



SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

**Request for Proposals for Balance of Plant (“BOP”) Agreement for
Linden Wind Energy Project**

RFP Date: May 02, 2013

Response Deadline: May 31, 2013 (3:00 pm PDT)

The Southern California Public Power Authority (“SCPPA” or “Owner”) is hereby soliciting competitive proposals for Balance of Plant (“BOP”) services for the Linden Wind Energy Project (the “Project”) on behalf of its Member Utilities (defined below).

Introduction

SCPPA, a joint powers authority and a public entity organized under the laws of the State of California, was created pursuant to the Government Code of California and a Joint Powers Agreement for the purpose of planning, financing, developing, acquiring, constructing, operating and maintaining projects for the generation or transmission of electric energy. SCPPA also facilitates joint service contracts, at the request of its Members (defined below), to aggregate like project efforts amongst its Members for the purposes of developing energy efficiency, demand response and resource procurement programs or projects to improve operating efficiencies and reduce costs.

Membership of SCPPA consists of eleven cities and one irrigation district, which supply electric energy within Southern California, including the municipal utilities of the cities of Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, Los Angeles, Pasadena, Riverside, and Vernon, and the Imperial Irrigation District (the “Member Utilities” or “Members”).

Any service contract entered into by SCPPA, pursuant to this RFP, would be utilized directly by the interested Members to serve their respective customers’ needs. The service and work products would be ordered and approved directly by the Members and the billing would be administered through SCPPA.

Project Background:

The Project is a wind generation facility with a nameplate capacity of 50 MW, located in Klickitat County in South Central Washington, approximately 4.5 miles southeast of the city of Goldendale, east of Highway 97. The Project sits on a ridge at an elevation of approximately 2700 feet overlooking the Columbia River. The Project site consists of twenty-five wind turbines, approximately ten miles of roads, foundations, a collector station, a one mile 230 kv transmission line, one meteorological tower, a switchyard owned by the Klickitat Public Utility District (“KPUD”) and an operating and maintenance building (the “BOP Facility”).

The Project has twenty-five (25) REpower mm 92 2.0 MW wind turbine generators. Each turbine is a three bladed, upwind, horizontal-axis wind turbine with a rotor diameter of approximately 92.5 meters. The turbine rotor and the nacelle are mounted on top of a tubular tower giving a rotor hub height of approximately 80 meters. The nacelle contains the electrical generating equipment. The maximum height of the turbines is approximately 127 meters when a rotor blade is at the top of its rotation.

The Project has a 230/34.5 KV Linden collection substation that includes a 64 MVA main transformer, two 9.6 MVAR capacitor banks, two +/- 4 MVAR DVAR units and related switchgear. The Linden Collection Substation connects to KPUD’s new Linden 230 kv switchyard via a Linden owned one mile 230 KV radial transmission line. Point of interconnection is at a switchyard located at the Project that is owned by KPUD. The KPUD switchyard is then connected to KPUD’s existing EE Clouse Substation via a 230 KV transmission line. The EE Clouse Substation is then connected to Bonneville Power Administration’s (“BPA”) Harvalum Substation. The point of delivery is at BPA’s Harvalum substation.

The Los Angeles Department of Water and Power (“LADWP”) is the operating agent for the Project and acts as representative for SCPPA.

BOP Agreement

Attachment A provides the draft BOP Agreement. If the respondent plans to take any exception to the attached BOP Agreement, it must be identified in the bid proposal. These exceptions will also be taken into consideration in the evaluation of the bids.

Project Term

The term of the agreement will be for a period of three (3) years commencing in August, 2013.

Scope of Services

The scope of BOP services is set forth in Exhibit B to Attachment A.

Required Exhibits

The respondent shall submit the following exhibits as part of its response to this Request for Proposals:

- (a) Proposed Insurance Coverage with minimums and coverage not less than the minimums and coverage included in Exhibit C of Attachment A;
- (b) Sample “daily/weekly/monthly/annual reports” per Exhibit D of Attachment A
- (c) Sample “Form of Operating Plan” per Exhibit E of Attachment A
- (d) Sample “Form of Budget” per Exhibit F of Attachment A
- (e) Sample “BOP contractor representative and owner representative” per Exhibit G of Attachment A
- (f) Sample “Rate Schedule” per Exhibit H of Attachment A

Proposal Submission Required Elements

1. Transmittal Letter: A brief statement of the respondent's understanding of the work to be done and commitment to perform the work as scheduled including a summary of exceptions taken to the request for proposal requirements. An officer authorized to bind the respondent must sign the proposal on behalf of the respondent and must include the following declarations on the Transmittal Letter:

“This proposal is genuine, and not sham or collusive, nor made in the interest or in behalf of any person not herein named; the respondent has not directly or indirectly induced or solicited any other respondent to put in a sham bid, or any other person, firm or corporation to refrain from submitting a proposal; and the respondent has not in any manner sought by collusion to secure for themselves an advantage over any other respondent.”

2. Applicant Information: Provide legal name of Company, Physical Street Address, e-mail address, Telephone, Name and Title of individuals authorized to represent the respondent.

3. Fees: SCPA is interested in the respondent’s capabilities and pricing to make an informed decision and proceed to more specific negotiations. Pricing should be made based on good faith estimates of the requirements defined in this request for proposals. Detail specific examples or estimates of the fees. Describe how the fees will be determined. Prior to contract award, the successful respondent shall supply a

detailed breakdown of the applicable overheads and fringe benefit costs that are part of the labor rates and other direct costs associated with the services to be performed.

4. Experience: Respondent will clearly identify project participants and management team.
 - a. Describe the respondent's experience as may be applicable to this request for proposals, organizational structure, management qualifications, and other contract related qualifications, including number of years firm has been in business.
 - b. Specify key employees and describe their qualifications, experience and duties related to this request for proposals, including the office location(s) where work will be performed.
 - c. Provide a commitment statement for the retention and use of key employees as proposed, their availability to initiate and sustain the proposal, as well as planned supplement if not available to assure project delivery.
 - d. State whether respondent will use subcontractors to perform services pursuant to the contract. Should the use of subcontractors be offered, the respondent shall provide the same assurances of competence for the subcontractor, plus the demonstrated ability to manage and supervise the subcontracted work. Subcontractors shall not be allowed to further subcontract with others for work which is integral to the proposed solution. The provisions of this contract shall apply to all subcontractors in the same manner as to the respondent.
 - e. Respondent shall indicate any and all pending litigation that could affect the viability of respondent's proposal, continuance of existing contracts, operation or financial stability.
 - f. Describe whether the respondent has, within the last three years, rendered any service to SCPPA or to any of SCPPA's Member Utilities, either as a contractor or subcontractor, either under the current respondent's name or any other name or organization. If so, please provide details (status as prime or subcontractor, brief description of the contract, contract start and end dates, the contract administrator name, and total actual contract expenditures).

Proposal Submission Delivery Requirements

An initial respondents' telephone conference for interested parties and potential respondents to ask questions related to this Request for Proposals will be held on **May 23, 2013 at 10:00 am PDT**. (Telephone: (909) 293-7399 Passcode: 3249658#)

Clarification questions must be emailed to Mr. Saifuddin Mogri through email at saifuddin.mogri@ladwp.com no later than **May 16, 2013**.

Proposals shall be delivered in electronic form to Mr. Steve Homer at shomer@scppa.org no later than **3:00 pm PDT on May 31, 2013**.

No other contact should be made with the Board of Directors, any committee or working group representatives, or the Member Utilities concerning this request for proposals.

All information received by SCPPA in response to this request for proposals is subject to the California Public Records Act and all submissions may be subject to review in the event of an audit.

Proposal Terms and Conditions

1. SCPPA reserves the right to cancel this RFP at any time, reject any and all proposals or waive irregularities.
2. SCPPA shall determine at its sole discretion the value of any and/or all proposals including price and non-price attributes.
3. Proposals may be sub-divided or combined with other proposals, at SCPPA's sole discretion.
4. SCPPA may perform an initial screening evaluation to identify and eliminate any proposals that are not responsive to the request for proposals, do not meet the minimum requirements set forth in the request for proposals, are clearly not economically competitive with other proposals, or are submitted by respondents that lack appropriate creditworthiness, sufficient financial resources, or qualifications to provide dependable and reliable services.
5. SCPPA reserves the right to submit follow-up questions or inquiries to request clarification of information submitted and to request additional information from any one or more of the respondents.
6. SCPPA reserves the right, without qualification and in its sole discretion, to accept or reject any or all proposals for any reason without explanation to the respondent, or to make the award to that respondent, who, in the opinion of SCPPA, will provide the most value to SCPPA and its customers.
7. SCPPA may decline to enter into any potential engagement agreement or contract with any respondent, terminate negotiations with any respondent, or abandon the request for proposal process in its entirety.
8. SCPPA reserves the right to make an award to the other than the lowest price offer or the proposal evidencing the greatest technical ability or other measure if SCPPA determines that to do so would result in the greatest value to SCPPA and its Member Utilities.

9. Those respondents who submit proposals agree to do so without legal recourse against SCPPA, its Member Utilities, their directors, officers, employees and agents for rejection of their proposal(s) or for failure to execute or act on their proposal for any reason.

10. SCPPA shall not be liable to any respondent or party in law or equity for any reason whatsoever for any acts or omissions arising out of or in connection with this request for proposals.

11. SCPPA shall not be liable for any costs incurred by any respondents in preparing any information for submission in connection with this RFP process or any and all costs resulting from responding to this RFP. Any and all such costs whatsoever shall remain the sole responsibility of the respondent.

12. SCPPA may require certain performance assurances from respondents prior to entering into negotiations for a proposed project. Such assurances may potentially include a requirement that respondents provide some form of performance security.

13. Either SCPPA or any Member Utility may respond to, or enter into negotiations for a proposal. SCPPA is not responsible or liable for individual Member Utility interactions with the respondent that are not entirely contained within SCPPA's option or election to engage the respondent as defined within the terms and conditions herein.

Additional Requirements for Proposal

1. Consideration of Responses: Submitted proposals should be prepared simply and economically, without the inclusion of unnecessary promotional materials. Proposals should be submitted on recycled paper that has a minimum of thirty percent (30%) post-consumer recycled content and duplex copied (double-sided pages) where possible and applicable.

2. Insurance, Licensing, or other Certification: If selected, the respondent will be required to maintain sufficient insurance, licenses, or other required certifications for the type of work being performed. SCPPA or its Member Utilities may require specific insurance coverage to be established and maintained during the course of work and as a condition of award or continuation of contract.

3. Non-Discrimination/Equal Employment Practices/Affirmative Action Plan: If selected, the respondent and each of its known subcontractors may be required to complete and file an acceptable Affirmative Action Plan. The Affirmative Action Plan may be set forth in the form required as a business practice by LADWP which is SCPPA's largest Member Utility.

4. Living Wage Ordinance: If selected, the respondent may be required to comply with the applicable provisions of the City of Los Angeles Living Wage Ordinance and the City of Los Angeles Service Contract Workers Retention Ordinance. The Living Wage Ordinance provisions are found in Section 10.36 of the Los Angeles City

Administrative Code; and the Service Contract Workers Retention Ordinance are found in Section 10.37 of the Los Angeles Administrative Code (SCWRO/LW0).

5. Prevailing Wage Rates: If selected, and if the work is funded in any part by resources with such an obligation, the respondent may be required to conform to prevailing wage rates applicable to the location(s) where any work is being performed.

