



ANTONIO R. VILLARAIGOSA
Mayor

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RONALD O. NICHOLS
General Manager

March 11, 2013

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

Honorable Members:

Subject: Power Sales Agreement No. BP 12-049 for 13.71 Megawatt of Geothermal Capacity from the Wild Rose Geothermal Energy Project in Mineral County, Nevada and Agency Agreement No. BP 12-050 for Project Management Services with Southern California Public Power Authority

Pursuant to Charter Sections 373 and 674, enclosed for approval by your Honorable Body is Resolution No. 013-208, adopted by the Board of Water and Power Commissioners (Board) on March 5, 2013, approved as to form and legality by the City Attorney, which authorizes Power Sales Agreement No. BP 12-049 for 13.71 Megawatt of Geothermal Capacity from the Wild Rose Geothermal Energy Project in Mineral County, Nevada and Agency Agreement No. BP 12-050 for Project Management Services with Southern California Public Power Authority. As directed by the Board, transmitted to you are supporting documents.

If there are any questions regarding this item, please contact Ms. Winifred Yancy, Manager of Intergovernmental Affairs and Community Relations, at (213) 367-0025.

Sincerely,

A handwritten signature in blue ink that reads "Barbara E. Moschos".

Barbara E. Moschos
Board Secretary

BEM:cr

Enclosures: LADWP Resolution
Board Letter
Power Sales Agreement and
Agency Agreement

(Ordinance transmitted under separate cover)

Water and Power Conservation ... a way of life

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c/enc: Mayor Antonio Villaraigosa
Councilmember Jose Huizar, Chair, Energy and the Environment Committee
Gerry F. Miller, Chief Legislative Analyst
Miguel A. Santana, City Administrative Officer
Rafael Prieto, Legislative Analyst, CLA
William R. Koenig, Chief Administrative Analyst
Winifred Yancy

WHEREAS, the Los Angeles Department of Water and Power's (LADWP) Renewable Portfolio Standard Policy and Enforcement Program (RPS Policy) represents the continued commitment by LADWP to renewable energy resources in accordance with Section 399.30(e) of the Public Utilities Code, requiring the governing boards of publicly owned electric utilities to adopt a program for enforcement on or before January 1, 2012; and

WHEREAS, the RPS Policy established compliance targets for LADWP to supply 25 percent of its retail energy sales from eligible renewable energy resources by 2016 and 33 percent by 2020 in accordance with the California Renewable Energy Resources Act, also referred to as SB 2 (1X); and

WHEREAS, the strategies in LADWP's Integrated Resource Plan (IRP) include regulatory requirements, policy objectives, and increases in eligible renewable energy resources, while maintaining service reliability, using existing assets near eligible renewable energy resources, and minimizing the financial impact on ratepayers; and

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

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

WHEREAS, SCPPA received 220 responses to its RFP, which included the Wild Rose Geothermal Energy Project (WRGEP), proposing the sale of 16.2 megawatts (MW) of renewable energy from geothermal power generating facilities to be developed and constructed in Mineral County, Nevada; and

WHEREAS, WRGEP, which is owned by ORNI 47, LLC, a wholly-owned subsidiary of Ormat Nevada, Inc., was selected to provide renewable energy from geothermal power generating facilities to SCPPA for the benefit of LADWP and the Cities of Burbank and Glendale (Participants); and

WHEREAS, SCPPA and ORNI 47, LLC plan to enter into a Power Purchase Agreement for all of the energy, environmental attributes and generating capacity rights from WRGEP for a 20-year term; and

WHEREAS, the WRGEP Power Sales Agreement (PSA) No. BP 12-049 sets forth mutual covenants and agreements between LADWP and SCPPA for LADWP's acquisition of 13.71 MW of the metered output, associated environmental attributes, and generating capacity rights associated with WRGEP; and

WHEREAS, the WRGEP Agency Agreement (AA) No. BP 12-050 provides for the designation of LADWP as the project manager to administer and manage WRGEP on behalf of and for the benefit of the Participants, and sets forth mutual covenants and agreements between SCPPA and LADWP in order to enable SCPPA to carry out activities necessary for planning, development, acquisition, maintenance, improvement, administration, and operation of WRGEP on behalf of the Participants.

NOW, THEREFORE, BE IT RESOLVED that PSA No. BP 12-049 and AA No. BP 12-050 by and between LADWP and SCPPA, now on file with the Secretary of the Board and approved as to form and legality by the City Attorney, be and the same are hereby approved.

BE IT FURTHER RESOLVED that the Board requests that pursuant to Los Angeles Charter Section 674, the Los Angeles City Council (City Council) approve, by ordinance, PSA No. BP 12-049 and AA No. BP 12-050.

BE IT FURTHER RESOLVED that the energy and environmental attributes acquired from PSA No. BP 12-049 shall be credited towards LADWP's RPS Policy compliance targets.

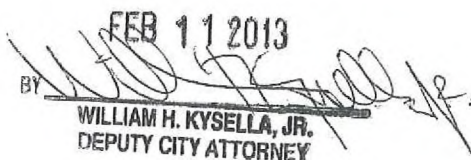
BE IT FURTHER RESOLVED that the President or the Vice President of this Board, or General Manager, or such person as the General Manager shall designate in writing, and the Secretary, Assistant Secretary, or the Acting Secretary of the Board, are hereby authorized and directed to execute PSA No. BP 12-049 and AA No. BP 12-050 for and on behalf of LADWP, upon approval by the City Council by ordinance.

BE IT FURTHER RESOLVED that the Chief Accounting Employee of LADWP, upon proper certification, is authorized and directed to draw demands on the Power Revenue Fund, in payment of the obligations arising under PSA No. BP 12-049 and AA No. BP 12-050.

BE IT FURTHER RESOLVED that the WRGEP will be permitted and constructed outside of the state of California. Projects located outside California, which are subject to environmental impact review pursuant to the National Environmental Policy Act (NEPA), are statutorily exempt from the California Environmental Quality Act per the California Code of Regulations Title 14, Chapter 3, Article 18, Section 15277. The United States Department of the Interior, Bureau of Land Management, issued a Record of Decision pursuant to NEPA for the WRGEP on October 5, 2012.

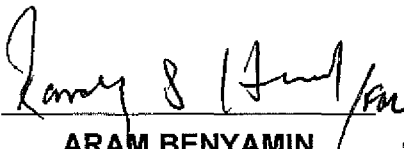
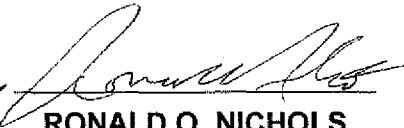
I HEREBY CERTIFY that the foregoing is a full, true, and correct copy of the resolution adopted by the Board of Water and Power Commissioners of the City of Los Angeles at its meeting held **MAR 05 2013**

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

FEB 11 2013
BY 
WILLIAM H. KYSELLA, JR.
DEPUTY CITY ATTORNEY


Secretary

LOS ANGELES DEPARTMENT OF WATER AND POWER (LADWP) BOARD APPROVAL LETTER

| | | |
|---|--|--|
| TO: BOARD OF WATER AND POWER COMMISSIONERS | | DATE: February 11, 2013 |
| <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;">  ARAM BENYAMIN Senior Assistant General Manager - Power System </div> <div style="text-align: center;">  RONALD O. NICHOLS General Manager </div> </div> <hr/> <hr/> | | SUBJECT: LADWP Power Sales Agreement (PSA) No. BP 12-049 for 13.71 Megawatt (MW) of Geothermal Capacity From the Wild Rose Geothermal Energy Project (Project) in Mineral County, Nevada and Agency Agreement (AA) No. BP 12-050 for Project Management Services with Southern California Public Power Authority (SCPPA) |
| <hr/> <hr/> | | FOR COMMISSION OFFICE USE: RESOLUTION NO. _____ |
| CITY COUNCIL APPROVAL REQUIRED: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | IF YES, BY WHICH CITY CHARTER SECTION: 373 and 674 | |

New Contract

PURPOSE

Transmitted for approval by your Honorable Board is a Resolution, approved as to form and legality by the City Attorney, recommending to the Los Angeles City Council (City Council) approval, by Ordinance, of LADWP PSA No. BP 12-049 between SCPPA and the City of Los Angeles acting by and through the LADWP which authorizes the LADWP to purchase 13.71 MW of renewable geothermal energy from SCPPA and sets forth mutual covenants and agreements in order to pay SCPPA for its costs of purchaser's share of the energy and capacity of the Project. The PSA enables SCPPA to enter into a Power Purchase Agreement (PPA) between ORNI 47 LLC (Seller), an affiliate of Ormat Nevada, Inc., a limited liability company organized and existing under the laws of the State of Delaware, and SCPPA which provides for the purchase of renewable geothermal energy from the Project located in Mineral County, Nevada beginning December 31, 2013, for a 20-year term.

The Resolution also recommends to the City Council approval of LADWP AA No. BP 12-050, between SCPPA and the LADWP, which provides for the designation of LADWP as the Project Manager to administer and manage the Project on behalf of and

for the benefit of all the Project participants, which includes the LADWP and the city of Burbank (Participants).

The energy received under this agreement shall be applied towards LADWP's Renewable Portfolio Standard (RPS) goals.

COST AND DURATION

The PSA has the following terms:

- LADWP's share of the generation capacity of up to 13.71 MW.
- An expected capacity factor of up to 95 percent.
- A renewable fixed energy price of \$99 per megawatt-hour (MWh) with no annual escalation.

The estimated average annual cost for this energy is expected to be approximately \$11.3 million (LADWP share).

Total expenditures of LADWP share are estimated not to exceed \$226 million over the 20-year life of the PSA.

Funding Source

The funding for this Project has been budgeted and is consistent with the LADWP 5-year Financial Plan that was reviewed as part of the recent rate action. The cost of energy is lower than that in the Financial Plan Case No. 119. The Project is expected to have a potential rate impact up to approximately 0.016 cents per kWh, including transmission costs, for Fiscal Year (FY) 13/14, and up to approximately 0.030 cents per kWh in FY 14/15 and beyond. During FY 13/14 and FY 14/15, the rate impact is between 0.008 cents per kWh and 0.016 cents per kWh less than assumed in the Financial Plan Case No. 119, saving between \$0.04 and \$0.08 per month on the typical retail bill.

Fiscal Impact Statement

The average annual expenditures may total \$11.3 million per year for 20 years based on assuming an average capacity factor of 95 percent for a total cost over the life of the contract of \$226 million. The funds will be used to purchase renewable energy and associated environmental attributes and provide for energy transmission as part of LADWP's RPS Policy. This will benefit the ratepayers of Los Angeles by supplying them with renewable energy and reducing the consumption of fossil fuels and reducing emissions.

BACKGROUND

SCPPA is a non-profit joint powers agency formed in 1980 to facilitate joint power and transmission projects for the benefit of the Southern California municipal utilities. SCPPA's members include LADWP, the cities of Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, Pasadena, Riverside and the Imperial Irrigation District. On April 4, 2006, the Board of Water and Power Commissioners (Board) approved SCPPA Phase I Development Agreement No. 96125-76 under Resolution No. 006-157 (Phase I Agreement) which authorized LADWP to participate with other members of SCPPA for the purpose of investigating and performing due diligence on potential new renewable resource options, which includes this Project.

Phase II of the SCPPA Renewable Agreement, LADWP Agreement No. BP 12-020 under Resolution No. 013-049, (Phase II Agreement) approved by the Board on August 21, 2012, replaced the Phase I Agreement and authorizes LADWP to participate with other members of SCPPA for the purpose of investigating and performing due diligence on potential new renewable resource options and allocating costs for these purposes up to \$10 million in aggregate through the year 2020. All future renewable energy projects will be under the Phase II Agreement approved by the Board.

The LADWP's goal and primary challenge is to develop a long-term resource plan that is representative to the local and regional economy, and operationally flexible to changes in state and federal regulations, fuel prices, and advances in power generation technologies.

The policies that shape and guide the LADWP's resource planning are the RPS Policy and Enforcement Program and the Integrated Resource Plan (IRP).

LADWP RPS Policy

The RPS Policy represents the guiding principles of the LADWP to implement renewable resources. The RPS Policy was amended in December 2011 to comply with regulatory requirements of the California Renewable Energy Resources Act, Senate Bill 2 (1X) (SB2 [1X]), which requires publicly owned utilities such as the LADWP to supply 25 percent of its energy from renewable resources by 2016 and 33 percent by 2020. The RPS Policy was amended in accordance with Section 399.30(e) of the Public Utilities Code, requiring the governing boards of Public Owned Utilities (POUs) to adopt "a program for enforcement" on or before January 1, 2012.

LADWP RPS Policy includes the following compliance targets:

- Average 20 percent renewable over the period of January 1, 2011, to December 31, 2013.
- Average 25 percent renewable for the period of January 1, 2016, to December 31, 2016.
- Average 33 percent renewable for the period of January 1, 2020, to December 31, 2020.
- Minimum average 33 percent renewable for the period of January 1 to December 31 in each year after 2020.

According to SB2 (1 X), eligible renewable energy resources procured June 1, 2010, or after, are placed into three categories. The Portfolio Content Category 1 (PCC1) must represent an increasing proportion of renewable energy until 75 percent of this energy is achieved by 2020 under SB2 (1X). PCC1 energy is achieved if the renewable energy resource is interconnected with a California Balancing Authority. LADWP is a California Balancing Authority under SB2 (1X).

LADWP IRP

The LADWP IRP presents several potential strategies for meeting LADWP's regulatory mandates and policy objectives for increasing renewable energy generation, reducing greenhouse gas emissions, maintaining electric power service reliability, and minimizing the financial impact on ratepayers. The LADWP rigorously evaluates each potential strategy to identify and recommend the best overall plan to meet its key objectives at the least cost.

The IRP establishes the following key selection principles for renewable projects:

- Maintain a high level of electric service reliability by taking advantage of the geographic diversity of renewable projects.
- Exercise environmental stewardship.
- Comply with regulatory requirements such as the California Renewable Energy Resources Act, SB2 (1 X), which requires POUs such as the LADWP to supply 25 percent of its energy from renewable resources by 2016 and 33 percent by 2020.
- Maximize the use of existing LADWP assets such as the Mead 230-kilovolt (kV) Station and transmission lines in the heavily renewable resourced areas.
- Take advantage of the benefits of "clustering" resources to optimize efficiency for operations and maintenance of facilities.

The LADWP rigorously evaluates each potential strategy to identify and recommend the best overall tactical plan to meet these key objectives.

SCPPA Request For Proposal

In January 2011, SCPPA issued a Request for Proposal (RFP), a competitive selection process, for the purchase and/or acquisition of renewable energy resources. LADWP jointly participated with multiple municipal utilities for the purpose of acquiring renewable energy resources. SCPPA received 220 proposals from numerous firms having the capability to provide renewable energy from sources such as geothermal, wind, solar, biomass, landfill gas, hydroelectric, and other sources.

Of the 220 proposals received in response to SCPPA RFP, Wild Rose Geothermal Energy Project (Project) was shortlisted by several SCPPA members based on key selection principles.

LADWP selected the Project towards the generation portfolio because the Project:

- Provides for PCC1 renewable energy resources at a fixed price.
- Can use existing transmission capacity at the Mead 230-kV Substation.
- Has proven geothermal resources at Project location.
- The energy harnessed is clean and safe for the surrounding environment.
- The Project provides base load energy and is sustainable.

The SCPPA team, consisting of the cities of Los Angeles, Burbank, and Glendale negotiated the PPA with Seller in which the Seller would sell to SCPPA 16.2 MW geothermal energy net of parasitic load from the Project located in Mineral County, Nevada.

The renewable energy is shared by LADWP (13.71 MW, 84.62 percent), and City of Burbank (2.49 MW, 15.38 percent). City of Glendale decided to withdraw from the Project after negotiation. The purchase of 13.71 MW of renewable energy output per year, or 114,000 megawatt-hour (MWh) in average annually, will enable the LADWP to meet approximately 0.5 percent of the LADWP's resource requirements. The renewable energy will be delivered through the 230-kV bank of the Mead 230-kV Substation, which is directly connected to LADWP's transmission system.

Through separate PSAs between SCPPA and each Participant, SCPPA sells all of the

renewable energy received from the Project and passes through to each Participant in accordance with its respective output entitlement share, the rights, benefits, and obligations provided under the Project PPA.

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

The Power Purchase Agreement

The Participants negotiated the PPA with the Seller, a Delaware limited liability company which is, in turn, an affiliate of Ormat Nevada, Inc., a Delaware Corporation. Ormat Nevada, Inc. is in turn an affiliate of Ormat Technologies Inc., a Delaware Corporation. The PPA provides that Seller will sell to SCPPA an average of 16.2 MW of renewable energy and associated environmental attributes from the Project, located in Mineral County, Nevada for a delivery term of 20 years beginning December 31, 2013, as planned Commercial Operation Date. The Point of Delivery (POD) of the renewable energy is at the 230-kV Mead Substation which is directly connected to LADWP transmission system. The purchase price for delivered energy is \$99 per MWh fixed for a 20-year term. Seller will deliver energy through the One Nevada Transmission Line (ON-Line) which is currently under construction and is scheduled to be complete by the end of 2013. In case the in-service date of the ON-Line is delayed after December 31, 2013, the PPA provides an Interim Operation Period (IOP) which is effective for two years. During the IOP, Seller may deliver the energy to the POD at the Mead 230-kV Substation utilizing the Transmission Services of the California Independent System Operator Corporation (CAISO) at the same energy price. At the end of the IOP, SCPPA has the option to extend the IOP for one additional year, provided that the POD shall be at the NV Energy side of the Gonder 230-kV Substation and the energy price shall be \$93 per MWh. At the end of the extended IOP, if Seller remains unable to transmit the full energy output of the Project to the POD at the Mead 230-kV Substation using the ON-Line, Seller may elect to utilize the Transmission Services of CAISO as Transmission Provider for the rest of the contract term to deliver the Project energy to POD at Mead 230-kV Substation at the original price of \$99 per MWh.

For each contract year, the annual guaranteed generation of the Project energy delivered to the POD is 90 percent of each year's annual contract quantity and may decline 0.5 percent yearly for the duration of the delivery term. To the extent there is a shortfall of guaranteed energy delivered, that replacement energy will be made up in the following two contract years.

The PPA provides performance securities for various stages of construction and through the delivery term of the Project, which SCPPA can draw upon if the Seller fails to timely achieve specific milestone dates according to the energy delivery terms and conditions. A Project Development Security in the aggregate amount of \$2,500,000 from the effective date of the PPA to the planned COD, and a Delivery Term Security in the aggregate amount of \$8,000,000 which secures the Seller's obligations under the PPA following the COD.

There have been no previous PPAs directly with Seller.

The LADWP Power Sales Agreement No. BP 12-049

Under the terms of the PSA No. BP 12-049, the LADWP contractually agrees:

- Beginning December 31, 2013, to purchase from SCPPA, 13.71 MW of renewable geothermal energy and associated environmental attributes, equivalent to 84.62 percent share of energy and capacity of the Project, from Mineral County, Nevada for a period of 20 years. With a measured initial generation capacity factor of 95 percent and with a 0.995 percent annual degradation, LADWP expects to receive an average of 114,000 MWh annually.
- To pay for the energy, at a fixed rate of \$99 per MWh with no annual escalation factor.
- The estimated cost of the renewable energy and environmental attributes purchased over the 20-year term of the PPA is expected to be up to \$226 million.

The PSA shall become effective on the first day when all of the following shall have occurred: (i) this PSA shall have been duly approved, executed, and delivered by SCPPA and Purchaser, (ii) PSAs between SCPPA and the other Participants shall have been duly approved, executed, and delivered by the parties, and (iii) the PPA shall have been duly approved, executed, and delivered by SCPPA and Seller.

In addition, the PSA:

- Identifies the roles and obligations of SCPPA and LADWP, including project deliverables, project manager, setting up of an annual budget, reporting requirements, among others.
- Establishes payment mechanisms including payment pledges, charges and billing procedures, interest payments, among others.
- Establishes step-up requirements for a non-defaulting Participant to bear their pro rata share of the costs of another Participant that fails to meet its payment obligations under its separate PSA with SCPPA.
- Establishes the rights and obligations of SCPPA and LADWP under the PSA to deliver energy, capacity, and environmental attributes.
- Encompasses other agreements and obligations including non-performance and payment defaults, and liability conditions to termination or amendments, among others.
- Establishes a Coordinating Committee for the purpose of project control, communication, and coordination between the Participants and SCPPA. For all actions taken by the Coordinating Committee, an affirmative vote of one or more representatives of the Participants having output entitlement shares aggregating at least 80 percent of the output entitlement shares is required.
- Encompasses other services including dynamic scheduling, arrangement of transmission services, metering, and transfer of environmental attributes to Participants.

The LADWP Agency Agreement No. BP 12-050

Under AA No. BP 12-050, the LADWP contractually agrees to act as the Project Manager for SCPPA, in order for SCPPA to carry out activities necessary to place the Project in operation and maintenance. The mutual covenants and agreements addressed by the AA:

- Provides for the designation of the LADWP as the Project Manager to administer the project energy scheduling on behalf of SCPPA and for the benefit of all the Participants.
- Identifies the roles and obligations of SCPPA and LADWP in connection with project reviews, project monitoring, project accounting, billing, project reporting, project controls, setting up of an annual budget, reporting requirements, among others.
- Establishes payment mechanisms including payment to LADWP by SCPPA for costs, charges, and billing procedures, among others.

- The term of the AA is the same as the PSA, which is inclusive of the 20-year PPA term, and provides additional time required for SCPPA administrative, energy scheduling, and financial matters.

Los Angeles City Council Approval

Per Charter Section § 373, City Council approval is required and per Charter Section § 674, City Council approval by ordinance is required for the purchase of electric energy.

Due to time-sensitive operational needs, an Executive Directive No.4 waiver was granted by the Mayor's Office on January 15, 2013. A City Administrative Officer report will be provided for City Council review prior to final consideration of this item.

METHOD OF SELECTION

Competitive Cooperative Purchase Sole Source Single Source

OUTREACH EFFORTS TAKEN

The SCPPA RFP was distributed to renewable energy providers, developers, and contractors, as well as posting.

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

The PPA has been structured to include the M/WBE policy according to the Los Angeles business policies requirements described in Section 14.25(c) of the PPA.

ENVIRONMENTAL DETERMINATION

In accordance with the California Environmental Quality Act (CEQA) it has been determined that PSA No. BP 12-049 for 13.71 MW of geothermal capacity from the Project in Mineral County, Nevada and AA No. BP 12-050 for project management services with SCPPA is exempt pursuant to the General Exemption described in CEQA Guidelines Title 14, Chapter 3, Article 18, Section 15277.

WILD ROSE GEOTHERMAL ENERGY PROJECT

POWER SALES AGREEMENT

BETWEEN

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

AND

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

DATE AS OF DECEMBER 31, 2012

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WILD ROSE GEOTHERMAL ENERGY PROJECT

POWER SALES AGREEMENT

1. **PARTIES.** This Wild Rose Geothermal Energy Project Power Sales Agreement (this "Agreement"), is dated for convenience as of this 31st day of December, 2012, by and between the SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, a joint powers agency and a public entity organized under the laws of the State of California, hereinafter designated as "SCPPA," created under the provisions of the Act, and the CITY OF LOS ANGELES acting by and through the Department of Water and Power, a California municipality. The CITY OF LOS ANGELES is also periodically designated in this Agreement as "LADWP" or as "Purchaser," or, depending upon the context, as "Project Participant." LADWP and SCPPA are also sometimes herein referred to individually as a "Party" and together as the "Parties." In addition, LADWP and the other member of SCPPA participating in the Project may be referred to collectively, in this Agreement, as "Project Participants."

2. **RECITALS, CONSTRUCTION AND PRELIMINARY MATTERS.** The Recitals set forth herein and the facts, which follow, are incorporated into this Agreement by reference for all purposes. The facts and the circumstances of the Parties contained in the Recitals, among others, represent the background and framework for this Agreement, the aim and purpose of this Agreement and the intendments of the Parties with respect thereto. This Agreement has been reviewed by attorneys for both Parties and shall not be interpreted with reference to the rules of construction providing for construction against a Party responsible for drafting or creating a particular provision or section, but should instead be interpreted in a manner which broadly carries forth the goals and objectives of the Parties as expressed herein. References to "Sections," "Annexes," "Appendices," "Schedules" and "Exhibits" shall be to Sections, Annexes, Appendices, Schedules and Exhibits, as the case may be, of this Agreement unless otherwise specifically provided. Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose nor given any substantive effect. Any of the terms defined herein may, unless the context otherwise requires, be used in the singular or the plural, depending on the reference. The use herein of the word "include" or "including", when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not non-limiting language (such as "without limitation" or "but not limited to" or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term or matter. This Agreement is made with reference to the following facts among others:
 - 2.1 SCPPA was created pursuant to provisions contained in the Joint Exercise of Powers Act found in Chapter 5 of Division 7 of Title 1 of the Government Code of California, as amended from time to time (the "Act"), by its members, which are municipalities and an irrigation district that supply, among other things, electrical energy, in the State of California, for the purpose of jointly and

cooperatively undertaking the planning, financing, development, acquisition, construction, improvement, betterment, operation, and maintenance, of projects for the generation or transmission of electric energy, including the development and implementation of systems and frameworks for the acquisition and delivery of secure, long-term reliable supplies of renewable electric energy.

- 2.2 To facilitate the appropriate review and due diligence studies necessary to carry forth an effective program for the development of renewable resources SCPPA created the "Renewable Electric Energy Resource Project" to be carried forth between SCPPA and those SCPPA members desiring to participate in this renewable energy oriented project under SCPPA's Joint Powers Agreement. Thereafter on March 17, 2006, the SCPPA Board of Directors by way of Resolution 2006-13 found and declared the proposed Renewable Electric Energy Resource Project to be an official SCPPA Study Project pursuant to the SCPPA Joint Powers Agreement and authorized the execution of a development agreement for the Renewable Electric Energy Resource Project among SCPPA and the SCPPA members participating in this Study Project.
- 2.3 In pursuit of the goals of the Renewable Electric Energy Resource Project SCPPA has issued Requests for Proposals ("RFP") for potential renewable electric resources to address SCPPA member renewable energy needs, and as a result of responses to that RFP SCPPA and two of its members, LADWP and Burbank (the "Project Participants"), have investigated the feasibility of a geothermal electric generating facility (the "Facility") to be designed, constructed, maintained and operated by ORNI 47 LLC, a Delaware limited liability company (the "Power Purchase Provider"), an affiliate of Ormat Nevada, Inc., a Delaware corporation. The Facility will be located in Mineral County, Nevada, on a site leased by the Power Purchase Provider.
- 2.4 SCPPA desires to enter into a Power Purchase Agreement with the Power Purchase Provider for the purchase of Energy and the associated Environmental Attributes from the Facility for the purpose of selling all said purchased Facility Output to LADWP and the other Project Participant pursuant to this Agreement and a Power Sales Agreement with such other Project Participant.
- 2.5 LADWP has a need for an economical, reliable source of Energy and Environmental Attributes to meet the requirements of environmental and energy procurement laws, including renewables portfolio standard requirements, as well as the demands of its current and/or future customers in an environmentally responsible manner and, as such, has determined that it is desirable to enter into this Agreement to purchase a Contract Share of the Energy and Environmental Attributes of the Facility from SCPPA.
- 2.6 The Project Participants have participated in the negotiation of a power purchase agreement and related agreements, arrangements and mechanisms for the procurement of the Facility Output of this Facility by way of a transaction through which SCPPA will purchase the Facility Output of this electric generation facility and will pay for Facility Output, Replacement Energy, Excess Energy, Capacity

Rights, Environmental Attributes and any other Facility Output in connection with the delivery of the same.

2.7 The Project Participants have concluded that the purchase of geothermal electric generation under the Power Purchase Agreement will materially assist the Project Participants to carry forth their critical operating and business objectives and their RPS compliance requirements to provide a long-term supply of renewable energy for the Project Participants. SCPPA, Burbank and LADWP anticipate that the Facility Output produced by the Project will be utilized to serve the Project Participants' renewable energy needs within their respective service areas and will materially assist each respective utility in meeting the requirements of its renewable portfolio standard.

2.8 In order to secure the performance of the Power Purchase Provider in connection with all of its obligations and requirements under the Power Purchase and Security Agreements, SCPPA has endeavored to provide for various legal mechanisms including Security Instruments and other contractual provisions under which SCPPA is entitled to exercise certain remedial rights and assurances, cure rights and foreclosure rights in order to assure the provision of electric energy by the Facility to satisfy the requirements of the Power Purchase Agreement. It is the intention of the Parties that the Project Participants, under the Power Sales Agreements, shall be reposed with the rights, benefits, liabilities, obligations and risks accruing to SCPPA pursuant to the provisions of these instruments in accordance with each Project Participant's Output Entitlement Share and Output Cost Share

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

4. **DEFINITIONS.** The meaning of capitalized terms in this Agreement not otherwise defined in context shall be as defined in Section 1.1 of the Power Purchase Agreement, which is incorporated herein by this reference, or by the definitions set forth in the attached Appendix A.

4.1 Delivery Point Output Cost Share. As to any Project Participant for each Power Supply Year during the term of the Power Purchase Agreement, the applicable percentage share, as set forth for such Project Participant in Appendix C hereof, of the Delivery Point Output cost component with respect to such Project Participant's Designated Point of Delivery. The Delivery Point Output Cost Share of such Project Participant may be adjusted in connection with a revision of Appendix C as provided in Section 16.

4.2 Total Monthly Costs. All of SCPPA's costs resulting from SCPPA's contracting for, providing for, accommodating, and facilitating the Project, including costs arising under the Power Purchase Agreement or other Project Agreements. SCPPA shall apply, as a credit against Total Monthly Costs, any receipts, revenues and other moneys received by SCPPA from surplus equipment,

materials, supplies or assets relating to the Project sold prior to the date of Commercial Operation for the benefit of SCPA. Total Monthly Costs shall, as applicable, consist of (i) the Delivery Point Output cost component (described in Section 4.3.1), (ii) the PPA General and Administrative cost component (described in Section 4.3.2), (iii) a Reserve Fund cost component (described in Section 4.3.3, and (iv) a Supplementary Services cost component to the extent SCPA incurs such cost (described in Section 4.3.4), and Total Monthly Costs shall include, but not be limited to, the items of cost and expense referred to in the Power Purchase Agreement and Related Agreements and this Section 4.2 that are accrued or paid by SCPA during each Month of each Power Supply Year. In the event any Power Supply Year shall consist of fewer than twelve Months, the fraction set forth in Section 4.3.2 shall be adjusted accordingly and, in the event of any revision of the Annual Budget after the commencement of any Power Supply Year, the amount determined pursuant to said Section shall be appropriately adjusted so that any increase or decrease in the portion of the Annual Budget applicable to said Section(s) shall be evenly apportioned over the remaining Months of such Power Supply Year.

4.3 Power Purchase Agreement Total Monthly Costs. The cost components of Total Monthly Costs during the term of the Power Purchase Agreement shall consist of the following:

4.3.1 The Delivery Point Output cost component of the Total Monthly Costs for each Month with respect to each of the respective Points of Delivery shall consist of the costs of the Facility Output or Replacement Energy, as calculated at the applicable Energy prices therefor set forth in the Power Purchase Agreement, as delivered at such Point of Delivery during such Month.

4.3.2 The Power Purchase Agreement General and Administrative cost component of the Total Monthly Costs for each Month shall consist of one-twelfth of the administrative and general costs with respect to the Project, including (i) legal fees, costs relating to litigation (including disbursements and other amounts paid as a result of such litigation), insurance costs (including amounts to fund any self-insurance program), overhead costs, any taxes required to be paid by SCPA with respect to Facility Output or the Project, (ii) all expenses incurred in enforcing the Power Purchase Agreement and other Power Purchase and Security Agreements, (iii) all costs of compliance by SCPA with its indemnification obligations under Section 13.7 of this Agreement and (iv) all costs related to the conducting of the business of SCPA with respect to the Project, including the applicable portion of salaries, fees for legal, engineering, financial and other services, all other costs attributable to miscellaneous and incidental expenses in connection with the administration of the Project, and all other expenses properly related to the conduct of such affairs of SCPA.

4.3.3 The Reserve Fund cost component of the Total Monthly Costs shall

consist of the monthly costs associated with a Project Participant's Project Cost Share that is necessary to establish and maintain the Reserve Funds at the level deemed prudent and appropriate by the Coordinating Committee and the SCPA Board of Directors.

4.3.4 The Supplementary Services cost component of the Total Monthly Costs shall consist of all monthly costs incurred by SCPA, if any, in connection with the transmission, dispatching, scheduling, balancing, or delivery of and otherwise facilitating the disposition, movement, crediting and accounting for a Purchaser's Output Entitlement Share from its Designated Point of Delivery to one or more specified delivery point(s) as determined by such Purchaser pursuant to Sections 9.2, 9.4 and 9.5.

4.4 Project Cost Share. For any Power Supply Year and as to any particular Project Participant, the share (expressed as a percentage), as set forth in Appendix B of this Agreement, attributable to such Project Participant with respect to Monthly Costs as provided in Section 7.1 and Section 7.2 hereof. The Project Cost Share of such Project Participant may be adjusted in connection with a revision of Appendix B as provided in and subject to the provisions of Section 16.

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

5.1 Purchase and Sale of Output Entitlement Share. In accordance with the terms and conditions of this Agreement, commencing on the earliest of (i) the date SCPA is obligated to pay any portion of the costs of the Project, (ii) the effective date of the Power Purchase Agreement, or (iii) the date of the first delivery of energy to Purchaser pursuant to this Agreement, and continuing through the term of this Agreement, except as otherwise provided herein, SCPA shall provide Purchaser its Output Entitlement Share of any and all products, rights, and benefits, whether tangible or intangible received or obtained by SCPA with respect to the Project, including without limitation Facility Output or, if applicable, Replacement Energy, at Purchaser's Designated Point of Delivery, and Purchaser shall be responsible for and pay its applicable Cost Share of any and all costs, liabilities and obligations associated with the acquisition of such products, rights, and benefits, which shall include without limitation all costs, liabilities and obligations associated with Facility Output or Replacement Energy, as applicable, under the Power Purchase Agreement and any other applicable Project Agreement.

5.2 Output and Deliverables. During the term of the Power Purchase Agreement, SCPA shall purchase and provide and Purchaser shall purchase from SCPA and receive its Output Entitlement Share of the Facility Output or Replacement Energy as delivered at Purchaser's Designated Point of Delivery in accordance with the Power Purchase Agreement. To the extent permitted by the Power Purchase and Security Agreements, the applicable Project Agreements, or otherwise determined by the Coordinating Committee or the Board of Directors, SCPA will endeavor to take such actions or implement such measures as may be necessary or desirable for the utilization, maintenance or preservation of the rights

and interests of the Project Participants in the Project including, if appropriate, such enforcement actions or other measures as the Coordinating Committee or the Board of Directors deems to be in the Project Participants' best interests.

- 5.3 Project Manager. SCPPA or its designee or designees shall act as Project Manager to administer the Project, or cause the Project to be administered, through any project management or agency agreement or, as applicable, through the Power Purchase Agreement.
- 5.4 Adoption of Annual Budget. The Annual Budget and any amendments to the Annual Budget shall be prepared and approved in accordance with Sections 5.4.1 or 5.4.2, respectively.
 - 5.4.1 SCPPA will prepare and submit to Purchaser a proposed Annual Budget at least sixty (60) days prior to the beginning of each Power Supply Year. In connection with the preparation of the Annual Budget, SCPPA shall incorporate therein the Operating Budget for such Power Supply Year as prepared by the Project Manager and approved by the Coordinating Committee. Project Participants may then submit to SCPPA, at any time until the Annual Budget is adopted, any matters or suggestions relating to the Annual Budget. SCPPA shall adopt the Annual Budget not less than thirty (30) nor more than sixty (60) days prior to the beginning of such Power Supply Year and shall cause copies of such adopted Annual Budget to be delivered to each Project Participant; provided, however, the Annual Budget for the first Power Supply Year shall be prepared, considered, adopted and delivered in the most practicable manner available prior to Commercial Operation of the Facility. As required from time to time during any Power Supply Year after seven (7) days written notice to each Project Participant, SCPPA may, pursuant to the foregoing provisions for adopting the Annual Budget, adopt an amended Annual Budget for and applicable to such Power Supply Year for the remainder of such Power Supply Year.
 - 5.4.2 Any adjustment, and any other or further mechanism for adjustment, as may be required to address the variability of costs of operation of the Project at any time during the Power Supply Year or the variability of or addition to any other Annual Budget component, may be incorporated into the Annual Budget as provided above, or any amendment to an Annual Budget at any time during any Power Supply Year upon the seven (7) days written notice to each Project Participant as set forth in Section 5.4.1.
- 5.5 Reports. SCPPA will prepare and issue to Project Participants the following reports each quarter of a Power Supply Year:
 - 5.5.1 Financial and operating statement relating to the Project.
 - 5.5.2 Variance report comparing the costs in the Annual Budget versus actual costs, and the status of other cost-related issues with respect to the Project.
- 5.6 Records and Accounts. SCPPA will keep, or cause to be kept, accurate records

and accounts of each of the properties and facilities comprising the Project as well as of the operations relating to the Project, all in a manner similar to accepted accounting methodologies associated with similar projects. All transactions of SCPA relating to the Project with respect to each Fiscal Year shall be subject to an annual audit. Purchaser shall have the right at its own expense to examine and copy the records and accounts referred to above on reasonable notice during regular business hours.

- 5.7 Provide Information. Purchaser agrees to supply SCPA, upon request, with such information, documentation and certifications as SCPA shall reasonably determine to be requisite to and necessary or desirable for the administration and ongoing activities of the Project, including information reasonably available to allow SCPA to respond to requests for such information from any federal, state or local regulatory body or other authority.
- 5.8 Consultants and Advisors Available. SCPA shall make available to the Coordinating Committee at the latter's request, all consultants and advisors, and such consultants and advisors shall be authorized to consult with and advise the Coordinating Committee on Project matters.
- 5.9 Liquidated Damages. Any amounts paid to SCPA as and for liquidated damages as provided under Section 3.7 of the Power Purchase Agreement (and not then refunded subject to Section 3.7(a)) shall be remitted to Project Participants in accordance with their respective Output Cost Shares.

6. COORDINATING COMMITTEE.

- 6.1 Establishment and Authorization of the Coordinating Committee. The Coordinating Committee is hereby established and duly authorized to act on behalf of the Project Participants as provided in this Section 6 for the purpose of (i) providing coordination among, and information to, the Project Participants and SCPA, (ii) the administration of the Power Purchase Agreement, (iii) the administration of the Project Agreements, (iv) making any recommendations to the Board of Directors regarding the administration of the Project and any acquisitions related thereto and (v) execution of the Coordinating Committee responsibilities set forth in Section 6.2 hereof, including the various financial, administrative, and technical matters which may arise from time to time in connection with the Project or the administration thereof, and such further developments as may need to be addressed. The Coordinating Committee shall consist of one representative from each Project Participant. Each Project Participant shall be entitled to cast a vote equal to its Project Cost Share as set forth in Appendix B hereof. SCPA shall be entitled to one non-voting representative. SCPA and Purchaser shall, within thirty (30) days after SCPA has entered into the Power Sales Agreement between SCPA and Purchaser, give notice to SCPA and any other Project Participant, of its representative on the Coordinating Committee. Alternate representatives may be appointed by similar written notice to act on the Coordinating Committee, or on any subcommittee established by the Coordinating Committee or by the Board of Directors, in the

absence of the regular representative or to act on specified occasions with respect to specified matters. An alternate representative may attend all meetings of the Coordinating Committee but may vote only if the representative for whom she/he serves as alternate is absent. No Project Participant's representative shall exercise any greater authority than permitted by the Project Participant or Project Participants, which she/he represents. The chairperson of the Coordinating Committee ("Chairperson") shall be a representative of the Project Manager. The Chairperson shall be responsible for calling and presiding over meetings of the Coordinating Committee. The Chairperson or SCPPA shall promptly call a meeting of the Coordinating Committee at the request of any representative in a manner and to the extent permitted by law. For the purpose of conducting meetings, a quorum shall exist so long as SCPPA's representative and the representative of at least a majority of the Project Participants shall be present. Except as may otherwise be provided in an agreement to which all of the Project Participants agree, all actions taken by the Coordinating Committee shall require an affirmative vote of one or more Project Participants having Project Cost Shares aggregating at least eighty percent (80%) of the total Project Cost Shares. Notwithstanding the forgoing, however, if a proposed action before the Coordinating Committee or the Board of Directors relates solely to the interests of a single Project Participant and such Project Participant determines, in good faith, that such proposed action will not adversely affect, economically or otherwise, such Project Participant, Project Participants agree that they shall not unreasonably withhold their affirmative vote with respect to such proposed action. Unless the Board of Directors shall otherwise determine to require a majority vote pursuant to the terms of the Joint Powers Agreement, all actions with respect to the Project taken by the SCPPA Board of Directors shall require an affirmative vote of at least eighty percent (80%) of the Project Votes (as defined in SCPPA's Joint Powers Agreement, dated as of November 1, 1980, as amended from time to time) cast thereon. Purchaser acknowledges and agrees that SCPPA, through the Coordinating Committee or the Board of Directors, as applicable, may from time to time enter into applicable Project Agreements or amendments of and supplements to the applicable Project Agreements (in accordance with their respective terms) and that, except as provided herein or as otherwise provided by resolution of the Board of Directors, SCPPA will not be required to obtain the consent or approval of Purchaser in connection with any such Project Agreement or supplement or amendment, provided that any such amendment shall be approved by the Coordinating Committee or the Board of Directors in the manner provided by this Agreement. Conducting of Coordinating Committee meetings and actions taken by the Coordinating Committee may be taken by vote given in an assembled meeting or by telephone, video conferencing, telegraph, telex, letter, e-mail or by any combination thereof, to the extent permitted by law.

6.2 Coordinating Committee Responsibilities. In addition to those responsibilities enumerated in Section 6.1 the Coordinating Committee shall have the following responsibilities:

6.2.1 Provide liaison between SCPPA and the Project Participants at the management or other levels with respect to the ongoing administration of

- the Project and maintain a liaison between the Project Participants and all other SCPPA members with respect to the Project, and where the Coordinating Committee deems it appropriate, maintain a liaison with the counterparties to any Project Agreements and with any other entities or utilities engaged in or in connection with other renewable energy projects.
- 6.2.2 Exercise general supervision over any subcommittee established pursuant to Section 6.5.
 - 6.2.3 Review, develop, discuss, and, if appropriate, recommend, modify or approve all budgets and revisions thereof prepared and submitted by SCPPA or the Project Manager pursuant to any applicable agreement.
 - 6.2.4 Review, develop, discuss, and, if appropriate, modify, approve or otherwise act upon any systems or procedures for adjustment of the Annual Budget or any alternative methodologies for budgeting or billing as set forth in Section 5 and Section 7 of this Agreement.
 - 6.2.5 Carry out all other actions reposed in the Coordinating Committee with respect to budgeting and billing as set forth in Section 5 and Section 7 of this Agreement.
 - 6.2.6 Review, discuss and attempt to resolve any disputes among the Project Participants or the parties to any Project Agreements including, without limitation, the Power Purchase Provider, the counterparties under the Power Purchase and Security Agreements, the Security Instruments, any BLM or Mineral County, Nevada officials or representatives, any community organizations, or any other counterparty with respect to any Project Agreement relating to the Project.
 - 6.2.7 Make recommendations to the Project Manager, the Board of Directors or to the counterparties to any of the Project Agreements, as appropriate, with respect to the ongoing administration of the Project.
 - 6.2.8 Upon the request of the Project Participants affected thereby, acting by and through their respective representatives on the Coordinating Committee and in coordination with SCPPA's Board of Directors, adopt a resolution approving the revisions of Appendices A, B and C, as applicable, of this Agreement as provided in and subject to the provisions of Section 16.
 - 6.2.9 Review, develop, and if appropriate, modify and approve rules, procedures and protocols for the administration of the Project or Project Agreements, including rules, procedures and protocols for the management of the costs of the scheduling, handling, tagging, dispatching and crediting of Facility Output and the handling and crediting of Environmental Attributes associated with the Facility.

- 6.2.10 Review, and, if appropriate, modify, approve or otherwise act upon, the form or content of any written statistical, administrative, or operational reports, geothermal energy related data, electric generation information, geothermal energy production data, and technical information, facility reliability data, transmission information, forecasting scheduling, dispatching, tagging, parking, exchanging, balancing, movement, or other delivery information, climate and weather related matters, regulatory matters or requirements, and other information and other similar records or matters pertaining to the Project which are furnished to the Coordinating Committee by the Project Manager, the counterparties to Project Agreements, experts, consultants or others.
- 6.2.11 Review, and, if appropriate, modify, approve or otherwise act upon, practices and procedures as formulated by the Project Manager or, if applicable, the counterparty to any Project Agreement, to be followed by the Project Participants for, among other things, the production, scheduling, tagging, transmission, delivery, balancing, exchanging, crediting, tracking, monitoring, remarketing, sale or disposition of Facility Output.
- 6.2.12 Review, modify and approve, if necessary, the schedule of planned activities formulated by the Project Manager or the counterparty with respect to the performance of any Project Agreement, including the policies for selection and utilization of contractors and consultants included in the budgets with respect to the Project. In formulating and approving such schedules, consideration may be given, if possible, to each Project Participant's electric system conditions, which may prevail during such planned activities.
- 6.2.13 Review, and, if appropriate, recommend, modify, approve or otherwise act with respect to the exercise of SCPPA's rights under the Power Purchase Agreement or review, recommend, approve or otherwise act with respect to the procurement of resources in connection with the Power Purchase Agreement.
- 6.2.14 Review, modify, approve or otherwise act upon any proposed change, extension or modification of any date set forth in Appendix I of the Power Purchase Agreement of the milestone schedule or to any Milestone under the Power Purchase Agreement as the Coordinating Committee shall deem to be desirable, appropriate or otherwise in SCPPA's interest. The Coordinating Committee may impose such other terms, conditions or qualifications upon any such action as the Coordinating Committee shall deem appropriate.
- 6.2.15 Review and act upon any present, potential or possible future anticipated failure to deliver Guaranteed Generation under the Power Purchase Agreement in such manner as the Coordinating Committee shall deem appropriate.

- 6.2.16 Act upon such recommended changes, as the Coordinating Committee shall deem appropriate as set forth in Section 11.5 of the Power Sales Agreements. Such changes as may occur in such manner with respect to Appendices A, B and C herein shall be considered an element of the administration of this Agreement and shall not be deemed an amendment of this Agreement and shall not require the consent of the Parties hereto.
- 6.2.17 Review, and if appropriate, recommend, modify or approve practices and procedures formulated by the Project Manager or by any counterparty to any Project Agreements giving due recognition to the needs of all Project Participants.
- 6.2.18 Review and act upon any matters involving any Security and Assignment Agreement, including but not limited to the Performance Security, any of the applicable Power Purchase and Security Agreements, any guarantee or letter of credit delivered to or for the benefit of SCPPA by the Power Purchase Provider or any other counterparty to any Project Agreement in connection with the Project, and take such actions or make such recommendations as may be appropriate or desirable in connection therewith.
- 6.2.19 Review, and, if appropriate, recommend, modify or approve practices and procedures formulated by the Project Manager or any counterparty with respect to any Project Agreement, and when requested by a Project Participant review, and, if appropriate, recommend, modify or approve those matters associated with any Point of Delivery or any other point or points designated for delivery of energy, delivery arrangements, transmission contracts, or other Project Agreements.
- 6.2.20 Review, and, if appropriate, recommend, modify, or approve policies or programs formulated by the Project Manager or any counterparty under any Project Agreement for determining or estimating the geothermal energy resources or the values, quantities, volumes or costs of renewable energy from the Facility.
- 6.2.21 Review, modify or approve recommendations of the Project Manager or counterparties made pursuant to the provisions of any Project Agreement.
- 6.2.22 Review, modify and where appropriate, recommend or approve the implementation of metering technologies and methodologies appropriate for the delivery, accounting for, transferring and crediting of Facility Output to the respective Points of Delivery or from any of the Points of Delivery to other points or destinations, as applicable.
- 6.2.23 Review, examine modify and where appropriate, recommend or approve the implementation of methods for addressing curtailments or other.
- 6.2.24 Review, modify and where appropriate, recommend or approve the

implementation of practices and procedures to carry forth the provisions of Section 9 herein, as may be applicable with respect to any of the Project Participants.

