

COMPETTIVE OFFER POWER PURCHASE AGREEMENT

BETWEEN

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

AND

HECATE ENERGY FIT "A" LLC

DATED AS OF JUNE 3, 2014

LADWP No. BP 14-009

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COMPETITIVE OFFER POWER PURCHASE AGREEMENT

THIS COMPETITIVE OFFER POWER PURCHASE AGREEMENT ("*Agreement*") for a maximum Capacity of 14 megawatts of local renewable energy is entered into as of the Effective Date by and between the City of Los Angeles acting by and through the Department of Water and Power ("*Buyer*" or "*LADWP*"), a municipal corporation of the State of California, and Hecate Energy FIT "A" LLC ("*Seller*"), a limited liability company organized and existing under the laws of the State of Delaware. 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, LADWP is subject to a "Renewables Portfolio Standard" designed to increase the amount of electricity it provides to its retail customers from renewable sources to at least 33% of its retail electricity sales by December 31, 2020; and

WHEREAS, LADWP now seeks to purchase Energy generated by an Eligible Renewable Energy Facility located within the LADWP service territory; and

WHEREAS, Seller shall obtain Site Control over Sites located within the City of Los Angeles portion of the LADWP service territory suitable for an Eligible Renewable Energy Facility; and

WHEREAS, Seller desires to build, own, and operate at its own expense Eligible Renewable Energy Facilities located entirely on such Sites and sell all the Energy generated together with all associated Capacity Rights and Environmental Attributes to LADWP; and

WHEREAS, the Parties desire to set forth the terms and conditions pursuant to which such sales and purchases of Energy, Capacity Rights and Environmental Attributes shall be made;

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

ARTICLE I DEFINITIONS AND INTERPRETATION

Section 1.1 Definitions. The following capitalized terms in this Agreement and the appendices hereto shall have the following meanings:

"*Agreement*" means this Competitive Offer Power Purchase Agreement, as it may be amended, supplemented or otherwise modified from time to time hereafter in accordance with its terms.

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

"*Ancillary Documents*" means the Interconnection Agreement, the Performance Security and all other instruments, agreements, certificates and documents executed or delivered by or on behalf of either Party pursuant to or in connection with this Agreement.

"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 12.1.

"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) Business Days.

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

"Buyer's Agent" means any 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's Board of Commissioners" or "Board" means Board of Water and Power Commissioners of the City of Los Angeles created pursuant to Sections 600 and 670 of the Charter of the City of Los Angeles, as amended.

"CAMD" means the Clean Air Markets Division of the United States Environmental Protection Agency, any successor agency and any other state, regional, 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" means, for solar photovoltaic technologies, the CEC-AC system rating as set forth in Appendix D for each Facility.

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

"CEC" means the California Energy Resources Conservation and Development Commission, also known as the California Energy Commission, or its successor agency.

"CEC-AC" means the solar photovoltaic system alternating current rating based upon the product of the Photovoltaics for Utility Scale Applications (PVUSA) Test Conditions rating of the module, module quantity, and the inverter efficiency.

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

"Change in Control" means the occurrence, whether in a single transaction or in a series of related transactions, of any one or more of the following: (i) a merger or consolidation of Seller or Parent Entit(ies) with or into any other Person, or any other merger, consolidation, or reorganization in which the members of Seller or Parent Entit(ies) immediately prior to such consolidation, merger, or reorganization, own less than fifty percent (50%) of the equity ownership of the surviving entity or cease to have the power to control the management and policies of the surviving entity immediately after such consolidation, merger, or reorganization; (ii) any transaction or series of related transactions in which in excess of fifty percent (50%) of the equity ownership of Seller or Parent Entit(ies), or the power to control the management and policies of Seller or Parent Entit(ies) is transferred to another Person; (iii) any sale, lease, or other disposition of all or substantially all of the assets of Seller or Parent Entit(ies); (iv) the dissolution or liquidation of Seller or Parent Entit(ies); or (v) any transaction or series of related transactions that has the substantial effect of any one or more of the foregoing; *provided*, however, that a Change in Control shall not include any transaction or series of transactions in which the membership interests in Seller or Parent Entit(ies) are issued or transferred to another Person solely for the purpose of a Tax Equity Financing; and *provided further* that a Change in Control shall not include a Sale-Leaseback. Seller shall provide written notice to Buyer twenty (20) Business Days prior to the occurrence of any of the foregoing transactions or series of transactions with respect to any parent entity holding directly or indirectly at least fifty percent (50%) of the equity ownership or the power to control the management and policies of Seller.

"Commercial Operation" means all of the following have been satisfied by Seller:

- (a) Construction of the Facility has been completed in accordance with the terms and conditions of this Agreement and the Facility possesses all the characteristics, and satisfies all of the requirements, set forth for this Facility in this Agreement;
- (b) The Seller achieved site control in the form of: (i) ownership of the Site; or (ii) a lease from the Site owner, which permits Seller to perform its obligations under this Agreement;
- (c) The Facility has successfully completed all testing required by Prudent Utility Practices or any Requirement of Law to be completed prior to full commercial operations;
- (d) Seller has obtained all Permits required for the construction, operation and maintenance of the Facility in accordance with this Agreement (including those identified in Appendix D), and all such Permits are final and non-appealable;
- (e) The Facility is both authorized and able to operate and deliver Energy at full Capacity in accordance with Prudent Utility Practices, the requirements of this Agreement and all Requirements of Law; and
- (f) Seller has caused the CEC to pre-certify or certify the Facility as RPS Compliant.

“Commercial Operation Date” means the date on which Seller demonstrates to Buyer’s reasonable satisfaction that Commercial Operation has occurred pursuant to the procedure set forth in Section 3.5.

“Commercial Operation Deadline” means that each Facility has achieved a Commercial Operation Date in accordance with and no later than the schedule set forth in Section 3.4.

“Contract Year” means (i) the twelve-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 consecutive months following the period described in the preceding clause (i).

“Default” has the meaning set forth in Section 11.1.

“Defaulting Party” has the meaning set forth in Section 11.1.

“Delivery Term” has the meaning set forth in Section 2.2.

“Effective Date” means the date LADWP executes this Agreement, so long as the conditions precedent set forth in Section 2.1 have been met by such date.

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

“Electric Service Requirements” means all requirements prescribed in writing by LADWP in effect at the time this Agreement is executed, and all revisions thereto or replacements thereof, which are necessary and proper for the regulation of any electric service installed, operated, and maintained within the City of Los Angeles. The Electric Service Requirements shall be in conformance with the Charter of the City of Los Angeles and the Rules.

“Eligible Renewable Energy Facility” means an electric generation facility that complies with the requirements of Section 387.6 of the Public Utilities Code or any successor thereto.

“Energy” means electrical energy.

“Environmental Attributes” means any and all current or future fuel, emissions, air quality, or other environmental characteristics, credits, benefits, reductions, offsets, or allowances, howsoever entitled, named, registered, created, measured, allocated, or validated, 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 that are attributable to Facility Energy and the emissions or other environmental characteristics of such generation or its displacement of conventional fossil fuel Energy generation, including the avoidance of the emission of any gas, chemical, or other substance to the air, soil or water. Environmental Attributes include:

- (a) any REC or Renewable Energy Certificate;

- (b) any environmental attributes arising out of legislation or regulation concerned with oxides of nitrogen, sulfur, carbon, or any other greenhouse gas or chemical compound, with particulate matter, soot, or mercury;
- (c) any environmental attributes arising out of legislation or regulation implementing the United Nations Framework Convention on Climate Change (the "UNFCCC"), or the Kyoto Protocol to the UNFCCC;
- (d) any environmental attributes arising out of California's greenhouse gas legislation and regulations, including California Assembly Bill 32 (Global Warming Solutions Act of 2006) and the regulations implemented pursuant to that act, including compliance instruments accepted under the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms regulation (or any successors thereto);
- (e) any environmental attributes arising out of any similar international, federal, state or local program;
- (f) any environmental attributes arising out of laws or regulations involving or administered by the CAMD, any successor agency and any similar state, regional or federal or intergovernmental entity or Person; and
- (g) all rights to report to any Person, and claim ownership of, the Environmental Attributes, including all evidences (if any) thereof such as RECs.

Environmental Attributes do not include any federal or state production tax credits. Environmental Attributes for purposes of this definition are separate from the Energy produced from the Facility.

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

"**EPS Compliant**," when used with respect to the Facility at any time, means that the Facility satisfies the greenhouse gas emissions performance standard(s) applying at that time to electric generation Facilities owned or operated (or both) by local publicly owned electric utilities, as established by the Governmental Authorities with jurisdiction over Buyer.

"**Facility**" means Eligible Renewable Energy Facilities, including all property interests and related transmission and other Facilities described in Appendix D.

"**Facility Energy**" means Energy generated by the Facility and delivered to the Point of Delivery that qualifies for a Renewable Energy Certificate.

"**Facility Lender**" means any lender providing senior or subordinated construction, interim or long-term debt financing or refinancing for or in connection with the development, construction, purchase, installation or operation of the Facility.

"**FERC**" means the Federal Energy Regulatory Commission or any successor agency thereto.

"Force Majeure" means any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, wildland fire or firestorm, storm or flood, or any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities (i) which prevents one Party from performing any of its obligations under this Agreement, (ii) which could not reasonably be anticipated as of the date of this Agreement, (iii) which is not within the reasonable control of, or the result of negligence, or failure to maintain a Facility, willful misconduct, breach of contract, intentional act, omission, or wrongdoing on the part of the affected Party, and (iv) which despite the exercise of reasonable efforts the affected Party is unable to overcome or avoid or cause to be avoided.

"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.

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

"Interconnection Agreement" means LADWP's "STANDARD OFFER FOR CUSTOMER GENERATION INTERCONNECTION AGREEMENT" as set forth in Appendix G, as amended, supplemented or otherwise modified from time to time.

"kWh" means kilowatt-hours.

"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.

"Los Angeles City Attorney" means Buyer's Counsel as provided under the Charter of the City of Los Angeles Section 270, *et. seq.* or any successor.

"MWh" means megawatt-hours.

"NERC" means the North American Electric Reliability Corporation and any successor thereto.

"Non-Defaulting Party" has the meaning set forth in Section 11.3.

"Pacific Prevailing Time" means the local time in Los Angeles, California.

"Performance Security" means the performance security described in Section 3.6 that is required to be provided by Seller to Buyer.

"Permit" means all applications, permits, licenses, franchises, certificates, concessions, consents, authorizations, certifications, self-certifications or approvals which are required to be filed, submitted, obtained or maintained by any Person with respect to the development, construction, equipping, financing, ownership, operation or maintenance of the Facility, the

production, sale 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).

"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, when used with respect to any Energy sold and purchased under this Agreement, the point where that Energy for each Facility is required to be delivered by Seller to Buyer under this Agreement, as set forth in Appendix D.

"Power Revenue Fund" means the fund in the City of Los Angeles' treasury known as the "Power Revenue Fund" to which all revenue from every source collected by LADWP in connection with its possession, management and control of the power assets is required to be deposited and credited.

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

"Public Utilities Code" means the Public Utilities Code of the State of California.

"Purchase Price" is defined in Appendix C.

"REC" or "Renewable Energy Certificate" means a tradable environmental commodity that represents proof, in accordance with the WREGIS Operating Rules or any successor, that one (1) megawatt-hour (MWh) of energy was generated from an eligible renewable energy resource, as defined in Section 399.12 of the Public Utilities Code or any successor thereto.

"Renewables Portfolio Standard" means the procurement targets for eligible renewable energy resources Buyer is required to implement under Section 399.30 of the Public Utilities Code or any successor thereto.

"Requirement of Law" means the Rules, the Electric Service Requirements, the COPPA Fulfillment Rules in Appendix A, all 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 (including those pertaining to electrical, building, zoning, environmental, and occupational safety and health requirements).

"RPS Compliant," when used with respect to the Facility at any time, means that all Energy generated by that Facility at that time would, if purchased by Buyer together with the associated Environmental Attributes (including RECs), be eligible to be credited against the Renewables Portfolio Standard.

"Rules" means The Rules Governing Electric Service in the City of Los Angeles adopted by the Board under Resolution No. 56, dated September 8, 1983, and all amendments, revisions, and replacements thereof.

"Sale-Leaseback" means any transaction or series of transactions pursuant to which: (i) Seller sells, transfers or otherwise disposes of any property, real or personal, whether now owned or hereafter acquired, constituting all or part of the Facility to any Person; and (ii) as part of that transaction, such Person advances funds to Seller and leases such property or other property to Seller for use for substantially the same purpose or purposes as the property being sold, transferred or disposed, and for a term that equals or exceeds the Agreement Term; and (iii) Seller continues to perform, or contracts for the performance of, the operation and maintenance of the Facility required by this Agreement.

"Site" means the real property or properties (including all fixtures and appurtenances thereto) and related physical and intangible property generally identified in Appendix D as owned or leased by Seller where a 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 and/or roadways servicing such Site or the Facility located (or to be located) thereon.

"Site Control" means that Seller shall: (i) own the Site(s); or (ii) be the lessee of the Site(s) under a lease, which permits Seller to perform its obligations under this Agreement.

"Station Service" means the electric supply for the ancillary equipment used to operate a generating station or substation.

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

"Tax Equity Financing" means, with respect to Seller or Parent Entit(ies), any transaction or series of transactions resulting in (i) more than fifty percent (50%) and less than one hundred percent (100%) of the membership interests of Seller or Parent Entit(ies), as applicable, being issued or otherwise provided to another Person (a "Tax Equity Investor") in exchange for capital contributions to Seller or Parent Entit(ies), as applicable; (ii) the Tax Equity Investor being allocated a necessary share of profits and losses of Seller or Parent Entit(ies), as applicable, to achieve the associated allocations of tax attributes to the Tax Equity Investor; and (iii) the Tax Equity Investor being granted only such management responsibilities in Seller or Parent Entit(ies), as applicable, as are reasonably satisfactory to Buyer.

"Tax Equity Investor" has the meaning set forth in the definition of Tax Equity Financing.

"WECC" means the Western Electricity Coordinating Council and any successor entity thereto.

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

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

Other terms defined herein have the meanings so given them in this Agreement.

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 agreement (including this Agreement), document, instrument or tariff means such agreement, document, instrument or tariff as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof;
- (d) 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;
- (e) "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;
- (f) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term;
- (g) reference to time shall always refer to Pacific Prevailing Time; and reference to any "day" shall mean a calendar day unless otherwise indicated.

ARTICLE II EFFECTIVE DATE, TERM, AND EARLY TERMINATION

Section 2.1 Effective Date. Subject to Section 3.2, this Agreement is effective as of the Effective Date. On or prior to the Effective Date, each of the following must have occurred:

- (a) Buyer received copies of all requisite resolutions and incumbency certificates of Seller and any other documents evidencing all actions taken by Seller to authorize the execution and delivery of this Agreement and all Ancillary Documents to which it is a party;
- (b) Buyer has obtained all necessary approvals (if any) of Buyer's Board of Commissioners and/or the Los Angeles City Council, if applicable;
- (c) Buyer received the Performance Security as set forth in Section 3.6.
- (d) Buyer received all required business compliance forms in accordance with Section 12.22.

Section 2.2 Agreement Term and Delivery Term. The term of this Agreement (the "**Agreement Term**") shall commence on the Effective Date and shall end upon the expiration or earlier termination of this Agreement in accordance with the terms hereof. The Facilities under this Agreement shall have a delivery term (the "**Delivery Term**") of twenty (20) Contract Years commencing on the Commercial Operation Date of each Facility and ending on the twentieth (20th) anniversary thereof, unless sooner terminated in accordance with the terms of this Agreement. Notwithstanding Section 2.3, this Agreement shall expire at the end of the Delivery Term of the latest delivery term of the Facilities.

Section 2.3 Survivability. The provisions of this Article II, Article X, and Article XI shall survive for a period of one year following the termination of this Agreement. The provisions of Article IX shall survive for a period of four (4) years following final payment made by Buyer hereunder or the expiration or termination date of this Agreement, whichever is later. The provisions of Article V, Article VI, and Article VIII shall continue in effect after termination to the extent necessary to provide for final billing and adjustments related to the period prior to termination of this Agreement.

Section 2.4 Early Termination. This Agreement may be terminated (i) by mutual written agreement of the Parties, (ii) when and as provided in Section 3.2, (iii) upon the occurrence of a Default, the Non-Defaulting Party may terminate this Agreement as set forth in Section 11.3, (iv) when and as provided in Section 12.22, or (v) by Buyer, in its sole discretion, (a) upon notice to Seller if Seller fails to achieve Commercial Operation on or before the Commercial Operation Deadline, without exception, suspension or extension for reasons of Force Majeure or otherwise, (b) if Seller abandons the Facility, (c) if electric output from the Facility ceases for twelve (12) consecutive months, (d) if Seller or the owner of the Site applies for or participates in any net metering program or receives ratepayer-funded on-site generation incentives for the Facility, or (e) if Facility consumes more than 10% of its Facility Energy delivery as measured by the Electric Metering Device. Upon termination of this Agreement, Seller shall disconnect the Facility from LADWP's distribution system at Seller's expense. Any termination of this Agreement under this Section shall be without prejudice to the rights and remedies of either Party for Defaults occurring prior to such termination.