6. Child Support Policy: If selected, respondent may be required to comply with City of Los Angeles Ordinance No. 172401, which requires all contractors and subcontractors performing work to comply with all reporting requirements and wage earning assignments and wage earning assignments relative to court ordered child support.

7. Supplier Diversity: Respondents shall take reasonable steps to ensure that all available business enterprises, including Women Business Enterprises (WBEs) and Minority Business Enterprises (MBEs) have an equal opportunity to compete for and participate in the work being requested by this request for proposals. Efforts to obtain participation of MBEs, WBEs, and other business enterprises could reasonably be expected to produce a level of participation by interested subcontractors including 15 percent MBE and 7 percent WBE. SCPPA's Supplier Diversity program is modeled after that of the LADWP. Further information concerning the Supplier Diversity Program may be obtained from the Purchasing Division of LADWP.

6140460_4

ATTACHMENT A

“DRAFT” BALANCE OF PLANT (BOP) AGREEMENT

BALANCE OF PLANT (BOP) AGREEMENT “DRAFT”

This Balance of Plant (BOP) Agreement (“Agreement”) is dated as of _____ (the “Effective Date”) between Southern California Public Power Authority, a California Joint Powers Authority (“Owner”), and _____, a _____ (the “BOP Contractor”). Owner and the BOP Contractor are referred to in this Agreement individually as a “Party” and together as the “Parties.”

RECITALS

A. Owner owns the **Linden Wind Energy Project** in Klickitat County, Washington, comprised of, among other things, twenty five (25) WECs and the related Balance of Plant.

B. The Los Angeles Department of Water and Power currently serves as the Operating Agent for the Linden Wind Energy Project and will act as Owner’s Contract Representative.

C. Owner has an existing operation and maintenance contract with **REpower USA Corp.** (the “WEC Operator”) to provide operation and maintenance of the WECs at the Linden Wind Energy Project.

D. Owner wishes to engage the BOP Contractor as an independent contractor, during the Term, for the purpose of performing various Balance of Plant services as described in **Exhibit B** hereto for the Linden Wind Energy Project, including administration of the Linden Wind Energy Project on behalf of Owner, on the terms and conditions set forth herein.

E. Owner wishes that the BOP Contractor will oversee all activities occurring at the Linden Wind Energy Project Site, including activities performed by the WEC Operator that take part at the Linden Wind Energy Project Site.

NOW, THEREFORE, in consideration of the foregoing Recitals, which are hereby incorporated herein, the mutual promises contained herein and other good and valuable

consideration, receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1 DEFINITIONS

1.1 Definitions.

As used in this Agreement, all capitalized terms shall have the respective meanings given to them in this Agreement and in the Schedule of Definitions attached hereto as Exhibit A.

1.2 Construction.

All references to any agreement shall be to such agreement as amended, supplemented or modified from time to time. All references to a particular entity shall include a reference to such entity's successors and permitted assigns. The words "herein," "hereof" and "hereunder" shall refer to this Agreement as a whole, including the exhibits hereto, and not to any particular section or subsection of this Agreement. The singular shall include the plural and the masculine shall include the feminine and neuter and vice versa. "Includes" or "including" shall mean "including, without limitation." All exhibits to this Agreement are hereby incorporated herein by reference. In case of any conflict between the terms and conditions in the body of this Agreement (excluding the exhibits) and an exhibit attached hereto, the provisions in the body of this Agreement (excluding the exhibits) shall control and prevail. Subject to the foregoing, if any requirements specified in any exhibit are in conflict with any other requirements in such exhibit or in any other exhibit, the more detailed requirements shall control and prevail. Notwithstanding the foregoing, the provisions of this Agreement, including all exhibits, shall be, wherever possible, construed as complementary rather than conflicting.

ARTICLE 2 ENGAGEMENT OF THE BOP CONTRACTOR

2.1 Engagement of the BOP Contractor.

Owner hereby engages BOP Contractor as an independent contractor to operate, maintain and repair the Linden Wind Energy Project, to perform certain administration and management services for the Linden Wind Energy Project and to perform certain other duties, all as set forth in this Agreement. BOP Contractor accepts such engagement and agrees to perform in accordance with the terms and conditions hereof.

2.2 Relationship.

BOP Contractor shall act as an independent contractor of Owner with respect to the performance of its obligations hereunder. None of the BOP Contractor Parties shall be deemed to be agents, representatives, employees, or servants of Owner or any of Owner's Representatives. BOP Contractor shall not have the right or authority to assume, create or incur any liability or obligation, express or implied, against, in the name of, or on behalf of Owner or any of Owner's Representatives. This Agreement is not intended to create, and shall not be construed to create, a relationship of partnership

or an association of profit between Owner or any of Owner's Representatives and BOP Contractor.

2.3 Engagement of Third Parties and Site Personnel.

BOP Contractor may, subject to the other provisions of this Agreement (including Section 5.1 and Section 4.1(d)) engage such third party Subcontractors (including BOP Contractor's Affiliates) as it deems advisable for the purpose of performing or carrying out any of its obligations under this Agreement; provided, however, that (a) BOP Contractor shall provide notice to Owner prior to BOP Contractor's engagement of any Subcontractor, (b) no such engagement shall relieve BOP Contractor of any of its obligations or liabilities under this Agreement, including those set forth in Article 13, and (c) BOP Contractor's use of Subcontractors shall not modify or increase the compensation payable to BOP Contractor pursuant to Section 8.1. As between Owner and BOP Contractor, BOP Contractor shall be solely responsible for the acts, errors, omissions and defaults of its Subcontractors and the other BOP Contractor Parties with respect to the performance of the Services. Nothing in this Agreement shall be construed to impose on Owner or its Representatives any obligation, liability or duty to a Subcontractor, or to create any contractual relationship between Owner or its Representatives and any Subcontractor or Representative of BOP Contractor Personnel.

ARTICLE 3 TERM AND RENEWAL

3.1 Term.

The term of this Agreement shall commence on **[August 1, 2013]** (the "Commencement Date") and shall continue for a period of three (3) years (including any Extension Terms, the "Term"); provided, however, that the obligations of the parties set forth in Section 4.5(a), Article 7, and Article 18 shall commence on the Effective Date.

3.2 Automatic Extensions of Term.

Unless sooner terminated as set forth in Article 14, the Term shall automatically be extended for successive one (1) year periods (each, an "Extension Term") from the end of the initial Term or the then-effective Extension Term, unless either Party provides written notice to the other Party that it does not desire such extension to occur. Such written notice is required to be provided not later than six (6) months prior to the end of the initial Term or the then-effective Extension Term, as applicable. All terms and conditions set forth herein shall apply during each Extension Term.

ARTICLE 4 DUTIES OF BOP CONTRACTOR

4.1 General Operating Standards.

(a) BOP Contractor has read and understands the requirements of all Linden Wind Energy Project Agreements and Permits provided to it by Owner. BOP Contractor shall comply with the requirements of all Linden Wind Energy Project Agreements and Permits provided or to be provided to BOP Contractor by Owner, including any amendments, modifications, supplements, or replacements to any Linden

Wind Energy Project Agreement or Permit, as the case may be, in providing Services. In the event of a conflict between the obligations of BOP Contractor to comply with any Linden Wind Energy Project Agreement and any of BOP Contractor's obligations hereunder, BOP Contractor shall comply with the Linden Wind Energy Project Agreement until Owner resolves such conflict and directs BOP Contractor how to proceed. Prior to such direction, BOP Contractor shall not be liable to Owner to the extent compliance with the conflicting Linden Wind Energy Project Agreement causes BOP Contractor to breach this Agreement.

(b) In performing its obligations hereunder, BOP Contractor shall, consistent with the Budget and the requirements of this Agreement and the Linden Wind Energy Project Agreements and based on the direction of Owner, maximize revenues generated by the operation of the Linden Wind Energy Project, minimize expenses of the Linden Wind Energy Project, optimize the productivity of the Linden Wind Energy Project and optimize the useful life of the Linden Wind Energy Project, all consistent with the best interests of Owner.

(c) BOP Contractor shall ensure that the Services and all the equipment, Spare Parts or materials furnished, used or installed by the BOP Contractor or any Subcontractor in the performance of the Services shall be (i) performed or furnished in accordance with (A) this Agreement, (B) all applicable Subcontractor and vendor warranties or guarantees (including the Linden Wind Energy Project Warranties) and manufacturers' instructions and specifications, (C) the requirements under the insurance policies maintained by BOP Contractor with respect to the Linden Wind Energy Project, (D) the BOP Procedures Manual, (E) the applicable Operating Plan and the Budget, (F) Prudent Industry Practices, (G) all Applicable Laws, and (H) all Permits held by BOP Contractor or Owner applicable to the Services, (ii) free from defects in material and workmanship, and (iii) performed by qualified Site Personnel and Subcontractors.

(d) BOP Contractor acknowledges that the major policies and business decisions concerning the Linden Wind Energy Project, including those listed below, shall be established by Owner. The day-to-day management of the Linden Wind Energy Project shall be the responsibility of BOP Contractor. BOP Contractor shall obtain Owner's permission before engaging in activities with respect to the Linden Wind Energy Project that are not within the scope of this Agreement or required by Emergency, including scheduling non-emergency interruptions in the delivery of electricity. BOP Contractor shall not, under any circumstances, unless otherwise directed or approved by the Owner in writing, undertake, nor permit any BOP Contractor Party to undertake, any of the following actions:

(i) cause, suffer or permit the creation or assumption by Owner or its Representatives of any indebtedness for borrowed money;

(ii) cause any Encumbrance on any assets or properties of the Linden Wind Energy Project, the Linden Wind Energy Project Site, or the property of Owner or its Representatives, except for liens arising out of a breach by Owner of its payment obligations hereunder to the BOP Contractor;

(iii) cause Owner or its Representatives to act as surety, grant guaranties or incur similar liabilities on behalf of third parties, directly or indirectly, whether for borrowed money or otherwise;

(iv) pledge the credit of Owner or its Representatives in any way in respect of any commitments;

(v) cause the conveyance, modification, sale or other disposition of any part of the Linden Wind Energy Project or any other assets of Owner or its Representatives;

(vi) solicit, negotiate, arrange or engage in any transaction on behalf of Owner or its Representatives not permitted under this Agreement, including taking any action to waive any of Owner's rights under, suspend Owner's performance under, or execute, terminate or amend, any Linden Wind Energy Project Agreement, Permit or other agreement or document on behalf of Owner;

(vii) modify or alter the WECs, Linden Wind Energy Project, the Linden Wind Energy Project Site or any part thereof in a manner that adversely affects the operation, availability, output, efficiency, maintenance costs, or repair costs of any of the WECs, or change the capacity characteristics of the WECs or the Linden Wind Energy Project;

(viii) subcontract for any of its obligations hereunder if the subcontract provides for compensation to the Subcontractor in excess of Ten Thousand Dollars (\$10,000) within one calendar year;

(ix) make or commit to make any Reimbursable Expenses or acquire on a reimbursable cost basis any equipment, materials, assets or other items, except in conformity with the then current Budget or as otherwise approved in writing by Owner; provided, that in the event of an Emergency, affecting the safety or protection of Persons or endangering the Linden Wind Energy Project or real or tangible personal property located at the Linden Wind Energy Project, BOP Contractor, without approval from Owner, shall be authorized to take all reasonable actions to prevent such threatened damage, injury or loss in accordance with Section 4.4; provided further, that notwithstanding any other provision of this Agreement, BOP Contractor shall not, without the prior written consent of Owner, make any single expenditure resulting in Reimbursable Expenses in any amount greater than Twenty-Five Thousand Dollars (\$25,000), provided, that if, notwithstanding BOP Contractor's diligent efforts to contact Owner, BOP Contractor is unable to do so, BOP Contractor shall be authorized to make such expenditures resulting in Reimbursable Expenses in excess of Twenty-Five Thousand Dollars (\$25,000) in the event of an Emergency;

