

Department of Water and Power



the City of Los Angeles

ANTONIO R. VILLARAIGOSA
Mayor

Commission
LEE KANON ALPERT, *President*
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FORESCEE HOGAN-ROWLES
JONATHAN PARFREY
THOMAS S. SAYLES
BARBARA E. MOSCHOS, *Secretary*

H. DAVID NAHAI,
Chief Executive Officer and General Manager

October 8, 2009

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

Dear Members:

Subject: Geothermal Lease Agreement No. 1 (LADWP Agreement No. BP 09-28) with the
Southern California Public Power Authority

Pursuant to Charter Sections 606 and 607, enclosed for approval by your Honorable Body is Resolution No. 010-100, adopted by the Board of Water and Power Commissioners (Board) on September 15, 2009, approved as to form and legality by the City Attorney, which authorizes execution of Geothermal Lease Agreement No. 1 (LADWP Agreement No. BP 09-028) with the Southern California Public Power Authority (SCPPA), subject to the attached Verbal Motion, to provide the terms and conditions for LADWP to lease 2,950 acres of owned lands located in Imperial County, California, for the feasibility, exploration, and possible future development of geothermal resources as described in the Memorandum of Understanding on Imperial Valley Geothermal Feasibility and Exploration (LADWP No. BP 09-025) among the City of Los Angeles, Imperial Irrigation District, the Cities of Glendale, Burbank, Colton, Pasadena, and SCPPA. As directed by the Board, transmitted to you are supporting documents.

If no Council action is taken within 30 days of submission, this item shall be deemed approved pursuant to Charter Section 606.

If there are any questions regarding this item, please contact Ms. Winifred Yancy, Manager-Government and Neighborhood Relations, at (213) 367-0025, or Ms. Shanise Black at (213) 367-4520.

Sincerely,

Barbara E. Moschos
Board Secretary

BEM: oja

Water and Power Conservation ... a way of life

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Enclosures: LADWP Resolution w/attached Verbal Motion
Board Letter
Geothermal Lease Agreement No. 1 (LADWP Agreement No. BP 09-028)

c/enc: Mayor Antonio Villaraigosa
Ms. Jan C. Perry, Chair, Energy and the Environment Committee
Mr. Gerry F. Miller, Chief Legislative Analyst
Mr. Miguel A. Santana, City Administrative Officer
Mr. Rafael Prieto, Legislative Analyst, CLA
Mr. William R. Koenig, Chief Administrative Analyst
Ms. Winifred Yancy
Ms. Shanise Black

RESOLUTION NO. 010 100

WHEREAS, the Los Angeles Department of Water and Power (LADWP) has adopted a Renewable Portfolio Standard (RPS) with a long-term renewable energy goal of forty percent (40%) renewable energy by 2020; and

WHEREAS, the Memorandum of Understanding on Imperial Valley Geothermal Feasibility and Exploration among the City of Los Angeles, Imperial Irrigation District, City of Glendale, City of Burbank, City of Colton, City of Pasadena and Southern California Public Power Authority (SCPPA), LADWP Agreement No. BP 09-025 (MOU), is included within LADWP's RPS goals for 2020; and

WHEREAS, the Board of Water and Power Commissioners approved the MOU and all funding related thereto at its Board Meeting held on September 1, 2009; and

WHEREAS, Geothermal Lease Agreement No. 1, LADWP Agreement No. BP 09-028, between LADWP and SCPPA arranges for SCPPA to lease 2,950 acres of LADWP's lands in conjunction with the joint exploration and feasibility activities identified within the MOU.

NOW, THEREFORE, BE IT RESOLVED, that the Geothermal Lease Agreement No. 1, LADWP Agreement No. BP 09-028, approved as to form and legality by the City Attorney and filed with the Secretary of the Board, is hereby approved.

BE IT FURTHER RESOLVED, that the Chief Executive Officer and General Manager of LADWP, or such person as he shall designate in writing, and the Secretary, or the Assistant Secretary, or the Acting Secretary of the Board of Water and Power Commissioners, are authorized, empowered, and directed to execute said Geothermal Lease Agreement No. 1 for and on behalf of LADWP.

BE IT FURTHER RESOLVED, that the Chief Executive Officer and General Manager of LADWP, or such person as he shall designate in writing, is hereby delegated authority to execute all exhibits related to Geothermal Lease Agreement No. 1, as the case may be, for and on behalf of the LADWP.

BE IT FURTHER RESOLVED, that the Chief Accounting Employee is authorized and directed, upon proper certification, to accept all revenue generated from Geothermal Lease Agreement No. 1 and to calculate and record any offsets or credits against such revenue which directly arises from any obligations owed by LADWP in connection with or related to said agreement.

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 SEP 15 2009

APPROVED AS TO FORM AND LEGALITY
CARMEN A. TRUTANICH, CITY ATTORNEY

Barbara E. Anselmo
Secretary

SEP 04 2009
BY *Shanise Black*
SHANISE BLACK

VERBAL MOTION

SO MOVED that the Geothermal Lease Agreement No. 1 (LADWP Agreement No. BP 09-028) with Southern California Public Power Authority (SCPPA) identified as Item No 19 on the Board of Water and Power Commissioner's Agenda for September 15, 2009, be conditionally approved subject to the precondition that the Memorandum of Understanding on Imperial Valley Geothermal Feasibility and Exploration (LADWP Agreement No. BP 09-025) as approved by this Board on September 1, 2009 be amended to require the usage of LADWP's procurement policies (as set forth within Charter of the City of Los Angeles, Los Angeles Administration Code and other policies adopted by the Los Angeles Department of Water and Power) for any contracts related to the geothermal exploratory project.

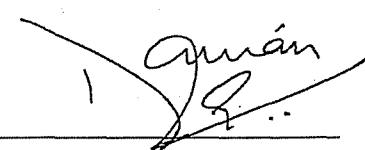
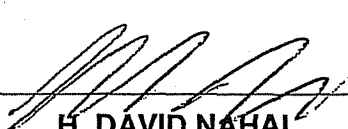

Moved by: Thomas S. Sayles

Seconded by: Jonathan Parfrey

Approved by the Board of Water and Power Commissioners at its Regular Meeting on September 15, 2009: Ayes: 3, Noes: 0; Absent: 2 – Ramirez and Hogan-Rowles.

By: Barbara E. Moschos
Barbara E. Moschos, Board Secretary

LADWP BOARD APPROVAL LETTER

TO: BOARD OF WATER AND POWER COMMISSIONERS	DATE: September 15, 2009
<div style="display: flex; justify-content: space-around; align-items: flex-end;"> <div style="text-align: center;">  <hr style="width: 80%; margin: 0 auto;"/> <p>RAMAN RAJ Chief Operating Officer Power System</p> </div> <div style="text-align: center;">  <hr style="width: 80%; margin: 0 auto;"/> <p>H. DAVID NAHAI Chief Executive Officer and General Manager</p> </div> </div> <div style="text-align: center;">  <hr style="width: 80%; margin: 0 auto;"/> <p>ARAM BENYAMIN Senior Assistant General Manager - Power System</p> </div>	<p>SUBJECT:</p> <p style="text-align: center;">Geothermal Lease Agreement No. 1 Between Southern California Public Power Authority and the Los Angeles Department of Water and Power (LADWP No. BP 09-028)</p> <p>FOR COMMISSION OFFICE USE:</p> <p style="text-align: right;">ADOPTED AS AMENDED AT 9/15/09 BOARD MEETING. SEE ATTACHED VERBAL MOTION.</p>
<p>CITY COUNCIL APPROVAL REQUIRED: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>	<p>IF YES, BY WHICH CITY CHARTER SECTION: 606 and 607</p>

PURPOSE

Transmitted for approval by your Honorable Board, approved as to form and legality by the City Attorney, is a resolution that will allow the Chief Executive Officer and General Manager or his designee of the Los Angeles Department of Water and Power (LADWP) to enter into a Geothermal Lease Agreement (LADWP No. BP 09-028) with the Southern California Public Power Authority (SCPPA) which provides the terms and conditions for LADWP to lease 2,950 acres of owned-lands located in Imperial County, California, for the feasibility, exploration, and possible future development of geothermal resources as described in the Memorandum of Understanding (MOU) on Imperial Valley Geothermal Feasibility and Exploration (LADWP No. BP 09-025) among the City of Los Angeles, Imperial Irrigation District (IID), cities of Burbank, Colton, Glendale, Pasadena, and SCPPA. The Lease Agreement is incorporated by reference and made a part of the MOU.

BACKGROUND

SCPPA is a non-profit joint powers authority and a public entity organized under the laws of the State of California, formed in 1980, pursuant to the Government Code and a

Joint Power Agreement to facilitate joint power and transmission projects for the benefit of the Southern California municipal utilities. Membership consists of eleven cities and one irrigation district which supply electric energy to Southern California, including the municipal utilities of the Cities of Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, Los Angeles, Pasadena, Riverside, and Vernon, and the IID. SCPPA is governed by its Board of Directors, which consists of representatives from each of its members. The management of SCPPA is under the direction of an Executive Director, who is appointed by its Board of Directors.

The SCPPA members are considering a geothermal power plant development project in Imperial County, California, near the Salton Sea. LADWP, IID, the cities of Burbank, Glendale, Colton, and Pasadena entered into an MOU in 2009 entitled, "Imperial Valley Geothermal Feasibility and Exploration" (LADWP No. BP 09-025) for the determination of feasibility and exploration of geothermal resources upon LADWP-owned property (2,950 acres) and IID-owned property (2,280 acres) in Imperial County, California. LADWP, as Lessor, desires to lease certain rights of its property to SCPPA, as Lessee, for the terms subject to all of the covenants, conditions, restrictions and limitations set forth in the Lease Agreement.

The Primary Term of the Lease Agreement is three years and a Secondary Term grants Lessee the option to extend the term for an additional ten years and for so long thereafter as Lessee continues to produce geothermal resources in commercial quantities from wells located on the property. The total term of the Lease Agreement will not exceed 35 years pursuant to Civil Code Section 718. If the Lease Agreement has not previously expired or terminated by the 33rd Lease Year, then, Lessees have a preferential right to renew the Lease Agreement over other potential lessees on terms to be negotiated.

Lessee will make payments to Lessor for leasing the property. From the execution date of this Lease Agreement through the fifth lease year, Lessee will pay Lessor the sum of \$295,000 annually, representing \$100 per acre per year. At the beginning of the sixth lease year and every five years thereafter, the annual lease payments will be adjusted to the National Income and Product Accounts Table 1.1.9 Implicit Price Deflators of Gross Domestic Product index number. If the Lessee commences the production of geothermal resources in commercial quantities from the property and continuing thereafter, Lessee will also pay Lessor an annual Royalty of four percent of the Total Annual Power Project Cost of the power plant beginning with the commencement of commercial operations at the power plant. The land lease payments will not be credited against the Royalty.

An Executive Directive 4 waiver has been granted by the Mayor's Office.

COST AND DURATION

The MOU on Imperial Valley Geothermal Feasibility and Exploration (LADWP No. BP 09-025) for the determination of feasibility and exploration of geothermal resources upon LADWP-owned property (2,950 acres) and IID-owned property (2,280 acres) in Imperial County, California, states LADWP will pay rental payment annually to SCPPA for leasing IID-owned property and will receive annual rental payment from SCPPA for leasing out the LADWP-owned property.

From the execution date of the Lease Agreement through the fifth anniversary, LADWP shall receive approximately half of the sum of the annual payments for leasing out the LADWP lands to SCPPA.