- 6.2.25 Identify, or develop criteria to identify, contracts or agreements relating to work that shall be deemed to be Major Contracts under any applicable project management or operating agreement.
- 6.2.26 Review, and to the extent permitted by this Agreement or any other relevant agreement relating to the Project, modify and approve or disapprove the specifications, vendors' proposals, bid evaluations, form of final agreement, or any other matters with respect to Major Contracts.
- 6.2.27 Perform such other functions and duties as may be provided for under this Agreement, the Power Purchase Agreement, the Power Purchase and Security Agreements, the Security Instruments or any other applicable Project Agreement or as may otherwise be appropriate or beneficial to the Project.

6.3 Management Decisions and the Role of Board of Directors. The rights and obligations of SCPPA under the Project Agreements shall be subject to the ultimate control at all times of the Board of Directors. Project Participants shall be entitled to participate in the decisions of the Board of Directors with respect to SCPPA's rights and interests in the Facility and the Project as provided in Section 6.1 herein. SCPPA through the Board of Directors shall have, in addition to the duties and responsibilities set forth elsewhere in this Agreement, the following duties and responsibilities, among others:

- 6.3.1 Future Developments. The Board of Directors shall provide liaison among the Project Participants at the management level with respect to the direction of the Project and future developments arising out of the Power Purchase and Security Agreements.
- 6.3.2 Dispute Resolution. The Board of Directors shall endeavor to review, discuss and attempt to resolve any disputes among SCPPA, the Project Participants and the counterparties under the Project Agreements relating to the Project, the operation and management of the Facility and SCPPA rights and interests in the Facility.
- 6.3.3 Scheduling procedures. When recommended by the Coordinating Committee, or when otherwise appropriate, the Board of Directors shall act upon and approve or modify the practices and procedures to be followed by the Project Participants for the scheduling, delivering, controlling and allocating Facility Output associated with the Project.
- 6.3.4 Project Agreements. The Board of Directors shall have the authority to approve the Project Agreements and to review modify and approve, as appropriate, all amendments, modifications and supplements to the Project

Agreements.

- 6.3.5 Committees. The Board of Directors shall exercise such review, direction or oversight as may be appropriate with respect to the Coordinating Committee and any other committees established pursuant to the Project Agreements.
- 6.3.6 Budgeting. The Board of Directors shall review, modify and approve each Annual Budget and the revisions thereto in accordance with Section 5.4 of this Agreement.
- 6.3.7 Revision of Appendices A, B and C. In coordination with the Coordinating Committee adopt a resolution approving the revisions of Appendices A, B and C, as applicable, of this Agreement as provided in and subject to the provisions of Section 16.
- 6.3.8 Supervening Authority of the Board. The Board of Directors is reposed with complete and plenary supervening power and authority to act upon any matter which is capable of being acted upon by the Coordinating Committee or which is specified as being within the authority of the Coordinating Committee pursuant to the provisions of this Agreement, including those matters enumerated in Section 6.1 and 6.2 of this Agreement.
- 6.3.9 Other Matters. The Board of Directors is authorized to perform such other functions and duties, including oversight of those matters and responsibilities addressed by the Coordinating Committee, as may be provided for under this Power Sales Agreement and under the other Project Agreements, or as may otherwise be appropriate.
- 6.4 Periodic Audits. The Board of Directors or the Coordinating Committee may arrange for the annual audit under Section 5.6 of this Agreement by certified accountants, selected by SCPPA and experienced in electric generation or electric utility accounting, of the books and accounting records of SCPPA, and where deemed appropriate the Project Manager (if other than SCPPA), the Power Purchase Provider (to the extent provided under any of the Power Purchase and Security Agreements) and any other counterparty under any Project Agreement to the extent allowable, and any cost reimbursable consultant or cost reimbursable contractor relevant to the administration of the Project, and such audit shall be completed and submitted to SCPPA as soon as reasonably practicable after the close of the Fiscal Year. SCPPA shall promptly furnish to Project Participants copies of all audits. No more frequently than once every calendar year, a Project Participant may, at its sole cost and expense, audit or cause to be audited the books and cost records of SCPPA, the Project Manager (if other than SCPPA), the counterparty under any Project Agreement to the extent so provided in the applicable Project Agreement, and any cost reimbursable consultant or cost reimbursable contractor relevant to the administration of the Project.

- 6.5 Additional Committees. The Coordinating Committee, or the Board of Directors, as appropriate, may establish as needed subcommittees including, but not limited to, auditing, legal, financial, engineering, mechanical, geologic, operating, insurance, community relations, governmental relations, environmental and public information subcommittees. The authority, membership, and duties of any subcommittee shall be established by the Coordinating Committee or Board of Directors; provided, however, such authority, membership or duties shall not conflict with the provisions of any of the Project Agreements. Each such subcommittee shall be initially responsible to the Coordinating Committee.
- 6.6 Written Record. All actions, resolutions, determinations and reports made by the Coordinating Committee as required by this Agreement shall be set forth in a written record or its minutes.
- 6.7 Change in Representative. Each Project Participant shall promptly give written notice to the other Project Participant and SCPPA of any changes in the designation of its representative on the Coordinating Committee or any subcommittee, and SCPPA shall promptly give written notice to the other Project Participants of any changes in the designation of its representative on the Coordinating Committee or any subcommittee.
- 6.8 Costs of Consultants. Costs (or the applicable portion thereof) of consultants and others employed or appointed by the Coordinating Committee to perform the duties required hereunder, to the extent the Coordinating Committee is authorized to so employ or appoint, shall be included in the Total Monthly Costs, as appropriate, and shall be billed to SCPPA or the Project Manager (if other than SCPPA).
- 6.9 Representative's Expenses. Any expenses incurred by any representative of any Project Participant or group of Project Participants serving on the Coordinating Committee or any other committee in connection with his/her duties on such committee shall be paid by the Project Participant or Project Participants which he/she represents and shall not be an expense payable under this Agreement.
- 6.10 Inaction by Committee. It is recognized by SCPPA and the Project Participants that if the Coordinating Committee is unable or fails to agree with respect to any matter or dispute which it is authorized to determine, resolve, approve, disapprove or otherwise act upon after a reasonable opportunity to do so, or within the time limits specified herein or in any otherwise applicable Project Agreement, then the Project Manager may take such action as in its discretion is necessary for its timely performance under any applicable Project Agreement pending the resolution of any such inability or failure to agree, but nothing herein shall be construed to allow the Project Manager to act in violation of the express terms of any applicable project management agreement or this Agreement.
- 6.11 Compliance with the Power Purchase Agreement. It is further recognized by SCPPA and the Project Participants that notwithstanding Section 6.10 or any other provision of this Agreement, no action by the Coordinating Committee, or

the Project Manager (if a designee other than SCPPA) shall require SCPPA to act in any manner inconsistent with requirements of the Power Purchase Agreement or to refrain from acting in a manner required by such requirements.

- 6.12 Delegation. To secure the effective cooperation and interchange of information in a timely manner in connection with various administrative, technical and other matters which may arise from time to time in connection with administration of the Project Agreements, in appropriate cases, duties and responsibilities of the Board of Directors or the Coordinating Committee, as the case may be under this Section 6, may be delegated to the Executive Director.

7. CHARGES AND BILLINGS.

- 7.1 Power Purchase Agreement Monthly Costs and Billing Statement. During the term of the Power Purchase Agreement the amount of Monthly Costs which shall be paid by Purchaser pursuant to a Billing Statement for a particular Month shall be the sum of the following, as applicable, subject to Sections 7.9 and 7.10 hereof and any applicable adjustments as provided in Section 12 hereof:

7.1.1 Purchaser's Delivery Point Output Cost Share multiplied by the Delivery Point Output cost component of Total Monthly Costs (as provided in Section 4.3.1) with respect to Purchaser's Designated Point of Delivery for such Month.

7.1.2 Purchaser's Project Cost Share multiplied by the PPA General and Administrative cost component of Total Monthly Costs (as provided in Section 4.3.2 hereof) for such Month.

7.1.3 Purchaser's Project Cost Share multiplied by the Reserve Fund cost component of Total Monthly Costs (as provided in Section 4.3.3 hereof) for such Month.

7.1.4 Purchaser's share of the Supplementary Services cost component of Total Monthly Costs (as provided in Section 4.3.4 hereof) for such Month based on Purchaser's allocated share of any such services procured by SCPPA on behalf of the Purchaser.

7.1.5 By the fifth calendar day of each Month during each Power Supply Year, SCPPA shall bill Purchaser for the amount of Monthly Costs to be paid by Purchaser for the current Month by providing Purchaser with a Billing Statement in accordance with the charges established pursuant to the provisions of this Agreement. Such Billing Statement shall detail the costs described in this Section 7.1 and shall set forth, among other things, the amounts due for such Month by Purchaser with respect to the items of Monthly Costs set forth in this Section 7.1, as such Monthly Costs may be adjusted from time to time in accordance with Section 5 and this Section 7. Such Billing Statement shall be paid by Purchaser on or before twenty (20) days after receipt of such Billing Statement.

- 7.2 Adoption of Alternative Billing Statement Procedures. The Coordinating Committee may recommend the adoption of an alternative Billing Statement billing methodology in connection with each Project Participant's Billing Statement with respect to the Total Monthly Costs and the costs associated with any Project Agreement. Such alternative Billing Statement procedures may be placed into effect with the approval of the same by resolution of the Board of Directors. Any such alternative Billing Statement billing methodology shall be fiscally prudent, financially sound and shall assure coverage of all potential and actual costs and obligations of SCPPA.
- 7.3 Disputed Monthly Billing Statement. In case any portion of any Billing Statement received by Purchaser from SCPPA shall be in bona fide dispute, Purchaser shall pay SCPPA the full amount of such Billing Statement and, upon determination of the correct amount, the difference between such correct amount and such full amount, if any, including interest at the rate received by SCPPA on any overpayment, will be credited to Purchaser by SCPPA after such determination; provided, however, that such interest shall not accrue on any overpayment that is acknowledged by SCPPA and returned to Purchaser by the fifth calendar day following the receipt by SCPPA of the disputed overpayment. In the event such Billing Statement is in dispute, SCPPA will give consideration to such dispute and will advise Purchaser with regard to SCPPA's position relative thereto within thirty (30) days following receipt of written notification by Purchaser of such dispute.
- 7.4 Reconciliation of Monthly Costs. As soon as practicable after the end of each Power Supply Year, SCPPA will submit to Project Participants a detailed statement of the actual aggregate Monthly Costs and other amounts payable hereunder, including any credits thereto, for all of the Months of such Power Supply Year, and the adjustments of the aggregate Monthly Costs and other amounts payable hereunder, if any, for any prior Power Supply Year, based on the annual audit of accounts provided for in Section 6.4. If, on the basis of the statement submitted as provided in this Section 7.4, the actual aggregate Monthly Costs and other amounts payable by the Project Participants for any Power Supply Year exceed the amount thereof which Project Participants have been billed, Project Participants shall pay SCPPA, within twenty (20) days of receipt of SCPPA's invoice, the amount to which SCPPA is entitled. If, on the basis of the statement submitted pursuant to this Section 7.4, the actual aggregate Monthly Costs or other amounts payable by the Project Participants for any Power Supply Year are less than the amount therefor which Project Participants have been billed, SCPPA shall, unless otherwise directed by Purchaser or the other Project Participant with respect to moneys owed to each, credit such excess against Purchaser's and the other Project Participant's next monthly Billing Statement. In the event that the failure of Purchaser to make its payments in accordance with this Agreement shall have resulted in the application of amounts in any reserve or other Fund under this Agreement to the payment of costs payable from such reserve or Fund and the other Project Participant shall have made up the deficiency created by such application or paid additional amounts as a result of a draw on such reserve or Fund, amounts thereafter paid to SCPPA by Purchaser for

application to such past due payments including interest shall be credited on the Billing Statements of such other Project Participant in the next Month or Months as provided in the applicable provisions of Section 11.

- 7.5 Other or Additional Cost Reconciliation Mechanisms. The Board of Directors may, by resolution, authorize or prescribe other billing, payment, costing and cost reconciliation mechanisms to address such billing, payment, costing and cost reconciliation issues as may from time to time arise with respect to the Project.
- 7.6 Interest on Late Payments. If Purchaser fails to pay any Billing Statement when due, interest shall accrue, to the extent permitted by law, at a rate equal to the lesser of (i) one percent per Month (12% per annum) on the unpaid amount of the bill or (ii) the monthly equivalent of the "prime" rate of interest as noticed in the Federal Reserve's HR 15 weekly bulletin (or the subsequent equivalent thereof) as of the date of nonpayment on the unpaid amount of the bill, until such Billing Statement is paid.
- 7.7 Prepayment of Monthly Costs. Purchaser may, at any time, pay moneys to SCPPA or utilize any credits due or amounts owed by SCPPA to Purchaser with respect to the Project for the purpose of prepaying its monthly Billing Statement. Such moneys and amounts owed by SCPPA under any Project Agreement shall be deposited into an account established by, or at the direction of, SCPPA. Consistent with SCPPA's investment policy, moneys in such account shall be invested pursuant to instructions provided to SCPPA by Purchaser and all investment income shall be credited to such account. Payment of the amount of any monthly Billing Statement or Default Invoice shall be made from moneys available in such account to the extent set forth in written directions from Purchaser to SCPPA received at least five (5) business days prior to the due date of such payment. Any credit or prepayment with respect to its monthly Billing Statement shall not relieve or reduce Purchaser's other obligations under this Agreement.
- 7.8 Costs or Expenses Incurred for Sole Benefit of Purchaser. Notwithstanding anything to the contrary in this Agreement, if a particular cost or expense is incurred by SCPPA for the sole benefit of Purchaser, unless otherwise determined by the Coordinating Committee, then such cost or expense shall be allocated only to Purchaser, in which event only Purchaser (and no other Project Participant) shall be responsible for the payment thereof under this Agreement. Any such cost or expense incurred by SCPPA for the sole benefit of Purchaser shall be deemed to be paid last from amounts paid by Purchaser for the payment of its Billing Statements.
- 7.9 Credit or other Payment Attributable to a Specific Project Participant. Should any Project Participant make or provide, through any type of payment mechanism, for a separate payment or prepayment for Facility Output or other Project purpose which results in a credit or reduction in SCPPA's obligation being credited to the purchase of Facility Output, or a reduced cost of power or otherwise credited under the Power Purchase Agreement or other Project Agreement, then, to the

extent that such credit is credited to an obligation of SCPPA under the Power Purchase Agreement or such other Project Agreement, such credit shall be passed through or credited to the applicable Project Participant under such Project Participant's Power Sales Agreement. Such a credit may at the request of the applicable Project Participant be credited on the Project Participants subsequent Billing Statements or handled pursuant to a Billing Statement methodology which bills for and places an amount which is the equivalent of the credit into the Project Participants project stabilization account or such a credit may be otherwise handled in such manner as the applicable Project Participant may reasonably request. The provisions of this Section 7.9 shall be in addition to the terms and provisions of Section 12 and shall not be applicable to any circumstances, conditions or matters that are within the scope of Section 12.

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

- 8.1 Unconditional Payment Obligation. Beginning with the earliest of (i) the date SCPPA incurs or becomes obligated to pay any portion of the costs of the Project, (ii) the effective date of any Project Agreement, (iii) the effective date of the Power Purchase Agreement or, (iv) the date of the first delivery of Facility Output to Purchaser and continuing through the term of this Agreement, Purchaser shall pay SCPPA the amounts of Monthly Costs set forth in the Billing Statements submitted by or on behalf of SCPPA to Purchaser in accordance with the provisions of Section 7 hereof and, without duplication, any amount set forth in any Step-Up Invoices or Default Invoices received by Purchaser as a result of the operation of Section 11 hereof, whether or not the Project or any part thereof has been completed, is functioning, producing, operating or operable or its output is suspended, interrupted, interfered with, reduced or curtailed or terminated in whole or in part, and such payments shall not be subject to reduction whether by offset or otherwise and shall not be conditional upon the performance or nonperformance by any party of any agreement for any cause whatsoever.
- 8.2 Source of Payments. The Purchaser hereby represents, warrants and agrees that the obligations of Purchaser to make the payments to SCPPA under this Agreement shall constitute a cost of purchased power and an operating expense of Purchaser payable solely from its electric power revenue fund, including any and all legally available electric system reserves. Purchaser will annually in each and every fiscal year of Purchaser during the term of this Agreement include in its power system budget, whether or not any other items are included, an appropriation from the revenues of its electric system (including moneys derived from sales to third parties) sufficient to satisfy all the payments required to be made in such year under this Agreement until all payments required under this Agreement have been paid in full.
- 8.3 Rate Covenant. Purchaser will establish, maintain and collect rates and charges for the electric service of its electric system each year so as to provide revenues sufficient, together with any legally available electric system reserves, to enable Purchaser to pay to SCPPA all amounts payable when due under this Agreement

and to pay all other amounts payable from, and all lawful charges against or liens on, the revenues of its electric system.

- 8.4 Authorizations. The Purchaser hereby represents and warrants that no order, approval, consent or authorization of any governmental or public agency, authority or person, is required on the part of the Purchaser for the execution and delivery by the Purchaser of this Agreement, or the performance by the Purchaser of its obligations under this Agreement except for such as have been obtained.

9. OTHER TERMS AND SERVICES.

- 9.1 Delivery Procedures. Prior to the time at which any Energy will be delivered to Purchaser from the Facility, Purchaser will schedule and shall be obligated to take delivery of its Output Entitlement Share of the Energy to be delivered. The Facility Output generated and produced from the Project shall be scheduled and delivered to Project Participants at their respective Designated Points of Delivery under any development, operating, project management or agency agreement and/or practices and procedures approved by the Coordinating Committee pursuant to Section 6.2, as applicable.
- 9.2 Other Services and Transmission from Points of Delivery. It is the obligation of Purchaser to receive its share of Facility Output and to arrange for delivery of such Facility Output to its ultimate destination or destinations after having reached its Designated Point of Delivery, as determined by Purchaser. However, to the extent specified by the Purchaser, and to the extent practicable for SCPPA to do so, SCPPA shall assist in arranging for Supplementary Services and for such additional transmission, interconnection arrangements, energy management, swaps, exchanges or other services, as deemed necessary by Purchaser, associated with the transmission, use or disposition of Facility Output to be utilized by the Purchaser and to provide for delivery, accounting for, transferring and crediting the ownership and transfer of Facility Output from such Purchaser's Designated Point of Delivery to any other points or destinations, as determined by the Purchaser.
- 9.3 Energy Services. Except as otherwise provided in this Agreement nothing herein shall prevent or restrict Purchaser from providing for its own transmission, energy management services, balancing, or exchanging services or otherwise using or dispatching its Energy under this Agreement; provided, however, that such services, use or activities shall not affect any of the obligations of Purchaser under this Agreement.
- 9.4 Balancing Agent and Dynamic Scheduling. Upon the request of Purchaser, SCPPA shall either (i) retain an agent to maintain and balance Purchaser's hourly Energy schedules in accordance with WECC protocols ("Balancing Agent"), including the provision or absorption of imbalance energy to accommodate intra-hour fluctuations of Facility Output as compared to Purchaser's Energy schedule and maintaining a balancing account of accumulated imbalance energy to be settled by adjusting future Purchaser Energy schedules, (ii) arrange for Dynamic

Scheduling from Purchaser's Designated Point of Delivery to Purchaser's control area or electric system, including the procurement and installation of scheduling hardware, software, and communications equipment necessary to effectuate Dynamic Scheduling (if such a scheduling methodology is deemed appropriate, applicable and/ or otherwise feasible), (iii) procure, contract for or otherwise arrange for any available energy balancing or integration services to address any of the above referenced imbalances, fluctuations, variability, intermittency, or like conditions or (iv) address the costs, charges or consequences of such imbalances, fluctuations, variability, intermittency, or like conditions through other mechanisms or methodologies which are mutually agreeable to the Purchaser and SCPPA. Any such arrangements (other than arrangements with another Project Participant or other SCPPA members) entered into by SCPPA at the request of Purchaser shall be with third parties and negotiated in arms' length transactions, to the extent applicable.

- 9.5 Transfer of Environmental Attributes to Project Participants. SCPPA shall transfer or pass through all Environmental Attributes received by SCPPA either under the Power Purchase Agreement or with respect to Facility Output following its purchase or acquisition of the Facility to Project Participants in accordance with their respective Output Entitlement Shares in the same manner by which SCPPA receives Environmental Attributes under the terms of Power Purchase Agreement or otherwise as may be determined by the Coordinating Committee.

10. RIGHTS AND OBLIGATIONS UNDER PROJECT AGREEMENTS.

Notwithstanding anything to the contrary contained herein: (i) the obligation of SCPPA to deliver Purchaser's Output Entitlement Share of Facility Output hereunder during the Delivery Term of the Power Purchase Agreement is limited to the Facility Output which SCPPA receives from the Facility (or the Power Purchase Provider, as applicable) at Purchaser's Designated Point of Delivery for redelivery to Purchaser hereunder during such time; (ii) the obligation of SCPPA (or the Power Purchaser Provider) to deliver Purchaser's Output Entitlement Share of Replacement Energy hereunder during the Delivery Term of the Power Purchase Agreement is limited to the Replacement Energy which SCPPA receives at Purchaser's Designated Point of Delivery under the Power Purchase Agreement, (iii) the obligation of SCPPA to pay any amount to Purchaser hereunder or to give credits against amounts due from Purchaser hereunder is limited to amounts SCPPA receives in connection with the transaction to which the payment or credit relates (or is otherwise available to SCPPA in connection with this Agreement for which such payment or credit relates); (iv) any purchase costs, operating costs, energy costs, capacity costs, environmental attribute costs, transmission costs, tax costs, insurance costs, indemnifications, other costs or other charges for which SCPPA is responsible under the Project Agreements shall be considered purchase costs, operating costs, energy costs, capacity costs, environmental attribute costs, transmission costs, tax costs, insurance costs, indemnifications, other costs or other charges incurred by SCPPA and payable by Project Participants as provided in this Agreement; and (v) any Force Majeure under the Power Purchase Agreement or other event of force majeure affecting the delivery of energy pursuant to applicable provisions of the Project Agreements shall be considered an event caused by Uncontrollable Forces affecting SCPPA with respect to the delivery of energy and/or environmental attributes hereunder and SCPPA forwarding to Purchaser notices and information from the Power Purchase Provider concerning an event of Force Majeure upon receipt thereof shall be sufficient to constitute a notice that

Uncontrollable Forces have occurred.

11. NONPERFORMANCE AND PAYMENT DEFAULT.

- 11.1 Nonperformance by Purchaser. If Purchaser shall fail to perform any covenant, agreement or obligation under this Agreement or shall cause SCPPA to be in default with respect to any undertaking entered into for the Project or to be in default under the Power Purchase Agreement, or any other Project Agreement, as applicable, or cause a default to occur pursuant to such agreements, SCPPA may, in the event the performance of any such obligation remains unsatisfied after thirty (30) days' prior written notice thereof to the Purchaser and a demand to so perform; take any action permitted by law to enforce its rights under this Agreement, including but not limited to termination of this Agreement, and/or (unless SCPPA has already taken action pursuant to the immediately following sentence) bring any suit, action or proceeding at law or in equity as may be necessary or appropriate to recover damages and/or enforce any covenant, agreement or obligation against the Purchaser with regard to its failure to so perform.
- 11.2 Notice of Payment Default. On or promptly following the Initial Payment Default Date by Purchaser, SCPPA shall issue a Default Invoice and shall provide written notice to Purchaser that as a result of a Payment Default it is in default under this Agreement and has assumed the status of a Defaulting Project Participant and that Purchaser's Project Rights are subject to discontinuance, termination and disposal in accordance with Sections 11.4 and 11.5 of this Agreement. Notice of such Payment Default shall be provided promptly by SCPPA to the other Project Participant. In addition to the foregoing, the Notice of Payment Default shall specify that five (5) days after the issuance of the written notice of Payment Default by SCPPA, deliveries of Facility Output to the Purchaser pursuant to this Agreement shall be thereafter suspended until such time as Purchaser is in Compliance. SCPPA may take any action through or in conjunction with the Power Purchase Provider or any other counterparty under a Project Agreement or with the Project Manager, if applicable, to expeditiously carry forth the provisions of this Section 11.
- 11.3 Cured Payment Default. If after a Payment Default, Purchaser cures such Payment Default within thirty (30) days (the Cure Period) its Project Rights shall not be subject to discontinuance, termination or disposal as provided for in Sections 11.4 and 11.5 of this Agreement as a result of any Payment Default associated with such Cured Payment Default.
- 11.4 Failure to Cure Payment Default. If at any time thirty (30) days after an uncured Payment Default by Purchaser, Purchaser fails to be in Compliance, due to the failure of the Defaulting Project Participant to cure its Payment Default in a timely manner in accordance with this Agreement, Purchaser's Project Rights shall immediately be discontinued and terminated and its Project Rights and Obligations shall be disposed of by SCPPA in accordance with Section 11.5 of the Defaulting Project Participant's Power Sales Agreement; provided, however, the

Defaulting Project Participant's obligation to make payments under its Power Sales Agreement shall not be eliminated or reduced except to the extent provided in Section 11.6. SCPPA shall provide to the Defaulting Project Participant a separate monthly invoice of any such payment obligations under its Power Sales Agreement. SCPPA shall immediately notify the Project Manager (if other than SCPPA), the other Project Participant and such others as SCPPA deems appropriate, of such discontinuance and termination of a Defaulting Project Participant's Project Rights.

11.5 Treatment of the Defaulting Project Participant's Project Rights and Obligations upon Payment Default of Defaulting Project Participant. In the event Defaulting Project Participant's Project Rights are discontinued and terminated pursuant to Section 11.4 of its Power Sales Agreement, SCPPA shall undertake or cause to be undertaken the following actions in the order indicated:

11.5.1 SCPPA shall, to the extent permitted under the Project Agreements, offer to convey, transfer and assign to all non-Defaulting Project Participants, on a temporary or permanent basis as determined by SCPPA, the Project Rights and Obligations of Defaulting Project Participant, and SCPPA shall so convey, transfer and assign on such basis so determined by SCPPA to (i) all requesting non-Defaulting Project Participants the amount of Project Rights and Obligations requested if the aggregate of such requests does not exceed the amount of the Project Rights and Obligations of the Defaulting Project Participant, or (ii) all requesting non-Defaulting Project Participants on a pro-rata basis (based upon the amount requested) if the aggregate of such requests exceeds the amount of the Project Rights and Obligations of the Defaulting Project Participant. Each such requesting non-Defaulting Project Participant shall assume all, but not less than all, Project Rights and Obligations so conveyed, transferred and assigned to it by SCPPA.

11.5.2 If all of Defaulting Project Participant's Project Rights and Obligations are not conveyed, transferred and assigned to non-Defaulting Project Participants as provided in Section 11.5.1 of its Power Sales Agreement, SCPPA shall, to the extent permitted under the Project Agreements and to the extent SCPPA in its discretion determines it appropriate, offer to convey, transfer and assign, on a temporary or permanent basis as determined by SCPPA, the remaining (or all, if applicable) of Defaulting Project Participant's Project Rights and Obligations to third parties, all in accordance with applicable law. Each such requesting third party shall assume all, but not less than all, Project Rights and Obligations so conveyed, transferred and assigned to it by SCPPA.

11.5.3 If, at any time or from time to time, any of the Project Rights and Obligations of a Defaulting Project Participant are not conveyed, transferred and assigned as provided in Sections 11.5.1 or 11.5.2 of its Power Sales Agreement, SCPPA shall use its best efforts, to the extent reasonably possible and economically beneficial, to offer all non-

Defaulting Project Participants and third parties, for long-term or short-term sale as determined by SCPPA, Facility Output associated with such Project Rights and Obligations or to remarket or resell such Facility Output, or cause the same to be remarketed or resold; provided, however, that without eliminating Defaulting Project Participant's obligation to make payments under its Power Sales Agreement (notwithstanding anything to the contrary in this Agreement), including payment of SCPPA's costs and expenses related to such default and sale, such payment obligation shall be satisfied to the extent that payments are received by SCPPA from the remarketing or sale of Facility Output associated with Defaulting Project Participant's Project Rights. If at the time of any Coordinating Committee meeting, any of Defaulting Project Participant's Project Rights and Obligations are not conveyed, transferred and assigned as provided in Sections 11.5.1 or 11.5.2, the associated voting rights with respect to Defaulting Project Participant's Project Rights and Obligations shall be redistributed pro rata among the non-Defaulting Project Participants, based upon each non-Defaulting Project Participant's Output Entitlement Share, so that the total voting rights remain at 100%.

Except as provided in this Section 11.5 or otherwise in this Agreement, SCPPA may not convey, transfer or assign any Project Participant's Rights and Obligations without the prior written consent of the Project Participant.

- 11.6 Elimination or Reduction of Payment Obligations. Upon termination of Defaulting Project Participant's Project Rights pursuant to Section 11.5 and conveyance, transfer or assignment of Defaulting Project Participant's Project Rights and Obligations pursuant to Sections 11.5.1 or 11.5.2, Defaulting Project Participant's obligation to make payments under its Power Sales Agreement (notwithstanding anything to the contrary in this Agreement) shall not be eliminated or reduced except to the extent of moneys received by SCPPA as a result of the conveyance, transfer and assignment of Defaulting Project Participant's Project Rights and Obligations, less SCPPA's related costs and expenses; provided, however, such payment obligations for Defaulting Project Participant may be eliminated or reduced to the extent permitted by law, if and to the extent any costs incurred by SCPPA have been fully paid, and the Board of Directors, by resolution, determines to eliminate or reduce such payment obligations, which determination shall not be unreasonably withheld.
- 11.7 Use of Operating Reserve Account. With respect to a Payment Default by Purchaser, funds in the operating reserve account, if any, held by SCPPA may be used, to the extent necessary and to the extent available, to cover any deficiency with respect to any payment due by SCPPA attributable to Purchaser's participation in the Project. Any replenishing of any operating reserve account held by SCPPA shall be in accordance with rules and protocols promulgated by SCPPA.
- 11.8 Step-Up Invoices. Step-Up Invoices shall be issued in accordance with the

provisions set forth below.

11.8.1 In the event of a Payment Default by one or more Defaulting Project Participants, which is in existence following the Operating Reserve Depletion Date, SCPPA shall provide by the fifth day of the Month following such Operating Reserve Depletion Date, a separate Step-Up Invoice to each non-Defaulting Project Participant that includes a charge equal to the non-Defaulting Project Participant's pro rata share, based upon the Project Cost Shares of all non-Defaulting Project Participants, of the amount of Total Monthly Costs reflected in the unpaid Billing Statements for the previous Month for such Defaulting Project Participant(s). Notwithstanding the foregoing, the amount of each monthly Step-Up Invoice provided to a non-Defaulting Project Participant shall not exceed 100% of the aggregate amount that such non-Defaulting Project Participant was billed with respect to Total Monthly Costs in its Billing Statement for the Month preceding such monthly Step-Up Invoice.

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

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

11.9.1 All moneys received from the Project Participants with respect to the amount of Total Monthly Costs as set forth in the Step-Up Invoices, shall be applied toward the Defaulting Project Participant's Total Monthly Costs.

11.9.2 In the event a Project Participant pays less than the total amount of its Step-Up Invoice, such Project Participant shall be a Defaulting Project Participant and its partial payment shall be allocated toward all Total Monthly Costs.

11.10 Application of Moneys Received from Default Invoices. Moneys received by or on behalf of SCPPA from the payment of Default Invoices shall be credited on each non-Defaulting Project Participant's next monthly Billing Statement or Billing Statements in an amount equal to the aggregate amount such non-Defaulting Project Participant paid as a result of Step-Up Invoices with respect to such Default Invoice, plus a pro rata share, based upon the Project Cost Shares of the non-Defaulting Project Participants, of the amount SCPPA received regarding late payment interest charges. In the event a Defaulting Project Participant pays less than the full amount of its Default Invoice, the credit to each non-Defaulting Project Participant shall be adjusted proportionately.

- 11.11 Application of Moneys Received from Compliance Payments. Moneys received by or on behalf of SCPPA from a Defaulting Project Participant that makes payments to remain in Compliance with respect to a Payment Default, associated with a Defaulting Project Participant's payments to remain in Compliance, shall be credited on each non-Defaulting Project Participant's next monthly Billing Statement(s) in an amount equal to the aggregate amount such non-Defaulting Project Participant paid as a result of Step-Up Invoices with respect to such Compliance payment, plus a pro rata share, based upon the Project Cost Shares of the non-Defaulting Project Participants, of the amount SCPPA received regarding late payment interest charges.
- 11.12 Application of Moneys Received from Sale of Facility Output. Moneys received by or on behalf of SCPPA from the sale of Facility Output related to a Defaulting Project Participant's Project Rights and Obligations, as provided in Section 11.5.3 hereof, shall be applied in the following manner in order:
- 11.12.1 SCPPA shall credit on each non-Defaulting Project Participant's next monthly Billing Statement(s) an amount up to, but not in excess of, the aggregate amount paid to SCPPA by such non-Defaulting Project Participant with respect to each such non-Defaulting Project Participants Step-Up Invoices.
- 11.12.2 Following consultation with the non-Defaulting Project Participants, SCPPA shall determine the disposition of any moneys received that are in excess of the aggregate amount of related Step-Up Invoices paid by non-Defaulting Project Participants. Unless the Coordinating Committee determines otherwise, or except as otherwise required by law, the Defaulting Project Participant shall have no claim or right to any such monies.

12. CHARACTER, CONTINUITY OF SERVICE.

- 12.1 Outages, Interruptions and Curtailment of Energy Deliveries. Under certain conditions set forth in Project Agreements or in the case of emergencies or abnormal conditions with respect to the Facility or in order to take the Facility out of service for repairs, maintenance work, replacements, equipment installation or inspections, or in the event of a failure by a Project Participant to receive or accept Facility Output or Replacement Energy delivered to SCPPA at a Point of Delivery, the Power Purchase Provider may temporarily interrupt or curtail deliveries of Facility Output (or in the case of the Power Purchase Provider, the Replacement Energy) to Project Participants. In the event of the occurrence of any such interruption or curtailment, including any associated Facility outage, which shall cause a reduction in deliveries of Facility Output, any incurrence by SCPPA of additional costs, or a receipt by SCPPA of payments or credits under any Project Agreement, certain of the rights, entitlements and obligations of the affected Project Participants under their respective Power Sales Agreements shall be subject to adjustment as follows:

- 12.1.1 In the case of such an interruption, curtailment or outage affecting the deliveries of Facility Output at or to the Point of Delivery, (i) the resulting reduction in Facility Output at or to the Point of Delivery shall be shared by the Project Participants pro rata in accordance with their respective Point of Delivery Allocable Shares, and (ii) any resulting costs incurred by SCPPA or payments or credits received by SCPPA shall be allocated among the Project Participants in accordance with their respective Project Cost Shares.
- 12.1.2 In the case of such an interruption or curtailment that affects deliveries of Facility Output at or to any Point of Delivery, and as a result thereof SCPPA shall receive any payment or credit, each affected Project Participant shall in turn receive a credit on its monthly Billing Statement during the term of the Power Purchase Agreement, in the amount of its Delivery Point Output Cost Share of such payment or credit received by SCPPA.
- 12.1.3 In the case where a Project Participant fails to accept or receive at its Designated Point of Delivery all or any portion of its Output Entitlement Share of Facility Output or Replacement Energy delivered to such Point of Delivery, such Project Participant shall be responsible for any cost incurred by SCPPA which is attributable to such failure and the amount of such cost shall be added to such Project Participant's monthly Billing Statement.
- 12.1.4 No such interruption or curtailment of deliveries of Facility Output, including any interruption or curtailment due to a Facility outage, shall relieve any of the Project Participants of their obligations to make payments under their respective Power Sales Agreements.
- 12.1.5 SCPPA or the Project Manager (if other than SCPPA) or SCPPA's agent will use its best efforts to apprise the affected Project Participants of potential outages, interruptions or curtailments, the reason therefor and the probable duration thereof, when such outages, interruptions or curtailments can be deemed likely to occur.
- 12.1.6 After informing the affected Project Participants regarding any such planned interruption or curtailment, giving the reason therefor, and stating the probable duration thereof, SCPPA, its agent or the Project Manager, as applicable, will to the best of its ability schedule such interruption or curtailment at a time which will cause the least interference with the system operations of the Project Participants.
- 12.2 Uncontrollable Forces. SCPPA shall not be required to provide, and SCPPA shall not be liable for failure to provide Facility Output, Replacement Energy or other service under this Agreement when such failure or the cessation or curtailment of or interference with the service is caused by Uncontrollable Forces or by the inability of SCPPA, the Power Purchase Provider or other applicable counterparty

to obtain any required governmental permits, licenses or approvals to enable SCPPA or the Power Purchase Provider, as applicable, to acquire, administer or operate the Project; provided, however, that Project Participants shall not thereby be relieved of their obligations to make payments under their respective Power Sales Agreements except to the extent SCPPA is so relieved pursuant to any applicable Project Agreements.

13. SEVERAL OBLIGATION; LIABILITY.

- 13.1 Project Participants' Obligations Several. Project Participants shall be severally responsible and liable for performance under their respective Power Sales Agreements, and for any respective arrangements which are not part of the Project. The obligation of Purchaser to make payments under this Agreement is a several obligation and not a joint obligation with those of the other Project Participant under the other Power Sales Agreement to which such Project Participants are parties.
- 13.2 No Liability of SCPPA or Purchaser, or Their Directors, Officers, Employees, Etc.; SCPPA's and Purchaser's and Project Manager's (within its capacity as Project Manager) Directors, Officers, Employees Not Individually Liable. Both Parties agree that neither SCPPA, the Purchaser, the Project Manager, nor any of their past, present or future directors, officers, board members, agents, attorneys, advisors, employees or employees of the municipal entity of which the Purchaser is a part (collectively the "Released Parties") shall be liable to any other of the Released Parties for any and all claims, demands, liabilities, obligations, losses, damages (whether direct, indirect or consequential), penalties, actions, loss of profits, judgments, orders, suits, costs, expenses (including attorneys' fees and expenses) or disbursements of any kind or nature whatsoever in law, equity or otherwise suffered by any of the Released Parties as a result of the performance or non-performance by the Power Purchase Provider or any of the Released Parties under this Agreement or any Project Agreement (excluding gross negligence or willful misconduct which, unless otherwise agreed to by the Parties, are both to be determined and established by a court of competent jurisdiction in a final, non-appealable order). Each Party releases the Released Parties from any claim or liability that either Party may have cause to assert as a result of any actions or inactions of the Released Parties under this Agreement or the performance or non-performance by the Project Manager under this Agreement or any Project Agreement (excluding gross negligence or willful misconduct which, unless otherwise agreed to by the Parties, are both to be determined and established by a court of competent jurisdiction in a final, non-appealable order). No such performance or non-performance by the Project Manager, the Power Purchase Provider, or SCPPA shall relieve SCPPA or Purchaser from their respective obligations under this Agreement, including, without limitation, Purchaser's obligation to make payments required under Section 8.1 of this Agreement and SCPPA's obligation to make payments under Section 13.7 of this Agreement, or under any other Project Agreements. The provisions of this Section 13.2 shall not be construed so as to relieve the Project Manager or the Power Purchase Provider from any obligation (or liability in the case of the Power Purchase Provider) under

this Agreement, the Power Purchase and Security Agreements or any other applicable Project Agreement. It is also hereby recognized and agreed that no member of the Board of Directors, SCPPA, the Project Manager or the Purchaser, nor any of their past, present or future directors, officers, board members, agents, attorneys, advisors, employees or employees of the governmental entity of which the Agent is a part or member of SCPPA in its capacity as a member of SCPPA, shall be individually liable in respect of any undertakings by any of the Released Parties under this Agreement or any Project Agreement. Nothing in this Section 13.2 or in any other provision of this Agreement shall affect Purchaser's obligation to make any payment in accordance with Section 8.1 of this Agreement or to pay any other amounts or costs required to be paid by it under this Agreement

- 13.3 Extent of Exculpation; Enforcement of Rights. The exculpation provision set forth in Section 13.2 hereof shall apply to all types of claims or actions including, but not limited to, claims or actions based on contract or tort. Notwithstanding the foregoing, either Party may protect and enforce its rights under this Agreement by a suit or suits in equity for specific performance of any obligations or duty of the other Party, and each Party shall at all times retain the right to recover, by appropriate legal proceedings, any amount determined to have been an overpayment, underpayment or other direct monetary damages owed by either a Purchaser, SCPPA or the Project Manager as the case may be, including, without limitation, any costs payable to SCPPA and any costs payable to the Purchaser or the Project Manager.
- 13.4 Determination or Enforcement of Rights. Notwithstanding Section 13.2 and 13.3 hereof, Purchaser or SCPPA may determine, protect and enforce its rights under this Agreement or any Project Agreement by a suit(s) in equity for specific performance of, or declaratory action with respect to, any obligation or duty hereunder or thereunder.
- 13.5 No Relief from Insurer's Obligations. Notwithstanding any provision in this Agreement to the contrary, including but not limited to the provisions in this Section 13, the provisions of this Section 13 shall not be construed or applied so as to relieve any insurer of its obligation to pay any insurance claims in accordance with any applicable insurance policy.
- 13.6 No General Liability of SCPPA. The undertakings under this Agreement by SCPPA, or the Project Manager in its capacity as such, shall never constitute a debt or indebtedness of SCPPA or the Project Manager within the meaning of any provision or limitation of the Constitution or statutes of the State of California and shall not constitute or give rise to a charge against its general credit.
- 13.7 Indemnification of Purchaser. SCPPA undertakes and agrees, to the extent permitted by law, to indemnify and hold harmless Purchaser, its board, officers, agents, attorneys, advisors, employees, and the employees of the governmental entity of which the Agent is a part, past, present or future (collectively, "Purchaser Indemnitees"), from and against any and all claims, demands, liabilities,

obligations, losses, damages (whether direct, indirect or consequential), penalties, actions, loss of profits, judgments, orders, suits, costs, expenses (including attorneys' fees and expenses) or disbursements of any kind or nature whatsoever in law, equity or otherwise (including, without limitation, death, bodily injury or personal injury to any person or damage or destruction to any property of Purchaser, SCPPA or third persons) (collectively, "Losses") which may be imposed on, incurred by or asserted against Purchaser arising by manner of any breach of this Agreement by SCPPA, or the negligent acts, errors, omissions or willful misconduct incident to the performance of this Agreement on the part of SCPPA or any of SCPPA's directors, board members, officers, employees, agents and advisors, past, present or future. At Purchaser's option, SCPPA shall defend Purchaser Indemnitees from and against any and all Losses. If SCPPA, with Purchaser's consent, defends any Purchaser Indemnitee, Purchaser and the Purchaser's City Attorney shall approve the selection of counsel, and Purchaser shall further approve any settlement or disposition, such approval not to be unreasonably withheld. Nothing in this Section 13.7 or in any other provision of this Agreement shall affect Purchaser's obligation to make any payment in accordance with Section 8.1 of this Agreement or to pay any other amounts or costs required to be paid by it under this Agreement.

- 13.8 Indemnification of Project Manager. The Parties acknowledge that SCPPA is obligated to indemnify any SCPPA designee Project Manager when acting within its capacity as the Project Manager, including as provided under Section 16 of the Wild Rose Geothermal Energy Project Agency Agreement to indemnify and hold harmless LADWP, as Project Manager, its board, officers, agents, attorneys, advisors, employees, and the employees of the governmental entity of which the Agent is a part, past, present or future, when acting for LADWP as Project Manager (collectively, the "Project Manager Indemnitees") from and against any and all claims, demands, liabilities, obligations, losses, damages (whether direct, indirect or consequential), penalties, actions, loss of profits, judgments, orders, suits, costs, expenses (including attorneys' fees and expenses) or disbursements of any kind or nature whatsoever in law, equity or otherwise (including, without limitation, death, bodily injury or personal injury to any person or damage or destruction to any property of LADWP, SCPPA or third persons) arising by reason of any actions, inactions, errors or omissions incident to the performance of the Wild Rose Geothermal Energy Project Agency Agreement (excluding gross negligence or willful misconduct which, unless otherwise agreed to by the Parties, are both to be determined and established by a court of competent jurisdiction in a final, non-appealable order) on the part of Project Manager Indemnitees, when acting for LADWP as Project Manager. It is further acknowledged by the Parties that all payments, costs and expenses of SCPPA with respect to compliance with any such indemnification obligations, including under Section 16 of the Wild Rose Geothermal Energy Project Agency Agreement, shall be payable as Monthly Costs by Project Participants in accordance with the terms of their respective Power Sales Agreements. At Project Manager's option, SCPPA shall defend Project Manager Indemnitees from and against any and all Losses. If SCPPA, with Project Manager's consent, defends any Project Manager Indemnitee, Project

Manager and Project Manager's City Attorney's Office (or other appropriate Project Manager counsel or authority, as appropriate) shall approve the selection of counsel, and Project Manager shall further approve any settlement or disposition, such approval not to be unreasonably withheld. Notwithstanding any provision of this Agreement which might be construed to the contrary, nothing in this Section 13.8 or in any other provision of this Agreement shall affect LADWP's obligation, as Purchaser, or the obligations of the other Project Participant to make any payment or to pay any cost required of it in accordance with Section 8.1 of this Agreement or to pay any other amounts or costs under its Power Sales Agreement, or SCPPA's obligation to make any payment or to pay any cost required of it under the Wild Rose Geothermal Energy Project Agency Agreement.

- 13.9 Separate Capacities. The Parties acknowledge that LADWP, as Project Manager under the Wild Rose Geothermal Energy Project Agency Agreement, acts in a legal capacity that is separate from its capacity as a Purchaser, Project Participant and a Party under this Agreement. Accordingly, for purposes of this Agreement, the rights, entitlements, obligations and liabilities of LADWP, as Purchaser, Project Participant and a Party under this Agreement, shall not apply to or otherwise be affected by, and shall be legally separate from the rights, entitlements, obligations, and liabilities of LADWP in its capacity as Project Manager.

14. RESTRICTIONS ON DISPOSITION.

- 14.1 Restrictions on Elimination of Payment Obligations. No sale, assignment or other disposition of Purchaser's Project Rights and Obligations to any Person ("Assignee") shall release Purchaser from its payment obligations under this Agreement; provided, however, such payment obligations may be eliminated or reduced if (i) such Assignee shall assume and agree to fully perform and discharge the Project Rights and Obligations under this Agreement, (ii) unless otherwise provided by resolution of the Board of Directors, such Assignee shall have a corporate or long-term senior unsecured credit rating not less than Standard & Poors A- or Moody's A3, and (iii) the Board of Directors, by resolution, determines in its sole discretion to eliminate or reduce such payment obligations. For avoidance of doubt, notwithstanding the forgoing, no such sale, assignment or disposition shall cause SCPPA to be in default of any term or condition of the Power Purchase Agreement or of any Project Agreement.
- 14.2 Restrictions on Disposition of Purchaser's Entire System. Purchaser shall not sell, lease or otherwise dispose of all or substantially all of its electric system to any Person ("Acquiring Entity") unless the Acquiring Entity shall assume and agree to fully perform and discharge the Project Rights and Obligations under this Agreement, and such Acquiring Entity shall have a corporate or long-term senior unsecured credit rating not less than investment grade.
- 14.3 Successors and Assigns. Subject in all respects to Sections 11 and 14 hereof, the Project Rights and Obligations under this Agreement shall inure to the benefit of

and shall be binding upon the respective successors and assigns of the parties to this Agreement.