**ARTICLE III
DEVELOPMENT OF THE FACILITY**

Section 3.1 Design and Permitting. Seller shall determine the proposed location, design, configuration and capacities of the Facility as it deems appropriate, subject only to the requirements of this Agreement and all applicable Requirements of Law. Seller, at its expense, shall timely take all steps necessary to obtain all Permits required to construct, maintain or operate the Facility and for the production, sale and delivery of Energy and Environmental Attributes in accordance with the requirements of this Agreement and all applicable Requirements of Law. Seller shall represent the Facility as necessary in all meetings with and proceedings before all Governmental Authorities.

Section 3.2 CEQA Determinations. Any CEQA requirements for creation of a Facility shall be the responsibility of Seller. The Parties acknowledge and agree that Buyer reserves all of its rights and powers under CEQA that may be applicable, including the power to: (i) review the Facility and its environmental impacts; (ii) prepare and/or review environmental documents and studies; (iii) adopt feasible mitigation measures and/or alternatives in order to avoid or lessen any significant environmental impacts resulting from the project(s); (iv) determine that any significant impacts that cannot be mitigated are acceptable due to overriding considerations; and (v) decide to terminate this Agreement due to any significant adverse environmental effects resulting from the Facility. The parties therefore acknowledge and agree that Buyer has no obligation to purchase Energy under this Agreement until all of the following have occurred: (i) any applicable CEQA review has been completed; (ii) Buyer has decided, based on that review, to approve the purchase of Energy from the Facility; and (iii) the applicable period for any legal challenges under CEQA relating to the Facility has expired without any such challenge having been filed or, in the event of any such challenge, the challenge has been determined adversely to the challenger by final judgment or settlement. If Buyer, based upon its independent review of the Facility under CEQA, decides not to approve the purchase of Energy from the Facility and to terminate this Agreement, due to significant adverse environmental effects from the Facility, Buyer will give Seller notice thereof and this Agreement will terminate upon the giving of such notice.

Section 3.3 Construction and Ownership of the Facility. Seller shall use reasonable and diligent efforts to site, develop, finance and construct the Facility. The Facility shall be owned by Seller during the Agreement Term, subject to Section 12.6. Seller shall develop the Facility, at its sole risk and expense, and in compliance with the requirements of this Agreement, Buyer's interconnection requirements, and all applicable Requirements of Law and Prudent Utility Practices.

Section 3.4 Commercial Operation Schedule. Each Facility must achieve Commercial Operation in accordance with the fulfillment rules in Appendix A. Seller shall provide Buyer with certification demonstrating that each individual Facility has reached Commercial Operation. The Commercial Operation Deadline for Facilities shall meet the following milestone schedule:

Milestone I – 4 megawatts of Facilities with each Facility having a Commercial Operation Deadline of June 30, 2015

Milestone II – 5 megawatts of Facilities with each Facility having a Commercial Operation Deadline of March 31, 2016

Milestone III – 5 megawatts of Facilities with each Facility having a Commercial Operation Deadline of December 31, 2016

Section 3.5 Certification of Commercial Operation Date. Seller shall provide Buyer with a notice when Seller believes that all requirements to achieving Commercial Operation of each Facility as specified in the definition of “Commercial Operation” in Section 1.1 have been satisfied.

Section 3.6 Performance Security. Seller shall provide an irrevocable letter of credit in the amount of \$200 for each kilowatt of the total Agreement Capacity to Buyer on or prior to the Effective Date. Seller will be required to reach installment milestones of 4 megawatts by June 30, 2015, 5 megawatts by March 31, 2016, and 5 megawatts by December 31, 2016. If milestones are not met, liquidated damages funded by the performance security will be collected, prorated based on the kW not installed by the developer. If the kilowatt milestones are not met for any particular milestone, those kilowatts that do not achieve Commercial Operation will be forfeited for the remainder of the Agreement. If no kW are installed for Milestone II, the remaining performance security will be forfeited and the Seller will forfeit the right to further sell energy for the all remaining Capacity under this Agreement. Notwithstanding anything in this Section 3.6, Buyer may grant Seller a six months extension for Milestone I obligations if delays are caused by Buyer. After all performance security due to Buyer, if any, is received by Buyer as a result of the completion of the installment milestone process described in this Section 3.6 for all three milestones, Seller has no further obligation to maintain any letter of credit or other performance security for the remainder of the Agreement Term.

ARTICLE IV OPERATION AND MAINTENANCE OF THE FACILITY

Section 4.1 Compliance with Electrical Service Requirements. Seller shall, at its sole expense, operate and maintain all Facilities (i) in accordance with Prudent Utility Practices, the requirements of this Agreement, Buyer’s interconnection requirements, and all applicable Requirements of Law, and (ii) in a manner that is reasonably likely to maximize the output of Energy and Environmental Attributes from the Facility and result in a useful life for the Facility of not less than the Agreement Term.

Section 4.2 General Operational Requirements. In addition to the requirements set forth in Section 4.1 and elsewhere in this Agreement, Seller shall, at all times: (i) employ qualified and trained personnel for operating and maintaining the Facilities, (ii) operate and maintain all Facilities with due regard for the safety, security and reliability of the interconnected Facilities, LADWP’s distribution system, and (iii) comply with operating and maintenance standards recommended by, and required by, the Facility’s equipment suppliers.

Section 4.3 Operation and Maintenance Plan. Seller shall devise and implement a plan of inspection, maintenance, and repair for all Facilities 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.

Section 4.4 Outages. Seller shall notify Buyer as soon as Seller becomes aware of any current or planned outage at any Facility reasonably expected to last longer than thirty (30) Business Days. Seller shall take all reasonable measures and exercise commercially reasonable efforts to avoid outages and to limit the duration and extent of any outages. Seller shall promptly notify Buyer of any material damage or destruction affecting the Facility or of the institution of any proceeding for the condemnation or other taking of the Facility and shall keep Buyer apprised on the effect thereof on the ability of the Facility to deliver Facility Energy.

ARTICLE V COMPLIANCE DURING CONSTRUCTION AND OPERATION PERIOD

Section 5.1 The Facility. Seller warrants and guarantees that it will perform, or cause to be performed, all engineering, design and construction in a good and workmanlike manner and in accordance with applicable standards, Prudent Utility Practices, all applicable Requirements of Law and all other requirements of this Agreement. Seller also warrants and guarantees that throughout the Agreement Term Seller shall monitor the operation and maintenance of all facilities and that said operation and maintenance will be, in full compliance with all applicable standards, Prudent Utility Practices, Requirements of Law and other provisions of this Agreement. Without limiting the foregoing, Seller shall promptly repair and/or replace, consistent with Prudent Utility Practice, any component of the Facility that may be damaged or destroyed or otherwise not operating properly and efficiently.

Section 5.1.1 Buyer's Right to Monitor in General. Buyer shall have the right and Seller shall permit Buyer and its representatives, advisors, engineers and consultants to observe, inspect and monitor all operations and activities at the Facility Site.

Section 5.1.2 Startup and Testing. Prior to the Commercial Operation Date and as a condition precedent to the achievement of the Commercial Operation Date, Buyer shall have the right to (i) review and monitor the performance and achievement of all initial performance tests and all other tests required under the Facility construction contracts that must be performed in order to achieve completion; (ii) be present to witness such initial performance tests and review the results thereof; and (iii) perform such detailed examinations, inspections, quality surveillance and tests as, in the judgment of Buyer, are appropriate and advisable to determine that all components of the Facility have been installed in accordance with this Agreement.

Section 5.2 Compliance with Standards; Insurance. Seller shall cause all Facilities and all parts thereof to be designed, constructed, tested, operated and maintained to meet all of the requirements of this Agreement, all applicable Requirements of Law, all applicable requirements of the latest revision of the American Society for Testing and Materials, American Society of Mechanical Engineers, American Welding Society, EPA, Edison Electric Institute, Institute of Electrical and Electronics Engineers, Instrument Society of America, National

Electrical Code, National Electric Safety Code, Occupational Safety & Health Administration, California Occupational Safety & Health Administration, as applicable, Uniform Building Code, Uniform Plumbing Code, and the applicable local County Fire Department Standards of the applicable county, and any successors thereto. For each Facility Seller shall obtain and maintain, at its sole cost and expense, the Insurance coverage listed in Appendix F and shall refrain from taking any actions that would cause such insurance to lapse or otherwise not be effective. Such Insurance shall not be deemed to limit or qualify the liabilities or obligations Seller has assumed under this Agreement. Seller shall provide to Buyer all evidences and other documents required to establish that the insurance policies required by Appendix F are in full force and effect 30 days prior to the start of work.

These insurance requirements shall also apply to the performance obligations set forth in the interconnection Agreement, Appendix G of this Agreement.

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.

Section 5.4 Inspection and Maintenance Reports. Seller shall provide an inspection and maintenance report on the Facility to Buyer prior to the end of the third full month of the second Contract Year, the fourth Contract Year and every second Contract Year thereafter. This report shall be prepared at Seller's expense by a California licensed contractor who is not the owner or operator of the Facility. A California licensed electrician shall perform the inspection of the electrical portion of the Facility.

**ARTICLE VI
PURCHASE AND SALE OF POWER; CAPACITY RIGHTS**

Section 6.1 Purchases by Buyer. 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 Facility Energy for all Facilities, together with all associated Environmental Attributes and Capacity Rights for the Purchase Price. In no event shall Buyer have any obligation or liability whatsoever for any debt pertaining to any Facility by virtue of Buyer's ownership of the Capacity Rights or otherwise. Seller represents and covenants that it has not assigned, transferred, conveyed, encumbered, sold or otherwise disposed of and will not in the future assign, transfer, convey, encumber, sell or otherwise dispose of any of the Capacity Rights to any Person other than Buyer or attempt to do any of the foregoing with respect to any of the Capacity Rights. Seller shall not report to any Person that any of the Capacity Rights belong to any Person other than Buyer. Buyer may, at its own risk and expense, report to any Person that the Capacity Rights belong to it. Buyer shall not be required to purchase and receive any Facility Energy if receiving such Facility Energy would cause or contribute to any adverse effects to Buyer's operation of a reliable and efficient electric grid as determined in Buyer's sole discretion. Any energy consumption by the Facility not used to generate a REC, will be billed to Seller pursuant to a separate electric service agreement.

Section 6.2 Facility's Point of Delivery. Seller shall deliver all Facility Energy from all Facilities under this agreement to Buyer, and Buyer shall receive all Facility Energy from Seller, under this Agreement at the Point of Delivery agreed to in Appendix D.

Section 6.3 Energy to Come Exclusively from Facility. All Energy for sale and delivery pursuant to this Agreement shall come from the Facilities indicated in Appendix D and Seller shall not procure Energy from sources other than the Facility for sale and delivery pursuant to this Agreement.

Section 6.4 Sales to Third Parties. Seller shall not sell or otherwise transfer any Facility Energy from any of the Facilities, Capacity Rights or Environmental Attributes to any Person other than Buyer. Any purported sale or transfer in violation of this provision shall be null and void at inception and of no force or effect.

Section 6.5 Facility Consumption. Any Facility consuming more than that Facility produced for any particular month shall be billed for the consumption in accordance to the applicable rate in the Electric Rate Ordinance. Any Facility consuming more than 10% of its Energy delivery in a 12 months period as measured by the Electric Metering Device shall result in the termination of that particular Facility from this Agreement and placement on the applicable Customer Generation Rate per LADWP's *Electric Rates Ordinance*.

**ARTICLE VII
RISK OF LOSS**

Section 7.1 Risk of Loss. Seller shall be responsible for any costs or charges imposed on or associated with the delivery of Energy up to the Point of Delivery, and Buyer shall be responsible for any costs or charges imposed on or associated with the delivery of Energy at and

from the Point of Delivery. As between the Parties, Seller shall be deemed to be in exclusive control (and responsible for any damages or injury caused thereby) of all Energy prior to the Point of Delivery, and Buyer shall be deemed to be in exclusive control (and responsible for any damages or injury caused thereby) of all Energy at and from the Point of Delivery. Seller warrants that it will deliver all Energy and Environmental Attributes to Buyer free and clear of all Liens created by any Person other than Buyer. Risk of loss as to all Energy 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 Generation of Environmental Attributes. Upon Buyer's request, Seller shall take all actions and execute all documents or instruments necessary under applicable law, bilateral arrangements or other obligatory or voluntary Environmental Attribute programs of any kind to maximize the attribution, accrual, realization, generation, production, recognition and validation of Environmental Attributes throughout the Agreement Term.

Section 8.2 Transfer of Environmental Attributes. 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. Seller agrees to transfer and make available to Buyer all Environmental Attributes, to the fullest extent allowed by applicable law, immediately upon Seller's production or acquisition of the Environmental Attributes.

Section 8.3 Conveyance of Environmental Attributes. Buyer may unilaterally elect to change the Environmental Attribute conveyance procedure for Buyer to be able to receive and report the Environmental Attributes purchased under the Agreement as belonging to Buyer. Buyer will provide written notice to Seller of such change in procedure, and Seller shall thereafter comply with such new procedures.

Section 8.4 Reporting of Ownership of Environmental Attributes. During the Agreement Term, Seller shall not report to any Person that the Environmental Attributes belong to any Person other than Buyer, and Buyer may report under any program that such Environmental Attributes purchased hereunder belong to it.

Section 8.5 Status of Facility. Seller warrants and guarantees that when complete, and at all times thereafter, the Facility will be both RPS Compliant and EPS Compliant and will be an Eligible Renewable Energy Facility. Seller will be responsible for having the CEC certify the Facility as RPS Compliant and maintaining such certification during the Agreement Term.

Section 8.6 WREGIS. Seller shall cause and allow LADWP to be the "Qualified Reporting Entity" and "Account Holder" (as such terms are defined by WREGIS) for the Facility.

ARTICLE IX BILLING; PAYMENT; AUDITS; METERING; POLICIES

Section 9.1 Calculation of Energy Delivered; Statements; Payment. For each calendar month during the Delivery Term, commencing with the first calendar month in which

Facility Energy is delivered by Seller to, and received by, Buyer under this Agreement, Buyer shall calculate the amount of Energy so delivered and received during such calendar month as determined from recordings produced by Buyer's meters maintained pursuant to Section 9.6, at or near midnight on the last day of the calendar month in question. Buyer will not pay for any Facility Energy in excess of 1.15 times the energy hour production profile submitted by Seller at time of application and included as Appendix E for each Facility. The calculation methodology for the Purchase Price of Facility Energy is set forth in Appendix C.

In no event may the total contract price exceed a \$300 per MWh average on an annualized basis. In the event Buyer pays in excess of a \$300 per MWh average in a given Contract Year, any payment in excess of the \$300 per MWh average shall be credited to Buyer and deducted from payments due to the Seller in the following Contract Year.

Section 9.2 Payment. Not later than the 30th day of each calendar month, commencing with the next calendar month following Seller's first delivery of Facility Energy to Buyer under this Agreement, Buyer shall deliver to Seller a statement showing the amount of Facility Energy that was delivered by Seller, the total payment amount as calculated in accordance with Appendix C, and payment for that amount.

Section 9.3 Disputed Statement. In the event any portion of any statement or Environmental Attribute is in dispute, the undisputed amount shall be paid when due. The Party disputing a payment or Environmental Attribute shall promptly notify the other Party of the basis for the dispute. Disputes shall be discussed by the parties, who shall use reasonable efforts to amicably and promptly resolve the disputes.

Section 9.4 Buyer's Right of Setoff. In addition to any right now or hereafter granted under applicable law and not by way of limitation of any such rights, Buyer shall have the right at any time or from time to time without notice to Seller or to any other Person, any such notice being hereby expressly waived, to set off against any amount due to Seller from Buyer under this Agreement or otherwise any amount due to Buyer from Seller under this Agreement or otherwise, including any amounts due because of breach of this Agreement or any other obligation and any costs payable by Seller if and to the extent paid in the first instance by Buyer.

Section 9.5 Records and Audits. Seller shall maintain or cause to be maintained 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, sufficient to properly reflect all costs claimed to have been incurred and services performed pursuant to this Agreement. Buyer and the Authorized Auditors shall have the right to discuss such records with Seller's officers and independent public accountants (and by this provision Seller authorizes said accountants to discuss such billings and costs), all at such times and as often as may be reasonably requested. All records shall be retained, and shall be subject to examination and audit with fourteen (14) Business Days prior written notice 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. The Authorized Auditors will have the right to reproduce, photocopy, download, transcribe, and the like any such records. Any information provided by Seller on machine-readable media shall be provided in a format accessible and readable by the Authorized Auditors. 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. If the Authorized Auditor's examination or audit indicates Seller has been overpaid under a previous payment application, within fifteen (15) Business Days of notice to Seller of the identified overpayment Seller shall pay to Buyer the identified overpayment and, if the audit reveals that Buyer overpayment to Seller is more than five percent (5.0%) of the billings reviewed, all expenses and costs incurred by the Authorized Auditors arising out of or related to the examination or audit.

Section 9.6 Electric Metering Device. The Facility Energy made available to Buyer or Buyer's Agent by Seller under this Agreement shall be measured using one (1) Electric Metering Device installed, owned and maintained by Buyer per each Facility. Buyer or its designee, at no expense to Seller, shall inspect and test all Electric Metering Devices as required. 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 two percent (2.0%), 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 as far as can be reasonably ascertained by Buyer from the best available data. 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 9.6 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. Any difference shall be accounted for in the next statement Buyer sends to Seller.

