

POWER PURCHASE AGREEMENT

BETWEEN

CITY OF LOS ANGELES

ACTING BY AND THROUGH

THE DEPARTMENT OF WATER AND POWER

AND

CITY OF LOS ANGELES

ACTING BY AND THROUGH

THE DEPARTMENT OF PUBLIC WORKS BUREAU OF STREET LIGHTING

DATED AS OF _____
(TO BE COMPLETED BY LADWP UPON EXECUTION)

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POWER PURCHASE AGREEMENT

THIS POWER PURCHASE AGREEMENT ("**Agreement**") is entered into as of the Effective Date by and between the City of Los Angeles Department of Water and Power ("**Buyer**" or "**LADWP**"), and Department of Public Works Bureau of Street Lighting ("**Seller**" or "**BSL**"). 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, BSL desires to build, own, and operate at its own expense 9000 electrolier mounted solar photovoltaic modules and inverter Facilities to be located and installed entirely on BSL owned street light electroliers located within the City of Los Angeles Department of Water and Power 120/240 single phase distribution secondary system; 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 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 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) 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 the total CEC-AC system rating for all solar to grid systems.

“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.

“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 Facility has successfully completed all testing required by Prudent Utility Practices or any Requirement of Law to be completed prior to full commercial operations;
- (c) Seller has obtained all building, fire, planning, or environmental Permits required for the construction, operation and maintenance of the Facility in accordance with this Agreement (including those identified in Appendix A), and all such Permits are final and non-appealable;
- (d) 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
- (e) Seller has caused the CEC to certify the Facility as RPS Compliant and Portfolio Content Category 1 (PCC1) qualified in accordance with PUC Sections 399.16 (b).

“Commercial Operation Date” means the date on which Seller demonstrates to Buyer’s reasonable satisfaction that Commercial Operation has occurred.

“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 later of the date by which both Parties execute this Agreement, or the date by which the conditions precedent set forth in Section 2.1 have been met.

“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 399.32 of the Public Utilities Code or any successor thereto.

“Energy” means electrical energy as measured by the Electric Metering Device(s).

“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 the Eligible Renewable Energy Facility, including all property interests and related transmission and other facilities described in Appendix A.

“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 event or circumstance, including 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 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.

“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.

“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 and Seller’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.

“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 is required to be delivered by Seller to Buyer under this Agreement, as set forth in Appendix A.

“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.

“Proposed Commercial Operation Date” means the date set forth in Appendix A.

“Prudent Utility Practices” means those practices, methods, and acts, that are commonly used by a significant portion of the renewable 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” means the price for Energy and Environmental Attributes purchased pursuant to this Agreement as set forth in Appendix C.

“Quarter” means the three month period beginning on the first Business Day in January, April, July and October.

“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.

“Replacement Price” means the price at which the Buyer, acting in a commercially reasonable manner, purchased or has access to purchase, substitute energy equivalent to the unbundled energy at the market price available to Buyer at that time.

“Requirement of Law” means the Rules, the Electric Service Requirements, 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 qualifying as Portfolio Content Category 1 (PCC1)), 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.

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

“Site Control” means that Seller shall own the Site or has obtained written authority to utilize the Site.

“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.

“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 3.3, 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 has obtained all necessary approvals (if any) of Buyer's Board of Commissioners and/or the Los Angeles City Council, if applicable;
- (b) Seller has obtained all necessary approvals (if any) of Seller's Board of Commissioners and/or the Los Angeles City Council, if applicable;

- (c) Seller has caused the CEC to certify the Facilities as RPS Compliant and PCC1 qualified in accordance with PUC Sections 399.16 (b).

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. This Agreement shall have a delivery term (the “*Delivery Term*”) of *twenty-five (25) Contract Years* commencing on the Commercial Operation Date and ending on the *twenty-fifth* anniversary thereof, unless sooner terminated in accordance with the terms of this Agreement.

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 3.3, (iii) upon the occurrence of a Default, the Non-Defaulting Party may terminate this Agreement as set forth in Section 11.3, (iv) by Buyer, in its sole discretion, (a) if Seller abandons the Facility, or (b) if electric output from the Facility ceases for twelve (12) consecutive months. 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 Scope and Interconnection Requirements. Seller’s installation and operation of facility shall be in compliance with Appendix G.

Section 3.3 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; (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 3.4 Construction and Ownership of the Facility. Seller shall use commercially 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 3.5 Certification of Commercial Operation Date. Seller shall provide Buyer with a notice when Seller believes that all requirements to achieving Commercial Operation of the Facility as specified in the definition of "Commercial Operation" in Section 1.1 have been satisfied.