15. EFFECTIVE DATE, TERM AND EXPIRATION.

- 15.1 Effective Date; Execution in Counterparts. This Agreement shall become effective on the first day when all of the following shall have occurred: (i) this Agreement shall have been duly executed and delivered by SCPPA and Purchaser, (ii) the Power Purchase Agreement shall have been duly executed and delivered by SCPPA and the Power Purchase Provider, and (iii) the Power Sales Agreement between SCPPA and the other Project Participant shall have been duly executed and delivered by the parties thereto. Once the Power Purchase Agreement has been executed and delivered as set forth above, SCPPA shall deliver a copy of the same to Purchaser. This Agreement may be executed in any number of counterparts, each of which shall constitute an original.
- 15.2 Termination Conditions. This Agreement shall be effective upon satisfaction of the conditions set forth in Section 15.1 and shall extend for the term specified in Section 15.3 unless earlier terminated pursuant to an express provision of this Agreement; provided, however, that any obligation to make payments to SCPPA or any outstanding liability of Purchaser hereunder which either exists or may exist as of the date of termination of this Agreement, or which comes into existence at any future time as a result of any activity or transaction carried forth under this Agreement, shall survive such termination.
- 15.3 Expiration. The term of this Agreement shall begin on the day this Agreement becomes effective pursuant to Section 15.1 hereof. Unless terminated earlier pursuant to Section 15.4 and subject to Section 18 hereof, the term of this Agreement shall expire on the later of: (i) the date SCPPA's Joint Powers Agreement (including any extensions thereof) expires or (ii) the date on which the Power Purchase Agreement is terminated and all of Parties' obligation(s) under the Power Purchase Agreement have been fully satisfied or otherwise adequate provision for satisfaction of such obligation(s) have been made and no other such obligation(s) under the Power Purchase Agreement is outstanding; provided, however, in no event shall the term of this Agreement expire so long as the Power Purchase Agreement is of any force or effect.
- 15.4 Termination of Agreement before Expiration Date. Notwithstanding the expiration date set forth in Section 15.3 hereof, this Agreement shall terminate, subject to Section 18 hereof, on the date, SCPPA notifies Purchaser that all Power Sales Agreements are superseded as a result of each Project Participant having (i) succeeded to SCPPA's rights through another agreement or agreements, (ii) entered into a replacement power sales agreement or other agreement with SCPPA or (iii) entered into a replacement power sales agreement or other agreement with one or more Project Participants which have become Project Participants in the Project under another agreement. The purchase price and consideration to be paid to SCPPA by Purchaser with respect to any such superseding arrangement shall consist of the payments and satisfaction of all

obligations by Purchaser under and pursuant to this Agreement prior to the effective date of the superseding arrangement plus any remaining costs or obligations incurred by SCPPA in connection with the Facility; and

- 16. REVISION OF APPENDICES A, B AND C.** The Parties acknowledge that when consistent with the terms of the Power Purchase Agreement and the applicable Project Agreements, SCPPA may hereafter change the proportions of member Facility Output shares and may hereafter enter into additional power sales agreements for the purchase of Facility Capacity with other of its members which would then become additional Project Participants. In such event Appendices A, B and C may be revised, as applicable, so as to add Project Participants and to adjust the Capacity Amounts, Output Entitlement Shares, any of the Cost Shares and the Point of Delivery Allocable Shares (collectively, the "Appendices A, B and C Designations") as set forth in Appendices A, B and C, as shall be necessary to provide for any such revisions in the respective capacity shares of the Project Participants or the addition of Project Participants; provided that any such adjustments in Appendices A, B and C shall be approved by a resolution adopted by the Coordinating Committee (which shall include the affirmative vote of Purchaser's representative on the Coordinating Committee if any of the Purchaser's Appendices A, B and C Designations shall be so adjusted), and shall be approved by a corresponding resolution adopted by SCPPA's Board of Directors, and such adjustments shall be in compliance with this Agreement. The Parties further agree that any such adjustments in Appendices A, B or C shall be made pursuant to the terms of this Agreement as entered into by the Parties and shall be treated as an element of administration of this Agreement. The revised Appendices A, B and C upon receipt of the approvals as provided above and upon compliance with the other requirements set forth in this Section 16 shall become Appendices A, B and C, respectively, to this Agreement in replacement of the prior Appendices A, B and C hereof.
- 17. SEVERABILITY.** In case any one or more of the provisions of this Agreement shall for any reason be held to be illegal or invalid by a court of competent jurisdiction, it is the intention of each of the Parties hereto that such illegality or invalidity shall not affect any other provision hereof, but this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein unless a court holds that the provisions are not separable from all other provisions of this Agreement.
- 18. CONDITIONS TO TERMINATION OR AMENDMENT.** None of the Power Sales Agreements may be terminated as to any one or more of the Project Participants, or be amended as to any one or more of the Project Participants so as to provide terms and conditions materially different from those contained therein except, subject to the provisions of this Section 18, upon written notice to and written consent or waiver by the other Project Participant, and upon similar amendment, if appropriate, being made to the Power Sales Agreement of the other Project Participant requesting such amendment after receipt by such Project Participant of written notice of such amendment.
- 19. REPRESENTATION AND GOVERNING LAW.** The Parties acknowledge that each Party was represented by counsel in the negotiation and execution of this Agreement. This Agreement was made and entered into in the County of Los Angeles and shall be governed by, interpreted and enforced in accordance with the laws of the State of California. All litigation arising out of, or relating to this Agreement, shall be brought in a State or Federal court in the County of Los Angeles in the State of

California. The Parties irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of California and waive any defense of *forum non conveniens*.

20. **ARBITRATION AND ATTORNEYS' FEES.** If a dispute arises between the Parties which the Coordinating Committee or the Board of Directors is unable to resolve, the Parties may by mutual agreement submit the dispute to mediation or non-binding arbitration. With respect to any such dispute the Parties agree that each Party shall bear its own attorneys' fees and costs. Notwithstanding the foregoing, Purchaser and SCPPA recognize and agree that SCPPA's attorneys' fees associated with any matter relating to the Project or this Agreement, including any dispute relating thereto, shall constitute a Project cost which shall be allocated and billed as set forth in Sections 4 and 7 of this Agreement.
21. **PURCHASER'S CONTRACT ADMINISTRATOR.** Purchaser's contract administrator for this Agreement shall be the person so designated by the individual authorized to receive notices on behalf of Purchaser pursuant to Section 22 herein, and Purchaser's contract administrator shall have the authority to administer this Agreement on behalf of Purchaser. Notwithstanding the foregoing, Purchaser's contract administrator shall have no authority to amend this Agreement on behalf of the Purchaser.
22. **NOTICES.** Any notice, demand or request provided for in this Agreement shall be in writing and shall be deemed properly served, given or made if delivered in person or sent by registered or certified mail, postage prepaid, to the persons specified below:

Southern California Public Power Authority
Attention: Executive Director
1160 Nicole Court
Glendora, California 91740


Los Angeles Department of Water and Power
Attention: General Manager
RE: Power System Contracts
111 N. Hope Street, Room 921
Los Angeles, California 90012


23. **AMENDMENTS.** The Parties acknowledge and agree that any amendment to this Agreement shall be in writing and duly executed by the Parties. No such amendment to this Agreement shall be permitted without the prior approval of the Purchaser's Board of Water and Power Commissioners.

[SIGNATURE PAGE FOLLOWS]

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

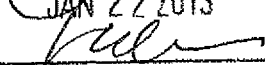
SOUTHERN CALIFORNIA PUBLIC
POWER AUTHORITY

By: _____
RONALD E. DAVIS
President

Attest: _____
BILL D. CARNAHAN
Assistant Secretary

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

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

JAN 22 2013
BY _____
LONNIE ELDRIDGE
DEPUTY CITY ATTORNEY

By: _____
RONALD O. NICHOLS
General Manager

And:

Secretary

APPENDIX A

DEFINITIONS

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

1. Act. All of the provisions contained in the California Joint Exercise of Powers Act found in Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California, beginning at California Government Code Section 6500 et seq., as amended from time to time
2. Annual Budget. The budget approved by the Coordinating Committee and adopted by SCPPA pursuant to Section 5.4.1 of this Agreement not less than thirty (30) days nor more than sixty (60) days prior to the beginning of each Power Supply Year, including any amendments thereto, which shall show a detailed estimate of the Total Monthly Costs under the Power Sales Agreements and all credits, charges, revenues, income, or other funds to be applied to such costs, for and applicable to such Power Supply Year.
3. Billing Statement. The written statement prepared or caused to be prepared each Month by, or on behalf of, SCPPA which shall be based upon certain of the information in the Annual Budget and shall show for such Month the amount to be paid to SCPPA by a Project Participant in accordance with the provisions of Section 7 of its Power Sales Agreement.
4. Board of Directors. The Board of Directors of the Southern California Public Power Authority.
5. Burbank. The City of Burbank, a California municipality.
6. Capacity. The ability or potential to generate, produce or transfer electricity, expressed in kilowatts ("kW") or megawatts ("MW"), including, when feasible, ancillary or regulating services or other valuable non-energy products or services from a generating facility.
7. Capacity Amount. "Capacity Amount" means, with respect to a Project Participant, such respective amount of Facility Capacity as is specified in Appendix B.
8. Capacity Rights. "Capacity Rights" means the rights, whether in existence as of the Effective Date or arising thereafter during the term of this Agreement, of SCPPA to Capacity of the Facility, including resource adequacy, associated attributes and/or reserves or any of the foregoing purchased by SCPPA under the Power Purchase Agreement.
9. Chairperson. "Chairperson" is as defined in Section 6.1.
10. Commercial Operation. "Commercial Operation" shall have the definition set forth in the Power Purchase Agreement.

11. Compliance. Following a Payment Default, a Defaulting Project Participant shall be in compliance with its payment obligations under its Power Sales Agreement if it (i) no later than the last day of the Cure Period fully pays all amounts owed as reflected in any Default Invoice; (ii) pays any monthly Billing Statement which comes due during the Cure Period; and (iii) replenishes any reduction made to the applicable operating reserve account or the Reserve Fund as a result of any Payment Default.
12. Consent Agreements. All consents to assignments and all agreements relating thereto entered into with any lender, financial institution or other Person for the purpose of consenting to the assignment of the rights of the Power Purchase Provider under the Power Purchase Agreement.
13. Contract Price. "Contract Price" means the respective purchase prices, as provided in Appendix A to the Power Purchase Agreement, for Facility Output, Delivered Energy and Replacement Energy, Startup and Test Energy, or if Buyer elects to exercise its option to extend the Interim Option Period and the Commercial Operation Milestone Date by an additional three hundred sixty five (365) days, then for that extension period, the price for Delivered Energy as provided in Section 3.9(c) of the Power Purchase Agreement, as applicable, delivered at the respective Points of Delivery.
14. Coordinating Committee. The Coordinating Committee established in accordance with Section 6 of this Agreement.
15. ORNI 47, LLC. ORNI 47, LLC, a Delaware limited liability company, or its successor.
16. Cost Share. "Cost Share" means and includes, with respect to any Project Participant, the Project Cost Share and the Delivery Point Output Cost Share, with respect to such Project Participant.
17. Cure Period. That period of time beginning on the date of a Payment Default and concluding thirty (30) days thereafter.
18. Cured Payment Default. A Payment Default which has been cured in accordance with Section 11.3 of this Agreement. If at any time during the Cure Period the Defaulting Project Participant is in Compliance, then the requirements of a Cured Payment Default shall be deemed to have been satisfied as of the date of receipt of such payments by SCPPA and the Cure Period shall expire.
19. Default Invoice. An invoice during the Payment Default Period and the Cure Period issued to a Defaulting Project Participant pursuant to Section 11 of this Agreement that identifies the total defaulted amount owed, including late payment interest, to achieve a Cured Payment Default. During the Cure Period, the Default Invoice shall also include the amount that must be paid to achieve Compliance.
20. Defaulting Project Participant. A Project Participant that causes a Payment Default which has not been remedied and where the Defaulting Project Participant has not affected a Cured Payment Default.

21. Delivered Energy. "Delivered Energy" shall have the definition set forth in the Power Purchase Agreement.
22. Delivery Point Output cost component. "Delivery Point Output cost component" is defined in Section 4.3.1.
23. Delivery Point Output Cost Share. "Delivery Point Output Cost Share" is defined in Section 4.1.
24. Delivery Term of the Power Purchase Agreement. The time period for the delivery of energy pursuant to the Power Purchase Agreement as set forth therein.
25. Designated Point of Delivery. "Designated Point of Delivery" means, at any time and with respect to a particular Project Participant, the Point of Delivery designated by such Project Participant at which such Project Participant is to receive Facility Output or Replacement Energy but only as allowed by and provided for in this Agreement and the Project Agreements. The Point of Delivery may entail the delivery of Energy at the interconnection facilities of the Power Purchase Provider located at the point of interconnection between the Facility's generation tie line and the Mead 230kV substation (which is specified as the Point of Delivery in the Power Purchase Agreement) or at such other point or points as the Coordinating Committee or the Board of Directors, consistent with the Project Agreements, should determine. If no other Point of Delivery should be designated and if neither the Coordinating Committee nor the Board of Directors determines a Point of Delivery, then the default Point of Delivery shall be the Point of Delivery as the same is defined and set forth in the Power Purchase Agreement.
26. Dynamic Scheduling. "Dynamic Scheduling" shall mean the automated scheduling of Energy from the Designated Point of Delivery with respect to a Project Participant to such Project Participant's control area or electric system, provided that said dynamic schedules adjust at four second intervals, or other intervals as specified by WECC, to match the amount of Energy actually delivered to such Designated Point of Delivery of the Project Participant from the Facility.
27. Energy. "Energy" shall have the definition set forth in the Power Purchase Agreement
28. Environmental Attributes. "Environmental Attributes" shall have the definition set forth in the Power Purchase Agreement.
29. Excess Energy. "Excess Energy" shall have the definition set forth in the Power Purchase Agreement.
30. Facility. "Facility" means all of the facilities including those resources described or defined as the Facility, the Site, Permits and facilities referred to in the Power Purchase Agreement or such portions of these facilities, interests, assets and rights as are provided SCPPA by way of the Power Purchase Agreement and the other Power Purchase and Security Agreements
31. Facility Capacity. "Facility Capacity" shall have the meaning provided in the Power

Purchase Agreement.

32. Facility Energy. "Facility Energy" shall have the definition set forth in the Power Purchase Agreement.
33. Facility Credit Agreements. All agreements, assignments and security related documents associated with the financing of the Facility, or of the rights or interests held in connection with the Facility, by the Power Purchase Provider or any of its affiliates and any other agreements or documents providing for security for the performance of the obligations of the Power Purchase Provider.
34. Facility Lender. "Facility Lender" shall have the definition set forth in the Power Purchase Agreement.
35. Facility Output. All output, rights, and other tangible or intangible benefits, whatsoever, derived from the Facility and received by SCPPA, including without limitation, all Energy (including Facility Energy, Delivered Energy and Excess Energy as defined in the Power Purchase Agreement), Capacity Rights and Environmental Attributes, whether received by SCPPA under or pursuant to the Power Purchase Agreement or other applicable Project Agreement.
36. Fiscal Year. The twelve-month period commencing at 12:01 a.m. on July 1 of each year and ending at 12:01 a.m. on the following July 1, or such other time frame as determined by the Coordinating Committee or Board of Directors.
37. Force Majeure. "Force Majeure" shall have the definition set forth in the Power Purchase Agreement.
38. Guaranteed Generation. "Guaranteed Generation" shall have the definition set forth in the Power Purchase Agreement.
39. Initial Payment Default Date. The earlier of (i) the end of the fifth day following the first Payment Default for which no remedy in payment has occurred and been received by SCPPA, or (ii) the last day of the Month in which the first Payment Default has occurred for which no remedy in payment has occurred and been received by SCPPA.
40. Joint Powers Agreement. The "Southern California Public Power Authority Joint Powers Agreement" dated as of November 1, 1980, as amended and modified from time to time, entered into pursuant to the provisions of the Act, among SCPPA and its members.
41. LADWP. The City of Los Angeles acting by and through the Department of Water and Power.
42. Major Contracts. The Project Agreements and, to the extent not finalized or effective on the effective date of an applicable project management agreement, any other contract or agreement so identified by the Coordinating Committee or the Board of Directors, as such contracts or agreements may be amended or supplemented from time to time.

43. Milestone. "Milestone" shall have the definition set forth in the Power Purchase Agreement.
44. Month. A calendar month.
45. Monthly Costs. "Monthly Costs" is defined in Section 7.1.
46. Operating Budget. The operating budget approved by the Board of Directors, which shall show a detailed estimate of all Project operating costs, including all revenues, income or other funds to be applied to such operating costs, for and applicable to a Power Supply Year.
47. Operating Reserve Depletion Date. The date that is two Months prior to the date on which SCPPA anticipates, assuming continued Payment Defaults by one or more Defaulting Project Participants, that the moneys in the operating reserve account held at any time by SCPPA will be fully depleted; provided, however, if as of the date on which a Payment Default occurs SCPPA determines that the moneys in the operating reserve account held by SCPPA will be fully depleted in less than two Months (or currently are fully depleted), then the Operating Reserve Depletion Date shall be deemed to have occurred when such a Payment Default occurs.
48. Output Entitlement Share. With respect to a particular Project Participant and during each Power Supply Year, the percentage entitlement, as set forth for such Project Participant in Appendix B of this Agreement, of the Facility Output or, if applicable, the Replacement Energy, delivered at such Project Participant's Designated Point of Delivery. The Output Entitlement Share of such Project Participant may be adjusted in connection with a revision of Appendix B as provided in and subject to the provisions of Sections 16.
49. Participants. The Project Participants.
50. Payment Default. A failure by a Project Participant to pay when due all of its Billing Statement for any Month.
51. Payment Default Period. That period of time during which a Payment Default exists.
52. Performance Security. "Performance Security" shall have the definition set forth in the Power Purchase Agreement.
53. Permit. "Permit(s)" shall have the definition set forth in the Power Purchase Agreement.
54. Person. "Person" means any individual, corporation, partnership, joint venture, limited liability company, association, joint stock company, trust, unincorporated organization, entity, government or other political subdivision.
55. Point(s) of Delivery. Point(s) of Delivery shall have the definition set forth in the Power Purchase Agreement.

56. Point(s) of Delivery Allocable Share. With respect to a particular Project Participant, the percentage share, as set forth for such Project Participant in Appendix C hereof, of the Facility Output at the Point of Delivery. The Point of Delivery Allocable Share of such Project Participant may be adjusted, but only in accordance with the terms and conditions of this Agreement, as provided for in connection with a revision of Appendix C as provided in and subject to the provisions of Section 16.
57. Power Purchase Agreement. The Power Purchase Agreement between Southern California Public Power Authority and ORNI 47, LLC, dated as of December 31, 2012, attached hereto in substantial form as Appendix D, as the same may be revised, modified or otherwise amended from time to time.
58. Power Purchase Agreement General and Administrative cost component. “Power Purchase Agreement General and Administrative cost component” is defined in Section 4.3.2.
59. Power Purchase and Security Agreements. The Power Purchase Agreement, the Security Instruments, Consent Agreements, Facility Credit Agreements, and any other consent to assignment or other agreement with any financial institution or Person relating to the Wild Rose Geothermal Energy Project or the Facility or any loan or other credit agreement associated with the Wild Rose Geothermal Energy Project or the Facility, or the Power Purchase Agreement. The Power Purchase and Security Agreements shall also include any instrument or form of security which affords any opportunity for the purchase of the Facility or acquisition, whether through foreclosure, or otherwise, Facility Credit Agreement or any other mortgage, Security Instrument, assignment, beneficial interest, collateral instrument or other device or mechanism providing for the ability to acquire the ORNI47, LLC Wild Rose Geothermal Energy Project or the Facility or an ownership interest therein.
60. Power Purchase Provider. ORNI 47, LLC as the counterparty to SCPPA under the Power Purchase Agreement, and the entity named under any applicable operating agreement to operate or otherwise run or manage the Facility, along with each of their successors, or any successors or assigns to the rights of these entities.
61. Power Sales Agreements. The Wild Rose Geothermal Energy Project Power Sales Agreements, dated for convenience as of December 31, 2012, as the same may hereafter be amended from time to time, entered into by SCPPA and each of the Project Participants for, among other things, the acquisition of the Output Entitlement Shares and other project related acquisitions.
62. Power Supply Year. The Fiscal Year, except that the first Power Supply Year shall begin on the first to occur of (i) the date SCPPA is obligated to pay any portion of the costs of the Project, (ii) the date of Commercial Operation of the Facility, or (iii) the date of the first delivery of Energy to Purchaser pursuant to this Agreement.
63. Project Cost Share. “Project Cost Share” is defined in Section 4.4.
64. Project or Wild Rose Geothermal Energy Project. The term “Project” or “Wild Rose

Geothermal Energy Project” shall be broadly construed to entail the aggregate of rights, liabilities, interests and obligations of SCPPA pursuant to the Power Purchase Agreement, the Power Purchase and Security Agreements and the other Project Agreements, including but not limited to the rights, liabilities, interests and obligations associated with the Facility Output. The term Project shall also include those rights, liabilities, interests or obligations necessary or appropriate to carry out the functions specified in Section 6 and to utilize or deliver the Energy of the Facility as specified in Section 9.

65. Project Agreements. Any project management agreement, the Power Sales Agreements, each of the Power Purchase and Security Agreements, any operation and management agreement, other contracts for the purchase, procurement, delivery or transmission of Facility Output, and including the rights and interests under the Facility Credit Agreements or any other consents to assignments or agreements for assignment, any inter-creditor agreement, or any other agreements for scheduling, dispatching, tagging, movement or transmission of Facility Output, agreements to which SCPPA is a party relating to the administration or management of the Project.
66. Project Manager. SCPPA or a designee or designees appointed by SCPPA to assist SCPPA to carry out SCPPA’s responsibilities under the Power Sales Agreements, among other things.
67. Project Participant(s). Those entities executing Power Sales Agreements, together in each case with each entity’s successors or assigns, identified as “Project Participants” in Appendix B of the Power Sales Agreements or Appendix C of the Power Sales Agreements and such additional entities executing Power Sales Agreements as may be added by way of a revision of Appendices A, B or C under the terms of this Agreement.
68. Project Rights. All rights and privileges of a Project Participant under its Power Sales Agreement, including but not limited to its Output Entitlement Share, its right to receive Facility Output from the Facility, and its right to vote on Coordinating Committee matters.
69. Project Rights and Obligations. Purchaser’s Project Rights and obligations under the terms of this Agreement.
70. Prudent Utility Practices. “Prudent Utility Practices” shall have the meaning provided in the Power Purchase Agreement.
71. Renewable Electric Energy Resource Project. The aggregate of SCPPA’s endeavors to acquire renewable energy and capacity and to facilitate acquisition of renewable electric generation and the means to deliver such generation either by way of the development agreement for the Renewable Electric Resource Project as described in Section 2.2 herein
72. Replacement Energy. “Replacement Energy” shall have the meaning provided in the Power Purchase Agreement.
73. Reserve Fund cost component. “Reserve Fund cost component” is defined in

Section 4.3.3.

74. Reserve Fund(s). Those reserve accounts deemed appropriate to afford a reliable source of funds for the payment obligations of the Project and, taking into account the variability of costs associated with the Project for the purpose of providing a reliable payment mechanism to address the ongoing costs associated with the Project.
75. Security and Assignment Agreements. The agreements and instruments entered into by the Power Purchase Provider or any affiliate thereof and, where applicable, SCPPA, including the Performance Security, and the agreements, instruments and mechanisms referenced or set forth in the Power Purchase Agreement to, among other things, secure certain performance requirements.
76. Security Instruments. The Security and Assignment Agreements, the Performance Security, the Facility Credit Agreements or other arrangement or agreement with the Facility Lender following a purchase of the rights and interests thereunder by SCPPA if applicable, and any and all instruments, agreements, assignments, mortgages, deeds of trusts or conveyances or other collateral arrangements entered into to secure the performance of the Power Purchase Provider or any affiliate thereof under the Power Purchase Agreement or any other of the Power Purchase and Security Agreements, or any lease or interest in real property used by or affecting the Facility, including without limitation any security interest conveyed by way of the Power Purchase Agreement or other agreement or instrument relating to the Project or any Project matter creating a security interest enforceable by SCPPA.
77. Site. "Site" shall have the definition set forth in the Power Purchase Agreement.
78. Step-Up Invoice. An invoice sent to a non-Defaulting Project Participant as a result of one or more Payment Defaults, which invoice shall separately identify any amount owed with respect to the monthly Billing Statement of one or more Defaulting Project Participants for, as the case may be, pursuant to Section 11.8.1 herein, the Total Monthly Costs reflected in the Defaulting Project Participant(s) unpaid monthly Billing Statement.
79. Study Project. "Study Project" has the meaning provided in the Joint Powers Agreement.
80. Supplementary Services. Those services in connection with the delivery of Energy involving additional transmission, interconnection arrangements, energy management, energy balancing, dispatching, tagging, scheduling, Dynamic Scheduling, transmitting, interconnecting, swapping, exchanging or other services associated with the transmission, use or disposition of Facility Output to be utilized by the Project Participants under the Power Sales Agreements, and to otherwise provide for delivery and facilitate the disposition, movement, taking, receiving, accounting for, transferring and crediting the transfer of Facility Output from the respective Points of Delivery to any other points or destinations, as determined by the Project Participants. Supplementary Services include but are not limited to delivery point swaps, stranded energy/transmission curtailments, tie-point liquidity improvement, transmission loss savings, tie-point price spread optimization, on-peak/off-peak exchanges, peak shifting exchanges, seasonal exchanges,

and both simultaneous or non- simultaneous green energy exchanges.

81. Supplementary Services cost component. "Supplementary Services cost component" is defined in Section 4.3.4.
82. Total Monthly Costs. "Total Monthly Costs" has the meaning described in Section 4.2.
83. Uncontrollable Forces. Any Force Majeure event and any cause beyond the control of any Party, and which by the exercise of due diligence such Party is unable to prevent or overcome, including but not limited to, failure or refusal of any other Person to comply with then existing contracts, an act of God, fire, flood, explosion, earthquake, strike, sabotage, pestilence, an act of the public enemy (including terrorism), civil or military authority including court orders, injunctions and orders of governmental agencies with proper jurisdiction or the failure of such agencies to act, insurrection or riot, an act of the elements, failure of equipment, a failure of any governmental entity to issue a requested order, license or permit, inability of any Party or any Person engaged in work on the Project to obtain or ship materials or equipment because of the effect of similar causes on suppliers or carriers. Notwithstanding the foregoing, Uncontrollable Forces as defined herein shall also include events of Force Majeure pursuant to the Power Purchase Agreement, as defined therein.
84. WECC. The Western Electricity Coordinating Council or its successor.

*Appendix A may be revised in accordance with and subject to the provisions of Section 16 of this Agreement.

APPENDIX B*

**SCHEDULE OF PROJECT PARTICIPANTS
CAPACITY AMOUNTS
OUTPUT ENTITLEMENT SHARES
PROJECT COST SHARES
POINTS OF DELIVERY**

| Project Participants | Capacity Amounts (MW) | Output Entitlement Shares (at points of Delivery) | Project Cost Shares | Points of Delivery** (as Designated by Project Participants) |
|-----------------------------|------------------------------|--|----------------------------|---|
| Burbank | 2.49 | 15.38% | 15.38% | 230 kV Mead Substation, or such other point as mutually agreed between Buyer and Seller. |
| LADWP | 13.71 | 84.62% | 84.62% | 230 kV Mead Substation, or such other point as mutually agreed between Buyer and Seller. |
| Total | 16.2 | 100% | 100% | |

* Appendix B may be revised in accordance with and subject to the provisions of Section 16 of this Agreement.

**The agreement between SCPPA and the Power Purchase Provider or other party with respect to a change in the Designated Point of Delivery may only be provided by SCPPA in accordance with the Power Purchase Agreement or the applicable Project Agreements, or as may be otherwise permitted upon a timely request by the Project Participant.

APPENDIX C*

**SCHEDULE OF PROJECT PARTICIPANTS
DELIVERY POINT OUTPUT COST SHARES**

| Project Participants | Delivery Point Output Cost Shares |
|-----------------------------|--|
| Burbank | 15.38% |
| LADWP | 84.62% |
| Total | 100% at the Point of Delivery |

*Appendix C may be revised in accordance with and subject to the provisions of Section 16 of this Agreement.

APPENDIX D
POWER PURCHASE AGREEMENT
BETWEEN
SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
AND
ORNI 47, LLC
DATED AS OF DECEMBER 31, 2012

EXECUTION COPY

WILD ROSE GEOTHERMAL ENERGY PROJECT

POWER PURCHASE AGREEMENT

BETWEEN

ORNI 47 LLC

AND

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

DATED AS OF DECEMBER 31, 2012

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POWER PURCHASE AGREEMENT

PARTIES

THIS POWER PURCHASE AGREEMENT (this "*Agreement*") is dated as of the 31st day of December, 2012, and entered into by and between the SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY a joint powers agency and a public entity organized under the laws of the State of California and created under the provisions of the Act and the Joint Powers Agreement ("*Buyer*"), and ORNI 47 LLC, a limited liability company organized and existing under the laws of the State of Delaware ("*Seller*"). Each of Buyer and Seller is referred to individually in this Agreement as a "*Party*" and together they are referred to as the "*Parties*."

RECITALS

WHEREAS, Buyer's members have adopted or are adopting policies to comply with the California Renewable Energy Resources Act that are designed to increase the amount of energy that they provide to their retail customers from eligible renewable energy resources; and

WHEREAS, in January 2011, Buyer issued a request for proposals to acquire renewable energy resources; and

WHEREAS, Seller's parent company on behalf of Seller responded to the request for proposals and following negotiation has agreed to sell to Buyer, and Buyer has agreed to purchase from Seller, certain renewable energy and associated environmental attributes; and

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

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein, and the mutual covenants and agreements herein set forth, the Parties agree as follows:

ARTICLE I

DEFINITIONS AND INTERPRETATION

Section 1.1 Definitions. The following terms in this Agreement and the appendices hereto shall have the following meanings when used with initial capitalized letters:

"**Act**" means all of the provisions contained in the California Joint Exercise of Powers Act found in Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California, beginning at California Government Code Section 6500 *et seq.*

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

"Agreement" has the meaning set forth in the preamble of this Agreement.

"Agreement Term" has the meaning set forth in Section 2.2.

"ASME" means American Society of Mechanical Engineers.

"Assumed Daily Deliveries" has the meaning set forth in Section 13.3(c).

"ASTM" means American Society for Testing and Materials.

"Authorized Auditors" means representatives of Buyer or Buyer's Agents who are authorized to conduct audits on behalf of Buyer.

"Authorized Representative" means, with respect to each Party, the Person designated as such Party's authorized representative pursuant to Section 14.1.

"AWS" means American Welding Society.

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

"Brown Act" has the meaning set forth in Section 14.21(d).

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

"Buyer" has the meaning set forth in the preamble of this Agreement.

"Buyer's Agent" means any Person authorized or designated by Buyer to make any determination or perform, carry out, or provide any function on behalf of Buyer under this Agreement.

"Buyer Ancillary Documents" all instruments, agreements, certificates, and documents executed by Buyer pursuant to this Agreement.

"Buyer's Member" means any member of Buyer that has entered into the Joint Powers Agreement.

"CAISO" means the California Independent System Operator Corporation.

"California Public Utilities Code" means the Public Utilities Code of the State of California, as may be amended from time to time.

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

"Capacity Rights" means the rights, whether in existence as of the Effective Date or arising hereafter during the Agreement Term, to capacity, resource adequacy, or reserves associated with the electric generating capability of the Facility, including the right to resell such rights.

"CEC" means California's State Energy Resources Conservation and Development Commission, also known as the California Energy Commission, and any successor agency thereto.

"CEC Certified" means that the CEC has certified that the Facility is an eligible renewable energy resource in accordance with California Public Utilities Code Section 399.12(e) and the guidelines adopted by the CEC, as amended from time to time, and any successor statute.

"CEC Performance Standard" means, at any time, the applicable greenhouse gas emissions performance standard in effect at such time for baseload electric generation facilities that are owned or operated (or both) by local publicly owned electric utilities, or for which a local publicly owned electric utility has entered into a contractual agreement for the purchase of power from such facilities, as established by the CEC or other Governmental Authority having jurisdiction over Buyer.

"CEQA" means the California Environmental Quality Act, Public Resources Code §§ 21000, et. seq., as amended from time to time, and any successor statute.

"Change in Law" means a change in any federal, state, local, or other law (including any environmental laws), resolution, standard, code, rule, ordinance, directive, regulation, order, judgment, decree, ruling, determination, permit, certificate, authorization, or approval of a Governmental Authority (other than Buyer) which is applicable to either Party or the Facility.

"Commercial Operation" means the date on which all of the following have occurred:

(a) Construction of the Facility has been substantially completed in accordance with the terms and conditions of this Agreement and the Facility (including the Facility Energy and associated Environmental Attributes) is RPS Compliant and EPS Compliant and possesses all the other material characteristics, and satisfies all of the material requirements, set forth for the Facility in this Agreement and for delivery of Facility Energy to the Point of Delivery pursuant to this Agreement;

(b) The Facility has successfully completed all testing required by any Requirement of Law to be completed prior to full commercial operations, and has demonstrated (i) the sustained operation of the generating facility for at least 5 consecutive hours at a delivery rate of at least 15.4 MW (net of providing the full requirements for Parasitic Load and net of transmission losses to the Point of Delivery), as adjusted to reflect nominal resource temperature and flow rates and other environmental conditions, and (ii) the delivery of Energy equal to at

52489005.2

least 1,749 MWh during a period of 120 consecutive hours (net of providing the full requirements for Parasitic Load and net of transmission losses to the Point of Delivery), as adjusted to reflect resource temperature and flow rates and other environmental conditions;

(c) Seller has obtained all Permits required for the operation and maintenance of the Facility in accordance with this Agreement (including the Permits identified in Appendix B), and all such Permits are final and in full force and effect;

(d) Seller has obtained the Insurance;

(e) Buyer shall have received the Delivery Term Security;

(f) Seller shall have entered into transmission and interconnection agreements with Transmission Providers pursuant to which it has obtained Facility Transmission Rights and Interests as necessary for the delivery of the Facility Energy to the Point of Delivery using NV Energy's Transmission Services and Transmission System (which Transmission Services are enabled by the One Nevada Transmission Line), unless Seller shall have elected with respect to certification of the Commercial Operation Date, as provided in Section 3.5, to utilize the Transmission Services provided by CAISO as Transmission Provider and the alternate Transmission Systems, in which case Seller shall comply with the requirements of the Agreement, including the conditions of this definition of "Commercial Operation", in connection with its utilization of the Transmission Services provided by CAISO as Transmission Provider and the alternate Transmission System for the delivery of the Facility Energy to the Point of Delivery; and

(g) Seller has caused a GeothermEx, a division of Schlumberger Inc., or another qualified geothermal energy consultant satisfactory to Buyer in its reasonable discretion, to furnish to Buyer its opinion stating, with a confidence level of at least ninety percent, that the production wells of the Facility are capable of supporting operation of the Project generating facility on a sustained basis for the delivery of Facility Energy to the Point of Delivery at the rate of at least 15.4 MW declining yearly by 0.5% for the duration of the Agreement Term.

"Commercial Operation Date" means the date on which Commercial Operation occurs, as determined pursuant to Section 3.5.

"Confidential Information" has the meaning set forth in Section 14.21(a).

"Contract Year" means (i) the twelve (12) month period beginning on the Commercial Operation Date and ending on the first anniversary of the Commercial Operation Date, and (ii) each succeeding period of twelve (12) consecutive months following the period described in the preceding clause (i).

"Costs" has the meaning set forth in Section 13.3(f).

"CPRA" has the meaning set forth in Section 14.21(d).

"CPUC" means the California Public Utilities Commission and any successor thereto.

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

"CRO" has the meaning set forth in Section 14.25(h).

"Default" has the meaning set forth in Section 13.1.

"Defaulting Party" has the meaning set forth in Section 13.1.

"Delivered Energy" means the MWh of Facility Energy delivered by Seller for receipt by Buyer at the Point of Delivery.

"Delivery Term" has the meaning set forth in Section 2.2.

"Delivery Term Security" has the meaning set forth in Section 5.9(b).

"Dispute" has the meaning set forth in Section 14.3.

"Dispute Notice" has the meaning set forth in Section 14.3.

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

"Early Termination Date" has the meaning set forth in Section 13.3(a).

"EBO" has the meaning set forth in Section 14.25(g).

"EEI" means Edison Electric Institute.

"Effective Date" has the meaning set forth in Section 2.1.

"Electric Metering Devices" means all meters, metering equipment, and data processing equipment used to measure, record, or transmit data relating to Facility Energy. Electric Metering Devices include the metering current transformers and the metering voltage transformers.

"Energy" means electrical energy.

"Environmental Attributes" means RECs, and any and all other current or future credits, benefits, emissions reductions, offsets or allowances, howsoever entitled, named, registered, created, measured, allocated or validated (A) that are at any time recognized or deemed of value (or both) by Buyer, applicable law, or any voluntary or mandatory program of any Governmental Authority or other Person and (B) that are attributable to (i) generation by the Facility during the Agreement Term or Replacement Energy required to be delivered by Seller to

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Buyer during the Agreement Term and (ii) the emissions or other environmental characteristics of such generation or such Replacement Energy or its displacement of conventional or other types of Energy generation. Environmental Attributes include any of the aforementioned arising out of legislation or regulation concerned with oxides of nitrogen, sulfur, carbon, or any other greenhouse gas or chemical compound, particulate matter, soot, or mercury, or implementing the United Nations Framework Convention on Climate Change (the "UNFCCC"), the Kyoto Protocol to the UNFCCC, California's greenhouse gas legislation (including California Assembly Bill 32 (Global Warming Solutions Act of 2006)) or any similar international, federal, state or local program or crediting "early action" with a view thereto, or laws or regulations involving or administered by the CAMD, and all Environmental Attribute Reporting Rights, including all evidences (if any) thereof such as renewable energy certificates of any kind. Environmental Attributes for purposes of this definition are separate from the Facility Energy. Environmental Attributes exclude (a) investment tax credits, any local, state or federal production tax credits, depreciation deductions or other tax credits providing a tax benefit to Seller or any other Person based on ownership or a security interest in the Facility or Energy production from any portion of the Facility, including any investment or production tax credit expected to be available to Seller with respect to the Facility, (b) depreciation deductions and benefits, and other tax benefits arising from ownership or operation of the Facility unrelated to its status as a generator of renewable or environmentally clean energy, and (c) cash grants or other financial incentives from any local, state or federal government available to Seller with respect to the Facility.

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

"Environmental Documents" has the meaning set forth in Section 3.1.

"EPA" means the Environmental Protection Agency and any successor agency.

"EPC Contractor" means Seller's contractor primarily responsible for the construction of the Facility's power block.

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

"EPS Law" means Sections 8340 and 8341 of the California Public Utilities Code as amended from time to time or any successor statute.

“Excess Energy” means the portion of the Delivered Energy for any Contract Year that is (i) Facility Energy and (ii) in excess of the Guaranteed Generation for such Contract Year.

“Facility” means the geothermal powered electric generating facility, including all related property and facility rights and interests, and the Facility Transmission Rights and Interests, described in Appendix B.

“Facility Credit Agreement” has the meaning set forth in Section 14.7(e).

“Facility Energy” means (i) Energy generated by the Facility, less Parasitic Load, and (ii) the Energy generated by the Facility that constitutes such Facility Energy as provided in Section 8.6(b).

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

“Facility Transmission Rights and Interests” means the rights and interests of Seller to use the capacity of and Schedule Facility Energy over the Transmission System, including associated interconnection facilities, providing Transmission Services to the Point of Delivery.

“FERC” means the Federal Energy Regulatory Commission.

“Firm Transmission” means Transmission Services that cannot be curtailed within an operating hour for economic reasons or for higher priority transmission; provided that if Seller or Buyer, as applicable, uses commercially reasonable efforts to obtain Transmission Services meeting the foregoing criterion but is unable to obtain such Transmission Services notwithstanding such efforts, Firm Transmission shall be the most reliable Transmission Services available to Seller or Buyer, as applicable, for the transmission of Energy from the Facility to or from the Point of Delivery at the time.

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

“Force Majeure Cure Period” means a specified number of months following the end of a Force Majeure Trigger Period, calculated as follows:

$$\text{Force Majeure Cure Period (in months)} = [1 - (A/B)] \times C$$

Where:

A = the capacity to which the Facility is reduced as a result of the Force Majeure event(s) associated with the Force Majeure Trigger Period,

adjusted to reflect the difference between the actual ambient temperatures and the annual average temperature;

B = 8.1 MW; and

C = twelve (12) months.

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

“**Force Majeure Trigger Period**” has the meaning set forth in Section 14.6(d).

“**Forced Outage**” means the removal of service availability of the Facility, or any portion of the Facility, for emergency reasons or conditions in which the Facility, or any portion thereof, is unavailable due to unanticipated failure, including as a result of Force Majeure.

“**GAAP**” means generally accepted accounting principles set forth in opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a significant segment of the accounting profession, in each case as the same are applicable to the circumstances as of the date of determination.

“**Gains**” has the meaning set forth in Section 13.3(f).

“**Governmental Authority**” means any federal, state, regional, city, or local government, any intergovernmental association or political subdivision thereof, or other governmental, regulatory, or administrative agency, court, commission, administration, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority, or any Person acting as a delegate or agent of any Governmental Authority. The term “Governmental Authority” shall not include Buyer or any Buyer’s Member.

“**Guaranteed Generation**” means, for each Contract Year, the value in MWh set forth beside such Contract Year in the table attached hereto as Appendix J.

“**IEEE**” means the Institute of Electrical and Electronics Engineers.

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

immediate family of any Person excluded from being an Independent Manager under clause (a) or (b) of this definition.

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

“Interest Rate” has the meaning set forth in Section 11.3.

“Interim Operation Period” means the period prior to Commercial Operation as set forth in Section 3.9.

“Investment-Grade Credit Rating” means a credit rating on a Person’s senior long term debt, unsecured and unenhanced, that is at least BBB+ by Standard & Poor’s Corporation or Baa1 by Moody’s Investment Services, Inc.

“ISA” means Instrument Society of America.

“Joint Powers Agreement” means the “Southern California Public Power Authority Joint Powers Agreement” entered into pursuant to the provisions of the Act among Buyer and Buyer’s Members, dated as of November 1, 1980, as amended or modified from time to time.

“LAAC” has the meaning set forth in Section 14.25(b)(i).

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

“Leases” means the United States, Department of Interior, Bureau of Land Management, Leases for Geothermal Resources, serial numbers NVN-83929 and NVN-83931.

“Lessor” means a lessor of property for the Facility under a Lease.

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

“Losses” has the meaning set forth in Section 13.3(f).

“LWO” has the meaning set forth in Section 14.25(d).

“MBE” has the meaning set forth in Section 14.25(c).

“Major Maintenance Blockout” has the meaning set forth in Section 4.4.

“Maximum Generation” means (i) for each Contract Year, the value in MWh set forth beside such Contract Year under Maximum Generation in the table attached hereto as Appendix J, and (ii) for each hour, twenty three (23) MW, provided that, Seller may increase such amount from time to time upon thirty (30) days advance written notice up to twenty five (25) MW total in the event that Facility is able to deliver such increased amount at the Point of Delivery.

“**Milestone**” has the meaning set forth in Section 3.6.

“**Milestone Date**” means, with respect to a Milestone, the date for achieving such Milestone determined pursuant to Section 3.6, including, if and to the extent that the date specified for such Milestone in the Milestone schedule shall be extended as provided in Section 3.6, such extended date.

“**MW**” means megawatt.

“**MWh**” means megawatt-hours.

“**NEPA**” means the National Environmental Policy Act, 42 USC §§4321 to 4370c, as amended from time to time.

“**NERC**” means the North American Electric Reliability Corporation.

“**Non-Consolidation Opinion**” means a reasoned opinion of Seller’s legal counsel, in form that is reasonably acceptable to Buyer, addressed to Buyer as to the non-consolidation of Seller in a bankruptcy proceeding of any member of Seller.

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

“**Notice to Proceed**” means the notice from Seller to the EPC Contractor instructing such contractor to commence Site preparation and other construction activities at the Site for the construction of the Facility’s power block.

“**Notifying Party**” has the meaning set forth in Section 14.3(a).

“**OSHA**” means Occupational Safety & Health Administration.

“**Pacific Prevailing Time**” means the local time in Los Angeles, California.

“**Parasitic Load**” means the Energy produced by the Facility (or under the circumstances set forth in Section 8.6(b) Energy from another source) that is used to power the lights, motors, pumps, control systems, cooling systems, ancillary equipment, and other electrical loads that are necessary for the operation of the power systems and related facilities for the production of Facility Energy, including feeder lines and collection systems, and the Energy produced by the Facility used to operate the pumps and related equipment and facilities located in the well fields of the Facility.

“**Party**” or “**Parties**” has the meaning set forth in the preamble of this Agreement.

“**Performance Security**” means the Project Development Security or the Delivery Term Security, as applicable, that is required to be provided by Seller to Buyer to secure Seller’s performance under this Agreement.

“**Permits**” means all applications, permits, licenses, franchises, certificates, concessions, consents, authorizations, approvals, registrations, orders, filings, entitlements, and similar

requirements of whatever kind and however described that are required to be obtained from a Governmental Authority with respect to the development, siting, design, acquisition, construction, equipping, financing, ownership, possession, shakedown, start-up, testing, operation, or maintenance of the Facility, the production and delivery of Facility Energy, Capacity Rights, and Environmental Attributes, or any other transactions or matter contemplated by this Agreement (including those pertaining to electrical, building, zoning, environmental, and occupational safety and health requirements), including the NEPA Environmental Assessment and the Permits described in Appendix B.

"Permitted Encumbrances" means (i) any Lien approved by Buyer in a writing separate from this Agreement that expressly identifies the Lien as a Permitted Encumbrance, (ii) Liens for Taxes not yet due or for taxes being contested in good faith by appropriate proceedings, so long as such proceedings do not involve a material risk of the sale, forfeiture, loss or restriction on the use of the Facility or any part thereof, provided that such proceedings are reasonably expected to end by the expiration of the Agreement Term, (iii) subject to compliance under Section 14.7, any Lien arising from a financing arrangement associated with the Facility; (iv) suppliers', vendors', mechanics', workman's, repairman's, employees', or other like Liens arising in the ordinary course of business for work or service performed or materials furnished in connection with the Facility for amounts the payment of which is either not yet delinquent or is being contested in good faith by appropriate proceedings so long as such proceedings do not involve a risk of the sale, forfeiture, loss or restriction on use of the Facility or any part thereof, and (v) easements, rights of way, use rights, exceptions, encroachments, reservations, restrictions, conditions or limitations, provided that in each case the same do not interfere with or impair the operation or use of the Facility as contemplated by the Agreement or have a material adverse effect on the useful life or utility of the Facility.

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

"Point of Delivery" means the 230 kV Mead Substation, or such other point as mutually agreed by the Parties.

"Power Block Construction Start" means that the Notice to Proceed has been issued to the EPC Contractor, and the EPC Contractor has begun physical construction work on-site in connection with the Facility's power block.

"Pre-Certification Period" has the meaning set forth in Section 6.1(c).