Section 9.7 Power Revenue Fund. Any amounts payable by Buyer under this Agreement shall be payable solely from Buyer's Power Revenue Fund. No other fund or account held by or on behalf of Buyer (or any other department or division thereof) may be used to satisfy any such obligations.

Section 9.8 Taxes. Seller shall be responsible for and shall pay, before the due dates therefore, 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 or use of Energy and Environmental Attributes and all Taxes related to Seller's income.

ARTICLE X REPRESENTATIONS; WARRANTIES; SELLER'S COVENANTS

Section 10.1 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 charter city 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 all Ancillary Documents to which it is a 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 Ancillary Documents to which it is a party.

- (b) The execution, delivery and performance by Buyer of this Agreement and all Ancillary Documents to which it is a party have been duly authorized by all necessary action, and do not and will not require any consent or approval of Buyer's regulatory/governing bodies, other than that which has been obtained.
- (c) This Agreement and all Ancillary Documents to which Buyer is a party constitute the legal, valid and binding obligation of Buyer enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws relating to or affecting the enforcement of creditors' rights generally or by general equitable principles, regardless of whether such enforceability is considered in a proceeding in equity or at law.

Section 10.2 Representations, Warranties and Covenants of Seller. Seller makes the following representations, warranties and covenants to Buyer:

- (a) Seller is a limited liability company duly organized, validly existing and in good standing under the laws of its respective state of incorporation or organization, is qualified to do business in the State of California and has the legal power and authority to own and lease its properties, to carry on its business as now being conducted and has all necessary authority, permits and approvals, including, to the extent required, any FERC authorization, to enter into this Agreement and all Ancillary Documents to which it is a party and to carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement and all Ancillary Documents to which it is a party.
- (b) The execution, delivery and performance by Seller of this Agreement and all Ancillary Documents to which it is a party, including the consummation of the transactions contemplated thereby and the fulfillment of and compliance with the provisions of this Agreement and all Ancillary Documents to which it is a party, have been duly authorized by all necessary action, and do not and will not require any consent or approval other than those which have already been obtained.
- (c) The execution and delivery of this Agreement and all Ancillary Documents to which Seller is a party, the consummation of the transactions contemplated hereby and thereby and the fulfillment of and compliance with the provisions of this Agreement and such 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 or any other agreement or instrument to which Seller is a party or by which it or any of its property is bound or result in or require the creation or imposition of any Lien upon any of the properties or assets of Seller, and Seller has obtained or shall timely obtain all Permits required for the performance of its obligations hereunder and there under and operation of the Facility in accordance with the requirements of this Agreement and all Ancillary Documents to which it is a party.

- (d) This Agreement and all Ancillary Documents to which Seller is a party constitute the legal, valid and binding obligation of Seller 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 Seller, threatened action or proceeding affecting Seller before any Governmental Authority, which purports to affect the legality, validity or enforceability of this Agreement or any Ancillary Documents to which it is a party.
- (f) Seller is not in violation of any Requirement of Law, which violations, individually or in the aggregate, would reasonably be expected to result in a material adverse effect on the business, assets, operations, condition (financial or otherwise) or prospects of Seller, or the ability of Seller to perform any of its obligations under this Agreement or any Ancillary Documents to which it is a party.
- (g) The CEQA authorizations or other Permits required to construct, maintain or operate the Facility and for the production, sale and delivery of Energy and Environmental Attributes in accordance with the requirements of this Agreement and all Ancillary Documents and all applicable Requirements of Law will be timely obtained in the ordinary course of business.
- (h) 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 Seller of this Agreement and all Ancillary Documents to which it is a party and the transactions contemplated thereby, without any conflict with the rights of others.
- (i) At all times after the Commercial Operation for each Facility set forth in Appendix D Seller shall have Site Control. Seller shall provide Buyer with prompt notice of any change in the status of Seller's Site Control.
- (j) Neither Seller nor, to Seller's knowledge, the owner of the Site has participated in or submitted any claim for receipt of funds under any net

metering program or ratepayer-funded on-site generation incentives for the Facility. Seller waives all claims for eligibility for, and will not submit any claim for receipt of funds under, any net metering program or ratepayer-funded on-site generation incentives for the Facility.

ARTICLE XI DEFAULT; TERMINATION AND REMEDIES

Section 11.1 Default. Each of the following events or circumstances shall constitute a “*Default*” by the responsible Party (the “*Defaulting Party*”):

- (a) *Buyer Payment or Performance Default.* Failure(s) by Buyer to make any payment or perform any of its other duties or obligations under this Agreement which is not cured within thirty (30) calendar days after receipt of notice thereof from Seller.
- (b) *Seller Payment or Performance Default.* Failure by Seller to make any payment or perform any of its other duties or obligations under this Agreement or any Ancillary Documents to which it is a party when and as due which is not cured within thirty (30) calendar days after receipt of notice thereof from Buyer.
- (c) *Buyer 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 by Buyer in this Agreement or any Ancillary Document to which it is a party.
- (d) *Seller 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 by Seller in this Agreement or any Ancillary Documents to which it is a party.
- (e) *Buyer Bankruptcy.* Bankruptcy of Buyer.
- (f) *Seller Bankruptcy.* Bankruptcy of Seller.
- (g) *Fundamental Change.* Seller 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 fails to assume all the obligations of Seller under this Agreement and all Ancillary Documents to which it is a party pursuant to an agreement satisfactory to Buyer.
- (h) *Insurance Default.* The failure of Seller to maintain and provide acceptable evidence of the required insurance for the required period of coverage as set forth in Appendix F.

Section 11.2 Default Remedy. If a Default has occurred and is continuing, the remedy of the non-defaulting Party shall be the exercise of 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 or any Ancillary Documents and (ii) termination of this Agreement pursuant to Section 11.3. No failure of either Party 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 either Party of any right, remedy or power hereunder preclude any other or future exercise of any right, remedy or power.

Section 11.3 Termination for Default. 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 to the Defaulting Party establish a date, which shall coincide with the last date of the period covered by a statement provided under Section 9.2, but no later than thirty (30) days after the date of such notice, on which this Agreement shall terminate; provided that if a Default is due to the Bankruptcy of either Party, this Agreement shall automatically terminate on the occurrence of such event, without notice or other action by either Party. Notwithstanding the foregoing, and without reducing or affecting Seller's obligations to pay liquidated damages when and as due under the conditions set forth in Section 3.6, a Default under any one of the Facilities made part of this Agreement in Appendix D will not constitute a Default under this Agreement in its entirety unless all such Facilities in Appendix D are in Default; Buyer's sole remedy for a Default pertaining to an individual Facility in Appendix D is removal of that Facility from Appendix D and this Agreement by written notice to Seller including the same notice provisions for such removal as provided for termination in this Section 11.3.

ARTICLE XII MISCELLANEOUS

Section 12.1 Authorized Representative. Each Party hereto shall designate an authorized representative who shall be authorized to act on its behalf with respect to those matters contained herein (each an "*Authorized Representative*"), which shall be the functions and responsibilities of such Authorized Representatives. Each Party may also designate an alternate who may act for the Authorized Representative. Within thirty (30) calendar days after execution of this Agreement, each Party shall notify the other Party of the identity of its Authorized Representative, and alternate if designated, and shall promptly notify the other Party of any subsequent changes in such designation. The Authorized Representatives shall have no authority to alter, modify, or delete any of the provisions of this Agreement.

Section 12.2 Notices. With the exception of statements and payments in Section 9.2 hereof, all notices, requests, demands, consents, waivers and other communications which are required under this Agreement shall be in writing and shall be deemed properly sent if delivered in person or sent by facsimile transmission, reliable overnight courier, or sent by registered or certified mail, postage prepaid to the persons specified in Appendix B. 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 12.3 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 12.4 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 12.5 Force Majeure. A Party shall not be considered to be in default in the performance of any of its obligations under this Agreement when and to the extent such Party's performance is prevented by a Force Majeure; *provided, however*, that the Party has given a written detailed description of the full particulars of the Force Majeure to the other Party reasonably promptly after becoming aware thereof.

Section 12.6 Assignment of Agreement; Change in Control.

(a) Except as set forth in this Section 12.6, neither Party may assign any of its rights, or delegate any of its obligations, under this Agreement or the Ancillary Documents without the prior written consent of the other Party, such consent not to be unreasonably withheld. Any Change in Control (whether voluntary or by operation of law) shall be deemed an assignment and shall require (i) the prior written consent of Buyer, which consent shall not be unreasonably withheld, and (ii) concurrently with the transaction or transactions constituting the Change in Control, the successor entity to execute a written assumption agreement in favor of Buyer pursuant to which any such successor entity shall assume all of the obligations of Seller under this Agreement and the Ancillary Documents, and agree to be bound by all the terms and conditions of this Agreement and the Ancillary Documents, as applicable. Seller shall provide Buyer with ninety (90) days' prior written notice of any proposed Change in Control. The General Manager of Buyer is authorized to grant the consents contemplated by this Section 12.6 on behalf of Buyer.

Buyer may assign this Agreement or the Ancillary Documents without the consent of Seller to a third party, so long as, at the time of such assignment, such third party has an investment grade rating from Moody's or Standard & Poor's.

(b) Seller shall not sell or transfer the Facility to any Person other than a Person to whom Seller assigns this Agreement or the Ancillary Documents in accordance with this Section 12.6, without the prior written consent of Buyer. Any purported sale or transfer in violation of this Section 12.6(b) shall be null and void and of no force or effect.

(c) Buyer's consent shall not be required in connection with the collateral assignment or pledge of (i) this Agreement or the Ancillary Documents to any Facility Lender or (ii) all or a portion of the membership interests in Seller or Parent Entit(ies) to any Facility Lender, in each case for the purpose of financing the Facility; provided, however, that (1) the terms of such financing and the documentation relating thereto shall comply with the applicable terms and conditions of this Agreement and the Ancillary Documents, as applicable, and (2) in connection

with any such assignment or pledge and the exercise of remedies by any Facility Lender, the Facility Lender acknowledges and agrees to be bound by the requirement that the Facility be operated and maintained by a Qualified Operator. Seller shall provide Buyer with ninety (90) days' prior notice of any such collateral assignment or pledge, or any Sale-Leaseback. 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 Products (not including the proceeds thereof) to any Facility Lender. To facilitate Seller's obtaining of financing for the Facility, Buyer agrees to provide the Facility Lender Consent as set forth in Section 12.6(f). Seller shall reimburse, or shall cause the Facility Lender to reimburse, Buyer for the incremental direct expenses incurred by Buyer in the preparation, negotiation, execution or delivery of the Facility Lender Consent and any documents requested by Seller or the Facility Lender, and provided by Buyer, pursuant to this Section 12.6(c).

(d) In no event shall Buyer be liable to Facility Lender or its transferees or their successors in interests or assigns for any claims, losses, expenses or damages whatsoever other than liability Buyer may have to Seller under this Agreement or the Ancillary Documents, as applicable. In the event of any foreclosure, whether judicial or nonjudicial, or any deed in lieu of foreclosure, in connection with any deed of trust, mortgage, or other similar Lien, Facility Lender or other transferee, and their successors in interest and assigns, will be bound by the covenants and agreements of Seller in this Agreement and the Ancillary Documents; provided, however, that until the Person who acquires title to the Facility executes and delivers to Buyer a written assumption of Seller's obligations under this Agreement in form and substance acceptable to Buyer or Buyer's Authorized Representative, such Person will not be entitled to any of the benefits of this Agreement. Any sale or transfer of the Facility by Facility Lender shall be made only to an entity that is a Qualified Transferee.

(e) Except as otherwise provided in Buyer's indenture of trust or similar agreement under which Buyer issues or has issued bonds or other obligations relating to the Facility, it is specifically agreed that there are no third party beneficiaries of this Agreement, and that, except as provided in this Section 12.6, this Agreement shall not grant any rights enforceable by any Person not a party to this Agreement.

(f) In connection with any financing or refinancing of the Facility, Buyer shall provide such consents to assignment (in form and substance satisfactory to Buyer and the Los Angeles City Attorney), as may be reasonably requested by Seller or any Facility Lender in connection with the financing of the Facility, including the acquisition of equity for the development, construction, and operation of the Facility; provided, however, that the terms of such financing and the documentation relating thereto shall comply with the applicable terms and conditions of this Agreement (such consent, the "*Facility Lender Consent*"). Any extension or alteration of time periods (including cure periods) or other obligations of Seller or Facility Lender shall be included in writing in any such Facility Lender Consent, and such Facility Lender Consent will not constitute an amendment to this Agreement. The Facility Lender Consent shall provide the Facility Lender or its agent notice of the occurrence of any Default described in Section 11.1 and the opportunity to cure any such default.

Section 12.7 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. The addition of Appendices D, E, G & H for each Facility under this Agreement, in accordance with the Fulfillment Rules in Appendix A, shall not constitute an amendment or modification.

Section 12.8 Governing Law; Venue. This Agreement was made and entered into in the City of Los Angeles and shall be governed by, interpreted and enforced in accordance with the laws of the State of California and the City of Los Angeles, without regard to conflict of law principles. All litigation arising out of, or relating to this Agreement, shall be brought in a state or federal court in the County of Los Angeles in the State of California. The Parties irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of California and waive any defense of forum non conveniens.

Section 12.9 Representation. Each party has been represented by legal counsel in the negotiations and execution of this Agreement.

Section 12.10 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.

Section 12.11 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 12.12 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 12.13 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 12.14 Third Party Beneficiaries. The provisions of this Agreement are solely for the benefit of the parties hereto. Nothing in this Agreement, whether expressed or implied, shall be construed to give to, or be deemed to create in, any other Person, whether as a third party beneficiary of this Agreement or otherwise, any legal or equitable right, remedy or claim in respect of this Agreement of any covenant, condition, provision duty, obligation or undertaking contained or established herein. This Agreement shall not be construed in any respect to be a contract in whole or in part for the benefit of any Person not a party hereto.

Section 12.15 Indemnification. To the fullest extent permitted by applicable law, except for the sole negligence or willful misconduct of LADWP, Seller undertakes and agrees to defend, indemnify and hold harmless LADWP, the City of Los Angeles, and each of their respective boards, commissioners, officers, agents, employees, assigns and successors in interest, as applicable (hereinafter, collectively, "Indemnitees") from and against any and all suits and causes of action (including proceedings before FERC), claims, losses, demands, penalties, judgments, costs, expenses, damages (including indirect, consequential, or incidental), disbursements of any kind or nature whatsoever, including but not limited to attorney's fees (including allocated costs of internal counsel), other monetary remedies, and costs of litigation, damages, obligation or liability of any kind or nature whatsoever, in any manner arising by reason of, incident to, or connected in any manner with the performance, non-performance or breach of this Agreement, or any other act, error or omission or willful misconduct by or of the Seller or Seller's officers, employees, agents, contractors, sub-contractors of any tier, including but not limited to any such performance, non-performance, breach, act, error or omission or willful misconduct that results in intellectual property infringement or leads to death or injury to any person, including but not limited to Seller, Seller's officers, employees, agents, contractors or sub-contractors of any tier, or damage or destruction to property of any kind or nature whatsoever, of either Party hereto, or of third parties, or loss of use (hereinafter, collectively, "Indemnified Liabilities"). The provisions of this paragraph shall be in addition to, and not exclusive of, any other rights or remedies which Indemnitees have at law, in equity, under this Agreement or otherwise. To the extent that the undertakings to defend, indemnify, pay and hold harmless set forth in this subsection may be unenforceable in whole or in part because they are violative of any law or public policy, Seller shall contribute the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by Indemnitees or any of them. The provisions of this paragraph shall survive the expiration or termination of this Agreement.

Section 12.16 Limitation of Liability. In signing this agreement, Seller understands and agrees, that, to the fullest extent permitted by applicable law, none of LADWP, the City of Los Angeles, or any of their respective boards, commissioners, officers, agents, employees, assigns and successors in interest, as applicable shall be liable responsible, answerable or accountable to any Person under any circumstance with respect to LADWP's obligations under or in connection with this agreement, except that such limitation shall not limit the liability, if any, of LADWP for its gross negligence or willful misconduct. Further, none of the above-mentioned Persons shall be liable for consequential, incidental, punitive, exemplary or indirect damages, lost profits, loss of

use or other costs of business interruption related to this Agreement, whether based on statute, tort, contract, or under any theory of liability.

Seller further understands that these limitations are without regard to the cause or causes of such damages or costs, including negligence, be it sole, joint, contributory, or concurrent, active or passive. Any liability shall be limited to actual direct damages, and such actual direct damages shall be the sole and exclusive remedy, and all other remedies or damages at law or in equity are waived unless expressly provided for herein.

Section 12.17 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 12.18 Disclosure of Information. 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.* and the Ralph M. Brown Act, Cal. Govt. Code §§ 54950 *et seq.* Information of Seller provided to Buyer pursuant to this Agreement will become the property of Buyer and Seller acknowledges that Buyer shall not 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 information of Seller pursuant to either of the aforementioned Acts.