(x) take or agree to take any other action that varies from the then-current Operating Plan or Budget (except as set forth in Section 4.1(e)(ix)) or causes Owner to violate any of the Linden Wind Energy Project Agreements;

(xi) settle, compromise, assign, pledge, transfer, release or consent to the compromise, assignment, pledge, transfer or release of, any Claim or debts against or due by, Owner (including, agreeing to any penalty for violation of any Permit), the Linden Wind Energy Project, the Linden Wind Energy Project Site, or the WECs, or submit any such Claim, except those by BOP Contractor against Owner or as otherwise provided in Article 13, to arbitration or judicial process, or stipulate in respect thereof to a judgment, or consent to do the same (and BOP Contractor agrees that Owner shall retain full control of all such legal actions, demands, negotiations and compromises with respect to any of the aforementioned Claims, except as otherwise provided in Article 13);

(xii) hold itself out as or otherwise describe itself as agent or representative of Owner or its Representatives;

(xiii) receive or apply the proceeds of any insurance policy of Owner or condemnation award in connection with any property of Owner or its Representatives or the Linden Wind Energy Project Site, except as directed by Owner;

(xiv) communicate with or submit any report, notice or other document relating to Owner or the Linden Wind Energy Project to any Governmental Authority or counterparty to any Linden Wind Energy Project Agreement, except (i) to the extent the failure to do so would result in a violation of any Permit or Applicable Laws and there is insufficient time for BOP Contractor to communicate or confer with Owner, provided that BOP Contractor notifies Owner as soon as practicable following such communication or submission to the applicable Governmental Authority or Counterparty, (ii) as required to enable BOP Contractor to conduct the Services hereunder when there is insufficient time for BOP Contractor to communicate or confer with Owner, provided that BOP Contractor notifies Owner as soon as practicable following such communication or submission to the applicable Governmental Authority or Counterparty; (iii) as expressly authorized and permitted in this Agreement or expressly authorized by Owner, or (iv) if such communications are necessary for the routine day-to-day operation of the Linden Wind Energy Project and are necessary for BOP Contractor to perform the Services;

(xv) notify any party to any Linden Wind Energy Project Agreement (other than Owner) of the occurrence of Force Majeure under this Agreement or force majeure events under such Linden Wind Energy Project Agreements; or

(xvi) issue or make any public announcement or statement regarding the terms and conditions of this Agreement or the operation of the Linden Wind Energy Project, provided that BOP Contractor shall have the right to include in requests for proposals and similar marketing materials created and distributed by BOP Contractor (and without Owner's prior review or approval): (i) a general description of the size, generation type and location of the Linden Wind Energy Project; and (ii) the fact that BOP Contractor entered into this Agreement to provide operation and maintenance services to the Linden Wind Energy Project.

4.2 Operation and Maintenance Services.

BOP Contractor shall perform the services set forth in Exhibit B, this Article 4, Article 5, and Article 6 (the “Services”).

4.3 Spare Parts and Consumables.

(a) All equipment, Spare Parts, and materials procured or utilized by BOP Contractor for performance of the Services during the term of any equipment warranties for equipment located on the Linden Wind Energy Project Site shall be new and of specification and quality required so as to in no way invalidate such warranties, or any portion thereof.

(b) Prior to April 1 of each Production Year, BOP Contractor shall provide Owner with a list of all Spare Parts required for the following 12-month period from July 1 through June 30.

(c) Spare Parts with a per unit value of more than Twenty Thousand Dollars (\$20,000) shall be procured in accordance with a Spare Parts procurement process to be agreed upon between the Parties as soon as practicable after the Effective Date but not later than sixty (60) days after the Commencement Date. Spare Parts with a per unit value of less than Twenty Thousand Dollars (\$20,000) shall be procured in accordance with this Agreement.

(d) Only the services associated with procurement of Spare Parts are included in the Services and covered by the Fixed Fee hereunder. The actual cost of such Spare Parts shall be a Reimbursable Expense.

4.4 Emergencies.

In the event of any Emergency involving the Linden Wind Energy Project endangering life or property, BOP Contractor shall take such action as may be reasonable and necessary to prevent, avoid or mitigate injury, damage or loss and shall, as soon as practicable, telephonically report any such Emergency, including BOP Contractor’s response thereto, to Owner, followed by written notice to Owner, which notice shall include detail with respect to any action being taken by BOP Contractor in response thereto and any expenditure incurred, or expected to be incurred, by BOP Contractor in connection with such Emergency. BOP Contractor shall take all steps to minimize the cost to Owner of its actions, having regard to the circumstances and the need to act promptly. Following such notification, at the request of Owner, the Parties shall discuss without delay the further actions that should be taken as a result of the Emergency and the estimated expenditure associated therewith.

4.5 Safety Standards.

(a) Prior to the Commencement Date, BOP Contractor shall develop an Environmental, Health, and Safety Plan reasonably satisfactory to Owner (the “EH&S Plan”) that specifies the policies and procedures that BOP Contractor will follow with respect to the maintenance and supervision of environmental, health, and safety precautions at the Linden Wind Energy Project, including policies for notification of Owner and third parties of events related to environment, health, and safety at the

Linden Wind Energy Project Site. The EH&S Plan shall be consistent with terms and conditions of this Agreement, all Applicable Laws, and all applicable Permits. BOP Contractor shall, and shall cause all Site Personnel, Subcontractors and other persons at the Linden Wind Energy Project Site, to comply with the EH&S Plan at all times during the Term.

(b) BOP Contractor, its Subcontractors and Site Personnel shall comply with all applicable health, safety, security, and evacuation Laws ("Safety Laws"), all Environmental Laws, and all safety, security, and evacuation procedures required by Prudent Industry Practice. These include, but may not be limited to, the Applicable Laws promulgated by OSHA, EPA, the Washington Department of Ecology, and air quality regulators. Where the requirements of such Governmental Authorities overlap, the most protective Laws apply. Notwithstanding the foregoing, BOP Contractor's obligations under this Section 4.5(b) with respect to any Permits included in the Safety Laws and Environmental Laws shall be limited to Permits provided to BOP Contractor by Owner.

(c) BOP Contractor shall conduct safety meetings for Site Personnel and Subcontractors at least one time per week, including first aid instruction applicable to and appropriate for the Services.

(d) If BOP Contractor becomes aware of noncompliance with applicable Safety Laws or Environmental Laws by WEC Operator, WEC Manufacturer or their Representatives, it shall provide notice of same to Owner in a timely fashion. If Owner notifies BOP Contractor, or BOP Contractor otherwise becomes aware, of actual noncompliance by BOP Contractor, the Site Personnel, or BOP Contractor's Subcontractors with Safety Laws, BOP Contractor shall take immediate steps to correct such noncompliance at the cost and expense of BOP Contractor, and as soon as practicable or within the time frame allowed by such Safety Laws, whichever is sooner, comply with (or cause compliance with) such Safety Laws; provided however, that BOP Contractor shall not have any obligation to correct noncompliance of WEC Operator and WEC Manufacturer and their Representatives; and further provided, that to the extent such noncompliance occurs at the direction of Owner, the cost to BOP Contractor of correcting such noncompliance shall be considered a Reimbursable Expense. If BOP Contractor fails or refuses to take immediate corrective action for actual and material noncompliance, Owner may issue an order stopping the performance of the Services until satisfactory corrective action has been taken. If such noncompliance is of the nature that could have a material adverse effect on the Linden Wind Energy Project, Owner may reasonably correct the conditions resulting in such noncompliance or have such conditions corrected by others at BOP Contractor's expense. Owner's failure to notify BOP Contractor of any noncompliance with Safety Laws shall not relieve BOP Contractor from any of its obligations under this Section 4.5.

(e) BOP Contractor shall notify Owner promptly following BOP Contractor's discovery of any OSHA-reportable or recordable accident. BOP Contractor shall use commercially reasonable efforts to prevent the occurrence of reportable and recordable OSHA incidents.

(f) BOP Contractor shall maintain accurate accident records and injury reports related to Site Personnel and Subcontractors and shall furnish a copy of all accident reports to Owner on a monthly basis.

(g) BOP Contractor shall furnish safety and health equipment for, and enforce the use of such equipment by, all Site Personnel and Subcontractors on the Linden Wind Energy Project Site.

(h) BOP Contractor shall implement security measures at the Linden Wind Energy Project Site in accordance with Exhibit B.

(i) Where installed on the Linden Wind Energy Project Site, BOP Contractor shall keep all emergency alarm controls, fire extinguishers, fire hose boxes, emergency breathing air units, safety showers, and other safety equipment operational and free of obstruction for emergency use.

(j) BOP Contractor shall immediately report any damage to Owner equipment or property when discovered by or reported to BOP Contractor.

4.6 Waste Management.

(a) BOP Contractor shall bear responsibility and liability arising out of Hazardous Materials (i) that are not used, including those that are not actually used but were brought to the Linden Wind Energy Project Site to be used, in connection with the performance of the Services brought on the Linden Wind Energy Project Site by any BOP Contractor Party or any Subcontractor or any of its agents or employees, or (ii) improperly or negligently generated, handled, stored, transported, processed, transferred, refined, managed, stored, discharged, disposed, or Released by any BOP Contractor Party in connection with the performance of the Services (but not including any action taken in compliance with specific instructions of Owner, WEC Operator or WEC Manufacturer). BOP Contractor shall be responsible for (a) performing the on-site management of and for arranging for the transportation and disposal by a licensed contractor of all wastes, including Hazardous Materials, brought on to the Linden Wind Energy Project Site by any BOP Contractor Party or generated by or used in the performance of the Services and shall coordinate waste disposal with the WEC Operator in connection with the Turbine Services, provided that all such wastes and Hazardous Materials shall be deemed the property of Owner unless improperly brought to the Linden Wind Energy Project Site by a BOP Contractor Party; and (b) all investigations, studies and clean-up of any Release of Hazardous Materials by a BOP Contractor Party, whether on the Linden Wind Energy Project Site or off-site. The collection and disposal of all wastes shall be performed in compliance with all Applicable Laws. Notwithstanding the foregoing, BOP Contractor shall not be required to investigate, clean up or take any action (except for those that may be required pursuant to Section 4.6(d)) with respect to Pre-Existing Contamination, regardless of whether such contamination has migrated, chemically changed or otherwise changed in location or character, except as required by Section 4.6(d) or to the extent such contamination is caused by the negligence or willful misconduct of BOP Contractor or its Representatives or Subcontractors.

(b) BOP Contractor shall not, nor shall it permit any BOP Contractor Party to, bring any Hazardous Materials onto the Linden Wind Energy Project Site or incorporate any Hazardous Material into any portion of the Linden Wind Energy Project, other than Hazardous Materials to be used by any BOP Contractor Party in a manner that (i) does not violate any Applicable Laws and (ii) is consistent with Prudent Industry Practices and its obligations under this Agreement. BOP Contractor shall, and shall

cause each BOP Contractor Party to, use Hazardous Materials only as reasonably required in the performance of the Services.

