachments, appliances, equipment, machinery and other articles attached thereto or used in connection therewith and all spare parts which may from time to time be incorporated or installed in or attached thereto, all interconnections relating thereto, all contracts and agreements for the acquisition of rights and the purchase or sale of goods or other personal property related thereto, all real or personal property owned, easement granted upon or leased related thereto, and all other real and tangible and intangible personal property leased or owned by the developer associated with the Windy Point/Windy Flats wind farm project and placed upon or used in connection with the generation of electricity from the Project.
- 2.11 The Project Participants desire, through SCPPA, to obtain the Facility Output and also to put into place certain acquisition alternatives under which SCPPA would be obligated to, or would be entitled to exercise an option to, purchase or acquire the Facility or to otherwise succeed to the ownership of the Facility and its related resources and intend to provide, as well, for a means by which the Project Participants may secure such transmission and delivery resources as may be necessary to transmit, move or exchange the energy from the Facility as directed by the respective Project Participants.

- 2.12 To carry forth the Project goals, LADWP and the other participants in the Renewable Electric Energy Resource Project have carried out extensive investigations into the advisability of utilizing a prepayment methodology for the acquisition of a long-term reliable supply of renewable electric energy from the Facility for the purpose of carrying forth the goals of achieving a continuing systematic source of renewable electric energy.
- 2.13 The Project Participants have examined numerous alternatives. Based upon the investigations by the Department and the other participants in the Renewable Electric Energy Resource Project, the Project Participants have determined that, in the case of the Windy Point/Windy Flats Project, the purchase of wind energy by way of a transaction through which SCPPA prepays for Guaranteed Generation and pays for Excess Energy and other Facility Output after delivery, together with the alternatives for acquisition of the Facility which are provided for in the Power Purchase and Security Agreements, provides the most desirable commercial structure by which to best achieve the Project Participants' wind energy needs and best satisfy the continuing requirements of the Project Participants' respective renewable portfolio standards.
- 2.14 The Project Participants have participated in the negotiation of a power purchase agreement and related agreements, arrangements and mechanisms for the procurement of the Facility Output of this Washington wind generation facility by way of a transaction through which SCPPA prepays for Guaranteed Generation and pays for Excess Energy and other Facility Output after delivery, and which also provide certain acquisition alternatives under which SCPPA would be obligated to, or would be entitled to exercise an option to, purchase or acquire the Facility or to otherwise succeed to the ownership of the Facility, its various interconnections, its associated transmission arrangements, its resources, its liabilities, its leases, contracts, permits, services and other related facility assets, rights and entitlements. In addition the Project Participants and SCPPA have further carried forth due diligence investigations and plans and measures by which to provide appropriate project financing.
- 2.15 LADWP and the other Project Participant have also examined and analyzed alternative methodologies and structures for the potential acquisition of wind generation to determine the most reliable framework with the best pricing attributes to provide the best value to each Project Participant's respective renewable generation portfolio. LADWP and the other Project Participant have concluded that with respect to the Windy Point/Windy Flats Project, the methodology posed by way of the Power Purchase and Security Agreements set forth herein provides the Project Participants with the most desirable means to achieve secure reliable long-term supplies of wind generation.
- 2.16 The Project Participants have concluded that prepaying for the purchase of wind generation and the potential alternatives for the purchase of wind generation facilities contemplated through the Power Purchase Agreement and the structure, design and planned methodologies contemplated herein, as part of the Project, will materially assist the Project Participants in carrying out their critical operating and business objectives to provide a long-term supply of wind energy for the generation needs of the Project Participants. SCPPA, LADWP and Glendale anticipate that the Facility Output produced by the Project will be utilized to serve the Project Participants' renewable energy needs within their respective service areas and will materially assist each respective utility in meeting its renewable portfolios standard.

- 2.17 To carry forth the objectives set forth herein, SCPPA (i) is entering into the Power Purchase Agreement with Windy Flats Partners, LLC, an affiliate of Cannon Power Corporation, which will provide, in part, for a prepayment of Guaranteed Generation and (ii) in addition, will enter into other Power Purchase and Security Agreements which, along with other applicable provisions of the Power Purchase Agreement, will potentially provide SCPPA with certain purchase rights and obligations or liens and security interests with respect to the Project and certain related facilities and property, all as shall inure to SCPPA for and on behalf of the Project Participants in accordance with each Project Participant's Output Entitlement Share and Output Cost Share, including all of the rights, benefits and entitlements and all of the duties, obligations, and liabilities under the Power Purchase and Security Agreements accruing through SCPPA.
- 2.18 In order to secure the performance of Power Purchase Provider in connection with all of its obligations and requirements under the Power Purchase and Security Agreements, SCPPA has endeavored to provide for various legal mechanisms including Security Instruments and other contractual provisions under which SCPPA is entitled to exercise certain cure rights in order to assure the provision of electric energy by the Facility to satisfy the requirements of the Power Purchase Agreement. It is the intention of the Parties that the Project Participants, under the Power Sales Agreements, shall be reposed with the rights, benefits, liabilities, obligations and risks accruing to SCPPA pursuant to the provisions of these instruments in accordance with each Project Participant's Output Entitlement Share and Output Cost Share.
- 2.19 LADWP and the other Project Participant in the Windy Point/Windy Flats Project have a need for a long-term source of renewable energy to satisfy their renewable portfolio standard requirements and desire to ensure the reliable delivery of wind powered electric energy generation to fulfill this requirement. The Project Participants desire that SCPPA proceed with the economic and financial design, structuring, financing, Acquisition, development, implementation, management, operation and administration of the Project to procure such a long term supply of secure renewable wind powered electric generation. To assist in carrying forth the above objectives LADWP, the other Project Participant and SCPPA have determined that it is desirable to enter into this Agreement to provide for LADWP to act as the Agent and as the Project Manager for the Project and to provide agency and project management services related to the Windy Point/Windy Flats Project.
- 2.20 LADWP and the other Project Participant in the Windy Point/Windy Flats Project have need for a long-term source of renewable energy to satisfy their renewable portfolio standard requirements and desire to ensure the reliable delivery of wind powered electric energy generation to fulfill this requirement. .
- 2.21 The Project Participants desire and intend through this Agency Agreement to provide the necessary framework and mechanism for the administration of the Project whether by way of the Facility Output purchase provisions in the Power Sales Agreement or by way of the initial purchase buyout obligation pursuant to the Power Purchase Agreement at the commencement of the life of the Facility or by the exercise of other purchase provisions and options under the Power Purchase Agreement, to own the Facility at a point in time after Commercial Operation.

- 2.22 SCPPA, through the Project Manager or otherwise, will take or cause to be taken all steps necessary to cause to be secured, such contracts, instruments, rights and entitlements and all such governmental entitlements, permits, licenses and approvals as are necessary for the Project, and will then proceed as appropriate with, all measures necessary for the financing, acquisition and, where necessary, the further development of the Project. To the extent provided through the Project Agreements SCPPA will carry forth those measures as directed by the Project Participants, associated with the operation and maintenance of those interests and facilities designated as part of the Project to provide a secure source of renewable energy for the Project Participants contracting with SCPPA therefore pursuant to the terms and conditions of the Project Agreements.
- 2.23 In order to enable SCPPA to carry out the activities necessary to the planning, development, acquisition, maintenance, improvement, administration and operation of the Project on behalf of the Project Participants, it is necessary for SCPPA to enter into an agreement with LADWP to act as the Project Manager and as SCPPA's agent in the operation, administration and management of the Project on behalf of the Project Participants.
- 2.24 SCPPA is entering into Power Sales Agreements with each Project Participant for the purpose of carrying out the Project Participants' purposes in the Windy Point/Windy Flats Project subject to the application thereof to such purposes and on such terms as provided in the applicable Indenture and as required by the Act.
- 2.25 The Project Participants contemplate that SCPPA will provide for the further implementation, administration, operation and maintenance of the Project through the application of the payments required to be made pursuant to the Power Sales Agreements in accordance with the provisions of the individual agreements entered into between SCPPA and each respective Project Participant.
- 2.26 Section 5.3 of each of the Project Participants' Power Sales Agreement provides for the designation of a Project Manager to administer the Project on behalf of and for the benefit of all of the Project Participants.
- 2.27 It is the Purpose of this Agreement to carry forth the intendments of Section 5.3 of the Power Sales Agreements of all of the Project Participants and to designate and appoint LADWP as Project Manager of the Windy Point/Windy Flats Project and to repose in LADWP, through this Agency Agreement, the power, authority and responsibility to act as the Agent for the Project Participants in the management and administration of the Project.

3. **AGREEMENT.** For and in consideration of the premises and the mutual covenants and agreements hereinafter set forth, and in order to carry forth the objectives of the Power Sales Agreements and to appoint LADWP as Project Manager over the Windy Point/Windy Flats Project, the Parties agree as herein set forth.

4. **DEFINITIONS.** Appendix A of the Power Sales Agreements (a copy of which for the convenience of the Parties is set forth in Appendix A of this Agency Agreement) sets forth, where applicable, the defined terms of this Agreement between SCPPA and LADWP. Except for the definition of the term "Agreement" and "Project" the definitions in said Appendix A shall be applicable to this Agreement.

The term "Agreement" and "Project", when initially capitalized, are as defined herein in this Section 4. All other terms which are not specifically defined in this Section 4, when initially capitalized, shall have the meaning ascribed in Appendix A of the Power Sales Agreements. Except for the definition of the term "Agreement" and the term "Project" the definitions in Appendix A shall be equally applicable to the Power Sales Agreements and this Agency Agreement. The terms defined in said Appendix A and in this Section 4, whether in the singular or plural, unless specifically provided otherwise, when used herein or in the Appendices hereto and initially capitalized, shall have the meaning ascribed thereto in said Appendix A or as set out below:

- 4.1 Agency Costs: The costs, as set forth in Section 8 hereof, of carrying out Agency Work.
- 4.2 Agency Work: The activities to be performed by the Agent pursuant to Section 7 of this Agreement.
- 4.3 Agent: The City of Los Angeles acting by and through the Department of Water and Power, which shall be responsible, in accordance with the terms of this Agreement, for carrying out the Agency Work on behalf of SCPPA.
- 4.4 Agreement. This Agreement, as it may be amended, modified or supplemented from time to time.
- 4.5 Effective Date. The date described in Section 17.1 hereof.
- 4.6 Project. The project carried out by way of the Windy Point/Windy Flats Project Power Sales Agreements, their Appendices and their attached, incorporated or associated instruments and agreements. The Project shall, among other things, entail the aggregate of rights, liabilities, interests and obligations of all Project Participants. For purposes of this Agreement the terms "Project" and "Windy Point/Windy Flats Project" shall have the same meaning.

5. APPOINTMENT OF AGENT.

- 5.1 Appointment of Agent. In accordance with the terms and conditions of this Agreement SCPPA hereby appoints, designates, authorizes and directs LADWP to carry out, as agent for and on behalf of SCPPA, Agency Work in accordance with the terms of this Agreement. LADWP hereby accepts such appointment, designation, authorization and direction. Agent shall act as project manager on behalf of the Project Participants for the Windy Point/Windy Flats Project. LADWP shall serve as Agent and project manager for the duration of the Power Sales Agreements. Agent shall not have the right to resign and may not be removed as Agent for the Project during the time which any of the Power Sales Agreements are in effect.
- 5.2 Agent's Performance of Agency Work in Accordance with Applicable Laws, Rules and Regulations. In carrying forth its Agency Work pursuant to the terms of this Agreement Agent shall, in all material respects, observe all applicable laws, rules and regulations.
- 5.3 Other Agents. The Authority shall at all times have the right to appoint another agent or agents to perform, apart from and concurrent with this Agreement, activities relative to the Project.

5.4 SCPPA Procurement Code. In its capacity as agent for the Authority under this Agreement, whenever its duties under this Agreement shall call upon it to potentially enter into procurement transactions, unless the Board of Directors should direct otherwise, Agent shall, when possible and practicable, follow the current SCPPA procurement code applicable to the Project, as issued by the SCPPA Board of Directors and as the same may be amended from time to time. Provided, however, that to the extent authorized by law, Agent may utilize its own procurement rules when Agent deems such action to be in the best interest of the Project.

5.5 Compliance with the Federal Tax Law Requirements. Notwithstanding anything to the contrary in this Agreement, each of SCPPA and LADWP shall take such actions in the administration of the Project and the performance of this Agreement as may be necessary, if applicable, to comply with the Federal Tax Law Requirements on the Bonds, and each shall refrain from taking any action that would adversely affect compliance with the Federal Tax Law Requirements.