At the beginning of sixth lease year and every five years thereafter, the annual rental payment will be adjusted to the Implicit Price Deflators of Gross Domestic Product Index as published by the Bureau of Economic Analysis of the United States Department of Commerce. The annual rental payment per net acre of the property for the subsequent lease years is equal to the product of \$100 multiplied by a fraction, the numerator of which is the Index as of the calendar quarter prior to Adjustment Date, and the denominator of which is the Index as of the calendar quarter prior to the Effective Date.

FUNDING SOURCE

Not applicable.

FISCAL IMPACT STATEMENT

Not applicable.

TYPE OF INSURANCE COVERAGE

Not applicable.

PRE-AWARD CHECKLIST

Not applicable.

CONTRACT ADMINISTRATION

Time and Material: Yes No

Mark-Up: Not applicable.

FORMAL OBJECTIONS TO AWARD OF CONTRACT

Not applicable.

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

Not applicable.

METHOD OF SELECTION

Not applicable.

OUTREACH EFFORTS TAKEN

Not applicable.

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

Not applicable.

VENDOR HISTORY

Not applicable.

VENDOR PERFORMANCE

Not applicable.

ENVIRONMENTAL DETERMINATION

The future drilling of Exploratory Temperature-gradient Wells in Imperial County is categorically exempted from review pursuant to the County of Imperial's Rules and Regulations to Implement the California Environmental Quality Act as amended, Section 6, (B), (2), Subsection 2, for locating geothermal resources.

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 Lease Agreement be executed as authorized in the resolution.

KM:ec

Attachments

c/att: H. David Nahai

Raman Raj

Richard M. Brown

Aram Benyamin

James B. McDaniel

Cecilia K.T. Weldon

Jeffery L. Peltola

Maria Sison-Roces

Randy S. Howard

Kenneth K. Mak

Geothermal Lease Agreement No. 1

This Geothermal Lease Agreement ("Lease Agreement"), dated for convenience this fifteenth day of September, 2009, is made and entered into by CITY OF LOS ANGELES DEPARTMENT OF WATER AND POWER, a department organized and existing under the Charter of the City of Los Angeles, a municipal corporation of the State of California, as **Lessor**, and SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, a joint powers agency organized under the Joint Powers Act of California (*GC § 6500 et seq.*) ("**SCPPA**"), as **Lessee**, hereinafter referred to individually as "Party" and collectively as "Parties".

RECITALS

WHEREAS, the Imperial Irrigation District, an irrigation district organized under the California Irrigation District Act (*Cal.Stats. 1897, p.254, as amended*) ("**IID**"); Southern California Public Power Authority, a joint powers agency organized under the Joint Powers Act of California (*GC § 6500 et seq.*) ("**SCPPA**"); the City of Los Angeles acting by and through the Department of Water and Power, a department organized and existing under the Charter of the City of Los Angeles, a municipal corporation of the State of California ("**LADWP**"); City of Glendale ("**Glendale**"); City of Burbank ("**Burbank**"); City of Colton ("**Colton**"); and City of Pasadena ("**Pasadena**") entered into a Memorandum of Understanding in 2009 entitled *Memorandum of Understanding on Imperial Valley Geothermal Feasibility and Exploration among City of Los Angeles, Imperial Irrigation District, City of Glendale, City of Burbank, City of Colton, City of Pasadena and Southern California Public Power Authority* ("**MOU**"), for the feasibility and exploration of geothermal resources upon certain lands located in Imperial County, California;

WHEREAS, Lessor owns certain real property situated in Imperial County, California, more particularly described in Exhibit A attached hereto and made a part of this Lease Agreement (the "Property").

WHEREAS, Lessor desires to lease certain rights in and to its Property to Lessee and Lessee desires to lease such rights from Lessor upon the terms and conditions of this Lease Agreement and the MOU (which is incorporated by reference and made a part hereof);

NOW, THEREFORE, in consideration of the premises, representations, and mutual promises set forth herein, Lessor hereby leases the Property to Lessee, and Lessee hereby leases the Property from Lessor, for the term and subject to all of the covenants, conditions, restrictions and limitations set forth below in this Lease Agreement. The Parties agree as follows:

1.0 Definitions. In addition to other terms defined within this Lease Agreement, the following terms, whether in the singular or plural, when used in this Lease Agreement and any exhibits attached hereto and initially capitalized, shall have the meanings described below:

- 1.1 *"Annual Rental Payments"* shall have meaning ascribed in Section 4.1.1.
- 1.2 *"By-Products"* shall mean any minerals or other materials contained in the well effluent; excluding oil, natural gas, hydrocarbons (including hydrocarbon gases and other hydrocarbon substances, and also excluding any water resource not obtained from condensation of Geothermal Resources; but including natural helium occurring as isotopes helium 4 (4He) and helium 3 (3He).
- 1.3 *"By-Products Activities"* shall mean any activities by Lessee (or a sublessee, assignee or contractor previously approved by Lessor), associated with the extraction, exploitation, development or sale of Marketable By-Products on the Property, Unitized Lands or participating area(s), including, without limitation, the construction, development and operation of facilities for the extraction of Marketable By-Products from Geothermal Resources; provided however, such By-Products Activities shall be permitted only if the Lessee is contemporaneously engaged in Production Activities on the Property.
- 1.4 *"C.F.R."* shall mean the Code of Federal Regulation.
- 1.5 *"Commercial Operation"* shall mean the date on which the Lessee, or any Participant under the MOU acting by and through the Lessee, has performed and successfully completed all of the following actions: constructed a Project Power Plant (as defined in Section 23.2); tested and accepted the Project Power Plant prior to full commercial operations in accordance with Prudent Utility Practices and applicable law; obtained all necessary permits and licenses; and commenced generation of electricity for transmission into the commercial power grid.
- 1.6 *"Commercial Quantities"* shall mean producing geothermal fluid in commercial quantities as defined by Section 1920.1(n) of Title 14 of the California Code of Regulation.
- 1.7 *"Development Activities"* shall mean any activities and production drilling undertaken by Lessee after it has confirmed the presence of Geothermal Resources in Commercial Quantities upon completion of any feasibility studies (including Exploration Activities and well testing for temperature, chemistry and flow rate) conducted on the Property or Unitized Lands provided that, Lessor and Lessee, prior to the commencement of any Development Activities, have executed a written acknowledgement that

each has reviewed the data obtained during the Exploration Activity and such data confirms, to the reasonable satisfaction of both Lessee and Lessor, the presence of Geothermal Resources on the Property in Commercial Quantities at sufficient gradient temperatures to fuel a geothermal power production facility for Lessee to proceed with additional Development Activities and/or Production Activities on the Property. Development Activities may include, but are not limited to: (a) the drilling and redrilling of exploration wells, development wells, production wells and injection wells on the Property or Unitized Lands; (b) additional testing for the presence Geothermal Resources on the Property or Unitized Lands; (c) construction on the Property or Unitized Lands of one or more geothermal power plants, to be fueled by Geothermal Resources produced from the Property, after Lessee has filed an Application for Certification (AFC) with either Imperial County or the California Energy Commission; and (d) construction of pipelines, power lines, access roads and other facilities necessary or convenient for eventual Production Activities.

- 1.8 "*Effective Date*" means the date that this Lease Agreement shall be effective upon the last Party's signature identified in Section 35.0.
- 1.9 "*Event of Force Majeure*" shall have the meaning ascribed in Section 23.0.
- 1.10 "*Exploration Activity*" means the drilling of one or more exploration wells on the Property pursuant to the MOU.
- 1.11 "*Geothermal Operations*" shall have the meaning ascribed in Section 3.1.
- 1.12 "*Geothermal Resources*" shall mean geothermal resources as defined in Section 6903 of the California Public Resources Code and, to the extent not contemplated by Section 6903, shall further include (i) all products of geothermal processes, embracing indigenous steam, hot water and hot brines, (ii) steam and other gases, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into subsurface formations, (iii) heat or other associated energy found beneath the surface of the earth, (iv) water from geopressured zones, and (v) By-Products which are found in solution or associated with or derived from any of the foregoing.
- 1.13 "*Governmental Regulations*" means all laws, orders, ordinances, regulations and statutes of federal, state and local governmental agencies, authorities, courts and offices.
- 1.14 "*Gross Proceeds*" or "*gross proceeds*" shall mean the total monies and other consideration accruing to Lessee or any of the Participants under the MOU acting by and through the Lessee for the sale of Geothermal Resources or By-Products to a third party.

- 1.15 *"Initial Payment"* shall have the meaning ascribed in Section 4.1.1.
- 1.16 *"Interest Rate"* means twelve percent (12%) per annum.
- 1.17 *"Lease Year"* means each one (1) year period following the Effective Date and each anniversary of the Effective Date.
- 1.18 *"Lessee"* means that Party and its successors and assigns who is conveyed a real property interest for the use and possession of the Property described within Exhibit A and any supplement thereto (including Future Property) and holds record title interest in the Geothermal Resources and By-Products in accordance with the terms and conditions of this Lease Agreement.
- 1.19 *"Lessor"* shall mean that Party, and its successors and assigns, who grants any real property interests and rights to the Lessee upon the Property particularly identified in Exhibit A and any supplement thereto (including Future Property) in accordance with the terms and conditions of this Lease Agreement.
- 1.20 *"Marketable By-Products"* shall mean By-Products collected during By-Products Activities by Lessee, which are in a condition fit to be offered for sale in accordance with industry standards, and are either processed for eventual sale or use or directly marketed for value.
- 1.21 *"MOU"* shall have the meaning ascribed in the recitals.
- 1.22 *"Participant"* or *"Participants"* shall mean any one or more of the Participants within the MOU (as defined above).
- 1.23 *"Preferential Right to Renew"* shall have the meaning ascribed in Section 2.3.
- 1.24 *"Primary Term"* shall have the meaning ascribed in Section 2.1.
- 1.25 *"Production Activities"* shall mean actual, quantifiable activity undertaken by Lessee to operate, maintain or expand one or more electric generating geothermal power plants on the Property or Unitized Lands. Production Activities may include, but shall not be limited to, (a) construction of additional geothermal power plants or the expansion of existing plants; (b) the drilling and re-drilling of exploration wells, development wells, production wells and injection wells, (c) testing for the presence Geothermal Resources; and (d) construction of pipelines, power lines, access roads and other facilities necessary or convenient for the generation of geothermal power.

- 1.26 "*Property*" shall interchangeably mean that real property, including all Surface and Subsurface rights granted by Lessor to Lessee hereunder, identified within Exhibit A and any Future Property made a part of this Lease Agreement as evidenced by a supplement to Exhibit A.
- 1.27 "*Prudent Utility Practices*" shall mean those practices, methods, and acts, that are commonly used by prudent operators of geothermal electric energy generating facilities in the Western United States
- 1.28 "*Renewal Lease*" shall mean any subsequent lease agreement that may be negotiated by Lessor and Lessee resulting from the expiration of Secondary Term of this Lease Agreement, subject to the provisions set forth in Section 2.3 herein and any approvals required by the governing bodies of the Lessor and Lessee.
- 1.29 "*Royalty*" or "*Royalties*" shall mean the production royalty and/or the By-Product royalty payable by Lessee to Lessor in accordance with Section 4.2.
- 1.30 "*Secondary Term*" shall have the meaning ascribed in Section 2.2.
- 1.31 "*Surface*" or "*surface*" shall mean the title to the surface and surface estate of, in, to and under the Property (including all subsurface uses that under the law of the State of California are appurtenant to the surface estate, as opposed to the mineral rights or mineral estate).
- 1.32 "*Total Annual Power Project Cost*" means the total annual cost, including both fixed and variable costs and expenses, of constructing, maintaining and operating a electrical power generating plant fueled by Geothermal Resources from the Property, and all of its supporting facilities and equipment, including, without limitation, exploratory wells, production wells, pipelines and the power plant substation. In computing Total Annual Power Project Cost, the initial construction cost of the power plant and all project facilities and equipment will be amortized on a straight-line basis over the useful life of the power plant, which Lessee and Lessor conclusively agree to be thirty (30) years. Capital costs for capital additions or replacements after the initial construction of the plant will be amortized over the useful life of the capital item that is added or replaced. The Total Annual Power Project Cost of a power plant will include all costs and expenses incurred in the drilling, completion and equipping of exploration wells, production wells and injection wells serving the power plant, which also shall be amortized over the useful life of the power plant. If an injection well or production well serves more than one power plant, its drilling cost shall be allocated to the power plant for which it was initially drilled, but operating costs for such a shared well shall be equitably

divided annually between the plants that it serves based on the estimated percentage use of the well for each plant. The cost of a "dry hole" well that is drilled and then plugged and abandoned without ever having been placed into service for the power plant project also shall be included in Total Annual Power Project Cost, by amortizing its cost over the useful life of the power plant. The cost of transmission lines from the power plant substation and interconnection costs incurred downstream from the power plant substation shall *not* be included in Total Annual Power Project Cost. Total Annual Power Project Cost also shall *not* include any equipment or facilities used primarily in connection with By-Products Activity, royalties, state and federal income taxes, severance fees and other fees that are not allowable expenses.