Section 12.19 Fixed-Rate Contract: Mobile-Sierra Clause. The Parties hereby stipulate and agree that this Agreement was entered into as a result of arm's-length negotiations between the Parties. Further, the Parties believe that, to the extent the sale of Energy under this Agreement is subject to Sections 205 and 206 of the Federal Power Act, 16 U.S.C. Sections 824d or 824e, the rates, terms and conditions of this Agreement are just and reasonable within the meaning of Sections 205 and 206 of the Federal Power Act, and that the rates, terms and conditions of this Agreement will remain so over the life of the Agreement. The Parties waive all rights to challenge the validity of this Agreement or whether it is just and reasonable for and with respect to the entire term thereof, under Sections 205 and 206 of the Federal Power Act and to request the FERC to revise the terms and conditions and the rates or services specified in this Agreement, and hereby agree to make no filings at the FERC or with any other state or federal agency, board, court or tribunal challenging the rates, terms and conditions of this Agreement as to whether they are just and reasonable or in the public interest under the Federal Power Act. The Parties hereby further stipulate and agree that neither Party may bring any action, proceeding or complaint under Section 205 or 206 of the Federal Power Act, 16 U.S.C. 824d or 824e, seeking to modify, cancel, suspend, or abrogate the rates, terms and conditions of this Agreement, or to prevent this Agreement from taking effect. It is further agreed that, absent the agreement of both Parties to a proposed change, the standard of review for changes to any rate, charge, classification, term or condition of this Agreement, whether proposed by a Party (to the extent that any provision of this section is unenforceable or ineffective as to such Party), a non-party, or FERC acting *sua sponte* shall solely be the "public interest" application of the "just and reasonable" standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Corp.*, 350 U.S. 332 (1956) and *FPC v. Sierra Pacific*

Power Co., 350 U.S. 348 (1956), and clarified by *Morgan Stanley Capital Group, Inc. v. Pub. Util. Dist. No. 1 of Snohomish*, 554 U.S. 527 (2008).

Section 12.20 No Agreement for Retail Electric Service. This Agreement does not constitute an agreement by LADWP to provide retail electrical service to Seller or any third party. Such arrangements must be made separately with LADWP.

Section 12.21 Attorneys' Fees. Both Parties hereto agree that in any action to enforce the terms of this Agreement, each Party shall be responsible for its own attorneys' fees and costs.

Section 12.22 LADWP Business Policies. Seller must submit all forms to comply with the business policies prior to the Effective Date of this Agreement. Seller shall comply with all business policies set forth below:

Section 12.22.1 Non-Discrimination and Equal Employment Practices. Unless otherwise exempt, this contract is subject to the non-discrimination provisions in Sections 10.8 through 10.8.2 of the Los Angeles Administrative Code, as amended from time to time. The Seller shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the City of Los Angeles. In performing this contract, Seller shall not discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, disability, domestic partner status, marital status or medical condition. Any subcontract entered into by Seller relating to this contract, to the extent allowed hereunder, shall include a like provision for work to be performed under this contract.

Failure of Seller to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject Seller to the imposition of any and all sanctions allowed by law, including but not limited to termination of Seller's contract with the Buyer.

Unless otherwise exempt, this contract is subject to the equal employment practices provisions in Section 10.8.3 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of this contract, Seller agrees and represents that it will provide equal employment practices and Seller and each subcontractor hereunder will ensure that in his or her employment practices persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
 1. This provision applies to work or service performed or materials manufactured or assembled in the United States.

2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
 3. Seller agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. Seller will, in all solicitations or advertisements for employees placed by or on behalf of Seller, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- C. As part of the Buyer's supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, Seller shall certify in the specified format that he or she has not discriminated in the performance of City of Los Angeles contracts against any employee or applicant for employment on the basis or because of race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.
- D. Seller shall permit access to and may be required to provide certified copies of all of his or her records pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of City of Los Angeles contracts. On their or either of their request Seller shall provide evidence that he or she has or will comply therewith.
- E. The failure of any Seller to comply with the Equal Employment Practices provisions of this contract may be deemed to be a material breach of this contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to Seller.
- F. Upon a finding duly made that Seller has failed to comply with the Equal Employment Practices provisions of this contract, the contract may be forthwith canceled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the City of Los Angeles. In addition thereto, such failure to comply may be

the basis for a determination by the awarding authority or the Board of Public Works that the Seller is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, Seller shall be disqualified from being awarded a contract with the Buyer and the City of Los Angeles for a period of two years, or until Seller shall establish and carry out a program in conformance with the provisions hereof.

- G. Notwithstanding any other provision of this contract, the Buyer shall have any and all other remedies at law or in equity for any breach hereof.
- H. The Board of Public Works shall promulgate rules and regulations through the Office of Contract Compliance, and provide necessary forms and required language to the awarding authorities to be included in City of Los Angeles Request for Bids or Request for Proposal packages or in supplier registration requirements for the implementation of the Equal Employment Practices provisions of this contract, and such rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive orders. No other rules, regulations or forms may be used by an awarding authority of the City of Los Angeles to accomplish the contract compliance program.
- I. Nothing contained in this contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
- J. At the time a supplier registers to do business with the City of Los Angeles, or when an individual bid or proposal is submitted, Seller shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of City of Los Angeles Contracts.
- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
 - 1. Hiring practices;
 - 2. Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
 - 3. Training and promotional opportunities; and
 - 4. Reasonable accommodations for persons with disabilities.

- L. All Sellers subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the Buyer and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to Seller. Failure of Seller to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject Seller to the imposition of any and all sanctions allowed by law, including but not limited to termination of the Seller's contract with the Buyer. The Seller shall complete, sign, and submit to the Department the "Non-Discrimination and Equal Employment Practices" affidavit.

Section 12.22.2 Child Support Policy. In accordance with the City of Los Angeles Ordinance No. 172401, the Department requires all contractors and subcontractors performing work for the Department to comply with all reporting requirements and wage earning assignments relative to court ordered child support. Seller is required to complete, sign, and submit the "Certification of Compliance with Child Support Obligations" affidavit.

Section 12.22.3 Affirmative Action Program. Unless otherwise exempt, this contract is subject to the affirmative action program provisions in Section 10.8.4 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of this contract, Seller certifies and represents that Seller and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
 - 1. This provision applies to work or services performed or materials manufactured or assembled in the United States.
 - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
 - 3. Seller shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. Seller will, in all solicitations or advertisements for employees placed by or on behalf of Seller, state that all qualified applicants will receive consideration for employment without regard to their

race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.

- C. As part of the Buyer's supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, Seller shall certify on an electronic or hard copy form to be supplied, that Seller has not discriminated in the performance of City of Los Angeles contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status or medical condition.
- D. Seller shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of City of Los Angeles contracts, and on their or either of their request to provide evidence that it has or will comply therewith.
- E. The failure of Seller to comply with the Affirmative Action Program provisions of this contract may be deemed to be a material breach of this contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to Seller.
- F. Upon a finding duly made that Seller has breached the Affirmative Action Program provisions of this contract, the contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the City of Los Angeles. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said Seller is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such Seller shall be disqualified from being awarded a contract with the City of Los Angeles for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that Seller has been guilty of a willful violation of the

California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a City of Los Angeles contract, there may be deducted from the amount payable to Seller by the City of Los Angeles under the contract, a penalty of ten dollars (\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a City of Los Angeles contract.

- H. Notwithstanding any other provisions of this contract, Buyer shall have any and all other remedies at law or in equity for any breach hereof.
- I. The Public Works Board of Commissioners shall promulgate rules and regulations through the Office of Contract Compliance and provide to the awarding authorities electronic and hard copy forms for the implementation of the Affirmative Action Program provisions of City of Los Angeles contracts, and rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive Orders. No other rules, regulations or forms may be used by an awarding authority of the City of Los Angeles to accomplish this contract compliance program.
- J. Nothing contained in this contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. Seller shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the City of Los Angeles. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract. The awarding authority may also require Sellers and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, Seller may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, Seller must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.
 - 1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the

requirements of Section 10.13 of the Los Angeles Administrative Code.

2. Seller may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- L. The Office of Contract Compliance shall annually supply the awarding authorities of the City of Los Angeles with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and Seller.
- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
 2. Classroom preparation for the job when not apprenticeable;
 3. Pre-apprenticeship education and preparation;
 4. Upgrading training and opportunities;
 5. Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the Seller, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the Seller's, subcontractor's or supplier's geographical area for such work;
 6. The entry of qualified women, minority and all other journeymen into the industry; and

7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- N. Any adjustments which may be made in Seller's or supplier's work force to achieve the requirements of the City's Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the work force or replacement of those employees who leave the work force by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
 - O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by Seller at his or her discretion. Approved Affirmative Action Agreements become the property of the City and may be used at the discretion of the City in its Contract Compliance Affirmative Action Program.
 - P. This ordinance shall not confer upon the City of Los Angeles or any agency, Board or Commission thereof any power not otherwise provided by law to determine the legality of any existing collective bargaining agreement and shall have application only to discriminatory employment practices by seller or suppliers engaged in the performance of City contracts.
 - Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with Buyer and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to Seller. Failure of Seller to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject Seller to the imposition of any and all sanctions allowed by law, including but not limited to termination of Seller's contract with Buyer.

The Seller shall have an Affirmative Action Plan on file with the Director of Supply Chain Services. The Seller shall comply with the requirements of the City of Los Angeles and shall complete, sign, and submit to the Seller the applicable "Affidavit". An Affirmative Action Plan shall be in effect and on file with the Seller for the duration of this Agreement.

Section 12.22.4 Compliance with Los Angeles City Charter Section 470(c)(12). Seller, any subcontractors, and their principals are obligated to fully comply with City of Los Angeles Charter Section 470(c)(12) and related ordinances,

regarding limitations on campaign contributions and fundraising for certain elected City officials or candidates for elected City office if the contract is valued at \$100,000 or more and requires approval of a City elected official. Additionally, Seller is required to provide and update certain information to the City as specified by law. Any Seller subject to Charter Section 470(c)(12), shall include the following notice in any contract with a subcontractor expected to receive at least \$100,000 for performance under this contract:

Notice Regarding Los Angeles Campaign Contribution and Fundraising Restrictions:

As provided in Charter Section 470(c)(12) and related ordinances, you are subcontractor on City of Los Angeles contract # _____. Pursuant to City Charter Section 470(c)(12), subcontractor and its principals are prohibited from making campaign contributions and fundraising for certain elected City officials or candidates for elected City office for 12 months after the City contract is signed. Subcontractor is required to provide to Seller names and addresses of the subcontractor's principals and contact information and shall update that information if it changes during the 12 month time period. Subcontractor's information included must be provided to Seller within ten (10) Business Days. Failure to comply may result in termination of contract or any other available legal remedies including fines. Information about the restrictions may be found at the City Ethics Commission's website at <http://ethics.lacity.org/> or by calling 213/978-1960.

Seller, Subcontractors, and their Principals shall comply with these requirements and limitations. Violation of this provision shall entitle the Buyer to terminate this Agreement and pursue any and all legal remedies that may be available.

Section 12.22.5 Equal Benefits Ordinance. The contract resulting from this proposal is subject to applicable provisions of the Equal Benefits Ordinance (EBO), Division 10, Chapter 1, Article 1, Section 10.8.2.1 of the City of Los Angeles Administrative Code. As part of their proposal to the Department, Sellers shall complete and submit the "Equal Benefits Ordinance Compliance Affidavit". Sellers do not need to submit supporting documentation with their proposals. However, the Department reserves the right to request supporting documentation to verify that benefits are provided equally as specified on the Equal Benefits Ordinance Compliance Affidavit. Sellers seeking additional information regarding the requirements of the Equal Benefits Ordinance may visit the Bureau of Contract Administration's website at <http://bca.lacity.org>.

Section 12.22.6 Contractor Responsibility Program. This Agreement is subject to applicable provisions of the Contractor Responsibility Program Ordinance, Division 10, Chapter 1, Article 14 of the City of Los Angeles Administrative Code. As part of their proposal to the Department, Sellers shall complete and submit the "Pledge of Compliance with Contractor Responsibility Ordinance" and "Responsibility Questionnaire" affidavits. The Contractor Responsibility Program also requires that during the term of the contract, the Seller shall update responses to the "Responsibility Questionnaire" affidavit within thirty (30) calendar days after any changes to the responses

previously provided, if such change would affect contractor's fitness and ability to continue performing the contract.

Section 12.22.7 Prevailing Wage. The Seller and Seller's agents, employees, and Subcontractors shall comply with all applicable provisions of the California Labor Code and all other Requirements of Law that affect the hours of work, wages, and other compensation of employees, nondiscrimination, and other conduct of the work. Workers at the Facility shall be paid not less than prevailing wages pursuant to determinations of the Director of Industrial Relations as applicable in accordance with the California Labor Code. To access the most current information on effective determination rates, Seller shall contact: Department of Industrial Relations, Division of Labor Statistics and Research, PO Box 420603, San Francisco, CA 94142-0603; Telephone (Division Office): (415) 703-4780; Telephone (Prevailing Wage Unit): (415) 703-4774; Web: <http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm>

Section 12.22.8 Iran Contracting Act. Seller must comply with the Iran Contracting Act in accordance with California Public Contract Code Sections 2200-2208, all contractors, entering into, or renewing contracts with the Department for goods and services estimated at \$1 Million or more are required to complete, sign, and submit the "Iran Contracting Act of 2010 Compliance Affidavit"

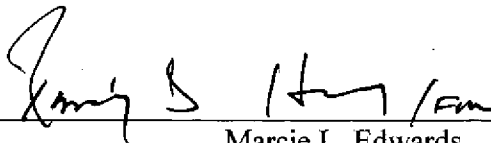
Section 12.22.9 Los Angeles City Business Tax Registration Certificate. Seller shall obtain and keep in full force and effect during the term of this Agreement all Business Tax Registration Certificates required by the City of Los Angeles Business Tax Ordinance, Article 1, Chapter II, Section 21.00 and 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.

Section 12.22.10 Taxpayer Identification Number (TIN). Seller declares that its authorized TIN is 46-5486807. No payment will be made under this Agreement without a valid TIN number.

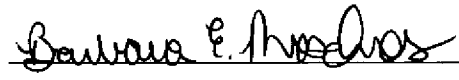
Section 12.22.11 Business Inclusion Plan. Seller shall develop and maintain a business inclusion plan ("*Inclusion Plan*") that is designed to result in the successful inclusion of local subcontractors or local employees to be hired directly by Seller, contributing to a workforce of employees who reside in Los Angeles County and any other efforts which may provide tangible benefits to the local economy. The Inclusion Plan is hereby attached to this Agreement as Appendix I. Buyer may request clarification or additional information regarding the Inclusion Plan at any time. The Inclusion Plan will be monitored for compliance by Buyer during the construction and maintenance of the Facility. No changes to the Inclusion Plan shall be accepted without Buyer's express written approval. If Buyer approves changes to the Inclusion Plan, such revised Inclusion Plan shall replace the then-existing Appendix I.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date set forth below of this Agreement.

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

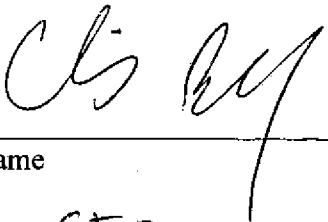
By: 
Marcie L. Edwards
General Manager

Date: 7/24/14

And: 
SECRETARY

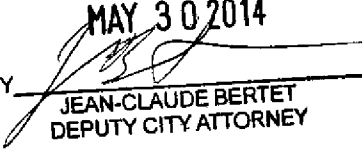
AUTHORIZED BY RES. 014 229
JUN 03 2014

HECATE ENERGY FIT "A" LLC

By: 
Name
CEO
Title

Date: MAY 1, 2014

APPROVED AS TO FORM AND LEGALITY
MICHAEL N. FEUER, CITY ATTORNEY

MAY 30 2014
BY 
JEAN-CLAUDE BERTET
DEPUTY CITY ATTORNEY

APPENDIX A - FULFILLMENT RULES

Appendix A describes the rules and processes required to add and interconnect a Facility in order to fulfill the requirements of this Agreement.

LOCATION

Facilities must be located within LADWP's In-Basin electric service territory. A map of the geographic boundaries for LADWP's In-Basin service territory is included as Exhibit 1.

PROJECT SIZE AND ALLOCATIONS

Eligible Facilities must have a total nameplate Capacity ranging from 30 kW to 3 MW.

PARTICIPATION IN OTHER LADWP PROGRAMS

Net-Metered Solar systems that have received rebates or incentives from any other LADWP program are not qualified as an eligible facility.

TECHNOLOGIES

Only solar electric photovoltaic (PV) facilities qualify as Eligible Facilities. The Seller is responsible for registering and maintaining their Facility as RPS compliant with the California Energy Commission (CEC). Refer to the CEC RPS Eligibility Guidebook¹ for the latest certification requirements.

QUALIFIED FACILITY COMPONENTS

Only photovoltaic modules that are certified by a nationally recognized testing laboratory are eligible.²

All photovoltaic modules must be certified as meeting the requirements of the Underwriters Laboratory Standard (UL) 1703.

For custom photovoltaic modules not certified by UL 1703, parties may seek certification by the Los Angeles Department of Building and Safety Materials Test Lab (<http://ladbs.org>). Facilities will not be approved by LADWP inspectors until proof of certification is received by LADWP.

All inverters must be certified by a nationally recognized testing laboratory for safe operation and must be certified as meeting the requirements of UL 1741. LADWP reserves the right to adopt additional codes, standards, and conditions, prior to execution, at its sole discretion.