6. RIGHTS, DUTIES AND RESPONSIBILITIES OF SCPPA. SCPPA shall have of the following the rights, duties and responsibilities under this Agreement:

6.1 SCPPA's Role. SCPPA acting by and through the Coordinating Committee, its Board of Directors or the Executive Director, as applicable, shall have the following rights duties and responsibilities under this Agreement:

6.1.1 Review Budgets: review, modify and approved the budgets submitted pursuant to the applicable provisions of the Power Sales Agreements

6.1.2 Review Agency Cost Estimates: Review, modify and approve the estimates of Agency Costs submitted by the Agent pursuant to this Agreement.

6.1.3 Monitor Agency Work: Monitor the continuation and completion of Agency Work.

6.1.4 Make Recommendations and/or Modifications Regarding Agency Work: Make (i) recommendations to the Agent with respect to Agency Work and/or (ii) modifications to Agency Work undertaken by Agent.

6.1.5 Provide Assistance: Provide such other assistance to the Agent in carrying out Agency Work as the Board of Directors shall deem reasonable and proper and as the Agent shall request.

6.1.6 Consider Relevant Matters: Consider any matter relating to SCPPA's interests proposed by the Agent, any member of the Board of Directors or any member of SCPPA's staff.

6.1.7 Perform Other Functions and Duties: Perform such other functions and duties as may be required of SCPPA in connection with SCPPA's interests in the Project.

7. ACTIVITIES TO BE PERFORMED BY LADWP AS AGENT.

7.1 Make Periodic Reports. Make periodic reports to the Coordinating Committee regarding the operation of the Facility, Operating Work, and any relevant operating information

including meteorological and wind reports, generation and transmission information, statistical, financial and administrative reports, and other similar reports, records, or information which may be helpful to or requested by the Coordinating Committee or the Board of Directors.

- 7.2 Submit Recommendations. Submit recommendations from time to time to the Coordinating Committee or if appropriate, to the Board of Directors, for potential review, modification and approval or disapproval with respect to the following subjects:
- 7.2.1 Recommend policies, criteria or procedures which will carry forth SCPPA's rights responsibilities and obligations pursuant to the Project Agreements and, when appropriate, recommend practices and procedures relating to the operation and maintenance of the Facility.
 - 7.2.2 Recommend, when applicable and appropriate, policies, criteria or procedures for the maintenance of inventories for spare parts, materials or supplies.
 - 7.2.3 To the extent appropriate and permissible pursuant to the Power Purchase Agreement recommend policies and procedures for conducting tests or performance measurements with respect to the Facility.
 - 7.2.4 Recommend, when applicable and appropriate, policies, criteria and procedures for selection and utilization of maintenance contractors and operational consultants with respect to the Facility.
 - 7.2.5 Recommend, when applicable, Capital Improvements as appropriate.
- 7.3 Billings. Prepare and render, in the manner and at the times required by the Power Sales Agreements, billings to the Project Participants in accordance with the terms and provisions of the Power Sales Agreements.
- 7.4 Inform SCPPA. Promptly inform SCPPA regarding significant factors which may affect or have affected Agency Work or SCPPA's interests.
- 7.5 Expend Funds for Agency Costs. Expend moneys for Agency Costs in accordance with this Agreement.
- 7.6 Investments. Schedule, select, direct, execute, maintain records of, and provide monthly reports to SCPPA concerning, all investments of moneys under and in accordance with the Indenture.
- 7.7 Arrange Services for Agency Work and Operating Work; Administer Contracts; Agent's Employees. Negotiate, arrange for, administer, perform and enforce all contracts for furnishing, purchasing, procuring and obtaining from any source (including pursuant to contracts between the Agent and third parties) studies, supplies, engineering services, legal services, or other services necessary for the performance and completion of Agency Work, Operating Work or Supplementary Services; administer, perform and enforce such contracts; and furnish conformed copies of such contracts or other related documentation to SCPPA. In performing Agency Work, Operating Work or Supplementary Services, the

Agent may use its own employees and equipment and facilities owned or directly leased by the Agent without obtaining any consent or approval of SCPPA.

- 7.8 Comply With Laws and Regulations. Comply with any and all laws and regulations applicable to the performance of Agency Work.
- 7.9 Keep Accounting Records of Expenditures; Audit of Accounting Records. Keep and maintain records of moneys expended, obligations incurred, sunk (unrecoverable) costs, credits accrued; and maintain for auditing by SCPPA those accounting records used by the Agent for the purpose of accumulating financial and statistical data for Agency Work.
- 7.10 Prepare and Submit Estimates of Agency Costs. Prepare and submit to SCPPA, for use by SCPPA in preparing its annual budget with respect to the Project for each fiscal year, the Agent's estimate of Agency Costs for the fiscal year to which such budget applies.
- 7.11 Obtain Cost Data. Obtain and furnish to SCPPA, as applicable, cost data, projections and budgets which may be received from the Power Purchase Provider, the construction manager, construction contractors, the operation manager or operating entities in accordance with the Project Agreements.
- 7.12 Assist in Budget Preparation. To the extent requested by SCPPA, assist in the preparation of the Annual Budget, including the provision of information relating to potential Capital Improvements
- 7.13 Render Requisitions. To the extent required by the Project Agreements or any resolution of the Board of Directors, prepare, execute and file with the Project Trustee or Lender under the Indenture or the fiscal agent under any applicable fiscal agency agreement, any requisition or other request for disbursement of funds necessary under the Project Agreements.
- 7.14 Communicate with Project Trustee or Lender. Communicate with the Project Trustee or Lender under the Indenture as requested by SCPPA, or as otherwise necessary in the performance of Agency Work.
- 7.15 Provide Information. Provide the Board of Directors, and any committee established by it, and SCPPA's staff with records and information which may be required for SCPPA to perform its responsibilities.
- 7.16 Provide Interface. Provide interface between SCPPA and the Project Participants with respect to the administration of the Power Purchase Agreement and Layoff Contract.
- 7.17 Furnish Assistance and Information. Furnish, upon request, to SCPPA or any Project Participant any assistance and information reasonably available pertaining to Agency Work and the Project.
- 7.18 Place and Maintain Insurance. Procure or cause to be procured and maintain or cause to be maintained in force insurance coverage with respect to Agency Work or SCPPA's interests in such form and amounts as the Board of Directors or the Coordinating Committee determines necessary or as Agent may otherwise believe to be appropriate or as may be desirable to protect against potential exposures, or as required by law.

- 7.19 Provide Information Regarding Defaults. Keep the Project Participants and SCPPA fully and promptly informed of any default by any party under any of the Project Agreements of which Agent has knowledge.
- 7.20 Address Administrative and Operating matters in connection with the Layoff Contract. Furnish information concerning the administration of the Layoff Contract and operating issues associated therewith and take such actions as may be necessary to address the administration of the Layoff Contract or operating issues associated with the Layoff Contract.
- 7.21 Conduct All Other Activities Relating to Agency Work, Operating Work and Supplementary Services. Conduct all other activities deemed necessary to carry forth Agency Work, Operating Work or Supplementary Services or to bring the same to completion and perform such other functions and duties as may be assigned to it by SCPPA, but in any event in a manner consistent with this Agreement.

8. AGENCY COSTS.

- 8.1 Agency Costs. Agency Costs shall include the following:
 - 8.1.1 All costs approved by the Agent of labor, services, transportation and studies, including costs of legal counsel and consultation fees, performed by the Agent or by others, in connection with this Agreement, together with all costs approved by the Agent of facilities utilized in such performance. All costs (including premiums or deposits to self-insurance funds) of insurance related to Agency Work procured in accordance with Section 7.18.
 - 8.1.2 Payroll and other expenses of employees of the Agent while performing work in connection with this Agreement, including applicable overhead costs and labor loading charges, including but not limited to time-off allowances, payroll taxes, workers' compensation insurance, retirement and death benefits and other employee benefits.
 - 8.1.3 Costs of the Agent associated with performing its duties and responsibilities under this Agreement.
 - 8.1.4 All costs paid by the Agent for any studies, reports or other documents obtained from any Project Participant.
- 8.2 Costs Not Agency Costs. Costs incurred by the Agent which (i) are not attributable to the activities, duties and functions to be performed by the Agent pursuant to Section 7 of this Agreement and (ii) have not been approved by SCPPA under this Agreement shall not be Agency Costs. In addition Agency Costs shall not include costs incurred by any Project Participant which are not attributable to Agency Work including the following:
 - 8.2.1 To the extent not specifically included in Agency Costs, costs of studies conducted by any Project Participant to determine, for that Project Participant, the usefulness, economics, legal and regulatory implications, and feasibility of the project and such

Project Participant's costs of obtaining the entitlements or accommodations necessary to make the project feasible for that particular Project Participant.

- 8.2.2 Except as may otherwise be provided by SCPPA, through its Board of Directors, the costs of any Project Participant associated with the preparation and the negotiation of contracts between SCPPA and any Project Participant regarding the Project.
- 8.2.3 Except as may otherwise provided by SCPPA through its Board of Directors, costs incurred by each Project Participant in the various functions of the Board of Directors, the Coordinating Committee, or any committees established by the Board of Directors or the Coordinating Committee, and the expenses of its personnel while performing such functions.
- 8.3 No Profit. The Agent shall not receive any profit under this Agreement or any Project Agreement, nor shall the Agent be obligated to make any expenditure or incur any obligation regarding Agency Work with respect to which it shall not be entitled to reimbursement under this Agreement.
- 8.4 Budget and Review Processes. As is the case with similar costs for other projects of SCPPA, Agency Costs shall be the subject of SCPPA's annual budget and periodic budget review processes.

9. PAYMENT TO AGENT FOR AGENCY COSTS; AUDITS.

- 9.1 Payment and Audit Procedures. From time to time, and at such times (not more than monthly) as the Agent shall determine, it shall submit to SCPPA requests and requisitions for payment of items of Agency Costs incurred or paid. SCPPA shall pay or cause to be paid the amount of each such request or requisition within 30 days after its receipt thereof. Each such request or requisition shall conform to the requirements of any borrowing instrument entered into by SCPPA from time to time, to the extent the funds to pay such request or requisition are to be paid from funds held under such instrument. At such reasonable times as shall be requested by SCPPA, the books and cost records of the Agent relevant to Agency Costs shall be subject to audit by or on behalf of SCPPA.
- 9.2 Disputed Invoices. In case any portion of any invoice received by SCPPA from Agent shall be in bona fide dispute, SCPPA shall pay Agent the full amount of such invoice and, upon determination of the correct amount, the difference between such correct amount and such full amount, if any, including interest at the rate received by Agent on any overpayment, will be credited to SCPPA by Agent after such determination; provided, however, that such interest shall not accrue on any overpayment that is acknowledged by Agent and returned to SCPPA by the fifth calendar day following the receipt by Agent of the disputed overpayment. In the event such invoice is in dispute, Agent will give consideration to such dispute and will advise SCPPA with regard to Agent's position relative thereto within 30 days following receipt of written notification by SCPPA of such dispute.

10. LIABILITY.

- 10.1 No Liability of SCPPA, Agent, Directors, Officers, Etc.; SCPPA Directors, Officers, Employees, Project Manager Not Individually Liable. The Parties agree that neither Party, nor any of their directors, officers, or employees shall be liable to the other Party for any and all claims, including loss of profits, direct or consequential loss, or damage suffered by either Party as a result of (i) the performance or non-performance by Agent or its directors, officers, and employees under this Agreement (including negligent or grossly negligent acts or omissions and excluding willful misconduct) or (ii) the performance or non-performance of SCPPA, or any of its directors, officers, or employees under this Agreement (including negligent or grossly negligent acts or omissions and excluding willful misconduct). The Parties release each other and their respective directors, officers, and employees from any claim or liability that either Party may have cause to assert against each other as a result of any actions or inactions of the other Party under this Agreement (including negligent or grossly negligent acts or omissions and excluding willful misconduct). No such performance or non-performance of either Party shall relieve the other Party from its obligations under this Agreement, including its obligation to make payments required under this Agreement. The provisions of this Section 10.1 shall not be construed so as to relieve either Party from any obligation under this Agreement. It is also hereby recognized and agreed that no member of the Board of Directors, Agent, nor their officers or employees or member of SCPPA in its capacity as a member of SCPPA, shall be individually liable in respect of any undertakings by either Party under this Agreement.
- 10.2 Extent of Exculpation; Enforcement of Rights in Equity. The exculpation provision set forth in Section 10.1 hereof shall apply to all types of claims or actions including, but not limited to, claims or actions based on contract or tort. Notwithstanding the foregoing, either Party may protect and enforce its rights under this Agreement by a suit or suits in equity for specific performance of any obligation or duty of the other Party and the Agent may enforce by any legal means its right to payment for Agency Costs in accordance with the terms of this Agreement.
- 10.3 No Relief From Insurer's Obligations. The provisions of Section 10.1 shall not be construed so as to relieve any insurer of its obligation to pay any insurance claims.
- 10.4 SCPPA Directors Officers, Employees, Agents Not Liable; No General Liability of SCPPA. It is hereby recognized and agreed that no officer, agent or employee of SCPPA shall be individually liable in respect of any undertakings by SCPPA under this Agreement. The undertakings by SCPPA under this Agreement shall never constitute a debt or indebtedness of SCPPA within the meaning of any provision or limitation of the constitution or statutes of the State of California, and shall not constitute or give rise to a pecuniary liability of SCPPA or a charge against its general credit. Any provision of this Agreement to the contrary notwithstanding, the obligation of SCPPA under this Agreement to make or cause to be made payments shall be limited to those payments permitted by and monies available under the Indenture or as provided for in this Agreement.