1.33 "*Transfer*" shall have the meaning ascribed in Section 24.1.

1.34 "*Unitized Lands*" shall have the meaning ascribed in Section 7.1.

1.35 "*USEPA*" shall mean the United States Environmental Protection Agency.

2.0 Term.

2.1 Primary Term. The primary term of this Lease Agreement shall commence on the Effective Date and shall expire three (3) years after the Effective Date ("Primary Term"), unless this Lease Agreement is terminated sooner in accordance with Section 18.0 or 19.0 or extended in accordance with Section 2.2.

2.2 Secondary Term. Lessor grants to Lessee the option to extend the term of this Lease Agreement following the Primary Term for an additional ten (10) years and for so long thereafter as Lessee continues to produce Geothermal Resources in Commercial Quantities from wells located on the Property for Production Activities ("Secondary Term"); provided that, (a) Lessee is conducting Development Activities or Production Activities on the Property at least ninety (90) days prior to the expiration of the Primary Term; and (b) the total term of this Lease Agreement shall not exceed thirty-five (35) years. If Lessee opts to invoke its extension rights for a Secondary Term in accordance with this Section 2.2, Lessee shall notify Lessor in writing no later than sixty (60) days before expiration of the Primary Term in accordance with Section 26.0, along with a report on its current Development Activities or Production Activities. If Lessee opts to invoke a Secondary Term, Lessee shall record the Lease Extension (attached hereto as Exhibit B) with Imperial County Recorder's Office. Provided that, Lessee pays when due the Annual Rental Payments due and payable under this Lease Agreement, in the event that Lessee is compelled to suspend commercial production of Geothermal Resources from the Property for a period of up to twelve (12) months, in order to

rework wells or conduct required maintenance or repairs of power plants or other facilities used for Production Activities, the Secondary Term shall continue notwithstanding such suspension of commercial production of Geothermal Resources.

2.3 Preferential Right of Renewal. If this Lease Agreement has not previously expired or terminated by the thirty-third (33rd) Lease Year, then Lessee shall have a preferential right to renew this Lease Agreement over other potential lessees ("Preferential Right to Renew"), on terms to be negotiated within the time requirements identified below and mutually agreeable to Lessor and Lessee, subject to approval of the governing bodies of Lessor and Lessee and any applicable Governmental Regulations. If Lessee requests to enter into a Renewal Lease, it shall notify Lessor in writing no later than eighteen (18) months prior to the expiration date of the Secondary Term of this Lease Agreement. Following receipt of a notice from Lessee that it requests to enter into a Renewal Lease, Lessor and Lessee shall negotiate in good faith to try to reach agreement on the terms of the Renewal Lease prior to the expiration of the Secondary Term of this Lease Agreement. If Lessor and Lessee fail to reach agreement on the terms of a Renewal Lease prior to the expiration of the Secondary Term of this Lease Agreement, or negotiations are discontinued by one or both Parties, or if Lessor's governing bodies do not approve the Renewal Lease, then the Preferential Right of Renewal shall be deemed to have lapsed and Section 20.0 of this Lease Agreement shall govern the surrender of the Property by Lessee.

3.0 **Lease of Rights.** During the term of this Lease Agreement, Lessor grants to Lessee the rights and privileges described below in this Section:

3.1 Grant of Rights to Conduct Geothermal Operations. Lessor grants Lessee during the term of this Lease Agreement the right and privilege to enter on its Property for all purposes reasonably incident to prospecting, exploring, mining, drilling, extracting, taking, removing, using, storing, processing, concentrating, converting, producing, marketing, selling, disposing, treating and transporting Geothermal Resources and By-Products ("Geothermal Operations"), together with:

3.1.1 the exclusive right to conduct Geothermal Operations on the Property including, without limitation, Development Activities, Production Activities and By-Products Activities;

3.1.2 reasonable rights of ingress and egress for personnel, machinery, equipment, supplies and products;

3.1.3 reasonable rights to use the Surface of the Property for Geothermal Operations, Development Activities, Production Activities and By-

Products Activities; provided, however, that Lessee acknowledges and agrees that water usage is exclusively addressed in Section 3.3 herein; and

3.1.4 the right, without payment of Royalties, to reinject Geothermal Resources and condensates into the Property or Unitized Lands (subject to Section 12.0 herein) to the extent that such Geothermal Resources and condensates are not utilized but reinjection is necessary for operations under this Lease Agreement in recovering and processing Geothermal Resources. If the Lessee, pursuant to applicable laws and regulations, disposes of any unusable brine and waste products into underlying formations on, in, under, or beneath the Property, Lessee may do so without payment of Royalties to Lessor.

3.2 Lessor's Reservation of Interests and Rights. All rights in the Property not expressly granted to Lessee by this Lease Agreement are hereby reserved to the Lessor; provided, however, that in no event may Lessor's exercise of such reserved rights materially interfere with Geothermal Operations of Lessee. For purposes of this Section 3.2, the phrase "materially interfere" shall mean any action, inaction, or occurrence which unreasonably interferes with Lessee's use or occupancy under this Lease Agreement to the degree that Lessee is unable to proceed with Geothermal Operations as contemplated by the Parties at the time of executing said agreement. Without limiting the generality of the foregoing sentence, such reserved rights include, without limitation:

3.2.1 Development of other Renewable Projects - Lessor reserves its right to occupy, possess and use the Surface of its Property for exploration, development, construction and operation of other renewable energy projects, excepting Geothermal Operations.

3.2.2 Disposal - Lessor reserves the right to sell, convey, lease, license, transfer, or otherwise dispose of all or any part of the surface of the Property, subject to the terms and conditions of this Lease Agreement.

3.2.3 Rights-of-way - Lessor reserves the right to authorize any surface and subsurface uses of the Property which do not interfere with or endanger actual Geothermal Operations under this Lease Agreement, and the right to grant such easements, rights-of-way, or leases upon, through or in the Property for other public or private purposes which do not interfere with or endanger actual Geothermal Operations and facilities constructed under this Lease Agreement.

- 3.2.4 Mineral Rights - Lessor reserves its ownership of and the right to extract, consume, store, transmute or otherwise dispose of oil, hydrocarbon (including hydrocarbon gases and other hydrocarbon substances), natural gas, and any materials, metals and minerals that are not Geothermal Resources or associated with or in solution with Geothermal Resources.
- 3.2.5 Casing - Lessor reserves the right to acquire any well and casing at actual cost where Lessee finds only potable water and such water is not required, as determined within Lessee's sole discretion, for Lessee's Geothermal Operations.
- 3.2.6 Agricultural Farming - Lessee acknowledges that Lessor, or a leaseholder or licensee of Lessor, may have tenants on the Property who commercially engage in agricultural farming. Where economically practical, Lessee shall schedule and conduct its surface use of the Property in a manner that will allow an agricultural user to harvest a crop planted on any portion of the Property prior to the commencement of Lessee's use of that portion of the Property. However, Lessee shall not be liable to Lessor for any damages to Lessor's crops, unless such damage is caused by Lessee's sole negligence or willful misconduct.
- 3.3 Water Rights. For any water required by Lessee that is not expressly granted under this Lease Agreement for its activities on the Property, Lessee shall apply for a Water Supply Agreement from IID for acquisition and delivery of such water. Lessor hereby provides notice to Lessee and Lessee hereby acknowledges the following: (a) Lessee will be subject to IID's *Rules and Regulations Governing the Use and Distribution of Water* and the *Regulations for Equitable Distribution Plan* adopted by the IID Board of Directors in their present form or as they may be amended hereafter; (b) if Lessee requests water from IID, IID may be required import water or provide replacement water for all new non-agricultural water uses and for new water uses in excess of the Property's historical water use; (c) Lessee may be required to adhere to applicable City or County Water Supply Assessment or Water Supply Verification requirements as outlined in California Public Resources Code Section 21151.9 and California Water Code Sections 10631, 10656, 10910, 10911, 10912 and 10915; (d) such assessments or verifications by IID on behalf of the Lessee must be prepared in consultation with IID, and while not a guarantee of service, should provide the environmental assessment necessary to execute a Water Supply Agreement with IID; and (e) Lessee shall have no right to utilize water seepage from ditches or canals.
- 3.4 Compliance with Electrical Service Requirements. In the event that Lessee develops and constructs a geothermal powered plant on the

Property, Lessee shall, at its sole expense, operate and maintain any geothermal powered plant and related facilities including, without limitation, By-Product facilities, in accordance with Prudent Utility Practices, the requirements of this Lease Agreement and all applicable Governmental Regulations.

4.0 Payments. Lessee shall make the following payments to a Lessor:

4.1 Annual Rental Payments. Lessee shall pay to Lessor the rental payments described below which shall not be credited against the Royalty.

4.1.1 Initial Payment and Lease Years Two through Five. On Lessor's execution of this Lease Agreement, Lessee shall pay to Lessor the sum of Two Hundred Ninety-Five Thousand Dollars (\$295,000), representing One Hundred Dollars Dollars (\$100.00) per acre ("Initial Payment") for each acre of the Property.

Lessee shall pay rental payments to Lessor for each Lease Year, in advance, beginning on the first anniversary of the Effective Date ("Annual Rental Payment") and continuing on each subsequent anniversary of the Effective Date. The rental payments per acre comprising the Property on the pertinent dates shall be as follows:

Second through Fifth Anniversary of Effective Date: One Hundred Dollars (\$100.00) per acre.

4.1.2 Subsequent Lease Years.

At the beginning of sixth (6th) Lease Year and every five (5) years thereafter, the Annual Rental Payment shall be adjusted as follows. As used in this Lease:

"Base Date" shall mean the first day of first (1st) Lease Year.

"Adjustment Date" shall mean the first day of sixth (6th) Lease Year, and that same date every five years thereafter, for the entire term of this Lease.

"Index" shall mean line 1 of the National Income and Product Accounts Table 1.1.9 Implicit Price Deflators of Gross Domestic Product, as published by the Bureau of Economic Analysis of the U.S. Department of Commerce. If the Index ceases to exist, becomes unavailable, or is changed so that it measures something materially different from its purpose as of the Effective Date of this Lease Agreement, Lessor and Lessee shall negotiate in good faith to arrive at a substitute for the Index that measures the price escalation currently measured by the Index.