"Present Value Rate" means, at any date, the sum of 0.50% plus the yield reported on page "USD" of the Bloomberg Financial Markets Services Screen (or, if not available, any other nationally recognized trading screen reporting on-line intraday trading in United States government securities) at 11:00 a.m. (New York City, New York time) for the United States government securities having a maturity that most nearly matches the Remaining Term at that date.

"Project Development Security" has the meaning set forth in Section 5.9(a).

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

“Qualified Guarantor” means a guarantor with an Investment-Grade Credit Rating.

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

“Quality Assurance Program” has the meaning set forth in Section 5.7.

“REC” or **“Renewable Energy Credit”** means a certificate of proof associated with the generation of electricity from an eligible renewable energy resource, which certificate is issued through the accounting system established by the CEC pursuant to California Public Utilities Code Section 399.25, evidencing that one (1) MWh of energy was generated and delivered from such eligible renewable energy resource. Such certificate is a tradable environmental commodity (also known as a “green tag”) for which the owner of the REC can prove that it has purchased renewable energy.

“Recipient Party” has the meaning set forth in Section 14.3(a).

“Remaining Term” means, at any date, the remaining portion of the Agreement Term at that date without regard to any early termination of this Agreement.

“Replacement Energy” has the meaning set forth in Section 9.2.

“Replacement Price” means the price at which Buyer, acting in a commercially reasonable manner, purchases substitute Energy and Environmental Attributes equivalent to those not delivered by Seller or, absent a purchase, the market price for the quantity of Energy and associated Environmental Attributes not delivered at the Point of Delivery (adjusted for transmission differences, if any).

“Requirements” means, collectively, Prudent Utility Practices, all applicable Requirements of Law, Seller’s Quality Assurance Program, and all other requirements of this Agreement.

“Requirement of Law” means laws, statutes, regulations, rules, codes or ordinances enacted, adopted, issued or promulgated by any federal, state, local or other Governmental Authority (including those pertaining to electrical, building, zoning, environmental and occupational safety and health requirements).

"Retail Seller" means an "electrical corporation" (as defined in Section 218 of the California Public Utilities Code) that is a "retail seller" as defined in Section 399.12(b) of the California Public Utilities Code.

"RPS Compliant" means, when used with respect to the Facility or any other facility at any time, that all Energy generated by the Facility and delivered to the Point of Delivery or by such other facility, together with all of the associated Environmental Attributes, delivered to the Point of Delivery qualify as "portfolio content category 1" eligible renewable resource under the RPS Law and meet the requirements of California Public Utilities Code Section 399.16(b)(1), as amended from time to time and any successor statute.

"RPS Law" means the California Renewable Energy Resources Act, including the California Renewables Portfolio Standard Program, Article 16 of Chapter 2.3, Division 1 of the California Public Utilities Code.

"Sales Price" has the meaning set forth in Section 6.3.

"SCADA" has the meaning set forth in Section 7.2(f).

"Schedule" or **"Scheduling"** means the actions of Seller and Buyer, their Authorized Representatives, and their Transmission Providers, if applicable, of notifying, requesting, and confirming to each other the quantity of Facility Energy to be delivered hourly at the Point of Delivery on any given date during the Agreement Term.

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

"Scheduled Outage Projection" has the meaning set forth in Section 4.4(a).

"Scheduler" means the Persons doing Scheduling for each Party. The contact information for Buyer's Scheduler and Seller's Scheduler as of the Effective Date is set forth in item 3, Appendix C.

"SCPPA" has the meaning set forth in Section 14.25(g).

"SCWRO" has the meaning set forth in Section 14.25(d).

"Seller" has the meaning set forth in the preamble of this Agreement.

"Seller Ancillary Documents" means all instruments, agreements, certificates, and documents executed by Seller or any of its Affiliates pursuant to this Agreement and shall include the documents constituting part of the Performance Security.

"Seller Party(ies)" means Seller and any Affiliate of Seller that executes a Seller Ancillary Document.

"SFPO" has the meaning set forth in Section 14.25(i).

“Shortfall Energy” has the meaning set forth in Section 9.1.

“Shortfall Liquidated Damages” has the meaning set forth in Section 9.3.

“Shortfall Makeup Period” means the 24 calendar month period following the Contract Year during which the applicable Shortfall Energy initially occurs.

“Site” means the real property (including all fixtures and appurtenances thereto) and related physical and intangible property generally identified in Appendix B as owned or leased by Seller or over which Seller has a right-of-way or other right to use the property where the Facility is located or will be located, and including any easements, rights-of-way, or contractual rights held or to be held by Seller for transmission lines or roadways servicing such Site or the Facility located (or to be located) thereon.

“Special Purpose Entity” means a limited liability company or corporation that on and after the date hereof:

(a) shall not (i) engage in any dissolution, liquidation or consolidation or merger with or into any other business entity, (ii) acquire by purchase or otherwise all or substantially all of the business or assets of or beneficial interest in any other entity, (iii) transfer, lease or sell, in one transaction or any combination of transactions, all or substantially all of its properties or assets except to the extent permitted herein, (iv) modify, amend or waive any provisions of its organizational documents related to its status as a Special Purpose Entity without the affirmative vote of the Independent Manager, or (v) terminate its organizational documents or its qualifications and good standing in California, Delaware and Nevada.

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

(c) will not engage in any business other than that relating to its limited purpose as set forth in the immediately preceding subsection (b);

(d) will not have any assets other than those related to the Facility;

(e) will hold itself out to the public as a legal entity separate and distinct from any other entity and will correct any known misunderstanding regarding the separate identity of such entity and has not identified and will not identify its members, or any Affiliate of any member, as a division or department or part of it, and has not identified itself and shall not identify itself as a division or department of any other Person;

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

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

(h) will not make loans or advances to any Person or hold evidence of indebtedness issued by any other Person (other than cash and investment grade securities issued by an entity that is not an Affiliate of or subject to common ownership with such entity and other than investments permitted under an agreement with a third party for the construction or permanent financing (or refinancing) of the Facility) or made any gifts or fraudulent conveyances to any Person;

(i) will not enter into or be a party to, any transaction with its members or Affiliates, except in the ordinary course of its business and on terms which are commercially reasonable and are no less favorable to it than would be obtained in a comparable arm's-length transaction with an unrelated third party;

(j) will not have any obligation to indemnify and will not indemnify its officers, managers or members, as the case may be, other than with respect to acts or omissions relating to the Facility, this Agreement or otherwise in connection the business purpose for such entity under its organizational documents on the Effective Date;

(k) will not have any of its obligations guaranteed (other than pursuant to Performance Security and other than in connection with construction or permanent financing (or refinancing) of the Facility by a third party to the extent that the guarantee does not result in an increase in the amount of debt of the entity) by any Affiliate;

(l) will hold its assets in its own name and will conduct all business in its own name;

(m) will maintain its audited or unaudited (as applicable) financial statements, accounting records and other entity documents separate from any other Person, has filed and will file its own tax returns (except to the extent treated as a "disregarded entity" for tax purposes and is not required to file tax returns under applicable law), has not and will not permit its assets to be listed as assets on the financial statement of any other entity except as required by GAAP; provided, however, that the management discussion and analysis section of the Annual Report on form 10K or any such consolidated financial statement shall contain a note indicating that its separate assets and liabilities are neither available to pay the debts of the consolidated entity nor constitute obligations of the consolidated entity and may clarify, among other things, that the foregoing does not prevent the entity from making dividends to its affiliates in accordance with the entity's organizational documents;

(n) will pay its own liabilities and expenses, including the salaries of its own employees, if any, out of its own funds and assets;

(o) will observe all material limited liability company formalities;

(p) will not assume or guarantee or become obligated for the debts of any other Person and has not held out and will not hold out its credit as being available to satisfy the obligations of any other Person except as permitted pursuant to this Agreement;

(q) will not acquire obligations or securities of its members or any Affiliate;

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

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

(t) will have articles of organization, a certificate of formation or an operating agreement, as applicable, that provides that it will not, without the affirmative vote of its Independent Manager, file a bankruptcy or insolvency petition or otherwise institute insolvency proceedings with respect to itself or to any other entity in which it has a direct or indirect legal or beneficial ownership interest; and

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

(v) will have no indebtedness other than (i) any loan made by the Facility Lender providing construction financing for the Facility or any long term loan by the Facility Lender in respect of the permanent financing for the Facility, (ii) Taxes and Insurance premiums, (iii) liabilities incurred in the ordinary course of business relating to its ownership, leasing and operation of the Facility and its routine administration, which liabilities are not more than sixty (60) days past due, are not evidenced by a note and are paid when due, and which amounts are normal and reasonable under the circumstances, and in any event not in excess of \$100,000 in the aggregate, and (iv) such other liabilities that are expressly permitted pursuant to this Agreement.

"System Emergency" means an emergency condition or abnormal interconnection situation that prevents Buyer's Transmission Provider from receiving Energy at the Point of Delivery.

"Tax" or "Taxes" means each federal, state, county, local and other (a) net income, gross income, gross receipts, sales, use, ad valorem, business or occupation, transfer, franchise, profits, withholding, payroll, employment, excise, property or leasehold tax and (b) customs, duty or other fee, assessment or charge of any kind whatsoever, together with any interest and any penalties, additions to tax or additional amount with respect thereto. Requirements of Buyer or Buyer's Members are not Taxes.

"Termination Notice" has the meaning set forth in Section 13.3(a).

"Termination Payment" means a payment in an amount equal to the Non-Defaulting Party's (a) Losses, plus (b) Costs, minus (c) Gains; provided, however that if such amount is a negative number, the Termination Payment shall be equal to zero.

"Transmission Providers" means the Persons operating the Transmission Systems providing Transmission Services to or from the Point of Delivery.

"Transmission Services" means the transmission and other services required to transmit Facility Energy to or from the Point of Delivery.

"Transmission System" means the facilities utilized to provide Transmission Services.

"Unexcused Cause" has the meaning set forth in Section 14.6(b).

"WBE" has the meaning set forth in Section 14.25(c).

"WECC" means the Western Electricity Coordinating Council.

"WREGIS" means Western Renewable Energy Generation Information System.

"WREGIS Certificates" has the meaning set forth in Section 8.4.

"WREGIS Operating Rules" means the rules describing the operations of the Western Renewable Energy Generation Information System, as published by WREGIS.

Other terms defined herein have the meanings so given when used in this Agreement with initial-capitalized letters.

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

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

and references in any Article or Section or definition to any clause means such clause of such Article or Section or definition;

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

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

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

(i) reference to time shall always refer to Pacific Prevailing Time; and reference to any "day" or "month" shall mean a calendar day or calendar month, as applicable, unless otherwise indicated; and

(j) the term "or" is not exclusive.

ARTICLE II EFFECTIVE DATE, TERM, AND EARLY TERMINATION

Section 2.1 Effective Date. This Agreement shall be effective on the later of (a) the date that both Parties have executed this Agreement, and (b) the date that all of the following conditions have been satisfied (the "*Effective Date*");

(a) Buyer shall have received the Non-Consolidation Opinion;

(b) Seller shall have delivered copies of the Leases to Buyer;

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

(d) Buyer shall have received an executed original of a written legal opinion of Chadbourne & Parke LLP, counsel for Seller, concerning the enforceability and due authorization of this Agreement and the Seller Ancillary Documents in form reasonably satisfactory to Buyer, dated as of the Effective Date and addressed to Buyer;

(e) The Project Development Security shall have been delivered to Buyer;

(f) Seller has provided reasonable evidence to Buyer that the Insurance is in full force and effect upon the Effective Date;

(g) Seller has provided reasonable evidence to Buyer that all Permits described in Section 7 of Appendix B are in full force and effect;

(h) Buyer shall have filed a Notice of Exemption in Los Angeles County, California pursuant to Title 14, California Code of Regulations, Section 15277;

(i) Seller shall have filed a Notice of Exemption in Mineral County, Nevada;
and

(j) Buyer shall have received a copy of the CEC pre-certification for the Facility.

Seller and Buyer shall cooperate reasonably with each other to accomplish and evidence satisfaction of the conditions precedent set forth above in a timely manner.

Section 2.2 Agreement Term and Delivery Term. This Agreement shall have a delivery term (the "**Delivery Term**") of twenty (20) Contract Years commencing on the Commercial Operation Date and ending on the twentieth anniversary thereof, unless sooner terminated in accordance with the terms of this Agreement. The term of this Agreement (the "**Agreement Term**") shall commence on the Effective Date and shall end on the last day of the Delivery Term or upon the expiration or earlier termination of this Agreement in accordance with the terms hereof.

Section 2.3 Survivability. The provisions of this Article II, Article XII, Article XIII, Section 14.19, and Section 14.21 shall survive for a period of one (1) year following the termination of this Agreement. The provisions of Article XI shall survive for a period of one (1) year following final payment made by the Buyer hereunder or the expiration or termination date of this Agreement, whichever is later. The provisions of Article V, Article VI, Article VIII, and Article IX shall continue in effect after termination to the extent necessary to provide for final billing, refunds or other adjustments, and deliveries related to the period prior to termination of this Agreement.

Section 2.4 Early Termination.

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

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

(c) **Early Termination for Failure to Achieve Power Block Construction Start.** Buyer, in its sole discretion, may terminate this Agreement effective upon notice to Seller if Seller fails to achieve the Power Block Construction Start Milestone by ninety (90) days following the Power Block Construction Start Milestone Date, as extended pursuant to Section 3.6, provided that (i) such notice is delivered to Seller within sixty (60) days of such failure and (ii) if Seller's failure to achieve Power Block Construction Start on or before the Power Block Construction Start Milestone Date is due to Force Majeure, Buyer's election to terminate under this Section 2.4(c) shall automatically trigger release and return of the Project Development Security required under Section 5.9 on the effective date of such termination. Notwithstanding the foregoing, Buyer shall not have the right to terminate this Agreement under this Section 2.4(c) to the extent that Seller pays liquidated damages under Section 3.7(a) until after Seller

pays such liquidated damages for ninety (90) days, in which case, notice of termination must be received within one hundred fifty (150) days of the extended Power Block Construction Start Milestone Date. Early termination under this Section 2.4(c) and liquidated damages under Section 3.7(a), if applicable, are Buyer's sole and exclusive remedies for any failure of Seller to achieve Power Block Construction Start by the Power Block Construction Start Milestone.

(d) **Early Termination for Failure to Achieve Commercial Operation.** Buyer, in its sole discretion, may terminate this Agreement effective upon notice to Seller if Seller fails to achieve the Commercial Operation Milestone by ninety (90) days following the Commercial Operation Milestone Date, as extended pursuant to Section 3.6, provided that (i) such notice is delivered to Seller within sixty (60) days of such failure and (ii) if Seller's failure to achieve Commercial Operation on or before the Commercial Operation Milestone Date is due to Force Majeure, Buyer's election to terminate under this Section 2.4(d) shall automatically trigger release and return of the Project Development Security required under Section 5.9 on the effective date of such termination. Notwithstanding the foregoing, Buyer shall not have the right to terminate this Agreement under this Section 2.4(d) to the extent that Seller pays liquidated damages under Section 3.7(b) until after Seller pays such liquidated damages for ninety (90) days, in which case, notice of termination must be received within one hundred fifty (150) days of the extended Commercial Operation Milestone Date. Early termination under this Section 2.4(d) and liquidated damages under Section 3.7(b), if applicable, are Buyer's sole and exclusive remedies for any failure of Seller to achieve Commercial Operation by the Commercial Operation Milestone.

(e) **Termination for Failure to Obtain CEC Certification.** Buyer may terminate this Agreement effective upon notice to Seller if the Facility is not CEC certified by the date that is (i) 180 days following the Commercial Operation Date if such failure to be CEC certified is the result of Seller's fault or negligence (including any failure to submit timely required documentation to the CEC) or (ii) 360 days following the Commercial Operation Date if such failure to be CEC certified is not the result of Seller's fault or negligence, provided that such notice by Buyer is delivered to Seller within sixty (60) days of the end of the period provided in (i) or (ii) as applicable.

(f) **Early Termination for Force Majeure.** This Agreement may be terminated pursuant to Section 14.6(d), provided that such termination shall on the effective date of such termination automatically trigger release and return of the Project Development Security or Delivery Term Security, as applicable, required under Section 5.9.

(g) **Early Termination with respect to Notice of Exemption.** This Agreement may be terminated by Seller if the Notice of Exemption required to be filed as provided in Section 2.1(h) shall not become final and no longer subject to appeal within sixty (60) days after the Effective Date. This Agreement may be terminated by Buyer if the Notice of Exemption required to be filed as provided in Section 2.1(i) shall not become final and no longer subject to appeal within sixty (60) days after the Effective Date.

(h) **Early Termination for Transmission Failure.** This Agreement may be terminated by Seller if (i) Seller fails to achieve Commercial Operation by the Commercial Operation Milestone Date, as it may be extended pursuant to Section 3.6 for the Interim

Operation Period under Section 3.9(a) and Section 3.9(b) and, if the Interim Operation Period is extended pursuant to Section 3.9(c), for the extended Interim Operation Period, as a result of Seller's inability to obtain Transmission Services that are sufficient to permit Seller to deliver the full output of the Facility to the Point of Delivery using, exclusively, NV Energy's Transmission System (which Transmission Services are enabled by the One Nevada Transmission Line) by the Milestone Date for Commercial Operation due to no fault of Seller, and (ii) Seller does not elect pursuant to Section 3.5 to certify Commercial Operation of the Facility utilizing the Transmission Services by CAISO as Transmission Provider with respect to the alternate Transmission System providing for delivery of the Facility Energy to the Point of Delivery at the 230 kV Mead Substation. Notice by Seller of the exercise of its right of termination of this Agreement under this Section 2.4(h) shall be provided to Buyer within five (5) Business Days following such Commercial Operation Milestone Date, as it may have been so extended, or the date on which such Interim Operation Period shall expire, as applicable, and Buyer shall thereupon be entitled to the payment by Seller in the full amount of liquidated damages for failure to achieve Commercial Operation equal to \$1,847,000 and Buyer shall then be entitled immediately to draw upon and retain the proceeds of the Project Development Security in the amount of \$1,847,000 as and for liquidated damages. Such draw and retention of proceeds shall be Buyer's sole remedy in connection with the events and circumstances associated with such termination by Seller. Any termination by Seller under this Section 2.4(h) shall be effective on the earlier of five (5) Business Days after Seller's notice to Buyer of the exercise of such right of termination or the date on which Buyer receives the full amount of its draw on the Project Development Security; provided, however, that if Buyer properly attempts to draw on the Project Development Security and does not receive full payment by the Qualified Issuer of such Project Development Security, termination under this Section 2.4(h) shall be effective upon the date on which Buyer receives proceeds in an amount equal to \$1,847,000 from the Project Development Security or from Seller.

(i) **Effect of Termination.** Any termination of this Agreement under this Section 2.4 shall be without prejudice to the rights and remedies of either Party for Defaults occurring prior to such termination; provided that there shall be no damages in connection with the events and circumstances associated with a termination under (i) Section 2.4(e), other than as provided in Section 6.1(c), (ii) Section 2.4(f), (iii) Section 2.4(g), or (iv) Section 2.4(h), other than as provided in Section 2.4(h).

ARTICLE III DEVELOPMENT OF THE FACILITY

Section 3.1 Permitting. Seller, at its expense, shall timely take all steps necessary to obtain all Permits required to construct, maintain, or operate the Facility in accordance with the Requirements including the timely preparation of all environmental documents required to have the Facility reviewed under applicable Federal and Nevada law (the "*Environmental Documents*"). Seller shall provide Buyer with true and complete copies of all Environmental Documents (including, without limitation, any NEPA Environmental Assessment related to the Facility) prepared during the Agreement Term.

Section 3.2 Project Design. Seller shall determine the proposed location, design, configuration, and capacity of the Facility as it deems appropriate, subject only to the

Requirements, including the characteristics and other requirements for the Facility set forth in Appendix B, and also subject to any conditions which are imposed by any Governmental Authority as part of the environmental review of the Facility required under applicable Federal and Nevada law.

Section 3.3 CEQA Exemption. The Parties acknowledge and agree that (1) the Facility will be subject to environmental review pursuant to NEPA in connection with the procurement of right-of-ways from the U.S. Department of the Interior, Bureau of Land Management for the construction and installation of certain electrical facilities, (2) pursuant to that law, the Parties anticipate that Seller will be procuring a NEPA Environmental Assessment with respect to the Facility, and (3) the Facility is statutorily exempt from CEQA pursuant to Title 14, California Code of Regulations, Section 15277.

Section 3.4 Site Confirmation. Seller represents and warrants that (a) Seller's agents and representatives have visited, inspected, and become familiar with the Site and its surface physical condition relevant to the obligations of Seller pursuant to this Agreement, including surface conditions, normal and usual soil conditions, roads, utilities, and topographical, solar radiation, air, and water quality conditions, (b) to its knowledge, Seller is familiar with all local and other conditions that may be material to Seller's performance of its obligations under this Agreement (including transportation, seasons and climate, access, weather, handling and storage of materials and equipment, and availability and quality of labor and utilities), and (c) Seller has determined that the Site constitutes an acceptable and suitable site for the construction and operation of the Facility in accordance herewith. Any failure by Seller to take the actions described in this Section shall not relieve Seller from any responsibility for estimating properly the difficulty and cost of successfully constructing, maintaining, or operating the Facility in accordance with this Agreement or from proceeding to construct, maintain, and operate the Facility successfully without any additional expense to Buyer.

Section 3.5 Certification of Commercial Operation Date. Seller shall provide Buyer with notice when Seller believes that all requirements under this Agreement for achieving Commercial Operation of the Facility, including the conditions precedent specified in the definition of "Commercial Operation" in Section 1.1, have been satisfied with respect to the delivery of the full output of Facility Energy to the Point of Delivery using NV Energy's Transmission Services and Transmission System (which Transmission Services are enabled by the One Nevada Transmission Line), unless Seller shall have furnished at least thirty (30) days advance written notice to Buyer that it elects to achieve Commercial Operation of the Facility for the delivery of the full output of the Facility to the Point of Delivery utilizing the Transmission Services provided by CAISO as Transmission Provider and the alternate Transmission Systems for delivery of the Facility Energy to the Point of Delivery, in which case such notice by Seller shall provide that it believes that all requirements under the Agreement for achieving Commercial Operation, including the conditions precedent specified in the definition of "Commercial Operation" in Section 1.1, have been satisfied with respect to delivery of the full output of Facility Energy to the Point of Delivery utilizing the Transmission Services provided by CAISO as Transmission Provider and the alternate Transmission Systems for delivery of the full output of Facility Energy to the Point of Delivery. Buyer shall either accept or reject the notice in its reasonable discretion by delivering a notice to Seller in writing within thirty (30) Business Days. If Buyer fails to respond within thirty (30) Business Days, it shall be deemed to

have accepted the notice. If Buyer rejects the notice, Buyer shall state in detail the reasons for its rejection. The Parties shall immediately meet and confer to address Buyer's concerns. Commercial Operation shall be deemed to have occurred on the date that the requirements for Commercial Operation are satisfied, which date may be earlier than the date on which Buyer accepts Seller's notice that Commercial Operation has occurred and/or the date on which any concerns that Buyer expresses in connection with Seller's notice are resolved; provided the Parties acknowledge or are deemed to have acknowledged, or it is determined through dispute resolution, that all such requirements for Commercial Operation have been satisfied on such earlier date.

Section 3.6 Milestone Schedule. Attached as Appendix I is a Milestone schedule with deadlines for the development of the Facility through the Commercial Operation Date (each, a "*Milestone*") and footnotes that set forth documents required to be provided by Seller to Buyer with respect to each Milestone by the Milestone Date therefor. Until the Commercial Operation Date, Seller shall provide Buyer a quarterly report setting forth the status of each Milestone, including any slippage in any deadline. Seller shall achieve each Milestone by the date specified therefor in such Milestone schedule, provided that such date may be extended by Seller by providing to Buyer notice of such extension at least fifteen (15) days (or, in the event of a Force Majeure concerning which fifteen (15) days advance notice is not practicable, as soon as practicable) prior to such Milestone Date (1) for Force Majeure delays and delays caused by Buyer's failure to perform its obligations under this Agreement, (2) on a day for day basis for not more than three hundred sixty-five (365) days in the aggregate to the extent Seller is delayed in its ability to timely achieve the Milestones as a result of (a) failure to obtain permits necessary for the construction and operation of the Facility due to delays beyond Seller's reasonable control and/or (b) a failure to secure interconnection of the Facility by the date that is one hundred eighty (180) days before the Milestone Date for Commercial Operation due to delays beyond Seller's reasonable control, and (3) on a day for day basis for not more than seven hundred thirty (730) days to the extent Seller is delayed in its ability to timely achieve the Milestones solely as a result of Seller's inability to obtain Transmission Services that are sufficient to permit Seller to transmit the full output of the Facility to the Point of Delivery using, exclusively, NV Energy's Transmission System (which services are enabled by the One Nevada Transmission Line) by the Milestone Date for Commercial Operation, due to no fault of Seller as shall be set forth in a notification provided by Seller to Buyer as such notification shall be modified by Seller to indicate any change in such inability to obtain such Transmission Services and which shall result in the Interim Operation Period taking effect as provided in Section 3.9. The date specified for each Milestone shall be the Milestone Date for achieving such Milestone, provided that, if and to the extent such date shall be extended as provided in this Section 3.6, the extended date shall be the Milestone Date for purposes of this Agreement. Notwithstanding anything herein to the contrary, Seller shall not be in default or otherwise have any liability under this Agreement for failing to meet a Milestone Date, other than the Milestone Dates for Power Block Construction Start and Commercial Operation to the extent provided in Section 3.7 of this Agreement, so long as Seller provides to Buyer within ten (10) days of failing to meet any such Milestone Date a remedial action plan reasonably acceptable to Buyer explaining the reasons for Seller's failure to meet such Milestone Date and the steps that Seller will take to ensure that Seller is able to achieve Power Block Construction Start and Commercial Operation by the Milestone Dates for Power Block Construction Start and Commercial Operation set forth in Appendix I, as applicable, plus ninety (90) days in each case.

Section 3.7 Performance Damages.

(a) If Seller fails to achieve the Power Block Construction Start Milestone by the Power Block Construction Start Milestone Date, Seller shall pay liquidated damages to Buyer in an amount equal to \$6,840 per day, up to a maximum of \$615,600 in the aggregate for each day intervening between the Power Block Construction Start Milestone Date and the earlier of (x) the date the Power Block Construction Start Milestone is achieved, and (y) the date, if any, on which this Agreement is terminated pursuant to Section 2.4. Notwithstanding the foregoing, if Seller achieves Commercial Operation by the Commercial Operation Milestone Date, any such liquidated damages paid by Seller under this Section 3.7(a) shall be returned by Buyer to Seller without interest.

(b) If Seller fails to achieve the Commercial Operation Milestone by the Commercial Operation Milestone Date, Seller shall pay liquidated damages to Buyer in an amount equal to \$20,520 per day, up to a maximum of \$1,847,000 in the aggregate, for each day intervening between the Commercial Operation Milestone Date and the earlier of (x) the date Commercial Operation is achieved, and (y) the date, if any, on which this Agreement is terminated pursuant to Section 2.4.

(c) Damages that Buyer would incur due to Seller's failure to timely achieve a Milestone would be difficult or impossible to predict with certainty, and it is impractical or difficult to assess actual damages in those circumstances, but the liquidated damages set forth in this Section 3.7 are fair and reasonable calculations of such damages.

Section 3.8 Facility Energy Deliveries Prior to Commercial Operations. During the period prior to the Commercial Operation Date, but preceding any commencement of the Interim Operation Period, if and so long as Seller shall be unable to use NV Energy's Transmission Services and Transmission System (which Transmission Services are enabled by the One Nevada Transmission Line), Seller may by providing fifteen (15) days advance written notice to Buyer deliver Facility Energy to the Point of Delivery utilizing the Transmission Services provided by CAISO as Transmission Provider and the alternate Transmission Systems.

Section 3.9 Interim Operation Period.

(a) In the event that all of the requirements for Commercial Operation (other than the requirement that Buyer shall have received the Delivery Term Security), have been satisfied, but (i) Seller is unable to obtain Transmission Services that are sufficient to permit Seller to transmit the full output of the Facility to the Point of Delivery using, exclusively, NV Energy's Transmission System (which Transmission Services are enabled by the One Nevada Transmission Line) due to no fault of Seller, and (ii) Seller provides notice extending the Commercial Operation Milestone Date pursuant to Section 3.6 due to Seller's inability on the Commercial Operation Milestone Date to obtain Transmission Services that are sufficient to permit Seller to transmit the full output of the Facility to the Point of Delivery using, exclusively, NV Energy's Transmission System (which Transmission Services are enabled by the One Nevada Transmission Line) due to no fault of Seller, then the "Interim Operation Period" under this Section 3.9 shall take effect under and as provided in this Section 3.9 and shall continue until the earlier of the Commercial Operation Milestone Date, as so extended, or the date on which

Seller achieves Commercial Operation (including, if applicable, by Seller electing to utilize CAISO Transmission Services as provided in Section 3.5); provided that, if the Interim Operation Period shall be extended as provided in Section 3.9(c), the Interim Operation Period shall continue until the earlier of the expiration of such extended Interim Operation Period or the date on which Seller achieves Commercial Operation (including, if applicable, by Seller electing to utilize CAISO Transmission Services as provided in Section 3.5). During the Interim Operation Period the Facility Energy shall be RPS Compliant and EPS Compliant and shall be delivered to the Point of Delivery at the 230 kV Mead Substation utilizing the Transmission Services of CAISO as Transmission Provider with respect to the alternate Transmission System for delivery of the Facility Energy to the Point of Delivery at the 230 kV Mead Substation.

(b) During the Interim Operation Period Buyer shall accept and pay for the Delivered Energy at the price set forth in Appendix A for Delivered Energy that is not startup or test Energy. Prior to the Interim Operation Period, Seller shall sell and deliver to the Point of Delivery, and Buyer shall purchase and receive, Delivered Energy that is startup and test Energy at the price set forth in Appendix A for Delivered Energy that is startup or test Energy. Seller shall make arrangements to and bear all costs associated with transmitting the Delivered Energy to the Point of Delivery as provided in Section 7.3 and Buyer shall make arrangements to and bear all costs associated with transmitting such Delivered Energy at and from the Point of Delivery as provided in Section 7.3. Seller and Buyer shall coordinate to ensure adequate scheduling of such Delivered Energy in accordance with Section 7.2.

(c) If, at the end of the Interim Operation Period, Seller remains unable to obtain Transmission Services that are sufficient to permit Seller to transmit the full output of the Facility to the Point of Delivery using, exclusively, NV Energy's Transmission System (which services are enabled by the One Nevada Transmission Line), Buyer shall have the option to extend the Interim Operation Period and the Commercial Operation Milestone Date by an additional three hundred sixty five (365) days; provided that: (i) Buyer shall have provided notice that it is exercising its option no later than ninety (90) days prior to the expiration of the original Interim Operation Period; (ii) the Point of Delivery during such extension of the Interim Operation Period shall be at the NV Energy side of the Gonder 230 kV Substation (or if Buyer wishes to pursue an alternate location, at such other location as may be agreed upon by the Parties); (iii) the price for Delivered Energy during such extension of the Interim Operation Period shall be \$93/MWh; (iv) Buyer shall bear all costs and make all arrangements associated with Transmission Services at and from such interim Point of Delivery; and (v) Seller shall have, after using commercially reasonable efforts following Buyer's exercise of the option, secured Firm Transmission to such interim Point of Delivery at its sole cost and expense. The Commercial Operation Milestone Date as so extended shall be the Commercial Operation Milestone Date for purposes of this Agreement.

Section 3.10 Delivery of Energy Following Commercial Operation.

(a) In the event that Seller shall have achieved Commercial Operation utilizing the Transmission Services provided by CAISO as Transmission Provider and the alternate Transmission Systems for the delivery of the Facility Energy to the Point of Delivery, and thereafter Seller shall be able to obtain NV Energy's Transmission Services on its Transmission System (which Transmission Services are enabled by the One Nevada

Transmission Line) for delivery of the full output of the Facility Energy to the Point of Delivery in accordance with the requirements of the Agreement and such Transmission Services shall be, to the reasonable satisfaction of Buyer, in compliance with such conditions applicable to Transmission Services as are provided for achieving Commercial Operation, Seller by furnishing Buyer with at least thirty (30) days written notice may thereafter use NV Energy's Transmission Services on its Transmission System (which Transmission Services are enabled by the One Nevada Transmission Line) for the delivery of the full output of the Facility Energy.

(b) In the event Seller shall achieve Commercial Operation using NV Energy's Transmission Services on its Transmission System (which Transmission Services are enabled by the One Nevada Transmission Line) Seller by furnishing Buyer with at least thirty (30) days written notice may thereafter utilize the Transmission Services provided by CAISO as Transmission Provider and the alternate Transmission Systems for the delivery of the full output of the Facility Energy to the Point of Delivery if and so long as such Transmission Services shall be provided in accordance with the requirements of the Agreement and shall be, to the reasonable satisfaction of Buyer, in compliance with such conditions applicable to Transmission Services as are provided for achieving Commercial Operation.

(c) If the events under either Section 3.10(a) or Section 3.10(b) above shall have occurred, Seller may thereafter, by furnishing Buyer with at least thirty (30) days written notice use either the Transmission Services provided by CAISO as Transmission Provider and the alternate Transmission Systems or the NV Energy's Transmission Services on its Transmission System (which Transmission Services are enabled by the One Nevada Transmission Line), as applicable, for the delivery of the full output of the Facility Energy under the Agreement.

Section 3.11 Decommissioning and Other Costs. Buyer shall not be responsible for any cost of decommissioning or demolition of the Facility or any environmental or other liability associated with the decommissioning or demolition without regard to the timing or cause of the decommissioning or demolition.

ARTICLE IV OPERATION AND MAINTENANCE OF THE FACILITY

Section 4.1 General Operational Requirements. Seller shall, at all times:

(a) At its sole expense, operate and maintain the Facility (i) in accordance with the Requirements, and (ii) in a manner that, to the extent commercially reasonable to do so, is reasonably likely to maximize the output of Energy from the Facility and result in a useful life for the Facility of not less than twenty (20) years;

(b) Employ qualified and trained personnel for managing, operating, and maintaining the Facility and for coordinating with Buyer and Buyer's Agent, and ensure that necessary personnel are available on-site or on-call twenty-four (24) hours per day during the Delivery Term;

(c) Operate and maintain the Facility with due regard for the safety, security, and reliability of the interconnected facilities and Transmission System; and

(d) Comply, to the extent commercially reasonable to do so, with operating and maintenance standards recommended or required by the Facility's equipment suppliers.

Section 4.2 Operation and Maintenance Plan. Seller shall devise and implement a plan of inspection, maintenance, and repair for the Facility and the components thereof in order to maintain such equipment in accordance with Prudent Utility Practices, and shall keep records with respect to inspections, maintenance, and repairs thereto. The aforementioned plan and all records of such activities shall be available for inspection by Buyer during Seller's regular business hours upon reasonable notice; provided that Buyer shall at all times comply with Seller's or the contractor's safety and security requirements when present at the Facility.

Section 4.3 Environmental Credits. Seller shall, if applicable, obtain in its own name and at its own expense all pollution or environmental credits or offsets necessary to operate the Facility in compliance with the Requirements of Law.

Section 4.4 Scheduled Outage.

(a) Buyer and Seller shall cooperate to minimize Scheduled Outages during certain consecutive or nonconsecutive weeks of each Contract Year (not to exceed twelve (12) weeks per Contract Year) (the "**Major Maintenance Blockout**"), but in accordance with Prudent Utility Practices. No later than one hundred twenty (120) days prior to the anticipated Commercial Operation Date and the commencement of each Contract Year thereafter, Buyer shall provide Seller with its specified Major Maintenance Blockout. In the absence of such updated notification, the most recent previous Major Maintenance Blockout notification shall apply. Seller shall attempt to minimize its Scheduled Outages during the Major Maintenance Blockout consistent with Prudent Utility Practices. No later than sixty (60) days prior to the anticipated Commercial Operation Date and the commencement of each Contract Year thereafter, Seller shall provide Buyer or Buyer's Agent with its non-binding written projection of all Scheduled Outages for the succeeding three (3) years (the "**Scheduled Outage Projection**") reflecting a minimized schedule of scheduled maintenance during the Major Maintenance Blockout. In addition, Seller shall use commercially reasonable efforts to accommodate Buyer's reasonable maintenance scheduling requests consistent with Prudent Utility Practices. The Scheduled Outage Projection shall include information concerning all projected Scheduled Outages during such period, including (i) the anticipated start and end dates of each Scheduled Outage; (ii) a description of the maintenance or repair work to be performed during the Scheduled Outage; and (iii) the anticipated MW capacity, if any, during the Scheduled Outage. Seller shall notify Buyer or Buyer's Agent of any change in the Scheduled Outage Projection as soon as practicable, but in no event later than thirty (30) days prior to the originally-scheduled date of the Scheduled Outage. Seller will use commercially reasonable efforts to accommodate reasonable requests of Buyer with respect to the timing of Scheduled Outages and Seller will, to the extent consistent with Prudent Utility Practices, coordinate Scheduled Outages to coincide with planned transmission outages. In the event of a System Emergency, Seller shall make all reasonable efforts to reschedule any Scheduled Outage previously scheduled to occur during the System Emergency.

(b) In the event of a Forced Outage affecting at least ten percent (10%) of the installed capacity of the Facility, to the extent practicable, Seller shall notify Buyer or Buyer's

Agent within two (2) hours after the commencement of the Forced Outage and, within seven (7) days thereafter, provide detailed information concerning the Forced Outage, including (i) the start and anticipated end dates of the Forced Outage; (ii) a description of the cause of the Forced Outage; (iii) a description of the maintenance or repair work to be performed during the Forced Outage; and (iv) the anticipated MW capacity, if any, during the Forced Outage. Seller shall take all reasonable measures and exercise commercially reasonable efforts to avoid Forced Outages and to limit the duration and extent of any such outages

Section 4.5 Facility Operation. The Facility shall be operated during the Delivery Term by Seller or such other Person(s) as Seller may contract with from time to time. If Seller contracts with another Person to operate the Facility, the agreement between Seller and such Person shall require that such Person operate the Facility in a manner that is in full compliance with the Requirements. Seller shall provide to Buyer a copy of the relevant agreement (which may be redacted to remove confidential information of the parties thereto).

ARTICLE V COMPLIANCE DURING CONSTRUCTION AND OPERATION PERIOD; GUARANTEES

Section 5.1 Guarantees. Seller warrants and guarantees that (i) it will perform, or cause to be performed, all engineering, design, development, construction, operation, and maintenance of the Facility in a good and workmanlike manner and in accordance with the Requirements; and (ii) throughout the Agreement Term (a) the Facility, its engineering, design and construction, its components, and related work, will be free from material defects caused by errors or omissions in design, engineering and construction or repaired as provided below, (b) the Facility will be free and clear of all Liens other than Permitted Encumbrances, and (c) the Facility and all parts thereof will be designed, constructed, tested, operated, and maintained in material compliance with the Requirements, all applicable requirements of the latest revision of the ASTM, ASME, AWS, EPA, EEL, IEEE, ISA, National Electrical Code, National Electric Safety Code, and OSHA, as applicable, and the Uniform Building Code, Uniform Plumbing Code, and the applicable local County Fire Department Standards of the applicable county. Seller shall promptly repair or replace, consistent with Prudent Utility Practice, any component of the Facility that does not comply with the foregoing warranties and guarantees. Seller shall at all times exercise commercially reasonable efforts to undertake all recommended or required updates or modifications to the Facility, and its equipment and materials, including procedures, programming and software in a timely manner. Seller shall, at its expense, maintain or cause to be maintained throughout the Agreement Term an inventory of spare parts for the Facility in a quantity that is consistent with manufacturers' recommendations and Prudent Utility Practice.

Section 5.2 Buyer's Right To Monitor In General. At Buyer's sole expense and without interfering with Seller's activities at the Facility, Buyer shall have the right, and Seller shall permit Buyer and its representatives, advisors, engineers, and consultants, to observe, inspect, and monitor all operations and activities at the Site, including the performance of the contractors under the construction contracts pertaining to the Facility, the design, engineering, procurement, and installation of the equipment, start up and testing, and the achievement of Commercial Operation; provided that Buyer shall at all times comply with Seller's or the contractor's safety and security requirements when present at the Facility. Notwithstanding the

foregoing, Seller shall have the right and Buyer shall permit Seller to withhold any proprietary information, including with respect to proprietary intellectual property of Seller; provided that such information shall be provided by Seller to Buyer to the extent required by Buyer to enforce its rights or to carry out its responsibilities under this Agreement. In addition, Buyer shall hold any information obtained during or in connection with such monitoring in confidence pursuant to Section 14.21.

Section 5.3 Effect of Review by Buyer. Any review by Buyer of the design, construction, engineering, operation or maintenance of the Facility is solely for the information of Buyer. Buyer shall have no obligation to share the results of any such review with Seller, nor shall any such review or the results thereof (whether or not the results are shared with Seller) nor any failure to conduct any such review relieve Seller from any of its obligations under this Agreement. By making any such review, Buyer makes no representation as to the economic and technical feasibility, operational capability or reliability of the Facility. Seller shall in no way represent to any third party that any such review by Buyer of the Facility, including, but not limited to, any review of the design, construction, operation, or maintenance of the Facility by Buyer, is a representation by Buyer as to the economic and technical feasibility, operational capability, or reliability of the Facility. Seller is solely responsible for the economic and technical feasibility, operational capability and reliability thereof.

Section 5.4 Reporting and Information. Seller shall provide to Buyer such other information regarding the permitting, engineering, construction, or operations, of Seller, its subcontractors or the Facility, financial or otherwise, and other data concerning Seller, its subcontractors or the Facility as Buyer may, from time to time, reasonably request in order to enforce its rights or discharge its responsibilities under this Agreement. Until the Commercial Operation Date, Seller shall provide to Buyer quarterly written reports describing permitting and development activities in the previous quarter and anticipated progress and activities for the upcoming quarter. Notwithstanding the foregoing, Seller shall have the right and Buyer shall permit Seller to withhold any proprietary information, including with respect to the intellectual property of Seller; provided that such information shall be provided by Seller to Buyer to the extent required by Buyer to enforce its rights or to carry out its responsibilities under this Agreement. In addition, Buyer shall hold any information obtained during or in connection with such monitoring in confidence pursuant to Section 14.21.

Section 5.5 Startup and Testing. Prior to the Commercial Operation Date, Seller shall provide to Buyer the opportunity at Buyer's sole expense and without interfering with Seller's activities at the Facility to:

(a) review and monitor the contractors' performance and achievement of all initial performance tests and all other tests required under the Facility construction contracts performed to achieve any Milestone, and Seller shall, or shall cause its contractor to provide at least ten (10) Business Days to Buyer before any such test begins; provided that Buyer shall at all times comply with Seller's or the contractor's safety and security requirements when present at the Facility;

(b) be present to witness such initial performance tests and review the results thereof; provided that Buyer shall at all times comply with Seller's or the contractor's safety and security requirements when present at the Facility; and

(c) perform such detailed examinations, inspections, quality surveillance, and tests as are appropriate and advisable to determine that the Facility equipment and all ancillary components of the Facility have been installed in accordance with the Facility construction contracts and the Requirements.

Section 5.6 Contract Provisions. Seller shall cause to be included in the Facility construction contracts provisions whereby the contractors and Seller:

(a) grant to Buyer, at Buyer's sole expense and without interfering with Seller's or the construction contractors' activities at the Facility, rights of access to the Facility at all reasonable times (but subject to reasonable safety precautions) and the right to inspect, make notes about, and copy all documents, drawings, plans, specifications, permits, test results, and information as Buyer may reasonably request; provided that Buyer shall at all times comply with Seller's or the contractor's safety and security requirements when present at the Facility. Notwithstanding the foregoing, Seller shall have the right and Buyer shall permit Seller to withhold any proprietary information, including with respect to intellectual property of Seller; provided that such information shall be provided by Seller to Buyer to the extent required by Buyer to enforce its rights or to carry out its responsibilities under this Agreement. In addition, Buyer shall hold any information obtained during or in connection with such monitoring in confidence pursuant to Section 14.21;

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

(c) otherwise cooperate in all reasonable respects with Buyer and its Authorized Representatives, advisors, engineers and consultants in order to allow Buyer to exercise its rights under this Section 5.6.

Section 5.7 Quality Assurance Program. Seller shall develop a written quality assurance policy ("Quality Assurance Program") in accordance with the requirements of Appendix H within sixty (60) days from the Effective Date, and Seller shall cause all work performed on or in connection with the Facility to comply with said Quality Assurance Program.

Section 5.8 No Liens. The Facility shall be owned by Seller during the Agreement Term. Seller shall not sell or otherwise dispose of or create, incur, assume or permit to exist any Lien (other than Permitted Encumbrances) on any portion of the Facility or any other property or assets that are related to the operation, maintenance and use of the Facility without the prior written approval of Buyer.

Section 5.9 Seller Performance Security.

(a) As a condition to the occurrence of the Effective Date, Seller shall have furnished to Buyer one or more letters of credit issued by Qualified Issuers in the form attached hereto as Appendix E, as such form may be modified with the consent of Buyer (not to be unreasonably withheld or delayed) to reflect the reasonable requests of the Qualified Issuer, in the aggregate amount of \$2,500,000, which shall secure all of Seller's obligations to pay liquidated damages under Sections 3.7(a) and 3.7(b) ("**Project Development Security**"). From and after the Effective Date, Seller shall maintain such Project Development Security until Seller posts the Delivery Term Security pursuant to Section 5.9(b) below, or until Buyer is required to return the Project Development Security under Section 5.9(c) below.

(b) As a condition to the achievement of Commercial Operation, Seller shall have furnished to Buyer one or more letters of credit issued by Qualified Issuers, or guarantees from a Qualified Guarantor, or a combination of both, in the form attached hereto as Appendix G, as such form may be modified with the consent of Buyer (not to be unreasonably withheld or delayed) to reflect the reasonable requests of the Qualified Guarantor, as applicable, and in the aggregate amount of \$8,000,000, which shall guarantee Seller's obligations under this Agreement, following the Commercial Operation Date ("**Delivery Term Security**"); provided that Seller may elect to apply the Project Development Security toward the Delivery Term Security. From and after the Commercial Operation Date, Seller shall maintain such Delivery Term Security until the end of the Agreement Term or until Buyer is required to return the Delivery Term Security to Seller as set forth in Section 5.9(d) below, provided that Seller may, from time to time, replace a letter of credit with a guarantee and vice versa so long as such replacement letter of credit or guarantee shall comply with the applicable provisions of this Agreement and the aggregate amount required above is maintained.

(c) If after the Commercial Operation Date no damages or other amounts are due and owing to Buyer under this Agreement, or if this Agreement terminates prior to the occurrence of the Commercial Operation Date while the Project Development Security is outstanding, then Seller shall no longer be required to maintain the Project Development Security, and Buyer shall return to Seller the Project Development Security, less any amounts drawn by Buyer as permitted under the terms of this Agreement (including under Section 2.4(h)). The Project Development Security (or portion thereof) due to Seller shall be returned to Seller within three (3) Business Days after (i) Seller's provision of the Delivery Term Security, unless Seller elects to apply the Project Development Security toward the Delivery Term Security, or (ii) the effective date of such earlier termination when damages are no longer due and owing to Buyer (including under Section 2.4(h)).

(d) Buyer shall return the unused portion of Delivery Term Security, if any, to Seller promptly after the following have occurred: (i) the Agreement Term has ended, and (ii) all obligations of Seller arising under this Agreement are paid (whether directly or indirectly such as through set-off or netting) or performed in full.