11. ALTERNATIVE DISPUTE RESOLUTION.

- 11.1 Nonbinding Dispute Resolution. If any dispute arises out of or relates to this Agreement, or the asserted breach thereof, the Parties agree that the Parties shall first employ the non

binding mediation process which is set forth in this Section 11 before initiating any other type of legal action.

- 11.2 Role of the Coordinating Committee and SCPPA Board; Nonbinding Mediation Procedure. If a dispute arises between the Parties under this Agreement the Parties may first attempt to resolve the dispute through the Coordinating Committee and if the Coordinating Committee is unable to resolve the dispute, the dispute shall be submitted to the Board of Directors. If the Board of Directors is unable to resolve the dispute, the Parties may then submit the dispute to non binding mediation.

12. RELATIONSHIP OF THE PARTIES:

- 12.1 Separate and Several Interests. The covenants, obligations and liabilities of the Parties are intended to be several and not joint or collective and nothing herein contained shall ever be construed to create an association, joint venture, trust, partnership or other legal entity, or to impose a trust or partnership covenant, obligation or liability on or with regard to either or both of the Parties. Each Party shall be individually responsible for its own covenants, obligations and liabilities under this Agreement. Neither Party shall be under the control of or shall be deemed to control any other Party. Neither Party shall be the agent of or have a right or power to bind the other Party without its express written consent, except as expressly provided in this Agreement.

13. UNCONTROLLABLE FORCES.

- 13.1 Excuse of Performance by Reason of Uncontrollable Forces. Other than with respect to the obligation of a Party to make payments as provided in this Agreement, neither Party shall be considered to be in default in the performance of any of its obligations under this Agreement when a failure of performance shall be due to an uncontrollable force. The term "uncontrollable force" shall be any cause beyond the control of the Party affected, including but not limited to failure of or threat of failure of facilities, flood, earthquake, tornado, storm, fire, lightning, epidemic, war, terrorism, riot, civil disturbance or disobedience, labor dispute, labor or material shortage, sabotage, restraint by court order or public authority, and action or non-action by, or inability to obtain the necessary authorizations or approvals from, any governmental agency or authority, which by exercise of due diligence such Party could not reasonably have been expected to avoid and which by exercise of due diligence it shall be unable to overcome. Nothing contained herein shall be construed so as to require a Party to settle any strike or labor dispute in which it may be involved. In the event a Party is rendered unable to fulfill any of its obligations under this Agreement by reason of an uncontrollable force, such Party shall give prompt written notice of such fact to the other Party and shall exercise due diligence to remove such inability with all reasonable dispatch. In such event, the Parties shall diligently and expeditiously determine how they may equitably proceed to carry out the objectives of this Agreement.

14. BINDING OBLIGATIONS.

- 14.1 All Obligations Binding. All of the obligations set forth in this Agreement shall bind the Parties and their successors and assigns.

15. GENERAL PROVISIONS GOVERNING AGREEMENT.

- 15.1 Severability. In the event that any of the terms, covenants or conditions of this Agreement or the application of any such term, covenant or condition, shall be held invalid as to any person or circumstance by any court having jurisdiction in the premises, all other terms, covenants or conditions of this Agreement and their application shall not be affected thereby, but shall remain in force and effect, unless a court holds that the provisions are not separable from all other provisions of this Agreement.
- 15.2 Waiver Not to Effect Subsequent Events. Any waiver at any time by a Party of its rights with respect to a default or any other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or matter.
- 15.3 Headings Not Binding. The headings and captions in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

- 16. GOVERNING LAW.** This Agreement was made and entered into in the City of Los Angeles and shall be governed by, interpreted and enforced in accordance with the laws of the State of California, without regard to conflict of law principles.

17. TERM AND EXPIRATION.

- 17.1 Effective Date. This Agreement shall become effective and in full force and effect on the date Power Sales Agreements have been entered into and are in effect with respect to all Project Participants. (the "Effective Date").
- 17.2 Termination. This Agreement shall continue in force and effect from the Effective Date until the expiration of the term of the Power Sales Agreements and any extensions or replacements thereof; provided, however, that this Agreement may be terminated by either Party upon not less than three years prior written notice to the other Party. Payment obligations of the Parties hereunder shall survive any termination of the Agreement until satisfied.

- 18. SEVERABILITY.** In case any one or more of the provisions of this Agreement shall for any reason be held to be illegal or invalid by a court of competent jurisdiction, it is the intention of each of the parties hereto that such illegality or invalidity shall not affect any other provision hereof, but this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein unless a court holds that the provisions are not separable from all other provisions of this Agreement.

- 19. VENUE.** All litigation arising out of, or relating to this Agreement, shall be brought in a State or Federal court in the County of Los Angeles in the State of California. The Parties irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of California and waive any defense of forum non conveniens.

- 20. ATTORNEYS FEES.** With respect to any dispute under this Agreement the Parties agree that each Party shall bear its own attorneys fees and costs. Notwithstanding the forgoing, LADWP and SCPPA acknowledge and understand that SCPPA's attorney's fees associated with any matter

relating to the Project or this Agreement, including any dispute relating thereto, shall constitute a Project cost which shall be allocated and billed as set forth in Section 4 and Section 7 of the Power Sales Agreements.

21. **CONTRACT ADMINISTRATOR.** A contract administrator for this Agreement shall be designated by the individual authorized to receive notices on behalf of LADWP pursuant to Paragraph 22 herein, and each Party's contract administrator shall have the authority to administer this Agreement on behalf of its respective Party. Notwithstanding the foregoing, the contract administrators shall have no authority to amend this Agreement on behalf of the Parties.
22. **REPRESENTATION AND NOTICES.** The parties acknowledge that each party was represented by counsel in the negotiation and execution of this Agreement. Any notice, demand or request provided for in this Agreement shall be in writing and shall be deemed properly served, given or made if delivered in person or sent by registered or certified mail, postage prepaid, to the persons specified below:

Southern California Public Power Authority
Executive Director,
225 South Lake Avenue, Suite 1250
Pasadena, California 91101

City of Los Angeles acting by and through the Department of Water and Power
General Manager
111 North Hope Street
Los Angeles, California 90012

23. **AMENDMENTS.** The Parties acknowledge and agree that any amendment to this agreement shall be in writing and duly executed by the Parties.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have duly caused this Agreement to be executed on their respective behalves by their duly authorized representatives.

SOUTHERN CALIFORNIA PUBLIC
POWER AUTHORITY

Dated: _____

By: _____

GLENN O. STEIGER
Vice President

Attest: _____

BILL D. CARNAHAN
Assistant Secretary

CITY OF LOS ANGELES acting by and through its
DEPARTMENT OF WATER AND POWER

Dated: _____

By: _____

H. DAVID NAHAI
Chief Executive Officer and General Manager

And: _____

Secretary of the Board of Water and Power Commissioners

CONVENIENCE COPY
FOR INFORMATIONAL PURPOSES
OF "APPENDIX A OF THE
POWER SALES AGREEMENT"

IN WITNESS WHEREOF, the parties hereto have duly caused this Agreement to be executed on their respective behalves by their duly authorized representatives.

SOUTHERN CALIFORNIA PUBLIC
POWER AUTHORITY

Dated: _____

By: _____
GLENN O. STEIGER
Vice President

Attest: _____
BILL D. CARNAHAN
Assistant Secretary

CITY OF LOS ANGELES acting by and through its
DEPARTMENT OF WATER AND POWER

Dated: _____

By: _____
H. DAVID NAHAI
Chief Executive Officer and General Manager

APPROVED AS TO FORM AND LEGALITY
RODOLFO J. DELGADILLO, CITY ATTORNEY

And: _____
Secretary of the Board of Water and Power Commissioners

JUN 30 2009
BY: _____
FAY A. CHU
Assistant City Attorney

**CONVENIENCE COPY
FOR INFORMATIONAL PURPOSES
OF "APPENDIX A OF THE
POWER SALES AGREEMENT"**

APPENDIX A

DEFINITIONS

The following terms, whether in the singular or the plural, and initially capitalized, shall have the meanings specified below:

1. Acquisition. Acquisition shall entail the procurement of SCPPA's rights and obligations pursuant to the Power Purchase Agreement and applicable Project Agreements, prepayment for Energy pursuant to the Power Purchase Agreement, any purchase of the Facility, including the purchase of rights and interests under any of the Power Purchase and Security Agreements, SCPPA financing arrangements for the foregoing, and all rights and entitlements associated with the acquisition, development and implementation of the Project, including those resources, contracts, rights, benefits, entitlements and arrangements as may be necessary, desirable or appropriate to the Project to further SCPPA's and the Project Participants' goals and those associated structures and services procured, retained or acquired by and on behalf of the Project Participants as part of the Project and which have been approved by the Coordinating Committee and, where applicable, the Board of Directors. Acquisition also includes the rights and interests under any consents to assignment and related agreements, and taking foreclosure action (or a deed in-lieu-of foreclosure) under and pursuant to any of the Power Purchase and Security Agreements, or a purchase at foreclosure sale, and, if and as applicable, associated financing, and all rights and entitlements of SCPPA under the Power Purchase and Security Agreements or other Project Agreements associated with the development and implementation of the Project.
2. Act. All of the provisions contained in the California Joint Exercise of Powers Act found in Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California, beginning at California Government Code Section 6500 et seq., as amended from time to time.
3. Actual Additional Monthly O&M Amount. "Actual Additional Monthly O&M Amount" shall have the definition set forth in the Power Purchase Agreement.
4. Ancillary Documents. "Ancillary Documents" shall have the definition set forth in the Power Purchase Agreement.
5. Annual Budget. The budget approved by the Coordinating Committee and adopted by SCPPA pursuant to Section 5.4.1 of this Agreement not less than 30 days nor more than 60 days prior to the beginning of each Power Supply Year, including any amendments thereto, which shall show a detailed estimate of the Total Monthly Costs under the Power Sales Agreements and all credits, charges, revenues, income, or other funds to be applied to such costs, for and applicable to such Power Supply Year.
6. Balancing Agent. "Balancing Agent" shall have the meaning set forth in Section 9.5.
7. Billing Statement. The written statement prepared or caused to be prepared each Month by, or on behalf of, SCPPA which shall be based upon certain of the information in the Annual Budget and shall show for such Month the amount to be paid to SCPPA by a Project Participant in accordance with the provisions of Section 7 of its Power Sales Agreement.