Effective as of each Adjustment Date, the Annual Rental Payment per net acre of the Property shall be adjusted to equal the product of One Hundred Dollars (\$100.00) multiplied by a fraction, the numerator of which is the Index as of the calendar quarter prior to Adjustment Date, and the denominator of which is the Index as of the calendar quarter prior to the Base Date.

4.2 Production Royalty. On the last day of the calendar month subsequent to the month that Lessee commences the production of Geothermal Resources in Commercial Quantities and continuing thereafter on the last day of each month, Lessee shall pay to Lessor the following Royalties:

4.2.1 Production of Electrical Energy. If Lessee or any of the Participants under the MOU acting by and through the Lessee produce electricity from an electrical power generating plant utilizing Geothermal Resources produced from the Property, then the annual Royalty payable to Lessor on account of electricity generated by the power plant, for each calendar year during the term of this Lease Agreement, beginning with the commencement of Commercial Operations at the power plant, shall be four percent (4%) of the Total Annual Power Project Cost of that power plant. This annual Royalty shall be payable in twelve (12) equal monthly installments. If the power plant commences Commercial Operations in the middle of a calendar year, the Royalty for that partial calendar year shall be prorated on a monthly basis, counting the month in which Commercial Operations of the power plant begin as the first month. If during any of the first three (3) months following commencement of Commercial Operations, a power plant is incapable of generating electrical power at more than 75% of its design power output, then the monthly installments of Royalty payable for that month shall be reduced proportionately, based on the ratio that the actual power output bears to 75% of the design power output. If Geothermal Resources produced from the Property fuel more than one electrical power generating plant, then the Royalty shall be separately determined and paid for each such plant, based on that plant's respective Total Annual Power Project Cost.

4.2.2 Sale of Geothermal Resources to Third Party for Sale of Electricity. If the Lessee or any of the Participants under the MOU acting by and through the Lessee sells Geothermal Resources produced from the Property to a third party in an arm's length transaction, then the Royalty payable to Lessor on account of the sale of such Geothermal Resources shall be twelve and one-half percent (12.5%) of the Gross Proceeds of the sale received by Lessee or any of the Participants under the MOU acting by and through the

Lessee for the utilization of Geothermal Resources. However, Royalty shall not be payable on account of Geothermal Resources reinjected in, under, or beneath the Property before use to generate electricity, Geothermal Resources used to generate electricity for internal power plant operations, and Geothermal Resources used to generate electricity for lease operations.

4.2.3 By-Products. If Lessee or any of the Participants under the MOU acting by and through the Lessee utilize Geothermal Resources produced from the Property for By-Products Activities, then the Royalty payable to Lessor on account of such By-Products Activities shall be five percent (5%) of the Gross Proceeds received by Lessee or any of the Participants from the sale of the Marketable By-Products. Lessee has the right, but not the obligation, to engage in By-Product Activities and related sales. However, if Lessee or any of the Participants under the MOU acting by and through the Lessee does not itself utilize the Geothermal Resources for the By-Products Activities, but instead sells the Geothermal Resources to a third party in an arm's length transaction for use in By-Products Activities, then the Royalty rate shall be twelve and one-half percent (12.5%) of the Gross Proceeds received by Lessee or any of the Participants from such sale of the Marketable By-Products.

4.3 Method of Payment. Except for the Initial Payment due on the Effective Date pursuant to Section 4.1.1, all Annual Rental Payments and any Royalties made by Lessee to Lessor shall be paid by check or draft delivered to Lessor at its address identified within Section 26.0. When Lessee pays any Royalty, Lessee shall deliver to Lessor a statement showing the basis for the computation of the Royalty, including, where relevant, the Total Annual Power Project Cost, the amount of production of Geothermal Resources or Marketable By-Products and the calculation of Royalty due, if any. At Lessor's written request, Lessee shall submit to Lessor all data reasonably necessary to enable Lessor to verify the determination.

4.4 Audit. Lessor or its authorized agents shall have a right to audit and inspect Lessee's accounts and records used in calculating the Royalty payments, which right may be exercised as to each payment at any reasonable time during a period of three (3) years from the date on which the payment was made by Lessee.

4.5 Late Charge and Interest. Lessee acknowledges that late payment by Lessee to Lessor of Annual Rental Payments, Royalty or other sums due from Lessee will cause Lessor to incur costs not contemplated by this Lease Agreement. Accordingly, if any Annual Rental Payment, Royalty or

any other amount due payable by Lessee is not received by Lessor within ninety (90) days after such amount is due, then Lessee shall pay to Lessor a late charge equal to the lesser of the Interest Rate, until such Royalties, Annual Rental Payment, or other monetary considerations shall be paid to Lessor. The Parties agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of late payment by Lessee. Lessor's acceptance of such late charge shall not constitute a waiver of Lessee's default with respect to such overdue amount, nor prevent Lessor from exercising any of Lessor's other rights and remedies granted under this Lease Agreement. If any Annual Rental Payment, Royalty or other amount payable by Lessee remains delinquent for a period in excess of one hundred eighty (180) days, Lessee shall pay to Lessor, in addition to the late payment, interest from and after the due date at the Interest Rate. Lessee's payment of such interest shall not excuse or cure any default by Lessee.

- 4.6 Compensation for Surface Damage. Lessee shall fully compensate Lessor for all damage, injury and loss to or diminution in value any of Lessor's improvements or personal property on the Property, arising from or relating to Lessee's occupation, possession and use of the Property. Lessor shall promptly notify Lessee of any damage, injury, loss or diminution in value. The amount of compensation payable by Lessee to Lessor shall be determined by agreement between the Parties. Failing such agreement, within one (1) month after Lessor's delivery of notice to Lessee, the issue of the amount of compensation payable by Lessee to Lessor shall be referred to a qualified appraiser selected by the Parties. If the Parties are unable to agree upon a single appraiser, each Party shall select one (1) appraiser and the two appraisers so selected shall select a third appraiser. The appraised amount of the damage, injury, loss or diminution in value shall be the average of the appraised amounts determined by the three appraisers. Lessee shall pay to Lessor the compensation payable under this Section within thirty (30) days after the Parties' agreement or completion of the appraisal which establishes the amount of such compensation.
- 4.7 Ownership of Lesser Interest. In the event that Lessor owns less than one hundred percent (100%) of the rights to the Surface and/or Geothermal Resources in, to and under the Property, then the amount of each Annual Rental Payment or Royalty otherwise payable to Lessor under the terms of this Lease Agreement shall be reduced to the percentage of such payment equal to Lessor's undivided percentage interest in the rights to Geothermal Resources in, to and under the Property, subject to the provisions of Section 16.0; provided that Lessee is not subject to any third party claims, actions, demands, injunctions, or other legal proceedings related to the Property and Lessee's operations attributed to this Lease Agreement; provided, however, if third party claims, actions, demands,

injunctions or other legal proceedings are made, litigated or advanced against Lessee for its operations on the Property which are attributed to this Lease Agreement, Lessee shall be permitted to deduct all legal expenses, costs and settlements against the Annual Rental Payment and Royalties until such matters are resolved or this Lease Agreement is terminated, whichever occurs sooner. For example, if Lessor holds a seventy-five percent (75%) interest in the rights to such Geothermal Resources, then Lessor shall receive seventy-five percent (75%) of the amount of Annual Rental Payment or Royalty that would be payable under this Lease Agreement if Lessor held one hundred percent (100%) of the rights to such Geothermal Resources. As further example, if Lessee is subject to any third party claims, actions, demands, injunctions or other legal proceedings, all deductible expenses permitted under this Section 4.7 shall be offset against the 75% interest of the amount of Annual Rental Payment and/or Royalty.

5.0 Compliance with the Law. Lessee shall comply with all Governmental Regulations relating to the condition, use or occupancy of the Property by Lessee, including but not limited to all Exploration Activity, Development Activities and Production Activities performed by Lessee during the term of this Lease Agreement. Lessee shall promptly comply with all applicable Governmental Regulations regarding reclamation of the Property. Lessor agrees to cooperate with Lessee in Lessee's application for governmental licenses, permits and approvals.

6.0 Geothermal Development and Production Practices; Information.

6.1 Geothermal Practices. Lessee shall work the Property according to the standards and practices of the geothermal industry in the State of California, utilizing the technology available to the geothermal industry in California.

6.2 Inspection of Data. During the term of this Lease Agreement, Lessor shall have the right to examine and make copies of all data regarding the Property in Lessee's possession during reasonable business hours and upon prior notice, provided, however, that the rights of Lessor to examine such data shall be exercised in a manner such that inspection does not interfere with the operations of Lessee.

6.3 Reports. Lessee shall deliver to Lessor, on or before the ninetieth (90th) day after the end of each calendar year, a comprehensive report of all Exploration Activities or Development Activities conducted by Lessee on the Property for the previous year. On or before thirty (30) days after the end of each calendar quarter during the term of this Lease Agreement, Lessee shall provide to Lessor a statement of operations in a form approved by Lessor. The statement of operations shall report Lessee's

activities on the Property, including the consumption, development, extraction, processing, production, sale, shipment or utilization of Geothermal Resources.

- 6.4 Measurements; Analysis. Lessee shall gauge, measure and meter Geothermal Resources in accordance with geothermal industry practices, and shall keep accurate records as a basis for computing the Royalty payments. These records, including all records of the consumption, development, extraction, processing, production, sale, shipment or utilization of Geothermal Resources and the revenues from the sale of electrical energy generated from Geothermal Resources from the Property or Unitized Lands, products produced utilizing the Geothermal Resources from the Property or Unitized Lands, and By-Products of the Geothermal Resources from the Property or Unitized Lands, shall be available for inspection and copying by Lessor at all reasonable times subject to the provisions of this Lease Agreement regarding accounts, records and payments. Lessee shall make and maintain copies of such records available for Lessor's examination, inspection and copying at a location in the State of California.
- 6.5 Production Records. The Lessee or Project Manager (as defined in the MOU) shall keep accurate records of the consumption, development, processing, production, sale, shipment or utilization of Geothermal Resources from the Property, and these records shall be available for inspection and copying by Lessor at all reasonable times. Lessee shall make and maintain copies of such records available for Lessor's examination, inspection and copying at a location in the State of California.
- 6.6 Lessor's Data and Information. Upon execution of this Lease Agreement and upon request by Lessee, Lessor shall make available for Lessee's inspection and copying any and all of Lessor's data and information concerning the Property. Lessee may exercise its right to inspect and copy Lessor's data and information during Lessor's regular business hours and on reasonable advance notice from any Lessee to Lessor which shall be not less than five (5) business days.

7.0 Pooling and Unitization.

- 7.1 Creation of Pool or Unit. Lessee may but shall not be obligated to voluntarily pool or unitize, upon Lessor's prior written consent, all or any portion of the Property into a pool or unit with any other lands or leases (whether held by Lessee or other person or entity) adjacent to or in the vicinity of the Property (the "Unitized Lands"); provided that, Lessee's voluntary pooling or unitization of the Property with other lands shall not discharge, diminish, release, replace, supersede or waive any of Lessee's

obligations or Lessor's rights under this Lease Agreement, except as expressly agreed to in a writing executed by Lessor in accordance with these same formalities as this Lease Agreement is executed. In determining the reasonableness of Lessor's withholding of its consent, Lessor may consider the financial condition, litigation history, operating history, safety record and technical experience and expertise of the proposed unit working interest owners and unit operator, other than Lessee. Lessee shall have the right at any time to increase or decrease the size of the Property and other lands included in the Property. The requirements of this Section 7.1 and the relevant subsections shall not apply where Lessee is subject to compulsory pooling of the Property and Geothermal Resources attributed to this Lease Agreement by a court of competent jurisdiction within the State of California.