¹ The CEC RPS Eligibility Guidebook can be found at: <http://www.energy.ca.gov/renewables/documents/>

² The CEC maintains a list of certified modules that can be obtained from the CEC website at: <http://www.gosolarcalifornia.ca.gov>

PARCEL LIMITATIONS

The renewable generator(s) that constitutes the Facility shall be within the boundaries of one legal parcel, identified by Appendix D by Assessors Parcel Number (APN).

REQUIRED TECHNICAL DOCUMENTS

For each Facility, and prior to performing any procurement or construction activities, Seller shall submit the following:

- Single-line electrical diagram of the proposed Facility indicating system size in kilowatt-alternating current and equipment specifications.
- A site plan showing property lines, all existing structures on the site, layout of the proposed Facility, equipment layout, proposed point of interconnection and building elevations if applicable.
- A Notarized Site Control form (Appendix H) indicating that Seller has obtain one of the five qualifying types of site control for the proposed site.
- 24 hour by 12 months expected energy production profile in the format provided in Appendix E.
- Certified check in the applicable amount for the interconnection study.

INTERCONNECTION STUDY FEE AND PROCESS

To initiate an interconnection study, Seller shall submit a certified check, along with all required documents or drawings, a non-refundable interconnection study fee. For systems 150 kW and below, the interconnection study fee shall be \$750. For systems above 150 kW, the interconnection study fee shall be \$1,500. An integration study will be conducted first at no charge to the customer. If the integration study indicates that the system can be interconnected without network upgrades to LADWP's grid, an interconnection study will be performed by LADWP utilizing the fee. Seller will be notified of the interconnection cost estimate. Seller may elect to cancel the proposed Facility at this point if their interconnection cost or requirements are not feasible for Seller. Buyer may deny the Seller interconnection if the distribution grid that serves as the point of interconnection is inadequate.

At completion of the interconnection study, if Seller elects to proceed with the Facility, seller shall submit 10 percent of the interconnection cost estimate provided by Seller. This will be due to Buyer prior to adding the Facility to Agreement. The remainder of the interconnection costs will be due in accordance with the Standard Offer Interconnection Agreement, see Appendix G. The seller will now be required to submit the following forms to add the Facility to the Agreement:

REQUIRED DOCUMENTS TO ADD FACILITY

- Notarized Site Control Form, indicating that the Seller has either obtained title to the proposed site or has a duly executed lease agreement for the site, see Appendix H.
- Copy of the lease or grant deed.
- A signed Interconnection Agreement (Appendix G) for the proposed Facility
- Appendix D for each Facility.

METERING AND CONTROL REQUIREMENTS & STANDARDS

Metering standards can be found in LADWP's Electric Service Requirements, available at: <https://www.ladwp.com/ladwp/faces/ladwp/partners/p-constructionservices/p-cs-electricsservice/s/p-cs-es-codesandspecification>

Prior to meter installation, Seller must request from LADWP the establishment of a customer account number to support each Facility. This will allow LADWP to activate and install the meter needed to capture the production and consumption for the Facility.

Buyer will install revenue grade, dual channel, digital metering equipment and recorders with cellular communication capabilities at the delivery point of the Facility to measure electric energy production and other electric parameters deemed appropriate by LADWP.

All energy produced by the Facility shall be sold to Buyer. A Facility consuming more than 10% of its energy generation in a 12 months period shall be terminated from this Agreement and placed on the applicable customer generation rate.

RPS COMPLIANCE

Seller will be responsible for registering and maintaining each Facility as RPS compliant with the CEC. Compliance paperwork from the CEC will be required under the Agreement.

See link below regarding the guidelines for CEC pre-certification and certification:
<http://www.energy.ca.gov/renewables/documents>

Prior to Commercial Operation Seller must send proof and documentation that the system has been pre-certified with the CEC. After Commercial Operation Seller shall conduct final Certification of the Facility and the certificate to Seller. After receipt of the CEC RPS compliance paperwork, Buyer will register the Facility in its Western Renewable Energy Generation Information System (WREGIS) account. All renewable energy credits (RECs) and environmental attributes of the Project shall be transferred automatically to Buyer.

Buyer will register the system with the Energy Information Administration.

PERMITTING

Seller shall obtain all necessary permits, and comply with all applicable regulatory requirements including but not limited to the California Environmental Quality Act (CEQA), to construct and operate the Facility at their own expense.

Seller shall be responsible for compliance with all applicable City, County, State, and Federal regulatory requirements. Seller will be required to obtain all necessary building and safety permits prior to construction. Failure to obtain proper permitting for a particular Facility will result in disqualification of that Facility from inclusion in this Agreement. For more information, please visit www.ladbs.org.

PROJECT CONSTRUCTION AND COMMERCIAL OPERATION

It is the responsibility of the Seller to coordinate installation and allow access for Buyer's staff to install required interconnection and metering equipment prior to the Commercial Operation Date.

The Seller shall provide accommodations for the Buyer, LADBS, and other City of Los Angeles agencies to perform inspections as necessary.

In all cases, PV systems shall be installed in conformance with the manufacturer's specifications and conform to all applicable electrical and other codes and standards. The installer shall be a properly licensed California contractor, with an active "C-10" or "A" license is required for all solar PV projects.

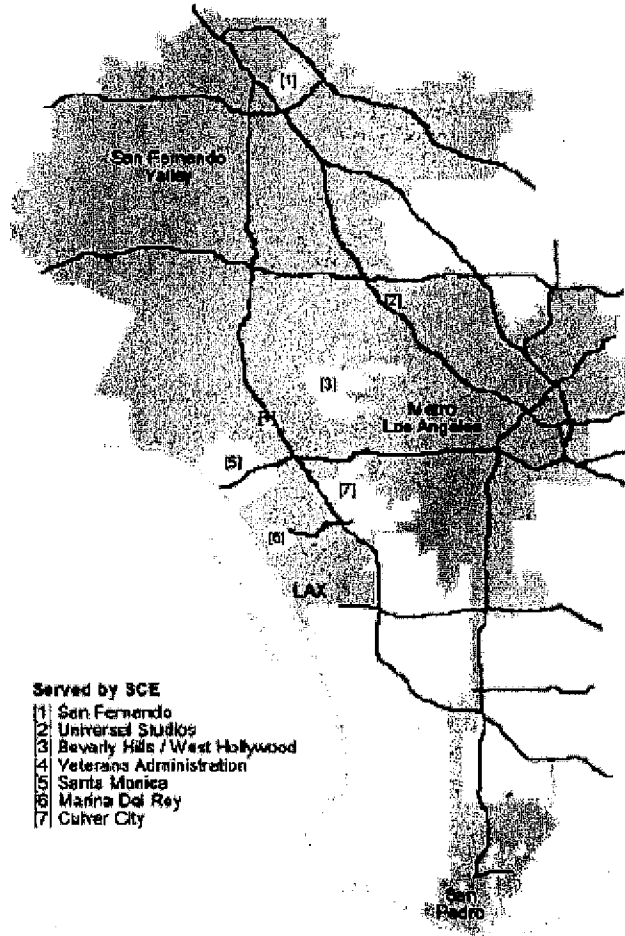
INSPECTION AND MAINTENANCE REPORT

In order to ensure the safety and reliability of the Facility, Seller shall provide an inspection and maintenance report to Seller at least once every other year.

The inspection and maintenance report shall be prepared at the Seller's expense by an independent California licensed contractor who is not the owner or operator of the Facility. A California licensed electrician shall perform the inspection of the electrical portion of Facility.

EXHIBIT 1: LADWP IN-BASIN SERVICE TERRITORY

**Map of LADWP Service Territory
(excluding Owens Valley)**



- Served by SCE**
- 1| San Fernando
 - 2| Universal Studios
 - 3| Beverly Hills / West Hollywood
 - 4| Veterans Administration
 - 5| Santa Monica
 - 6| Marina Del Rey
 - 7| Culver City

LADWP Service territory includes the following communities:

Atwater Village	Hollywood	San Pedro
Arleta	Hyde Park	Sawtelle
Baldwin Hills	Koreatown	Sherman Oaks
Bel Air Estates	LA City Strip (parts of)	Silverlake
Beverly Glen	Lake View Terrace	South Pasadena (parts of)
Boyle Heights	Lincoln Heights	Studio City
Brentwood	Little Tokyo	Sun Valley
Canoga Park	Los Feliz	Sunland
Castellammare	Mar Vista	Sylmar
Century City	Mid City	Tarzana
Chatsworth	Mission Hills	Toluca Lake (parts of)
Cheviot Hills	Montecito Heights	Tujunga
Chinatown	Monterey Hills	Valley Village
Country Club Park	Mt. Olympus	Van Nuys
Crenshaw	Mt. Washington	Venice
Culver City (parts of)	North Hills	Warner Center
Eagle Rock	North Hollywood	Watts
East San Pedro (Terminal Island)	Northridge	West Hills
Echo Park	Olive View	West Hollywood (parts of)
El Sereno	Pacific Palisades	West Los Angeles
Encino	Pacoima	Westchester
Glassell Park	Palisades Highlands	Westlake
Granada Hills	Palms	Westwood
Griffith Park	Panorama City	Wilmington
Hancock Park	Park La Brea	Winnetka
Harbor City	Playa del Rey	Woodland Hills
Harbor Gateway	Porter Ranch	Highland Park
	Rancho Park	Reseda

If you are unsure if you can be served by LADWP, you may request a service verification on a specific address from our Customer Contact Center by email @ ccenter@ladwp.com or by calling 1-800-DIAL-DWP (1-800-342-5397), or 213-481-5411.

APPENDIX B
BUYER AND SELLER BILLING, NOTIFICATION AND CONTACT INFORMATION

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

1.1 **If to Buyer:**

Department of Water and Power of the City of Los Angeles
111 North Hope Street, Room 940 JFB
Los Angeles, California 90012
Attention: FiT Program Administrator

Telephone: (213) 367-2100
Facsimile: (213) 367-2591
Email: fit@ladwp.com

1.2 **If to Seller:**

Hecate Energy FIT "A" LLC
c/o Hecate Energy LLC
115 Rosa Parks Blvd.
Nashville, TN 37203

Attention: CEO

Telephone: (480) 239-5617
Facsimile: (312) 284-4514

2. Statements and payments shall be transmitted to the following addresses:

2.1 **If to Buyer:**

Department of Water and Power of the City of Los Angeles
P.O. Box 51111
Los Angeles, California 90051-0100
Attention: Accounts Receivable

2.2 **If to Seller:**

Hecate Energy FIT "A" LLC
c/o Hecate Energy LLC
115 Rosa Parks Blvd.
Nashville, TN 37203

Attention: CEO

Telephone: (480) 239-5617

Facsimile: (312) 284-4514

3. All notices required under the Agreement shall be sent by facsimile transmission, reliable overnight courier, and registered or certified mail, postage prepaid, to the address specified below.

If to Buyer:

Department of Water and Power of the City of Los Angeles
111 North Hope Street, Room 940 JFB
Los Angeles, California 90012
Attention: FIT Program Administrator

Telephone: (213) 367-2100

Facsimile: (213) 367-2591

Email: fit@ladwp.com

If to Seller:

Hecate Energy FIT "A" LLC
c/o Hecate Energy LLC
115 Rosa Parks Blvd.
Nashville, TN 37203

Attention: CEO

Telephone: (480) 239-5617

Facsimile: (312) 284-4514

APPENDIX C
CALCULATION OF MONTHLY PAYMENT

1. The Purchase Price and monthly payment for Facility Energy will be calculated as the sum of Facility Energy delivered at each hour multiplied by the Base Price for Energy (BPE) and the Time-of-Delivery (TOD) multiplier for each particular hour. Payments for Facility Energy from each Facility will be aggregated into one payment for energy produced from all Facilities under this Agreement.
2. The BPE for this agreement for each Facility is \$0.11739 per kilowatt-hour.
3. TOD multipliers will be applied to the BPE as outlined in the table below:

Period	Months	Time of Delivery Multiplier		
		High Peak	Low Peak	Base
		M-F (1:00 pm - 5:00 pm)	M-F (10:00 am - 1:00 pm) M-F (5:00 pm - 8:00 pm)	M-F (8:00 pm - 10:00 am) All Day Saturday, Sunday
High Season	Jun-Sep	2.25	1.10	0.50
Low Season	Oct-May	1.30	0.90	0.50

APPENDIX D.XX
FACILITY

1. Name of Facility ("Facility"):

(a) Site [address, city, zip code]:

Assessors Parcel Number: _____

(b) Point of Delivery [LADWP circuit number as determined by Seller's assigned LADWP design engineer]:

2. Owner of Property [Site owner]:

3. Owner and Operator of Facility ("Seller"):

4. Equipment:

(a) Type of Facility [generation type]:

(b) Total Capacity of Facility [kW CEC-AC]: _____

5. Proposed Commercial Operation Date [month day, 20XX]:

6. Permits [to be filled in based on specific project requirements]:

This form adds Facility [name] to this Agreement as of the date set forth below towards the fulfillment of milestone [X].

HECATE ENERGY, LLC

By: _____
Name

Title

Date: _____

APPENDIX F
INSURANCE

I. GENERAL REQUIREMENTS

Thirty (30) days prior to the Commercial Operation Date, Seller shall furnish LADWP evidence of coverage from insurers acceptable to the LADWP and in a form acceptable to LADWP's Risk Management Section and the Office of the Los Angeles City Attorney. LADWP 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 LADWP which may be applicable shall be deemed to be excess insurance and Seller's insurance is primary for all purposes despite any conflicting provision in Seller's policies to the contrary.

Said evidence of insurance shall contain a provision that the policy cannot be canceled or reduced in coverage or amount without first giving thirty (30) calendar days prior notice thereof (ten (10) days for non-payment of premium) by registered mail to The Office of the City Attorney, Water and Power Division, Post Office Box 51111, GOB Room 340, Los Angeles, California 90051-0100.

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.

II. APPLICABLE TERMS AND CONDITIONS

A. Additional Insured Status Required

Seller shall procure at its own expense, and keep in effect at all times during the term of this Agreement, the types and amounts of insurance specified on Exhibit A, the Contract Insurance Requirements. The specified insurance shall also, either by provisions in the policies, by the City of Los Angeles' own endorsement form or by other endorsement attached to such policies, include and insure City of Los Angeles, LADWP, the Board, and all of its officers, employees and agents, their successors and assigns, as Additional Insureds, against the area of risk described herein as respects Seller's acts, errors or omissions in the performance of this contract or other related functions performed by or on behalf of Seller. Such insurance shall not limit or qualify the liabilities and obligations of the Seller assumed under the contract.

B. Severability of Interests and Cross Liability Required

Each specified insurance policy (other than Workers' Compensation and Employers' Liability and Property coverages) shall contain a Severability of Interest and Cross

Liability clause which states, "It is agreed that the insurance afforded by this policy shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company's liability," and a Contractual Liability Endorsement which shall state, "Such insurance as is afforded by this policy shall also apply to liability assumed by the insured under this Agreement with the City of Los Angeles."

C. Primary and Non-Contributing Insurance Required

All such insurance shall be Primary and Non-contributing with any other insurance held by the City of Los Angeles or LADWP where liability allegedly arises out of or results from the acts or omissions of Seller, its agents, employees, officers, assigns, or any person or entity acting for or on behalf of Seller. Any insurance carried by the City of Los Angeles or LADWP which may be applicable shall be deemed to be excess insurance and the Seller's insurance is primary for all purposes despite any conflicting provision in the Seller's policies to the contrary.

D. Deductibles Subject to Department's Discretion

Deductibles and/or self-insured retentions shall be at the sole discretion of the Risk Manager of LADWP (hereinafter referred to as "Risk Manager"). LADWP shall have no liability for any premiums charged for such coverage(s), nor for payment of deductibles. The inclusion of the City of Los Angeles or LADWP, its Board, and all of its officers, employees and agents, and their agents and assigns, as additional insureds, is not intended to, and shall not, make them, or any of them a partner or joint venturer with Seller in its operations.

E. Proof of Insurance for Renewal or Extension Required

At least ten (10) days prior to the expiration date of any of the policies required on Exhibit A, "Contract Insurance Requirements," documentation showing that the insurance coverage has been renewed or extended shall be filed with LADWP. If such coverage is canceled or reduced in coverage, Seller shall, within fifteen (15) days of such cancellation or reduction of coverage, file with the Department evidence that the required insurance has been reinstated or provided through another insurance company or companies.

F. Submission of Acceptable Proof of Insurance and Notice of Cancellation

Seller shall provide proof to LADWP's Risk Manager of all specified insurance and related requirements either by production of the actual insurance policy(ies), by use of LADWP's own endorsement form(s), by other written evidence of insurance acceptable to the Risk Manager, but always in a form acceptable to the Risk Manager and the Office of the City Attorney. The documents evidencing all specified coverages shall be filed with LADWP prior to Seller beginning operations hereunder. Said proof shall contain at a minimum, the applicable policy number, the inclusive dates of policy coverages, the date the protection begins for LADWP, and the insurance carrier's name. It shall bear an original signature of an authorized representative of said carrier, and shall provide that

such insurance shall not be subject to cancellation, material reduction in coverage or

non-renewal except after written notice by certified mail, return receipt requested, to the City Attorney of the City of Los Angeles at least thirty (30) calendar days prior to the effective date thereof. The notification shall be sent by registered mail to: Risk Management Section, L.A. Water and Power, Post Office Box 51111, JFB Room 465, Los Angeles, California 90051-0100.