8. Board of Directors. The Board of Directors of the Southern California Public Power Authority.
9. Bond Counsel. Nationally recognized legal counsel having background and experience in the issuance of municipal bonds, including the Federal Tax Law Requirements relating thereto, and selected by SCPPA to evaluate and advise regarding the Bonds with respect to specified cases, transactions and matters from time to time.
10. Bonds. The bonds, notes, bond anticipation notes, certificates of participation, commercial paper or other evidences of indebtedness issued or incurred by SCPPA and outstanding pursuant to the provisions of the Indenture to finance or refinance the Cost of Acquisition and any Capital Improvements, including any prepayment for Guaranteed Generation pursuant to the Power Purchase Agreement or by other means, and, where applicable, the purchase of the Facility or any part, portion or component thereof, including purchase of the rights and interests under the Facility Credit Agreements or any consents or agreements relating to any assignment. Bonds shall include but not be limited to the taxable and/or tax-exempt bonds, notes, bond anticipation notes, certificates of participation, commercial paper or other evidences of indebtedness issued or incurred by SCPPA to finance prepaid energy or any purchase of the Facility, including purchase of the rights and interests under the Facility Credit Agreements or other applicable Project Agreement, or bonds, notes, certificates of participation, commercial paper or other evidences of indebtedness issued to redeem or refund such bonds, notes, certificates of participation, commercial paper or evidences of indebtedness, and any and all other obligations which SCPPA issues or incurs relating to the Project. Bonds shall also include any additional Bonds authorized by the Indenture or any supplement thereto and issued or incurred pursuant to the provisions of Section 13.2 of the Power Sales Agreements and any refunding of Bonds issued pursuant to the provisions of Sections 13.3 or 13.5 thereof. Bonds may constitute other categories of bonds eligible for certain tax benefits under the Internal Revenue Code, including but not limited to tax-exempt bonds, tax credit bonds, "build America bonds" or "qualified bonds" within the meaning of Section 54AA of the Internal Revenue Code, "new clean renewable energy bonds" within the meaning of Section 54C of the Internal Revenue Code or "qualified energy conservation bonds" within the meaning of Section 54D of the Internal Revenue Code.
11. Capacity. The ability or potential to generate, produce or transfer electricity, expressed in kilowatts ("kW") or megawatts ("MW"), including, when feasible, ancillary or regulating services or other valuable non-energy products or services from a generating facility.
12. Capacity Rights. "Capacity Rights" means the rights, whether in existence as of the Effective Date or arising thereafter during the term of this Agreement, to Capacity, resource adequacy, associated attributes and/or reserves or any of the foregoing associated with the electric generating capability of the Facility.
13. Capital Improvements. Any unit of property, property right, land or land right which is a replacement, repair, addition, improvement or betterment to the Project or any transmission facilities relating to, or for the benefit of, the Project, the betterment of land or land rights or the enlargement or betterment of any such unit of property constituting a part of the Project or related transmission facilities which is (i) consistent with Prudent Utility Practices and determined necessary and/or desirable by the Board of Directors or (ii) required by any governmental agency having jurisdiction over the Project.

14. Chairperson. "Chairperson" is as defined in Section 6.1.
15. Commercial Operation. "Commercial Operation" shall have the definition set forth in the Power Purchase Agreement.
16. Compliance. Following a Payment Default, a Defaulting Project Participant shall be in compliance with its payment obligations under its Power Sales Agreement if it (i) no later than the last day of the Cure Period fully pays all amounts owed as reflected in any Default Invoice; (ii) pays any monthly Billing Statement which comes due during the Cure Period; and (iii) replenishes any reduction made to the applicable operating reserve account, Debt Service reserves or other Reserve Fund as a result of any Payment Default.
17. Consent Agreements. All consents to assignments and all agreements relating thereto entered into with any lender, financial institution or other Person for the purpose of consenting to the assignment of the rights of the Power Purchase Provider under the Power Purchase Agreement.
18. Coordinating Committee. The Coordinating Committee established in accordance with Section 6 of this Agreement.
19. Cost of Acquisition. "Cost of Acquisition" is defined in Section 4.4.
20. Cure Period. That period of time beginning on the date of a Payment Default and concluding sixty (60) days thereafter.
21. Cured Payment Default. A Payment Default which has been cured in accordance with Section 15.3 of this Agreement. If at any time during the Cure Period the Defaulting Project Participant is in Compliance, then the requirements of a Cured Payment Default shall be deemed to have been satisfied as of the date of receipt of such payments by SCPPA and the Cure Period shall expire.
22. Debt Service. The debt service payable with respect to the Indenture pertaining to any category of Bonds, any Bonds issued pursuant to Section 13 of this Agreement, or other applicable series of Bonds, as determined by the context; provided that in the case of any Bonds, Debt Service may, to the extent provided in the Indenture, be reduced by the amount of any applicable cash grant or rebate payable by the Federal Government to SCPPA (or to the trustee under the Indenture) with respect to interest on such Bonds. Debt Service shall also include any payments required to be deposited into the Debt Service Fund under the Indenture to pay, for example, amounts due under any interest rate swap agreements or other derivative agreements.
23. Debt Service Fund. The Debt Service Fund or account, or similar fund or account, established by the Indenture to pay Debt Service. The Debt Service Fund shall not include the Debt Service Reserve Fund(s) under the Indenture.
24. Deed of Trust. "Deed of Trust" shall have the definition set forth in the Power Purchase Agreement.
25. Default Invoice. An invoice during the Payment Default Period and the Cure Period issued to a Defaulting Project Participant pursuant to Section 15 of this Agreement that identifies the

total defaulted amount owed, including late payment interest, to achieve a Cured Payment Default. During the Cure Period, the Default Invoice shall also include the amount that must be paid to achieve Compliance.

26. Defaulting Project Participant. A Project Participant that causes a Payment Default which has not been remedied and where the Defaulting Project Participant has not effected a Cured Payment Default.
27. Delivered Energy. "Delivered Energy" shall have the definition set forth in the Power Purchase Agreement.
28. Delivery Term of the Power Purchase Agreement. The time period for the delivery of energy pursuant to the Power Purchase Agreement as set forth therein.
29. Development Work. All work and activities in connection with the development of the Project, including, without limitation, all planning, designing, acquiring (by prepayment, purchase or otherwise), mitigating impacts, constructing, installing, investigating, cost monitoring and control activities, negotiating and administering contracts, purchasing, environmental monitoring, scheduling, protecting, erecting, supervising, expediting inspecting, testing and training activities, recruitment and training of technical, operational and administrative personnel, insuring, accounting, budgeting, public information services and activities, services of consultants and legal counsel, preparing of manuals and reports, and activities relating to securing requisite actions, permits, licenses, approvals and certificates from governmental agencies and authorities.
30. Direct Reimbursable Costs. "Direct Reimbursable Costs" shall have the definition set forth in the Power Purchase Agreement.
31. Dynamic Scheduling. "Dynamic Scheduling" shall mean the automated scheduling of Energy from the Point of Delivery to Purchaser's control area or electric system, provided that said dynamic schedules adjust at four second intervals, or other intervals as specified by WECC, to match the amount of Energy actually delivered to the Point of Delivery from the Facility.
32. Early Energy. "Early Energy" shall have the definition set forth in the Power Purchase Agreement.
33. Energy. "Energy" shall include both Energy and any Replacement Energy, as those terms are defined in the Power Purchase Agreement.
34. Environmental Attributes. "Environmental Attributes" shall have the definition set forth in the Power Purchase Agreement.
35. Excess Energy. "Excess Energy" shall have the definition set forth in the Power Purchase Agreement.
36. Facility. "Facility" means all of the facilities including those resources described or defined as the Facility, Related Interests and Rights, Permits and Site Common Facilities in the Power Purchase Agreement and all of the Acquisitions, related assets and accompanying rights and obligations associated therewith and all rights, interests and obligations associated

with such facilities, including the rights interests and obligations under the Ancillary Documents and the Facility Common Facilities Interests. Facility shall also include all Capital Improvements.

37. Facility Common Facilities Interests. "Facility Common Facilities Interests" shall have the definition set forth in the Power Purchase Agreement.
38. Facility Credit Agreements. All agreements, assignments and security related documents associated with the financing of the Facility, or of the rights or interests held in connection with the Facility, by the Power Purchase Provider or any of its affiliates and any other agreements or documents providing for security for the performance of the obligations of the Power Purchase Provider.
39. Facility Expansion LD Security. "Facility Expansion LD Security" shall have the definition set forth in the Power Purchase Agreement.
40. Facility Output. All output, rights, and other tangible or intangible benefits derived from the Facility, whatsoever, including without limitation all Energy (including Replacement Energy as defined in the Power Purchase Agreement), Capacity Rights and Environmental Attributes, whether received by SCPPA under or pursuant to the Power Purchase Agreement or other applicable Project Agreement or derived from the Facility by SCPPA as owner following SCPPA's purchase of the Facility.
41. Federal Tax Law Requirements. "Federal Tax Law Requirements" shall mean, with respect to the issuer of Bonds, any and all requirements and limitations to which any specified type or category of Bonds are subject under the Internal Revenue Code or related Treasury regulations in order that such specified Bonds initially qualify and maintain qualification as that type or category of Bonds.
42. Fiscal Year. The twelve-month period commencing at 12:01 a.m. on July 1 of each year and ending at 12:01 a.m. on the following July 1, or such other time frame as determined by the Coordinating Committee or Board of Directors.
43. Force Majeure. "Force Majeure" shall have the definition set forth in the Power Purchase Agreement.
44. Fund or Funds. Any fund or account created under the Indenture.
45. Guaranteed Generation. "Guaranteed Generation" shall have the meaning provided in the Power Purchase Agreement.
46. Glendale. The City of Glendale, a California municipality.
47. Indenture. The indenture of trust, trust agreement, credit or loan agreement and other similar agreements with respect to the Bonds, between SCPPA and a Project Trustee or Lender, as from time to time amended and supplemented in conformity with its provisions and of this Agreement. Under such agreements, SCPPA may enter into, or authorize the entering into of, interest rate swap agreements, other derivative agreements, and such other agreements as are authorized or permitted under such agreements. Indenture shall include, but not be limited to, any and all indentures in connection with any bridge loans, bond anticipation notes or other

notes, or draw down bonds or with respect to any other type of bonds, and the indentures of trust, trust agreements or other similar agreements entered into between SCPPA and the Project Trustee or Lender to effect the redemption or refunding of any bridge loans, bond anticipation notes or other notes, draw down bonds or other bonds, as from time to time amended and supplemented in conformity with their provisions and the provisions of this Power Sales Agreement.

48. Indenture cost component. "Indenture cost component" is defined in Section 4.7.4.
49. Indenture Cost Share. "Indenture Cost Share" is defined in Section 4.5.
50. Initial Payment Default Date. The earlier of (i) the end of the fifth day following the first Payment Default for which no remedy in payment has occurred and been received by SCPPA, or (ii) the last day of the Month in which the first Payment Default has occurred for which no remedy in payment has occurred and been received by SCPPA.
51. Interconnection Contracts. The contracts providing for the interconnections and associated facilities which interconnect the Facility with the transmission system and substations and provide for the delivery of Facility Output.
52. Intercreditor Agreement. "Intercreditor Agreement" shall have the definition set forth in the Power Purchase Agreement.
53. Internal Revenue Code. The Internal Revenue Code of 1986, as amended.
54. Joint Powers Agreement. The "Southern California Public Power Authority Joint Powers Agreement" dated as of November 1, 1980, as amended and modified from time to time, entered into pursuant to the provisions of the Act, among SCPPA and its members.
55. LADWP. The City of Los Angeles acting by and through the Department of Water and Power.
56. Layoff Contract. The contract entitled "Contract for Sale and Purchase of Windy Point/Windy Flats Energy" by and among the City of Glendale, California, the City of Los Angeles acting by and through the Department of Water and Power, and the Southern California Public Power Authority dated as of August 1, 2009.
57. Leases. "Leases" shall have the meaning provided in the Power Purchase Agreement.
58. Major Contracts. The Project Agreements and, to the extent not finalized or effective on the effective date of an applicable project management agreement, any other contract or agreement so identified by the Coordinating Committee or the Board of Directors, as such contracts or agreements may be amended or supplemented from time to time.
59. Month. A calendar month.
60. Monthly Costs. "Monthly Costs" is defined in Section 7.1.
61. Monthly O&M Amount. "Monthly O&M Amount" shall have the definition set forth in the Power Purchase Agreement.