(c) BOP Contractor shall maintain an updated file of all material safety data sheets for all Hazardous Materials used in connection with performance of the Services, or used by or on behalf of BOP Contractor or any Subcontractor at the Linden Wind Energy Project Site and shall deliver an update of such file to Owner no more than thirty (30) days after the end of each month. BOP Contractor shall implement and administer a Hazardous Materials handling program for all of the BOP Contractor Parties which shall include the development of guidelines and training with respect to the proper handling, use and disposal of Hazardous Materials and the development, implementation and enforcement of procedures for notification of Owner and appropriate Governmental Authorities about, and clean-up of, spills and other emissions of Hazardous Materials in connection with the performance of the Services.

(d) If BOP Contractor encounters a condition relating to a Pre-Existing Contamination, BOP Contractor shall immediately: (i) secure or otherwise isolate such condition, (ii) stop all Services in connection with such condition and in any area affected thereby, (iii) notify Owner (and promptly thereafter confirm such notice in writing) and (iv) await instructions from Owner regarding the handling of such condition relating to Pre-Existing Contamination; provided that if Owner's instructions related to such Pre-Existing Contamination materially increase the costs to BOP Contractor of performing the Services or constitute work not currently encompassed in the scope of the Services, such increased or additional costs shall be considered Reimbursable Expenses.

4.7 Permits.

(a) BOP Contractor shall identify, procure, obtain, maintain and comply with (as the case may be), at its cost and expense, all Permits that may be required under Applicable Laws for the performance of the Services (except for such Permits that must be procured or obtained by Owner or WEC Operator pursuant to Applicable Laws). Owner shall provide BOP Contractor with such assistance and cooperation as may reasonably be required to obtain and maintain all such Permits.

(b) BOP Contractor shall assist Owner in identifying, procuring, obtaining, maintaining and complying with (as the case may be) all Permits that may be required under Applicable Laws for the operation and maintenance of the Linden Wind Energy Project and which need to be procured, obtained and maintained by Owner.

4.8 Performance by Owner.

(a) If (i) BOP Contractor fails to perform any of its material obligations under this Agreement, (ii) such failure, in the reasonable judgment of Owner, is remediable, and (iii) BOP Contractor has failed to commence appropriate remedial action within twenty-five (25) days after written notice from Owner or, after such remedial action commences, BOP Contractor fails to diligently prosecute such remedial action, then Owner may, but shall not be obligated to, upon five (5) days prior notice to BOP Contractor (A) perform (or cause to be performed through the engagement of one or more third parties) the obligations of BOP Contractor hereunder and (B) suspend BOP Contractor's performance of all or part of the Services for such period of time as

determined by Owner. Following the exercise of such rights, Owner may direct BOP Contractor to recommence performance of the suspended Services.

(b) BOP Contractor shall, and shall cause the BOP Contractor Parties to, give Owner and its Representatives control of the operation and maintenance of the Linden Wind Energy Project to the extent reasonably necessary to enable Owner to exercise its rights under Section 4.8(a).

(c) BOP Contractor shall reimburse Owner for all reasonable out-of-pocket costs and expenses that are incurred by Owner in exercising its rights under Section 4.8(a). Owner shall not have any obligation to pay any Fixed Fee during the period that Owner is exercising its rights under Section 4.8(a).

(d) Owner's exercise of its rights (or election to not exercise its rights) under Section 4.8(a) shall not relieve BOP Contractor of any obligation under this Agreement and shall not constitute a waiver of any right or remedy available to Owner.

ARTICLE 5 BOP CONTRACTOR'S GENERAL COVENANTS

5.1 Personnel.

(a) BOP Contractor shall identify, recruit, interview and hire all labor, professional, supervisory and managerial personnel as are required to perform the Services and BOP Contractor's other obligations under this Agreement. BOP Contractor's Subcontractors and Site Personnel (i) shall be qualified (and if required, licensed, certified or registered) and experienced in operating and maintaining wind power plant facilities similar to the Linden Wind Energy Project and in the duties to which they are assigned, and (iii) shall meet the requirements of all applicable Permits, all Applicable Laws and the then-current BOP Procedures Manual.

(b) BOP Contractor shall retain sole authority, control and responsibility with respect to labor matters in connection with the performance of the Services. All individuals engaged by BOP Contractor in the performance of the Services shall be the employees of BOP Contractor or its Subcontractors, and their working hours, rates of compensation and all other matters relating to their employment shall be determined solely by BOP Contractor or the applicable Subcontractors. BOP Contractor will be solely responsible for paying the salaries and all benefits of such employees, meeting all requirements and liabilities of any Governmental Authority with respect to such employees, supervising, and determining all job classifications, staffing levels, functions and other terms of employment for BOP Contractor's employees in accordance with Applicable Laws, the then-current Budget and the then-current Operating Plan. BOP Contractor shall, at all times during the Term, have full supervision and control over the Site Personnel and shall at all times maintain appropriate order and discipline among the Site Personnel and shall cause each Subcontractor to maintain similar standards with respect to such Subcontractor's employees and contractors. BOP Contractor has the authority to dismiss any of its employees and to hire qualified replacement Site Personnel.

(c) Throughout the Term, BOP Contractor shall periodically, as agreed by BOP Contractor and Owner, evaluate the performance of Site Personnel.

BOP Contractor shall document the performance of each such employee and shall retain such documentation.

(d) Owner shall have the right to require the immediate removal and permanent expulsion from the Linden Wind Energy Project Site of any Person that at any time is found under the influence of or in possession of any amount of alcohol or illegal drugs (including any amount of marijuana), in violation of safety requirements pertaining to the Linden Wind Energy Project or Linden Wind Energy Project Site, or otherwise presents a danger to the Linden Wind Energy Project or Linden Wind Energy Project Site or a disruption to the operations of the Linden Wind Energy Project. Owner shall submit to BOP Contractor in writing the details of the circumstances of the event related to the required removal of the Person. Neither Owner's requiring BOP Contractor to remove an employee, nor BOP Contractor's removal of an employee pursuant to such a requirement, shall relieve BOP Contractor of any of its obligations hereunder or be construed as a waiver by Owner of any of its rights under this Agreement.

(e) BOP Contractor shall institute programs (and use commercially reasonable efforts to require its Subcontractors to institute programs) to forbid and prevent the possession or use of firearms, alcohol and illegal drugs at the Linden Wind Energy Project Site by the Site Personnel and the Subcontractors. BOP Contractor shall institute policies that require post-accident and for-cause drug or alcohol testing for Site Personnel.

(f) BOP Contractor shall ensure that necessary Site Personnel are available on-site or on-call twenty-four (24) hours per day during the Term, pursuant to the Call-Out Protocols; provided, however that call-outs of Site Personnel during hours other than regular work hours as set forth in the Call-Out Protocols shall be a Reimbursable Expense.

5.2 Liens.

Except for liens for the benefit of BOP Contractor for Owner's failure to make payments as and when required under this Agreement ("Payment Obligations"), BOP Contractor shall not, as a consequence of its own acts or acts of its suppliers and Subcontractors, suffer or permit Encumbrances to attach to the Linden Wind Energy Project or the Linden Wind Energy Project Site or any component thereof. If any Encumbrance is filed or otherwise imposed as a result of any act or omission by or Claim against, or through BOP Contractor or any of its suppliers or Subcontractors, and if BOP Contractor does not, within fifteen (15) days after a request by Owner, cause such Encumbrance to be released and discharged, or file a bond satisfactory to Owner in lieu thereof, Owner shall have the right to pay all or any portion of the sums necessary to obtain such release and discharge such lien. BOP Contractor shall reimburse Owner for all such costs incurred by Owner, including reasonable attorneys' fees, within thirty (30) days of Owner's demand therefor or Owner may offset any of such costs incurred against its Payment Obligations from and against all losses that arise out of or result from the filing or imposition of any such lien.

5.3 Cooperation of BOP Contractor.

BOP Contractor acknowledges that concurrently with the performance of its obligations under this Agreement, other contractors, vendors, suppliers and consultants,

including the WEC Manufacturer and the WEC Operator (each a “Separate Contractor”), may be supplying engineering, constructing, installing, commissioning, testing, operating, and maintaining other aspects of the Linden Wind Energy Project on behalf of Owner pursuant to their respective separate contracts. BOP Contractor shall cooperate with such Separate Contractors and shall coordinate the performance of the Services to attempt to minimize any interference with the work of the Separate Contractors, but not to the extent of disrupting BOP Contractor’s schedule or sequence of the Services. Owner shall instruct the Separate Contractors to coordinate the performance of their work with BOP Contractor to minimize any interference with BOP Contractor’s performance of the Services.

5.4 Accounts and Reports.

(a) At the request of Owner and upon delivery of a Task Order pursuant to the procedures set forth in Article 9, and to the extent that BOP Contractor has timely received all necessary technical and operational data regarding the WECs from the WEC Manufacturer or WEC Operator, BOP Contractor shall assist Owner in preparing all reports, plans and other materials required to be delivered by Owner or on behalf of Owner pursuant to the Linden Wind Energy Project Agreements or to any Governmental Authority with respect to the Linden Wind Energy Project.

(b) In addition to the reports required by Exhibit B, BOP Contractor shall furnish or cause to be furnished to Owner, the following reports concerning the Linden Wind Energy Project operations and the Services:

(i) Within twenty (20) days after the end of each month after the Commencement Date, BOP Contractor shall submit a monthly report, in form and content in substantially the form set forth in Exhibit D;

(ii) As soon as available, and in any event within sixty (60) days after the end of each Production Year, BOP Contractor shall submit to Owner an annual report describing in detail all of the Services for such Production Year (including inventories of fixed assets, tools, Spare Parts and Consumables owned by or paid for by Owner) and presenting a comparison of such Services with the Operating Plan and Budget for such Production Year and with those performed for the preceding Production Year, if any; and

(iii) all other reports regarding the operations of the Linden Wind Energy Project, in such form and substance as may be reasonably requested by Owner from time to time and agreed to by the Parties pursuant to the procedures set forth in Article 9.

(c) Upon obtaining knowledge thereof, BOP Contractor shall submit prompt written notice of: (i) any Claims, threatened or filed, concerning the Linden Wind Energy Project or the Services and of any circumstances which may reasonably be expected to give rise to such Claims; (ii) any refusal or threatened refusal to grant, renew or extend, or any Claim pending or threatened that might affect the granting, renewal or extension of, any Permits; (iii) any dispute with any Governmental Authority concerning the Linden Wind Energy Project or the Services; (iv) all penalties or notices of violation issued by any Governmental Authority with respect to any Permits or the Linden Wind Energy Project; (v) any breach or contravention of any Applicable Laws or

Permits concerning the Linden Wind Energy Project or the Services; and (vi) any material noncompliance by any BOP Contractor Party or the Linden Wind Energy Project with any of the operating standards set forth in Section 4.1.

(d) BOP Contractor shall, upon obtaining knowledge thereof, promptly submit to Owner any information concerning new or significant aspects of the Linden Wind Energy Project operations, including: (i) any violation of any Applicable Laws or Permits; (ii) forced outages of any WECs on the Linden Wind Energy Project (and the causes thereof and the corrective action taken with respect thereto by BOP Contractor or, if applicable, WEC Operator); (iii) any change in the timing or duration of any scheduled outages; and (iv) any material deviations or discrepancies from the projections contained in the then current Operating Plan or Budget. BOP Contractor shall promptly submit to Owner such other information concerning the Linden Wind Energy Project or its Services as Owner may request.

5.5 Representatives.

BOP Contractor may appoint an individual Representative (the "BOP Contractor Contract Representative") who is authorized and empowered to act for and on behalf of BOP Contractor on all matters concerning this Agreement and BOP Contractor's obligations hereunder. The initial BOP Contractor Contract Representative is set forth in Exhibit G.