(e) Seller shall notify Buyer of the occurrence of a Downgrade Event within five (5) Business Days after obtaining knowledge of the occurrence of such event. If at any time there shall occur a Downgrade Event, then Buyer may require that Seller replace the Performance Security from the Person that has suffered the Downgrade Event within ten (10) Business Days after notice from Buyer to Seller requesting such replacement Performance

Security. In the event that such replacement Performance Security is not so provided by Seller, Buyer shall have the right to demand payment of the full amount of such Performance Security and retain such amount in order to secure Seller's obligations under this Section 5.9 and other applicable provisions of this Agreement; provided that if and to the extent such amount shall be in excess of the amounts of such obligations of Seller, Buyer shall refund the excess to Seller promptly after all such obligations of Seller under this Agreement shall have been paid or performed.

(f) If any Performance Security is in the form of a letter of credit, then Seller shall either provide, or cause to be provided, a replacement letter of credit or guarantee (from a Qualified Issuer or Qualified Guarantor, as applicable) in the required amount set forth in this Section 5.9 within ten (10) Business Days after the earlier of the date that Seller becomes aware, or Buyer notifies Seller of the occurrence of any one of the following events:

- (i) the failure of the issuer of the letter of credit to renew such letter of credit thirty (30) Business Days prior to the expiration of such letter of credit;
- (ii) the failure of the issuer of the letter of credit to immediately honor Buyer's properly documented request to draw on such letter of credit; or
- (iii) the issuer of the letter of credit becomes Bankrupt.

(g) If any Performance Security is in the form of a guarantee, then Seller shall either provide, or cause to be provided, a replacement letter of credit or guarantee (from a Qualified Issuer or Qualified Guarantor, as applicable) in the required amount set forth in this Section 5.9 within ten (10) Business Days after the earlier of the date that Seller becomes aware, or Buyer notifies Seller, of the occurrence of any one of the following events:

- (i) the failure of the guarantor to make a payment thereunder immediately following Buyer's properly documented claim made pursuant to the guarantee in accordance with its terms;
- (ii) any representation or warranty made by the guarantor in connection with this Agreement is false or misleading in any material respect when made or when deemed made or repeated;
- (iii) the guarantor becomes Bankrupt;
- (iv) the guarantee fails to be in full force and effect in accordance with the terms of this Agreement prior to the satisfaction of all obligations of Seller under this Agreement; or
- (v) the guarantor repudiates, disaffirms, disclaims, or rejects, in whole or in part, or challenges the validity of, its guarantee.

(h) In the event that a replacement letter of credit is not delivered in accordance with Section 5.9(f) or a replacement guarantee or letter of credit is not delivered in accordance with Section 5.9(g), Buyer shall have the right to demand payment of the full amount

of the letter of credit or the guarantee, as applicable, and retain such amount in order to secure Seller's obligations under this Section 5.9 and other applicable provisions of this Agreement; provided that, if and to the extent such amount shall be in excess of the amounts of such obligations of Seller, Buyer shall refund the excess to Seller promptly after all such obligations of Seller under this Agreement shall have been paid or performed.

(i) Seller shall, from time to time as requested by Buyer, execute, acknowledge, record, register, deliver and file all such notices, statements, instruments, and other documents as may be necessary or advisable to render fully valid, perfected, and enforceable under all Requirements of Law the Performance Security and the rights, Liens, and priorities of Buyer with respect to such Performance Security.

(j) Except as otherwise provided in this Agreement, the Performance Security: (i) constitutes security for, but is not a limitation of, Seller's obligations under this Agreement, and (ii) shall not be Buyer's exclusive remedy against Seller for Seller's failure to perform in accordance with this Agreement.

ARTICLE VI PURCHASE AND SALE OF POWER

Section 6.1 Purchases by Buyer.

(a) Prior to the Interim Operation Period, if applicable, or prior to the Commercial Operation Date, if there is no Interim Operation Period, Seller shall sell and deliver, and Buyer shall receive and purchase all Delivered Energy for the price set forth in paragraph 1 of Appendix A.

(b) During the Interim Operation Period and on and after the Commercial Operation Date and continuing for the Delivery Term, Seller shall sell and deliver, and Buyer shall purchase and receive, all Delivered Energy and Replacement Energy for the price set forth in paragraph 2 of Appendix A (except as provided in Section 3.9(c)); provided that, in no event shall Buyer be obligated to purchase or receive Delivered Energy, together with any Replacement Energy, in excess of the Maximum Generation unless Buyer shall by notice given to Seller elect to purchase any such Energy in excess of Maximum Generation.

(c) Notwithstanding Section 6.1(b), during the period of time between the day that is one hundred eighty (180) days following the Commercial Operation Date and the day that is one (1) day following the date upon which Buyer receives evidence that the Facility is CEC Certified (the "Pre-Certification Period"), Buyer may retain a portion of any payment to be made to Seller hereunder in an amount equal to the positive difference between (1) the price of the Delivered Energy pursuant to Section 6.1(a), and (2) the average of the on-peak and off-peak Energy prices, weighted by the number of hours in the on-peak and off-peak periods, during the month in which the deliveries occurred for Energy that is not from an eligible renewable energy resource under the RPS Law, as listed in the Dow Jones Palo Verde Electricity Price Index. Buyer shall release such retained amount, which shall not be calculated with interest of any kind, within forty five (45) days following the receipt of evidence satisfactory to Buyer from Seller that the Facility is CEC Certified. Within thirty (30) days of any termination of this Agreement

under Section 2.4(e), Seller shall refund to Buyer, for Delivered Energy purchased by Buyer during the first one hundred eighty (180) days following the Commercial Operation Date at the price set forth in paragraph 2 of Appendix A, the positive difference between (1) the price paid by Buyer and (2) the average of the on-peak and off-peak Energy prices, weighted by the number of hours in the on-peak and off-peak periods, during the month or months in which the deliveries of such Delivered Energy occurred for Energy that is not from an eligible renewable energy resource under the RPS Law, as listed in the Dow Jones Palo Verde Electricity Price Index. Upon such termination, Seller shall have no obligation to transfer any Environmental Attributes related to the Delivered Energy to Buyer and Buyer hereby waives any rights to such Environmental Attributes; to the extent that Seller transferred any such Environmental Attributes to Buyer prior to termination, Buyer shall reconvey such Environmental Attributes to Seller within thirty (30) days of termination.

Section 6.2 Seller's Failure. Except as provided in Article IX, and except for Energy provided by the Transmission Provider pursuant to its tariff in connection with the Transmission Services that is both EPS Compliant and RPS Compliant, in no event shall Seller have the right to procure energy from sources other than the Facility for sale and delivery pursuant to this Agreement. Unless there shall be a Force Majeure or a Buyer's failure to perform its obligations under this Agreement, if, on or after the Commercial Operation Date, Seller sells any part of any Facility Energy and associated Environmental Attributes required to be delivered by Seller under this Article VI or Article VIII to a third party, Seller shall pay Buyer, within thirty (30) days of Buyer's written request therefor an amount for each MWh of such deficiency equal to the positive difference, if any, obtained by subtracting the price per MWh that would have been payable by Buyer for the Facility Energy and Environmental Attributes not delivered from the Replacement Price. Buyer shall provide Seller prompt written notice of the Replacement Price together with back-up documentation.

Section 6.3 Buyer's Failure. Unless excused by Force Majeure or Seller's failure to perform its obligations under this Agreement, if Buyer fails to receive at the Point of Delivery all or any part of any Facility Energy required to be received by Buyer under this Article VI, Article VIII, or Article IX, Buyer shall pay Seller, within thirty (30) days of Seller's written request there for, an amount for each MWh of such deficiency equal to the positive difference, if any, obtained by subtracting the Sales Price from the price per MWh that would have been payable by Buyer for the Energy not received by Seller. "**Sales Price**" means the price at which Seller, acting in a commercially reasonable manner, resells the Energy or, absent a resale, the market price for the quantity of Energy not received by the Buyer (adjusted for transmission difference, if any). Seller shall provide Buyer prompt written notice of the Sales Price together with back-up documentation.

Section 6.4 Sales to Third Parties. Seller may sell to Persons other than Buyer (i) any Facility Energy, Replacement Energy, Capacity Rights, and associated Environmental Attributes that Seller is required to deliver to Buyer, but which Buyer does not accept due to Force Majeure declared by Buyer or curtailment pursuant to Section 7.4, or (ii) any Facility Energy in excess of Maximum Generation not purchased by Buyer as provided in Section 6.1(b). Except as provided above in this Section 6.4, Seller shall not sell or otherwise transfer any Facility Energy, Replacement Energy, Capacity Rights, or associated Environmental Attributes to any Person other than Buyer during the Agreement Term. Notwithstanding anything to the

contrary in this Section 6.4, Seller may sell to Persons other than Buyer any Facility Energy, Replacement Energy, Capacity Rights, and associated Environmental Attributes that Seller is unable to deliver to Buyer due to Force Majeure declared by Buyer or Seller.

Section 6.5 Nature of Remedies. The damages that Buyer would incur as a result of Seller's failure as described in Section 6.2 or that Seller would incur as a result of Buyer's failure as described in Section 6.3 would be difficult or impossible to predict with certainty, and it is impractical and difficult to assess actual damages in those circumstances, but the liquidated damages set forth in Section 6.2 and Section 6.3 are fair and reasonable calculations of such damages. The remedy set forth in Section 6.2 is in addition to, and not in lieu of, any other right or remedy of Buyer under this Agreement for failure of Seller to sell and deliver Energy and Environmental Attributes as and when required by this Agreement. The remedy set forth in Section 6.3 is in addition to any other right or remedy of Seller for any failure by Buyer to receive Energy as and when required by this Agreement.

ARTICLE VII TRANSMISSION AND SCHEDULING; TITLE AND RISK OF LOSS

Section 7.1 In General. Seller shall arrange and be responsible for any Transmission Services required to deliver Facility Energy to the Point of Delivery, and shall Schedule or arrange for Scheduling services with its Transmission Providers to so deliver the Facility Energy to the Point of Delivery. Buyer shall arrange and be responsible for Transmission Services at and from the Point of Delivery, and shall Schedule or arrange for Scheduling services with its Transmission Providers to receive Facility Energy at the Point of Delivery, including, in each case, any services required to import Energy from facilities owned or controlled by the Transmission Provider on the Seller's side of the Point of Delivery for delivery to the facilities owned or controlled by the any Transmission Providers on Buyer's side of the Point of Delivery. Each Party shall designate an authorized Scheduler to effect the Scheduling of Facility Energy.

Section 7.2 Scheduling of Energy. The Authorized Representatives of the Buyer and Seller shall, as soon as reasonably practicable following the Effective Date, mutually develop forecasting and Scheduling procedures which may be modified, from time to time, by written agreement of both Authorized Representatives in order that the Energy delivered to the Point of Delivery shall be RPS Compliant and EPS Compliant as provided under Section 8.6 and otherwise to comply with all applicable requirements, including those of the Transmission Provider, CAISO, WECC, and any balancing authority involved in the scheduling of energy under this Agreement. The procedures shall be developed so as to maximize the amount of Energy that is RPS Compliant and EPS Compliant that may be delivered by Seller under this Agreement. The Authorized Representatives shall promptly cooperate with respect to any reasonably necessary and appropriate modifications to such forecasting or scheduling procedures. The Parties acknowledge that, because Scheduling takes place in advance of generation, there may be deviations between the amount of Energy generated by the Facility and the amount of Energy Scheduled by Buyer and Seller for delivery at the Point of Delivery. To the extent that such deviations occur in the ordinary course of Scheduling under the agreed upon procedures and, as a result, Energy that is not RPS Compliant and EPS Compliant is delivered pursuant to the Transmission Provider's tariff to Buyer at the Point of Delivery, Buyer shall accept such Energy and pay Seller the average of the on-peak and off-peak Energy prices,

weighted by the number of hours in the on-peak and off-peak periods, during the month in which the deviations occurred for Energy that is not from an eligible renewable energy resource under the RPS Law, as listed in the Dow Jones Palo Verde Electricity Price Index.

(a) Seller or Seller's designee shall be responsible for Scheduling the forecast of Delivered Energy and Replacement Energy to the Point of Delivery during the Agreement Term in accordance with the Scheduling procedures agreed upon by the Parties, which may be updated from time to time. Seller shall submit schedules, and any updates to such schedules, to Buyer or Buyer's Agent based on the most current forecast of Delivered Energy and Replacement Energy. Buyer or Buyer's designee shall be responsible for Scheduling the forecast of Delivered Energy and Replacement Energy at and from the Point of Delivery during the Agreement Term in accordance with the Scheduling procedures agreed upon by the Parties, which may be updated from time to time. Buyer shall also fulfill the contractual, metering, and interconnection requirements so as to be able to accept Delivered Energy and Replacement Energy at the Point of Delivery. All Scheduling shall be performed in accordance with the applicable NERC and WECC operating policies, criteria, and any other applicable guidelines. Seller shall also fulfill the contractual, metering, and interconnection requirements so as to be able to deliver Delivered Energy and Replacement Energy to the Point of Delivery.

(b) At least forty-five (45) days before the anticipated Commercial Operation Date and no later than forty-five (45) days before the beginning of each Contract Year, Seller or Seller's designee shall provide, or cause to be provided, a non-binding forecast of each month's average-day deliveries of Delivered Energy and Replacement Energy, by hour, for the following eighteen (18) months.

(c) At least ten (10) days before the anticipated Commercial Operation Date and no later than ten (10) Business Days before the beginning of each month during the Delivery Term, Seller or Seller's designee shall provide, or cause to be provided, a non-binding forecast of each day's average deliveries of Delivered Energy and Replacement Energy, by hour, for the following month.

(d) By 5:30 a.m. on the Business Day immediately preceding each day of delivery of Delivered Energy during the Delivery Term, Seller or Seller's designee shall cause the Seller's Scheduler to provide Buyer or Buyer's Agent with a copy of a non-binding hourly forecast of deliveries of Delivered Energy and Replacement Energy for each hour of the immediately succeeding day. A forecast provided a day prior to any non-Business Day shall include forecasts for the immediate day, each succeeding non-Business Day and the next Business Day. Seller shall provide Buyer or Buyer's Agent with a copy of any updates to such forecast indicating a change in forecasted Delivered Energy and Replacement Energy from the then current forecast.

(e) By 12:00 p.m. on the normal Business Day prior to each pre-scheduling day as identified in the WECC pre-scheduling calendar, Seller shall provide Buyer, Buyer's Agent, Buyer's real time operators, and Buyer's Scheduler, via email, day-ahead pre-schedules for each of the succeeding twenty-four (24) hours in the form of an excel spreadsheet. In order to allow Buyer to make schedule changes in conformity with the California Independent System Operator Scheduling deadline, Seller shall notify Buyer or Buyer's Agent via telephone of any

hourly changes due to a change in unit availability or an outage no later than one-hundred five (105) minutes prior to the start of such Scheduling hour.

(f) Throughout the Delivery Term, Seller shall provide to Buyer the following data on a real-time basis:

(i) Read-only access to megawatt capacity and any other facility availability information;

(ii) Read-only access to energy output information collected by the supervisory control and data acquisition ("*SCADA*") system for the Facility; provided that if Buyer is unable to access the Facility's SCADA system, then upon written request from Buyer, Seller shall provide energy output information to Buyer in four (4)-second intervals in the form of a flat file to Buyer through a secure file transport protocol (FTP) system with an e-mail back-up for each flat file submittal; and

(iii) Read-only access to all electricity, production, and consumption data from the Electric Metering Devices.

Section 7.3 Costs. Seller shall be responsible for any costs or charges imposed on or associated with the delivery of Facility Energy up to the Point of Delivery, including charges related to control area services, export capability fees, inadvertent energy flows, transmission losses, and the transmission of Facility Energy. Buyer shall be responsible for any costs or charges imposed on or associated with the delivery of Facility Energy at and from the Point of Delivery, including charges related to control area services, inadvertent energy flows, transmission losses, and the transmission of Facility Energy.

Section 7.4 Curtailment Required by Buyer. Seller shall reduce deliveries of Energy for curtailments required by Buyer due to a System Emergency not resulting from the fault or negligence of Buyer. During the Agreement Term, the Parties shall estimate the amount of curtailed Energy for each such curtailment event by multiplying (a) the arithmetic average of the Facility's metered output rate, in MW, immediately before and after such curtailment event, by (b) the duration of such curtailment event. The Parties shall use the curtailed Energy estimate solely for the purpose of determining Seller's compliance towards Guaranteed Generation, and not for purposes of calculating any payments due from Buyer to Seller. In the event that Buyer is unable, for any reason (including as a result of transmission constraints downstream of the Point of Delivery that do not constitute a System Emergency), to utilize Facility Energy, Buyer may request that Seller attempt to remarket such Facility Energy (together with all Environmental Attributes) to third parties by written notice to Seller. Buyer shall make no more than three (3) such requests in any calendar year. Upon any such request, Seller shall use good faith efforts to sell the Facility Energy (together with all Environmental Attributes) to one or more third parties in amounts and for the duration specified by Buyer and, if successful (i) Buyer shall pay Seller at the prices set forth in Appendix A as if such Facility Energy were Delivered Energy and (ii) Seller shall remit the proceeds of such third party sales (net of any incremental costs to Seller associated with such sales) to Buyer, whether such proceeds are greater or less than the amounts paid by Buyer to Seller for such Facility Energy. For the avoidance of doubt, Seller shall not be under any obligation to reduce deliveries of Energy under this Agreement, and

Buyer shall be obligated to take delivery of and pay for all Energy that can be delivered by Seller to the Point of Delivery, except to the extent that such Energy exceeds the Maximum Generation, or in the event of System Emergency, Force Majeure or when Seller actually remarkets Facility Energy as provided above. Facility Energy sold by Seller to third parties as provided for above shall be considered Delivered Energy delivered to Buyer for the purposes of the Guaranteed Generation.

Section 7.5 Curtailment of Seller's Transmission Services. In the event of the curtailment or other interruption of the Transmission Services utilized pursuant to the Agreement that prevents Seller from delivering Facility Energy to the Point of Delivery, Seller may upon furnishing notice as soon as practicable to Buyer obtain alternate Transmission Services complying with the requirements of the Agreement utilizing other Transmission System or Systems for delivery of the Facility Energy to the Point of Delivery during the period of such curtailment or other interruption of such Transmission Services. Seller shall provide Buyer with advance notice of the end of the period of such curtailment or interruption and the restoration of the Transmission Services pursuant to the Agreement for the delivery of the Facility Energy to the Point of Delivery. This Section 7.5 shall (i) not obligate Seller to utilize alternate Transmission Services and (ii) not preclude Seller from claiming Force Majeure under Section 14.6 unless such alternate Transmission Services are available on commercially reasonable terms, at least as favorable to Seller as those provided under its then-current primary Transmission Services under this Agreement.

Section 7.6 Title; Risk of Loss. As between the Parties, Seller shall be deemed to be in exclusive control (and responsible for any damages or injury caused thereby) of all Facility Energy prior to the Point of Delivery, and Buyer shall be deemed to be in exclusive control (and responsible for any damages or injury caused thereby) of all Facility Energy at and from the Point of Delivery. Seller shall deliver all Facility Energy, Capacity Rights, and Environmental Attributes to Buyer free and clear of all Liens created by any Person other than Buyer. Title to and risk of loss as to all Facility Energy, Capacity Rights, and Environmental Attributes shall pass from Seller to Buyer at the Point of Delivery.

ARTICLE VIII ENVIRONMENTAL ATTRIBUTES; EPS AND RPS COMPLIANCE

Section 8.1 Transfer of Environmental Attributes. For and in consideration of Buyer entering into this Agreement, and in addition to the agreement by Buyer and Seller to purchase and sell Facility Energy on the terms and conditions set forth herein, Seller shall transfer to Buyer, and Buyer shall receive from Seller, all right, title, and interest in and to all Environmental Attributes, whether now existing or acquired by Seller or that hereafter come into existence or are acquired by Seller during the Agreement Term, for all Facility Energy and Replacement Energy. Environmental Attributes that are in, or that shall come into, existence with respect to Energy generated by the Facility that serves Parasitic Load shall be transferred by Seller to and received by Buyer. Seller agrees to transfer and make such Environmental Attributes available to Buyer immediately to the fullest extent allowed by applicable law upon Seller's production or acquisition of the Environmental Attributes. Seller shall not assign, transfer, convey, encumber, sell or otherwise dispose of all or any portion of such Environmental Attributes to any Person other than Buyer or attempt to do any of the foregoing with respect to

any of the Environmental Attributes. The consideration for the transfer of Environmental Attributes is contained within the relevant prices for Delivered Energy under Articles VI and IX and Appendix A.

Section 8.2 Reporting of Ownership of Environmental Attributes. During the Agreement Term, Seller shall not report to any Person that the Environmental Attributes granted hereunder to Buyer belong to any Person other than Buyer, and Buyer may report under any program that such Environmental Attributes purchased hereunder belong to it.

Section 8.3 Environmental Attributes. Upon Buyer's request, Seller shall take all reasonable actions and execute all documents or instruments as are reasonable and necessary under applicable law, bilateral arrangements or other voluntary Environmental Attribute programs of any kind, as applicable, to maximize the attribution, accrual, realization, generation, production, recognition and validation of Environmental Attributes throughout the Agreement Term.

Section 8.4 Use of Accounting System to Transfer Environmental Attributes. In furtherance and not in limitation of Section 8.3, Seller shall use WREGIS or any successor system to evidence the transfer of any Environmental Attributes considered RECs under applicable law or any voluntary program ("*WREGIS Certificates*") associated with Facility Energy or Replacement Energy in accordance with WREGIS reporting protocols and shall register the Facility with WREGIS. After the Facility is registered with WREGIS, at Buyer's option, Seller shall (i) transfer WREGIS Certificates using the Forward Certificate Transfer method, as described in WREGIS Operating Rules, from Seller's WREGIS account to up to three WREGIS accounts, as designated by Buyer, or (ii) retire said WREGIS Certificates into Seller's WREGIS Retirement sub-account on behalf of Seller's requirements (if any); provided, however, that Buyer shall initially select to use either option (i) or (ii) thirty (30) days prior to Seller's delivery of any Facility Energy to the Point of Delivery, and, provided further, if option (i) is selected, Buyer may change to option (ii) at the beginning of any calendar year during the Agreement Term upon thirty (30) days advance written notice. If option (ii) is selected, then Buyer shall provide Seller the number and vintage of MWh of WREGIS Certificates to be retired by providing written notice to Seller not later than thirty (30) days prior to the desired retirement date. Seller shall be responsible for the WREGIS expenses associated with registering the Facility, maintaining its account, WREGIS Certificate issuance fees, and transferring WREGIS Certificates to Buyer or Buyer's Agent, or any other designees, and Buyer shall be responsible for the WREGIS expenses associated with maintaining its account, or the accounts of its designees, if any, and subsequent transferring or retiring of WREGIS Certificates, or Seller's fees for the retirement of WREGIS Certificates on behalf of Buyer. Forward Certificate Transfers shall occur monthly based on the certificate creation time-line established by the WREGIS Operating Rules. Seller shall be responsible for, at its expense, validating and disputing data with WREGIS prior to WREGIS Certificate creation each month. In the event that WREGIS is not in operation, or WREGIS does not track Seller's transfer of WREGIS Certificates to Buyer, Buyer's Agent, or its designees for purposes of any RECs attributed, accrued, realized, generated, produced, recognized or validated relative to the Energy from the Facility or Replacement Energy, or Buyer chooses not to use WREGIS for any reason, Seller shall document the production and transfer of RECs under this Agreement by delivering to Buyer an attestation for the RECs produced by the Facility, or Replacement Energy, measured in whole

MWh, or by such other method as Buyer shall designate. Buyer shall take all necessary actions to facilitate the transfer or retirement of Environmental Attributes as provided above, including accepting any transfer requests made by Seller through WREGIS in accordance with the foregoing.

Section 8.5 Further Assurances. Regardless of whether Seller and Buyer use WREGIS or any successor system, Seller shall document the production of Environmental Attributes by delivering with each invoice to Buyer an attestation for Environmental Attributes (i) produced by the Facility or (ii) included with Replacement Energy for the preceding month. The form of attestation is set forth as Appendix D. At Buyer's request, the Parties shall execute all such documents and instruments and take such other action in order to effect the transfer of the Environmental Attributes specified in this Agreement to Buyer's Members and to maximize the attribution, accrual, realization, generation, production, recognition and validation of Environmental Attributes throughout the Agreement Term as Buyer may reasonably request. In the event of the promulgation of a scheme involving Environmental Attributes administered by CAMD, upon notification by CAMD that any transfers contemplated by this Agreement shall not be recorded, the Parties shall promptly cooperate in taking all reasonable actions necessary so that such transfer can be recorded. Each Party shall promptly give the other Party copies of all documents it submits to CAMD to effectuate any transfers.

Section 8.6 RPS and EPS Compliance.

(a) Seller warrants and guarantees that, upon the receipt of notice from the CEC that the Facility is CEC Certified, and at all times thereafter until the expiration or earlier termination of the Agreement Term, the Facility (including the Facility Energy and the associated Environmental Attributes) shall be both RPS Compliant and EPS Compliant, provided, however, if and to the extent a Change in Law occurs during such period that causes the Facility, the Facility Energy or the associated Environmental Attributes to no longer be RPS Compliant and EPS Compliant, then it shall not be an Event of Default if following Commercial Operation Seller uses commercially reasonable efforts to comply with such Change in Law, and Buyer shall be entitled to retain from each payment to be made to Seller under Section 6.1(b) a portion therefrom equal to the positive difference between (i) the price of the Delivered Energy pursuant to Section 6.1(b) and (ii) the average of the on-peak and off-peak Energy prices, weighted by the number of hours in the on-peak and off-peak periods, during each month that the Facility (including the Facility Energy and the associated Environmental Attributes) is not RPS Compliant and EPS Compliant, as listed in the Dow Jones Palo Verde Electricity Price Index; provided in no event during such period shall Buyer be obligated to pay Seller an amount for Facility Energy that is greater than the Contract Price. Buyer shall release such retained amount, which shall be calculated without interest of any kind, within forty-five (45) days following the receipt of evidence from Seller that the Facility has become RPS Compliant and EPS Compliant, but only if and to the extent that the Environmental Attributes generated during the period of non-compliance can be attributed towards Buyer's requirements under the RPS Law and the requirements of California Public Utilities Code Section 399.16(b)(1). From time to time and at any time requested by Buyer, Seller will furnish to Buyer or Governmental Authorities or other Persons designated by Buyer, all certificates and other documentation reasonably requested by Buyer in order to demonstrate that the Facility, the Facility Energy, and the associated Environmental Attributes are RPS Compliant and EPS Compliant. However, if the Facility

remains unable to be RPS Compliant and EPS Compliant as a result of the Change in Law after six (6) months following such Change in Law, either Party may terminate this Agreement upon thirty (30) days advance written notice to the other; provided that such six (6) month period shall be extended for a period that does not exceed an additional six (6) months if Seller shall furnish to Buyer a written opinion by an independent consultant selected by Seller and acceptable to Buyer (in its reasonable discretion) to the effect that Seller, using its reasonable commercial efforts, is capable of making the Facility (including the Facility Energy and associated Environmental Attributes) RPS Compliant and EPS Compliant within such additional period.

(b) The Parties acknowledge that WREGIS does not currently permit Seller to obtain WREGIS Certificates for an amount of Energy equal to the Parasitic Load, whether or not Energy generated by the Facility, or energy from another source, serves such Parasitic Load. In the event that (i) WREGIS changes the WREGIS Operating Rules to permit Seller to obtain WREGIS Certificates for Energy generated by the Facility that would serve some or all of the Parasitic Load in the absence of Energy acquired by Seller to serve such Parasitic Load from a source other than the Facility, (ii) Seller elects, in its sole discretion, to acquire Energy from a source other than the Facility to serve some or all of its Parasitic Load, and (iii) such Energy generated by the Facility that would have served the Parasitic Load in the absence of the acquisition of Energy by Seller as described in (ii) above is RPS Compliant and EPS Compliant, such amounts of Energy generated by the Facility shall for the purposes of this Agreement constitute Facility Energy and shall be sold to Buyer in accordance with the provisions of this Agreement.

ARTICLE IX MAKEUP OF SHORTFALL ENERGY

Section 9.1 Makeup of Shortfall. During each Contract Year, all Delivered Energy shall first be applied to the determination of whether Seller has delivered the Guaranteed Generation. Except to the extent caused by a Force Majeure (but subject to the provisions of Section 14.6(a) providing that the obligations of Seller with respect to the delivery of Shortfall Energy or Replacement Energy under this Article IX not delivered due to Force Majeure are not excused, but such required delivery shall be extended for the duration of the Force Majeure), or except for curtailment under Section 7.4 or Buyer's failure to accept Facility Energy or Replacement Energy in accordance with this Agreement, if Seller fails during any Contract Year to deliver Delivered Energy in an amount equal to the Guaranteed Generation, then Seller shall make up that shortfall of Delivered Energy ("**Shortfall Energy**") in the next Contract Year or Contract Years in accordance with this Article IX.

Section 9.2 Replacement Energy. The amount of Shortfall Energy shall first be reduced by the amount of any Excess Energy delivered during the applicable Shortfall Makeup Period. To the extent there remains Shortfall Energy after the end of the applicable Shortfall Makeup Period, Seller shall, within ninety (90) days following the end of such Shortfall Makeup Period, provide Buyer with that quantity of Replacement Energy that is sufficient to make up the remaining Shortfall Energy in full. The Replacement Energy shall be delivered to Buyer at the Point of Delivery on a delivery schedule consistent with the Facility's historic percentage of on-peak and off-peak Delivered Energy. As employed in this Agreement, "**Replacement Energy**" means Energy produced by a facility other than the Facility that, at the time delivered to Buyer,

is (A) both RPS Compliant and EPS Compliant, (B) qualifies under California Public Utilities Code Section 399.16(b)(1), and (C) includes Environmental Attributes that have the same value and the same or comparable vintage with respect to the timeframe for retirement of such Environmental Attributes, if any, as the Environmental Attributes that would have been generated by the Facility during the period for which the Replacement Energy is being provided.

Section 9.3 Shortfall Liquidated Damages. To the extent Seller is unable to procure sufficient Replacement Energy to make up any remaining Shortfall Energy at the end of such ninety (90) day period following the applicable Shortfall Makeup Period, then Seller shall pay Buyer, as liquidated damages, an amount for each MWh of remaining Shortfall Energy equal to the positive difference, if any, obtained by subtracting the amount that Buyer would have paid had Facility Energy equal to the amount of Shortfall Energy been delivered to the Point of Delivery from the Replacement Price ("*Shortfall Liquidated Damages*"). The Shortfall Liquidated Damages payable under this Section 9.3 shall be payable in lieu of actual damages, shall be guaranteed as to payment by the Delivery Term Security, and, notwithstanding any other provision of this Agreement, other than Buyer's remedies for a Default by Seller under Section 13.1(f), Shortfall Liquidated Damages shall be Buyer's sole remedy, and Seller's sole liability, for Seller's failure to deliver Facility Energy and the associated Environmental Attributes and Replacement Energy and the associated Environmental Attributes, as provided under Sections 9.1 and 9.2 above. The Parties acknowledge and agree that (i) the damages that Buyer would incur due to shortfalls in Delivered Energy would be difficult or impossible to predict with certainty, and (ii) it is impractical and difficult to assess actual damages in those circumstances and, therefore, Shortfall Liquidated Damages are a fair and reasonable calculation of such damages.

Section 9.4 Application of Shortfall Energy or Replacement Energy. In the event of Shortfall Energy in multiple Contract Years, any Excess Energy or Replacement Energy delivered by Seller shall be applied in priority to the earliest outstanding shortfalls hereunder until all shortfalls are satisfied.

ARTICLE X CAPACITY RIGHTS

Section 10.1 Purchase and Sale of Capacity Rights. For and in consideration of Buyer entering into this Agreement, and in addition to the agreement by Buyer and Seller to purchase and sell Facility Energy and Environmental Attributes on the terms and conditions set forth in this Agreement, Seller hereby transfers to Buyer, and Buyer hereby accepts from Seller, all of the Capacity Rights, subject to Section 6.4. The consideration for the transfer of Capacity Rights is contained within the relevant prices for Facility Energy. In no event shall Buyer have any obligation or liability whatsoever for any debt pertaining to the Facility by virtue of Buyer's ownership of the Capacity Rights or otherwise.

Section 10.2 Representation Regarding Ownership of Capacity Rights. Subject to Section 6.4: (i) Seller shall not assign, transfer, convey, encumber, sell or otherwise dispose of any of the Capacity Rights to any Person other than Buyer or attempt to do any of the foregoing with respect to any of the Capacity Rights; (ii) Seller shall not report to any Person that any of

the Capacity Rights belong to any Person other than Buyer; and (iii) Buyer may, at its own risk and expense, report to any Person that the Capacity Rights belong to it.

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

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

Section 11.1 Billing and Payment. Billing and payment for all Delivered Energy (including startup and test Energy) shall be as set forth in this Article XI.

Section 11.2 Calculation of Energy Delivered; Invoices and Payment.

(a) **Delivered Quantity.** For each month during the Agreement Term, commencing with the first month in which Energy is delivered by Seller to and received by Buyer under this Agreement, Seller shall calculate the amount of Energy so delivered and received during such month as determined (i) in the case of Delivered Energy, from recordings produced by the Electric Metering Devices maintained pursuant to Section 11.6, at or near midnight on the last day of the month in question, and (ii) in the case of Replacement Energy, the amount in MWh actually supplied by Seller pursuant to Section 9.2, as measured by metering equipment approved by Buyer in its reasonable discretion.

(b) **Invoice.** Not later than the tenth (10th) day of each month, commencing with the month next following the month in which Energy is first delivered by Seller and received by Buyer under this Agreement, Seller shall deliver to Buyer a proper invoice showing the amount of Energy delivered by Seller and received by Buyer during the preceding month (with a separate allocation for any Replacement Energy) and Seller's computation of the amount due Seller in respect thereof for Delivered Energy (including start-up and test Energy) and for Replacement Energy in accordance with Appendix A. Seller shall deliver to Buyer with each monthly invoice copies of the recordings and data from the Electric Metering Devices that support the calculations of Energy and Environmental Attributes included in the invoice for such month. Monthly invoices shall be sent to the address set forth in Appendix C or such other address as Buyer may provide to Seller.

(i) Monthly invoices shall contain a statement that the representations and warranties set forth in this Agreement remain true and correct as of the date of the invoice and that there exists no Default by Seller or any event that, after notice or with the passage of time or both, would constitute a Default, or, if the foregoing statement cannot be made, Seller shall list, in detail, for each representation or warranty in this Agreement that is no longer true and correct or for each Default or potential Default, the nature of the condition or event, the period during which it has existed and the action which Seller has taken, is taking, or proposes to take with respect to each such condition or event.

(ii) Seller shall deliver to Buyer attestations of Environmental Attribute pursuant to Section 8.5 concurrently with the monthly invoices sent pursuant to this Section 11.2.

(iii) Buyer shall not be required to make invoice payments if the invoice is received more than six (6) months after the billing period. Each invoice shall show the title of the Agreement and, if applicable, the Agreement number, the name, address and identifying information of Seller and the identification of material, equipment, or services covered by the invoices.

(c) **Payment.** Not later than the thirtieth (30th) day after receipt by Buyer of Seller's monthly invoice (or the next succeeding Business Day, if such sixtieth (60th) day is not a Business Day), Buyer shall pay to Seller, by wire transfer of immediately available funds to an account specified by Seller or by any other means agreed to by the Parties from time to time, the amount set forth as due in such monthly invoice, subject to Section 11.3.

Section 11.3 Disputed Invoices. In the event any portion of any invoice is in dispute, the undisputed amount shall be paid when due. The Party disputing a payment shall promptly notify the other Party of the basis for the dispute, setting forth the details of such dispute in reasonable specificity. Disputes shall be discussed by the Authorized Representatives, who shall use reasonable efforts to amicably and promptly resolve the disputes, and any failure to agree shall be subject to resolution in accordance with Section 14.3. Upon resolution of any dispute, if all or part of the disputed amount is later determined to have been due, then the Party owing such payment or refund shall pay within ten (10) days after receipt of notice of such determination the amount determined to be due plus interest thereon at the Interest Rate from the due date until the date of payment. For purposes of this Section 11.3, "**Interest Rate**" shall mean the lesser of (i) two hundred (200) basis points above the per annum prime rate reported daily in The Wall Street Journal, or (ii) the maximum rate permitted by applicable Requirements of Law. Buyer may dispute an invoice at any time within three hundred sixty five (365) days after Buyer's receipt of the invoice, provided that Buyer provides Seller with a written notification of such dispute, setting forth the details of such dispute in reasonable specificity. If, within three hundred sixty five (365) days of Buyer's receipt of an invoice, Buyer does not notify Seller in writing of a dispute related to that invoice, Buyer shall be deemed to have waived any dispute related to that invoice and the invoice shall be considered correct and complete.

Section 11.4 Right of Setoff. In addition to any right now or hereafter granted under applicable law and not by way of limitation of any such rights, either Party shall have the right at any time or from time to time without notice to the other Party or to any other Person, any such notice being hereby expressly waived, to set off against any amount due from such Party to the other under this Agreement any amount due from the other Party to it under this Agreement, including any amounts due because of breach of this Agreement or any other obligation.

Section 11.5 Records and Audits. Seller shall maintain, and shall cause Seller's subcontractors and suppliers as applicable to maintain all records pertaining to the management of this Agreement, related subcontracts, and performance of services pursuant to this Agreement (including all billings, costs, metering, and Environmental Attributes), in their original form, including reports, documents, deliverables, employee time sheets, accounting procedures and

practices, records of financial transactions, and other evidence, regardless of form (for example, machine readable media such as disk or tape, etc.) or type (for example, databases, applications software, database management software, or utilities), sufficient to properly reflect all services performed pursuant to this Agreement. If Seller or Seller's subcontractors or suppliers are required to submit cost or pricing data in connection with this Agreement, Seller shall maintain all records and documents necessary to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used. Buyer and the Authorized Auditors may discuss such records with Seller's officers and independent public accountants (and by this provision Seller authorizes said accountants to discuss such billings and costs), all at such times and as often as may be reasonably requested. All such records shall be retained, and shall be subject to examination and audit by the Authorized Auditors, for a period of not less than four (4) years following final payment made by Buyer hereunder or the expiration or termination date of this Agreement, whichever is later. Seller shall make said records or to the extent accepted by the Authorized Auditors, photographs, micro-photographs, or other authentic reproductions thereof, available to the Authorized Auditors at the Seller's offices located at all reasonable times and without charge. The Authorized Auditors may reproduce, photocopy, download, transcribe, and the like any such records. Any information provided by Seller on machine-readable media shall be provided in a format accessible and readable by the Authorized Auditors. Seller shall not, however, be required to furnish the Authorized Auditors with commonly available software. Seller and Seller's subcontractors and suppliers, as applicable to the services provided under this Agreement, shall be subject at any time with fourteen (14) days prior written notice to audits or examinations by Authorized Auditors, relating to all billings and to verify compliance with all Agreement requirements relative to practices, methods, procedures, performance, compensation, and documentation. Examinations and audits shall be performed using generally accepted auditing practices and principles and applicable Governmental Authority audit standards. If Seller utilizes or is subject to FAR, Part 30 and 31, *et seq.* accounting procedures, or a portion thereof, examinations and audits shall utilize such information. To the extent that the Authorized Auditor's examination or audit reveals inaccurate, incomplete or non-current records, or records are unavailable, the records shall be considered defective. Consistent with standard auditing procedures, Seller shall be provided fifteen (15) days to review the Authorized Auditor's examination results or audit and respond to Buyer's prior to the examination's or audit's finalization and public release. If the Authorized Auditor's examination or audit indicates Seller has been overpaid under a previous payment application, the identified overpayment amount shall be paid by Seller to Buyer within fifteen (15) days of notice to Seller of the identified overpayment. Notwithstanding the foregoing, if the audit reveals that Buyer's overpayment to Seller is more than the greater of \$100,000 or five percent (5.0%) of the billings reviewed, Seller shall pay all expenses and costs incurred by the Authorized Auditors arising out of or related to the examination or audit. Such examination or audit expenses and costs shall be paid by Seller to Buyer within fifteen (15) days of notice to the Seller of such costs and expenses. Any information provided by Seller to the Authorized Auditor shall be held by such Authorized Auditor in strict confidence and Seller may require such Authorized Auditor to enter into a reasonable confidentiality agreement prior to the disclosure of information hereunder; provided that the Authorized Auditors shall not be prevented from disclosure of such information to Buyer to the extent such disclosure to Buyer is required to enable Buyer to carry out its rights and responsibilities under this Agreement and Buyer shall treat such information as Confidential Information to the extent provided under Section 14.21.

Section 11.6 Electric Metering Devices.

(a) Delivered Energy shall be measured using Electric Metering Devices installed, owned and maintained by the Seller. If the Electric Metering Devices are not installed at the Point of Delivery, meters or meter readings shall be adjusted to reflect losses from the Electric Metering Devices to the Point of Delivery. To the extent consistent with the requirements of the Transmission Provider, all Electric Metering Devices used to provide data for the computation of payments shall be sealed and Seller or its designee shall only break the seal when such Electric Metering Devices are to be inspected and tested or adjusted in accordance with this Section 11.6. Seller or its designee shall specify the number, type, and location of such Electric Metering Devices.

(b) Seller or its designee, at no expense to Buyer, shall inspect and test all Electric Metering Devices upon installation and at least annually thereafter. Seller shall provide Buyer with reasonable advance notice of, and permit a representative of Buyer to witness and verify, such inspections and tests to the extent consistent with the requirements of the Transmission Provider. Upon request by Buyer, Seller or its designee shall perform additional inspections or tests of any Electric Metering Device and shall allow a qualified representative of Buyer the right to inspect or witness the testing of any Electric Metering Device. The actual expense of any such requested additional inspection or testing shall be borne by Buyer, unless the results of such additional inspection or testing show an inaccuracy greater than one percent (1%), in which case Seller shall bear such costs. Seller shall provide copies of any inspection or testing reports to Buyer. Notwithstanding the foregoing, Seller shall have the right and Buyer shall permit Seller to withhold proprietary information unless such information is reasonably needed by Buyer to evaluate and verify such inspections and tests. In addition, Buyer shall hold any information obtained during or in connection with such inspections and tests in confidence.

(c) If an Electric Metering Device fails to register, or if the measurement made by an Electric Metering Device is found upon testing to be inaccurate by more than one percent (1.0%), an adjustment shall be made correcting all measurements by the inaccurate or defective Electric Metering Device for both the amount of the inaccuracy and the period of the inaccuracy. The adjustment period shall be determined by reference to Seller's check-meters, if any, or as far as can be reasonably ascertained by Seller from the best available data, subject to review and approval by Buyer. If the period of the inaccuracy cannot be ascertained reasonably, any such adjustment shall be for a period equal to one-third of the time elapsed since the preceding test of the Electric Metering Devices. To the extent that the adjustment period covers a period of deliveries for which payment has already been made by Buyer, Buyer shall use the corrected measurements as determined in accordance with this Section 11.6 to recompute the amount due for the period of the inaccuracy and shall subtract the previous payments by Buyer for this period from such recomputed amount. If the difference is a positive number, the difference shall be paid by Buyer to Seller; if the difference is a negative number, that difference shall be paid by Seller to Buyer, or at the discretion of Buyer, may take the form of an offset to payments due to Seller from Buyer. Payment of such difference by the owing Party shall be made not later than thirty (30) days after the owing Party receives notice of the amount due, unless Buyer elects payment via an offset.

Section 11.7 Taxes. Seller shall be responsible for and shall pay before the due dates therefor, any and all federal, state and local Taxes incurred by it as a result of entering into this Agreement and all Taxes imposed or assessed with respect to the Facility, the Facility site, or any other assets of Seller, the sale of Facility Energy and Environmental Attributes and all Taxes related to Seller's income. Buyer shall be responsible for and shall pay before the due dates therefor, any and all federal, state and local Taxes incurred by it as a result of entering into this Agreement and all Taxes imposed or assessed with respect to any assets of Buyer or the purchase of Facility Energy and Environmental Attributes under this Agreement.

**ARTICLE XII
REPRESENTATIONS AND WARRANTIES; COVENANTS OF SELLER**

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

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

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

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

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

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

(b) The execution, delivery and performance by the Seller and the Seller Parties of this Agreement and all Seller Ancillary Documents, as applicable, have been duly authorized by all necessary action, and do not and will not require any consent or approval other than those which have already been obtained.

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

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

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

(f) None of the Seller Parties is in violation of any Requirement of Law, which violations, individually or in the aggregate, would reasonably be expected to result in a material adverse effect on the business, assets, operations, condition (financial or otherwise) or prospects of any Seller Party, or the ability of any Seller Party to perform any of its obligations under this Agreement or any Seller Ancillary Document.

(g) Seller is and will be a Special Purpose Entity.

(h) The Seller Parties have (i) not entered into this Agreement or any Seller Ancillary Document with the actual intent to hinder, delay or defraud any creditor, and (ii) received reasonably equivalent value in exchange for their respective obligations under this Agreement and the Seller Ancillary Documents. No petition in bankruptcy has been filed against any of the Seller Parties, and none of the Seller Parties nor any of their respective constituent Persons have ever made an assignment for the benefit of creditors or taken advantage of any insolvency act for its benefit as a debtor.

(i) All of the assumptions made in the Non-Consolidation Opinion, including any exhibits attached thereto, are true and correct. Seller has complied or will comply after the date hereof with all of the assumptions made with respect to Seller in the Non-Consolidation Opinion.

(j) None of the Seller Parties has any reason to believe that any of the Permits required to construct, maintain or operate the Facility in accordance with the Requirements will not be timely obtained in the ordinary course of business.

(k) All Tax returns and reports of each Seller Party required to be filed by it have been timely filed, and all Taxes shown on such Tax returns to be due and payable and all assessments, fees and other governmental charges upon the Seller Parties and upon its properties, assets, income, business and franchises that are due and payable have been paid when due and payable. None of the Seller Parties knows of any proposed Tax assessment against any of the Seller Parties that is not being actively contested by it in good faith and by appropriate proceeding.

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

(m) Seller has not assigned, transferred, conveyed, encumbered, sold, or otherwise disposed of any Facility Energy, Environmental Attributes, or Capacity-Related Benefits except as permitted herein.

(n) At all times after the Effective Date, Seller shall have "Site Control" which means that Seller shall own the Site, have a right-of-way with respect to the Site, or be the lessee of the Site under the Leases which permit Seller to perform its obligations under the Agreement and the Seller Ancillary Documents. Seller shall provide Buyer with prompt notice of any change in the status of Seller's Site Control. Seller shall not take any action or permit any action to be taken at or with respect to the Site that impairs or adversely affects the Facility, including the geothermal resource, or the capability thereof.

Section 12.3 Covenant of Seller Related to Investments. Seller shall inform all investors in the Seller of the existence of this Agreement and all Seller Ancillary Documents on or before the date of such investment in the Seller.

ARTICLE XIII

DEFAULT; TERMINATION AND REMEDIES; PERFORMANCE DAMAGE

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

(a) *Payment Default.* Failure by either Party to make any payment under this Agreement or any of the Buyer Ancillary Documents, in the case of Buyer, or Seller Ancillary Documents, in the case of Seller, when and as due which is not cured within thirty (30) calendar days after receipt of notice thereof.

(b) *Performance Default.* Failure by either Party to perform any of its other duties or obligations under this Agreement or any of the Buyer Ancillary Documents, in the case of Buyer, or Seller Ancillary Documents, in the case of Seller, except for obligations as to which an express remedy is herein provided, when and as required that is not cured within thirty (30) days after receipt of notice thereof; provided that if such failure by Buyer cannot be cured within such thirty (30) day period, despite reasonable commercial efforts and such failure is not a failure to make a payment when due, Buyer shall have up to ninety (90) days to cure.