G. Failure to Maintain and Provide as Cause for Termination

Failure to maintain and provide acceptable evidence of the required insurance for the required period of coverage shall constitute a breach of contract, upon which LADWP may immediately terminate or suspend the agreement.

H. Periodic Right to Review/Update Insurance Requirements

LADWP and Seller agree that the insurance policy limits specified on the attached Contract Insurance Requirements page may be reviewed for adequacy annually throughout the term of this Agreement by the Risk Manager/City Attorney, who may thereafter require Seller to adjust the amounts and types of insurance coverage however the Risk Manager/City Attorney deems to be adequate and necessary. The City of Los Angeles reserves the right to have submitted to it, upon request, all pertinent information about the agent and carrier providing such insurance, including applicable license and ratings.

I. Specific Insurance Requirements

Specific insurance requirements are set forth in Exhibit A, "Contract Insurance Requirements."

EXHIBIT A - CONTRACT INSURANCE REQUIREMENTS

CONTRACT INSURANCE REQUIREMENTS -- DEPARTMENT OF WATER AND POWER For Contractors, Service Providers, Vendors, and Tenants

Agreement/Activity/Operation: Competitive Offer Power Purchase Agreement
 Reference/Agreement: _____
 Term of Agreement: 20 years
 Contract Administrator and Phone: Yamen Nanne - 72585
 Buyer and Phone Number: TBD

Contract-required types and amounts of insurance as indicated below by checkmark are the minimum which must be maintained. All limits are Combined Single Limit (Bodily Injury/Property Damage) unless otherwise indicated. Firm 30 day Notice of Cancellation required by Receipted Delivery.

			PER OCCURRENCE LIMITS
<input checked="" type="checkbox"/>	WORKERS' COMPENSATION(Stat. Limits)/Employer's Liability:		(\$1,000,000.00)
	<input checked="" type="checkbox"/> Broad Form All States Endorsement	<input type="checkbox"/> US L&H (Longshore and Harbor Workers)	
	<input type="checkbox"/> Jones Act (Maritime Employment)	<input type="checkbox"/> Outer Continental Shelf	
	<input checked="" type="checkbox"/> Waiver of Subrogation	<input type="checkbox"/> Black Lung (Coal Mine Health and Safety)	
	<input type="checkbox"/> Other: _____	<input type="checkbox"/> Other: _____	
<input checked="" type="checkbox"/>	ALTCOMOBILE LIABILITY:		(\$1,000,000.00)
	<input checked="" type="checkbox"/> Owned Autos	<input type="checkbox"/> Any Auto	
	<input checked="" type="checkbox"/> Hired Autos	<input checked="" type="checkbox"/> Non-Owned Auto	
	<input type="checkbox"/> Contractual Liability	<input checked="" type="checkbox"/> Additional Insured	
	<input type="checkbox"/> MCS-90 (US DOT)	<input type="checkbox"/> Trucker's Form	
	<input type="checkbox"/> Waiver of Subrogation	<input type="checkbox"/> Other: _____	
<input checked="" type="checkbox"/>	GENERAL LIABILITY: <input type="checkbox"/> Limit Specific to Project <input type="checkbox"/> Per Project Aggregate		(\$5,000,000.00)
	<input checked="" type="checkbox"/> Broad Form Property Damage	<input checked="" type="checkbox"/> Contractual Liability	<input checked="" type="checkbox"/> Personal Injury
	<input checked="" type="checkbox"/> Premises and Operations	<input checked="" type="checkbox"/> Products/Completed Ops.	<input checked="" type="checkbox"/> Independent Contractors
	<input checked="" type="checkbox"/> Fire Legal Liability	<input type="checkbox"/> Garagekeepers Legal Liab.	<input type="checkbox"/> Child Abuse/Molestation
	<input type="checkbox"/> Corporal Punishment	<input checked="" type="checkbox"/> Collapse/Underground	<input type="checkbox"/> Explosion Hazard
	<input type="checkbox"/> Watercraft Liability	<input type="checkbox"/> Pollution	<input checked="" type="checkbox"/> Addition Insured Status
	<input type="checkbox"/> Waiver of Subrogation	<input type="checkbox"/> Airport Premises	<input type="checkbox"/> Hangarkeepers Legal Liab.
	<input type="checkbox"/> Marine Contractors Liability	<input type="checkbox"/> Other: _____	<input type="checkbox"/> Other: _____
<input type="checkbox"/>	PROFESSIONAL LIABILITY:		()
	<input type="checkbox"/> Contractual Liability	<input type="checkbox"/> Waiver of Subrogation	<input type="checkbox"/> 3 Year Discovery Tail
	<input type="checkbox"/> Additional Insured	<input type="checkbox"/> Vicarious Liability Endt.	<input type="checkbox"/> Other: _____
<input type="checkbox"/>	AIRCRAFT LIABILITY:		()
	<input type="checkbox"/> Passenger Per Seat Liability	<input type="checkbox"/> Contractual Liability	<input type="checkbox"/> Hull Waiver of Subrogation
	<input type="checkbox"/> Pollution	<input type="checkbox"/> Additional Insured	<input type="checkbox"/> Other: _____
<input type="checkbox"/>	PROPERTY DAMAGE: <input type="checkbox"/> Loss Payable Status (AOIMA)		()
	<input type="checkbox"/> Replacement Value	<input type="checkbox"/> Actual Cash Value	<input type="checkbox"/> Agreed Amount
	<input type="checkbox"/> All Risk Form	<input type="checkbox"/> Named Perils Form	<input type="checkbox"/> Earthquake: _____
	<input type="checkbox"/> Builder's Risk:\$_____	<input type="checkbox"/> Boiler and Machinery	<input type="checkbox"/> Flood: _____
	<input type="checkbox"/> Transportation Floater:\$_____	<input type="checkbox"/> Contractors Equipment\$_____	<input type="checkbox"/> Loss of Rental Income: _____
	<input type="checkbox"/> Scheduled Locations/Propt.	<input type="checkbox"/> Other: _____	<input type="checkbox"/> Other: _____
<input type="checkbox"/>	WATERCRAFT:		()
	<input type="checkbox"/> Protection and Indemnity	<input type="checkbox"/> Pollution	<input type="checkbox"/> Additional Insured
	<input type="checkbox"/> Waiver of Subrogation	<input type="checkbox"/> Other: _____	<input type="checkbox"/> Other: _____
<input type="checkbox"/>	POLLUTION:		()
	<input type="checkbox"/> Incipient/Long Term	<input type="checkbox"/> Sudden and Accidental	<input type="checkbox"/> Additional Insured
	<input type="checkbox"/> Waiver of Subrogation	<input type="checkbox"/> Contractor's Pollution	<input type="checkbox"/> Other: _____
<input type="checkbox"/>	CRIME: <input type="checkbox"/> Joint Loss Payable Status		()
	<input type="checkbox"/> Fidelity Bond	<input type="checkbox"/> Financial Institution Bond	<input type="checkbox"/> Loss of Monies/Securities
	<input type="checkbox"/> Employee Dishonesty	<input type="checkbox"/> In Transit Coverage	<input type="checkbox"/> Wire Transfer Fraud
	<input type="checkbox"/> Computer Fraud	<input type="checkbox"/> Commercial Crime	<input type="checkbox"/> Forgery/Alteration of Docs.
	<input type="checkbox"/> Other: _____	<input type="checkbox"/> Other: _____	
<input type="checkbox"/>	ASBESTOS LIABILITY: <input type="checkbox"/> Additional Insured		()

Insurance Req Form 7/04

APPENDIX G.XX: INTERCONNECTION AGREEMENT

STANDARD OFFER
FOR CUSTOMER GENERATION
INTERCONNECTION AGREEMENT

_____ - LADWP

CUSTOMER GENERATION
INTERCONNECTION AGREEMENT

BETWEEN

(SELLER)

AND

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

Project Location _____

LADWP NO. _____

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- LADWP
CUSTOMER GENERATION
INTERCONNECTION AGREEMENT

This Agreement is made and entered into by and between CITY OF LOSANGELES ACTING BY AND THROUGH THE DEPARTMENT OF WATER AND POWER (LADWP) and [_____], an LADWP Customer, sometimes referred to singularly as "Party" and collectively as "Parties", who agree as follows:

1. **RECITALS:** This Agreement is made with reference to the following facts, among others:

1.1 Prior to the Commercial Operation Date, Seller shall receive Electric Service from LADWP at:

Electric Service at this location is being provided pursuant to the terms and conditions of the Electric Rate Ordinance.

1.2 Seller currently has, or intends to design, construct, own, operate, and maintain, at its sole risk and expense, a solar energy-powered Generation Facility in parallel with LADWP's electric system. The Generation Facility has an installed alternating-current rating of -kW. The Generation Facility is more fully described in Exhibit A of this Interconnection Agreement.

1.3 If it is deemed necessary by LADWP to do so after evaluating the Seller's Generation Facility's plans, LADWP will design, construct, own, operate, and maintain an LADWP Facility and make any necessary modifications to LADWP's electric system for the safe operation of the Seller's Generation Facility in parallel with LADWP's electric system. Seller agrees to reimburse LADWP for all actual costs (direct and indirect) incurred in performing such work. If the LADWP Facility is constructed a description of the LADWP Facility will be attached as Exhibit B.

2. **DEFINITIONS:** The definitions, terms, conditions and requirements provided in the Electric Rate Ordinance, the Electric Service Requirements, the Rules and the Competitive Offer Power Purchase Agreement are incorporated in and made a part

of this Agreement by reference. The following additional terms, when initially capitalized, whether in the singular or plural tense, shall mean:

- 2.1 Agreement: This LADWP Generation Interconnection Agreement.
- 2.2 Authorized Representatives: The representative or designated alternate of a Party appointed in accordance with Section 14 of this Agreement.
- 2.3 Customer: The Seller is required to establish a customer account for the project at:

- 2.4 Generation Facility: All of Seller's electrical and mechanical equipment associated with the generation of electricity at the Seller's location.
- 2.5 Effective Date: As defined in Section 27 of this Agreement.
- 2.6 Electric Rate Ordinance: Ordinance No. 168436, effective January 31, 1993, and all amendments, revisions, and replacements thereof, including the electric rate schedules adopted by ordinances of the City of Los Angeles approving the rates to be paid by Customer for Electric Service at the location of the Generation Facility. The Electric Rate Ordinance in effect at the time of billing shall have precedence over any definitions, rate figures, numbers or calculations that may appear in this Agreement.
- 2.7 Electric Service: As defined in the Rules.
- 2.8 Electric Service Requirements: Requirements prescribed in writing by LADWP in effect at the time this Agreement is executed, and all revisions thereto or replacements thereof, which are necessary and proper for the regulation of any Electric Service installed, operated, and maintained within the City of Los Angeles. The Electric Service Requirements shall be in conformance with the Charter of the City of Los Angeles and the Rules.
- 2.9 In-Service Date: The date of initial interconnection of the Generation Facility to LADWP's electric system.
- 2.10 Interconnection Costs: All reasonable costs, as determined by Seller and LADWP in accordance with Prudent Utility Practices, including, but not limited to, planning, engineering, design, supervision, material procurement,

construction, quality assurance and inspection, testing, metering, maintenance, negotiation, contract administration, protection, expediting, accounting, budgeting, and other activities reasonably necessary for the interconnection and safe parallel operation of the Generation Facility to LADWP's electric system.

2.11 LADWP Facility: Electrical and mechanical equipment required and installed, owned, operated and maintained by LADWP for the safe parallel operation of the Generation Facility. This equipment is deemed by LADWP to be appurtenant and/or incidental to the Generation Facility and will be located at the site of the Generation Facility.

2.12 Prudent Utility Practices: Those practices, methods, and acts, that are commonly used by a significant portion of the renewable energy powered electric generation industry in prudent engineering and operations to design and operate electric equipment lawfully and with safety, dependability, reliability, efficiency, and economy, including compliance with any applicable practices, methods, acts, guidelines, standards, and criteria of FERC, NERC, and WECC and all other applicable requirements of law.

2.13 Rules: The Rules Governing Electric Service in the City of Los Angeles adopted by the Board of Water and Power Commissioners of the City of Los Angeles (Board) under Resolution No.56, dated September 8, 1983, and all amendments, revisions, and replacements thereof.

2.14 Competitive Offer Power Purchase Agreement (COPPA). The Competitive Offer Power Purchase Agreement between the LADWP and Seller, relating to the COPPA project at:

as may be amended, supplemented or otherwise modified from time to time.

3. AGREEMENT: In consideration of the terms and conditions contained herein and the mutual benefit to be derived by this Agreement, the Parties further agree as follows:

- 3.1 Seller shall purchase Electric Service, as needed, solely from LADWP, in accordance with the appropriate rate schedule in the Electric Rate Ordinance.
- 3.2 Seller shall pay LADWP for all costs associated with the interconnection and safe parallel operation of the Generation Facility in accordance with the terms and conditions contained herein.

4. RESPONSIBILITIES OF SELLER:

- 4.1 Seller shall own the Generation Facility, at its sole risk and expense, in compliance with all applicable codes, laws, Electric Service Requirements, Rules, and Prudent Utility Practices. A person or entity acting on Seller's behalf may operate and maintain the Generation Facility in compliance with all applicable codes, laws, Electric Service Requirements, Electric Service Rules, and Prudent Utility Practices. Meeting this requirement shall not relieve Seller of its obligations pursuant to the terms and conditions of this Agreement.
- 4.2 When Seller submits the signed Agreement to LADWP for execution, Seller shall also submit the following information:
 - 4.2.1 Electrical plans including load schedules and single-line diagrams.
 - 4.2.2 Plot and site development plans showing generator, disconnect, metering equipment locations and LADWP access to generator, disconnect and meter equipment locations.
 - 4.2.3 Energy Source Information:
 - (1) Maximum kilowatt rating
 - (2) Nominal voltage output
 - (3) Voltage regulation
 - (4) Maximum fault current contribution
 - 4.2.4 Protective system information:
 - (1) Protective system plan
 - (2) Manufacturer's data sheets and maintenance requirements for protective equipment

(3) Any additional information required by LADWP

- 4.3 Review by LADWP of Seller's specifications shall not be construed as confirming or endorsing the design, any warranty of safety or durability of the Generation Facility.
- 4.4 LADWP shall not, by reason of review or failure to review, be responsible for strength, details of design, adequacy or capacity of the Generating Facility or any of its component equipment, nor shall LADWP's acceptance be deemed to be an endorsement of the Generation Facility or any of its component equipment.
- 4.5 Within thirty (30) calendar days following the In-Service Date or at a date mutually agreed to between the Authorized Representatives, Seller shall submit in writing to LADWP's Authorized Representative that the Generation Facility meets the standards set forth in the applicable Electric Service Requirements.
- 4.6 Seller shall operate and maintain the Generation Facility in accordance with the applicable Electric Service Requirements and Prudent Utility Practices.
- 4.7 Seller shall not energize, at any time, a de-energized portion of LADWP's electric system without express permission from LADWP's Authorized Representative.
- 4.8 Seller shall obtain and maintain in full force and effect appropriate insurance coverages for the Generation Facility with limits not less than those set forth in Appendix F of this Agreement.
- 4.9 The Parties recognize that, from time to time, certain improvements, additions, or other changes in the interconnection and protection equipment at the Generation Facility may be required for the safe parallel operation of the Generation Facility with LADWP's electric system. Such improvements, additions, or other changes shall be in accordance with Prudent Utility Practices. LADWP shall have the right to require Seller to make those changes on the Generation Facility upon reasonable advance written notice from LADWP's Authorized Representative.

- 4.10 Failure of Seller to comply with Section 4.9 within a reasonable period of time after receipt of such written notice may result in the Generation Facility being disconnected from LADWP's electric system pursuant to Section 7.
5. RESPONSIBILITIES OF LADWP:
- 5.1 LADWP shall be the sole provider of Electric Service required by Seller at the location of the Generation Facility subject to future amendments to the existing Rules.
- 5.2 If it is deemed necessary by LADWP to do so after evaluating the Generation Facility's plans, LADWP will design, construct, own, operate, and maintain an LADWP Facility and make any necessary modifications to LADWP's electric system for the safe operation of the Generation Facility in parallel with LADWP's electric system.
- 5.3 LADWP reserves the right to make measurements or other tests on the Generation Facility, from time to time, as specified in the Electric Service Requirements. If the measurements or tests determine that the Generation Facility does not meet the specifications, LADWP will require Seller to disconnect the Generation Facility from LADWP's electric system pursuant to Subsection 7.1. Seller shall make the appropriate changes to the Generation Facility before reconnection to LADWP's electric system.
- 5.4 The Parties recognize that, from time to time, certain improvements, additions, or other changes in LADWP's electric system may be required for the safe parallel operation of the Generation Facility. Such improvements, additions, or other changes will be in accordance with Prudent Utility Practices. LADWP shall have the right to make those changes upon reasonable advance written notice from LADWP's Authorized Representative to Seller. LADWP shall bill Seller for such improvements, additions, or other changes in accordance with Section 8 of this Agreement.
- 5.5 LADWP shall have the right of ingress to and egress from Seller's premises pursuant to Section 11 of this Agreement.
- 5.6 LADWP shall bill Seller for Seller's pro rata share of the costs incurred in the implementation of this Agreement pursuant to Section 8 of this Agreement.