62. O&M Agreement. "O&M Agreement" shall mean the O&M Agreement described in the Power Purchase Agreement as the same may be amended from time to time.
63. Operating Budget. The operating budget approved by the Board of Directors, which shall show a detailed estimate of all Project operating costs, including all revenues, income or other funds to be applied to such operating costs, for and applicable to a Power Supply Year.
64. Operating cost component. "Operating cost component" is defined in Section 4.7.1.
65. Operating Reserve Depletion Date. The date that is two Months prior to the date on which SCPPA anticipates, assuming continued Payment Defaults by one or more Defaulting Project Participants, that the moneys in the operating reserve account of the Indenture will be fully depleted; provided, however, if as of the date on which a Payment Default occurs SCPPA determines that the moneys in the operating reserve account will be fully depleted in less than two Months (or currently are fully depleted), then the Operating Reserve Depletion Date shall be deemed to have occurred when such a Payment Default occurs.
66. Operating Work. All work and activities in connection with the administration, operation and maintenance of the Project, including without limitation, negotiating and administering contracts, planning, mitigating impacts, purchasing, repairing, inspecting, maintaining, investigating and monitoring all aspects of the Project, performing modeling functions, economic analysis, quality control, testing and evaluating, recruitment and training of operating entities and personnel, electric energy and environmental attribute procurement, regulatory efforts, tagging, interconnecting, transmission, dispatching, firming, balancing, exchanging and scheduling activities, supervising, expediting, budgeting, insuring, accounting, tracking, registering, protecting, operating and managing activities, public information services and services of consultants, operators, engineers, contactors and legal counsel, renewals, replacements, reconstruction, and improvements, and activities related to securing requisite permits, franchises, licenses, approvals, entitlements, credits and certificates from governmental agencies and authorities.
67. Output Cost Share. For any Power Supply Year and as to any particular Project Participant, the share (expressed as a percentage) set forth in Appendix B of this Agreement (entitled "Schedule of Project Participants Output Entitlement Shares and Output Cost Shares") attributable to such Project Participant with respect to costs, other than financing and refinancing related costs, associated with the Project, as amended from time to time so long as such amendments are in compliance with the Power Sales Agreements and any applicable provisions of the Indenture. Revisions to Appendix B pursuant to Section 15 herein shall be considered an element of the administration of this Power Sales Agreement and shall not require the consent of the Parties hereto.
68. Output Entitlement Share. The percentage entitlement of each Project Participant to the Project and Facility Output in any Power Supply Year, as set forth in Appendix B of the Power Sales Agreements (entitled "Schedule of Project Participants Output Entitlement Shares and Output Cost Shares") attributable to such Project Participant, as amended from time to time so long as such amendments are in compliance with the Power Sales Agreements and any applicable provisions of the Indenture. Revisions to Appendix B pursuant to Section 15 herein shall be considered an element of the administration of this Power Sales Agreement and shall not require the consent of the Parties hereto.

69. Participants. The Project Participants.
70. Payment Default. A failure by a Project Participant to pay when due all of its Billing Statement for any Month.
71. Payment Default Period. That period of time during which a Payment Default exists.
72. Performance Security. "Performance Security" shall have the definition set forth in the Power Purchase Agreement.
73. Permit. "Permit" shall have the definition set forth in the Power Purchase Agreement.
74. Person. "Person" means any individual, corporation, partnership, joint venture, limited liability company, association, joint stock company, trust, unincorporated organization, entity, government or other political subdivision.
75. Point of Delivery. The point at which Energy is to be delivered to the Project Participants pursuant to any agreement with the Power Purchase Provider or, if SCPPA shall purchase or acquire the Facility, the same point of delivery of the Energy or such other point of delivery as authorized and determined by the Coordinating Committee or the Board of Directors.
76. Power Purchase Agreement. The Power Purchase Agreement between Southern California Public Power Authority and Windy Flats Partners, LLC dated as of June 24, 2009 attached hereto as Appendix F, as the same may be amended from time to time.
77. Power Purchase and Security Agreements. The Power Purchase Agreement, the Security Instruments, Consent Agreements, Facility Credit Agreements and any other consent to assignment or other agreement with any financial institution or Person relating to the wind project or any loan or other credit agreement associated with the Facility, or any other agreement under which SCPPA might acquire or otherwise purchase or obtain the Facility or related resources and assets or the output of the Facility or carry forth any Acquisition all as and to the extent applicable to any particular Project matter or matters. The Power Purchase and Security Agreements shall also include any instrument or form of security which affords any opportunity for the purchase of the Facility or Acquisition, whether through foreclosure or otherwise, including the Deed of Trust or any other deed or deed of trust, mortgage, lease, assignment, beneficial interest, collateral instrument or other device or mechanism providing for the ability to acquire the Facility.
78. Power Purchase and Security Agreements cost component. "Power Purchase and Security Agreements cost component" is defined in Section 4.7.5.
79. Power Purchase Provider. Windy Flats Partners, LLC, as the counterparty to SCPPA under the Power Purchase Agreement, and the entity named under any applicable operating agreement to operate or otherwise run or manage the Facility, along with each of their successors, or any successors or assigns to the rights of these entities.
80. Power Sales Agreements. The Windy Point/Windy Flats Project Power Sales Agreements, dated for convenience as of August 1, 2009, as the same may hereafter be amended from time to time, entered into by SCPPA and each of the Project Participants for, among other things, the acquisition of the Output Entitlement Shares.

81. Power Supply Year. The Fiscal Year, except that the first Power Supply Year shall begin on the first to occur of (i) the date SCPPA is obligated to pay any portion of the costs of the Project, (ii) the date upon which SCPPA first incurs or accrues costs associated with the issuance of the Bonds, (iii) 90 days before the scheduled date for issuance of the Bonds, (iv) the date of Commercial Operation of the Primary Facility, or (v) the date of the first delivery of Energy to Purchaser pursuant to this Agreement.
82. Prepayment Amount. "Prepayment Amount" shall have the meaning provided in the Power Purchase Agreement.
83. Primary Facility. "Primary Facility" shall have the meaning provided in the Power Purchase Agreement.
84. Primary Facility LD Security. "Primary Facility LD Security" shall have the definition set forth in the Power Purchase Agreement.
85. Project or Windy Point/Windy Flats Project. The term "Project" or "Windy Point/Windy Flats Project" shall be broadly construed to entail the aggregate of rights, liabilities, interests and obligations of SCPPA pursuant to the Power Purchase Agreement, the Power Purchase and Security Agreements and the other Project Agreements, including but not limited to all rights, liabilities, interests and obligations associated with the Facility Output, or, upon purchase or acquisition by SCPPA, all rights, liabilities, interests and obligations associated with the Facility, and including all aspects of the operation and administration of the Facility and the Project Agreements and the rights, liabilities, interests and obligations associated therewith. The term Project shall also include those rights, liabilities, interests or obligations necessary or appropriate to carry out the functions specified in Section 6 and to utilize or deliver the energy of the Facility as specified in Section 9.
86. Project Agreements. Any project management agreement, the Indenture, the Power Sales Agreements, each of the Power Purchase and Security Agreements, the O&M Agreement, the Service Agreement, the Leases, the Interconnection Contracts, the Ancillary Documents, other contracts and leases, easements, rights of way and other real property arrangements or agreements associated with the Facility, if any, any other Acquisition agreement or agreement for the purchase, procurement, delivery or transmission of Facility Output, including all agreements connected or associated with any purchase of the Facility or passing to SCPPA in connection with any purchase of the Facility, and including the rights and interests under the Facility Credit Agreements or any other consents to assignments or agreements for assignment, any Intercreditor Agreement, any joint ownership agreements, any operating agreements, any maintenance agreements, any warranty agreements, any participation agreements, any agreements for scheduling, dispatching, exchanging, tagging, movement or transmission, any agreements relating to any Capital Improvements and the agreements to which SCPPA is a party relating to the project design, development, administration, management or operation of the Facility and for placing of the Facility into operation or maintaining its operation.
87. Project Determination. "Project Determination" means any matter involving a question pertinent to the studying, investigating, planning, financing, developing, acquiring, constructing, reconstructing, operating, maintaining, administering, managing, improving, enlarging, or bettering of the Project.

88. Project Manager. SCPPA or a designee or designees appointed by SCPPA to assist SCPPA to carry out SCPPA's responsibilities under the Power Sales Agreements.
89. Project Participant(s). Those entities executing Power Sales Agreements, together in each case with each entity's successors or assigns, identified as "Project Participants" in Appendix B of the Power Sales Agreements (entitled "Schedule of Project Participants Output Entitlement Shares and Output Cost Shares") or Appendix C of the Power Sales Agreements (entitled "Schedule of Project Participants Percentage of Indenture Cost Shares").
90. Project Rights. All rights and privileges of a Project Participant under its Power Sales Agreement, including but not limited to its Output Entitlement Share, its right to receive Facility Output from the Facility, and its right to vote on Coordinating Committee matters.
91. Project Rights and Obligations. Purchaser's Project Rights and obligations under the terms of this Agreement.
92. Project Trustee or Lender. Any bank or other financial firm or institution at any time serving as trustee under the Indenture or any bank or financial firm party to the Indenture as a lender or as agent for a lender or lenders thereunder.
93. Prudent Utility Practices. "Prudent Utility Practices" shall have the meaning provided in the Power Purchase Agreement.
94. Related Interests and Rights. "Related Interests and Rights" shall have the meaning provided in the Power Purchase Agreement.
95. Renewable Electric Energy Resource Project. The aggregate of SCPPA's endeavors to acquire renewable energy and capacity and to facilitate acquisition of renewable electric generation and the means to deliver such generation either by way of the development agreement for the Renewable Electric Resource Project as described in Section 2.6 herein.
96. Reserve Fund cost component. "Reserve Fund cost component" is defined in Section 4.7.3.
97. Reserve Fund(s). Those reserve accounts deemed appropriate to afford a reliable source of funds for the payment obligations of the Project and, taking into account the variability of costs associated with the Project for the purpose of providing a reliable payment mechanism to address the ongoing costs associated with the Project.
98. Security and Assignment Agreements. The agreements and instruments entered into by the Power Purchase Provider or any affiliate thereof and, where applicable, SCPPA, including the Security Interest and the agreements and instruments referenced in the Power Purchase Agreement to, among other things, secure certain performance requirements.
99. Security Instruments. The Security and Assignment Agreements, the Primary Facility LD Security, the Facility Expansion LD Security, the Deed of Trust, the Performance Security, the Facility Credit Agreements following a purchase of the rights and interests thereunder by SCPPA if applicable, and any and all instruments, agreements, assignments, mortgages, deeds of trusts or conveyances or other collateral arrangements entered into to secure the performance of the Power Purchase Provider or any affiliate thereof under the Power

Purchase Agreement or any other of the Power Purchase and Security Agreements, or any lease or interest in real property used by or affecting the Facility, including without limitation any security interest conveyed by way of the Power Purchase Agreement or other agreement or instrument relating to the Project or any Project matter creating a security interest enforceable by SCPPA.

100. Security Interest. "Security Interest" shall have the meaning set forth in the Power Purchase Agreement.
101. Service Agreement. "Service Agreement" shall have the meaning set forth in the Power Purchase Agreement.
102. Site Common Facilities. "Site Common Facilities" shall have the meaning set forth in the Power Purchase Agreement.
103. Step-Up Invoice. An invoice sent to a non-Defaulting Project Participant as a result of one or more Payment Defaults, which invoice shall separately identify any amount owed with respect to the monthly Billing Statement of one or more Defaulting Project Participants for, as the case may be, pursuant to Section 15.9.1 or 15.9.2 herein, either the Indenture cost component of the Defaulting Project Participant(s) unpaid monthly Billing Statement or the Total Monthly Costs reflected in the Defaulting Project Participant(s) unpaid monthly Billing Statement.
104. Study Project. "Study Project" has the meaning provided in the Joint Powers Agreement.
105. Supplementary Services. Those services in connection with the delivery of Energy involving additional transmission, interconnection arrangements, energy management, firming, shaping, energy balancing, dispatching, tagging, scheduling, Dynamic Scheduling, transmitting, interconnecting, swapping, exchanging or other services associated with the transmission, use or disposition of Facility Output to be utilized by the Project Participants under the Power Sales Agreements, and to otherwise provide for delivery and facilitate the disposition, movement, taking, receiving, accounting for, transferring and crediting the ownership and transfer of Facility Output from the Point of Delivery to any other points or destinations, as determined by the Project Participants. Supplementary Services include but are not limited to delivery point swaps, stranded energy/transmission curtailments, tiepoint liquidity improvement, transmission loss savings, tiepoint price spread optimization, on-peak/off-peak exchanges, peak shifting exchanges, seasonal exchanges, and both simultaneous or non simultaneous green energy exchanges.
106. Supplementary Services cost component. "Supplementary Services cost component" is defined in Section 4.7.2.
107. Tax Counsel. Nationally recognized legal counsel having background and experience in tax-exempt financing and selected by SCPPA to evaluate and advise regarding the Federal Tax Law Requirements with respect to specified cases, transactions and matters from time to time.
108. Total Monthly Costs. "Total Monthly Costs" has the meaning described in Section 4.7.