ARTICLE IV OPERATION AND MAINTENANCE OF THE FACILITY

Section 4.1 Compliance with Electrical Service Requirements. Seller shall, at its sole expense, operate and maintain the Facility (i) in accordance with Prudent Utility Practices, the requirements of this Agreement, 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 Facility, (ii) operate and maintain the Facility 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 Emergency Services. Seller is responsible for emergency services; however, if requested by police officers or firefighters to ensure public safety, Buyer will provide emergency maintenance and repair services within the area which would normally be performed

by Seller pursuant to this Agreement. These services will be provided by Buyer subject to availability of Buyer's resources, labor, and skills. Buyer does not guarantee to be able to provide such a response.

Section 4.4 Maintenance Notifications. For any calls regarding maintenance or repairs, including after hours and clearance requests within the area, the caller will be given the Seller's telephone number and the call will be transferred to Seller. Seller will notify Buyer if there is trouble with a supply circuit.

Section 4.5 Operation and Maintenance Plan. Seller shall devise and implement a plan of inspection, maintenance, and repair for the Facility and the components thereof in order to maintain such equipment in accordance with Prudent Utility Practices, and shall keep records with respect to inspections, maintenance, and repairs thereto. The aforementioned plan and all records of such activities shall be available for inspection by Buyer during Seller's regular business hours upon reasonable notice.

Section 4.6 Outages. Seller shall notify Buyer as soon as Seller becomes aware of any current or planned outage at the Facility reasonably expected to last longer than 30 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 the Facility 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 Practices, 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. Seller shall cause the Facility and all parts thereof to be designed, constructed, tested, operated and maintained to meet all of the requirements of this Agreement, all applicable Requirements of 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 Fire Department Standards, and any successors thereto.

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.

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, 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 the 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 California Energy Commission (CEC) Registration. Seller shall pre-certify the Facilities and the metering scheme with the CEC prior to installation of any Facilities to ensure that the Facilities will count as an Eligible Renewable Energy Facility and that the RECs can be accounted for in WREGIS as PCC1. Seller shall aggregate the Facilities into 250 kW units for reporting purposes, and certify the Facilities with the CEC using the form for certification of aggregated units.

Section 6.3 Renewable Energy Certificates (RECS). Seller shall establish an account with WREGIS and register all Facilities in increments of 250 kilowatt (CEC-AC) aggregated units into WREGIS to account for all RECS being generated by the Facilities. Seller shall transfer all the RECs produced by the Facilities to Buyer's WREGIS account each Quarter following Seller's first delivery of Facility Energy to Buyer under this Agreement.

Section 6.4 Facility's Point of Delivery. Seller shall deliver all Facility Energy to Buyer, and Buyer shall receive all Facility Energy from Seller, under this Agreement at the Point of Delivery.

Section 6.5 Energy to Come Exclusively from Facility. All Energy for sale and delivery pursuant to this Agreement shall come from the Facility and Seller shall not procure Energy from sources other than the Facility for sale and delivery pursuant to this Agreement.

Section 6.6 Facility Consumption. There shall be no Facility consumption (see Section 9.3).

Section 6.7 Sales to Third Parties. Seller shall not sell or otherwise transfer any Facility Energy, 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.

ARTICLE VII TITLE AND RISK OF LOSS

Section 7.1 Title; 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. Title to and 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 that RECs resulting from the output of the Facility are

confirmed as PCC1 compliant. Seller shall maintain such certification during the entire Agreement Term.

Section 8.6 WREGIS. Seller shall be the “Qualified Reporting Entity” and “Account Holder” (as such terms are defined by WREGIS) for the Facility and shall transfer all eligible RECs resulting from this Facility to Buyer’s WREGIS Account.

ARTICLE IX BILLING; PAYMENT; AUDITS; METERING; POLICIES

Section 9.1 Calculation of Energy Delivered; Statements; Payment. For each Quarter during the Delivery Term, commencing with the first Quarter in which Facility Energy is delivered by Seller to, and received by, Buyer under this Agreement, Seller shall calculate the amount of Energy so delivered and received during such Quarter as determined from recordings produced by Seller’s meters maintained pursuant to Section 9.6, at or near midnight on the last day of the Quarter in question. Buyer will not pay for any Facility Energy in excess of 1.2 times the energy hour production profile submitted by Seller at time of application and included as Appendix D. The calculation methodology for the Purchase Price of Facility Energy that will be used is set forth in Appendix C.