Owner and BOP Contractor acknowledge and agree that Owner has appointed the Los Angeles Department of Water and Power to be the operating agent for the Linden Wind Energy Project (the "Operating Agent"). The Operating Agent is authorized and empowered to act for and on behalf of Owner on all matters concerning this Agreement and Owner's obligations hereunder. The Operating Agent has designated the individual(s) identified on Exhibit G to be the "Owner Contract Representative." Neither BOP Contractor Contract Representative nor Owner Contract Representative shall have the authority to amend any provision of this Agreement. In all such matters, each Party shall be bound by the written communications, directions, requests and decisions made by BOP Contractor Contract Representative or Owner Contract Representative, as the case may be subject to the prohibition to amend this Agreement set forth in the preceding sentence. BOP Contractor shall notify Owner of any changes to the identity of BOP Contractor Contract Representative and Owner shall notify BOP Contractor in writing of any changes to the identity of Owner Contract Representative.

ARTICLE 6 AVAILABILITY GUARANTEE

BOP Contractor shall monitor the availability of the Linden Wind Energy Project and promptly notify Owner upon the occurrence of any event that materially affects, or could materially affect, the availability of the Linden Wind Energy Project. BOP Contractor shall maintain ongoing collaboration with the WEC Operator to enable the WEC Operator to achieve the required availability under the Service Agreement.

ARTICLE 7 PROCEDURES AND PLANS

On or before the Commencement Date, the Parties shall agree upon the Budget and Operating Plan for Services ending on June 30, 2014. On or before April 1 of each subsequent calendar year, BOP Contractor shall prepare and submit to Owner and, if applicable, the Independent Engineer, a proposed form of Budget and Operating Plan for the Services for twelve (12) months beginning on the immediately following July 1 and ending on June 30 of the following calendar year in accordance with and meeting the requirements hereunder. Owner shall promptly review BOP Contractor's proposed Budget and Operating Plan and may require changes, additions, deletions and modifications. The Budget and Operating Plan, as finally agreed, shall be the Budget and Operating Plan for the applicable twelve (12) month period. Until such time as the new Budget is agreed to by Owner and BOP Contractor, the previous Budget shall be adhered to. The final Budget and final Operating Plan shall remain in effect until the following June 30, subject to such other updating, revision and amendment in accordance with this Agreement. In addition to the Operating Plan and Budget, BOP Contractor shall prepare a monthly forecast of all operating and capital costs in respect of the Services for the succeeding Production Year as well as annual estimates in respect of the Services for the period covered by the succeeding three (3) twelve (12) month periods.

ARTICLE 8 FEES AND COST REIMBURSEMENT

8.1 Fixed Fee.

(a) Fixed Fee. Owner shall pay BOP Contractor a monthly fee (the "Fixed Fee") (as adjusted pursuant to Section 8.1(b)), equal to [\$_____] as compensation for the Services.

(b) Adjustment. The Fixed Fee shall be increased annually on the first day of each Production Year (other than the first Production Year) by a factor of one hundred percent (100%) of the percentage change in the GDPIPD during the previous Production Year.

8.2 Reimbursable Expenses.

(a) Operation and maintenance services authorized by Owner and rendered by BOP Contractor other than the Services are not included in the Fixed Fee and shall be considered "Reimbursable Expenses," for which Owner shall be billed on a T&M basis, so long as such expenses are (i) included in the Budget, (ii) otherwise preapproved by Owner, or (iii) incurred by Owner in accordance with Section 4.1(d)(ix), Section 4.5(d), Section 4.6(d), or Section 5.1(f).

(b) The Reimbursable Expenses shall be invoiced monthly, and shall be payable as set forth in Section 8.3.

(c) Notwithstanding anything to the contrary in this Agreement, the Variable Fee (defined below) payable hereunder by the Owner during any Production Year shall not exceed twenty percent (20%) of the aggregate Fixed Fees, as adjusted by

Section 8.1(b) for such year (the “Variable Fee Limit”). “Variable Fees” means (i) all the Reimbursable Expenses, less (ii) the portion of such Reimbursable Expenses that represent the actual and direct cost incurred and paid by BOP Contractor to third parties (including employees).

(d) If the Variable Fees during any Production Year exceed the Variable Fee Limit, then the excess will be carried over and paid in the next Production Year to the extent that the Variable Fee Limit for such Production Year is not exceeded. If, by the end of the Production Year preceding the last Production Year of the Term, all amounts carried over have not been paid, then the Parties may negotiate a revised Fixed Fee or scope of Services for the Fixed Fee for the last 12-month period of the Term subject to receipt of the written opinion of nationally recognized bond counsel selected by the Owner, at Owner’s sole cost and expense, stating that the federal tax exemption of the interest on, or the eligibility for the refundable credit authorized under Section 6431 of the Internal Revenue Code of 1986, as amended (the “Internal Revenue Code”) of, as applicable, any bonds of Owner will not be adversely affected. For the avoidance of doubt, there will be no carry-over of Variable Fees past the end of the Term. Notwithstanding anything to the contrary in this subparagraph (d), the BOP Contractor may send written notice to Owner at any time that the aggregate amount carried over under this subparagraph (d) exceeds \$250,000, and upon the receipt of such notice the Parties hereto shall negotiate in good faith in order to reach a mutually satisfactory adjustment to the amounts payable hereunder in conformance with Internal Revenue Service Revenue Procedure 97-13.13 as is evidenced by the written opinion of nationally recognized bond counsel selected by Owner, at Owner’s sole cost and expense, stating that the federal tax exemption of the interest on, or the eligibility for the refundable credit authorized under Section 6431 of the Internal Revenue Code for, as applicable, any bonds of Owner will not be adversely affected.

8.3 Payment Procedure.

(a) The Fixed Fee shall be payable monthly in advance and may be prorated for partial months at the beginning and end of the Term hereof. BOP Contractor shall invoice Owner on or before the fifteenth (15th) day of each month for the coming month’s Fixed Fee.

(b) On or before the fifteenth (15th) day of each month following the Commencement Date, BOP Contractor shall submit to Owner a detailed invoice of unpaid Reimbursable Expenses, with explanation for each line item, incurred by BOP Contractor; provided that Reimbursable Expenses incurred by BOP Contractor more than three (3) months prior to the first day of the month such invoice is issued shall not be included on any invoice or payable to BOP Contractor without the consent of Owner.

(c) All payments made by Owner to BOP Contractor under this Article 8 shall be paid within sixty (60) days after receipt of the invoice by Owner.

8.4 Taxes.

BOP Contractor shall be responsible for the payment of all Taxes assessed or based upon the income or property of the BOP Contractor. At the request of Owner, BOP Contractor shall make available to Owner and claim any and all applicable sales, use, excise, value added or other similar transactional tax exemptions, credits or

deductions relating to the Services available to itself or Owner, including any sale-for-resale exemption and any manufacturing machinery or equipment exemption. At the request and expense of Owner, BOP Contractor agrees to take such action as may be reasonably required to allow any of the Services to qualify for any applicable exemption from sales, use, excise, value added or similar transactional tax. If a change in Applicable Laws after the Effective Date would result in an increase in Tax payable by Owner under this Agreement, BOP Contractor shall, at Owner's expense, in consultation with Owner, use reasonable efforts to mitigate the effects of such increase in Tax.

8.5 Records and Audits.

(a) BOP Contractor shall prepare, keep and maintain (i) the Operating Logs and Maintenance Reports; (ii) complete and accurate records, reports and data as required by Sections 4.5, 4.6 and 5.1; (iii) records, reports, documents and data, including all data retrievable from an electronic data storage source, created in connection with the operation and maintenance of the Linden Wind Energy Project; (iv) records of its costs and expenses related to the Services, the Linden Wind Energy Project, and this Agreement in accordance with generally accepted accounting principles applied on a consistent basis; and (v) reports and data which are related to the maintenance of Hazardous Materials on-site at the Linden Wind Energy Project in connection with the Services in a manner complying with Applicable Laws (collectively, the "Books and Records"); provided, however, Books and Records shall not include any proprietary information or data or documents pertaining to the Fixed Fee or personnel records.

(b) BOP Contractor shall maintain at the Linden Wind Energy Project copies of all drawings, specifications lists, clarifications and other materials or documents (including all current revisions thereof) provided to BOP Contractor, its Subcontractors, or their respective Representatives, by Owner or, to the extent available to BOP Contractor, by any contractor performing operation and maintenance services at the Linden Wind Energy Project Site (collectively "Linden Wind Energy Project Drawings").

(c) Except as otherwise required by Applicable Laws affecting, or any Governmental Authority having jurisdiction over, the BOP Contractor or the Linden Wind Energy Project Agreements, to the extent available to BOP Contractor, BOP Contractor shall keep all Books and Records for the Term of this Agreement. Upon expiration or termination of this Agreement, BOP Contractor shall deliver any Books and Records to Owner in accordance with the procedure set forth in Section 14.6(d); and BOP Contractor shall have no further record retention obligations. Notwithstanding the foregoing, BOP Contractor may retain one copy of such records for its files.

(d) Throughout the Term, BOP Contractor shall make the Books and Records and any Linden Wind Energy Project Drawings available, upon no less than twenty four (24) hours notice to BOP Contractor, with such notice being given on a Business Day, for inspection and audit by Owner or its designated agents at Owner's expense during BOP Contractor's regular business hours and at the office of BOP Contractor at the Linden Wind Energy Project Site; provided that BOP Contractor's company software, Books and Records not directly related to this Agreement and Site Personnel records shall not be subject to inspection or audit. In connection with any such inspection or audit, Owner may interview the Site Personnel or any other personnel

of BOP Contractor connected to the Services that may have additional information concerning the Services and Reimbursable Expenses. If any such inspection, audit, or interview discloses that any error has occurred and that, as a result thereof, any overpayment or any underpayment has occurred, the amount thereof shall promptly be paid to the Party to whom it is owed by the other Party, plus in the case of overpayment, interest at the rate set forth in Section 8.6.

(e) Neither Owner nor any of its Representatives shall have any obligation to take any action based upon what it may or could discover in the course of any document review, audit, or inspection of the Linden Wind Energy Project or the Books and Records or any interview of BOP Contractor personnel and neither (i) Owner's or its Representatives' exercise of Owner's right to review, audit, inspect, and interview, (ii) Owner's failure to exercise such right or (iii) Owner's or any of its Representative's failure to take any action or report any observations as a result of such review, audit, inspection, or interview, shall in any such case constitute a waiver of any rights or remedies that Owner may have under this Agreement. Owner's review and approval of materials and documents submitted by BOP Contractor shall not relieve BOP Contractor of its responsibility for its obligations to meet all the requirements hereof, nor shall Owner be liable to BOP Contractor or any other Person by reason of its review and approval of such materials and documents.

8.6 Past Due Amounts.

Any amounts due under this Agreement, if not timely paid by the Party from whom they are due, shall bear interest at the per annum rate equal to six and one half percent (6.5%) prorated on the basis of a 365-day year (or such lower rate as is the maximum rate permitted by Applicable Law) from the date that such amount was due, taking into account any grace period herein provided until the time that such amount is paid.

8.7 Disputed Amounts.

(a) If there is any dispute as to whether any payment is due and payable from BOP Contractor to Owner under any provision of this Agreement or any dispute as to the amount or timing of any such payment, then pending resolution of the dispute, Owner shall have the right to set off the undisputed amount of such payment (if such amount has not been paid by BOP Contractor) against any debt or obligation of Owner to BOP Contractor. Upon settlement or resolution of the dispute in accordance with the dispute resolution procedures set forth in Article 22, the disputed amount and any accrued interest thereon pursuant to Section 8.6 shall be distributed in accordance with such settlement or resolution.