(c) *Breach of Representation and Warranty.* Inaccuracy in any material respect at the time made or deemed to be made of any representation, warranty, certification, or other statement made herein or in any Buyer Ancillary Document, in the case of Buyer, or Seller Ancillary Documents, in the case of Seller, which representation, warranty, certification or other statement is not cured within thirty (30) days after receipt of notice thereof.

(d) *Buyer Bankruptcy.* Bankruptcy of Buyer.

(e) *Seller Bankruptcy.* Bankruptcy of any Seller Party.

(f) *Shortfall Energy Default.* The failure of Seller to deliver in each of two consecutive Contract Years fifty percent (50%) of the Guaranteed Generation, which shall be reduced by the amount of Facility Energy that would have been generated and delivered during such Contract Year but for (a) Force Majeure, or (b) Buyer's failure to perform (including Buyer's failure to receive Facility Energy under Section 6.3).

(g) *Performance Security Failure.* The failure of Seller to maintain the Performance Security in compliance with Section 5.9.

(h) *Lease Termination.* The Facility is no longer able to operate because one or more of the Leases fails to be in effect or has terminated, provided that if such failure or termination is due to a decision of a Governmental Authority, such decision must be final and nonappealable.

(i) *Insurance Default.* The failure of Seller to maintain and provide acceptable evidence of Insurance unless cured within five (5) days.

(j) *Fundamental Change.* Any Seller Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another Person and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee Person (the "**Successor Entity**") fails to assume all the obligations of such Seller-Party under this Agreement and the Seller Ancillary Documents to which it or its predecessor was a party by operation of law or pursuant to an agreement satisfactory to Buyer; or such Successor Entity has a long-term unsubordinated debt rating that is lower than the rating of such Seller-Party immediately prior to such consolidation, amalgamation, merger or transfer.

Section 13.2 Default Remedy.

(a) If Buyer is in Default for nonpayment, subject to any duty or obligation under this Agreement, Seller may continue to provide services pursuant to its obligations under

this Agreement; provided that nothing in this Section 13.2(a) shall affect Seller's rights and remedies set forth in this Section 13.2. Seller's continued service to Buyer shall not act to relieve Buyer of any of its duties or obligations under this Agreement.

(b) Notwithstanding any other provision herein, if any Default has occurred and is continuing, the affected Party may, whether or not the dispute resolution procedure set forth in Section 14.3 has been invoked or completed, bring an action in any court of competent jurisdiction as set forth in Section 14.13 seeking injunctive relief in accordance with applicable rules of civil procedure.

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

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

Section 13.3 Termination for Default.

(a) If Default occurs, the Party that is not the Defaulting Party (the "***Non Defaulting Party***") may, for so long as the Default is continuing and without limiting any other rights or remedies available to the Non-Defaulting Party under this Agreement, by notice ("***Termination Notice***") to the Defaulting Party (i) establish a date (which shall be no earlier than the date of such notice and no later than twenty (20) days after the date of such notice) ("***Early Termination Date***") on which this Agreement shall terminate, and (ii) withhold any payments due in respect of this Agreement; provided, upon the occurrence of any Default of the type described in Section 13.1(d) or Section 13.1(e), this Agreement shall automatically terminate, without notice or other action by either Party as if an Early Termination Date had been declared immediately prior to such event.

(b) If an Early Termination Date has been designated, the Non-Defaulting Party shall calculate in a commercially reasonable manner its Gains, Losses and Costs resulting from the termination of this Agreement and the resulting Termination Payment. The Gains, Losses and Costs relating to the Facility Energy and Environmental Attributes that would have been required to be delivered under this Agreement had it not been terminated shall be determined by comparing the amounts Buyer would have paid therefor under this Agreement to

EXHIBIT II
Statement

Re: Your Irrevocable and Unconditional Documentary Letter of Credit
No. _____ Dated _____, 20_____

To Whom It May Concern:

Reference is made to your Irrevocable and Unconditional Documentary Letter of Credit
no. _____, dated _____, 20____ in the amount of \$_____
established by you in our favor for the account of _____.

We hereby certify to you that \$_____ is due and owing to us and unpaid
under that certain [Describe Agreement].

DATED: _____, 20__.

SOUTHERN CALIFORNIA PUBLIC POWER
AUTHORITY

By _____

Title _____

EXHIBIT III
Amendment

Re: Irrevocable and Unconditional Documentary Letter of Credit
No. _____ Dated _____, 20__

Beneficiary:

Applicant:

Southern California Public Power Authority
1160 Nichole Court
Glendora, CA 91740

To Whom It May Concern:

The above referenced Irrevocable and Unconditional Documentary Letter of Credit is hereby amended as follows: by increasing / decreasing / leaving unchanged (*strike two*) the stated amount by \$ _____ to a new stated amount of \$ _____ or by extending the expiration date to _____ from _____. All other terms and conditions of the Letter of Credit remain unchanged.

This amendment is effective only when accepted by Southern California Public Power Authority, which acceptance may only be valid by a signature of an authorized representative.

Dated: _____

Yours faithfully,

(name of issuing bank)

By _____

Title _____

ACCEPTED

Southern California Public Power Authority

By _____

Title _____

Date _____

**APPENDIX F
TO POWER PURCHASE AGREEMENT,
DATED AS OF DECEMBER 31, 2012
BETWEEN SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
AND ORNI 47 LLC**

INSURANCE

I. GENERAL REQUIREMENTS

Prior to the start of work, but not later than thirty (30) days after the date of award of contract, Seller shall furnish Buyer evidence of coverage from insurers rated A VIII or higher by AM Best (for clauses II A - D below) and A- X (for clauses II F-G below) and in a form acceptable to the risk management section of the project manager for Buyer or acceptable to Buyer's agent for this purpose. Such insurance shall be maintained by Seller at Seller's sole cost and expense.

Such insurance shall not limit or qualify the liabilities and obligations of Seller assumed under this Agreement. Buyer shall not by reason of its inclusion under these policies incur liability to the insurance carrier for payment of premium for these policies.

Any insurance carried by Buyer which may be applicable shall be deemed to be excess insurance and Seller's insurance is primary for all purposes despite any conflicting provision in Seller's policies to the contrary.

Said evidence of insurance shall contain a provision that the policy cannot be canceled or reduced in coverage or amount without first giving thirty (30) days prior notice thereof (ten (10) days for non-payment of premium) by registered mail to Executive Director, Southern California Public Power Authority, 1160 Nichole Court, Glendora, CA 91740.

Should any portion of the required insurance be on a "Claims Made" policy, Seller shall, at the policy expiration date following completion of work, provide evidence that the "Claims Made" policy has been renewed or replaced with the same limits, terms and conditions of the expiring policy, or that an extended discovery period has been purchased on the expiring policy at least for the contract under which the work was performed.

Seller shall be responsible for all subcontractors' compliance with the insurance requirements.

II. SPECIFIC COVERAGES REQUIRED

A. Commercial Automobile Liability

Seller shall provide Commercial Automobile Liability insurance which shall include

coverages for liability arising out of the use of owned, non-owned, and hired vehicles for performance of the work as required to be licensed under the California or any other applicable state vehicle code. The Commercial Automobile Liability insurance shall have not less than \$1,000,000.00 combined single limit per occurrence and shall apply to all operations of Seller.

The Commercial Automobile Liability policy shall include Buyer, its Board of Directors, its members, and their officers, agents, and employees while acting within the scope of their employment, as additional insureds with Seller, and shall insure against liability for death, bodily injury, or property damage resulting from the performance of this Agreement. The form of evidence of insurance shall be a Buyer Additional Insured Endorsement or an endorsement to the policy acceptable to Buyer's risk management agent.

B. Commercial General Liability

Seller shall provide Commercial General Liability insurance with Contractual Liability, Independent Contractors, Broad Form Property Damage, Premises and Operations, Products and Completed Operations, fire Legal Liability and Personal Injury coverages included. Such insurance shall provide coverage for total limits actually arranged by Seller, but not less than \$10,000,000.00 combined single limit per occurrence. Should the policy have an aggregate limit, such aggregate limits should not be less than double the Combined Single Limit. Umbrella or Excess Liability coverages may be used to supplement primary coverages to meet the required limits. Evidence of such coverage shall be on Buyer's Additional Insured Endorsement form or on an endorsement to the policy acceptable to the Buyer's risk management agent, and shall provide for the following:

1. Include Buyer and its officers, agents, and employees as additional insureds with the Named Insured for the activities and operations under this Agreement.
2. Severability-of-Interest or Cross-Liability Clause such as: "The policy to which this endorsement is attached shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the company's liability."
3. A description of the coverages included under the policy.

C. Excess Liability

Seller may use an Umbrella or Excess Liability Coverage to meet coverage limits specified in this Agreement. Seller shall require the carrier for Excess Liability to properly schedule and to identify the underlying policies as provided for Buyer on the Buyer Additional Insured Endorsement Form, or on an endorsement to the policy acceptable to Buyer's risk management agent. Such policy shall include, as appropriate, coverage for Commercial General Liability, Commercial Automobile Liability,

Employer's Liability, or other applicable insurance coverages.

D. Workers' Compensation/Employer's Liability Insurance

Seller shall provide Workers' Compensation insurance covering all of Seller's employees in accordance with the laws of any state in which the work is to be performed and including Employer's Liability insurance and a Waiver of Subrogation in favor of Buyer. The limit for Employer's Liability coverage shall be not less than \$1,000,000.00 each accident and shall be a separate policy if not included with Workers' Compensation coverage. Evidence of such insurance shall be in the form of a Buyer Special Endorsement of insurance or on an endorsement to the policy acceptable to Buyer's risk management agent. Workers' Compensation/Employer's Liability exposure may be self-insured provided that Buyer is furnished with a copy of the certificate issued by the state authorizing Seller to self-insure. Seller shall notify Buyer's Risk Management Section by receipted delivery as soon as possible of the state withdrawing authority to self-insure.

F. Builders' Risk

Builder's Risk insurance shall be of the "all risk" type, shall be written in completed value form against risks of damage to buildings, structures, and materials and equipment whether on site or in transit from any location world wide. The amount of such insurance shall be not less than the insurable value of the work at completion. The Builders' Risk policy shall insure against all risks of direct physical loss or damage to property from any cause including testing, ensuing loss, commissioning, earthquake and flood subject to sublimits and exclusions commercially available on reasonable terms and conditions. The policy shall be in full force and effect until Commercial Operation Date or final completion of the Facility whichever date is the later.

G. Property All Risk Insurance

Seller shall procure and maintain an All Risk Physical Damage policy to insure the full replacement value of the property located at Facility as described in this Agreement. The policy shall include coverage for expediting expense, extra expense, Business Interruption, ensuing loss from faulty workmanship, faulty materials, or faulty design. This policy shall be in full force and effect following the expiration of the Builder's Risk Policy.

APPENDIX G
TO POWER PURCHASE AGREEMENT,
DATED AS OF DECEMBER 31, 2012
BETWEEN SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
AND ORNI 47 LLC

FORM OF GUARANTEE

This Guarantee dated as of [] is made by [] (the "*Guarantor*") in favor of SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, a joint powers authority created under the laws of the State of California (the "*Beneficiary*").

ARTICLE ONE

Section 1.01 Guarantee.

(a) For valuable consideration in connection with [identify PPA and other Seller Ancillary Documents as appropriate, as each may hereafter be amended, supplemented or otherwise modified from time to time, collectively, the "*Guaranteed Contract*"] with (Counterparty/Seller name and description to the underlying Guaranteed Contract, the "*Counterparty*") subject to the terms and conditions set forth herein and effective from the date herein, the Guarantor irrevocably and unconditionally guarantees to the Beneficiary, its successors and permitted assigns, the prompt payment on demand, in lawful money of the United States, of any amount due and payable to the Beneficiary arising out of or under the Guaranteed Contract, when the same shall become due, whether at stated maturity, by acceleration, demand or otherwise (including amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code) subject to any applicable grace period thereunder and the prompt and proper performance by the Counterparty of all of its other obligations to the Beneficiary pursuant to the Guaranteed Contract (collectively, the "*Guaranteed Obligations*"). This is a guarantee of payment and performance and not merely a guarantee of collection, and the Guarantor is liable as a primary obligor for the amounts and other obligations due hereunder. The Beneficiary shall make demands for payment or performance hereunder, as the case may be, by providing the Guarantor with written notice as provided below, and the Guarantor shall make payments or perform, as the case may be, within five (5) business days after receipt of any such notice. The Guarantor shall make each payment to the Beneficiary in U.S. Dollars in immediately available funds as directed by the Beneficiary.

(b) The obligations of Guarantor hereunder are irrevocable, absolute, independent and unconditional and shall not be affected by any circumstance which constitutes a legal or equitable discharge of a guarantor or surety other than payment in full in cash and performance of the Guaranteed Obligations. In furtherance of the foregoing and without limiting the generality thereof, Guarantor agrees that: (a) Beneficiary may enforce this Guarantee upon the occurrence and during the continuance of a default or early termination event under the Guaranteed Contracts notwithstanding the existence of any dispute between Counterparty and Beneficiary with respect to the existence of such event; (b) the obligations of Guarantor

hereunder are independent of the obligations of Counterparty under the Guaranteed Contracts and the obligations of any other guarantor of obligations of Counterparty and a separate action or actions may be brought and prosecuted against Guarantor whether or not any action is brought against Counterparty or any of such other guarantors and whether or not Counterparty is joined in any such action or actions; and (c) Guarantor's payment or performance of a portion, but not all, of the Guaranteed Obligations shall in no way limit, affect, modify or abridge Guarantor's liability for any portion of the Guaranteed Obligations that has not been paid or performed. This Guarantee is a continuing guaranty and shall be binding upon Guarantor and its successors and assigns, and Guarantor irrevocably waives any right (including any such right arising under California Civil Code Section 2815) to revoke this Guarantee as to future transactions giving rise to any Guaranteed Obligations.

(c) Any interest on any portion of the Guaranteed Obligations that accrues after the commencement of any proceeding, voluntary or involuntary, involving the bankruptcy, insolvency, receivership, reorganization, liquidation or arrangement of Counterparty (or, if interest on any portion of the Guaranteed Obligations ceases to accrue by operation of law by reason of the commencement of said proceeding, such interest as would have accrued on such portion of the Guaranteed Obligations if said proceeding had not been commenced) shall be included in the Guaranteed Obligations because it is the intention of Guarantor and Beneficiary that the Guaranteed Obligations should be determined without regard to any rule of law or order that may relieve Counterparty of any portion of such Guaranteed Obligations.

(d) Upon the failure of Counterparty to pay or perform any of the Guaranteed Obligations when and as the same shall become due, Guarantor will upon demand pay, or cause to be paid, in cash, to Beneficiary an amount equal to the aggregate of the unpaid Guaranteed Obligations, or perform any such outstanding Guaranteed Obligations, as the case may be.

(e) This Guarantee shall terminate only upon the full satisfaction of the Guaranteed Obligations. If, notwithstanding the foregoing, Guarantor shall have any non-waivable right under applicable law or otherwise to terminate or revoke this Guarantee, Guarantor agrees that the termination or revocation shall not be effective until a written notice of the termination or revocation is received by Beneficiary and shall not affect the rights and powers of Beneficiary to enforce rights arising prior to receipt of the notice. Any rights arising out of advances or actions by Beneficiary after Guarantor's termination or revocation but prior to receipt of the requisite notice shall be the same as if the termination or revocation had not occurred.

Section 1.02 Guarantee Absolute.

(a) To the extent required hereunder, the Guaranteed Obligations will be paid strictly in accordance with the terms of the Guaranteed Contract, regardless of any bankruptcy or other law affecting any of such terms or the rights of the Beneficiary with respect thereto. The Guarantor's obligations under this Guarantee shall not be impaired by any increase, reduction, extension, rearrangement or subordination of the Guaranteed Obligations, any amendment, supplement, or other modification of the Guaranteed Contracts, any grant or impairment of any security or support for the Guaranteed Obligations, the failure to give notice of any default or

event of default, however denominated, under the Guaranteed Contracts or of the bringing of action to enforce the payment or performance of the Guaranteed Obligations or any other notice of any kind relating to the Guaranteed Obligations, or any other action which affects the Guaranteed Obligations.

(b) Guarantor further agrees that, to the extent that the Counterparty or the Guarantor makes a payment or payments to the Beneficiary which payment or payments or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, or required to be repaid to the Counterparty or the Guarantor or their respective estate, trustee, receiver, or any other party under any bankruptcy law, state or federal law, common law, or equitable cause, then to the extent of such payment or repayment, this Guarantee and the advances or part thereof which have been paid, reduced, or satisfied by such amount shall be reinstated and continued in full force and effect as of the date such initial payment, reduction, or satisfaction occurred.

ARTICLE TWO

Section 2.01. Severability.

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

(b) The obligations hereunder are joint and several, and independent of the obligations of Counterparty, and a separate action or actions may be brought and prosecuted against Guarantor, whether or not action is brought against Counterparty or whether or not Counterparty is joined in any such action or actions.

ARTICLE THREE

Section 3.01. Guarantor's Warranties.

Guarantor makes the following representations and warranties to Beneficiary:

(a) (i) this Guarantee is executed at Beneficiary's request; (ii) Guarantor has not and will not without prior written consent of Beneficiary, sell, lease, assign, encumber, hypothecate, transfer or otherwise dispose of all or substantially all of Guarantor's assets, or any interest therein; and (iii) Guarantor has adequate means of obtaining from Counterparty on a continuing basis financial and other information pertaining to Counterparty's financial condition without relying on Beneficiary therefor;

(b) Guarantor agrees to keep adequately informed from such means of any facts, events or circumstances which Guarantor consider material or which might in any way affect Guarantor's risks hereunder. With respect to information or material acquired in the

normal course of Beneficiary's relationship with Counterparty, Guarantor agrees that Beneficiary shall have no obligation to disclose such information or material to Guarantor;

(c) Guarantor is a [_____], duly organized, validly existing and in good standing under the laws of the State of [_____], and has the legal power and authority to own its properties, to carry on its business as now being conducted and to enter into this Guarantee and effect the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Guarantee;

(d) the execution, delivery and performance by Guarantor of this Guarantee and has been duly authorized by all necessary action, and do not and will not require any consent or approval of Guarantor's managing member or equity holders or other Person other than that which has been obtained;

(e) the execution and delivery of this Guarantee and the fulfillment of and compliance with the provisions of this Guarantee do not and will not conflict with or constitute a breach of or a default under, any of the terms, conditions or provisions of any federal, state and local laws, statutes, regulations, rules, codes or ordinances enacted, adopted, issued or promulgated by any federal, state, local or other governmental authority, or any organizational documents, agreement, deed of trust, mortgage, loan agreement, other evidence of indebtedness or any other agreement or instrument to which Guarantor is a party or by which it or any of its property is bound, or result in a breach of or a default under any of the foregoing or result in or require the creation or imposition of any lien or encumbrance upon any of the properties or assets of Guarantor; and

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

ARTICLE FOUR

Section 4.01. Waivers.

(a) It shall not be necessary for the Beneficiary, in order to enforce this Guarantee, to exhaust the Beneficiary's remedies against the Counterparty, to enforce any security or support for the payment or performance of the Guaranteed Obligations, or to enforce any other means of obtaining payment or performance of the Guaranteed Obligations. The Guarantor waives any rights under applicable state law related to the foregoing. Until irrevocable payment in full and performance of the Guaranteed Obligations, the Guarantor will not exercise any right of subrogation (including any statutory rights of subrogation under Section 509 of the Bankruptcy Code, 11 U.S.C. § 509, or under applicable state law) or any right to participate in any claim or remedy of the Beneficiary against the Counterparty, but this standstill is not intended as a permanent waiver of the subrogation rights of the Guarantor. To the extent permitted by law, Guarantor waives the benefit of any statute of limitations affecting its liability hereunder or the enforcement thereof, and agrees that any payment of any obligation or other act

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which shall toll any statute of limitations applicable to the obligation shall also operate to toll such statute of limitations applicable to Guarantor's liability hereunder. The liability of Guarantor hereunder shall be reinstated and revived and the rights of Beneficiary shall continue with respect to any amount paid by Counterparty on account of the obligations guaranteed hereby, which shall thereafter be required to be restored or returned by Beneficiary upon the bankruptcy, insolvency or reorganization of Counterparty or for any other reason, all as though such amount had not been paid. The Guarantor hereby waives notice of acceptance of this Guarantee and notice of any obligation or liability to which it may apply, and waives presentment, demand for payment or performance, protest, notice of dishonor or non-payment or non-performance of any such obligation or liability, suit or the taking of other action by Beneficiary against, and any other notice to, the Counterparty, the Guarantor or others. Any other suretyship defenses are hereby waived by the Guarantor. This Guarantee and the obligations of Guarantor hereunder shall be valid and enforceable and shall not be subject to any limitation, impairment or discharge for any reason (other than payment in full in cash and performance of the Guaranteed Obligations). The Beneficiary shall not be required to inquire into the capacity or powers of Guarantor or Counterparty or the officers, directors or any agents acting or purporting to act on behalf of any of them.

(b) In addition to the foregoing, Guarantor specifically waives:

(i) any right to require Beneficiary to (A) proceed against any person, including Counterparty; (B) proceed against or exhaust any collateral held from Counterparty, and other endorser or guarantor or any other person; (C) give notice of terms, time and place of any public or private sale of personal property or real property security held from Counterparty or comply with any other provisions of Section 9504 of the California Uniform Commercial Code or sections 2924 through 2924k of the California Civil Code, to the extent allowed by law; (D) pursue any other remedy in Beneficiary's power; or (E) make any presentments, demands for performance, or give any notices of nonperformance, protests, notices of protests or notices of dishonor in connection with any obligations or evidences of indebtedness held by Beneficiary as security, in connection with any obligations or evidences of indebtedness which constitute in whole or in part the obligations guaranteed hereunder, or in connection with the creation of new or additional obligations;

(ii) in accordance with Section 2856 of the California Civil Code, any and all rights and defenses available to it by reason of Sections 2787 to 2855, inclusive, of the California Civil Code;

(iii) any defense arising by reason of (A) the incapacity, lack of authority or any disability or other defense of Counterparty, any other endorser or guarantor or any other person, including any defense based on or arising out of the lack of validity or the unenforceability of the Guaranteed Obligations or any agreement or instrument relating thereto or by reason of the cessation of the liability of Counterparty from any cause other than payment in full in cash and performance of the Guaranteed Obligations; (B) the cessation from any cause whatsoever, other than payment and performance in full of the obligations of Counterparty, of the liability of Counterparty,

any endorser or guarantor or any other person; (C) the application by Counterparty of the proceeds of any obligations for purposes other than the purpose represented by Counterparty to Beneficiary or intended or understood by Beneficiary or Guarantor; (D) any act or omission by Beneficiary which directly or indirectly results in or aids the discharge of Counterparty or any obligations by operation of law or otherwise; (E) any modification of the obligations, in any form whatsoever, including any modification made after revocation hereof to any obligations incurred prior to such revocation, and including the renewal, extension, acceleration or other change in time for payment of the obligations, or other change in the terms of the obligations or any part thereof, including increase or decrease of the rate of interest thereon; (F) any defense based upon (i) any principles or provisions of law, statutory or otherwise which provide that the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal or that are or might be in conflict with the terms of this Guarantee and any legal or equitable discharge of Guarantor's obligations hereunder, (ii) the benefit of any statute of limitations affecting Guarantor's liability hereunder or the enforcement hereof, (iii) any rights to set-offs, recoupments and counterclaims, and (iv) promptness, diligence and any requirement that Beneficiary protect, secure, perfect or insure any Lien or any property subject thereto; (G) any defense based upon Beneficiary's errors or omissions in the administration of the Guaranteed Obligations, except behavior that amounts to bad faith; (H) any defense based upon notices, demands, presentments, protests, notices of protest, notices of dishonor and notices of any action or inaction, including acceptance of this Guarantee, notices of default or early termination under the Guaranteed Contracts or any agreement or instrument related thereto, notices of any renewal, extension or modification of the Guaranteed Obligations or any agreement related thereto and notices of any extension of credit to Counterparty; and (I) to the fullest extent permitted by law, any defenses or benefits that may be derived from or afforded by law which limit the liability of or exonerate guarantors or sureties, or which may conflict with the terms of this Guarantee;

(iv) any right to enforce any remedy which Beneficiary now has or may hereafter have against Counterparty, any other endorser or guarantor or any other person, and waives any benefit of, or any right to participate in any security whatsoever now or hereafter held by Beneficiary, and waives any rights or benefits which Guarantor might have under California Code of Civil Procedure Sections 580a and 726 (limiting the amount of any deficiency judgment to the difference between the amount of any indebtedness owed and the greater of the fair value of the security or the amount for which the security was actually sold), 580b (barring deficiencies with respect to real property purchase money obligations), and 580d (barring recovery of a deficiency judgment after real property security is sold under a power of private sale) as from time to time amended and Guarantor shall have no right of subrogation;

(v) all rights and defenses arising out of an election of remedies by the Beneficiary, even though that election of remedies, such as a non-judicial foreclosure with respect to security for a guaranteed obligation, has destroyed the Guarantor's rights of subrogation and reimbursement against the Counterparty by operation of Section 580d of the California Code of Civil Procedure or otherwise;

(vi) waives all rights and defenses that the Guarantor may have because the Counterparty's debt is secured by real property, which shall allow the Beneficiary to collect from the Guarantor without first foreclosing on any real or personal property collateral pledged by the Counterparty and, if the Beneficiary forecloses on any real property collateral pledged by the Counterparty (A) the amount of the debt may reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price; and (B) the Beneficiary may collect from the Guarantor even if the Beneficiary, by foreclosing on the real property collateral, has destroyed any right the Guarantor may have to collect from the Counterparty. The waiver contained in this Section 4.01(b)(vi) is an unconditional and irrevocable waiver of any rights and defenses the Guarantor may have because the Counterparty's debt is secured by real property. These rights and defenses include, but are not limited to, any rights or defenses based upon Sections 580a, 580b, 580d or 726 of the California Code of Civil Procedure.

Section 4.02. Guarantor's Understandings With Respect To Waivers.

(a) Guarantor warrants and agrees that Guarantor has had all necessary opportunity to secure any advice which Guarantor desires with respect to each of the waivers set forth above, that such waivers are made with Guarantor's full knowledge of its significance and consequences, and that under the circumstances, the waivers are reasonable and not contrary to public policy or law.

(b) Guarantor acknowledges that Guarantor would or might have a defense to enforcement of this Guarantee if, in the absence of an effective waiver or authorization by Guarantor, Beneficiary were to take any of the actions or exercise any of the remedies (i) that are otherwise authorized by Guarantor herein or (ii) that are described in Sections 4.01 and 4.02 and as to which Guarantor waives any defenses. Without limiting the foregoing, in the absence of an effective waiver, Beneficiary's foreclosure against real property security by power of sale under Section 580d of the California Code of Civil Procedure would destroy Guarantor's subrogation and reimbursement rights against Counterparty and would thus provide Guarantor with a defense to Beneficiary's enforcement of this Guarantee. It is Guarantor's intention in executing this Guarantee to waive all such defenses, including the defense described in the preceding sentence, in advance.

(c) Until the Guaranteed Obligations are satisfied in full, Guarantor shall withhold exercise of (a) any claim, right or remedy, direct or indirect, that Guarantor now has or may hereafter have against Counterparty or any of its assets in connection with this Guarantee or the performance by Guarantor of its obligations hereunder, in each case whether such claim, right or remedy arises in equity, under contract, by statute (including under California Civil Code Section 2847, 2848 or 2849), under common law or otherwise and including (i) any right of subrogation, reimbursement or indemnification that Guarantor now has or may hereafter have against Counterparty, (ii) any right to enforce, or to participate in, any claim, right or remedy that Beneficiary now has or may hereafter have against Counterparty, and (iii) any benefit of, and any right to participate in, any collateral or security now or hereafter held by Beneficiary and (b) any right of contribution Guarantor now has or may hereafter have against any other guarantor of any

of the Guaranteed Obligations. Guarantor further agrees that, to the extent the agreement to withhold the exercise of its rights of subrogation, reimbursement, indemnification and contribution as set forth herein is found by a court of competent jurisdiction to be void or voidable for any reason, any rights of subrogation, reimbursement or indemnification Guarantor may have against Counterparty or against any collateral or security, and any rights of contribution Guarantor may have against any such other guarantor, shall be junior and subordinate to any rights Beneficiary may have against Counterparty, to all right, title and interest Beneficiary may have in any such collateral or security, and to any right Beneficiary may have against such other guarantor.

(d) Notwithstanding the foregoing, all waivers in this Guarantee shall be effective only to the extent permitted by law.

Section 4.03. Beneficiary's Rights With Respect To Guarantor's Property. In addition to all liens upon, and rights of setoff against the moneys, securities or other property of Guarantor given to Beneficiary by law, Beneficiary shall have a lien upon and a right of setoff against all moneys, securities or other property of Guarantor now or hereafter in possession of or on deposit with Beneficiary, whether held in a general or special account or deposit, or for safekeeping or otherwise, and every such lien and right of setoff may be exercised without demand upon or notice to Guarantor. No lien or right of setoff shall be deemed to have been waived by any act or conduct on the part of Beneficiary, or by any neglect to exercise such right to setoff or to enforce such lien, or by any delay in so doing, and every right of setoff and lien shall continue in full force and effect until such right of setoff or lien is specifically waived or released by any instrument in writing executed by Beneficiary.

Section 4.04. Subordination of Counterparty's Debts to Guarantor. Any obligation of Counterparty now or hereafter held by Guarantor is hereby subordinated in right of payment to the Guaranteed Obligations, and any such obligation of Counterparty to Guarantor collected or received by Guarantor after a default or early termination event has occurred and is continuing, and any amount paid to Guarantor on account of any subrogation, reimbursement, indemnification or contribution rights referred to in the preceding paragraph when all Guaranteed Obligations have not been paid in full, shall be held in trust for Beneficiary and shall forthwith be paid over to Beneficiary to be credited and applied against the Guaranteed Obligations. Such obligation of Counterparty to Guarantor is assigned to Beneficiary as security for this Guarantee and the obligation and, if Beneficiary requests, shall be collected and received by Guarantor, as trustee for Beneficiary and paid over to Beneficiary on account of the obligation of Counterparty to Beneficiary but without reducing or affecting in any manner the liability of Guarantor under the other provisions of this Guarantee. Any such notes now or hereafter evidencing such obligation of Counterparty to Guarantor shall be marked with a legend that the same are subject to this Guarantee, and, if Beneficiary so requests, shall be delivered to Beneficiary. Guarantor will, and Beneficiary is hereby authorized, in the name of Guarantor from time to time to execute and file financing statements and continuation statements and execute such other documents and take such other action as Beneficiary deems necessary or appropriate to perfect, preserve and enforce its rights hereunder.

Section 4.05 Waiver of Authentication of Validity of Certain Acts. Where any one or more of Counterparties are corporations, partnerships, or limited liability companies it is not necessary for Beneficiary to inquire into the power of Counterparties or the officers, directors, partners, managers, members or agents acting or purporting to act in their behalf, and any obligations made or created in reliance upon the professed exercise of such power shall be guaranteed hereunder.

Section 4.06. Authorizations To Beneficiary. Guarantor authorizes Beneficiary, without notice or demand and without affecting its liability hereunder, from time to time to (a) renew, extend, accelerate or otherwise change the time for payment or performance of, or otherwise change the terms of the obligations or any part thereof, including increase or decrease of the rate of interest thereon; (b) take and hold security for the payment or performance of this Guarantee or the obligations guaranteed, and exchange, enforce, waive and release any such security; (c) apply such security and direct the order or manner of sale thereof, including a non-judicial sale permitted by the terms of the controlling security agreement or deed of trust, as Beneficiary in its discretion may determine; and (d) release or substitute any one or more of the endorsers or guarantors of any obligations. Beneficiary may without notice assign this Guarantee in whole or in part.

ARTICLE FIVE

5.01. Miscellaneous.

(a) All notices and other communications between the Guarantor and the Beneficiary provided for in this Guarantee shall be in writing, including facsimile, and delivered or transmitted to the addresses set forth below, or to such other address as shall be designated by the Guarantor in written notice to the other party.

If to the Guarantor:

[Guarantor Name]
[Guarantor Address]
Attn: Chief Financial Officer
Telephone:
Facsimile:

If to the Beneficiary:

Southern California Public Power Authority
1160 Nicole Court
Glendora, CA 91740
Attn: Executive Director
Telephone: 626 793-9364
Facsimile: 626 793-9461

(b) This Guarantee was made and entered into in the City of Glendora, California and shall be governed by, interpreted and enforced in accordance with the laws of the State of California, without regard to conflict of law principles. All litigation arising out of, or

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relating to this Guarantee, shall be brought in a state or federal court in the County of Los Angeles in the State of California. The Guarantor hereby irrevocably agrees to submit to the exclusive jurisdiction of such courts in the State of California and waive any defense of forum non conveniens.

(c) The provisions of this Guarantor may be waived or amended only in writing signed by both the Guarantor and Beneficiary. This Guarantee shall bind and inure to the benefit of the Guarantor and the Beneficiary and their respective successors and permitted assigns, including without limitation, the trustee, but neither party may assign its rights under this Guarantee without the prior written consent of the other party. The Guarantor may not assign its rights nor delegate its obligations under this Guarantee, in whole or in part, without prior written consent of the Beneficiary, and any purported assignment or delegation absent such consent is void.

(d) The rights, powers and remedies given to Beneficiary by this Guarantee are cumulative and shall be in addition to and independent of all rights, powers and remedies given to Beneficiary by virtue of any statute or rule of law or in the Guaranteed Contracts or any agreement between Guarantor and Beneficiary or between Counterparty and Beneficiary. Any forbearance or failure to exercise, and any delay by Beneficiary in exercising, any right, power or remedy hereunder shall not impair any such right, power or remedy or be construed to be a waiver thereof, nor shall it preclude the further exercise of any such right, power or remedy.

(e) Guarantor hereby agrees that in any dispute relating to this Guarantee, each party shall be responsible for its own attorneys' fees and costs. Each of Guarantor and Beneficiary was represented by its respective legal counsel during the negotiation and execution of this Guarantee.

Executed as of the date first above written.

[GUARANTOR]

By: _____

Name: _____

Title: _____

APPENDIX H
TO POWER PURCHASE AGREEMENT,
DATED AS OF DECEMBER 31, 2012
BETWEEN SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
AND ORNI 47 LLC

QUALITY ASSURANCE PROGRAM

Seller shall implement a Quality Assurance (“Q/A”) Program to ensure that the performance of the development, design and construction of the Facility fulfills the requirements of this Agreement. The Q/A Program shall provide assurance that design, purchasing, manufacturing, shipping, storage, construction, testing and examination of all equipment, materials, services and maintenance of the Facility will comply with the requirements of this Agreement, all applicable Requirements of Law and the manufacturers or suppliers requirements for successful operation of the Facility.

Quality at Seller

Seller believes that quality is the unit of measure for assessing fulfillment of project goals. A quality project meets or exceeds the contract requirements and accepted standards of professional and industry practice. Furthermore, high quality projects are those that address client and societal needs more successfully than “low” quality projects. While this may seem like a straightforward definition, the process to ensure quality is much more involved and includes quality management, quality planning, quality control, quality assurance, a quality system, and total quality management.

“Quality assurance” refers to a process that reduces the potential for error throughout the phases of a project. On projects with a Q/A Program, the chances of producing a poor quality deliverable are substantially reduced. Quality control procedures are an integral part of quality assurance. Historically, industry has used the term “quality control” to indicate a checking procedure for verifying the quality of deliverables. This checking commonly occurs at the end of the process, long after an error may have been made and compounded by subsequent work. While quality control checks at the end of a project are an essential exercise, scheduled periodic reviews at each phase of project conceptual and final design are integral to Seller’s Q/A Program. In addition, quality maintenance which meet or exceed manufacturers’ or suppliers’ requirements and best industry practices must be an integral part of Seller’s Q/A Program.

The Quality Management Process

The surest way to achieve satisfactory quality is to adhere to a proven quality process. The term “quality” most accurately refers to a project’s ability to satisfy needs when considered as a whole and each part of the process meets or exceeds the standards of Prudent Utility Practices.

Seller project management team is responsible for proactively planning and directing the quality of the work process, services, and deliverables. Seller's project management team targets six areas to monitor quality:

- 1) A written work plan with accompanying Q/A Manual.
- 2) Detailed review of the project design at the planning and conceptual design phase
- 3) Detailed review of project final design prior to construction.
- 4) A quality control program during construction to verify implementation is in compliance with design documents and document any changes.
- 5) Independent engineering review of the entire project process, from design review through commercial operation.
- 6) A written maintenance manual for the Facility for the duration of the commercial operation that complies with the maintenance manuals of the manufacturers and suppliers from whom the Seller has purchased equipment or material and best industry practices.

Written Work Plan and Q/A Manual

The idea of a written work plan and Q/A manual is to incorporate quality assurance in all areas of project execution. Seller has found that quality needs to be institutionalized into the project process, not only in the budgeting process, but everywhere. For example, specific tasks and duties need to be allocated to specific individuals; roles and interface points need to be clearly defined; individual assignments need to be realistic; special attention needs to be paid to complex areas within projects; schedules need to be realistic and achievable; and lastly the work culture needs to be enjoyable and open so that employees are empowered to react quickly to symptoms of quality problems before they actually manifest.

Seller's quality program shall be documented in a written work plan and Quality Assurance manual (the "Q/A Manual"). The form and the format of the Q/A Manual shall be developed by Seller, but must comply with Prudent Utility Practices and follow manufacturers and suppliers recommendations without deviation. The content of the Q/A Manual shall provide written descriptions of policies, procedures and methodology to accomplish a quality project. Seller shall submit three (3) copies of the Q/A Manual within ninety (90) days after the Effective Date to Buyer or Buyer's Agent. The Q/A Manual shall be kept current by Seller throughout the term of this Agreement through the submittal of revisions, as appropriate, by Seller to Buyer or Buyer's Agent.

The Q/A Manual shall describe the authority and the responsibility of the Persons in charge of the Q/A Program and inspection activities. It shall also provide the plan for detailed review of project conceptual design and final design, hold points, and methodology for document control and comment. Furthermore, it shall provide the plan and strategy for quality control and review during the construction project and for maintenance and operations during commercial operation. The Q/A Manual shall strive; at a minimum, to define control procedures or methods to assure the following:

- (a) The design documents, drawings, specifications, Q/A procedures, records, inspection procedures and purchase documents are maintained to be current, accurate and in compliance with all applicable law.
- (b) The purchased materials, equipment and services comply with the requirements of this Agreement and all applicable Requirements of Law.
- (c) The materials received at the site are inspected for compliance with specifications.
- (d) The subcontracted work is adequately inspected by third parties.
- (e) Proper methods are employed for the qualification of personnel who are performing work for the development, design and construction of the Facility.
- (f) Proper documentation, control and disposition of nonconforming equipment and materials is maintained.
- (g) Proper records are kept and available following project completion to ensure accurate documentation of as-built conditions.
- (h) Detailed and complete plan for maintenance and operation during commercial operations consistent with manufacturers and suppliers recommendations and best industry practices.

Conceptual Design Review

Seller has a team of professionals who develop and review the project layout and project conceptual design. The team consists of specialists in land-use and planning, permitting, meteorology, engineering, construction, project management, and finance. A preliminary site plan is developed and meetings are held to assess optimization of the geothermal electric energy resource, constructability, minimization of cultural and biological impacts, land use restrictions, and landowner requirements. Preliminary road design will also be started and access to the site will be reviewed in detail. When this plan is ready for review, a formal plan and map is created and a final internal review is conducted. Following that is detailed studies for biological, cultural and other types of impacts by third parties. The site plan is then reviewed, modified as necessary, and then used to begin the permitting and public review process. The site plan is further modified based on comments in that process. At that point, the site plan can be issued for construction, and final engineering can commence.

In parallel with this process, preliminary conceptual design is started for the major areas of the project, including the substation, transmission line, foundations, underground collection system, communications system, and road and grading is done to develop construction estimates as well as materials specifications. All of these areas of conceptual designs are used to check and verify the assumptions used for development of the site plan.

Final Engineering Design

Following finalization of the site plan, the detailed design is done for the collection system, fiber-optic network, foundations, roads & grading, transmission line, and substation by third party engineering firms licensed to practice in the state in which the project is to be constructed. Each firm has their own quality assurance and checking procedures, however Seller reviews the final work products in detail to check with conformance with this Agreement and provides comments as a second round of quality assurance. When Seller's comments have been incorporated, the design of each area is considered final, that design is then submitted to an independent engineer for review and comment. This ensures that another entity, in addition to Seller has done a comprehensive review of all project areas and details to ensure conformance with this Agreement.

In parallel with final design and checking activities, final geotechnical studies will be conducted at the site, and a final geothermal electric energy resource assessment will be performed with the issued-for-construction project layout. If existing subsurface conditions are different from what is expected, the foundation locations could be slightly modified or the foundation design on a specific turbine could be modified. Any changes of this nature would be documented in as-built design drawings and approved in advance by Seller.

Quality Assurance at the Construction Site

Seller will hire a third party general contractor to construct the project. This contractor will be required to have its own quality assurance program in place using its own staff, as well as third party inspectors. The two primary areas of focus at the site are assuring conformance of construction to design drawings, and conformance of materials to specifications. The general contractor will be required to provide third party inspectors and testing for materials including concrete slump testing; rebar and concrete placement; cable trenching, soil compaction testing, etc. The general contractor will also be required to maintain a set of red-line drawings during the course of construction to document any changes to the design documents. Proposed project changes would be reviewed and approved in the field by Seller construction management team prior to implementation.

Quality assurance of turbine erection is achieved through a combination of procedures and processes. The general contractor will provide rigorous inspection of its installation crew. The turbine supplier will have technical advisors on site to inspect and sign off on turbine components received, oversee and monitor turbine erection, and approve mechanical completion. In addition, Seller will have its own construction management team on site consisting of a construction manager and quality inspectors who will observe performance of all areas of the work and ensure compliance with design documents. A team consisting of the turbine supplier, Seller, and the general contractor will walk down each turbine at mechanical completion to develop a comprehensive punchlist of any un-finished or incorrect work. This punchlist is maintained by the contractor, and is signed off by Seller upon completion of the punchlist items. Lastly, the independent engineer performs periodic audits during construction to oversee critical items, spot checks individual turbines, confirms construction progress, reports on any perceived issues, and provides independent reporting and assessments to the project stakeholders.

Following completion of the project, the general contractor will be required to provide as-built all design drawings and records of all materials testing conducted at the site. This documentation will be maintained at the project site during operations of the Facility.

Quality Assurance During Commercial Operations

[To Be Supplied by Seller]

APPENDIX I
**TO POWER PURCHASE AGREEMENT,
 DATED AS OF DECEMBER 31, 2012
 BETWEEN SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
 AND ORNI 47 LLC**

MILESTONE SCHEDULE

| <i>Footnote Number</i> | <i>Milestone Date</i> | <i>Seller Milestones</i> |
|----------------------------|---------------------------|---|
| 1 | 3/31/13 | Executes an Engineering, Procurement and Construction ("EPC") contract |
| 2 | 6/30/13 | Receives all Environmental Documents, Leases, Easements and Permits needed to Commence Construction |
| 3 | 6/30/13 | Power Block Construction Start |
| 4 | 10/31/13 | Executes a Transmission Service Agreement |
| 5 | 12/19/13 | Receives all Permits needed to Operate |
| 6 | 12/20/13 | Begins startup activities |
| 7 | 12/31/13 | Achieves Commercial Operation |
| 8 | 6/30/14 | Receives CEC Certification and Verification |

All of the documents listed below in Footnotes shall be provided by Seller to Buyer by the Milestone Date for the Milestone shown above.

Footnotes:

1. Seller shall have provided Buyer with a fully executed copy of the EPC contract for this Project, which contract may be redacted to remove confidential information.
2. Seller shall have provided Buyer with documentation evidencing that licenses, Leases, easements and Permits as listed in Appendix B have been obtained.
3. Seller shall have provided Buyer with documentation that i), drilling of at least three production and injection wells has been completed, delivering a combined rate of hot brine at not less than 880,000 pounds per hour and an average temperature of not less than 260 degrees Fahrenheit, and capable of injecting fluids produced by the production wells; ii) the major equipment has been ordered. Seller shall also have provided Buyer a copy of the executed Notice to Proceed for the construction contractor to start work, and documentation from the contractor to certify that physical construction work has begun, on-site for the Facility's power block.
4. Seller shall have provided Buyer with fully executed copy(ies) of the Transmission Service Agreement(s) with Transmission Service Provider(s).
5. Seller shall have provided Buyer with documentation evidencing that all Permits required for operation of the Facility have been obtained.
6. Seller shall have provided Buyer with documentation evidencing that the start up tests have begun.

7. Seller shall have provided written notice to Buyer certifying that the Facility satisfies the definition of Commercial Operation in Article I of this Agreement.
8. Seller shall have provided Buyer with all approvals, certifications and verifications from the CEC.

APPENDIX J
TO POWER PURCHASE AGREEMENT
DATED AS OF DECEMBER 31, 2012
BETWEEN
SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
AND
ORNI 47 LLC
GUARANTEED GENERATION AND
MAXIMUM GENERATION TABLE

| Contract Year | Guaranteed Generation [MWh] | Maximum Generation [MWh] |
|---------------|-----------------------------|--------------------------|
| 1 | 127,849 | 175,437 |
| 2 | 127,210 | 174,560 |
| 3 | 126,574 | 173,687 |
| 4 | 125,941 | 172,819 |
| 5 | 125,311 | 171,955 |
| 6 | 124,684 | 171,095 |
| 7 | 124,061 | 170,240 |
| 8 | 123,441 | 169,389 |
| 9 | 122,824 | 168,542 |
| 10 | 122,210 | 167,699 |
| 11 | 121,599 | 166,861 |
| 12 | 120,991 | 166,027 |
| 13 | 120,386 | 165,197 |
| 14 | 119,784 | 164,371 |
| 15 | 119,185 | 163,549 |
| 16 | 118,589 | 162,731 |
| 17 | 117,996 | 161,917 |
| 18 | 117,406 | 161,107 |
| 19 | 116,819 | 160,301 |
| 20 | 116,235 | 159,499 |

APPENDIX K

IRAN CONTRACTING ACT OF 2010 COMPLIANCE AFFIDAVIT

(California Public Contract Code Sections 2200-2208)

The California Legislature adopted the Iran Contracting Act of 2010 to respond to policies of Iran in a uniform fashion (PCC § 2201(g)). The Iran Contracting Act prohibits proposers engaged in investment activities in Iran from bidding on, submitting proposals for, or entering into or renewing contracts with public entities for goods and services of one million dollars (\$1,000,000) or more (PCC § 2203(a)). A proposer who "engages in investment activities in Iran" is defined as either:

1. A proposer providing goods or services of twenty million dollars (\$20,000,000) or more in the energy sector of Iran, including provision of oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or
1. A proposer that is a financial institution (as that term is defined in 50 U.S.C. § 1701) that extends twenty million dollars (\$20,000,000) or more in credit to another person, for 45 days or more, if that person will use the credit to provide goods or services in the energy sector in Iran and is identified on a list created by the California Department of General Services (DGS) pursuant to PCC § 2203(b) as a person engaging in the investment activities in Iran.

The proposer shall certify that at the time of submitting a proposal for new contract or renewal of an existing contract, he or she is not identified on the DGS list of ineligible businesses or persons and that the proposer is not engaged in investment activities in Iran in violation of the Iran Contracting Act of 2010.

California law establishes penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made; contract termination; and three-year ineligibility to bid on contracts (PCC § 2205).

To comply with the Iran Contracting Act of 2010, the proposer shall complete and sign ONE of the options shown below.