Section 9.2 Invoicing and Payment. Buyer will invoice Seller for the engineering and approval of each Solar to Grid Electrolier Generation System (STGS) plan at a rate of \$100 per hour for Engineering Review. Each service point will not cost more than \$600 for engineering and approval. Buyer retains the right to cancel a project if it is determined that the project is economically infeasible. Buyer will invoice Seller for street light maintenance crews to conduct inspection, testing, and co-generation tagging at \$100 per hour. Each service point will not cost more than \$1000 to conduct inspection, testing, and co-generation tagging. Not later than the First day of each Quarter, commencing with the next Quarter following Seller’s first delivery of Facility Energy to Buyer under this Agreement, Seller shall deliver to Buyer a statement showing the amount of Facility Energy that was delivered by Seller from all Facilities combined, the amount of RECs registered for that month, indication that all RECs were transferred to Buyers WREGIS account (see Appendix F) the total payment amount due as calculated in accordance with Appendix C, and invoiced in the format of Appendix E. Payment shall be made on an annual basis only after Buyer verifies that all REC(s) associated with Energy Delivered to Buyer for each Quarter has been reported in WREGIS for the invoiced period, and all REC(s) have been transferred to Buyer’s WREGIS account. Payment(s) will not be made until after Seller transfers all REC(s) to Buyer. If Energy Delivered at any time during this Agreement is deemed as no longer eligible for PCC1 REC, Buyer shall pay Seller for energy delivered at the Replacement Price but in no event will Buyer pay more than the Purchase Price set forth in Appendix C.

Section 9.3 Energy Consumed Rate Schedule. All lamps or light emitting diodes attached to any circuit where Facilities will be installed will continue to be billed for energy delivered to them by LADWP in accordance with Rate Schedule LS-3: Energy Only.

Section 9.4 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 9.5 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, including any amounts due because of breach of this Agreement or any other obligation and any costs payable by Seller. This right to set off shall apply only to any amount due and accrued after the date of execution of this Agreement.

Section 9.6 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) calendar 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) calendar days of notice to Seller of the identified overpayment Seller shall pay to Buyer the identified overpayment and, if the audit reveals that Buyer's 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 9.7 Electric Metering Device.

The Facility Energy made available to Buyer or Buyer's Agent by Seller under this Agreement shall be measured using Electric Metering Device(s). The Electric Metering Device(s) shall be installed, owned and maintained by the Seller. Seller or its designee, at no expense to Buyer, 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 one percent (1.0%), an adjustment shall be made correcting all measurements by the inaccurate or defective Electric Metering Device for both the amount of the inaccuracy and the period of the inaccuracy. The adjustment period shall be determined 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 9.7 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.

The metering systems and scheme must meet the following requirements:

- Be certified as an ANSI C-12.1 and C12.20 compliant meter listed with the California Energy Commission.
- Be certified as RPS eligible by the California Energy Commission as PCC1.
- Meter shall have at least four registers measuring and recording the following:
 - Energy delivered to Buyer in kWh
 - Energy received from LADWP in kWh
 - Kilovar-hours (kVarh) delivered to LADWP
 - kVarh received from LADWP
- All access to the meter(s) data must be made available to Buyer by Seller at no cost.

Section 9.8 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 9.9 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 Department of 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 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 Department of 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 Seller of this Agreement and all Ancillary Documents to which it is a party have been duly authorized by all necessary action, and do not and will not require any consent or approval of Seller's regulatory/governing bodies, other than that which has been obtained.
- (c) This Agreement and all Ancillary Documents to which Seller is a party constitute the obligation of Seller enforceable in accordance with its terms, except as such enforceability may be limited by Bankruptcy, insolvency, reorganization or similar laws relating to or affecting the enforcement of creditors' rights generally or by general equitable principles, regardless of whether such enforceability is considered in a proceeding in equity or at law.
- (d) 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.

- (e) 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.
- (f) 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.
- (g) At all times after the Effective Date, Seller shall have Site Control. Seller shall provide Buyer with prompt notice of any change in the status of Seller's Site Control.
- (h) 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 by Buyer 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 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.

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 Development Security Deposit 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 day of a statement period, 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.

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.