109. Uncontrollable Forces. Any Force Majeure event and any cause beyond the control of any Party, and which by the exercise of due diligence such Party is unable to prevent or overcome, including but not limited to, failure or refusal of any other Person to comply with then existing contracts, an act of God, fire, flood, explosion, earthquake, strike, sabotage, pestilence, an act of the public enemy (including terrorism), civil or military authority including court orders, injunctions and orders of governmental agencies with proper jurisdiction or the failure of such agencies to act, insurrection or riot, an act of the elements, failure of equipment, a failure of any governmental entity to issue a requested order, license or permit, inability of any Party or any Person engaged in work on the Project to obtain or ship materials or equipment because of the effect of similar causes on suppliers or carriers, or inability of SCPPA to sell or issue its Bonds. Notwithstanding the foregoing, Uncontrollable Forces as defined herein shall also include events of Force Majeure pursuant to the Power Purchase Agreement, as defined therein.
110. WECC. The Western Electricity Coordinating Council, or its successor.
111. Windy Flats Partners, LLC. Windy Flats Partners, LLC, a limited liability company organized and existing under the laws of the State of Delaware, or its successor.

**CONTRACT FOR SALE AND PURCHASE OF
WINDY POINT/WINDY FLATS ENERGY**

BY AND AMONG

CITY OF GLENDALE

AND

**THE CITY OF LOS ANGELES ACTING BY AND THROUGH
THE DEPARTMENT OF WATER AND POWER**

AND

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

DATED AS OF

AUGUST 1, 2009

TABLE OF CONTENTS

1.	DEFINITIONS.....	2
2.	SALE AND PURCHASE OF CONTRACT OUTPUT ENTITLEMENT SHARE.....	4
3.	EXTENT OF DISCHARGE OF GLENDALE'S OBLIGATIONS	6
4.	OPTION OF GLENDALE TO REPURCHASE CONTRACT OUTPUT ENTITLEMENT SHARE.....	7
5.	ANNUAL BUDGET; REPORTS; AUDITS AND ACCOUNTS.....	9
6.	CHARGES AND BILLING	10
7.	RECONCILIATION OF CONTRACT MONTHLY COSTS.....	10
8.	DISPUTED CONTRACT BILLING STATEMENT	11
9.	SOURCE OF PAYMENTS; RATE COVENANT	12
10.	CONTRACT OUTPUT ENTITLEMENT SHARE	12
11.	PLEDGE OF PAYMENTS.....	13
12.	ISSUANCE OF BONDS	13
13.	DEFAULT	14
14.	ENFORCEMENT OF OBLIGATIONS AND TERMINATION OF CONTRACT.....	14
15.	ABANDONMENT OF REMEDY	16
16.	LIABILITY	17
17.	ASSIGNMENT.....	18
18.	RELATIONSHIP TO AND COMPLIANCE WITH OTHER INSTRUMENTS	19
19.	AMENDMENTS	20
20.	SEVERABILITY	20
21.	NON-WAIVER.....	20
22.	DISPUTES AND ATTORNEYS' FEES.....	20
23.	GOVERNING LAW AND VENUE	21
24.	NOTICES.....	21
25.	REPRESENTATIONS AND WARRANTIES.....	22
26.	EFFECTIVE DATE AND TERM.....	22
27.	HEADINGS NOT BINDING	22
28.	COUNTERPARTS	23

THIS CONTRACT FOR THE SALE AND PURCHASE OF WINDY POINT/WINDY FLATS ENERGY (the “**Contract**”) is dated for convenience as of the 1st day of August, 2009, by and among the City of Glendale, a municipal corporation of the State of California (“**Glendale**”); the City of Los Angeles, a municipal corporation organized and existing under the Charter of the City of Los Angeles and the laws of the State of California acting by and through its Department of Water and Power (“**LADWP**”); and the Southern California Public Power Authority, a public entity and joint powers agency of the State of California (“**SCPPA**”).

RECITALS

Glendale and LADWP, respectively, have entered into Power Sales Agreements (the “Windy Point/Windy Flats Power Sales Agreements”) with SCPPA under which SCPPA sells to Glendale and LADWP, respectively, energy generated by the Windy Point/Windy Flats Project, together with associated Environmental Attributes. Such energy is to be purchased by SCPPA under a Power Purchase Agreement, dated as of June 24, 2009, entered into by SCPPA with Windy Flats Partners, LLC (the “Power Purchase Agreement”). The Power Purchase Agreement provides for SCPPA to make a prepayment for a portion of such energy which prepayment is to be financed by SCPPA by the issuance of its Bonds.

Glendale under its Glendale Windy Point/Windy Flats Power Sales Agreement with SCPPA is entitled to a specified percentage share of the Facility Output of the Windy Point/Windy Flats Project, including associated Environmental Attributes.

Glendale desires to sell and assign to LADWP its share of the Facility Output of the Windy Point/Windy Flats Project, including associated Environmental Attributes, and LADWP desires to purchase and pay the cost of such share of the Facility Output of the Windy

Point/Windy Flats Project, including associated Environmental Attributes, as provided in this Contract.

AGREEMENT

For and in consideration of the mutual covenants and agreements herein contained, it is agreed by and among the parties hereto as follows:

1. DEFINITIONS

For convenience, the terms used in this Contract, including the foregoing recitals, which are defined in the Glendale Windy Point/Windy Flats Power Sales Agreement shall have the meanings set forth therein. In addition to such defined terms and to the other terms defined in the foregoing preamble and recitals, the following terms, whether in the singular or in the plural, when used in this Contract, shall have the following meanings:

“Change in Law” shall mean the enactment, adoption, issuance or promulgation of a new or an amendment of a federal, state or local law, statute or regulation, and shall include any change or modification by the Glendale City Council of the Glendale Renewable Portfolio Standard.

“Commencement Date” shall mean the first to occur of (i) the date on which Energy is first delivered from the Facility to the Point of Delivery, or (ii) the date on which SCPPA first incurs or accrues costs of interest or principal payments with respect to Bonds.

“Contract Billing Statement” shall mean the written statement prepared or caused to be prepared each Month by SCPPA pursuant to Section 6 herein which shall be based on the Annual Budget or amended Annual Budget then in effect and which shall show for such Month the amount of Contract Monthly Costs to be paid by LADWP in accordance with the provisions of Section 6 herein.

“Contract Monthly Costs” shall mean, with respect to a particular Month, the Contract Output Entitlement Share of the amount of the Monthly Costs for such Month that shall be allocated by SCPPA to the Facility as set forth in the Annual Budget or in any amended Annual Budget furnished by SCPPA as provided in Section 5(a) herein, and shall include, without limitation, the amounts for Debt Service and reserve requirements with respect to Bonds issued by SCPPA as provided in Section 13 of the Glendale Windy Point/Windy Flats Power Sales Agreement and the cost of Supplementary Services arranged by SCPPA for LADWP as provided in Section 10(c) herein.

“Contract Output Entitlement Share” shall mean (i) the 7.630% share of the total Facility Output, including associated Environmental Attributes, purchased by Glendale from SCPPA pursuant to its Glendale Windy Point/Windy Flats Power Sales Agreement and sold by Glendale to LADWP pursuant to this Contract, or (ii) in the event that Glendale shall repurchase a portion of such share as provided in Section 4 herein, the remaining portion thereof not repurchased by Glendale. As provided in Appendix B to the Windy Point/Windy Flats Power Sales Agreements, Glendale’s 7.630% Output Entitlement Share thereunder which is the subject of this Contract is expected to represent 20 MW of Estimated Capacity (based upon the assumptions and subject to such variations as may occur in the actual capacity as described in Appendix B to the Windy Point/Windy Flats Power Sales Agreements).

“Contract Year” shall mean the Fiscal Year except that the first such year shall begin on the Commencement Date.

“Facility Expansion” shall have the meaning given such term in the Power Purchase Agreement.

“Glendale Renewable Portfolio Standard” shall mean the standard in effect on the effective date of this Contract providing that the energy resources used by Glendale to meet its retail electric energy requirements include at least twenty percent (20%) eligible renewable energy resources by 2017, as adopted by the Glendale City Council on December 16, 2003.

“Glendale Windy Point/Windy Flats Power Sales Agreement” shall mean the Power Sales Agreement, dated as of August 1, 2009, by and between Glendale and SCPPA, providing for the sale of Facility Output, as the same may hereafter be amended from time to time.

“LADWP Windy Point/Windy Flats Power Sales Agreement” shall mean the Power Sales Agreement, dated as of August 1, 2009, by and between LADWP and SCPPA, providing for the sale of Facility Output, as the same may hereafter be amended from time to time.

“Power Purchase Provider” shall have the meaning given such term in the Windy Point/Windy Flats Power Sales Agreements.

“Project Manager” shall have the meaning given such term in the Windy Point/Windy Flats Power Sales Agreements.

2. SALE AND PURCHASE OF CONTRACT OUTPUT ENTITLEMENT SHARE

2.1 From and after the Commencement Date, (i) Glendale hereby sells and assigns to LADWP the Contract Output Entitlement Share and (ii) LADWP hereby purchases from Glendale the Contract Output Entitlement Share, all in accordance with the terms and provisions of this Contract. For the purposes of this Contract, Facility Output provided to LADWP by SCPPA shall be deemed to have been provided first pursuant to the LADWP Windy Point/Windy Flats Power Sales Agreement (up to LADWP's Output Entitlement Share thereunder) and thereafter pursuant to this Contract.

2.2 In consideration of the sale and assignment to it by Glendale of the Contract Output Entitlement Share as provided in Section 2.1 above, LADWP hereby agrees to pay from and after the Commencement Date the Contract Monthly Costs (as prorated for a portion of a Month) to SCPPA and to perform the other obligations of Glendale associated with the Contract Output Entitlement Share so as to fully protect Glendale against any financial or other obligations relating to the Contract Output Entitlement Share, all as provided in this Contract.

2.3 LADWP shall pay to SCPPA the amount of the Contract Monthly Costs and perform such other obligations attributable to the Contract Output Entitlement Share as provided in this Contract, whether or not the Facility or any part thereof has been completed, is functioning, producing, operating or operable or Facility Output is suspended, interrupted, interfered with, reduced or curtailed or terminated in whole or in part, and such payments shall not be subject to reduction whether by offset or otherwise and shall not be conditional upon the performance or non-performance by any party of any agreement for any cause whatsoever.

2.4 Payments received by SCPPA from LADWP shall be applied first to the amounts due and owing under the LADWP Windy Point/Windy Flats Power Sales Agreement and the balance thereof shall be applied to the payment of amounts due and owing under this Contract.

2.5 LADWP agrees that with respect to any Bonds it will comply with the Federal Tax Law Requirements relating to the Contract Output Entitlement Share as though the Contract Output Entitlement Share were part of its Output Entitlement Share under and as defined in the LADWP Windy Point/Windy Flats Power Sales Agreement.

2.6 It is hereby acknowledged by the parties hereto that the sale and assignment of the Contract Output Entitlement Share, as provided in this Contract, is made pursuant to Section 11.3 of the Glendale Windy Point/Windy Flats Power Sales Agreement.

2.8 Glendale shall retain its rights under Section 6.1 of the Glendale Windy Point/Windy Flats Power Sales Agreement with respect to the Coordinating Committee, including the right thereunder of its representative thereto to cast a vote equal to its Output Entitlement Share.

3. **EXTENT OF DISCHARGE OF GLENDALE'S OBLIGATIONS**

3.1 Each payment of Contract Monthly Costs made by LADWP pursuant to this Contract and received by SCPPA shall be applied in discharge of Glendale's obligations to pay Monthly Costs under the Glendale Windy Point/Windy Flats Power Sales Agreement. In addition, Glendale's other obligations under the Glendale Windy Point/Windy Flats Power Sales Agreement shall be discharged to the extent, but only to the extent, that such obligations are performed by LADWP under this Contract. Except as discharged as herein provided, the obligations of Glendale to pay Monthly Costs and to perform its other obligations under the Glendale Windy Point/Windy Flats Power Sales Agreement shall not otherwise be affected.

3.2 In the event that LADWP shall fail to pay the amount of the Contract Monthly Costs to SCPPA, or shall fail to perform any other obligation under this Contract, nothing contained in this Contract shall be construed to prevent SCPPA from proceeding first and directly against Glendale under the Glendale Windy Point/Windy Flats Power Sales Agreement to enforce the payment of Monthly Costs thereunder or to enforce the performance of such other obligations of Glendale thereunder, without proceeding against LADWP under this Contract or any other agreement to enforce the payment of Contract Monthly Costs or the payment or performance of such other obligations.