(b) If there is any dispute as to whether any payment is due and payable from Owner to BOP Contractor under any provision of this Agreement or any dispute as to amount or timing of any such payment, then pending resolution of the dispute, Owner shall pay to BOP Contractor the undisputed amount of such payment (if such amount has not been previously paid by Owner). Upon settlement or resolution of the dispute in accordance with the dispute resolution procedures set forth in Article 22, the disputed amount and any accrued interest thereon pursuant to Section 8.6 shall be distributed in accordance with such settlement or resolution.

**ARTICLE 9
REQUESTS, QUOTES AND TASK ORDERS.**

9.1 Requests for Quotes by Owner. Owner may at any time prior to the expiration of the Term, request additional services, or request changes to the Services, by submitting to BOP Contractor a written or oral quote request specifying in reasonably precise detail such additional services or such changes to Services specified in the Agreement. Promptly following receipt of a quote request by Owner, BOP Contractor will deliver to Owner (i) a quote for the additional services set forth in such quote request or the changes to Services set forth in such quote request (each, a "Quote") or (ii) a written or oral explanation of why certain services or parts set forth in such Quote request cannot be provided pursuant hereto. Each Quote will:

- (a) specify with reasonable precision the services to be provided by BOP Contractor if the Quote is confirmed;
- (b) for each service specified in such Quote, specify that such service is to be provided on the basis of (i) a fixed price set forth in the Quote, (ii) T&M or (iii) a combination a fixed price and T&M charges, each in accordance with clauses (i) and (ii) hereof;
- (c) for each part specified in any such fixed price Quote, specify a fixed price;
- (d) specify a unique Quote number (each, a "Quote Number"); and
- (e) specify a Quote expiration date (each, a "Quote Expiration Date") beyond which date such Quote becomes invalid if a Task Order has not been received.

9.2 Task Orders. Not later than the Quote Expiration Date, Owner may confirm such Quote by delivering to BOP Contractor a task order identifying the applicable Quote Number and requesting that BOP Contractor perform the services set forth in such Quote ("Task Order"). No Quote may be confirmed by any communication other than a Task Order. Any performance of services pursuant to a Task Order will be in accordance with all of the terms and conditions of the Agreement applicable to the performance of the Services except as otherwise specified in such Task Order.

**ARTICLE 10
BOP FACILITY**

BOP Contractor acknowledges and agrees that the BOP Facility shall be used by both BOP Contractor and WEC Operator and that the portion of the BOP Facility dedicated for use by BOP Contractor is of sufficient size and proper design for the purpose of storing and repairing Spare Parts, storing of BOP Contractor's service trucks and tools, and providing office space for the Site Personnel. Owner shall make such portion of the BOP Facility available for use by the BOP Contractor throughout the Term. BOP Contractor shall procure all utilities and consumables required for use by BOP Contractor, WEC Operator, and Owner in the BOP Facility, such as telephone and broadband service, and the cost of such utilities and consumables shall be a Reimbursable Expense.

ARTICLE 11
RIGHTS OF OWNER; LICENSE OF OWNER'S PROPERTY

11.1 Owner's Property.

(a) Owner shall hold free and clear title to all property (real, personal or mixed), including any Spare Parts, equipment, supplies, Consumables (except for any Consumables not incorporated into the Linden Wind Energy Project), tools, software, office equipment or furniture, that are received, held, developed, constructed or acquired by or on behalf of BOP Contractor or any Subcontractor for or on behalf of Owner exclusively for the benefit of and use by the Linden Wind Energy Project, and to all materials, documents, reports, records, books, plans, designs, papers or print outs or other information, including the Operating Logs, BOP Procedures Manuals, and Maintenance Reports, used by BOP Contractor or its Subcontractors exclusively in connection with the performance of BOP Contractor's obligations under this Agreement, including those which BOP Contractor has generated, received or purchased in the course of performing its duties hereunder expressly for the benefit of Owner or the Linden Wind Energy Project and including the Books and Records, and Linden Wind Energy Project Drawings (collectively, "Owner's Property"), but excluding BOP Contractor's company software, proprietary information, equipment, supplies, consumables (not incorporated into the Linden Wind Energy Project), tools, books and records not exclusively related to this Agreement and Site Personnel records. BOP Contractor further agrees to deliver to Owner all of Owner's Property (including any copies thereof) upon expiration or termination of this Agreement and upon request of Owner.

(b) BOP Contractor shall not have any right, title, or interest in or to any of Owner's Property or the Linden Wind Energy Project or in or to any money paid to, or collected or received by BOP Contractor on behalf of Owner, except as licensee pursuant to Section 11.2.

(c) Except as otherwise required by Applicable Laws, if BOP Contractor at any time holds legal title to any Linden Wind Energy Project assets or if any of Owner's Property is registered or recorded in the name of BOP Contractor from time to time, BOP Contractor shall hold such property as bare trustee for the use and benefit of Owner. Unless otherwise agreed by Owner, Owner and BOP Contractor shall execute all documents and take all actions as may be required or appropriate to register or record Owner's Property in the name of Owner.

11.2 License of Owner's Property.

Owner hereby grants BOP Contractor a non-exclusive, non-transferable, irrevocable license to use Owner's Property (including data from the WECs) during the Term for the sole and exclusive purpose of performing the Services. BOP Contractor shall have the limited right to sublicense such license to Subcontractors as reasonably necessary for the performance of the Services by BOP Contractor and its Subcontractors. In the event that BOP Contractor, in connection with its use of Owner's Property, conceives, invents or develops, either by itself or in conjunction with others, any innovation, enhancement, modification or improvement relating to or useful in connection with the WECs or the Linden Wind Energy Project (including all data and records pertaining thereto) (each, an "Improvement"), (i) BOP Contractor shall promptly

disclose such Improvement in writing to Owner, (ii) BOP Contractor shall make available to Owner and shall grant and hereby does grant to Owner an irrevocable, fully paid-up, royalty-free, non-exclusive right and license, with right to sublicense, to practice, use, modify, make, have made and otherwise exploit such Improvement solely in connection with the ownership and operation of the Linden Wind Energy Project, and (iii) BOP Contractor shall otherwise own all rights to such Improvements and may use such Improvements as BOP Contractor determines in its sole discretion.

ARTICLE 12 REPRESENTATIONS AND WARRANTIES

12.1 BOP Contractor's Representations and Warranties.

BOP Contractor hereby represents and warrants to Owner that:

(a) BOP Contractor is a corporation duly organized and validly existing under the laws of the State of [_____], and has the full power and authority to execute and deliver this Agreement and to perform its obligations hereunder.

(b) BOP Contractor's execution and delivery of, and the performance of its obligations under this Agreement have been duly authorized by all necessary action of BOP Contractor. This Agreement constitutes the legal, valid and binding obligation of BOP Contractor and is enforceable against it in accordance with its terms, except as such enforcement may be limited by any bankruptcy, insolvency, moratorium or similar law or by general equitable principles (regardless of whether enforcement is sought in a proceeding in equity or at law).

(c) BOP Contractor has received and reviewed copies of the Linden Wind Energy Project Agreements in effect on the date hereof.

(d) None of the execution or delivery of this Agreement or the performance by BOP Contractor of its obligations hereunder shall: (i) conflict with or violate any provision of BOP Contractor's organizational documents; (ii) conflict with, violate or result in a breach of, any Applicable Laws in effect as of the Effective Date; or (iii) conflict with, violate or result in a breach of, or constitute a default under or result in the imposition or creation of, any security under any agreement or instrument to which BOP Contractor is a party or by which it or any of its properties or assets are bound. BOP Contractor is not in default of its obligations under any agreement or instrument to which BOP Contractor is a party which could reasonably be expected to have a material adverse effect on BOP Contractor or its ability to perform its obligations under this Agreement.

(e) BOP Contractor has obtained all Permits as required under Applicable Laws to enable BOP Contractor to perform its obligations hereunder, as required under Section 4.7(a), and no registration, declaration or filing with any Governmental Authority is required on the part of BOP Contractor in connection with the execution, delivery and performance by it of this Agreement, except for those Permits (i) which have already been duly obtained or made, were validly issued and are in full force and effect and have become final and are not subject to appeal and all appeal periods with respect thereto shall have expired or (ii) which BOP Contractor has no reason to

believe will not be granted prior to the time such Permit is required to be obtained under Applicable Laws.

(f) BOP Contractor is skilled and experienced in performing services of the nature required to perform its obligations under this Agreement and is reasonably qualified to operate and maintain the Linden Wind Energy Project and to perform the Services.

(g) There are no Claims pending or, to BOP Contractor's knowledge, threatened, whether at law or in equity, whether civil or criminal in nature, or whether before any Governmental Authority or arbitrator, against or affecting BOP Contractor which could reasonably be expected to have a material adverse effect on BOP Contractor or its ability to perform its obligations under this Agreement. There is no outstanding order, writ, injunction, decree, judgment or award by any court, arbitration panel or Governmental Authority against or affecting BOP Contractor which could reasonably be expected to have a material adverse effect on BOP Contractor or its ability to perform its obligations under this Agreement.

ARTICLE 13 INDEMNIFICATION

13.1 Indemnification.

(a) BOP Contractor shall indemnify, hold harmless and, at the option of Owner, defend, any Owner Indemnified Party from and against (i) any Losses that arise, or any Claims brought as a result of, the Release of Hazardous Materials or other environmental conditions due to the negligent action or inaction or willful misconduct of any BOP Contractor Party; (ii) (x) all third party Claims of injury or death to any Person, including any Claims by any BOP Contractor Party, and any Losses incurred by the Owner Indemnified Party as a result of such third party Claims, or (y) any Losses incurred by any Owner Indemnified Party or Claims brought against any Owner Indemnified Party due to loss of, damage to, or destruction of property of either Party or third persons, that, in the case of clauses (x) and (y), arises out of or is otherwise in connection with the acts, errors, or omissions of any BOP Contractor Party incident to the performance of this Agreement on the part of any BOP Contractor Party; (iii) Losses incurred by, and Claims brought against, an Owner Indemnified Party resulting from Encumbrances created by, through, or under a BOP Contractor Party (unless due to Owner's failure to make payments to BOP Contractor as specified in this Agreement); or (iv) Losses incurred by, or Claims asserted against, an Owner Indemnified Party on account of any violation of or noncompliance with any Applicable Law to be complied with by the BOP Contractor Parties hereunder. BOP Contractor shall also indemnify each Owner Indemnified Party against any Claims on the Linden Wind Energy Project or the Linden Wind Energy Project Site from BOP Contractor's creditors, other than Claims due to the failure of Owner to make all Payment Obligations. Notwithstanding anything to the contrary in this Agreement, BOP Contractor shall not have a duty to defend, indemnify, save or hold harmless any Owner Indemnified Party to the extent such Losses or Claims arise out of the sole negligence or willful misconduct of any Owner Indemnified Party.

(b) Solely and expressly for the purpose of the obligations to defend and indemnify as set forth in Section 13.1(a) above, BOP Contractor specifically waives

any immunity it may have under the State Industrial Insurance Law, Title 51 RCW ("Title 51 RCW"). BOP Contractor further acknowledges and agrees that this waiver of immunity under Title 51 RCW has been specifically entered into pursuant to the provisions of RCW 4.24.115 and has been the subject of mutual negotiations and agree that the waiver provided by this Section 13.1(b) shall be limited to Claims asserted by employees of BOP Contractor, directly or indirectly, against Owner, irrespective of the type of relief sought or demanded, and irrespective of whether the damage alleged is bodily injury (including death), damage to property, economic loss, general damage, special damages or punitive damages.