- (a) Neither Party shall assign any of its rights, or delegate any of its obligations, under this Agreement without the prior written consent of other Party, which consent shall not be unreasonably withheld; provided that Seller shall not assign such rights or delegate such obligations in part without the prior written consent of Buyer, which consent may be withheld in Buyer’s sole discretion. The Party seeking such assignment or such delegation shall provide written notice of such assignment or

delegation to the other Party and request the consent required hereunder at least ten (10) Business Days before such assignment or delegation at the address of such other Party set forth in Appendix B. Any payment direction or redirection provided to Buyer arising out of or in connection with such assignment shall be provided to Buyer in writing at the address specified in such consent and shall be effective within the time specified in such consent.

- (b) Upon at least ten (10) Business Days prior written notice delivered to the address of such the Buyer set forth in Appendix B, Seller may assign all of its rights, and delegate all of its obligations, in whole under this Agreement without the prior written consent of Buyer if such assignment and delegation is another Department within the City of Los Angeles. Any payment direction or redirection provided to Buyer arising out of or in connection with such assignment shall be provided to Buyer in writing at the address specified in Appendix B and shall be effective within twenty (20) Business Days.
- (c) Upon any assignment or delegation of obligations by such assignor Party pursuant to paragraphs (a) or (b) of this Section, the assignor Party shall be relieved of and fully discharged from all its obligations hereunder, whether such obligations arose before or after the date of such assignment and delegation, provided that assignee assumes the payment and performance obligations provided under this Agreement with respect to the assignor Party, and agrees in writing to be bound by the terms of and conditions in this Agreement.
- (d) To facilitate Seller's obtaining of financing to construct and operate the Facility, Buyer shall provide, at Seller's cost and expense, such consents to collateral assignment or other documents (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; provided that any payment direction or redirection provided to Buyer arising out of or in connection with such collateral assignment shall be provided to Buyer in writing at the address specified in such consent and shall be effective within the time specified in such consent.
- (e) Notwithstanding the foregoing or anything else expressed or implied herein to the contrary, Seller shall not assign, transfer, convey, encumber, sell or otherwise dispose of all or any portion of the Facility Energy, Capacity Rights or Environmental Attributes (not including the proceeds thereof) to any Facility Lender.
- (f) Any purported assignment or delegation in violation of this Section shall be null and void and of no force or effect.

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.

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. Parties acknowledge that Buyer and Seller, as part of a California municipal corporation, are subject to disclosures 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 arms'-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.

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

By: _____

Signature

Marcie Edwards

Name (Print)

General Manager

Title

Date: _____

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

NOV 10 2015

BY

William H. Kysella, Jr.
DEPUTY CITY ATTORNEY

CITY OF LOS ANGELES acting by and through the
DEPARTMENT OF PUBLIC WORKS BUREAU OF
STREET LIGHTING

By: _____

Signature

Ed Ebrahimian

Name (Print)

Director

Title

Date: _____

APPENDIX A
FACILITY

1. Name of Facility ("Facility"):

Solar to Grid Facilities on Street Lights within the City of Los Angeles

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

Various BSL electroliers within the limits of the City of Los Angeles

Assessors Parcel Number: N/A

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

Various - to be identified for each service point in the Solar to Grid System Plan.

2. Owner of Property [Site owner]:

City of Los Angeles acting by and through the
Department of Public Works Bureau of Street Lighting

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

City of Los Angeles acting by and through the
Department of Public Works Bureau of Street Lighting

4. Equipment:

(a) Type of Facility [generation type]: Solar Photovoltaic

(b) Total Capacity of Facility [kW CEC-AC]: 2,300 KW

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

12/30/2015 - 12/30/2017

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

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:

Department of Public Works, Bureau of Street Lighting
1149 South Broadway Ste 200.
Los Angeles, California 90014
Attention: Norma Isahakian, Assistant Director

Telephone: (213) 847 - 2090
Facsimile: [() -]
Email:

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:

Department of Public Works, Bureau of Street Lighting
1149 South Broadway Ste 200
Los Angeles, California 90014
Attention: Carleen Marquez, ASD
Telephone: (213) 847 - 1327
Facsimile: [() -]
Email:

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.