4. OPTION OF GLENDALE TO REPURCHASE CONTRACT OUTPUT ENTITLEMENT SHARE

4.1 Glendale shall have an option to repurchase from LADWP, from and after the exercise of such option, all or any portion of the Contract Output Entitlement Share commencing and effective on (a) the first day of the month next succeeding the third anniversary of the date of Commercial Operation of the Facility Expansion or (b) in the event that Commercial Operation of the Facility Expansion is not achieved, the first day of the month next succeeding the third anniversary of the date of Commercial Operation of the Primary Facility (the applicable date being the "Contract Option Exercise Date") by providing LADWP with at least 60 days prior written notice of the exercise of such option; provided that in the event of a Change in Law that either (i) increases the requirement that at least 20% of the energy resources used by Glendale to meet its retail electric system requirements consist of eligible renewable energy resources by 2017 as provided by the Glendale Renewal Portfolio Standard or (ii) requires that Glendale use eligible renewable energy resources to meet its retail electric system requirements prior to 2017, Glendale shall have the option to repurchase from LADWP all or a portion of the Contract Output Entitlement Share at any time after the Commencement Date and prior to the Contract Option Exercise Date by providing LADWP with at least 60 days prior written notice which shall specify the effective date of such repurchase. Any repurchase by Glendale from LADWP of all or any portion of the Contract Output Entitlement Share shall be prospective only.

4.2 In the event that under Section 4.1 only a portion of the Contract Output Entitlement Share is to be repurchased, the notice required thereunder shall specify such portion to be so repurchased. Any portion of the Contract Output Entitlement Share not repurchased by Glendale under Section 4.1 shall continue to be sold by Glendale to LADWP pursuant to this

Contract and this Contract shall continue with respect to such Contract Output Entitlement Share not repurchased. If under Section 4.1 the entire Contract Output Entitlement Share is to be repurchased, the notice required thereunder shall so state and this Contract shall terminate upon such repurchase becoming effective, except to the extent otherwise provided below in this Section 4.2. Upon such termination of this Contract the Contract Output Entitlement Share shall revert to Glendale under the Glendale Windy Point/Windy Flats Power Sales Agreement and LADWP shall no longer have any rights or interests or any obligations with respect to the Contract Output Entitlement Share; provided that as soon as practicable after the effective date of such termination there shall be a reconciliation of the Contract Monthly Costs billed under the Contract Billing Statements for the period beginning with the first day of the then current Contract Year and ending with the day prior to the effective date of such termination. Such reconciliation shall be conducted in the same manner as provided for under Section 7 herein as though such date of termination were the end of the Contract Year. Such provisions for billing adjustment shall survive the termination of this Contract as above provided.

4.3 Upon the expiration of the term of this Contract (which, except as otherwise provided in Section 4.2 herein, shall be coterminous with the expiration of the term of the Glendale Windy Point/Windy Flats Power Sales Agreement pursuant to Section 20.3 of the Glendale Windy Point/Windy Flats Power Sales Agreement), and notwithstanding any provision to the contrary in Section 20.4 of the Glendale Windy Point/Windy Flats Power Sales Agreement in the event SCPPA shall have purchased or acquired the Facility, the pro rata share of the right, title and interests in the Facility that shall be equal to the Contract Output Entitlement Share or such portion thereof, as the case may be, that shall have been purchased and paid for by LADWP for the entire term of this Contract shall be transferred to LADWP in the manner provided for in

Section 20.4 of the Glendale Windy Point/Windy Flats Power Sales Agreement. Such transfer shall be in addition to the transfer of the pro rata share to LADWP that shall equal LADWP's Output Entitlement Share as set forth under the LADWP Windy Point/Windy Flats Power Sales Agreement. There shall be transferred to Glendale a share of the right, title and interests in the Facility equal to any portion of the Contract Output Entitlement Share that was not so purchased and paid for by LADWP for the entire term of this Contract in the manner provided for in Section 20.4 of the Glendale Windy Point/Windy Flats Power Sales Agreement.

5. ANNUAL BUDGET; REPORTS; AUDITS AND ACCOUNTS

SCPPA agrees for the benefit of LADWP as follows:

(a) To prepare or cause to be prepared the Annual Budget or amended Annual Budget as provided in Section 5.4 of the Glendale Windy Point/Windy Flats Power Sales Agreement and submit such proposed Annual Budget or amended Annual Budget, as the case may be, to LADWP and receive from LADWP any matters or suggestions by it relating to the proposed Annual Budget or amended Annual Budget, and to deliver or cause to be delivered copies of the adopted Annual Budget or the adopted amended Annual Budget to LADWP, all in the manner provided in Section 5.4 of the Glendale Windy Point/Windy Flats Power Sales Agreement, except that such Annual Budget or amended Annual Budget shall also establish the billing and specify the amounts allocated for each Month for Contract Monthly Costs.

(b) To prepare or cause to be prepared and to issue to LADWP the reports set forth in Section 5.5 of the Glendale Windy Point/Windy Flats Power Sales Agreement.

(c) To keep or cause to be kept records and accounts which may be examined and copied by LADWP and which shall be audited and each such audit shall be submitted to

LADWP, all in the manner provided in Section 5.6 of the Glendale Windy Point/Windy Flats Power Sales Agreement.

6. CHARGES AND BILLING

6.1 From and after the Commencement Date and by the fifth calendar day of each Month during each Contract Year, SCPA shall bill LADWP for the amount of the Contract Monthly Costs (as prorated for a portion of a Month) payable by LADWP for the then current Month in accordance with the charges established pursuant to the provisions of this Contract (including any adjustment as a result of any repurchase of any portion of the Contract Output Entitlement Share pursuant to Section 4 hereof) by providing LADWP with a Contract Billing Statement which shall detail the components of the Contract Monthly Costs and otherwise comply with the requirements of the Glendale Windy Point/Windy Flats Power Sales Agreement with respect to Billing Statements. Such Contract Billing Statement shall be paid by LADWP on or before 20 days after receipt of such Contract Billing Statement. SCPA shall provide Glendale with a copy of each Contract Billing Statement.

6.2 If LADWP fails to pay any Contract Billing Statement when due, interest shall accrue on the unpaid amount of such Contract Billing Statements to the extent permitted by law, at a rate equal to the lesser of (i) one percent per Month (12% per annum) on the unpaid amount of the bill or (ii) the monthly equivalent of the "prime" rate of interest as noticed in the Federal Reserve's HR 15 weekly bulletin (or the subsequent equivalent thereof) as of the date of nonpayment on the unpaid amount of the bill, until such Contract Billing Statement is paid.

7. RECONCILIATION OF CONTRACT MONTHLY COSTS

As soon as practicable after the end of each Contract Year, SCPA will submit to LADWP a detailed statement of the actual aggregate Contract Monthly Costs and other amounts

payable by LADWP under this Contract, including credits thereto, for all of the Months of such Contract Year, and the adjustments of the aggregate Contract Monthly Costs and other amounts payable hereunder, if any, for any prior Contract Year, based on the annual audit of accounts provided for in Section 5(c) of this Contract. If, on the basis of the statements submitted as provided in this Section 7, the actual aggregate Contract Monthly Costs and other amounts payable by LADWP under this Contract for any Contract Year exceed the amount thereof for which LADWP has been billed, LADWP shall pay SCPPA, within 20 days of receipt of SCPPA's invoice, the amount to which SCPPA is entitled. If, on the basis of the statements submitted pursuant to this Section 7, the actual aggregate Contract Monthly Costs or other amounts payable for any Contract Year are less than the amount thereof for which LADWP has been billed, SCPPA shall credit such excess against LADWP's next monthly payment pursuant to this Contract, except that if the term of this Contract shall have expired or this Contract shall have been terminated, SCPPA shall pay LADWP promptly the amount to which it is entitled.

8. DISPUTED CONTRACT BILLING STATEMENT

In case any portion of any Contract Billing Statement received by LADWP from SCPPA shall be in bona fide dispute, LADWP shall pay SCPPA the full amount of each Contract Billing Statement, and, upon determination of the correct amount, the difference between such correct amount and such full amount, if any, including interest at the rate received by SCPPA on any overpayment, shall be credited to LADWP by SCPPA after such determination; provided, however, that such interest shall not accrue on any overpayment that is acknowledged by or on behalf of SCPPA and returned to LADWP by the fifth day following the receipt by SCPPA of the disputed overpayment. In the event of any dispute as to a Contract Billing Statement, SCPPA will give consideration to such dispute and will advise LADWP with regard to SCPPA's position

relative thereto within 30 days following receipt of written notification by LADWP of such dispute.

9. SOURCE OF PAYMENTS; RATE COVENANT

9.1 The obligations of LADWP to make payments under this Contract shall constitute a cost of purchased power and an operating expense of LADWP payable solely from its electric revenue fund, including any and all legally available electric system reserves. LADWP will annually in each of its fiscal years during the term of this Contract include in its electric system budget, whether or not any other items are included, an appropriation from the revenues of its electric system, sufficient to satisfy all the payments required to be made in such fiscal year under this Contract until all payments required under this Contract have been paid in full.

9.2 LADWP will establish, maintain and collect rates and charges for the electric service of its electric system each year so as to provide revenues sufficient, together with available electric system reserves, to enable it to pay all amounts payable by it when due under this Contract and to pay all other amounts payable from, and all lawful charges against or liens on, the revenues of its electric system.

10. CONTRACT OUTPUT ENTITLEMENT SHARE

SCPPA will provide Facility Output to LADWP in accordance with the following:

(a) At all times after the Commencement Date LADWP shall be entitled under this Contract to Facility Output (including associated Environmental Attributes) up to the amount obtained by multiplying the Facility Output by the Contract Output Entitlement Share.

(b) Operation of the Facility and delivery of Facility Output shall be subject to outages, curtailments, or interruptions as provided under Section 16 of the Glendale Windy Point/Windy Flats Power Sales Agreement.

(c). It is the obligation of LADWP, at its own expense, to accept delivery of the Facility Output attributable to the Contract Output Entitlement Share at the Point of Delivery and to arrange for transmission service therefor from the Point of Delivery. However, upon request by LADWP, SCPPA shall arrange for Supplementary Services for LADWP to the same extent as provided for under Section 9 of the Glendale Windy Point/Windy Flats Power Sales Agreement.

(d) SCPPA shall transfer to LADWP all Environmental Attributes received by SCPPA with respect to the Facility Output that shall be attributable to the Contract Output Entitlement Share in the same manner as SCPPA receives such Environmental Attributes.

11. PLEDGE OF PAYMENTS

All payments required to be made by the LADWP in accordance with or pursuant to any provision of this Contract may be pledged by SCPPA to secure the payment of the Bonds and interest thereon, subject to the application thereof for such purposes and on such terms as provided in the Indenture with respect to the Bonds.

12. ISSUANCE OF BONDS

12.1 Bonds are to be issued by SCPPA to finance the Cost of Acquisition and related purposes, as provided in Section 13 of the Windy Point/Windy Flats Power Sales Agreement, and to refinance outstanding Bonds, all in accordance with the Indenture.

12.2 In the event Contract Monthly Costs may be reduced by the refunding of any of the Bonds or in the event it shall otherwise be advantageous, in the opinion of SCPPA, to refund any Bonds, SCPPA may issue and sell refunding Bonds.

12.3 LADWP may supply SCPPA, upon request, with such additional information and documentation, as SCPPA shall reasonably determine to be necessary, to facilitate the issuance of Bonds for the purposes described in this Contract.

13. DEFAULT

Failure of LADWP to pay to SCPPA Contract Monthly Costs or to perform any other obligation required under this Contract when due shall constitute a default on the part of LADWP. SCPPA shall promptly notify Glendale of the failure of LADWP to pay Contract Monthly Costs or to perform any such other obligation, specifying the amount of Contract Monthly Costs which LADWP has failed to pay or any such other obligation which LADWP has failed to perform and providing such other detail as Glendale may reasonably request in order to assume compliance with the Glendale Windy Point/Windy Flats Power Sales Agreement. Thereupon, Glendale shall forthwith, in accordance with the terms of the Glendale Windy Point/Windy Flats Power Sales Agreement, pay such amount or perform such obligations as are due and owing or otherwise required from it under the Glendale Windy Point/Windy Flats Power Sales Agreement and, notwithstanding anything in this Contract to the contrary, shall continue to be subject to the remedies and all the other terms and provisions of the Glendale Windy Point/Windy Flats Power Sales Agreement.

14. ENFORCEMENT OF OBLIGATIONS AND TERMINATION OF CONTRACT

14.1 In the event of any default by LADWP and compliance by Glendale under the Glendale Windy Point/Windy Flats Power Sales Agreement as set forth in Section 13 of this Contract, LADWP shall not be relieved of its liability to Glendale arising out of such default, and Glendale shall have the right to recover from LADWP up to the Contract Monthly Costs due and unpaid plus interest on overdue amounts and any other amounts due and unpaid by LADWP

under this Contract. In this connection, Glendale may bring any suit, action or proceeding at law or in equity, as may be necessary or appropriate to enforce any covenant, agreement or obligation against LADWP or may take any action permitted by law to recover such amount from or enforce performance by LADWP.