6. METERING:

- 6.1 LADWP shall install dual channel metering equipment and recorders at the output point of the Generation Facility, to measure electric energy and other electric parameters deemed appropriate by LADWP. The appropriate rate schedule from the Electric Rate Ordinance shall apply to any energy consumed from LADWP's grid by the Generation Facility.
- 6.2 For Generation Facilities with nameplate ratings of at least 1,000 kW, Seller shall provide LADWP with the capability to remotely monitor the Generation Facility. LADWP shall install telemetering equipment at the output point of the Generation Facility to monitor the electrical generation at LADWP's Energy Control Center. Seller is responsible for all costs associated with installation of such telemetering equipment.
- 6.3 LADWP meters shall be sealed with LADWP seals only. The seals shall not be broken except when the meters are inspected, tested, or adjusted by LADWP. LADWP shall test the meters, at its own expense, in accordance with its routine practice and the Rules. Seller may request testing of meters prior to their normally scheduled test dates, and LADWP shall test the meters upon request within a reasonable time. Seller shall be given reasonable notice to have a representative present at the time of meter testing. Seller shall pay for the cost of the requested meter testing if the meters are found to be within the tolerances specified within the Rules.
- 6.4 Disputes concerning alleged meter discrepancies shall be resolved in accordance with the Rules.

7. DISCONNECTION OF THE GENERATION FACILITY:

- 7.1 LADWP shall require Seller to disconnect the Generation Facility from LADWP's electric system if Seller does not comply with the covenants of this Agreement, the Electric Rate Schedules, the applicable Electric Service Requirements, the Rules, or COPPA. LADWP's Authorized Representative shall provide the Seller with thirty (30) Business Days written notice of such intent. In the event the Seller takes prompt action to comply, and pursues such action to completion, then LADWP will take no further action.

- 7.2 In accordance with procedures established in the Electric Service Requirements, LADWP shall require Seller to disconnect the Generation Facility immediately from LADWP's electric system if LADWP determines in good faith that an emergency and hazardous condition exists and such action is necessary to protect persons, LADWP's electric system, or other customer Facilities from damage or interference caused by Seller's electrical equipment, or to allow LADWP to repair, replace, or maintain any equipment associated with LADWP's distribution system.
- 7.3 Each Party shall endeavor to correct the condition on its electric system that resulted in the separation and shall coordinate reconnection of the Generation Facility for parallel operation.
- 7.4 LADWP shall provide for reconnection of the Generation Facility to LADWP's electric system when reasonable to do so.
- 7.5 LADWP shall not be liable to Seller or any person or entity acting on Seller's behalf including, but not limited to, any agent, designee, contractor, or lessee for damages of any type or nature whatsoever resulting from the connection or disconnection of the Generation Facility from LADWP's electric system.

8. INTERCONNECTION BILLING DETERMINANTS:

If LADWP determines after review of the Generation Facility's plans that an LADWP Facility must be constructed and modifications made to LADWP's electric system for the safe operation of the Generation Facility in parallel with LADWP's electric system, then this Section 8 shall apply.

- 8.1 For each detailed cost estimate and detailed design for the LADWP Facility and modifications to LADWP's electric system, LADWP shall bill Seller a nonrefundable amount equal to ten (10) percent of the preliminary cost estimate of the Interconnection Costs. The estimate made shall be based on Seller's Generation Facility specifications, pursuant to Subsection 4.2. Upon receipt of the nonrefundable amount, LADWP shall prepare a detailed cost estimate and a detailed design in a timely manner.
- 8.2 LADWP shall bill Seller for the amount of the Interconnection Costs based on the detailed cost estimate, less the ten (10) percent amount previously advanced pursuant to Subsection 8.1.

- 8.3 Upon receipt of the necessary funds, LADWP shall proceed with the LADWP Facility and any necessary modifications to the electric system for the safe parallel operation of the Generation Facility.
- 8.4 If it is determined, at the completion of the LADWP Facility, that Seller has advanced funds that are greater or less than the actual Interconnection Costs, LADWP's Authorized Representative shall make the appropriate adjustment within ninety (90) Business Days after the In-Service Date. Payment shall be made within thirty (30) Business Days thereafter.
- 8.5 If it is determined, pursuant to Subsection 5.4 of this Agreement, that LADWP must make improvements, additions, or other changes to either the LADWP Facility or to LADWP's electric system, LADWP will bill Seller for all costs incurred for such improvements, additions, or other changes.

9. ELECTRIC SERVICE BILLING DETERMINATIONS:

- 9.1 LADWP shall bill Seller after the end of each billing period for Electric Service. The bill shall be calculated using the applicable rates described in the appropriate rate schedule in the Electric Rate Ordinance and recorded billing data that shall consist of metered values deemed required by LADWP. The recorded billing data shall be obtained from LADWP dual channel meters and recorders. The bill shall also include any unpaid costs associated with the installation of telemetering equipment specified in Subsection 6.2. Seller shall send the payment to the address specified in Subsection 10.2.
- 9.2 For energy purchased by LADWP during the just-ended billing period, LADWP shall calculate a dollar payment based on methodology set forth in the Competitive Offer Power Purchase Agreement.

10. BILLINGS AND PAYMENTS:

- 10.1 Billings and payments pursuant to Section 8, Interconnection Billing Determinants, shall be transmitted to the following addresses:

10.1.1 If to LADWP:
Department of Water and Power
of the City of Los Angeles
P. O. Box 30870, Room 434
Los Angeles, California 90030-0870
Attention: General Accounting

10.1.2 If to Seller:

Attention: _____

10.2 Billings and payments pursuant to Section 9, Electric Service Billing Determinations, shall be transmitted to the following addresses:

10.2.1 If to LADWP:
Department of Water and Power
of the City of Los Angeles
P. O. Box 51111
Los Angeles, California 90051-5700
Attention: Accounts Receivable

10.2.2 If to Seller:

Attention: _____

10.3 Either Party may change, by written notice to the other Party, the name or address of the person to receive invoices or payments pursuant to this Agreement.

10.4 All bills, except as provided otherwise in this Agreement, are due and payable upon presentation. Payment shall be made in accordance with the Rules.

10.5 If the correctness of any bill for Electric Service, or any part thereof, or if the correctness of other charges or practices of LADWP is disputed by Seller, LADWP shall conduct an investigation in accordance with the Rules.

11. INGRESS AND EGRESS:

11.1 LADWP shall have, at all times, the right of ingress to and egress from Seller's premises for the following reasons:

11.1.1 Any purpose related to furnishing or receiving electric energy under this Agreement.

11.1.2 In order to exercise any and all rights secured to LADWP by law, this Agreement, or the Rules.

11.2 While on Seller's premises, LADWP shall abide by Seller's safety rules and regulations.

12. INDEMNIFICATION: To the fullest extent permitted by applicable law, except for the sole negligence or willful misconduct of LADWP, Seller undertakes and agrees to defend, indemnify and hold harmless LADWP, the City of Los Angeles, and each of their respective boards, commissioners, officers, agents, employees, assigns and successors in interest, as applicable (hereinafter, collectively, "Indemnitees") from and against any and all suits and causes of action (including proceedings before FERC), claims, losses, demands, penalties, judgments, costs, expenses, damages (including indirect, consequential, or incidental), disbursements of any kind or nature whatsoever, including but not limited to attorney's fees (including allocated costs of internal counsel), other monetary remedies, and costs of litigation, damages, obligation or liability of any kind or nature whatsoever, in any manner arising by reason of, incident to, or connected in any manner with the performance, non-performance or breach of this Agreement, or any other act, error or omission or willful misconduct by or of the Seller or Seller's officers, employees, agents, contractors, sub-contractors of any tier, including but not limited to any such performance, non-performance, breach, act, error or omission or willful misconduct that results in intellectual property infringement or leads to death or injury to any person, including but not limited to Seller, Seller's officers, employees, agents, contractors or sub-contractors of any tier, or damage or destruction to property of any kind or nature whatsoever, of either Party hereto, or of third parties, or loss of

use (hereinafter, collectively, "Indemnified Liabilities"). The provisions of this paragraph shall be in addition to, and not exclusive of, any other rights or remedies which Indemnitees have at law, in equity, under this Agreement or otherwise. To the extent that the undertakings to defend, indemnify, pay and hold harmless set forth in this subsection may be unenforceable in whole or in part because they are violative of any law or public policy, Seller shall contribute the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by Indemnitees or any of them. The provisions of this paragraph shall survive the expiration or termination of this Agreement.

13. ADMINISTRATION:

13.1 Within thirty (30) Business Days after the effective date of this Agreement, Seller and LADWP's Director of Power System Engineering Division or designee shall each designate, by written notice to the other, a representative who is authorized to act in each Party's behalf with respect to those matters delegated to the Authorized Representatives. Each Party may delegate an authorized alternate with full authority to act in the absence of the Authorized Representative. Each Party shall have the right to change its Authorized Representative or authorized alternate by written notice to the other Party.

13.2 The Authorized Representatives shall provide liaison between the Parties and a means of securing effective cooperation, interchange of information, and consultation on a prompt and orderly basis concerning the various matters that may arise, from time to time, in connection with this Agreement.

13.3 The Authorized Representatives shall review and attempt to resolve any disputes between the Parties under this Agreement. Should the Authorized Representatives be unable to resolve a dispute, the matter shall be referred to Seller and LADWP's Director of Power System Engineering Division who shall use their best efforts for resolution.

13.4 Prior to the In-Service Date, the Authorized Representatives shall agree on written procedures pertaining to the synchronization, operation, maintenance, administration, and other activities that may require coordination between the Parties.

13.5 All actions, agreements, resolutions, determinations, or reports made by the Authorized Representatives shall be made in writing and shall become effective when signed by the Authorized Representatives.

13.6 Any expenses incurred by an Authorized Representative or authorized alternate in connection with their duties shall be paid by the Party they represent unless otherwise agreed to in writing by Seller and LADWP's Director of Power System Engineering Division.

13.7 The Authorized Representatives shall have no authority to modify this Agreement.

14. DEFAULT:

14.1 Default by Seller: The occurrence of any of the following shall constitute a material breach and default of this Agreement by Seller:

- 14.1.1 Failure by Seller to make payment to LADWP of uncontested amounts within the time set forth in Section 10 herein; or
- 14.1.2 Failure by Seller to comply with requirements pertaining to the safety of persons or property set forth herein, in the Electric Rate Ordinance, in the Rules, or in the applicable Electric Service Requirements; or
- 14.1.3 Failure by Seller to substantially observe and perform any other material provision of this Agreement where such failure continues for thirty (30) Business Days after receipt by Seller of written notice from LADWP. Provided, however, that if the nature of such default is curable, but that the same cannot with due diligence be cured within the thirty (30) calendar day period Seller shall not be deemed to be in default if it shall within the thirty (30)

calendar day period commence to cure the default and, thereafter, diligently prosecute the same to completion; or

14.1.4 Default by Seller under the COPPA or any Ancillary Document (as defined in the COPPA).

15.1 Default by LADWP: Failure by LADWP to substantially observe and perform any material provision required by this Agreement, where such failure continues for thirty (30) Business Days after receipt of written notice from Seller, shall constitute a material breach and default by LADWP of this Agreement. Provided, however, that if the nature of such default is curable, but that the same cannot with due diligence be cured within the thirty (30) calendar day period LADWP shall not be deemed to be in default if it shall within the thirty (30) calendar day period commence to cure the default and, thereafter, diligently prosecute the same to completion.

16. REMEDIES UPON DEFAULT: Each party shall be entitled to money damages according to proof of actual damages resulting from default of the other and, in addition, each party shall have the right to terminate this Agreement upon the occurrence of any of the events of default described in Section 15. In no event shall incidental or consequential damages be payable.

17. FORCE MAJEURE: Neither Party shall be considered to be in default in the performance of any of its obligations under this Agreement (other than obligations of said Party to make payments due) if failure of performance shall be due to a Force Majeure. The term "Force Majeure" means any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, wildland fire or firestorm, storm or flood, or any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities (i) which prevents one Party from performing any of its obligations under this Agreement, (ii) which could not reasonably be anticipated as of the date of this Agreement, (iii) which is not within the reasonable control of, or the result of negligence, willful misconduct, breach of contract, intentional act or omission, failure to maintain operation of the Generation Facility or wrongdoing on the part of the affected Party, and (iv) which despite the exercise of commercially reasonable efforts the affected Party is unable to overcome or avoid or cause to be avoided. 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. Either Party rendered unable to fulfill any obligation under this agreement by reason of uncontrollable force shall promptly provide a written detailed notice of such fact to the other Party and shall exercise due diligence to remove any inability with all reasonable dispatch.

18. AUTHORIZATIONS AND APPROVALS:

18.1 Each Party shall obtain all the necessary authorizations, licenses, approvals, and permits from Federal, State, or local agencies having jurisdiction.

18.2 This Agreement and all operations hereunder are subject to the applicable laws, ordinances, orders, rules, and regulations of local, State, and Federal governmental authority having jurisdiction.

19. EFFECT OF SECTION HEADINGS: Section headings appearing in this Agreement are inserted for convenience only and shall not be construed as interpretations of text.

20. NONWAIVER: None of the provisions of this Agreement shall be deemed waived unless expressly waived in writing. Any omission or failure of either Party to demand or enforce strict performance of provisions of the Agreement shall not be construed as a waiver or as a relinquishment of any rights. All provisions and rights shall continue and remain in full force and effect as if such omission or failure had not occurred.

21. NONDEDICATION OF FACILITIES: This Agreement shall not be construed as a dedication of any properties or Facilities, or any portion thereon, by either Party to each other or the public.

22. NO THIRD-PARTY BENEFICIARIES: This Agreement is for the sole benefit of the Parties hereto and shall not be construed as granting rights to any person or entity other than the Parties or imposing on either Party obligations to any person other than a Party.

23. **NOTICES:**

23.1 Any written notice under this Agreement shall be deemed properly given if delivered in person or sent by registered or certified mail, postage prepaid, to the person specified below unless otherwise provided for in this Agreement:

23.1.1 **If to LADWP:**

Department of Water and Power
of the City of Los Angeles
P. O. Box 51111, Room 951
Los Angeles, California 90051-5700
Attention: Director of Power System
Engineering Division

23.1.2 **If to Seller:**

Attention: _____

23.2 Either Party may, by written notice to the other Party, change the name or address of the person to receive notices pursuant to this Agreement.

24. **TRANSFER OF INTEREST:** Neither Party shall assign or transfer this Agreement, in whole or in part, without the prior written consent of the other Party. The consent to assign or transfer shall not be unreasonably withheld. LADWP's Director of Power System Engineering Division or designee shall execute assignment or transfer of this Agreement or the consent to assign or transfer this Agreement.

25. **SEVERAL OBLIGATIONS:** The duties, obligations, and liabilities of the Parties are several and not joint or collective. Nothing contained in this Agreement shall be construed to create an association, trust, partnership, or joint venture or to impose a trust, partnership duty, obligation, or liability on or with regard to either Party. Each Party shall be individually and severally liable for its own obligations under this Agreement.

26. **SEVERANCE:** If any paragraph, sentence, clause, phrase, or word is held by a court of competent jurisdiction to be void or unenforceable, the balance of this

Agreement shall remain in full force and effect provided that the purposes of this Agreement can still be fulfilled.

27. EFFECTIVE DATE AND TERM:

27.1 This Agreement shall become effective upon the date of execution by the Parties.

27.2 This Agreement shall be coterminous with the "Agreement Term" as defined in the COPPA.

27.3 Upon the date of termination of this Agreement all rights to services provided hereunder shall cease and neither Party shall claim or assert any continuing right to such services hereunder. However, such termination shall not affect the rights and obligations to pay money for transactions occurring prior to termination. Such termination shall not end indemnification, pursuant to Section 13, provided to LADWP by Seller for periods where Seller operates or has operated a generation source electrically connected to LADWP's electric system.

28. GOVERNING LAW AND VENUE: This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the State of California and the City of Los Angeles, without regard to conflict of law principles. All litigation arising out of or relating to this Agreement shall be brought in a State or Federal court in the County of Los Angeles in the State of California. The parties irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of California and waive any defense of forum non conveniens.

29. UNDERSTANDING: This Agreement contains the entire understanding between the Parties with respect to the subject matter hereof; and there are no other promises, terms, conditions, obligations, understandings, or agreements between the Parties with respect thereto. This Agreement supersedes all previous communications, representations, understandings, and agreements, either oral or written, between the Parties with respect to the subject matter hereof.

30. REPRESENTATION: Each Party has been represented by legal counsel in the negotiation and execution of this Agreement.

31. EXHIBITS: Exhibits A through C attached hereto are incorporated herein by this reference.

32. **EXECUTION:** IN WITNESS WHEREOF, the signatories hereto represent that they have been appropriately authorized to enter into this LADWP Renewable Energy Generation Interconnection Agreement on behalf of the Party for whom they sign. This Agreement is hereby executed on the day and year written below.