3.1 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

3.2 If to Seller:

Department of Public Works, Bureau of Street Lighting
1149 South Broadway Ste 200
Los Angeles, California 90014
Attention: Norma Isahakian, Assistant Director

Telephone: (213) 847 - 2090
Facsimile: [() -]

APPENDIX C
CALCULATION OF MONTHLY PAYMENT

1. The Purchase Price for Facility Energy will be calculated as the sum of Facility Energy delivered at each hour multiplied by the Base Price for Energy (BPE).
2. The BPE for this Agreement is \$0.15 per kilowatt-hour for all units installed from January 1, 2016 to December 31, 2018.
3. Seller shall invoice Buyer in the format illustrated in Appendix E.
4. Payment to seller shall be made after Buyer receives invoice indicating that all REC(s) associated with energy delivered to Buyer has been reported to Seller's WREGIS account for the invoiced period, and all REC(s) have been transferred to Buyer's WREGIS account.
5. TOD multipliers will be applied to the BPE as outlined in the table below:

Time of Delivery Multiplier				
		High Peak	Low Peak	Base
Period	Months	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
ENERGY PRODUCTION PROFILE

The Energy Production Profile will be added to this Agreement once obtained from the manufacturer and approved by Buyer and Seller.

APPENDIX E
QUARTERLY INVOICE FORMAT

APPENDIX F
PRODUCTION REPORT FORMAT

APPENDIX G
SCOPE AND INTERCONNECTOR REQUIREMENTS

Section 1. Scope. The scope of work shall include the attachment of 9000 Facilities over a three year period to street lighting poles in various Sites within the City of Los Angeles. The Facilities will be installed on low voltage circuits as defined by BSL and approved by the LADWP. (High voltage circuits will not be used for attachment of Facilities). The BSL will proceed to acquire the panels through the City's purchasing process. All approvals of equipment and attachment methods shall adhere to the various appendices of this Agreement unless otherwise approved in an amendment to this Agreement.

- (a) BSL and/or BSL's contractor will install a network of Facilities only on BSL electroliers. A network of Facilities may be comprised of one or several individual Photovoltaic (PV) module and inverter units mounted to one or more individual electroliers. Only one network shall be interconnected with one LADWP service point.
- (b) BSL shall prepare and submit to LADWP's Street Light Support Group a formal Solar to Grid Electrolier Generation System (STGS) plan for each Facility as set forth in Exhibit 1.
- (c) The following shall be identified in the STGS plans:
 - (i) Site plan identifying individual Street light circuits
 - (ii) Street light circuit number (Patrol Map or Conduit Map)
 - (iii) Electrolier numbers to be affixed with a Photovoltaic and inverter unit
 - (iv) Original plan number which installed the electroliers (see bottom right corner of Exhibit 1)
 - (v) Any subsequent plan number that initiates a modification
 - (vi) Number and size of luminaires on circuit
 - (vii) Luminaire replacements, removals, upgrades, or additions
 - (viii) Manufacturer of each PV generation unit
 - (ix) Connected size of each PV generation unit, and its expected output rating
 - (x) Total CEC-AC rating of each solar to grid Facility
 - (xi) Circuit diagram of street light system with service point location
 - (xii) Circuit diagram of solar facility interconnection
 - (xiii) Metering scheme, meter type and model, and meter location on the circuit
 - (xiv) The model of each solar facility and the model of the meter installed at each service point.
 - (xv) The following notice:

NOTICE TO CITY INSPECTOR/CONTRACTOR:

- HIGH VOLTAGE CIRCUIT CLEARANCE REQUEST SHALL BE MADE TO THE BUREAU OF STREET LIGHTING AND SHALL BE PERFORMED BY CITY CREWS.
 - LOW VOLTAGE CIRCUIT CLEARANCE SHALL BE PERFORMED BY THE QUALIFIED CONTRACTOR RESPONSIBLE FOR THE CONSTRUCTION OF THE PROJECT.
 - PRIOR TO CONSTRUCTION, THE CONTRACTOR SHALL SUBMIT (2) COPIES OF THE STREET LIGHTING PLAN (24"x36") AND REQUEST THE CONTRACT ADMINISTRATION BUREAU INSPECTOR TO SUBMIT "CONSTRUCTION START NOTICE" AND M-21 FORM TO LADWP STREET LIGHTING SUPPORT SECTION.
- (d) BSL shall provide uninterrupted access and updates to the website(s) used for monitoring all Facilities energy production and consumption activity.
- (e) BSL shall perform necessary clearances in order to safely install the Facilities as set forth in BSL Directive No. 414 (Exhibit 2).
- (f) BSL shall install appropriate co-generation tags within the service point pullbox on the load side of the fuse kit and within each electrolier's pullbox and/or within each electrolier handhole as necessary to ensure thorough notification of the potential for solar generation backfeed per the LADWP standards. BSL shall be responsible for installing updated tags.
- (g) LADWP Street Light Maintenance (SLM) shall install the latest approved co-generation tags on the 120/240V service supply cable. Where appropriate LADWP shall affix tags at every location a crew has access to perform work on the cables. Those locations shall include the service point pullbox (on the line side of fuse kit), within the distribution vault on the transformer connection, and traced out to the cable at the duct if service cable is fed from an underground residential mole. The co-generation tag standard is attached as Exhibit 3.
- (h) BSL shall create permanent records for installation (such as As-Built Drawings) and notify LADWP Street Light Support (SLS) group.