OPTION #1: CERTIFICATION

I, the official named below, certify that I am duly authorized to execute this certification on behalf of the proposer or financial institution identified below, and that the proposer or financial institution identified below is not on the current DGS list of persons engaged in investment activities in Iran and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person or vendor, for 45 days or more, if that other person or vendor will use the credit to provide goods or services in the energy sector in Iran and is identified on the current DGS list of persons engaged in investment activities in Iran.

Name of Proposer/Financial Institution (Printed): _____

Signed by: _____ (Authorized Signature)

(Printed Name)

(Title of Person Signing)

OPTION #2: EXEMPTION

Pursuant to PCC § 2203(c) and (d), a public entity may permit a proposer or financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enter into, or renew, a contract for goods and services. If the proposer or financial institution identified below has obtained an exemption from the certification requirement under the Iran Contracting Act of 2010, the proposer or financial institution shall complete and sign below and attach documentation demonstrating the exemption approval.

Name of Proposer/Financial Institution (Printed): _____

Signed by: _____ (Authorized Signature)

(Printed Name)

(Title of Person Signing)

the equivalent quantities and relevant market prices either quoted by a bona fide third party offer or which are reasonably expected by Buyer to be available in the market under a replacement contract for this Agreement covering the same products and having a term equal to the Remaining Term at the date of the Termination Notice adjusted to account for differences in transmission, if any. The Non-Defaulting Party shall not be required to enter into any such replacement agreement in order to determine its Gains, Losses and Costs or the Termination Payment. To ascertain the market prices of a replacement contract, the Non Defaulting Party may consider, among other valuations, quotations from dealers in energy contracts and bona fide third party offers.

(c) For purposes of the Non-Defaulting Party's determination of its Gains, Losses and Costs and the Termination Payment, it shall be assumed, regardless of the facts, that Seller would have sold, and Buyer would have purchased, each day during the Remaining Term (i) Facility Energy in an amount equal the Assumed Daily Deliveries, and (ii) the Environmental Attributes associated therewith. The "*Assumed Daily Deliveries*" is an amount equal to (i) the Guaranteed Generation for the then current Contract Year multiplied by 1.0556, divided by (ii) 365.

(d) The Non-Defaulting Party shall notify the Defaulting Party of the Termination Payment, which notice shall include a written statement explaining in reasonable detail the calculation of such amount. The Defaulting Party shall, within ten (10) Business Days after receipt of such notice, pay the Termination Payment to the Non-Defaulting Party, together with interest accrued at the Interest Rate from the Early Termination Date until paid.

(e) If the Defaulting Party disagrees with the calculation of the Termination Payment and the Parties cannot otherwise resolve their differences, the calculation issue shall be submitted to informal non-binding dispute resolution as provided in Section 14.3(a). Following resolution of the dispute, the Defaulting Party shall pay the full amount of the Termination Payment (if any) determined by such resolution as and when required, but no later than thirty (30) days following the date of such resolution, together with all interest, at the Interest Rate, that accrued from the Early Termination Date until the date the Termination Payment is paid.

(f) For purposes of this Agreement:

(i) "*Gains*" means, with respect to a Party, an amount equal to the present value of the economic benefit (exclusive of Costs), if any, resulting from the termination of its obligations under this Agreement, determined in a commercially reasonable manner;

(ii) "*Losses*" means, with respect to a Party, an amount equal to the present value of the economic loss (exclusive of Costs), if any, resulting from the termination of its obligations under this Agreement, determined in a commercially reasonable manner;

(iii) "*Costs*" means, with respect to a Party, brokerage fees, commissions and other similar transaction costs and expenses reasonably incurred in terminating any arrangement pursuant to which it has hedged its obligations or entering

into new arrangements which replace this Agreement, excluding attorneys' fees, if any, incurred in connection with enforcing its rights under this Agreement. Each Party shall use reasonable efforts to mitigate or eliminate its Costs.

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

(v) The Present Value Rate shall be used as the discount rate in all present value calculations required to determine Gains, Losses and Costs.

(g) At the time for payment of any amount due under this Section, each Party shall pay to the other Party all additional amounts, if any, payable by it under this Agreement (including any amounts withheld pursuant to Section 13.3(a)(ii) above).

ARTICLE XIV MISCELLANEOUS

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

Section 14.2 Notices. With the exception of billing invoices pursuant to Section 11.2(b) hereof, all notices, requests, demands, consents, waivers and other communications which are required under this Agreement shall be (a) in writing (regardless of whether the applicable provision expressly requires a writing), (b) deemed properly sent if delivered in person or sent by facsimile transmission, reliable overnight courier, or sent by registered or certified mail, postage prepaid to the persons specified in Appendix C, and (c) deemed delivered, given and received on the date of delivery, in the case of facsimile transmission, or on the date of receipt in the case of registered or certified mail. In addition to the foregoing, the Parties may agree in writing at any time to deliver notices, requests, demands, consents, waivers and other communications through alternate methods, such as electronic mail.

Section 14.3 Dispute Resolution.

(a) In the event of any claim, controversy or dispute between the Parties arising out of or relating to or in connection with this Agreement (including any dispute concerning the validity of this Agreement or the scope and interpretation of this Section 14.3) (a "*Dispute*"), either Party (the "*Notifying Party*") may deliver to the other Party (the "*Recipient Party*") notice of the Dispute with a detailed description of the underlying circumstances of such Dispute (a "*Dispute Notice*"). The Dispute Notice shall include a schedule of the availability of the Notifying Party's senior officers (having a title of senior vice president (or its equivalent) or

higher) duly authorized to settle the Dispute during the thirty (30) day period following the delivery of the Dispute Notice.

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

(c) In the event a Dispute is not resolved pursuant to the procedures set forth in Section 14.3(a) and Section 14.3(b) by the expiration of the thirty (30) day period set forth in Section 14.3(a), then either Party may pursue any legal remedy available to it in accordance with the provisions of Section 14.13 of this Agreement.

(d) As stated in Section 14.13, this Agreement shall be governed by, interpreted and enforced in accordance with laws of the State of California, without regard to the conflict of laws principles thereof. In addition to the dispute resolution process set forth in this section, parties to this Agreement must comply with California law governing claims against public entities and presentment of such claims.

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

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

Section 14.6 Force Majeure.

(a) A Party shall not be considered to be in default in the performance of any of its obligations under this Agreement, other than an obligation to make payment, when and to the extent such Party's performance is prevented by a Force Majeure that, despite the exercise of due diligence, such Party is unable to prevent or mitigate, provided the Party, as soon as practicable after becoming aware of the Force Majeure, declares the Force Majeure by giving a written notice (the "*Force Majeure Notice*") to the other Party and upon request by the other Party furnishes the other Party with a detailed description of the full particulars of the Force Majeure reasonably promptly (and in any event within fourteen (14) days after the request therefor), which shall include information with respect to the nature, cause and date and time of commencement of such event, and the anticipated scope and duration of the delay. The Party providing the Force Majeure Notice shall be excused from fulfilling its obligations under this Agreement until such time as the Force Majeure has ceased to prevent performance or other

remedial action is taken, at which time the Party shall promptly notify the other Party of the resumption of its obligations under this Agreement. If Seller is unable to deliver, or Buyer is unable to receive, Energy due to a Force Majeure, Buyer shall have no obligation to pay Seller for the Energy not delivered or received by reason thereof. It is understood by the Parties that the foregoing provisions shall not excuse any obligations of Seller with respect to Shortfall Energy and Replacement Energy as provided for under Article IX, that is not delivered due to Force Majeure, provided that such required delivery of Shortfall Energy or Replacement Energy, as applicable, shall be extended for the duration of the Force Majeure. In no event shall Buyer be obligated to compensate Seller or any other Person for any losses, expenses or liabilities that Seller or such other Person may sustain as a consequence of any Force Majeure.

(b) The term "*Force Majeure*" means (i) curtailment or interruption of Transmission Service (subject to Section 14.6(c)), any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, civil disturbances, sabotage, blockade, expropriation, confiscation, fire, unusual or extreme adverse weather-related events or natural disasters (such as lightning, landslide, earthquake, tornado, hurricane, storm or flood), or any order, regulation or restriction imposed by WECC or NERC or by governmental, military or lawfully established civilian authorities, or (ii) any other event of circumstance, which, in each case of clauses (i) and (ii), (A) prevents one Party from performing any of its obligations under this Agreement, (B) could not reasonably be anticipated as of the date of this Agreement, (C) is not within the reasonable control of, or the result of negligence, willful misconduct, breach of contract, intentional act or omission or wrongdoing on the part of the affected Party (or any subcontractor or Affiliate of that Party, or any Person under the control of that Party or any of its subcontractors or Affiliates, or any Person for whose acts such subcontractor or Affiliate is responsible), and (D) which by the exercise of due diligence the affected Party is unable to overcome or avoid or cause to be avoided; provided, nothing in this clause (D) shall be construed so as to require either Party to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or labor dispute in which it may be involved. Any Party rendered unable to fulfill any of its obligations by reason of a Force Majeure shall exercise due diligence to remove such inability with reasonable dispatch within a reasonable time period and mitigate the effects of the Force Majeure. The relief from performance shall be of no greater scope and of no longer duration than is required by the Force Majeure. Without limiting the generality of the foregoing, a Force Majeure does not include any of the following (each an "*Unexcused Cause*"): (1) any Change in Law that shall cause the RPS Law or the EPS Law to be no longer in force or effect or that as a result of such Change in Law Seller shall be unable to make the Facility RPS Compliant or EPS Compliant as provided in Section 8.6(b); (2) events arising from the failure by Seller to construct, operate or maintain the Facility in accordance with this Agreement; (3) any increase of any kind in any cost; (4) delays in or inability of a Party to obtain financing or other economic hardship of any kind; (5) Seller's ability to sell any Energy at a price in excess of those provided in this Agreement; (6) Seller's failure to secure or obtain interconnection of the Facility or Transmission Services to the Point of Delivery; (7) curtailment or other interruption of any Transmission Services except as otherwise expressly provided in Section 14.6(c); (8) failure of third parties to provide goods or services essential to a Party's performance except to the extent caused by an event that otherwise constitutes Force Majeure hereunder; (9) Facility or equipment failure of any kind except to the extent caused by an event that otherwise constitutes Force Majeure hereunder; or (10) any changes in the financial condition of the Buyer, any Seller Party,

the Facility Lender or any subcontractor or supplier affecting the affected Party's ability to perform its obligations under this Agreement.

(c) Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment or other interruption of Transmission Services for any Energy at any time unless (A) such Party has arranged for Firm Transmission to be provided for the Facility Energy in connection with such Transmission Service at the time, and (B) the curtailment or interruption is not due to the fault or negligence of the Party claiming Force Majeure; provided, the existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in Section 14.6(b) has occurred. For the avoidance of doubt, Buyer may not claim Force Majeure for any curtailment, interruption or other circumstance associated with Transmission Services downstream of the Point of Delivery, unless and to the extent that such curtailment, interruption or circumstance prevents Buyer or Buyer's Transmission Provider from receiving Energy at the Point of Delivery.

(d) During the Delivery Term, if one or more events of Force Majeure (i) shall cause the Facility to be reduced to a capacity of less than 8.1 MW (adjusted to reflect the difference between ambient temperatures and annual average temperature) for a period of six (6) consecutive months, or (ii) shall prevent Buyer from accepting more than 8.1 MW (adjusted to reflect the difference between ambient temperatures and annual average temperature) at the Point of Delivery for any hour that the Facility is able to generate Facility Energy for a period of six (6) consecutive months (the period of six (6) consecutive months in either (i) or (ii), the "*Force Majeure Trigger Period*"), the non-claiming Party shall have the right, if the claiming Party is unable to overcome the condition in clause (i) or (ii) above, as applicable, within the Force Majeure Cure Period, to terminate this Agreement upon the last day of such Force Majeure Cure Period, so long as notice of termination is received prior to the end of the Force Majeure Cure Period.

Section 14.7 Assignment of Agreement.

(a) Buyer may from time to time and at any time assign any or all of its rights, and delegate any or all of its obligations, under this Agreement in whole or in part without the consent of Seller to any of the Buyer's Members that has executed, or will execute contemporaneously with such assignment, an agreement to purchase the Energy delivered to Buyer under this Agreement; provided that the proposed assignee has an Investment-Grade Credit Rating and an assignment pursuant to this Section 14.7 will not impair the assignee's credit rating. Except as set forth in this Section 14.7(a), Buyer shall not assign any of its rights, or delegate any of its obligations, under this Agreement without the prior written consent of Seller, which consent shall not be withheld or delayed unreasonably. Any purported assignment or delegation in violation of this provision shall be null and void and of no force or effect.

(b) Except as set forth in this Section 14.7, Seller shall not assign any of its rights, or delegate any of its obligations, under this Agreement without the prior written consent of Buyer, which consent shall not be withheld or delayed unreasonably. Any purported assignment or delegation in violation of this provision shall be null and void and of no force or effect.

(c) There are no third party beneficiaries of this Agreement, and, except as provided in this Section 14.7, this Agreement shall not grant any rights enforceable by any Person not a party to this Agreement. Notwithstanding the foregoing, Buyer's consent shall not be required for Seller to collaterally assign this Agreement for the sole purpose of financing exclusively the Facility to any Facility Lender; provided, however, that the terms of such financing and the documentation relating thereto shall not conflict with the applicable terms and conditions of this Agreement. Seller shall provide Buyer with ninety (90) days prior notice of any such assignment to any Facility Lender. Notwithstanding the foregoing or anything else expressed or implied herein to the contrary, Seller shall not assign, transfer, convey, encumber, sell or otherwise dispose of all or any portion of the Facility Energy, Capacity Rights or Environmental Attributes (not including the proceeds thereof) to any Facility Lender.

(d) To facilitate Seller's obtaining of financing to construct and/or operate the Facility, Buyer shall provide such consents to assignment of this Agreement, any Buyer Ancillary Documents and/or any Seller Ancillary Documents, in each case not including the deed of trust, mortgage or similar arrangement referred to in Section 14.7(e), (in form and substance reasonably satisfactory to Buyer), as may be reasonably requested by Seller or any Facility Lender in connection with the financing of the Facility, including the acquisition of equity for the development, construction and operation of the Facility; provided, however, that the terms of such financing and the documentation relating thereto shall not conflict with the applicable terms and conditions of this Agreement. Seller shall reimburse, or shall cause the Facility Lender to reimburse, Buyer for the reasonable incremental direct expenses incurred by Buyer in the preparation, negotiation, execution or delivery of any documents requested by Seller or the Facility Lender, and provided by Buyer, pursuant to this Section 14.7(d).

(e) Notwithstanding anything to the contrary in this Agreement, Seller may enter into a credit or other agreement with a Facility Lender providing for financing or refinancing of the Facility (the "*Facility Credit Agreement*") that provides, as security for Seller's performance thereunder, in addition to any assignment of this Agreement, for a Lien on and security interest in and to the Facility under a deed of trust, mortgage or similar arrangement, but only with the consent by Buyer (which consent shall not be withheld or delayed unreasonably) provided pursuant to an agreement by and among Buyer, Seller and the Facility Lender which shall be in form and substance reasonably acceptable to Buyer and shall contain terms that are customary for such consents provided in the context of arrangements similar to those contemplated in this Agreement.

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

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

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

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

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

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

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

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

Section 14.16 Waiver. The failure of either Party to this Agreement to enforce or insist upon compliance with or strict performance of any of the terms or conditions hereof, or to take advantage of any of its rights hereunder, shall not constitute a waiver or relinquishment of any such terms, conditions or rights, but the same shall be and remain at all times in full force and effect. Notwithstanding anything expressed or implied herein to the contrary, nothing contained herein shall preclude either Party from pursuing any available remedies for breaches not rising to the level of a Default, including recovery of damages caused by the breach of this Agreement and specific performance or any other remedy given under this Agreement or now or hereafter existing in law or equity or otherwise. Seller acknowledges that money damages may not be an adequate remedy for violations of this Agreement and that Buyer may, in its sole discretion, seek

and obtain from a court of competent jurisdiction specific performance or injunctive or such other relief as such court may deem just and proper to enforce this Agreement or to prevent any violation hereof. Seller hereby waives any objection to specific performance or injunctive relief. The rights granted herein are cumulative.

Section 14.17 Relationship of the Parties. This Agreement shall not be interpreted to create an association, joint venture or partnership between the Parties hereto or to impose any partnership obligation or liability upon either such Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as an agent or representative of, the other Party.

Section 14.18 Third Party Beneficiaries. This Agreement shall not be construed to create rights in, or to grant remedies to, any third party as a beneficiary of this Agreement or any duty, obligation or undertaking established herein.

Section 14.19 Damage or Destruction; Insurance; Condemnation; Limit of Liability.

(a) **Damage or Destruction.** In the event of any damage or destruction of the Facility or any part thereof, Seller shall apply any applicable proceeds of Insurance directly related to such damage or destruction to cause the Facility or such part thereof to be diligently repaired, replaced or reconstructed by Seller so that the Facility or such part thereof shall be restored to substantially the same general condition and use as existed prior to such damage or destruction, unless a different condition or use is approved by the Buyer. Proceeds of Insurance with respect to such damage or destruction maintained as provided in this Agreement shall be applied to the payment for such repair, replacement or reconstruction of the damage or destruction.

(b) **Insurance.** Seller shall obtain and maintain the Insurance in accordance with Appendix F.

(c) **Limitation of Liability.** Except to the extent included in the liquidated damages, indemnification obligations related to third party claims or other specific charges expressly provided for herein, neither Party hereunder shall be liable for special, incidental, exemplary, indirect, punitive or consequential damages arising out of a Party's performance or non-performance under this Agreement, whether based on or claimed under contract, tort (including such Party's own negligence) or any other theory at law or in equity.

Section 14.20 Severability. In the event any of the terms, covenants or conditions of this Agreement, or the application of any such terms, covenants or conditions, shall be held invalid, illegal or unenforceable by any court having jurisdiction, all other terms, covenants and conditions of this Agreement and their application not adversely affected thereby shall remain in force and effect, provided that the remaining valid and enforceable provisions materially retain the essence of the Parties' original bargain.

Section 14.21 Confidentiality.

(a) Each Party agrees, and shall use reasonable efforts to cause its parent, subsidiary and Affiliates, and its and their respective directors, officers, employees and

representatives, to keep confidential, except as required by law, all documents, data, drawings, studies, projections, plans and other written information that relate to economic benefits to or amounts payable by either Party under this Agreement, and, with respect to documents, that are clearly marked "Confidential" at the time a Party shares such information with the other Party or, if orally disclosed, clearly identified as "Confidential" at the time a Party shares such information with the other Party ("**Confidential Information**"). The provisions of this Section 14.21 shall survive and shall continue to be binding upon the Parties for period of one (1) year following the date of termination of this Agreement. Notwithstanding the foregoing, information shall not be considered Confidential Information if such information (i) is disclosed with the prior written consent of the originating Party, (ii) was in the public domain prior to disclosure or is or becomes publicly known or available other than through the action of the receiving Party in violation of this Agreement, (iii) was lawfully in a Party's possession or acquired by a Party outside of this Agreement, which acquisition was not known by the receiving Party to be in breach of any confidentiality obligation, or (iv) is developed independently by a Party based solely on information that is not considered confidential under this Agreement.

(b) Either Party may, without violating this Section 14.21, disclose matters that are made confidential by this Agreement:

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

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

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

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

(d) Notwithstanding the foregoing or any other provision of this Agreement, Seller acknowledges that Buyer, as a California municipal corporation, is subject to disclosure as required by the California Public Records Act, Cal. Govt. Code §§ 6250 et. seq. ("**CPR**A") and the Ralph M. Brown Act, Cal. Govt. Code §§ 54950 et. seq. ("**Brown Act**"). Confidential Information of Seller provided to Buyer pursuant to this Agreement shall become the property of

Buyer and Seller acknowledges that Buyer shall not be in breach of this Agreement or have any liability whatsoever under this Agreement or otherwise for any claims or causes of action whatsoever resulting from or arising out of Buyer's copying or releasing to a third party any of the Confidential Information of Seller as required pursuant to the CPRA or Brown Act. Notwithstanding the foregoing or any other provision of this Agreement, Buyer may record, register, deliver and file all such notices, statements, instruments and other documents as may be necessary or advisable to render fully valid, perfected and enforceable under all applicable law the credit support contemplated by this Agreement and the Buyer Ancillary Documents and Seller Ancillary Documents and the rights, Liens and priorities of Buyer with respect to such credit support.

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

Section 14.22 Mobile-Sierra. Notwithstanding any provision of this Agreement, neither Party shall seek, nor shall they support any third party in seeking, to prospectively or retroactively revise the rates, terms or conditions of service of this Agreement through application or complaint to FERC pursuant to the provisions of Section 205, 206 or 306 of the Federal Power Act, or any other provisions of the Federal Power Act, absent prior written agreement of the Parties. Further, absent the prior agreement in writing by both Parties, the standard of review for changes to the rates, terms or conditions of this Agreement proposed by a Party, a non-Party or the FERC acting sua sponte shall be the "public interest" application of the "just and reasonable" standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 US 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 US 348 (1956).

Section 14.23 Taxpayer Identification Number (TIN). Seller declares that its authorized TIN is 27-3935454. No payment will be made under this Agreement without a valid TIN number.

Section 14.24 Service Contract. The Parties intend that this Agreement will qualify as a "service contract" as such term is used in Section 7701(e) of the United States Internal Revenue Code of 1986.

Section 14.25 Buyer's Business Policies.

(a) Recycling Policy.

(i) Buyer supports the use of recycled-content products of all types. Recycled-content products help conserve natural resources, including water and energy, and reduce demands upon landfills.

(ii) To the extent feasible, Seller shall submit all written documents on paper with a minimum of thirty percent (30%) post-consumer recycled content. Existing company/corporate letterhead and/or stationery that accompanies these documents is exempt from this requirement. Documents of two (2) or more pages in length shall be duplex-copied (double-sided pages). Neon or fluorescent paper shall not be used in any written documents submitted to Buyer.

(b) Non-Discrimination/Equal Employment Practices/Affirmative Action Construction & Non-Construction Agreements.

(i) During the performance of this Agreement, Seller shall not discriminate in its employment practices against any employee or applicant for employment because of race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition. All subcontracts awarded by Seller under this Agreement shall contain a like nondiscrimination provision. The applicable provisions of Executive Order No. 11246 of September 24, 1965; Part 60-741 of 41 Code of Federal Regulations pertaining to handicapped workers, including 60-741.4 Affirmative Action Clause; and Sections 10.8 to 10.13 of the Los Angeles Administrative Code ("*LAAC*") pertaining to nondiscrimination in employment in the performance of City of Los Angeles contracts are incorporated herein by reference and made a part hereof as if they were fully set forth herein.

(ii) Any of the above-mentioned subcontracts shall be effective for twelve (12) months following the date of approval for the Affirmative Action practices. An Affirmative Action plan shall be in effect and on file with Buyer for the duration of this Agreement.

(c) Supplier Diversity. It is the policy of Buyer to provide Minority Business Enterprises ("*MBEs*"), Women Business Enterprises ("*WBEs*") and all other business enterprises an equal opportunity to participate in the performance of all Buyer agreements/contracts. Seller shall assist Buyer in implementing this policy and shall use its best effort to attain MBE and WBE participation of fifteen percent (15%) and seven percent (7%), respectively, and to ensure that all available business enterprises, including MBEs and WBEs, have an equal opportunity to compete for and participate in the work of this Agreement. An "MBE" or a "WBE" as used herein means a business enterprise that meets both of the following

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criteria: (1) a business that is at least fifty-one percent (51%) owned by one or more minority person(s) or women or, in the case of any business whose stock is publicly held, at least fifty one percent (51%) of the stock is owned by one or more minority person(s) or women; and (2) a business whose management and daily business operations are controlled by one or more minority person(s) or women.

(d) Service Contract Worker Retention and Living Wage Policy. Seller acknowledges that this Agreement is subject to the Service Contractor Worker Retention Ordinance ("**SCWRO**"), Section 10.36 et. seq., and the Living Wage Ordinance ("**LWO**"), Section 10.37 et. seq., of the LAAC. These Ordinances require that, unless specific exemptions apply, employers who are awarded service contracts that involve expenditures in excess of \$25,000, and have a duration of at least three (3) months; and any persons who receive City of Los Angeles financial assistance of One Million Dollars (\$1,000,000) or more in any twelve (12)-month period, shall comply with the following provisions of the ordinances:

(i) Retention for a ninety (90)-day transition period, the employees who were employed for the preceding twelve (12) months or more by the terminated contractor or subcontractor, if any, as provided for in the SCWRO;

(ii) Payment of a minimum initial wage rate to employees as defined in the LWO, of \$10.42 per hour with health benefits of at least \$1.25 per hour, or otherwise \$11.67 per hour without benefits.

Under the provisions of Section 10.36.3(c) and Section 10.37.5 of the LAAC, Buyer shall have the authority, under appropriate circumstances, to terminate this Agreement and otherwise pursue legal remedies that may be available if Seller or Seller's subcontractors violate the provisions of the referenced Code Section. All invoices related to SCWRO and LWO agreements shall contain the following statement: "Seller/Contractor fully complies with Section 10.36 et. seq. and Section 10.37 et. seq., SCWRO and LWO, respectively, of the Los Angeles Administrative Code."

(e) Child Support Policy. Seller and any of its subcontractor(s) shall fully comply with all applicable state and federal employment reporting requirements for Seller's and any Seller's subcontractor(s)' employees. Seller and any of its subcontractor(s) shall fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with the California Family Code, to the extent applicable. Seller and any of its subcontractor(s) shall certify that the principal owner(s) thereof (which shall include any person who owns an interest of ten percent (10%) or more) are in compliance with any Wage and Earnings Assignment Orders or Notices of Assignment applicable to them personally. Seller and any of its subcontractor(s) shall certify that such compliance will be maintained throughout the term of this Agreement. Failure of Seller and/or any of its subcontractor(s) to fully comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignments or Notices of Assignment or failure of the principal owner(s) to comply with any Wage and Earnings Assignments or Notices of Assignment applicable to them personally shall constitute a Default under this Agreement. Failure of Seller and/or any of its subcontractor(s) or principal owner(s) thereof to cure the Default within ninety (90) days of notice of such Default by Buyer shall subject this Agreement to termination.

(f) **Current Los Angeles City Business Tax Registration Certificate Required.** Seller shall obtain and keep in full force and effect during the term of this Agreement all Business Tax Registration Certificates required by the City of Los Angeles Business Tax Ordinance, Article 1, Chapter II, Section 21.00 and following, of the Los Angeles Municipal Code. Seller's Vendor Registration Number must be shown on all invoices submitted for payment. Failure to do so, may delay payment. For additional information regarding applicability of the City Business Tax Registration, contact the City of Los Angeles Clerk's Office at (213) 978-1521.

(g) **Equal Benefits Ordinance.** Contractor agrees to comply with the requirements of the Equal Benefits Ordinance ("**EBO**"), codified at LAAC §10.8.2.1, and sign any required certifications related to such ordinance. Contractor agrees to complete the attached form related to the EBO and any certifications attached thereto, except that wherever the form reads "The City of Los Angeles" or includes like references to the City of Los Angeles or its political subdivisions or departments, the Parties agree that the Southern California Public Power Authority ("**SCPPA**") shall be substituted. In the case of impracticality in any provisions of the form due to the substitution of SCPPA for the City of Los Angeles, SCPPA will reasonably accommodate changes and/or substitutions in the requirements of the form as necessary to accomplish the purpose of the EBO.

(h) **Contractor Responsibility Ordinance.** Contractor agrees to comply with the requirements of the Contractor Responsibility Ordinance ("**CRO**"), codified at LAAC §10.40 *et seq.*, and sign any required certifications related to such ordinance. Contractor agrees to complete the attached form related to the CRO and any certifications attached thereto, except that wherever the form reads "The City of Los Angeles" or includes like references to the City of Los Angeles or its political subdivisions or departments, the Parties agree that "SCPPA" shall be substituted. In the case of impracticality in any provisions of the form due to the substitution of SCPPA for the City of Los Angeles, SCPPA will reasonably accommodate changes and/or substitutions in the requirements of the form as necessary to accomplish the purpose of the CRO.

(i) **Sweat-Free Procurement Ordinance.** Contractor agrees to comply with the requirements of the Sweat-Free Procurement Ordinance ("**SFPO**"), codified at LAAC §10.43 *et seq.*, and sign any required certifications related to such ordinance. Contractor agrees to complete the attached form related to the SFPO and any certifications attached thereto, except that wherever the form reads "The City of Los Angeles" or includes like references to the City of Los Angeles or its political subdivisions or departments, the Parties agree that "SCPPA" shall be substituted. In the case of impracticality in any provisions of the form due to the substitution of SCPPA for the City of Los Angeles, SCPPA will reasonably accommodate changes and/or substitutions in the requirements of the form as necessary to accomplish the purpose of the SFPO.

(j) **Iran Contracting Act of 2010.** Seller agrees to comply with the requirements of the Iran Contracting Act of 2010, codified in the California Public Contracts Code Section 2200 *et seq.*, and sign the "Iran Contracting Act of 2010 Compliance Affidavit" attached to Appendix K.

Each Party was represented by legal counsel during the negotiation and execution of this Agreement and the Parties have executed this Agreement as of the dates set forth below, effective as of the Effective Date.

SOUTHERN CALIFORNIA PUBLIC POWER
AUTHORITY

Date: _____

By: _____

Attest: _____

ORNI 47 LLC

Date: 31 DEC 12

By: RM Sullivan

Its: AUTHORIZED REPRESENTATIVE

Attest: RM SULL

APPENDIX A
TO POWER PURCHASE AGREEMENT,
DATED AS OF DECEMBER 31, 2012
BETWEEN SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
AND ORNI 47 LLC

PAYMENT SCHEDULE

1. **Startup and Test Energy.** The purchase price for Delivered Energy that is startup or test Energy is \$75 per MWh.

2. **Monthly Delivered Energy Payment.** The purchase price for Delivered Energy and Replacement Energy that is not startup Energy or test Energy is \$99 per MWh.

**APPENDIX B
TO POWER PURCHASE AGREEMENT,
DATED AS OF DECEMBER 31, 2012
BETWEEN SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
AND ORNI 47 LLC**

FACILITY, PERMITS, AND OPERATOR

1. Name of Facility: **Wild Rose Geothermal Energy Project**
 Facility Transmission Rights and Interests: **An LGIA was executed with NV Energy on October 3, 2012. A transmission service agreement with NV Energy is being pursued**
 Location: **Mineral County, Nevada**
 Facility Site: **1132 Gabbs Valley Rd, Mineral County, NV 89420**
2. Owner: **ORNI 47 LLC**
3. Operator: **ORNI 47 LLC or an affiliate.**
4. Equipment:
 (a) Type of Facility: **Geothermal Electric Generation Facility**
 (b) Capacity:
 Total nominal gross nameplate capacity: **25 MW**
 Total nominal capacity net of Parasitic Load
 (under expected average site conditions): **16.2 MW**
5. Planned Commercial Operation Date: **December 31, 2013**
6. Leases and easements: **United States, Department of Interior, Bureau of Land Management, Leases for Geothermal Resources, serial numbers NVN-83929, NVN-83931**
7. Permits applicable to Section 2.1(g):

| AGENCY | PERMIT | DATE RECEIVED |
|-----------------------------|------------|---------------|
| DRILLING PERMITS | | |
| STATE | | |
| Nevada Division of Minerals | Well 57-1 | 3/19/2009 |
| Nevada Division of Minerals | Well 24A-6 | 12/21/2011 |
| Nevada Division of Minerals | Well 54-11 | 6/16/2011 |

| AGENCY | PERMIT | DATE RECEIVED |
|--|--|---------------|
| Nevada Division of Minerals | Well 54A-11 | 2/16/2012 |
| Nevada Division of Minerals | Well 62-11 | 2/16/2012 |
| Nevada Division of Minerals | Well 65-11 | 2/16/2012 |
| Nevada Division of Minerals | Well 85-11 | 12/20/2010 |
| Nevada Division of Minerals | Well 12-12 | 1/19/2009 |
| Nevada Division of Minerals | Well 12A-12 | 2/16/2012 |
| FEDERAL | | |
| Bureau of Land Management (BLM) | Record of Decision (ROD) for Exploration EA | 1/13/2010 |
| PRINCIPAL DISCRETIONARY PERMITS | | |
| LOCAL/REGIONAL | | |
| Mineral County Planning Commission | Special Use Permit | 9/11/12 |
| FEDERAL | | |
| Bureau of Land Management (BLM) | Record of Decision (ROD) for Development EA – including all relevant federal environmental-related documents required for construction | 10/5/2012 |
| MINISTERIAL PERMITS | | |
| FEDERAL | | |
| Bureau of Land Management (BLM) | Facility Construction Permit – Site License | 10/24/2012 |
| ENVIRONMENTAL DOCUMENTS | | |
| FEDERAL | | |
| Bureau of Land Management (BLM) | Plan of Utilization | 10/5/2012 |
| Bureau of Land Management (BLM) | Plan of Development (transmission line) | 10/5/2012 |
| Bureau of Land Management (BLM) | Final Environmental Analysis (EA) | 10/5/2012 |

8. Additional permits required to achieve Commercial Operation:

| AGENCY | PERMIT |
|--|--|
| MINISTERIAL PERMITS | |
| LOCAL/REGIONAL | |
| Mineral County | County Road Agreement |
| Mineral County | Building Permit(s) |
| STATE | |
| Nevada Division of Environmental Protection ("NDEP") Bureau of Air Pollution Control ("BAPC") | Surface Area Disturbance Permit (construction and air quality) |

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| AGENCY | PERMIT |
|--|---|
| Nevada Division of Environmental Protection ("NDEP") Bureau of Air Pollution Control ("BAPC") | Chemical Accident Prevention Program (CAPP) Permit to Construct |
| Nevada Division of Environmental Protection ("NDEP") Bureau of Air Pollution Control ("BAPC") | Class II AQ Permit to Operate |
| Nevada Division of Environmental Protection ("NDEP") Bureau of Air Pollution Control ("BAPC") | Chemical Accident Prevention Program (CAPP) Permit to Operate |
| Nevada Department of Conservation and Natural Resources, Division of Environmental Protection, Bureau of Water Pollution Control | Underground Injection Control Permit |
| FEDERAL | |
| Bureau of Land Management (BLM) | Transmission Line ROW |
| Bureau of Land Management (BLM) | Facility Construction Permit – Site License |
| Bureau of Land Management (BLM) | Commercial Use Permit |
| Federal Energy Regulatory Commission (FERC) | QF Self-Certification |

APPENDIX C
TO POWER PURCHASE AGREEMENT,
DATED AS OF DECEMBER 31, 2012
BETWEEN SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
AND ORNI 47 LLC

BUYER AND SELLER BILLING, NOTIFICATION AND SCHEDULING CONTACT
INFORMATION

1. **Authorized Representative.** Correspondence pursuant to Section 14.2 shall be transmitted to the following addresses:

1.1 If to Buyer:

Southern California Public Power Authority
c/o Executive Director
1160 Nicole Court
Glendora, CA 91740
Telephone: 626-793-9364
Facsimile: 626-793-9461
Email: bcarnaha@scppa.org

with a copy to:

Southern California Public Power Authority
c/o General Counsel
1160 Nicole Court
Glendora, CA 91740

Telephone: (626) 793-9364
Facsimile: (626) 793-9461
Email: rmorillo@scppa.org

1.2 If to Seller:

ORNI 47 LLC
6225 Neil Road
Reno, NV 89511
Attn: Wild Rose Geothermal Plant - Facility Manager
Telephone: 775-356-9029
Facsimile: 775-356-9039

2. Billings and payments pursuant to Article XI and Appendix A shall be transmitted to the following addresses:

2.1 If Billing to Buyer:

52489005.2

Southern California Public Power Authority
c/o Executive Director
1160 Nicole Court
Glendora, CA 91740
Attention: Accounts Payable
Email: voates@scppa.org

2.2 If Payment to Buyer:

Southern California Public Power Authority
c/o Executive Director
1160 Nicole Court
Glendora, CA 91740
Attention: Accounts Receivable
Email: voates@scppa.org

2.3. If Billing to Seller:

ORNI 47 LLC
6225 Neil Road
Reno, NV 89511
Attn: Wild Rose Geothermal Plant – Asset Manager
Telephone: 775-356-9029
Facsimile: 775-356-9039

2.4 If Payment to Seller:

ORNI 47 LLC
6225 Neil Road
Reno, NV 89511
Attn: Wild Rose Geothermal Plant - Asset Manager
Telephone: 775-356-9029
Facsimile: 775-356-9039

3. Unless otherwise specified by Buyer (for notices to Buyer) or Seller (for notices to Seller) all notices related to scheduling of the Facility shall be sent to the following address:

If to Buyer:

Southern California Public Power Authority
c/o Executive Director
1160 Nicole Court
Glendora, CA 91740
Attention: **Kelly Nguyen, Director of Energy Systems**
Telephone: (626) 793-9364
Facsimile: (626) 793-9461

Email: knguyen@scppa.org

If to Seller:

ORNI 47 LLC
6225 Neil Road
Reno, NV 89511
Attn: Wild Rose Geothermal Plant - Facility Manager
Telephone: 775-356-9029]
Facsimile: 775-356-9039

APPENDIX D
TO POWER PURCHASE AGREEMENT,
DATED AS OF DECEMBER 31, 2012
BETWEEN SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
AND ORNI 47 LLC

FORM OF ATTESTATION

_____ (Seller) Environmental Attribute Attestation and Bill of Sale

_____ (“Seller”) hereby sells, transfers and delivers to the Southern California Public Power Authority (“Buyer”) the Environmental Attributes and Environmental Attribute Reporting Rights associated with the generation from the Facility described below:

Facility name and location:

Fuel Type:

Capacity (MW): _____ Operational Date:

As applicable: CEC Reg. no. _____ Energy Admin. ID no. _____ Q.F. ID no. _____

| <u>Dates</u> | <u>MWhrs generated</u> |
|--------------|------------------------|
| _____ 200_ | _____ |
| _____ 200_ | _____ |
| _____ 200_ | _____ |

in the amount of one Environmental Attribute or its equivalent for each megawatt hour generated.

Seller further attests, warrants and represents as follows:

- i) the information provided herein is true and correct;
- ii) its sale to Buyer is its one and only sale of the Environmental Attributes and associated Environmental Attribute Reporting Rights referenced herein;
- iii) the Facility generated and delivered to the grid the Energy in the amount indicated as undifferentiated Energy; and
- iv) Seller owns the Facility and each of the Environmental Attributes and Environmental Attribute Reporting Rights associated with the generation of the indicated Energy for delivery to the grid have been generated and sold by the Facility.

This serves as a bill of sale, transferring from Seller to Buyer all of Seller’s right, title and interest in and to the Environmental Attributes and Environmental Attribute Reporting Rights associated with the generation of the Energy for delivery to the grid.

Contact Person: _____ tel: _____

APPENDIX E
TO POWER PURCHASE AGREEMENT,
DATED AS OF DECEMBER 31, 2012
BETWEEN SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
AND ORNI 47 LLC

FORM OF LETTER OF CREDIT

IRREVOCABLE AND UNCONDITIONAL DOCUMENTARY
LETTER OF CREDIT NO. _____

Applicant:

Beneficiary:

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
1160 Nicole Court
Glendora, CA 91740
Telephone: (626) 793-9364
Facsimile: (626) 793-9461

Amount:
Expiry Date:
Expiration Place:

Ladies and Gentlemen:

We hereby issue our Irrevocable Unconditional Documentary Letter of Credit in favor of the beneficiary by order and for the account of the applicant which is available at sight for USD \$XX,XXX,XXX by sight payment

- (a) upon presentation to us at our office at [*bank's address*],¹ of: (i) your written demand for payment containing the text of Exhibit I and (ii) your signed statement containing the text of Exhibit II; or
- (b) upon both your telephone or fax advice of demand to the attention of _____ at telephone and/or fax number _____ and presentation to us by fax of: (i) your written demand for payment containing the text of Exhibit I and (ii) your statement containing the text of Exhibit II.² Funds may be drawn

¹ Note to Issuer: The Letter of Credit must be payable in U.S. dollars within the continental U.S.

² Note to Issuer: If the office specified for presentation is outside of Los Angeles, California, alternative (b) must appear in the Letter of Credit when issued. If the office is in Los Angeles, California, alternative 52489005.2

under this Letter of Credit, from time to time, in one or more drawings, in amounts not exceeding in the aggregate the amount specified above.

Upon presentation to us in conformity with the foregoing, we will, on the next business day after such presentation (unless such presentation occurs after 3:00 p.m., Pacific Standard Time, on the day of such presentation, in which event payment will be made after the opening of business at the office specified above on the second business day), but without any other delay whatsoever, irrevocably and without reserve or condition: (a) if the office set forth above for presentation is in Los Angeles, California, pay to your order in the account at the bank designated by you in the demand, the full amount demanded by you in the same-day funds which are immediately available to you, or (b) if the office set forth above for presentation is not in Los Angeles, California, issue payment instructions to the Federal Reserve wire transfer system in proper form to transfer to the account at the bank designated by you in the demand, the full amount demanded by you in the same-day funds which are immediately available to you in Los Angeles, California. We agree that if, on the expiration date of this Letter of Credit, the office specified above is not open for business, this Letter of Credit will be duly honored if the specified statements are presented by you within three (3) full banking days after such office is reopened for business.

Payment hereunder shall be made regardless of: (a) any written or oral direction, request, notice or other communication now or hereafter received by us from the Applicant or any other person except you, including without limitation any communication regarding fraud, forgery, lack of authority or other defect not apparent on the face of the documents presented by you, but excluding solely an effective written order issued otherwise than at our instance by a court of competent jurisdiction, which order is legally binding upon us and specifically orders us not to make such payment; (b) the solvency, existence or condition, financial or other, of the Applicant or any other person or property from whom or which we may be entitled to reimbursement for such payment; and (c) without limiting clause (b) above, whether we are in receipt of or expect to receive funds or other property as reimbursement in whole or in part for such payment. We agree that we will not take any action to cause the issuance of an order described in clause (a) of the preceding sentence. We agree that the time set forth herein for payment of any demand(s) for payment is sufficient to enable us to examine such demand(s) and the related document(s) referred to above with care so as to ascertain that on their face they appear to comply with the terms of this credit and that if such demand(s) and document(s) on their face appear to so comply, failure to make any such payment within such time shall constitute dishonor of such demand(s) and this credit.

The stated amount of this Letter of Credit may be increased or decreased, and the expiration date of this Letter of Credit may be extended, by an amendment to this Letter of Credit in the form of Exhibit III. Any such amendment shall become effective only upon acceptance by your signature on a hard copy amendment.

You shall not be bound by any written or oral agreement of any type between us and the Applicant or any other person relating to this credit, whether now or hereafter existing.

(b) may be included only if the bank establishes and maintains with Southern California Public Power Authority the necessary electronic arrangements.

52489005.2

We hereby engage with you that your demand(s) for payment in conformity with the terms of this credit will be duly honored as set forth above. All fees and other costs associated with the issuance of and any drawing(s) against this Letter of Credit shall be for the account of the Applicant. All of the rights of the Southern California Public Power Authority ("SCPPA") set forth above shall inure to the benefit of your successors. In this connection, in the event of a drawing made by a party other than SCPPA, such drawing must be accompanied by the following signed certification:

"The undersigned does hereby certify that _____ [drawer] is the successor by operation of law to SCPPA, a beneficiary named in [name of Bank] Letter of Credit no.

_____ [name and title]

Except so far as otherwise expressly stated herein, this documentary credit is subject to the "Uniform Customs and Practices for Documentary Credits," International Chamber of Commerce, in effect on the date of issuance of this credit.

Yours faithfully,
(name of issuing bank)

By _____
Title _____

EXHIBIT I
Demand for Payment

Re: Irrevocable and Unconditional Documentary Letter of Credit
No. _____ Dated _____, 20__

To Whom It May Concern:

Demand is hereby made upon you for payment to us of \$ _____ by deposit to our account no. _____ at [insert name of bank]. This demand is made under, and is subject to and governed by, your Irrevocable and Unconditional Documentary Letter of Credit no. _____ dated _____, 20__ in the amount of \$ _____ established by you in our favor for the account of _____ as the Applicant.

DATED: _____, 20__.

SOUTHERN CALIFORNIA PUBLIC POWER
AUTHORITY

By _____
Title _____



Department of General Services
Procurement Division
707 Third Street, Second Floor, West Sacramento, CA 95605
(916) 375-4400 (800) 559-5529

List Date: July 17, 2012

Entities Prohibited from Contracting with Public Entities in California per the
Iranian Contracting Act, 2010

- | | |
|---|---|
| 1. Ak Makina | 21. Naffiran |
| 2. Amona | 22. Oil and Natural Gas Corp (ONGC) |
| 3. Belaz | 23. Oil India Limited |
| 4. Belneftkhim | 24. Panyu Chu Kong Steel Pipe Company, Ltd. |
| 5. Bharat Petroleum Corporation Limited | 25. Petroleos de Venezuela |
| 6. ChinaOil | 26. Saras |
| 7. CNPC (China National Petroleum Corporation) | 27. Schwing America Inc. |
| 8. Daniell | 28. Shandong FIN CNC Machine Co., Ltd. |
| 9. DK Tech Corporation | 29. Shanghai Sunry Petroleum Equipment Company, Ltd. |
| 10. Double Hull Tankers, Inc. | 30. Sinohydro |
| 11. Emirates National Oil Company | 31. Sinopec Corp |
| 12. Grimley Smith Associates | 32. SK Energy |
| 13. Hellenic Petroleum S.A. | 33. Snam Reta Gas |
| 14. Hin Leong Trading | 34. Sonangol |
| 15. Hyundai Heavy Industries | 35. Unipet |
| 16. Indian Oil Corporation | 36. Zhenhua Oil Company |
| 17. Kingdream PLC | |
| 18. Liquefied Natural Gas Limited | |
| 19. Lukoil | |
| 20. Maire Tecnimont | |

If you have any questions regarding this list, please contact:

Office of Policies, Procedures and Legislation
charles.cayon@dgs.ca.gov

EXECUTION COPY

WILD ROSE GEOTHERMAL ENERGY PROJECT

AGENCY AGREEMENT

BETWEEN

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

AND

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

DATED AS OF DECEMBER 31, 2012

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WILD ROSE GEOTHERMAL ENERGY PROJECT

AGENCY AGREEMENT

1. **PARTIES.** This Wild Rose Geothermal Energy Project Agency Agreement (this "Agreement"), is dated for convenience as of this 31st day of December, 2012, by and between the SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, a joint powers agency and a public entity organized under the laws of the State of California, hereinafter designated as "SCPPA," or "the Authority" created under the provisions of the Act, and the CITY OF LOS ANGELES acting by and through the DEPARTMENT OF WATER AND POWER a California municipal utility created by and existing pursuant to the Charter of the City of Los Angeles. The CITY OF LOS ANGELES acting by and through the DEPARTMENT OF WATER AND POWER is also periodically referred to in this Agreement as "LADWP" or "the Department" or as "Agent". LADWP and SCPPA are also sometimes referred to herein, with respect to this Agreement, individually as the "Party" and together as the "Parties". In addition, LADWP and the other member(s) of SCPPA participating in the Wild Rose Geothermal Energy Project may be referred to collectively, in this Agreement, as "Project Participants."