7.1.1 Lessee may exercise its right to voluntarily pool or unitize, subject to the Lessor's prior written consent and the terms defined in Section 7.1 herein, by (a) executing a declaration of such pooling or unitization describing the Property and the Unitized Lands and any leases thereof and working interests therein (to the best of Lessee's knowledge); (b) obtaining Lessor's prior approval of and written consent to such declaration; and (c) recording the same in the official records of Imperial County, State of California. With Lessor's prior written consent, Lessee may at any time and from time to time thereafter reduce, enlarge, terminate or otherwise modify any pool or unit so created or change the portion of the Property included therein (subject to the terms and conditions of this Lease Agreement), by executing and recording a declaration in the official records of Imperial County, State of California, describing such reduction, enlargement, termination, modification or change. Lessee shall have the same rights, but no greater rights, under this Lease Agreement with respect to the Unitized Lands as Lessee would have if the Unitized Lands constituted the Property; and the development and/or operation of, the drilling on or the production from the Unitized Lands shall be deemed full satisfaction of any obligations or conditions herein relating to development, operation, drilling or production.

7.1.2 As used in this Section 7.0 the term "Unit Share" shall mean a fraction, (a) the numerator of which shall be the total acreage of the Property included in a voluntary pool or unit; and (b) the denominator of which shall be the total acreage of all the lands included within the boundaries of such pool or unit. For purposes of determining Royalty payments to be paid to Lessor under Section 4.2.1 above, where all or any portion of the Property is voluntarily pooled or unitized with Unitized Lands, and an electrical power generating plant utilizes Geothermal Resources produced

from the pooled or unitized acreage of the Property or from Unitized Lands or both ("Unit Production"), Lessee shall allocate to the Property the Unit Share of the Total Annual Power Project Cost of the power plant. For purposes of determining Royalty payments to be paid to Lessor under Section 4.2.2 above, where all or any portion of the Property is voluntarily pooled or unitized with Unitized Lands, Lessee shall allocate to the Property the Unit Share of Unit Production sold to a third party in an arms-length transaction for utilization in the generation of electricity. For purposes of determining Royalty payments to be paid to Lessor under Section 4.2.3 above, where all or any portion of the Property is voluntarily pooled or unitized with Unitized Lands, Lessee shall allocate to the Property the Unit Share of Unit Production used or sold for use in By-Products Activities. Such allocations shall continue notwithstanding any termination or surrender of all or a portion of this Lease Agreement or any other lease covering lands in such pool or unit until such time as the owner of such lands shall record a declaration excluding such lands (or portion thereof) from such pool or unit, whereupon such lands (or portion thereof) shall be excluded in determining the production to be allocated within such unit. If Lessor's or any other owner's title fails as to any portion of the land included in any such pool or unit, such portion of such land shall likewise be excluded in allocating production from such pool or unit, but only after Lessee receives written notice of such failure; provided that, Lessee shall remain subject to the terms and conditions of this Lease Agreement, including, without limitation, Sections 11.0, 12.0 and 16.0 for any and all lands pooled or unitized with the Property.

7.2 Lessee shall have the right to commingle Geothermal Resources produced from the Property with Geothermal Resources produced from other Unitized Lands.

8.0 Scope of Agreement. This Lease Agreement shall extend to and include only the Property described in this Lease Agreement within Exhibit A and in the other exhibits which are or become part of this Lease Agreement.

9.0 Liens and Notices of Non-Responsibility. Lessee agrees to keep the Property at all times free and clear of all liens, charges and encumbrances of any and every nature and description made or caused by Lessee, and to pay, and defend, indemnify and hold harmless Lessor from and against, all indebtedness and liabilities incurred by or for Lessee which may or might become a lien, charge or encumbrance; except that Lessee need not discharge or release any such lien, charge or encumbrance so long as Lessee disputes or contests the lien, charge or encumbrance and posts a bond sufficient to discharge lien acceptable to Lessor. Subject to Lessee's right to post a bond in accordance with the

foregoing, if Lessee does not within thirty (30) days following the imposition of any such lien, charge or encumbrance, cause the same to be released of record, Lessor shall have, in addition to Lessor's contractual and legal remedies, the right, but not the obligation, to cause the lien to be released by such manner as Lessor deems proper, including payment of the claim giving rise to such lien, charge or encumbrance. All sums paid by Lessor for and all expenses incurred by it in connection with such purpose, including court costs and attorney's fees, shall be payable by Lessee to Lessor on demand with interest at the Interest Rate.

10.0 Taxes.

- 10.1 Real Property Taxes. Lessor shall pay any and all taxes assessed and due against the Property before execution of this Lease Agreement. Upon invoicing or notification by Lessor, Lessee shall pay, without delay and before delinquency, all taxes and assessments, general, special, ordinary and extraordinary, that may be levied or assessed during the term of this Lease Agreement upon the Property, including any taxes and assessments which may be levied or assessed as a result of Lessee's lease, possession and/or use of the Property, including the reassessment or recapture of real property taxes resulting from the change or loss of the Property's status or use for agricultural purposes. All such taxes for the year in which this Lease Agreement is executed and for the year in which this Lease Agreement terminates shall be prorated between Lessor and Lessee, except that neither Lessor nor Lessee shall be responsible for the payment of any taxes which are based upon income, net proceeds, production or revenues from the Property assessed solely to the other party. Lessee shall have the right to contest, in the courts or otherwise, in its own name or in the name of Lessor, the validity or amount of any such taxes or assessments, if it deems the same unlawful, unjust, unequal or excessive, or to take such other steps or proceedings as it may deem necessary to secure a cancellation, reduction, readjustment or equalization of the taxes, provided that Lessee first pays the taxes.
- 10.2 Personal Property Taxes. Each Party shall promptly pay when due all taxes assessed against such Party's personal property, improvements or structures placed or used on the Property.
- 10.3 Income Taxes. Lessor shall not be liable for any taxes levied on or measured by income, net proceeds or other taxes applicable to Lessee, based upon payments under this Lease Agreement or based upon the production of Geothermal Resources and By-Products. Each of Lessor and Lessee shall pay net proceeds of mines taxes assessed against such Party's respective share of production of Geothermal Resources and By-Products from the Property.

10.4 Delivery of Tax Notices. If Lessor receives tax bills or claims which are Lessee's responsibility, Lessor shall promptly forward them to Lessee for payment.

11.0 Insurance and Indemnity.

11.1 Lessee's Liability Insurance. Lessee shall maintain those types and amounts of insurance as may be normally maintained by similar or like geothermal lessees in the Electric Utility Joint Powers Authority area. At a minimum, Lessee shall maintain Commercial General Liability Insurance in the amount of \$1,000,000. Automobile Liability Insurance shall be maintained in the minimum amount of \$1,000,000. Lessee shall comply with all relevant law pertaining to Workers' Compensation. Deductibles shall be at the sole discretion of Lessee.

11.2 Form and Certificates. Lessee shall provide or cause to be provided Certificates of Insurance or other proof of insurance acceptable to Lessor, showing that it has complied with the requirements set forth in Section 11.1.

11.3 Waiver and Indemnification. Expressly excepting any sole negligence or willful misconduct of Lessor, Lessor shall not be liable to Lessee and Lessee waives all claims against Lessor for any injury to or death of any person or damage to or destruction of any property or equipment or theft of property occurring on or about the Property or arising from or relating to Lessee's business conducted on the Property. Lessee shall defend, indemnify and hold harmless Lessor and its board, officials, managers, representatives, agents and employees from and against any and all claims, judgments, damage, demands, losses, expenses, costs or liability arising in connection with injury to person or property from any activity, work, or things done, permitted or suffered by Lessee or Lessee's agents, partners, servants, employees, invitees or contractors on or about the Property, or from any breach or default by Lessee in the performance of any obligation on the part of Lessee to be performed under the terms of this Lease Agreement (all of the foregoing collectively referred to as the ("General Indemnity Claims"). Expressly excepting any sole negligence or willful misconduct of Lessor, Lessee agrees to defend, indemnify and hold harmless Lessor from and against all General Indemnity Claims, with counsel reasonably acceptable to Lessor. The obligations of Lessee contained in this Section shall survive the expiration of the term or sooner termination of this Lease Agreement.

12.0 Environmental.

12.1 Definitions. "Hazardous Materials" shall mean any material, waste, chemical, mixture or byproduct which: (a) is or is subsequently defined,

listed, or designated under Applicable Environmental Laws (defined below) as a pollutant, or as a contaminant, or as toxic or hazardous; or (b) is harmful to or threatens to harm public health, safety, ecology, or the environment and which is or hereafter becomes subject to regulation by any federal, state or local governmental authority or agency. "Applicable Environmental Laws" shall mean any applicable federal, state, or local government law (including common law), statute, rule, regulation, ordinance, permit, license, requirement, agreement or approval, or any applicable determination, judgment, injunction, directive, prohibition or order of any governmental authority with jurisdiction at any level of federal, state, or local government, relating to pollution or protection of the environment, ecology, natural resources, or public health or safety.

12.2 Lessee Hazardous Material Activities. Lessee shall limit any use, generation, storage, treatment, transportation, and handling of Hazardous Materials in connection with Lessee's use of the Property (collectively "Lessee Hazardous Materials Activities") to those Hazardous Materials, and to quantities of them, that are necessary to perform activities permitted under this Lease Agreement. Lessee Hazardous Materials Activities include, without limitation, all such activities on or about the Property by Lessee's employees, partners, agents, invitees, representatives, contractors and their subcontractors. Lessee shall not cause or permit any Hazardous Materials to be disposed or abandoned at the Property. Lessee shall cause all Lessee Hazardous Materials Activities to be performed in strict conformance to Applicable Environmental Laws. Lessee shall promptly notify Lessor of any actual or claimed violation of Applicable Environmental Laws in connection with Lessee Hazardous Materials Activities, and Lessee shall promptly and thoroughly cure any violation of Applicable Environmental Laws in connection with Lessee Hazardous Materials Activities. If any governmental approval, consent, license or permit is required under Applicable Environmental Laws for Lessee to perform any portion of its work at the Property, including without limitation any air emission permits, before commencing any such work, Lessee shall be solely responsible, at Lessee's expense, for obtaining and maintaining, and providing copies of, each approval, consent, license or permit. All Lessee Hazardous Materials Activities shall be performed by qualified personnel who have received proper training with respect to Hazardous Materials, including compliance with applicable Occupational Safety and Health Administration (OSHA) laws and regulations. Lessee shall cause all Hazardous Materials present at the Property in connection with Lessee Hazardous Materials Activities to be safely and securely stored, using double containment. Lessee agrees that neither its use of the Property nor Lessee Hazardous Materials Activities shall result in contamination of the environment.

12.3 Spills of Hazardous Materials. Lessee shall promptly notify Lessor and each governmental regulatory entity with jurisdiction of any spills, releases, or leaks of Hazardous Materials that occur in connection with Lessee Hazardous Materials Activities or Lessee's use of the Property, including but not limited to any resulting contamination of the environment (collectively "Lessee Contamination"). Lessee further shall promptly notify Lessor of any claims of which Lessee becomes aware regarding any actual or alleged Lessee Contamination. Lessee shall be solely responsible at its expense for promptly, diligently and thoroughly investigating, monitoring, reporting on, responding to, and cleaning up to completion any and all such Lessee Contamination, in full conformance to Applicable Environmental Laws (collectively the "Lessee Environmental Response Work"). All Lessee Environmental Response Work shall be reported to each governmental regulatory entity with jurisdiction on an ongoing basis, and Lessee shall diligently attempt to obtain written concurrence from each applicable regulatory entity that all Lessee Environmental Response Work has been satisfactorily performed and completed. Lessee, at its own expense, shall keep Lessor timely informed of Lessee's progress in responding to any Lessee Contamination, including but not limited to providing Lessor with copies, at Lessee's expense, of all reports, work plans, and communications with the applicable regulatory entities.