Section 2. Metering. BSL shall submit a Solar to Grid Electrolier Generation System (STGS) plan to LADWP's Street Light Support (SLS) group that indicates the metering scheme and point of interconnection for all STGS units. LADWP shall review and approve the metering scheme and point of interconnection for each STGS unit prior to installation by BSL. A meter shall be installed on the load side after the Facilities on each circuit prior to the service point pullbox by BSL in accordance to the requirements detailed in Section 9.7 of the PPA. The meter type shall be a dual channel revenue-grade meter that meets ANSI C12.1 and C12.20 standards with Automated Metering Infrastructure (AMI) capabilities, including network connectivity. LADWP shall receive copies of monthly meter data, and shall have rights to audit each meter at

any time. Meters shall have the ability to capture and report energy production in 15 minute increments and intervals necessary to satisfy Western Renewable Energy Generation Information System (WREGIS) standards.

Section 3. Scheduling. In consideration of available LADWP resources, in no event will more than 3000 units be processed by LADWP in a 12 month period in accordance with the following schedule:

Phase I	January 2016 - December 2016	3000 Units
Phase II	January 2017 - December 2017	3000 Units
Phase III	January 2018 - December 2018	3000 Units

Section 4. Service Point.

- (a) The service point for the entire street light circuit shall be inside the service point pullbox, at the line side connection to the fuse kit.
- (b) All circuits and equipment on BSL's side of the service point shall be operated, maintained, and repaired at all times, including after hours, by BSL.
- (c) All circuits and equipment on the LADWP's side of the service point shall be operated, maintained, and repaired at all times by LADWP in accordance with Prudent Utility Practices.

Section 5. Inspection Process.

- (a) BSL shall submit to LADWP's SLM group a final STGS plan, with an in-service date coordinated with LADWP by submitting a Form M21 to LADWP. Once Form M21 is received, LADWP will create a Construction Work Package (CWP) within 10 Business Days. Once the CWP is created, BSL can coordinate with SLM to schedule an inspection.
- (b) SLM shall obtain the following miscellaneous materials:
 - a. Solar co-generation tags (For example, see Exhibit 3)
- (c) SLM will arrive at the jobsite to:
 - a. Meet BSL representative to confirm scope of work.
 - b. Access each vault between distribution transformer and service point cable in order to place co-generation tags on cables.
 - i. Prepare service point pullbox for access.
 - ii. Verify the number of electrolier mounted modules/inverter Facilities as shown on plan.

- iii. Verify service point pullbox fuse kit is properly insulated. If the fuse kit is damaged, SLM will inform BSL representative of the need for repair.
- iv. SLM will open the fuse kit and do the following:
 - 1. Connect a multi-meter and verify that voltage at the AC utility leads is 120/240V.
 - 2. Connect a multi-meter and verify that voltage at the BSL fuse kit leads is zero.
- v. SLM will authorize BSL to make their connections after:
 - 1. Verifying installation of BSL co-generation tags; and
 - 2. Performing another system check of BSL circuit to verify that voltage on BSL fuse kit leads are zero.
- vi. SLM will close the fuse kit:
 - 1. Wait five minutes for inverter output voltage (there is a built-in five minute delay to check for power stability)
- vii. SLM will perform the anti-islanding test:
 - 1. Open the fuse kit
 - 2. Verify the inverter AC output voltage goes to zero
 - 3. If anti-islanding test passes, continue to step 4.
 - 4. Re-connect fuse kit
 - 5. Install co-generation tags in service point pullbox and vaults.
 - 6. Fill out tie-in form.
 - 7. If anti-islanding test fails, SLM will notify BSL.
- viii. If BSL is not able to remedy a failure of the anti-islanding test, then each Facility must be disconnected to original condition so that street light circuit can operate as normal. A re-inspection will be required and scheduled at a later date
- ix. SLM will notify SLS of job status (Pass, Fail, Reschedule) and Street Light Services will confirm information on all databases.