2. **RECITALS.** This Agreement has been reviewed by attorneys for both Parties and shall not be interpreted with reference to the rules of construction providing for construction against a Party responsible for drafting or creating a particular provision or section, but should instead be interpreted in a manner which broadly carries forth the goals and objectives of the Parties as expressed herein. References to "Sections," "Annexes," "Appendices," "Schedules" and "Exhibits" shall be to Sections, Annexes, Appendices, Schedules and Exhibits, as the case may be, of this Agreement unless otherwise specifically provided. Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose or be given any substantive effect. Any of the terms defined herein may, unless the context otherwise requires, be used in the singular or the plural, depending on the reference. The use herein of the word "include" or "including", when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not nonlimiting language (such as "without limitation" or "but not limited to" or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term or matter. This Agreement is made with reference to the following facts among others:
 - 2.1 SCPPA was created pursuant to provisions contained in the Joint Exercise of Powers Act found in Chapter 5 of Division 7 of Title 1 of the Government Code of California, as amended from time to time (the "Act"), by its members, which are municipalities and an irrigation district that supply, among other things, electrical energy, in the State of California, for the purpose of jointly and cooperatively undertaking the planning, financing, development, acquisition, construction, improvement, betterment, operation, and maintenance, of projects for the generation or transmission of electric energy, including the development and implementation of

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

- 2.2 To facilitate the appropriate review and due diligence studies necessary to carry forth an effective program for the development of renewable resources SCPPA created the "Renewable Electric Energy Resource Project" to be carried forth between SCPPA and those SCPPA members desiring to participate in this renewable energy oriented project under SCPPA's Joint Powers Agreement. Thereafter on March 17, 2006, the SCPPA Board of Directors by way of Resolution 2006-13 found and declared the proposed Renewable Electric Energy Resource Project to be an official SCPPA Study Project pursuant to the SCPPA Joint Powers Agreement and authorized the execution of a development agreement for the Renewable Electric Energy Resource Project among SCPPA and the SCPPA members participating in this Study Project.
- 2.3 In pursuit of the goals of the Renewable Electric Energy Resource Project SCPPA has issued Requests for Proposals ("RFP") for potential renewable electric resources to address SCPPA member renewable energy needs, and as a result of responses to that RFP SCPPA and three of its members, LADWP, Burbank and Glendale (the "Project Participants"), have investigated the feasibility of a geothermal electric generating facility (the "Facility") to be designed, constructed, maintained and operated by ORNI 47 LLC, a Delaware limited liability company (the "Power Purchase Provider"), an affiliate of Ormat Nevada, Inc., a Delaware corporation. The Facility will be located in Mineral County, Nevada, on a site leased by the Power Purchase Provider.
- 2.4 SCPPA desires to enter into a Power Purchase Agreement with the Power Purchase Provider for the purchase of Energy and the associated Environmental Attributes from the Facility for the purpose of selling all said purchased Facility Output to the Project Participants pursuant to the Power Sales Agreements with such other Project Participants.
- 2.5 The Project Participants have participated in the negotiation of a power purchase agreement and related agreements, arrangements and mechanisms for the procurement of the Facility Output of this geothermal generation facility by way of a transaction through which SCPPA purchases Facility Output.
- 2.6 In order to enable SCPPA to carry out the activities necessary to the management and administration of the Project on behalf of the Project Participants, the Project Participants and SCPPA have determined that it is desirable and necessary for SCPPA to enter into an agreement with LADWP to act as the Project Manager and as SCPPA's agent in the administration and management of the Wild Rose Geothermal Energy Project on behalf of the Project Participants.
- 2.7 Section 5.3 of each of the Project Participants' Power Sales Agreement provides for the designation of a Project Manager to administer the Project on behalf of and for the benefit of all of the Project Participants.
- 2.8 It is the purpose of this Agreement to carry forth the intendments of Section 5.3 of the Power Sales Agreements of all of the Project Participants and to designate and

appoint LADWP as Project Manager of the Wild Rose Geothermal Energy Project and to repose in LADWP, through this Agency Agreement, the power, authority and responsibility to act as the Agent for the Project Participants in the management and administration of the Project.

3. **AGREEMENT.** For and in consideration of the promises and the mutual covenants and agreements hereinafter set forth, and in order to carry forth the objectives of the Power Sales Agreements and to appoint LADWP as Project Manager over the Wild Rose Geothermal Energy Project, the Parties agree as herein set forth.

4. **DEFINITIONS.** Appendix A of the Power Sales Agreements (a copy of which for the convenience of the Parties is set forth in Appendix A of this Agency Agreement) set forth, where applicable, the defined terms of this Agreement between SCPPA and LADWP. Except for the definition of the term "Project", the definitions in said Appendix A shall be applicable to this Agreement. The term "Project", when initially capitalized, is as defined herein in this Section 4. All other terms which are not specifically defined in this Section 4, when initially capitalized, shall have the meaning ascribed in Appendix A of the Power Sales Agreements. The terms defined in said Appendix A and in this Section 4, whether in the singular or plural, unless specifically provided otherwise, when used herein or in the Appendices hereto and initially capitalized, shall have the meaning ascribed thereto in said Appendix A or as set out below:

4.1 Agency Costs. The costs, as set forth in Section 8 hereof, of carrying out Agency Work.

4.2 Agency Work. The activities to be performed by the Agent pursuant to Section 7 of this Agreement.

4.3 Agent. The City of Los Angeles acting by and through the Department of Water and Power, which shall be responsible, in accordance with the terms of this Agreement, for carrying out the Agency Work on behalf of SCPPA.

4.4 Agreement. This Agreement, as it may be amended, modified or supplemented from time to time.

4.5 Effective Date. The date described in Section 18.1 hereof.

4.6 Project. The project carried out by way of the Wild Rose Geothermal Energy Project Power Sales Agreements, their Appendices and their attached, incorporated or associated instruments and agreements. The Project shall, among other things, entail the aggregate of rights, liabilities, interests and obligations of all Project Participants. For purposes of this Agreement the terms "Project" and "Wild Rose Geothermal Energy Project" shall have the same meaning.

5. **APPOINTMENT OF AGENT.**

5.1 Appointment of Agent. In accordance with the terms and conditions of this Agreement SCPPA hereby appoints, designates, authorizes and directs LADWP to carry out, as agent for and on behalf of SCPPA, Agency Work in accordance with the

terms of this Agreement. LADWP hereby accepts such appointment, designation, authorization and direction. Agent shall act as project manager on behalf of the Project Participants for the Wild Rose Geothermal Energy Project. Unless this Agreement is otherwise terminated pursuant to Section 18.2 of this Agreement, LADWP shall serve as Agent and project manager for the duration of the Power Sales Agreements. Except as provided in Section 18.2 of this Agreement, Agent shall not have the right to resign and may not be removed as Agent for the Project during the time which any of the Power Sales Agreements are in effect.

- 5.2 Agent's Performance of Agency Work in Accordance with Applicable Laws, Rules and Regulations. In carrying forth its Agency Work pursuant to the terms of this Agreement Agent shall, in all material respects, observe all applicable laws, rules and regulations.
- 5.3 Other Agents. The Authority shall at all times have the right to appoint another agent or agents to perform, apart from and concurrent with this Agreement, activities relative to the Project.
- 5.4 Procurement. Agent will use LADWP's procurement rules and policies unless other rules or policies are determined by Agent to be in the best interest of the Project.

6. RIGHTS, DUTIES AND RESPONSIBILITIES OF SCPPA. SCPPA acting by and through the Coordinating Committee, its Board of Directors or the Executive Director, as applicable, shall have the following rights duties and responsibilities under this Agreement:

- 6.1 Review Budgets. Review, modify and approve the budgets submitted pursuant to the applicable provisions of the Power Sales Agreements
- 6.2 Review Agency Cost Estimates. Review, modify and approve the estimates of Agency Costs submitted by the Agent pursuant to this Agreement.
- 6.3 Monitor Agency Work. Monitor the continuation and completion of Agency Work.
- 6.4 Make Recommendations and/or Modifications Regarding Agency Work. Make (i) recommendations to the Agent with respect to Agency Work and/or (ii) modifications to Agency Work undertaken by Agent.
- 6.5 Provide Assistance. Provide such other assistance to the Agent in carrying out Agency Work as the Board of Directors shall deem reasonable and proper and as the Agent shall request.
- 6.6 Consider Relevant Matters. Consider any matter relating to SCPPA's interests proposed by the Agent, any member of the Board of Directors or any member of SCPPA's staff.
- 6.7 Perform Other Functions and Duties. Perform such other functions and duties as may be required of SCPPA or by SCPPA in connection with SCPPA's interests in the Project.

7. ACTIVITIES TO BE PERFORMED BY LADWP AS AGENT.

- 7.1 Make Periodic Reports. Make periodic reports to the Coordinating Committee regarding the operation of the Facility and any relevant operating information and reports, generation and transmission information, statistical, financial and administrative reports, and other similar reports, records, or information which may be helpful to or requested by the Coordinating Committee or the Board of Directors.
- 7.2 Submit Recommendations. Submit recommendations from time to time to the Coordinating Committee or if appropriate, to the Board of Directors, for potential review, modification and approval or disapproval with respect to the following subjects:
- 7.2.1 Recommend policies, criteria or procedures which will carry forth SCPPA's rights responsibilities and obligations pursuant to the Project Agreements.
- 7.2.2 To the extent appropriate and permissible pursuant to the Power Purchase Agreement recommend policies and procedures for conducting tests or performance measurements with respect to the Facility.
- 7.3 Billings. Prepare and render, in the manner and at the times required by the Power Sales Agreements, billings to the Project Participants in accordance with the terms and provisions of the Power Sales Agreements.
- 7.4 Inform SCPPA. Promptly inform SCPPA regarding significant factors which may affect or have affected Agency Work or SCPPA's interests.
- 7.5 Expend Funds for Agency Costs. Expend moneys for Agency Costs in accordance with this Agreement.
- 7.6 Investments. Schedule, select, direct, execute, maintain records of, and provide monthly reports to SCPPA concerning, investments of moneys in accordance with reasonable and customary business practices relating to the administration of such investments.
- 7.7 Arrange Services for Agency Work; Administer Contracts; Agent's Employees. Negotiate, arrange for, administer, perform and enforce all contracts for furnishing, purchasing, procuring and obtaining from any source (including pursuant to contracts between the Agent and third parties) studies, supplies, engineering services, legal services, or other services necessary for the performance and completion of Agency Work or Supplementary Services; administer, perform and enforce such contracts; and furnish conformed copies of such contracts or other related documentation to SCPPA. In performing Agency Work or Supplementary Services, the Agent may use its own employees and equipment and facilities owned or directly leased by the Agent without obtaining any consent or approval of SCPPA.
- 7.8 Comply With Laws and Regulations. Comply with any and all laws and regulations applicable to the performance of Agency Work.
- 7.9 Keep Accounting Records of Expenditures; Audit of Accounting Records. Keep

and maintain records of moneys expended, obligations incurred, sunk (unrecoverable) costs, credits accrued; and maintain for auditing by SCPPA those accounting records used by the Agent for the purpose of accumulating financial and statistical data for Agency Work.

- 7.10 Prepare and Submit Estimates of Agency Costs. Prepare and submit to SCPPA, for use by SCPPA in preparing its annual budget with respect to the Project for each fiscal year, the Agent's estimate of Agency Costs for the fiscal year to which such budget applies.
- 7.11 Obtain Cost Data. Obtain and furnish to SCPPA, as applicable, cost data, projections and budgets which may be received from the Power Purchase Provider, the construction manager, construction contractors, the operation manager or operating entities in accordance with the Project Agreements.
- 7.12 Assist in Budget Preparation. To the extent requested by SCPPA, assist in the preparation of the Annual Budget, including the provision of information relating to potential Capital Improvements
- 7.13 Provide Information. Provide the Board of Directors, and any committee established by it, and SCPPA's staff with records and information which may be required for SCPPA to perform its responsibilities.
- 7.14 Provide Interface. Provide interface between SCPPA and the Project Participants with respect to the administration of the Power Purchase Agreement.
- 7.15 Furnish Assistance and Information. Furnish, upon request, to SCPPA or any Project Participant any assistance and information reasonably available pertaining to Agency Work and the Project.
- 7.16 Place and Maintain Insurance. Procure or cause to be procured and maintain or cause to be maintained in force insurance coverage with respect to Agency Work or SCPPA's interests in such form and amounts as the Board of Directors or the Coordinating Committee determines necessary or as Agent may otherwise believe to be appropriate or as may be desirable to protect against potential exposures, or as required by law.
- 7.17 Provide Information Regarding Defaults. Keep the Project Participants and SCPPA fully and promptly informed of any default by any party under any of the Project Agreements of which Agent has knowledge.
- 7.18 Conduct All Other Activities Relating to Agency Work and Supplementary Services. Conduct all other activities deemed necessary to carry forth Agency Work or Supplementary Services or to bring the same to completion and perform such other functions and duties as may be assigned to it by SCPPA, but in any event in a manner consistent with this Agreement.

8. AGENCY COSTS.

- 8.1 Agency Costs. Agency Costs shall include the following:

- 8.1.1 All costs approved by the Agent of labor, services, transportation and studies, including costs of legal counsel and consultation fees, performed by the Agent or by others, in connection with this Agreement, together with all costs approved by the Agent of facilities utilized in such performance. All costs (including premiums or deposits to self-insurance funds) of insurance related to Agency Work procured in accordance with Section 7.16.
 - 8.1.2 Payroll and other expenses of employees of the Agent while performing work in connection with this Agreement, including applicable overhead costs and labor loading charges, including but not limited to time-off allowances, payroll taxes, workers' compensation insurance, retirement and death benefits and other employee benefits.
 - 8.1.3 Costs of the Agent associated with performing its duties and responsibilities under this Agreement.
 - 8.1.4 All costs paid by the Agent for any studies, reports or other documents obtained from any Project Participant.
 - 8.1.5 Costs of the Agent, to the extent not provided for by insurance, of discharging or paying any liability and loss, damage and expense, including costs and expenses for attorneys' fees and other costs of defending, settling or otherwise administering claims, liabilities or losses arising out of workers' compensation or employer's liability claims or by reason of property damage or injuries to or death of any person or persons or by reason of claims of any and every character, or costs that should be paid or provided to Agent to satisfy indemnification obligations under Section 16.1 of this Agreement or other costs that should be paid or provided to Agent to satisfy indemnification obligations under any of the Power Sales Agreements, resulting from, arising out of or connected with the performance of Agency Work, including negligent acts or omissions but excluding grossly negligent acts or willful misconduct (which unless otherwise agreed to by the Parties, are both to be determined and established by a court of competent jurisdiction in a final, non-appealable order) of the Agent, its Board of Water and Power Commissioners, or its respective officers, employees or employees of the municipal entity of which Agent is a part.
- 8.2 Costs Not Agency Costs. Costs incurred by the Agent which (i) are not attributable to the activities, duties and functions to be performed by the Agent pursuant to Section 7 of this Agreement and (ii) have not been approved by SCPPA under this Agreement shall not be Agency Costs. In addition Agency Costs shall not include costs incurred by any Project Participant which are not attributable to Agency Work including the following:
- 8.2.1 To the extent not specifically included in Agency Costs, costs of studies conducted by any Project Participant to determine, for that Project Participant, the usefulness, economics, legal and regulatory implications, and feasibility of the project and such Project Participant's costs of obtaining the entitlements or accommodations necessary to make the project

feasible for that particular Project Participant.

8.2.2 Except as may otherwise be provided by SCPPA, through its Board of Directors, the costs of any Project Participant associated with the preparation and the negotiation of contracts between SCPPA and any Project Participant regarding the Project.

8.2.3 Except as may be otherwise provided by SCPPA through its Board of Directors, costs incurred by each Project Participant in the various functions of the Board of Directors, the Coordinating Committee, or any committees established by the Board of Directors or the Coordinating Committee, and the expenses of its personnel while performing such functions.

8.3 No Profit. The Agent shall not receive any profit under this Agreement or any Project Agreement, nor shall the Agent be obligated to make any expenditure or incur any obligation regarding Agency Work with respect to which it shall not be entitled to reimbursement under this Agreement.

8.4 Budget and Review Processes. As is the case with similar costs for other projects of SCPPA, Agency Costs shall be the subject of SCPPA's annual budget and periodic budget review processes.

9. PAYMENT TO AGENT FOR AGENCY COSTS; AUDITS.

9.1 Payment and Audit Procedures. From time to time, and at such times (not more than monthly) as the Agent shall determine, it shall submit to SCPPA requests and requisitions for payment of items of Agency Costs incurred or paid. SCPPA shall pay or cause to be paid the amount of each such request or requisition within forty five (45) days after its receipt thereof. At such reasonable times as shall be requested by SCPPA, the books and cost records of the Agent relevant to Agency Costs shall be subject to audit by or on behalf of SCPPA.

9.2 Disputed Invoices. In case any portion of any invoice received by SCPPA from Agent shall be in bona fide dispute, SCPPA shall pay Agent the full amount of such invoice and, upon determination of the correct amount, the difference between such correct amount and such full amount, if any, including interest at the rate received by Agent on any overpayment, will be credited to SCPPA by Agent after such determination; provided, however, that such interest shall not accrue on any overpayment that is acknowledged by Agent and returned to SCPPA within five (5) calendar days following the receipt by Agent of the disputed overpayment. In the event such invoice is in dispute, Agent will give consideration to such dispute and will advise SCPPA with regard to Agent's position relative thereto within thirty (30) days following receipt of written notification by SCPPA of such dispute.

10. LIABILITY.

10.1 No Liability of SCPPA, Agent or Project Manager (within its capacity as the Project Manager), or Their Directors, Officers, Employees, Etc.; SCPPA's and

Agent's and Project Manager's Directors, Officers, Employees Not Individually Liable. Both Parties agree that neither Party, nor any of their past, present or future directors, officers, board members, agents, attorneys, advisors, employees or employees of the governmental entity of which the Agent is a part (collectively, the "Released Parties") shall be liable to any other of the Released Parties for any and all claims, demands, liabilities, obligations, losses, damages (whether direct, indirect or consequential), penalties, actions, loss of profits, judgments, orders, suits, costs, expenses (including attorneys' fee and expenses) or disbursements of any kind or nature whatsoever in law, equity or otherwise (including, without limitation, death, bodily injury or personal injury to any person or damage or destruction to any property of any of the Released Parties) suffered by any Released Party as a result of the action or inaction or performance or non-performance by the Power Purchase Provider or any of the Released Parties under this Agency Agreement or any Project Agreement (excluding gross negligence or willful misconduct which unless otherwise agreed to by the Parties, are both to be determined and established by a court of competent jurisdiction in a final, non-appealable order). Each Party shall release each of the other Released Parties from any claim or liability that such Party may have cause to assert as a result of any action or inaction or performance or non-performance by the Released Parties under this Agreement or any Project Agreement (excluding gross negligence or willful misconduct which unless otherwise agreed to by the Parties, are both to be determined and established by a court of competent jurisdiction in a final, non-appealable order). Notwithstanding the foregoing, no such action or inaction or performance or non-performance of any of the Released Parties shall relieve either Party from its respective obligations under this Agreement, including either Party's obligation to make payments required under this Agreement, the Power Purchase and Security Agreements or any other Project Agreement. The provisions of this Section 10.1 shall not be construed so as to relieve the Agent or the Power Purchase Provider from any obligation (or liability in the case of the Power Purchase Provider) under this Agreement, the Power Purchase and Security Agreements or any other applicable Project Agreement. The Parties also hereby recognize and agree that neither Party's past, present or future directors, officers, board members, agents, attorneys, advisors, employees or employees of the governmental entity of which the Agent is a part shall be individually liable in respect of any undertakings by any of the Released Parties under this Agreement or any Project Agreement. Notwithstanding any provision of this Agency Agreement which might arguably be construed to the contrary, nothing in this Section 10 shall affect LADWP's obligation, as a Project Participant, to make any payment or pay any cost required of it under the Power Sales Agreement.

- 10.2 Extent of Exculpation: Enforcement of Rights in Equity. The exculpation provision set forth in Section 10.1 hereof shall apply to all types of claims or actions including, but not limited to, claims or actions based on contract or tort. Notwithstanding the foregoing, either Party may protect and enforce its rights under this Agreement by a suit or suits in equity for specific performance of any obligation or duty of the other Party and the Agent may enforce by any legal means its right to payment for Agency Costs in accordance with the terms of this Agreement.

- 10.3 No Relief from Insurer's Obligations. The provisions of Section 10.1 shall not be construed so as to relieve any insurer of its obligation to pay any insurance claims.
- 10.4 SCPPA Directors Officers, Employees, Agents Not Liable; No General Liability of SCPPA. It is hereby recognized and agreed that no officer, agent or employee of SCPPA shall be individually liable in respect of any undertakings by SCPPA under this Agreement. The undertakings by SCPPA under this Agreement shall never constitute a debt or indebtedness of SCPPA within the meaning of any provision or limitation of the constitution or statutes of the State of California, and shall not constitute or give rise to a pecuniary liability of SCPPA or a charge against its general credit. Any provision of this Agreement to the contrary notwithstanding, the obligation of SCPPA under this Agreement to make or cause to be made payments shall be limited to those payments permitted by and monies available as provided for in this Agreement.

11. ALTERNATIVE DISPUTE RESOLUTION.

- 11.1 Non-Binding Dispute Resolution. If any dispute arises out of or relates to this Agreement, or the asserted breach thereof, the Parties agree that the Parties shall first employ the non-binding mediation process which is set forth in Section 11.2 before initiating any other type of legal action.
- 11.2 Role of the Coordinating Committee and SCPPA Board; Nonbinding Mediation Procedure. If a dispute arises between the Parties under this Agreement the Parties may first attempt to resolve the dispute through the Coordinating Committee and if the Coordinating Committee is unable to resolve the dispute, the dispute shall be submitted to the Board of Directors. If the Board of Directors is unable to resolve the dispute, the Parties may then submit the dispute to non-binding mediation.

12. RELATIONSHIP OF THE PARTIES.

- 12.1 Separate and Several Interests. The covenants, obligations and liabilities of the Parties are intended to be several and not joint or collective and nothing herein contained shall ever be construed to create an association, joint venture, trust, partnership or other legal entity, or to impose a trust or partnership covenant, obligation or liability on or with regard to either or both of the Parties. Each Party shall be individually responsible for its own covenants, obligations and liabilities under this Agreement. Neither Party shall be under the control of or shall be deemed to control any other Party. Neither Party shall be the agent of or have a right or power to bind the other Party without its express written consent, except as expressly provided in this Agreement.

13. UNCONTROLLABLE FORCES.

- 13.1 Excuse of Performance by Reason of Uncontrollable Forces. Other than with respect to the obligation of a Party to make payments as provided in this Agreement, neither Party shall be considered to be in default in the performance of any of its obligations under this Agreement when a failure of performance shall be due to an Uncontrollable Force. Nothing contained herein shall be construed so as

to require a Party to settle any strike or labor dispute in which it may be involved. In the event a Party is rendered unable to fulfill any of its obligations under this Agreement by reason of an Uncontrollable Force, such Party shall give prompt written notice of such fact to the other Party and shall exercise due diligence to remove such inability with all reasonable dispatch. In such event, the Parties shall diligently and expeditiously determine how they may equitably proceed to carry out the objectives of this Agreement.

14. BINDING OBLIGATIONS.

14.1 All Obligations Binding. All of the obligations set forth in this Agreement shall bind the Parties and their successors and assigns.

15. GENERAL PROVISIONS GOVERNING AGREEMENT.

15.1 Severability. In the event that any of the terms, covenants or conditions of this Agreement or the application of any such term, covenant or condition, shall be held invalid as to any person or circumstance by a court of competent jurisdiction, such invalidity shall not affect any other term, covenant or condition of this Agreement and their application shall not be affected thereby, but shall remain in force and effect, unless a court of competent jurisdiction holds that the provisions are not separable from all other provisions of this Agreement.

15.2 Waiver Not to Effect Subsequent Events. Any waiver at any time by a Party of its rights with respect to a default or any other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or matter.

15.3 Headings Not Binding. The headings and captions in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

16. INDEMNITY AND RELATED MATTERS, POWER SALES AGREEMENT.

16.1 Indemnification of Agent. In its capacity as Agent under this Agency Agreement, Agent shall be entitled to indemnification from SCPPA as set forth herein. SCPPA shall indemnify and hold harmless Agent, its board, officers, agents, attorneys, advisors, employees, and the employees of the governmental entity of which the Agent is a part, past, present or future (collectively, "Agent Indemnitees") from and against any and all claims, demands, liabilities, obligations, losses, damages (whether direct, indirect or consequential), penalties, actions, loss of profits, judgments, orders, suits, costs, expenses (including attorneys' fees and expenses) or disbursements of any kind or nature whatsoever in law, equity or otherwise (including, without limitation, death, bodily injury or personal injury to any person or damage or destruction to any property of Agent, SCPPA or third persons) (collectively, "Losses") arising by reason of any actions, inactions, errors or omissions incident to the performance of this Agency Agreement (excluding gross negligence or willful misconduct which, unless otherwise agreed to by the Parties, are both to be determined and established by a

court of competent jurisdiction in a final, non-appealable order) on the part of Agent Indemnitees. At Agent's option, SCPPA shall defend Agent Indemnitees from and against any and all Losses. If SCPPA, with Agent's consent, defends any Agent Indemnitee, Agent and Agent's City Attorney's Office (or other appropriate Agent counsel or authority, as appropriate) shall approve the selection of counsel, and Agent shall further approve any settlement or disposition, such approval not to be unreasonably withheld.

16.2 Obligations under the Power Sales Agreement. Notwithstanding any provision of this Agreement which might arguably be construed to the contrary, nothing in this Agreement shall affect LADWP's obligation, as a Project Participant, to make any payment or pay any cost required of it under the Power Sales Agreement.

16.3 Separate Capacities. The Parties acknowledge that LADWP, as Agent under and a Party to this Agency Agreement, acts in a legal capacity that is separate from its capacity as a Project Participant under its Power Sales Agreement. Accordingly, for purposes of this Agreement, the rights, entitlements, obligations and liabilities of LADWP, as Agent and a Party to this Agency Agreement, shall not apply to or otherwise be affected by, and shall be legally separate from the rights, entitlements, obligations, and liabilities of LADWP as a Project Participant under its Power Sales Agreement.

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

18. **TERM AND EXPIRATION.**

18.1 Effective Date. This Agreement shall become effective and in full force and effect on the date Power Sales Agreements have been entered into and are in effect with respect to all Project Participants (the "Effective Date").

18.2 Termination. This Agreement shall continue in force and effect from the Effective Date until the expiration of the term of the Power Sales Agreements and any extensions or replacements thereof; provided, however, that this Agreement may be terminated by either Party upon not less than three (3) years prior written notice to the other Party. Payment obligations of the Parties hereunder shall survive any termination of the Agreement until satisfied.

19. **ATTORNEYS FEES.** With respect to any dispute under this Agreement the Parties agree that each Party shall bear its own attorneys fees and costs. Notwithstanding the forgoing, LADWP and SCPPA acknowledge and it is acknowledged and understood by the Project Participants that SCPPA's attorneys fees associated with any matter relating to the Project or this Agreement, including any dispute relating thereto, shall constitute a Project cost which

shall be allocated and billed as set forth in Section 4 and Section 7 of the Power Sales Agreements.

20. CONTRACT ADMINISTRATOR. A contract administrator for this Agreement shall be designated by the individual authorized to receive notices on behalf of LADWP pursuant to Paragraph 21 herein, and each Party's contract administrator shall have the authority to administer this Agreement on behalf of its respective Party. Notwithstanding the foregoing, the contract administrators shall have no authority to amend this Agreement on behalf of the Parties.

21. NOTICES. Any notice, demand or request provided for in this Agreement shall be in writing and shall be deemed properly served, given or made if delivered in person or sent by registered or certified mail, postage prepaid, to the persons specified below:

Southern California Public Power Authority
Attention: Executive Director
1160 Nicole Court
Glendora, California 91740

Los Angeles Department of Water and Power
Attention: General Manager
RE: Power System Contracts
111 North Hope Street 921
Los Angeles, California 90012


22. AMENDMENTS. The Parties acknowledge and agree that any amendment to this agreement shall be in writing and duly executed by the Parties.

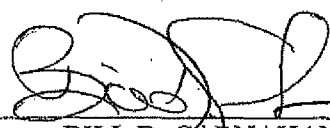
[SIGNATURE PAGE FOLLOWS]

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

SOUTHERN CALIFORNIA PUBLIC
POWER AUTHORITY

Dated: _____

By:  _____
RONALD E. DAVIS
President

Attest:  _____
BILL D. CARNAHAN
Assistant Secretary

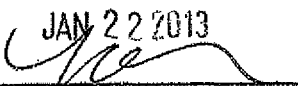
CITY OF LOS ANGELES acting by and through its
DEPARTMENT OF WATER AND POWER

Dated: _____

By: _____
RONALD O. NICHOLS
General Manager

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

And: _____
Secretary

JAN 22 2013

BY _____
LONNIE ELDRIDGE
DEPUTY CITY ATTORNEY

CONVENIENCE COPY
FOR INFORMATIONAL PURPOSES
OF "APPENDIX A OF THE
POWER SALES AGREEMENT"

APPENDIX A

DEFINITIONS

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

1. Act. All of the provisions contained in the California Joint Exercise of Powers Act found in Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California, beginning at California Government Code Section 6500 et seq., as amended from time to time
2. Annual Budget. The budget approved by the Coordinating Committee and adopted by SCPPA pursuant to Section 5.4.1 of this Agreement not less than thirty (30) days nor more than sixty (60) days prior to the beginning of each Power Supply Year, including any amendments thereto, which shall show a detailed estimate of the Total Monthly Costs under the Power Sales Agreements and all credits, charges, revenues, income, or other funds to be applied to such costs, for and applicable to such Power Supply Year.
3. Billing Statement. The written statement prepared or caused to be prepared each Month by, or on behalf of, SCPPA which shall be based upon certain of the information in the Annual Budget and shall show for such Month the amount to be paid to SCPPA by a Project Participant in accordance with the provisions of Section 7 of its Power Sales Agreement.
4. Board of Directors. The Board of Directors of the Southern California Public Power Authority.
5. Burbank. The City of Burbank, a California municipality.
6. Capacity. The ability or potential to generate, produce or transfer electricity, expressed in kilowatts ("kW") or megawatts ("MW"), including, when feasible, ancillary or regulating services or other valuable non-energy products or services from a generating facility.
7. Capacity Amount. "Capacity Amount" means, with respect to a Project Participant, such respective amount of Facility Capacity as is specified in Appendix B.
8. Capacity Rights. "Capacity Rights" means the rights, whether in existence as of the Effective Date or arising thereafter during the term of this Agreement, of SCPPA to Capacity of the Facility, including resource adequacy, associated attributes and/or reserves or any of the foregoing purchased by SCPPA under the Power Purchase Agreement.
9. Chairperson. "Chairperson" is as defined in Section 6.1.
10. Commercial Operation. "Commercial Operation" shall have the definition set forth in the Power Purchase Agreement.
11. Compliance. Following a Payment Default, a Defaulting Project Participant shall be in

compliance with its payment obligations under its Power Sales Agreement if it (i) no later than the last day of the Cure Period fully pays all amounts owed as reflected in any Default Invoice; (ii) pays any monthly Billing Statement which comes due during the Cure Period; and (iii) replenishes any reduction made to the applicable operating reserve account or the Reserve Fund as a result of any Payment Default.

12. Consent Agreements. All consents to assignments and all agreements relating thereto entered into with any lender, financial institution or other Person for the purpose of consenting to the assignment of the rights of the Power Purchase Provider under the Power Purchase Agreement.
13. Contract Price. "Contract Price" means the respective purchase prices, as provided in Appendix A to the Power Purchase Agreement, for Facility Output, Delivered Energy and Replacement Energy, Startup and Test Energy, or if Buyer elects to exercise its option to extend the Interim Option Period and the Commercial Operation Milestone Date by an additional three hundred sixty five (365) days, then for that extension period the price for Delivered Energy as provided in Section 3.9(c) of the Power Purchase Agreement, as applicable, delivered at the respective Points of Delivery.
14. Coordinating Committee. The Coordinating Committee established in accordance with Section 6 of this Agreement.
15. ORNI 47, LLC. ORNI 47, LLC, a Delaware limited liability company, or its successor.
16. Cost Share. "Cost Share" means and includes, with respect to any Project Participant, the Project Cost Share and the Delivery Point Output Cost Share, with respect to such Project Participant.
17. Cure Period. That period of time beginning on the date of a Payment Default and concluding thirty (30) days thereafter.
18. Cured Payment Default. A Payment Default which has been cured in accordance with Section 11.3 of this Agreement. If at any time during the Cure Period the Defaulting Project Participant is in Compliance, then the requirements of a Cured Payment Default shall be deemed to have been satisfied as of the date of receipt of such payments by SCPPA and the Cure Period shall expire.
19. Default Invoice. An invoice during the Payment Default Period and the Cure Period issued to a Defaulting Project Participant pursuant to Section 11 of this Agreement that identifies the total defaulted amount owed, including late payment interest, to achieve a Cured Payment Default. During the Cure Period, the Default Invoice shall also include the amount that must be paid to achieve Compliance.
20. Defaulting Project Participant. A Project Participant that causes a Payment Default which has not been remedied and where the Defaulting Project Participant has not affected a Cured Payment Default.

21. Delivered Energy. "Delivered Energy" shall have the definition set forth in the Power Purchase Agreement.
22. Delivery Point Output cost component. "Delivery Point Output cost component" is defined in Section 4.3.1.
23. Delivery Point Output Cost Share. "Delivery Point Output Cost Share" is defined in Section 4.1.
24. Delivery Term of the Power Purchase Agreement. The time period for the delivery of energy pursuant to the Power Purchase Agreement as set forth therein.
25. Designated Point of Delivery. "Designated Point of Delivery" means, at any time and with respect to a particular Project Participant, the Point of Delivery designated by such Project Participant at which such Project Participant is to receive Facility Output or Replacement Energy but only as allowed by and provided for in this Agreement and the Project Agreements. The Point of Delivery may entail the delivery of Energy at the interconnection facilities of the Power Purchase Provider located at the point of interconnection between the Facility's generation tie line and the Mead 230kV substation (which is specified as the Point of Delivery in the Power Purchase Agreement) or at such other point or points as the Coordinating Committee or the Board of Directors, consistent with the Project Agreements, should determine. If no other Point of Delivery should be designated and if neither the Coordinating Committee nor the Board of Directors determines a Point of Delivery, then the default Point of Delivery shall be the Point of Delivery as the same is defined and set forth in the Power Purchase Agreement.
26. Dynamic Scheduling. "Dynamic Scheduling" shall mean the automated scheduling of Energy from the Designated Point of Delivery with respect to a Project Participant to such Project Participant's control area or electric system, provided that said dynamic schedules adjust at four second intervals, or other intervals as specified by WECC, to match the amount of Energy actually delivered to such Designated Point of Delivery of the Project Participant from the Facility.
27. Energy. "Energy" shall have the definition set forth in the Power Purchase Agreement.
28. Environmental Attributes. "Environmental Attributes" shall have the definition set forth in the Power Purchase Agreement.
29. Excess Energy. "Excess Energy" shall have the definition set forth in the Power Purchase Agreement.
30. Facility. "Facility" means all of the facilities including those resources described or defined as the Facility, the Site, Permits and facilities referred to in the Power Purchase Agreement or such portions of these facilities, interests, assets and rights as are provided SCPPA by way of the Power Purchase Agreement and the other Power Purchase and Security Agreements.
31. Facility Capacity. "Facility Capacity" shall have the meaning provided in the Power Purchase Agreement.

32. Facility Energy. "Facility Energy" shall have the definition set forth in the Power Purchase Agreement.
33. Facility Credit Agreements. All agreements, assignments and security related documents associated with the financing of the Facility, or of the rights or interests held in connection with the Facility, by the Power Purchase Provider or any of its affiliates and any other agreements or documents providing for security for the performance of the obligations of the Power Purchase Provider.
34. Facility Lender. "Facility Lender" shall have the definition set forth in the Power Purchase Agreement.
35. Facility Output. All output, rights, and other tangible or intangible benefits, whatsoever, derived from the Facility and received by SCPPA, including without limitation, all Energy (including Facility Energy, Delivered Energy and Excess Energy as defined in the Power Purchase Agreement), Capacity Rights and Environmental Attributes, whether received by SCPPA under or pursuant to the Power Purchase Agreement or other applicable Project Agreement.
36. Fiscal Year. The twelve-month period commencing at 12:01 a.m. on July 1 of each year and ending at 12:01 a.m. on the following July 1, or such other time frame as determined by the Coordinating Committee or Board of Directors.
37. Force Majeure. "Force Majeure" shall have the definition set forth in the Power Purchase Agreement.
38. Guaranteed Generation. "Guaranteed Generation" shall have the definition set forth in the Power Purchase Agreement.
39. Initial Payment Default Date. The earlier of (i) the end of the fifth day following the first Payment Default for which no remedy in payment has occurred and been received by SCPPA, or (ii) the last day of the Month in which the first Payment Default has occurred for which no remedy in payment has occurred and been received by SCPPA.
40. Joint Powers Agreement. The "Southern California Public Power Authority Joint Powers Agreement" dated as of November 1, 1980, as amended and modified from time to time, entered into pursuant to the provisions of the Act, among SCPPA and its members.
41. LADWP. The City of Los Angeles acting by and through the Department of Water and Power.
42. Major Contracts. The Project Agreements and, to the extent not finalized or effective on the effective date of an applicable project management agreement, any other contract or agreement so identified by the Coordinating Committee or the Board of Directors, as such contracts or agreements may be amended or supplemented from time to time.
43. Milestone. "Milestone" shall have the definition set forth in the Power Purchase Agreement.

44. Month. A calendar month.
45. Monthly Costs. "Monthly Costs" is defined in Section 7.1.
46. Operating Budget. The operating budget approved by the Board of Directors, which shall show a detailed estimate of all Project operating costs, including all revenues, income or other funds to be applied to such operating costs, for and applicable to a Power Supply Year.
47. Operating Reserve Depletion Date. The date that is two Months prior to the date on which SCPPA anticipates, assuming continued Payment Defaults by one or more Defaulting Project Participants, that the moneys in the operating reserve account held at any time by SCPPA will be fully depleted; provided, however, if as of the date on which a Payment Default occurs SCPPA determines that the moneys in the operating reserve account held by SCPPA will be fully depleted in less than two Months (or currently are fully depleted), then the Operating Reserve Depletion Date shall be deemed to have occurred when such a Payment Default occurs.
48. Output Entitlement Share. With respect to a particular Project Participant and during each Power Supply Year, the percentage entitlement, as set forth for such Project Participant in Appendix B of this Agreement, of the Facility Output or, if applicable, the Replacement Energy, delivered at such Project Participant's Designated Point of Delivery. The Output Entitlement Share of such Project Participant may be adjusted in connection with a revision of Appendix B as provided in and subject to the provisions of Sections 16.
49. Participants. The Project Participants.
50. Payment Default. A failure by a Project Participant to pay when due all of its Billing Statement for any Month.
51. Payment Default Period. That period of time during which a Payment Default exists.
52. Performance Security. "Performance Security" shall have the definition set forth in the Power Purchase Agreement.
53. Permit. "Permit(s)" shall have the definition set forth in the Power Purchase Agreement.
54. Person. "Person" means any individual, corporation, partnership, joint venture, limited liability company, association, joint stock company, trust, unincorporated organization, entity, government or other political subdivision.
55. Point(s) of Delivery. Point(s) of Delivery shall have the definition set forth in the Power Purchase Agreement.
56. Point(s) of Delivery Allocable Share. With respect to a particular Project Participant, the percentage share, as set forth for such Project Participant in Appendix C hereof, of the Facility Output at the Point of Delivery. The Point of Delivery Allocable Share of such Project Participant may be adjusted, but only in accordance with the terms and conditions of this

Agreement, as provided for in connection with a revision of Appendix C as provided in and subject to the provisions of Section 16.

57. Power Purchase Agreement. The Power Purchase Agreement between Southern California Public Power Authority and ORNI 47, LLC, dated as of December 31, 2012, attached hereto in substantial form as Appendix D, as the same may be revised, modified or otherwise amended from time to time.
58. Power Purchase Agreement General and Administrative cost component. “Power Purchase Agreement General and Administrative cost component” is defined in Section 4.3.2.
59. Power Purchase and Security Agreements. The Power Purchase Agreement, the Security Instruments, Consent Agreements, Facility Credit Agreements, and any other consent to assignment or other agreement with any financial institution or Person relating to the Wild Rose Geothermal Energy Project or the Facility or any loan or other credit agreement associated with the Wild Rose Geothermal Energy Project or the Facility, or the Power Purchase Agreement. The Power Purchase and Security Agreements shall also include any instrument or form of security which affords any opportunity for the purchase of the Facility or acquisition, whether through foreclosure, or otherwise, Facility Credit Agreement or any other mortgage, Security Instrument, assignment, beneficial interest, collateral instrument or other device or mechanism providing for the ability to acquire the ORNI47, LLC Wild Rose Geothermal Energy Project or the Facility or an ownership interest therein.
60. Power Purchase Provider. ORNI 47, LLC as the counterparty to SCPPA under the Power Purchase Agreement, and the entity named under any applicable operating agreement to operate or otherwise run or manage the Facility, along with each of their successors, or any successors or assigns to the rights of these entities.
61. Power Sales Agreements. The Wild Rose Geothermal Energy Project Power Sales Agreements, dated for convenience as of December 31, 2012, as the same may hereafter be amended from time to time, entered into by SCPPA and each of the Project Participants for, among other things, the acquisition of the Output Entitlement Shares and other project related acquisitions.
62. Power Supply Year. The Fiscal Year, except that the first Power Supply Year shall begin on the first to occur of (i) the date SCPPA is obligated to pay any portion of the costs of the Project, (ii) the date of Commercial Operation of the Facility, or (iii) the date of the first delivery of Energy to Purchaser pursuant to this Agreement.
63. Project Cost Share. “Project Cost Share” is defined in Section 4.4.
64. Project or Wild Rose Geothermal Energy Project. The term “Project” or “Wild Rose Geothermal Energy Project” shall be broadly construed to entail the aggregate of rights, liabilities, interests and obligations of SCPPA pursuant to the Power Purchase Agreement, the Power Purchase and Security Agreements and the other Project Agreements, including but not limited to the rights, liabilities, interests and obligations associated with the Facility

Output. The term Project shall also include those rights, liabilities, interests or obligations necessary or appropriate to carry out the functions specified in Section 6 and to utilize or deliver the Energy of the Facility as specified in Section 9.

65. Project Agreements. Any project management agreement, the Power Sales Agreements, each of the Power Purchase and Security Agreements, any operation and management agreement, other contracts for the purchase, procurement, delivery or transmission of Facility Output, and including the rights and interests under the Facility Credit Agreements or any other consents to assignments or agreements for assignment, any inter-creditor agreement, or any other agreements for scheduling, dispatching, tagging, movement or transmission of Facility Output, agreements to which SCPPA is a party relating to the administration or management of the Project.
66. Project Manager. SCPPA or a designee or designees appointed by SCPPA to assist SCPPA to carry out SCPPA's responsibilities under the Power Sales Agreements, among other things.
67. Project Participant(s). Those entities executing Power Sales Agreements, together in each case with each entity's successors or assigns, identified as "Project Participants" in Appendix B of the Power Sales Agreements or Appendix C of the Power Sales Agreements and such additional entities executing Power Sales Agreements as may be added by way of a revision of Appendices A, B or C under the terms of this Agreement.
68. Project Rights. All rights and privileges of a Project Participant under its Power Sales Agreement, including but not limited to its Output Entitlement Share, its right to receive Facility Output from the Facility, and its right to vote on Coordinating Committee matters.
69. Project Rights and Obligations. Purchaser's Project Rights and obligations under the terms of this Agreement.
70. Prudent Utility Practices. "Prudent Utility Practices" shall have the meaning provided in the Power Purchase Agreement.
71. Renewable Electric Energy Resource Project. The aggregate of SCPPA's endeavors to acquire renewable energy and capacity and to facilitate acquisition of renewable electric generation and the means to deliver such generation either by way of the development agreement for the Renewable Electric Resource Project as described in Section 2.2 herein
72. Replacement Energy. "Replacement Energy" shall have the meaning provided in the Power Purchase Agreement.
73. Reserve Fund cost component. "Reserve Fund cost component" is defined in Section 4.3.3.
74. Reserve Fund(s). Those reserve accounts deemed appropriate to afford a reliable source of funds for the payment obligations of the Project and, taking into account the variability of costs associated with the Project for the purpose of providing a reliable payment mechanism to address the ongoing costs associated with the Project.

75. Security and Assignment Agreements. The agreements and instruments entered into by the Power Purchase Provider or any affiliate thereof and, where applicable, SCPPA, including the Performance Security, and the agreements, instruments and mechanisms referenced or set forth in the Power Purchase Agreement to, among other things, secure certain performance requirements.
76. Security Instruments. The Security and Assignment Agreements, the Performance Security, the Facility Credit Agreements or other arrangement or agreement with the Facility Lender following a purchase of the rights and interests thereunder by SCPPA if applicable, and any and all instruments, agreements, assignments, mortgages, deeds of trusts or conveyances or other collateral arrangements entered into to secure the performance of the Power Purchase Provider or any affiliate thereof under the Power Purchase Agreement or any other of the Power Purchase and Security Agreements, or any lease or interest in real property used by or affecting the Facility, including without limitation any security interest conveyed by way of the Power Purchase Agreement or other agreement or instrument relating to the Project or any Project matter creating a security interest enforceable by SCPPA.
77. Site. "Site" shall have the definition set forth in the Power Purchase Agreement
78. Step-Up Invoice. An invoice sent to a non-Defaulting Project Participant as a result of one or more Payment Defaults, which invoice shall separately identify any amount owed with respect to the monthly Billing Statement of one or more Defaulting Project Participants for, as the case may be, pursuant to Section 11.8.1 herein, the Total Monthly Costs reflected in the Defaulting Project Participant(s) unpaid monthly Billing Statement.
79. Study Project. "Study Project" has the meaning provided in the Joint Powers Agreement.
80. Supplementary Services. Those services in connection with the delivery of Energy involving additional transmission, interconnection arrangements, energy management, energy balancing, dispatching, tagging, scheduling, Dynamic Scheduling, transmitting, interconnecting, swapping, exchanging or other services associated with the transmission, use or disposition of Facility Output to be utilized by the Project Participants under the Power Sales Agreements, and to otherwise provide for delivery and facilitate the disposition, movement, taking, receiving, accounting for, transferring and crediting the transfer of Facility Output from the respective Points of Delivery to any other points or destinations, as determined by the Project Participants. Supplementary Services include but are not limited to delivery point swaps, stranded energy/transmission curtailments, tie-point liquidity improvement, transmission loss savings, tie-point price spread optimization, on-peak/off-peak exchanges, peak shifting exchanges, seasonal exchanges, and both simultaneous or non-simultaneous green energy exchanges.
81. Supplementary Services cost component. "Supplementary Services cost component" is defined in Section 4.3.4.
82. Total Monthly Costs. "Total Monthly Costs" has the meaning described in Section 4.2.
83. Uncontrollable Forces. Any Force Majeure event and any cause beyond the control of any

Party, and which by the exercise of due diligence such Party is unable to prevent or overcome, including but not limited to, failure or refusal of any other Person to comply with then existing contracts, an act of God, fire, flood, explosion, earthquake, strike, sabotage, pestilence, an act of the public enemy (including terrorism), civil or military authority including court orders, injunctions and orders of governmental agencies with proper jurisdiction or the failure of such agencies to act, insurrection or riot, an act of the elements, failure of equipment, a failure of any governmental entity to issue a requested order, license or permit, inability of any Party or any Person engaged in work on the Project to obtain or ship materials or equipment because of the effect of similar causes on suppliers or carriers. Notwithstanding the foregoing, Uncontrollable Forces as defined herein shall also include events of Force Majeure pursuant to the Power Purchase Agreement, as defined therein.

84. WECC. The Western Electricity Coordinating Council or its successor.