13.2 Intellectual Property Indemnification

BOP Contractor agrees to indemnify and hold harmless Owner from any third-party Claim arising from, or related to any infringement or improper use of any Intellectual Property Rights in connection with BOP Contractor's performance of the Services. Owner will (i) notify BOP Contractor promptly of the receipt of any such Claim, (ii) not take any position adverse to BOP Contractor regarding such Claim, and (iii) provide BOP Contractor with any information reasonably available to Owner required by BOP Contractor to settle and defend the Claim. BOP Contractor shall, at its own expense and option, (a) settle or defend the Claim and pay all damages and costs awarded against Owner, (b) procure for Owner the right to continue to use the materials, equipment, or other items that are the subject of the Claim, (c) modify such materials, equipment, or other items or the performance of the services to eliminate the alleged infringement, or (d) replace the infringing equipment, materials, or other items or re-perform the infringing services. If, in any suit arising from such Claim, the continued use of the materials, equipment other items, or services or the purpose intended thereof is forbidden by any court of competent jurisdiction, BOP Contractor shall at its option take one or more of the actions under clauses (b), (c), or (d) above.

13.3 Indemnification Procedure.

When required to indemnify an Owner Indemnified Party in accordance with this Article, BOP Contractor shall assume on behalf of such Owner Indemnified Party and conduct with due diligence and in good faith the defense of any Claim against such Owner Indemnified Party, whether or not BOP Contractor shall be joined therein, and the Owner Indemnified Party shall cooperate with BOP Contractor in such defense. BOP Contractor shall have charge and direction of the defense and settlement of such Claim, provided, however, that without relieving BOP Contractor of its obligations hereunder or impairing BOP Contractor's right to control the defense or settlement thereof, the Owner Indemnified Party may elect to participate through separate counsel in the defense of any such Claim, but the fees and expenses of such counsel shall be at the expense of such Owner Indemnified Party unless (a) the employment of counsel by such Owner Indemnified Party has been authorized in writing by BOP Contractor, (b) the Owner Indemnified Party shall have reasonably concluded that there exists a material conflict of interest between BOP Contractor and such Owner Indemnified Party in the conduct of the defense of such Claim (in which case BOP Contractor shall not have the right to control the defense or settlement of such Claim on behalf of such Owner Indemnified Party) or (c) BOP Contractor shall not have employed counsel to assume the defense of such Claim within a reasonable time after notice of the commencement thereof. In each

of such cases the reasonable fees and expenses of counsel shall be at the expense of BOP Contractor.

ARTICLE 14 TERMINATION

14.1 Termination by Either Party.

Either BOP Contractor or Owner ("Terminating Party") may terminate this Agreement without limiting any other rights or remedies it may have if the other Party has filed against it petitions under any insolvency or bankruptcy Law of any jurisdiction which are not dismissed within sixty (60) days of the date filed, proposes any dissolution, liquidation, composition, financial reorganization or recapitalization with creditors, makes an assignment for the benefit of creditors, files a voluntary petition in bankruptcy under any provision of Applicable Law or consents to the filing of any bankruptcy or reorganization petition against it under any similar Law, or if receivers, trustees, custodians or similar agents are appointed or take possession with respect to any property or business of such Party; provided, however, that neither Party shall be considered to be in default under this Section 14.1 if the occurrence of any of the events or conditions described in this Section 14.1 is the result of the Terminating Party's breach or default under this Agreement.

14.2 Termination by Owner.

Owner, without limiting any other rights or remedies it may have at law or in equity, may terminate this Agreement by delivery of written notice of termination to BOP Contractor in any of the following events:

(a) if BOP Contractor fails to make any undisputed payment required to be made hereunder when such payment is due and owing under this Agreement, and such failure shall continue for thirty (30) days after written notice thereof has been given to BOP Contractor; provided, however, that BOP Contractor shall not be considered to be in default under this Section 14.2(a), if BOP Contractor's failure to make a payment required to be made hereunder arises out of or relates to the Owner's bad faith, willful misconduct or negligence;

(b) BOP Contractor causes a breach by Owner of one or more of the material provisions of the Linden Wind Energy Project Agreements and Owner is materially damaged thereby and such breach or breaches are not cured within thirty (30) Business Days' written notice thereof;

(c) BOP Contractor fails to comply in any material respect with any term, provision or covenant of this Agreement, other than the payment of sums to be paid hereunder, and such failure shall continue for thirty (30) days after written notice thereof has been given to BOP Contractor, unless such failure cannot reasonably be cured within said thirty (30) days and BOP Contractor shall have commenced to cure, BOP Contractor shall have a commercially reasonable time period to cure such default not to exceed one hundred and twenty (120) days;

(d) Force Majeure, as provided in Section 17.1(c);

(e) BOP Contractor fails to procure, obtain, maintain, renew or comply with any Permit required hereunder to be obtained by BOP Contractor, the non-possession or non-compliance with which has, or Owner reasonably determines is likely to have, a material adverse effect on Owner, the Linden Wind Energy Project or the operation and maintenance of the Linden Wind Energy Project;

(f) Owner, as a result of the negligence, gross negligence or willful misconduct of BOP Contractor, incurs damages in excess of the proceeds received by Owner under policies of insurance to be obtained and maintained by BOP Contractor in accordance with this Agreement;

(g) BOP Contractor abandons the operation of the Linden Wind Energy Project and the performance of the Services under this Agreement for a period of two (2) consecutive days without the prior written consent of Owner;

(h) any representation or warranty made by BOP Contractor in this Agreement shall contain an untrue or misleading statement of a material fact as of the date made, and such untrue or misleading statement has, or Owner reasonably determines could have, a material adverse effect on the Owner, the Linden Wind Energy Project or the BOP Contractor's ability to perform its obligations under this Agreement; or

(i) the total cumulative liability of BOP Contractor to Owner during any Production Year equals or exceeds the limitation on liability set forth in Section 16.1.

14.3 Termination by the BOP Contractor.

Except as provided in Section 14.1, BOP Contractor, without limiting any other rights or remedies it may have at law or in equity, may terminate this Agreement by delivery of written notice of termination to Owner:

(a) if Owner fails to make any undisputed payment required to be made hereunder when such payment is due and owing under this Agreement, and such failure shall continue for ninety (90) days after written notice thereof has been given to Owner; provided that if the revenue bonds employed by Owner for the long-term financing of the Linden Wind Energy Project fall below BBB- by S&P and Baa3 by Moody's, such time period shall expire thirty (30) days from the date such credit rating is first given or the expiration of such ninety (90) day period, whichever is earlier; and further provided, however, that Owner shall not be considered to be in default under this Section 14.3(a), if Owner's failure to make a payment required to be made hereunder arises out of or relates to the BOP Contractor's bad faith, willful misconduct or negligence;

(b) if Owner fails to comply in any material respect with any term, provision or covenant of this Agreement, other than the payment of sums to be paid hereunder, and such failure shall continue for thirty (30) days after written notice thereof has been given to Owner, unless such failure cannot reasonably be cured within said thirty (30) days and Owner shall have commenced to cure, Owner shall have a commercially reasonable time period to cure such default not to exceed one hundred and twenty (120) days;

(c) if Owner fails to procure, obtain, maintain, renew or comply with any Permit required hereunder to be obtained by Owner, within thirty (30) days following notice from BOP Contractor, the non-possession or non-compliance with which has, or BOP Contractor reasonably determines is likely to have, a material adverse effect on BOP Contractor, or the performance of Services hereunder; provided, if such failure cannot reasonably be cured within said thirty (30) days and Owner shall have commenced to cure, Owner shall have a commercially reasonable time period to cure such default not to exceed one hundred and twenty (120) days; or

(d) during the occurrence and continuance of a Force Majeure event as provided for in Section 17.1(c).

14.4 Termination Procedure

(a) Upon the occurrence of an event set forth in Section 14.1 or Section 14.2, giving effect to all applicable cure periods, if any, Owner may terminate this Agreement by delivering a termination notice (a "Termination Notice") to BOP Contractor. The Termination Notice shall specify in reasonable detail the event giving rise to the Termination Notice.

(b) Upon the occurrence of an event set forth in Section 14.1 or Section 14.3 giving effect to all applicable cure periods, BOP Contractor may terminate this Agreement by delivering a Termination Notice to Owner. The Termination Notice shall specify in reasonable detail the event giving rise to the Termination Notice.

14.5 Demobilization.

(a) The Termination Notice shall specify the date upon which this Agreement shall terminate, which shall be not less than ten (10) days, nor more than ninety (90) days, following the date such Termination Notice is received by the non-terminating Party. The terminating Party's right to terminate this Agreement shall not be affected or terminated by any cure or remedy of the underlying event giving rise to the Termination Notice between the date the Termination Notice is given and the actual termination date.

(b) Upon the occurrence of an event set forth in Sections 14.1, 14.2 or 14.3, the non-breaching Party may pursue any remedy at law or in equity, including termination of this Agreement in accordance with this Section 14.5 without prejudice to any rights or actions or remedies it may have in respect of any breach of this Agreement or any rights or obligations which expressly survive termination of this Agreement.

14.6 Obligations Following Termination.

(a) In the event BOP Contractor exercises its right to terminate this Agreement early pursuant to Sections 14.1 or 14.3 or Owner exercises its right to terminate this Agreement pursuant to Section 14.2(d), Owner agrees to pay BOP Contractor for BOP Contractor's reasonable demobilization costs, which shall be limited to the reasonable direct costs actually incurred by BOP Contractor (and not otherwise paid or reimbursed by Owner to BOP Contractor under this Agreement) to vacate the Linden Wind Energy Project, transfer or relocate Site Personnel up to Twenty Five Thousand Dollars (\$25,000) per individual, remove any equipment, tools, materials or

supplies from the Linden Wind Energy Project, terminate contracts and purchase orders entered into by BOP Contractor relating to the Services which are not assigned to Owner, and secure and transfer the Linden Wind Energy Project to Owner ("Demobilization Charge"). Upon such termination, the BOP Contractor shall submit to Owner an invoice for the Demobilization Charge and Owner shall pay such amount within thirty (30) days of receipt of such invoice.

(b) If Owner exercises its right to terminate this Agreement pursuant to Section 14.1 or Section 14.2, then if requested by Owner, BOP Contractor shall continue to perform services in the same scope as the Services hereunder or any portion thereof following any Termination Notice until the date of termination specified in such Termination Notice (the "Transition Period"). During the Transition Period, if requested by Owner, BOP Contractor shall cooperate with a successor BOP Contractor designated by Owner (the "Successor BOP Contractor") to the extent necessary to transfer BOP Contractor's obligations under this Agreement to the Successor BOP Contractor. The terms and conditions of this Agreement shall continue in full force and effect during the Transition Period, and Owner shall continue to compensate BOP Contractor for the Services performed during the Transition Period in accordance with Article 8.

(c) BOP Contractor shall provide the Successor BOP Contractor and its Representatives full access to the Linden Wind Energy Project and all relevant information, data and records relating thereto developed exclusively for performance of the Services and comply with all reasonable requests made by such Persons in connection with preparing for and accomplishing the taking over of BOP Contractor's obligations under this Agreement. BOP Contractor and Owner shall promptly conduct an inventory and audit of all Owner's Property and other items furnished to Owner as Reimbursable Expenses. The right of Owner to conduct such inventory and audit shall be in addition to the audit rights of Owner under Section 8.5.