12.4 Removal of Stored Hazardous Materials. Notwithstanding any other provision of this Lease Agreement, before the expiration or termination of this Lease Agreement and in full conformance to Applicable Environmental Laws, Lessee shall: (a) cause to be properly removed from the Property all Hazardous Materials stored at the Property in connection with Lessee's use of the Property or in connection with Lessee Hazardous Materials Activities; and (b) cause to be properly dismantled, closed and removed from the Property all devices, drums, equipment and containments used for handling, storing or treating Hazardous Materials Activities. As part of the closure and removal activities described in the preceding sentence, Lessee shall cause to be performed environmental sampling of areas of the Property where such handling, storing or treating of Hazardous Materials occurred, to confirm that no contamination of the environment has resulted from any Lessee Hazardous Materials Activities. Such sampling shall be performed by a qualified environmental consultant acceptable to Lessor, and such consultant shall promptly issue a written report which describes the consultant's data, findings, and conclusions, a copy of which shall be provided to Lessor at Lessee's expense. If any Lessee Contamination is discovered, Lessee shall immediately initiate Lessee Environmental Response Work as prescribed in this Lease Agreement.

12.5 Notice of Violations. Lessor shall notify Lessee of potential violation of handling Hazardous Materials and if Lessor receives no response from Lessee within five (5) days, and Lessor, in its sole discretion, believes that Lessee Contamination has occurred or that Lessee Hazardous Materials Activities are not in compliance with Applicable Environmental Laws, then Lessor, in addition to any other rights Lessor may have under this Lease Agreement, may enter upon the Property, may inspect Lessee's operations, and may take environmental samples as Lessor deems necessary. If Lessor's inspection discloses Lessee contamination or non-compliance with Applicable Environmental Laws which was not previously known by Lessor, then without limiting any of Lessor's other remedies, Lessor shall be entitled to prompt reimbursement of its costs of inspection and testing upon presentation to Lessee of billing statements corroborating such costs.

12.6 Environmental Indemnity. Lessee shall promptly reimburse, indemnify, defend (with legal counsel acceptable to Lessor, whose consent shall not be unreasonably withheld) and hold harmless Lessor, its officers, employees, assigns, successors-in-interest, agents and representatives from any and all claims, liabilities, obligations, losses, causes of action, demands, governmental proceedings or directives, fines, penalties, expenses, costs (including but not limited to reasonable attorney's fees, consultant's fees and other expert's fees and costs), and damages, which arise from or relate to: (a) Lessee Hazardous Materials Activities; (b) Lessee Contamination; (c) any non-compliance with Applicable Environmental Laws in connection with Lessee's use of the Property; or (d) a breach of any obligation of Lessee under this Section.

12.7 Reinjection of Geothermal Resources. Nothing in this Section 12.0 shall be deemed to prohibit Lessee from reinjecting Geothermal Resources on the Property; provided that, Lessee shall install leak-proof well casings in the injection wells and Lessee shall also comply with: (i) all Class V well regulations (including permitting requirements) established and administered by the USEPA through the Underground Injection Control (UIC) Program for Region 9 in accordance with 40 C.F.R. parts 124 and 144-147; (ii) all regulation of geothermal injection for the State of California as established and regulated by the California Division of Oil, Gas and Geothermal Resources (CDOGGR); and (iii) any other federal, state and local applicable law and regulation related to injection wells for geothermal power plants.

13.0 Relationship of the Parties.

13.1 No Partnership. This Lease Agreement shall not be deemed to create any joint venture, partnership of any form whatsoever, agency or fiduciary relationship between or among the Parties.

- 13.2 **Competition.** Except as expressly provided in this Lease Agreement, each Party shall have the free and unrestricted right independently to engage in and receive the full benefits of any and all business endeavors of any sort outside the Property or outside the scope of this Lease Agreement, whether or not competitive with the endeavors contemplated under this Lease Agreement, without consultation with, approval by or participation of the other Party.
- 14.0 **Inspection.** Lessor or Lessor's duly authorized representative(s) shall have the right to enter onto the Property during the term of this Lease Agreement at all reasonable times for purpose of inspection, but Lessor and/or Lessor's representatives shall enter onto the Property at their own risk and in such a manner as not to unreasonably hinder, delay or interfere with the activities or operations of Lessee.
- 15.0 **Title Information and Data.** Upon execution of this Lease Agreement, Lessor shall deliver to Lessee copies of any deed and policy of title insurance or preliminary title report concerning the Property that is the subject of this Lease Agreement. Upon written request by Lessee after the execution of this Lease Agreement, Lessor shall deliver to Lessee copies of any deed or policy of title insurance or preliminary title report concerning Future Property.
- 16.0 **Title.** Lessor executes this Lease Agreement with a good faith, reasonable belief that it has full title and ownership of both the Property and any and all Geothermal Resources in, to, on, under, and beneath the Property. In the event that it is later discovered by any Party that Lessor has less than full title and ownership to the Property and/or Geothermal Resources thereto, the discovering Party shall notify the other Party within twenty-four (24) hours of said discovery. Upon such discovery, Lessee shall have the exclusive right, at its sole expense, to negotiate with any third party or third parties to obtain the outstanding ownership interests in the Property and/or Geothermal Resources thereto, and any subsequent acquisition of said outstanding ownership interests shall not be subject to or governed by this Lease Agreement. Upon such discovery that Lessor does not hold full record title and ownership to the Property and Geothermal Resources or By-Products therein or thereunder, Lessee's sole remedies against Lessor shall be (a) the right to terminate this Lease Agreement as to the portion of the Property in which Lessor does not hold full record title and ownership of the Geothermal Resources therein or thereunder; or (b) a proportionate reduction of the Annual Rental Payments and Royalties payable to Lessor under this Lease Agreement, pursuant to Section 4.0 above.
- 17.0 **Covenants, Warranties and Representations.** Each of the Parties covenants, warrants and represents for itself as follows:

- 17.1 Compliance with Laws. That it has complied with all applicable laws and regulations of any governmental body, federal, state or local, regarding the terms and conditions of and performance of its obligations under this Lease Agreement.
- 17.2 No Pending Proceedings. That there are no lawsuits, no known title defects concerning the Property, Geothermal Resources and By-Products, or any proceedings pending or threatened which affect its ability to perform the terms and conditions of this Lease Agreement.
- 17.3 Costs. That it shall pay all costs and expenses incurred or to be incurred by it in negotiating and preparing this Lease Agreement and in closing and carrying out the transactions contemplated by this Lease Agreement.
- 17.4 Environmental Hazards. With respect to Lessor, that there are no known Hazardous Materials or hazardous conditions existing upon the Property prior to the execution of this Lease Agreement. With respect to Lessee, that Lessor provided Lessee with an opportunity to inspect the Property for all conditions, including Hazardous Materials and hazardous conditions, prior to the execution of this Lease Agreement.
- 18.0 Termination by Lessor.** In the event of any default or failure by a given Lessee to comply with any of the covenants, terms or conditions of this Lease Agreement, Lessor shall promptly provide written notice to the defaulting Lessee of its alleged default, specifying the details of the alleged default. The Lessee shall have thirty (30) days after receipt of Lessor's notice in accordance with Section 26.0 to either remedy the alleged default or submit a written response challenging notice of the alleged default. If the defaulting Lessee fails to submit a written challenge or remedy its default within thirty (30) calendar days' after receipt of notice, unless Lessor grants additional time, Lessor may terminate this Lease Agreement by delivering notice to Lessee in accordance with Section 26.0 of Lessor's termination of this Lease Agreement. In the case of Lessee's failure to pay the Annual Rental Payments, Lessor shall be entitled to give the defaulting Lessee written notice of the default, and if such default is not remedied within fifteen (15) days after the receipt of the notice, then Lessor may terminate this Lease Agreement by delivering notice to Lessee in accordance with Section 26.0 of Lessor's termination of this Lease Agreement.
- 19.0 Termination by Lessee.** Lessee may at any time terminate this Lease Agreement by giving thirty (30) days advance written notice to Lessor. If Lessee terminates this Lease Agreement, Lessee shall perform all obligations and pay all Annual Rental Payments and Royalty payments which accrue or become due before the termination date. During the term of this Lease Agreement, Lessee may at any time surrender parts of the Property. If Lessee intends to surrender any portion of the Property, it shall notify Lessor in writing pursuant to Section 26.0. Within ten (10) business days after Lessee's delivery of its notice, Lessee

shall execute and deliver to Lessor an instrument of surrender of Lessee's right, title and interest in and to the portion of the Property to be surrendered in form acceptable to Lessor and authorized for recording under California law. Lessee's surrender of any portion of the Property shall not discharge or release Lessee from any liability or obligation arising from or relating to Lessee's lease of the surrendered portion of the Property or Lessee's activities on, in or under the surrendered portion of the Property.

20.0 Surrender.

20.1 Surrender, Decommissioning and Restoration. Upon expiration of the term or termination of this Lease Agreement, whichever occurs sooner, Lessee shall surrender the Property promptly to Lessor and shall decommission any geothermal electric power plants on the Property in accordance to a decommissioning study performed by any contractor or environmental consultant licensed to do business within the State of California with industry experience in the decommissioning or demolition of power plants, at Lessee's sole cost, which shall include the removal of all buildings, structures, and equipment, unless otherwise agreed to by Lessor and Lessee in writing; provided that, Lessor has not exercised its option under Section 20.2 to purchase Lessee's Facilities (as defined below). After termination of this Lease Agreement, Lessee shall have the right to enter on the Property to perform its obligations for compliance with decommissioning, reclamation and restoration of the Property. Lessee shall commence decommissioning, reclamation and restoration of the Property immediately upon expiration or termination of this Lease Agreement, whichever occurs sooner, in accordance with all applicable Governmental Regulations. Lessee shall diligently perform decommissioning, reclamation and restoration of the Property such that Lessee's decommissioning, reclamation and restoration shall be completed at the earliest possible time, and no later than the date required for completion by the applicable governmental entity, or, in the absence of any completion date mandated by law, then within two years after the termination of this Lease Agreement. However, if any part of the required decommissioning, restoration or reclamation work reasonably would require more than two years to complete, and no lesser time is specified by law, than Lessee shall not be in breach of its obligations under this Section if it commences the decommissioning, restoration and reclamation activity requiring more than two years within ten (10) days after termination of this Lease Agreement, and thereafter diligently engages in such work to completion within a reasonable time period. Should Lessee fail to perform any decommissioning, reclamation or restoration work required by this Section within the time period provided in this Section, then, in addition to any other rights or remedies provided in this Lease Agreement, Lessor may elect to perform such decommissioning, restoration or reclamation work at Lessee's sole cost and expense.

Lessee shall reimburse Lessor for the costs so incurred by Lessor within ten (10) days after presentation of a written invoice for such costs, and the unpaid costs shall bear interest at the Interest Rate from the date of the invoice until paid by Lessee.