(Seller)

By:

Name (Signature): _____

Name (Print): _____

Title: _____

Date: _____

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

By:

Name (Signature): _____

Name (Print): _____

Title: _____

Date: _____

INTERCONNECTION AGREEMENT - EXHIBIT A

GENERATION DATA SHEETS

Facility Name: _____

Address: _____

Owner/Company: _____

Contact Person: _____ Phone: _____

SYSTEM CHARACTERISTICS

Capacities: System Rating _____ kW

INTERCONNECTION WITH LADWP

_____ Parallel, connected to grid to sell power to LADWP

_____ Isolated, no connection to power grid

_____ Parallel, connected to grid to purchase power from LADWP

_____ Electric Load including planned expansions

GENERATION FACILITY DESCRIPTION

Schematic Diagram

Written Description

(Use additional pages if necessary)

ANNUAL PLAN PRODUCTION/USE CHARACTERISTICS

OUTPUT: Electric _____ kWh
CONSUMPTION: Electric _____ kWh
PEAK DEMAND: Electric _____ kW
System Efficiency _____ percent

ECONOMIC CHARACTERISTICS

Capital Costs _____ O&M Costs _____ \$/year
Cost of Generated Electricity _____ cents/kWh

FOR LADWP USE ONLY:

ACCOUNT REPRESENTATIVE _____

IS No. _____ VOLTAGE CONNECTION _____

INTERCONNECTION AGREEMENT - EXHIBIT B

SINGLE-LINE DIAGRAM AND EQUIPMENT LIST

FOR THE LADWP FACILITY

If the LADWP Facility is constructed, a single-line diagram and equipment list for the LADWP Facility will be attached to this Exhibit after the LADWP Facility has been designed and constructed.

LADWP's Authorized Representative will provide a copy of Exhibit B for Seller's files.

APPENDIX H.XX: SITE CONTROL FORM

I, _____ ("Site Representative"),
representing _____ ("Site
Owner"), attest that _____

("Seller"), has Site Control in the manner indicated below, of assessor's parcel number:
_____ located at

_____ ("Property"). The Seller has
dominion over the Property to the extent necessary to construct, own and operate the _____
kilowatt (kW) _____ ("Project") in
accordance with an executed Competitive Offer Power Purchase Agreement ("COPPA") with Los Angeles
Department of Water and Power ("LADWP").

In this case, Site Control means (check one applicable item below):

Seller holds title to the Property.

Seller has a duly executed contract for the purchase of the Property.

Seller has been granted a valid written option, unconditionally exercisable by Seller, to purchase the Property at a pre-determined price upon executing a COPPA with LADWP. (The option is binding on the Site Owner of the Property and the Site Owner cannot unilaterally withdraw, revoke, or rescind the obligation to sell the property to the Seller.)

Seller has a duly executed contract for the lease of the Property. (The lease unconditionally binds the Site Owner, subject to payment of a named rent and compliance by the Seller with standard commercial terms.)

Seller has been granted a valid written option, unconditionally exercisable by Seller, to lease the Property for a pre-determined rent prior to executing a COPPA with LADWP, for a duration of no less than the term of the COPPA, including rights to install, own, and operate the Project on the Property. (The option is binding on the Owner of the Property and the Owner cannot unilaterally withdraw, revoke, or rescind the obligation to lease the property to the Seller.)

Signature _____

Print Name of Site Owner _____

Date _____

Notary _____

APPENDIX I – BUSINESS INCLUSION PLAN

Bundled Solar FiT50 Inclusion Plan

Hecate Energy's FiT50 Inclusion Plan is composed of two parts: Local Development Partnerships and Local Procurement Planning.

1.0 Local Development Partnerships

Hecate Energy recognizes the importance and benefit of working with local firms.

1.1 Site Selection and Joint Development

Hecate Energy will engage at least one local developer, and will enter into a Joint Development Agreement with that firm whereby the local developer receives incentive payments for successfully developing projects. For this purpose, Hecate Energy has assembled a team, and intends to enter contracts with the following local development partners:

1.1.1 Absolutely Solar Inc. ("ASI")

- With 20 years of electrical contracting and engineering experience in Los Angeles, including hundreds of residential and commercial solar installations, Absolutely Solar (ASI) has the capacity and resources to design, engineer, permit and construct a variety of rooftop or ground-mounted utility-scale photovoltaic solar energy facilities.
- ASI is qualified as a Local Business per LADWP
- ASI has successfully developed 6 MWac of solar farms in the Antelope Valley and currently has rooftop systems totaling 8 MWac in development in both the Los Angeles DWP and Southern California Edison SCE service territories.

1.1.2 Tecta Solar

- Tecta Solar is an experienced developer of turnkey roof and ground mounted Photovoltaic power plants with a large balance sheet. It delivers turnkey solar solutions and provides roof contracting services with warranty support. Tecta Solar is a division of Tecta America Corp., the largest commercial roof contracting company in the United States, with over 40 offices, 3,000 employees, and construction credentials in most states.
- Tecta Solar has experience working in the LADWP service territory. Among several notable projects, their installation work on the Staples Center solar PV system stands out. Tecta Solar has an office in Orange County.
- Tecta Solar has union and non-union crews and is one of the only companies to be on both the General Services Administration Schedule for Solar and on the Department of Energy's Qualified List of Energy Service Companies.

1.2 Educational Institutions

Hecate Energy will partner with an entity that works with educational institutions. This partner will provide additional benefits such as education to the educational institution(s). Hecate Energy will install solar arrays at educational institutions in partnership with this entity should this entity provide the adequate site locations to support the project. Hecate Energy has selected and intends to enter a contract with the following company for this purpose:

1.2.1 SolSolution

- SolSolution is a high impact, self-sustaining nonprofit social enterprise whose mission is to simultaneously generate clean, renewable electricity and increase the quality of education in underprivileged schools. SolSolution makes it extremely easy and cost effective for schools to adopt solar power and then reinvests the would-be profits into low-income schools through its Solar Powered Schools Granting Program. This program provides all partner schools with targeted, hands-on Educational Programming focused on solar energy, STEM education, and clean-tech entrepreneurship.
- With SolSolution's exclusive focus on schools, their team has extensive experience navigating the unique obstacles facing school solar adoption, recognizing that schools' core competency lies in the education of students, not in the design, installation, and maintenance of solar power systems. Furthermore, their non-profit status allows them to quickly build trust with key school decision makers, increasing project momentum for schools to go solar. This specialization provides a high-impact advantage to penetrate the solar schools market that partner companies and organizations find extremely valuable.

2.0 Local Inclusion Plan for Procurement and Services

Hecate Energy understands that the FiT50 Program can provide economic stimulus for the local Los Angeles County economy. Hecate Energy will determine the scopes of work that present the greatest opportunities for subcontracting to Los Angeles County businesses. Hecate Energy will engage local companies for the services listed below. Where possible, Hecate Energy will seek to build relationships with local partners that could provide services for other Hecate Energy projects in the Southern California area.

2.1.1 Legal Counsel

- Hecate Energy will engage Foley & Lardner LLP to provide legal counsel. As appropriate legal services will be provided through Foley & Lardner's local office.

2.1.2 Geotechnical

Hecate Energy will engage a local firm for geotechnical services as relevant for any ground mounted projects. Hecate Energy has selected and intends to contract with Aesco for these services.

- *Aesco*
 - Geotechnical services and civil engineering
 - City of Los Angeles Certifications:
 - Women-Owned Business Enterprise
 - Disadvantaged Business Enterprise
 - Emerging Business Enterprise
 - Small Business Enterprise
 - AESCO, founded in 1993, has experience in a wide variety of projects involving design of street improvement projects, geotechnical engineering and inspection services.
 - AESCO clients include LADWP, the City of Costa Mesa, the City of Inglewood, the City of Long Beach Water Department, the City of Diamond

Bar, the City of Lakewood, the City of Huntington Beach, the City of Lynwood, the City of Riverside, the City of Buena Park, Metropolitan Transit Authority (MTA), and Orange County Transportation Authority.

2.1.3 Environmental, biological and cultural consulting service

Hecate Energy will engage a local firm for environmental services as required for any ground mounted projects. Hecate Energy has selected and intends to contract with the Chambers Group for these services.

- *Chambers Group*
 - Environmental, biological and cultural monitoring consulting service.
 - City of Los Angeles Certifications:
 - Disabled Veterans Business Enterprise
 - Other Business Enterprise
 - Providing environmental consulting services to private businesses, industry and government agencies throughout the western United States since 1978
 - Chambers Group provides services in environmental planning; regulatory permitting and agency coordination; environmental impact studies relating to air quality and climate change, noise and vibrations, biological and cultural resources, and marine biology; mitigation monitoring; restoration; and Geographic Information Systems (GIS).

2.1.4 Civil Engineering

Hecate Energy will engage a local firm for civil engineering services as required. Hecate Energy has selected and intends to contract with this firm to provide these services.

- *Tmad, Taylor & Gaines*
 - Construction services.
 - City of Los Angeles Certifications:
 - Minority Business Enterprise
 - Local Business Enterprise
 - TTG, which was started in 1955, is a premier consultant for engineering and construction-related services.
 - TTG's solar experience is wide and varied including: LADWP's 10 MW Adelanto Solar Project; Port of Los Angeles 1 MW Cruise Terminal Project; and Over 4 MW of rooftop projects located throughout Southern California.

2.2 Process for Local Inclusion.

- Hecate Energy will select firms (other than legal counsel) through a procurement process.

2.2.1 Local Business Outreach

Upon building a comprehensive list of potential suppliers, service providers, and construction companies, Hecate Energy will explore organizing a pre-bid FIT50 Inclusion Plan Kickoff Meeting in Los Angeles County. Hecate Energy will invite all parties on our list of potential local bidders to participate in this meeting. Additionally we will advertise the meeting in appropriate trade or local publications in an effort to reach any company of interest that was not identified in our preliminary search. The purpose of the meeting will be to introduce potential

bidders to the scope of work of the Fit50 opportunity and present Hecate Energy's commitment to maximize participation by local companies, or local employees of state, regional, or national companies.

2.3 Prequalify Bidders

Potential suppliers will be invited to submit qualifications. From the aggregated list of companies that expressed intent to bid, Hecate Energy will prequalify and develop a list of bidders for each subcontract and equipment package that will be issued for bid. Hecate Energy will create an "Approved Bidders List."

2.4 Bid Notification and Selection

Bid notifications will be issued to prequalified bidders for each bid package. Upon receiving bids, Hecate Energy's selection of awards to bidders will be based on appropriate factors including price, local presence in Los Angeles County, safety and ability to deliver. Hecate Energy will provide Small Business Enterprises (SBEs), Disabled Veteran Business Enterprises (DVBES), Women Business Enterprises (WBEs), Minority Business Enterprises (MBEs) and all Other Business Enterprises (OBEs) an equal opportunity to participate in the bidding process.

2.5 Additional Notes

Each Fit50 project will require the involvement of the following key personnel: Site Manager, Civil Construction Manager, Electric Construction Manager, Health and Safety Manager, Logistics Manager, and Quality Assurance Manager. Given Hecate Energy's structure, these roles will most likely be served by subcontractors. Our local inclusion planning shall ensure these job functions are served by employees based in Los Angeles County and we will remain open to hiring local staff as needed. The positions Hecate Energy is most likely to hire for are Project Siting Managers and Project Development Managers – potential hires based in Los Angeles County would be preferred in our selection process.

To the extent that Hecate Energy deems an aspect of the scope of work is best performed by a company that is based outside of the Los Angeles County it will look favorably on suitable service providers and suppliers that have local staff in Los Angeles. Hecate Energy will require that any contracted party certify the number of employees who work on the Fit50 Project that do or will reside in Los Angeles County in order to validate the extent of inclusion of employees.

During each procurement process associated with fulfilling Hecate Energy's Fit50 Program, locally manufactured or assembled materials will be treated with preference in Hecate Energy's procurement process.

cate Energy

Rocky Flats Blvd
Boulder, TN 37203
www.hecateenergy.com



September 5, 2013

Letter of Understanding

Peter Weich
2146 Lemoine St.
Los Angeles, CA 90026

Re: LADWP RFP No. 90135

Dear Mr. Weich:

Hecate Energy LLC ("Hecate") is submitting a proposal to RFP No. 90135, The Bundled Solar Project, of the Department of Water and Power of the City of Los Angeles ("LADWP"). Should Hecate be awarded all or a portion of The Bundled Solar Project, Absolutely Solar, Inc. ("ASI") will, on a best effort basis, assist Hecate in securing sites for Hecate's FIT50 MW obligation of the award as defined in the table below.

	<u>Beacon Site</u>		<u>FIT50 MW Obligation</u>
Site 1	56 MW	→	14 MW
Site 2	48 MW	→	12 MW
Site 3	56 MW	→	14 MW
Site 4	40 MW	→	10 MW

If and when Hecate is awarded all or a portion of The Bundled Solar Project by LADWP, Hecate and ASI agree to negotiate in good faith to reach a mutually agreed upon compensation structure for Absolutely Solar securing sites that meet the requirements of LADWP's FIT50 MW program. Upon the determination of a mutually agreeable compensation structure, Absolutely Solar agrees to contribute its existing secured sites and leverage its extensive origination network to secure additional sites, in order to fulfill all or a portion of Hecate's FIT50 MW obligation.

In return for ASI's participation in and assistance with Hecate's proposal and ASI's commitment to develop and build FIT50 projects for Hecate, if Hecate enters into a PPA for a Beacon LADWP project, Hecate agrees to hire ASI to assist in developing its required FIT50 projects. Upon being entering into such PPA and entering into a contract under industry standard commercial terms with ASI, Hecate agrees to advance to ASI a monthly retainer of \$10,000 monthly for a minimum of 5 months. The monthly retainer will be applied toward development compensation, if any, earned by ASI for projects sourced and developed by ASI. ASI agrees to use reasonable efforts to assist Hecate in developing its required FIT50 projects.

Hecate Energy


115 Ross Park Blvd
Nashville, TN 37203
www.HecateEnergy.com





Chris Ballinger
President

September 8, 2013
Date



Peter Weich
President
Absolutely Solar, Inc.

09/09/2013
Date

Hecate Energy
115 Rosa Parks Blvd.
Nashville, TN 37203
www.HecateEnergy.com



September 4, 2013

Letter of Understanding

Soren Harrison
SolSolution
519 Somerville Avenue #243
Somerville, MA 02143


Re: LADWP RFP No. 90135

Dear Mr. Harrison:

Hecate Energy LLC ("Hecate") is submitting a proposal to RFP No. 90135, The Bundled Solar Project, of the Department of Water and Power of the City of Los Angeles ("LADWP"). Should Hecate be awarded all or a portion of The Bundled Solar Project, SolSolution, Inc. ("SolSolution") will, on a best effort basis, assist Hecate in securing sites and developing the portfolio of solar projects for Hecate's FIT50 MW obligation of the award as defined in the table below.

	<u>Beacon Site</u>		<u>FIT50 MW Obligation</u>
Site 1	56 MW	↔	14 MW
Site 2	48 MW	↔	12 MW
Site 3	56 MW	↔	14 MW
Site 4	40 MW	↔	10 MW


SolSolution agrees to leverage relationships with its network of distributed generation developers, municipal entities, and schools to secure and develop all or a portion of sites required to fulfill Hecate's FIT50 MW obligation. If and when Hecate is awarded all or a portion of The Bundled Solar Project by LADWP, Hecate and SolSolution agree to negotiate in good faith to reach a mutually agreed upon compensation structure for SolSolution securing sites and developing projects that meet the requirements of LADWP's FIT50 MW program.



Chris Bullinger
President

9/6/13

Date



Soren Harrison
CEO

09/10/13

Date



Orange County
1782 Georgetown Lane
Huntington Beach, California 92647
Tel: (714) 375-3838
Fax: (714) 375-3831

San Bernardino County
14163 Arrow Boulevard
Fontana, California 92335
Tel: (909) 284-9200
Fax: (909) 284-9201

September 6, 2013

Mr. Gabriel Wapner
Hecate Energy
115 Rosa Parks Boulevard
Nashville, TN 37203

**Subject: Statement of Qualifications
Bundled Solar Project
Department of Water and Power
City of Los Angeles, CA
AESCO Proposal No. 3958**

Dear Mr. Wapner:

AESCO is pleased to submit this Statement of Qualifications to join your team to provide geotechnical engineering and QA/QC construction materials testing and inspections for the above-referenced project.

AESCO CORPORATION PROFILE

- AESCO is a **woman-owned corporation** (incorporated in California) and has been in operation since 1993, a total of 20 years.
- AESCO is **SBE, DBE/UDBE, WBE, and CBE** certified.
- Laboratory is **DSA, Caltrans and City of Los Angeles** certified.
- Member of the **Independent Assurance Program** with Caltrans, CCRL, and AMRL.
- **Materials testing and inspection services** including asphalt.
- **Clients include OCTA, CalTrans, MTA, the City of Los Angeles Department of Water and Power, the Cities of Huntington Beach, Lynwood, Lakewood, Buena Park, and Riverside; the Long Beach Community College District, the Covina School District, and the Alhambra School District.**

RELATED PROJECTS

A listing of related project experience is included in **Section 2**.

QUALIFIED PERSONNEL

We have attached a summary of personnel in **Section 3**, to provide you with an overview of their professional credentials and experience. Resumes are provided in **Appendix A**.

If you need further assistance regarding this matter, please give feel free to call either myself or Ms. Debra Perez. We look forward to hearing from you.

Very truly yours,
AESCO, Inc.



Adam Chamaa, MSCE, P.E., G.E.
Engineering Manager



Debra Perez
Project Manager