14.2 In the event any payment by LADWP due under this Contract remains unpaid subsequent to the due date thereof, upon 60 days' written notice to LADWP and Glendale, SCPPA shall discontinue the delivery of Facility Output and any other rights, benefits and interests under this Contract to LADWP during the period of such default without reduction of the obligations of LADWP to make payments under this Contract except to the extent provided for below in this Section 14.2. During any such discontinuance, Glendale may (i) take and pay for in accordance with the Glendale Windy Point/Windy Flats Power Sales Agreement such Contract Output Entitlement Share, (ii) dispose of the Contract Output Entitlement Share to others on the best terms readily available, or (iii) proceed in part under (ii) above and take and pay for the remaining balance of the Contract Output Entitlement Share under (i) above; provided, however, that no such use or disposition shall, in the opinion of Bond Counsel or Tax Counsel, result in or cause non-compliance with applicable Federal Tax Law Requirements, or release Glendale from its payment obligations or liability under its Glendale Windy Point/Windy Flats Power Sales Agreement, except if and to the extent paid and performed in accordance with its Glendale Windy Point/Windy Flats Power Sales Agreement. In the event of such use or disposition, Glendale or its designee shall be provided with Facility Output in the amount of the Contract Output Entitlement Share so used or disposed of. Notwithstanding the foregoing, the obligation of LADWP to pay SCPPA under this Contract shall be reduced only to the extent that payments are received by SCPPA from or on behalf of Glendale for that portion of the Contract

Output Entitlement Share so disposed of plus the Contract Monthly Costs attributable to the portion thereof so used.

14.3 Upon the failure of LADWP to make any payment due under this Contract, SCPPA shall provide Glendale with a Billing Statement for the amount of its payment obligation under its Glendale Windy Point/Windy Flats Power Sales Agreement. In the event of any disposition or use of a portion of the Contract Output Entitlement Share pursuant to Section 14.2 herein, SCPPA agrees that the Billing Statements delivered to Glendale will appropriately reflect such disposition or use and the provision to or on behalf of Glendale of Facility Output associated with such portion of the Contract Output Entitlement Share disposed of or used.

14.4 If a default by LADWP in the payment of any amount due under this Contract shall continue for at least 60 days from the due date thereof, Glendale may terminate this Contract upon written notice to LADWP and SCPPA. Upon any such termination the rights and obligations of Glendale with respect to the Contract Output Entitlement Share shall be governed solely by its Glendale Windy Point/Windy Flats Power Sales Agreement, and LADWP shall be obligated only to pay Contract Monthly Costs and to perform the other obligations which shall be due and owing or shall have accrued under this Contract prior to the date of such termination.

15. ABANDONMENT OF REMEDY

In case any proceeding taken on account of any default under this Contract shall have been discontinued or abandoned for any reason, the parties to such proceedings shall be restored to their former positions and rights under this Contract, respectively, and all rights, remedies, powers and duties of SCPPA, Glendale and LADWP shall continue as though no such proceedings had taken place.

16. **LIABILITY**

16.1 Glendale and LADWP agree that neither SCPPA, the Project Manager, nor any of their directors, officers or employees shall be liable to Glendale or LADWP for any and all claims, including loss of profits, direct or consequential loss, or damage suffered by Glendale or LADWP as a result of (i) the performance or non-performance of the Power Purchase Provider or the Project Manager, or any of their directors, officers, and employees, under this Contract or any Project Agreement (including negligent or grossly negligent acts or omissions and excluding willful misconduct) or (ii) the performance or non-performance of SCPPA or the Project Manager, or any of their directors, officers, or employees, under this Contract or any Project Agreement (including negligent or grossly negligent acts or omissions and excluding willful misconduct). Glendale and LADWP release SCPPA and its directors, officers, and employees and the Project Manager from any claim or liability that Glendale and LADWP may have cause to assert as a result of any actions or inactions of SCPPA under this Contract or the performance or non-performance by the Project Manager under this Contract or any Project Agreement (including negligent or grossly negligent acts or omissions and excluding willful misconduct). No such performance or non-performance by the Project Manager, the Power Purchase Provider or SCPPA shall relieve Glendale and LADWP from their obligations under this Contract, including their respective obligations to make payments required under this Contract. The provisions of this Section 16.1 shall not be construed so as to relieve the Project Manager or the Power Purchase Provider from any obligations (or liability in the case of the Power Purchase Provider) under this Contract, the Power Purchase Agreement or any other applicable Project Agreement. It is hereby recognized and agreed that no member of the Board of Directors of SCPPA, the Project Manager, nor their officers or employees or member of SCPPA in its

capacity as a member of SCPPA, shall be individually liable in respect of any undertakings by SCPPA under this Contract or any Project Agreement.

16.2 The exculpation provision set forth in Section 16.1 hereof shall apply to all types of claims or actions including, but not limited to, claims or actions based on contract or tort. Notwithstanding the foregoing, Glendale and LADWP, and each of them, may protect and enforce its rights under this Contract by a suit or suits in equity for specific performance of any obligations or duty of SCPPA, and LADWP shall at all times retain the right to recover, by appropriate legal proceedings, any amount determined to have been an overpayment by LADWP, in accordance with Section 7 of this Contract.

16.3 The obligations of SCPPA under this Contract, as well as any costs or expenses of SCPPA incurred in respect of its obligations and duties, shall never constitute a debt or indebtedness of SCPPA within the meaning of any provision or limitation of the Constitution or statutes of the State of California, shall not give rise to a pecuniary liability of SCPPA or a charge against its general credit.

17. ASSIGNMENT

Notwithstanding anything in this Contract to the contrary, LADWP shall not sell, assign or otherwise dispose of any portion of the Contract Output Entitlement Share except on prior written notice to Glendale and SCPPA and such sale, assignment or other disposition shall be subject to the consent of Glendale which shall not be unreasonably withheld, and, in any event, LADWP shall not sell, assign or otherwise dispose of any portion of the Contract Output Entitlement Share unless, in the opinion of Bond Counsel or Tax Counsel, such sale, assignment or other disposition will not result in or cause non-compliance with applicable Federal Tax Law Requirements. Notwithstanding the immediately preceding sentence, LADWP may (without

giving such notice or obtaining such consent or opinion) contract to provide or otherwise sell or dispose of Facility output derived from the Contract Output Entitlement Share to which it is entitled hereunder in a transaction which complies with guidelines established by SCPPA and approved by SCPPA's Bond Counsel or Tax Counsel from time to time.

18. RELATIONSHIP TO AND COMPLIANCE WITH OTHER INSTRUMENTS

18.1 It is recognized by the parties hereto that SCPPA in exercising its rights and performing its obligations under the Windy Point/Windy Flats Power Purchase Agreements, must comply in all respects with the requirements of the Indenture and all licenses, permits and regulatory approvals necessary for exercising such rights and performing such obligations, and it is therefore agreed that this Contract is made subject to the provisions of the Indenture and all such licenses, permits and regulatory approvals.

18.2 SCPPA covenants and agrees for the benefit of the other parties hereto to comply in all respects with all terms, conditions and covenants of the Indenture, the Windy Point/Windy Flats Power Sales Agreements and the Power Purchase and Security Agreements and all licenses, permits and regulatory approvals relating thereto, provided that SCPPA shall not be prevented from contesting the validity or applicability of any thereof in good faith by appropriate proceedings. All costs and expenses of SCPPA incurred in respect of enforcing and complying with any of the Windy Point/Windy Flats Power Sales Agreements, this Contract or the Power Purchase and Security Agreements or in defending any action brought against SCPPA under any of the Windy Point/Windy Flats Power Sales Agreements, this Contract, or the Power Purchase and Security Agreements shall constitute Monthly Costs.

19. AMENDMENTS

SCPPA shall not, without the written consent of LADWP, amend, modify, supplement or otherwise change the Indenture if such amendment, modification, supplement or change would affect the rights or obligations of LADWP under this Contract or would be to the disadvantage of LADWP or would result in increased Contract Monthly Costs to LADWP; provided that this Section 19 shall not limit the power or authority of SCPPA to supplement the Indenture to provide for the issuance of Bonds for any of the purposes permitted under Section 12 herein.

20. SEVERABILITY

In case any one or more of the provisions of this Contract shall for any reason be held to be illegal or invalid by a court of competent jurisdiction, it is the intention of each of the parties hereto that such illegality or invalidity shall not affect any other provision hereof, but this Contract shall be construed and enforced as if such illegality or invalid provision had not been contained herein unless a court holds that the provisions are not separable from all other provisions of this Contract.

21. NON-WAIVER

The failure of a party to insist upon performance of any of the provisions of this Contract or to exercise any rights or remedies provided by this Contract, shall not release the other parties from any of their responsibilities or obligations imposed by law or this Contract and shall not be considered a waiver of any right of such party to insist upon performance of this Contract.

22. DISPUTES AND ATTORNEYS' FEES

Notwithstanding any other provision of this Contract, if a dispute arises between LADWP and Glendale which SCPPA is unable to resolve, LADWP and Glendale may by mutual agreement submit the dispute to mediation or nonbinding arbitration. Notwithstanding the

foregoing, the parties may enforce the terms of this Contract before a court of competent jurisdiction. LADWP and Glendale agree that each such party shall bear its own attorneys' fees and costs with respect to any such dispute or enforcement of this Contract.

23. GOVERNING LAW AND VENUE

This Contract shall be interpreted, governed by and construed under the laws of the State of California without regard to conflicts of law, as if executed and to be performed wholly within the State of California. Venue for any suit, legal action or other legal proceeding arising out of or relating to this Contract shall be in the Superior Court, for the County of Los Angeles, State of California, or if such court does not have jurisdiction, the United States District Court for the Central District of California, Western Division, sitting in Los Angeles, California. Each party (a) irrevocably and unconditionally submits to the exclusive jurisdiction of such courts for determining any dispute arising out of this Contract or the transactions contemplated by this Contract and (b) waives any right it has to object to an action being brought in such courts including claiming that the action has been brought in an inconvenient forum or that such courts do not have jurisdiction.

24. NOTICES

Any notice, demand or request provided for in this Contract shall be in writing and shall be deemed properly served, given or made if delivered in person or sent by registered or certified mail, postage prepaid, to the person specified below:

Los Angeles Department of Water and Power
Attention: General Manager
RE: Power System Contract
111 N. Hope Street, Room 921
Los Angeles, California 90012

City of Glendale
Glendale Water and Power
Attention: Director of Water and Power
141 N. Glendale Avenue, 4th Level
Glendale, California 91206-4496

Southern California Public Power Authority
Attention: Executive Director
225 South Lake Avenue, Suite 1250
Pasadena, California 91101

25. REPRESENTATIONS AND WARRANTIES

Each party acknowledges that it was represented by counsel in the negotiation and execution of this Contract. The parties represent and warrant that they are legally authorized and empowered to enter into this Contract and to perform each of the terms and covenants contained herein. Each party represents and warrants that it is not restricted or prohibited, contractually or otherwise, from entering into and performing this Contract, and that the execution and performance of this Contract by such party will not conflict with or constitute a violation or breach of any other agreement between such party and any other party or entity.

26. EFFECTIVE DATE AND TERM

This Contract shall become effective on the date when it shall have been executed and delivered by each of the parties to each of the other parties hereto. The term of this Contract shall continue for the term of the Glendale Windy Point/Windy Flats Power Sales Agreement, unless terminated earlier as provided in Section 4 or Section 14 of this Contract.

27. HEADINGS NOT BINDING

The headings in this Contract are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Contract.

28. **COUNTERPARTS**

This Contract may be executed in any number of counterparts, each of which, when executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same contract.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their proper officers, respectively, being thereunto duly authorized, as of the day and year first written.

CITY OF GLENDALE

By: _____

ATTEST: _____

**CITY OF LOS ANGELES ACTING BY
AND THROUGH THE DEPARTMENT OF
WATER AND POWER**

By: _____
Chief Executive Officer and General Manager

APPROVED AS TO FORM AND LEGALITY
ROCKARD J. DELGADILLO, CITY ATTORNEY

JUN 30 2009
BY FAYE M. [Signature]
FAYE M.
Assistant City Attorney

And: _____
Secretary

**SOUTHERN CALIFORNIA PUBLIC
POWER AUTHORITY**

By: [Signature]
President

ATTEST: [Signature]
Assistant Secretary