20.2 Lessor Option to Purchase Lessee's Facilities. Upon expiration or earlier termination of this Lease Agreement, Lessor shall have the option, exercisable by written notice to Lessee given to Lessor within thirty (30) days after the expiration or termination date, to purchase all wells, power plants, equipment and facilities of Lessee on the Property ("Lessee's Facilities"), at their Fair Market Value (as defined below) in their then-current condition, "as is", "where is" and with all faults, and without any representation or warranty regarding their condition or fitness. For purposes of this Section 20.2, "Fair Market Value" shall mean the price that property would change hands between an independent willing buyer and an independent willing seller, neither being under any compulsion to buy or sell, both having reasonable knowledge of the relevant facts, and all rights and benefit inherent in (or attributable to) the property shall be included in the transfer. The Fair Market Value of Lessee's Facilities shall take into account the value of Lessee's Facilities as an operating power generation facility (if that is the case) and any other existing income streams of Lessee's Facilities, but shall exclude the value of the Geothermal Resources in or under the Property. If Lessee's Facilities include geothermal wells, including injection wells, that have not been plugged and abandoned, then Lessor shall assume Lessee's obligation to plug and abandon those wells in accordance with all applicable legal requirements, and the estimated cost of properly plugging and abandoning those wells, discounted to present value, will be taken into account in determining the Fair Market Value of Lessee's Facilities. If Lessor and Lessee cannot agree on the Fair Market Value of Lessee's Facilities, then Lessor and Lessee shall obtain an appraisal of the Fair Market Value of Lessee's Facilities, based on the criteria set forth in this Section, by an appraiser with appropriate qualifications and experience, mutually acceptable to Lessor and Lessee, with the cost of the appraisal to be divided equally between Lessor and Lessee. Prior to engaging the appraiser, Lessor and Lessee shall exchange written opinions of the Fair Market Value of Lessee's Facilities, which shall not be provided to the selected appraiser. After the appraiser had made its determination of the Fair Market Value of Lessee's Facilities, the purchase price of the Lessee's Facilities shall be conclusively determined to be whichever opinion of Fair Market Value, that of Lessor or Lessee, that was closest to the opinion of the appraiser. At the closing, which shall occur within thirty (30) days after the determination of the purchase price pursuant to this Section unless extended by the Parties by mutual written agreement, Lessor shall pay the purchase price to Lessee, by a wire transfer of immediately available funds to an account specified by Lessee; and Lessee shall deliver to Lessor an executed and acknowledged grant deed

in recordable form and an executed bill of sale covering Lessee's Facilities. Lessor also shall assume in writing the obligation to plug and abandon in accordance with applicable law all wells to be included in the purchase of Lessee's Facilities. If Lessor purchases Lessee's Facilities pursuant to this Section, then Lessee shall be excused from its obligation to remove Lessee's Facilities and restore the Property under Section 20.1 above.

21.0 Data. Within sixty (60) days following termination of this Lease Agreement, Lessee shall deliver to Lessor copies of all data regarding the Property in Lessee's possession at the time of termination which before termination have not been furnished to Lessor. Lessee shall have no liability to Lessor, Lessor's representatives and any other party for any such information received by, relied upon or acted on by Lessor, Lessor's representatives or any other party to whom Lessor delivers such information.

22.0 Confidentiality. To the extent permitted by law, the data and information submitted to, acquired by or within the possession of Lessee by virtue of this Lease Agreement shall be deemed confidential and shall not be disclosed to outside third parties, except as may be required by the California Public Records Act, GC § 6250 et seq., to publicly record or protect title to the Property, or to publicly announce and disclose information under any federal, state or local laws and regulations.

23.0 Force Majeure.

23.1 Suspension by Force Majeure. The respective obligations of the Parties under this Lease Agreement shall be suspended (excluding obligations to pay money, except as provided in Section 23.2 below) during the time and to the extent that such Party is prevented from compliance, in whole or in part, by war or war conditions, actual or potential, earthquake, fire, flood, strike, labor stoppage, accident, riot, unavoidable casualty, act or restraint, present or future, or any lawful authority, statute, act of God, act of public enemy, delays in transportation, unexpected total curtailment of transmission for the entire output capacity of the Project Power Plant, or other cause of the same or other character beyond the reasonable control of such Party ("Event of Force Majeure"). In order for a Party to claim relief from its obligations under this Lease Agreement on account of an Event of Force Majeure, the Party must give the other Party written notice of the Event of Force Majeure within fifteen (15) calendar days after the occurrence of the Event of Force Majeure. Lessee's failure to obtain its special use permit for operations on the Property shall not constitute an Event of Force Majeure.

23.2 Suspension of Royalty Payments. The obligations suspended by an Event of Force Majeure shall include the obligation of Lessee to pay

Royalty under Section 4.2.1 above for any period during which an Event of Force Majeure causes the suspension or reduction of the generation of electricity from a geothermal power plant fueled by Geothermal Resources produced from the Property or Unitized Lands (a "Project Power Plant"). If more than one Project Power Plant is fueled by Geothermal Resources produced from the Property or Unitized Lands, then the provisions of this Section shall apply separately to each such Project Power Plant, just as under Section 4.2.1 the monthly Royalty is computed and paid separately for each Project Power Plant. In the event of a suspension of power production from a Project Power Plant caused by an Event of Force Majeure, for part of a calendar month, the monthly Royalty payment for that calendar month shall be reduced by prorating the Royalty on a daily basis, based on a 30-day month, reflecting the number of days for which power production was suspended. In the event that an Event of Force Majeure causes a partial suspension of the generation of electricity from a Project Power Plant, then the monthly Royalty payment shall be reduced by the percentage reduction in monthly power production from the Project Power Plant during the Event of Force Majeure, below the average monthly power production from that same Project Power Plant during the 12-month period prior to the Event of Force Majeure. If the Project Power Plant in question has operated on a commercial basis for less than 12 months, then the baseline reference shall be the average monthly power production from that Project Power Plant since the inception of commercial power production from the Project Power Plant. An Event of Force Majeure shall not suspend the obligation of the Lessee to pay rent under Section 4.1 above or to pay other Royalties under Section 4.2 accrued prior to the Event of Force Majeure or monetary obligations under this Lease Agreement.

24.0 Assignment.

24.1 Assignment by Lessee. Lessee may assign, convey, encumber, sublease, grant any concession, or license or otherwise transfer (each a "Transfer") all or any part of its interest in this Lease Agreement or the Property, with Lessor's prior written consent, which shall not be unreasonably withheld. In Lessor's determination of whether to consent to a Transfer, Lessor shall have the right to consider, among other things the financial condition, geothermal resource project development and operating experience, litigation history, regulatory history and technical expertise and experience of the proposed assignee. The Transfer by the Lessee, whether in a single transaction or in a series of transactions, shall constitute an assignment for purposes of this Section. Any Transfer of this Lease Agreement which is prohibited under this Section shall be deemed void and shall constitute a material default under the terms of this Lease Agreement.

24.2 Assignment by Lessor. Subject to the provisions of this Section, Lessor shall have the right to assign, convey, encumber, sublease, grant any concession, or license or otherwise transfer all or any part of its interest in this Lease Agreement or the Property, but not the Geothermal Resources and By-Products in accordance with the terms and conditions of this Lease Agreement. No change in ownership of Lessor's interest in the Property shall affect Lessee's obligations under this Lease Agreement unless and until Lessor delivers and Lessee receives certified copies of instruments recorded or other documents necessary to demonstrate the change in ownership of Lessor's interest. No other type of notice, whether actual or constructive, shall be binding on Lessee. Until Lessee receives Lessor's notice and the documents required to be delivered under this Section, Lessee may continue to make all payments under this Lease Agreement as if the Transfer of Lessor's ownership interest had not occurred. No division of Lessor's ownership as to all or any part of the Property shall enlarge Lessee's obligations or diminish Lessee's rights under this Lease Agreement, and Lessee may disregard any such division.

25.0 **Memorandum of Agreement.** Upon the execution of this Lease Agreement, each Party shall deliver a duplicate original of this Lease Agreement to the other Party and Lessee may record, at its discretion, a Memorandum of Agreement in the form of Exhibit C with Imperial County Recorder's Office where all of the Property is located.

26.0 **Notices.** Any notices required or authorized to be given by this Lease Agreement shall be in writing and shall be sent either by commercial courier, facsimile, or by certified U.S. mail, postage prepaid and return receipt requested, addressed to the proper Party at the address stated below or such address as the Party shall have designated to the other Parties in accordance with this Section. Such notice shall be effective on the date of receipt by the addressee Party, except that any facsimiles received after 5:00 p.m. of the addressee's local time shall be deemed delivered the next day.

For the Los Angeles Department of Water and Power

Attention: Randy S. Howard
Los Angeles Department of Water and Power
111 North Hope Street, Room 921
Los Angeles, California 90012

For the Southern California Public Power Authority:

Attention: Bill Carnahan
Southern California Public Power Authority
225 South Lake Avenue, Suite 1250
Pasadena, California 91101

For the Imperial Irrigation District (in its capacity as a party to the MOU and not as a Party to this Lease Agreement):

Attention: Jesse Montaña
Imperial Irrigation District
P.O. Box 937
Imperial, CA 92251

27.0 Binding Effect of Rights and Obligations. Subject to the provisions of Sections 20.0 and 24.0, this Lease Agreement shall be binding upon and inure to the benefit of the respective Parties and their successors or assigns.

27.1 Survivability. The Parties' rights and obligations under Section 10.0, 11.3, 12.0, and 20.0 of this Lease Agreement shall survive the termination or expiration of this Lease Agreement for any reason whatsoever.

28.0 Whole Agreement. The Parties agree that the whole agreement between them is written in this Lease Agreement and in a Memorandum of Agreement (attached hereto as Exhibit C) which is intended to be recorded with Imperial County Recorder's Office. There are no terms or conditions, express or implied, other than expressly stated in this Lease Agreement. This Lease Agreement may be amended or modified only by written instrument, signed by the Parties, with the same formality as this Lease Agreement.

29.0 Governing Law and Venue. 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 and the City of Los Angeles, without regard to conflict of law principles. 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*.

30.0 Holding Over. Any holding over by Lessee after the termination of this Lease Agreement shall not constitute a Renewal Lease, nor shall such action give Lessee any rights hereunder or in or to the Property.

31.0 Effect of Counterparts. This Lease Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which shall constitute the same Lease Agreement.

32.0 Severability. If any part, term or provision of this Lease Agreement is held by a court of competent jurisdiction to be illegal, invalid or in conflict with any law of the United States or any state, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the Parties shall be

construed and enforced as if the Lease Agreement did not contain the particular part, term or provision held to be invalid.

33.0 Time of Essence. Time is of the essence in the performance of all obligations of the Parties under this Lease Agreement.

34.0 Release Instrument. Within sixty (60) days after the expiration or earlier termination of this Lease Agreement, Lessee shall execute, acknowledge and deliver to Lessor an instrument of release (attached as Exhibit D) by which Lessee releases all of its rights under this Lease Agreement and conveys to Lessor all of Lessee's right, title and interest in and to the Property, Geothermal Resources and By-Products, free and clear of any burdens, claims, encumbrances or liens created by, through or under Lessee. Notwithstanding the above, neither termination of this Lease Agreement, nor delivery to Lessor of the release provided for in this Section, shall relieve Lessee of its obligations under Sections 11.3, 12.0 and 20.0 of this Lease Agreement or of liability for any obligations of Lessee arising prior to termination of this Lease Agreement.

35.0 Execution. Each signatory below represents that it is appropriately authorized to enter in this Lease Agreement, on behalf of the Party for whom he or she signs. This Lease Agreement is hereby deemed executed as of the last date signed by the Parties below.

[SIGNATURES ON FOLLOWING PAGE]

APPROVED AS TO FORM AND LEGALITY
CARMEN A. TRUTANICH, CITY ATTORNEY

SEP 03 2009
BY *Shanibe Black*
SHANIBE BLACK
DEPUTY CITY ATTORNEY

LESSOR:

DEPARTMENT OF WATER AND POWER OF
THE CITY OF LOS ANGELES BY BOARD OF
WATER AND POWER COMMISSIONERS
OF THE CITY OF LOS ANGELES

By: _____
H. David Nahai

Title: Chief Executive Officer and General
Manager

And
Secretary: _____

LESSEE:

SOUTHERN CALIFORNIA PUBLIC POWER
AUTHORITY, a California joint powers
authority

By: _____

Name: _____

Title: _____

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Real property in the unincorporated area of the County of Imperial, State of California, described as follows:

PARCEL 1: (CA0250174 & CA0250175)/AREA 3-1 EAST AND AREA 3-1 WEST

SECTION 3 AND LOTS 3, 4, 5, 9, 10 AND 11 OF SECTION 5, TOWNSHIP 10, SOUTH, RANGE 13 EAST, SAN BERNARDINO MERIDIAN, IN AN UNINCORPORATED AREA OF THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA ACCORDING TO THE OFFICIAL PLAT THEREOF, *with exceptions as duly recorded.*

PARCEL 2: (CA0250170)/AREA 2-2

SECTION 29, TOWNSHIP 9 SOUTH, RANGE 13 EAST, SAN BERNARDINO MERIDIAN, IN AN UNINCORPORATED AREA OF THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, *with exceptions as duly recorded,*

PARCEL 3: (CA0250171)/AREA 2-3

THE SOUTH 1/2 OF THE NORTHEAST 1/4 AND THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 AND THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 30, TOWNSHIP 9 SOUTH, RANGE 13 EAST, SAN BERNARDINO MERIDIAN, IN THE UNINCORPORATED AREA OF THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, *with exceptions as duly recorded.*

PARCEL 4: (CA0250172)/AREA 2-4

ALL OF SECTION 31, TOWNSHIP 9 SOUTH, RANGE 13 EAST, SAN BERNARDINO MERIDIAN, IN AN UNINCORPORATED AREA OF THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA ACCORDING TO THE OFFICIAL PLAT THEREOF, *with exceptions as duly recorded.*

PARCEL 5: (CA0250173)/AREA 2-5

ALL OF SECTION 33, TOWNSHIP 9 SOUTH, RANGE 13 EAST, SAN BERNARDINO MERIDIAN, IN AN UNINCORPORATED AREA OF THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, *with exceptions as duly recorded.*

EXHIBIT B

FORM LEASE EXTENSION

**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:**

SOUTHERN CALIFORNIA PUBLIC POWER
AUTHORITY

Attention: _____

225 South Lake Avenue, Suite 1250

Pasadena, CA 91101

(Space above this line for Recorder's use only)

EXTENSION OF PRIMARY TERM

WHEREAS, LOS ANGELES DEPARTMENT OF WATER AND POWER, a department organized and existing under the Charter of the City of Los Angeles, a municipal corporation of the State of California, as Lessor, and SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, a joint powers agency organized under the Joint Powers Act of California (*GC § 6500 et seq.*) ("SCPPA" or "Lessee"), entered into a Geothermal Lease Agreement No. 1 dated for convenience September 15, 2009, an unrecorded lease ("the Lease"), which was recorded in memorandum form as the Memorandum of Geothermal Lease Agreement No. 1 in the Imperial County Recorder's Office on _____, 2009, as Document No. _____, covering the following land situated in the County of Imperial, State of California:

PARCEL insert

WHEREAS, terms defined in the Lease have the same meaning when used in this Extension of Primary Term;

WHEREAS, Lessor granted Lessee the option to extend the Primary Term of the Lease for a secondary term pursuant to certain conditions precedent and those conditions precedent have been met;

WHEREAS, Lessee desires to exercise its option to implement the Secondary Term of the Lease;

IT IS THEREFORE HEREBY AGREED, that in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lessor hereby grants Lessee an extension of the Lease for the Secondary Term, which shall commence on insert date and shall continue for a period of ten (10) years from that date and for so long thereafter as Lessee continues to produce Geothermal Resources in Commercial Quantities from wells located on the Property for Production Activities; provided that the total term of the Lease shall not exceed thirty-five (35) years.

It is further understood and agreed by Lessor and Lessee that all the terms and conditions of the Lease remain in full force and effect and are hereby made a part of and incorporated by reference in this extension as though the same were set out in this extension in full, and that all provisions for rentals and royalties within the Lease shall apply to and extend to this extension, and that this extension shall be binding upon Lessor's and Lessee's heirs, successors, legal representatives and assigns.

IN WITNESS WHEREOF, the parties have executed this Extension of Primary Term as of the date set forth below.

LESSOR:

LOS ANGELES DEPARTMENT OF
THE CITY OF LOS ANGELES BY BOARD
OF WATER AND POWER COMMISSIONERS
OF THE CITY OF LOS ANGELES

Date: _____

By: _____

Name: _____

Title: _____

LESSEE:

**SOUTHERN CALIFORNIA PUBLIC
POWER AUTHORITY**

Date: _____

By: _____

Title: _____

NOTARIAL ACKNOWLEDGEMENTS

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 200__, before me,
_____ (insert name and title of the officer)

personally appeared _____,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT C

FORM MEMORANDUM OF GEOTHERMAL LEASE AGREEMENT NO. 1

**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:**

SOUTHERN CALIFORNIA PUBLIC POWER
AUTHORITY

Attention: _____
225 South Lake Avenue, Suite 1250
Pasadena, CA 91101

(Space above this line for Recorder's use only)

MEMORANDUM OF GEOTHERMAL LEASE AGREEMENT NO. 1

This MEMORANDUM OF GEOTHERMAL LEASE AGREEMENT NO. 1
("Memorandum of Agreement") is made and entered into effective as of the _____ day
of _____, 2009, by and between LOS ANGELES DEPARTMENT
OF WATER AND POWER, a department organized and existing under the Charter of
the City of Los Angeles, a municipal corporation of the State of California, as Lessor,
and SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, a joint powers agency
organized under the Joint Powers Act of California (*GC § 6500 et seq.*) ("SCPPA" or
"Lessee").

WITNESSETH:

For valuable consideration, the receipt and sufficiency of which is hereby
acknowledged, Lessor and Lessee agree as follows:

1. This Memorandum of Agreement is entered into pursuant to and is
supplemented by that certain Geothermal Lease Agreement No. 1 ("the Lease"), an
unrecorded lease, between Lessor and Lessee. Lessor hereby leases to Lessee, and
Lessee hereby leases from Lessor, that certain real property situated in Imperial
County, California, and described in Appendix A attached hereto and incorporated
herein, containing approximately 2950 acres of land, more or less ("the Property"),
for the term, for the uses and purposes, and subject to all of the terms, covenants,

conditions, restrictions and limitations set forth in the Lease, which are incorporated by this reference as if fully set forth herein. Terms defined in the Lease shall have the same meaning when used in this Memorandum of Agreement.

2. Subject to all of the terms, covenants, conditions, restrictions and limitations set forth in the Lease, Lessor grants to Lessee the sole and exclusive right to prospect for, explore for, drill for, mine for, produce, extract, take, treat, deliver, use, store, process, concentrate, convert, dispose and remove from the Property: (i) all products of geothermal processes including steam, hot water and hot brine; (ii) steam and other gases, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into subsurface formations; (iii) heat or other associated energy found beneath the surface of the Property; (iv) water from geopressured zones; and (v) by-products of any of the foregoing, excluding oil, gas and hydrocarbons (each collectively referred to as "*Geothermal Resources*"). Lessor further grants a non-exclusive right to ingress, egress and reasonable use of the surface and surface estate of the Property, subject to all of the terms, covenants, conditions, restrictions and limitations set forth in the Lease,.

3. The Primary Term of the Lease is three (3) years and the Lease grants Lessee the option to extend the Lease for extension for a Secondary Term of ten (10) years and for so long thereafter as Lessee continues to produce Geothermal Resources in Commercial Quantities from wells located on the Property for Production Activities; provided that the total term of the Lease shall not exceed thirty-five (35) years.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Agreement as of the date set forth above.

LESSOR:

LOS ANGELES DEPARTMENT OF
THE CITY OF LOS ANGELES BY BOARD
OF WATER AND POWER COMMISSIONERS
OF THE CITY OF LOS ANGELES

By: _____

Name: _____

Title: _____

LESSEE:

SOUTHERN CALIFORNIA PUBLIC
POWER AUTHORITY

By: _____

Name: _____

Title: _____

Appendix A

LEGAL DESCRIPTION OF PROPERTY

Real property in the unincorporated area of the County of Imperial, State of California, described as follows:

PARCEL 1: (CA0250174 & CA0250175)/AREA 3-1 EAST AND AREA 3-1 WEST

SECTION 3 AND LOTS 3, 4, 5, 9, 10 AND 11 OF SECTION 5, TOWNSHIP 10, SOUTH, RANGE 13 EAST, SAN BERNARDINO MERIDIAN, IN AN UNINCORPORATED AREA OF THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA ACCORDING TO THE OFFICIAL PLAT THEREOF, *with exceptions as duly recorded.*

PARCEL 2: (CA0250170)/AREA 2-2

SECTION 29, TOWNSHIP 9 SOUTH, RANGE 13 EAST, SAN BERNARDINO MERIDIAN, IN AN UNINCORPORATED AREA OF THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, *with exceptions as duly recorded,*

PARCEL 3: (CA0250171)/AREA 2-3

THE SOUTH 1/2 OF THE NORTHEAST 1/4 AND THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 AND THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 30, TOWNSHIP 9 SOUTH, RANGE 13 EAST, SAN BERNARDINO MERIDIAN, IN THE UNINCORPORATED AREA OF THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, *with exceptions as duly recorded.*

PARCEL 4: (CA0250172)/AREA 2-4

ALL OF SECTION 31, TOWNSHIP 9 SOUTH, RANGE 13 EAST, SAN BERNARDINO MERIDIAN, IN AN UNINCORPORATED AREA OF THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA ACCORDING TO THE OFFICIAL PLAT THEREOF, *with exceptions as duly recorded.*

PARCEL 5: (CA0250173)/AREA 2-5

ALL OF SECTION 33, TOWNSHIP 9 SOUTH, RANGE 13 EAST, SAN BERNARDINO MERIDIAN, IN AN UNINCORPORATED AREA OF THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, *with exceptions as duly recorded.*

EXHIBIT D

FORM RELEASE

**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:**

LOS ANGELES DEPARTMENT OF WATER AND POWER

(Space above this line for Recorder's use only)

RELEASE OF GEOTHERMAL LEASE AGREEMENT NO. 1

The undersigned Lessee does hereby relinquish, surrender, and forever quitclaim to **LOS ANGELES DEPARTMENT OF WATER AND POWER**, a department organized and existing under the Charter of the City of Los Angeles, a municipal corporation of the State of California, and its heirs, successors and assigns, as their interest may appear, any and all right, title and interest whatsoever presently owned by the undersigned in and to the land described herein below by virtue of the following described Geothermal Lease Agreement No. 1 ("the Lease"):

The Geothermal Lease Agreement No. 1, dated for convenience September 15, 2009, entered by and between **LOS ANGELES DEPARTMENT OF WATER AND POWER**, a department organized and existing under the Charter of the City of Los Angeles, a municipal corporation of the State of California, as Lessor, and Southern California Public Power Authority, a joint powers agency organized under the Joint Powers Act of California (*GC § 6500 et seq*), as Lessee, which was recorded in memorandum form as the Memorandum of Geothermal Lease Agreement No. 1 in the Imperial County Recorder's Office on _____, 2009, as Document No. _____,

Insofar and only insofar as the Lease covers the following described land:

PARCEL [insert]:

IN WITNESS WHEREOF, this instrument is executed on this _____ day of _____, 2009.