(d) Within three (3) days after the later of the termination of this Agreement or the expiration of the Transition Period, BOP Contractor shall deliver to (and shall, with effect from termination, hold in trust for and to the order of) Owner or (if so required by Owner by notice to BOP Contractor) to the Successor BOP Contractor all of the Books and Records, Owner's Property, and property leased or licensed to Owner; in its possession or under BOP Contractor's control.

(e) BOP Contractor shall transfer to the Successor BOP Contractor not later than the later of the date of termination of this Agreement or the expiration of the Transition Period its rights as BOP Contractor under all purchase orders and Subcontracts entered into by BOP Contractor except to the extent such transfer is prohibited by such purchase orders and Subcontracts. At all times until such transfer is completed, BOP Contractor shall hold its rights and interests thereunder for the account and to the order of Owner, Successor BOP Contractor or Owner's designee. BOP Contractor shall execute all documents and take all other actions reasonably necessary or requested by Owner or Successor BOP Contractor to assign and vest in Owner all rights, benefits, interest, and title in connection with such contracts.

14.7 Linden Wind Energy Project Condition at End of Term.

(a) Upon termination or expiration of this Agreement, all Services shall have been performed through the date of termination and all payments required hereunder shall have been made through such date;

(b) at Owner's expense as a Reimbursable Expense, BOP Contractor shall secure the Linden Wind Energy Project, BOP Contractor Property, and other personal property of Owner used on or around the Linden Wind Energy Project in accordance with Prudent Industry Practices, and shall remove Site Personnel from the Linden Wind Energy Project;

(c) all special tools, improvements, inventory of supplies, Spare Parts, safety equipment (in each case as provided to BOP Contractor by Owner, or obtained by or provided by BOP Contractor as a Reimbursable Expense, during the Term of this Agreement), Books and Records, Owner's Property, and property leased or licensed to Owner in the possession of BOP Contractor, and any other items furnished on a Reimbursable Expense basis under this Agreement will be left at the Linden Wind Energy Project and, if applicable, transferred to the Successor BOP Contractor in accordance with the procedure set forth in Section 14.6(d), and will become or remain the property of Owner without additional charge; Owner shall have the right, in its sole discretion, but not the obligation, to directly assume and become liable for any contracts or obligations (including Permits) that BOP Contractor has undertaken with third parties as Reimbursable Expenses in connection with the Services.

14.8 Cancellation Without Cause.

This Agreement may be cancelled by Owner, without cause, upon thirty (30) calendar days' written notice to BOP Contractor, and BOP Contractor shall stop all work under this Agreement on the date for termination of the Services set forth in such notice. BOP Contractor shall be entitled to payment for all materials and services performed to the date of cancellation and shall be compensated at the established rates for all work required to organize and deliver all material developed in the course of the work prior to the date of cancellation. The BOP Contractor shall then deliver to Owner, in an organized and usable form, all work done prior to the date of cancellation. The BOP Contractor shall not be entitled to any compensation after the effective date of the cancellation.

14.9 Remedies.

Except as expressly provided to the contrary in this Agreement, upon the occurrence of a breach by a Party in the performance of its obligations under this Agreement, all rights and remedies of the non-breaching Party are cumulative of each other and of every other right or remedy available at law or in equity to such non-breaching Party, and the exercise of one or more rights or remedies shall not prejudice or impair the concurrent or subsequent exercise of other rights and remedies.

ARTICLE 15 WARRANTY

15.1 Warranty.

BOP Contractor warrants to the Owner (the "Warranty") that all Spare Parts, equipment, supplies, tools, software, documents, reports, records, books, plans, designs, papers, print-outs and other information created, developed, constructed, manufactured, acquired, or procured by BOP Contractor hereunder that become Owner's Property pursuant to this Agreement shall be free from defects in material and workmanship. The Warranty, and the remedy set forth below, apply to any defect that is discovered by Owner or BOP Contractor within one (1) year after the date the applicable item is delivered to the Owner or the Linden Wind Energy Site (the "Warranty Period"). Each Party shall notify the other Party promptly after such Party becomes aware of a defect, and OP Contractor shall promptly repair or replace, or cause the repair or replacement of, the defective item at no cost to BOP Contractor. Any such repair or replacement by the BOP Contractor shall extend the Warranty Period for such repaired or replaced item for one (1) year after the completion of such repair or replacement by BOP Contractor; provided that in no event shall the Warranty Period extend beyond one (1) year from the termination or expiration of the Agreement by virtue of such repair or replacement. If BOP Contractor fails to commence any Warranty correction promptly or thereafter fails properly to complete such Warranty correction with all due diligence following receipt of any notice from Owner or discovery by BOP Contractor and the failure to commence and complete such correction can reasonably be believed to have a material adverse effect on the Linden Wind Energy Project or invalidate any of the other warranties applicable to the Linden Wind Energy Project, Owner may (but shall not be obligated to) reasonably perform the Warranty correction at BOP Contractor's sole expense, and BOP Contractor shall reimburse Owner for such expenses within thirty (30) days after Owner provides its invoice for same. BOP Contractor warrants in favor of Owner that all Warranty correction performed by BOP Contractor pursuant to this Agreement shall conform to the requirements of the Warranty.

15.2 Exclusive Warranty.

Except as expressly stated in this Agreement, the Warranty is exclusive and in lieu of all other warranties, whether written, oral, implied or statutory, but does not affect any separate express warranty provided by any equipment supplier to the Linden Wind Energy Project. NO IMPLIED WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE SHALL APPLY.

15.3 Preservation of Warranties.

BOP Contractor shall perform the Services in a manner such that the Linden Wind Energy Project Warranties and the Subcontractor and vendor warranties and guarantees are not adversely affected or otherwise limited by BOP Contractor. BOP Contractor shall not use any Spare Part or take any other action in a manner that would cause the Linden Wind Energy Project Warranties or any Subcontractor or vendor warranties and guarantees to be adversely affected or otherwise limited. BOP Contractor shall provide Owner with the opportunity to review the applicable warranty coverage provided by a manufacturer of any item not created, developed, constructed, or manufactured by BOP Contractor prior to BOP Contractor's procurement thereof.

15.4 Assignment of Warranties.

Owner shall be entitled to the benefit of any Subcontractor or manufacturer warranty that extends beyond the Warranty Period, and BOP Contractor shall ensure that such warranties are, where possible, assigned to Owner and shall execute any assignments or other documents reasonably necessary to assign to Owner any such warranties upon the expiration of the Warranty Period.

ARTICLE 16 LIMITATIONS OF LIABILITY

16.1 Total Limitation of Liability.

Except for liability resulting directly or indirectly from a Party's intentional misconduct, willful or wanton negligence, fraud, or intentional misrepresentation or as otherwise expressly set forth in this Agreement, the total cumulative liability of each Party to the other Party during any Production Year shall not exceed the greater of (a) the coverage limits of the applicable insurance policy or policies required to be held by the liable party pursuant to this Agreement, regardless of whether the Party's carrier accepts or denies coverage, or (b) One Million Dollars (\$1,000,000.00); provided that the foregoing limitations on liability shall not limit any obligation of BOP Contractor under the indemnification obligations set forth in Article 13.

16.2 Waiver of Consequential Damages

In no event, whether based on contract, indemnity, tort (including negligence), strict liability or otherwise, shall BOP Contractor or Owner be liable for special, incidental, exemplary, indirect or consequential damages, except for damages arising out of BOP Contractor's indemnification obligations hereunder.

ARTICLE 17 FORCE MAJEURE

17.1 Force Majeure.

(a) Notwithstanding any other provision of this Agreement each Party's obligations under this Agreement shall be suspended by any Force Majeure, if and to the extent that such Party is prevented or delayed from performing by reason of the Force Majeure; provided, however, that (i) the suspension of performance shall be of no greater scope and of no longer duration than is necessarily caused by the Force Majeure and required by any remedial measures, (ii) no obligations of any Party that arose before the occurrence of such causes shall be excused as the result of the occurrence, and (iii) each Party shall use diligent efforts to remedy its inability to perform and to mitigate the effects of the Force Majeure. Each party shall bear their own cost associated with a declared Force Majeure event.

(b) Following the occurrence of any Force Majeure, the Affected Party shall:

(i) provide prompt notice to the Non-Affected Party of the Force Majeure, giving an estimate of its expected duration and the probable impact on the performance by the Affected Party of its obligations hereunder;

(ii) exercise all reasonable efforts to continue to perform its obligations hereunder;

(iii) expeditiously act to correct or cure the Force Majeure to the extent such action is within the power of the Affected Party;

(iv) exercise all reasonable efforts to mitigate or limit damages to the Non-Affected Party to the extent such action will not adversely affect its own interests; and

(v) provide prompt notice to the Non-Affected Party of the cessation of the Force Majeure and the resumption by the Affected Party of the performance of its obligations hereunder.

(c) If the Parties agree that the facts and circumstances are such that that BOP Contractor will be prevented from performing its obligations hereunder for a period of ninety (90) consecutive days due to Force Majeure, this Agreement shall terminate. In addition, each Party shall have the right to terminate this Agreement if BOP Contractor is prevented from performing its obligations hereunder for a period of ninety (90) consecutive days.

ARTICLE 18 INSURANCE

18.1 BOP Contractor Insurance.

BOP Contractor shall, at its sole cost and expense, procure, maintain, and provide Owner with acceptable evidence (in form and substance satisfactory to Owner) of the existence of, the types and amounts of insurance specified in Exhibit C during the Term.

18.2 Additional Requirements.

Each policy of insurance required by this Article 18 shall:

(a) be procured and maintained with responsible insurers rated "A VII" or better by A.M. Best, or having a comparable rating from another recognized rating entity;

(b) provide that the coverage provided shall not lapse or be canceled, materially changed or not renewed without at least thirty (30) days' prior written notice (or ten (10) days' prior notice if such cancellation is due to failure to pay premiums) to Owner;

(c) provide that Owner, and any of its assignees, shall have no liability for the payment of any premiums or commissions for such policy;

(d) include an endorsement to the policy naming Owner and the Owner Indemnified Parties as additional insured's;

(e) include a severability of interest clause or cross-liability clause;
and

(f) provide that the insurance is primary with respect to the interests of the Linden Wind Energy Project.

BOP Contractor shall (i) ensure that certificates of insurance for policies required by Exhibit C shall be provided Owner on or prior to the Commencement Date and thereafter annually or upon renewal or request, and (ii) provide at least thirty (30) days' prior notice of any cancellation or material change to BOP Contractor's coverage.

**ARTICLE 19
ACCESS TO LINDEN WIND ENERGY PROJECT**

19.1 By the BOP Contractor.

Subject to Applicable Law and the terms of this Agreement, Owner shall provide BOP Contractor, its Subcontractors and agents, and Site Personnel with full unconditional access to the Linden Wind Energy Project and the Linden Wind Energy Project Site at all times and without prior notice for the purpose of performing BOP Contractor's duties under this Agreement.

19.2 By the Owner.

Owner and its Representatives shall have full and free access to the Linden Wind Energy Project and Linden Wind Energy Project Site to perform any investigations, operations or maintenance work (subject to Section 8.5) or other activities deemed appropriate by Owner in its sole discretion. During any such access to the Linden Wind Energy Project Site, any such Representatives shall comply with all of BOP Contractor's reasonable safety and security procedures.

**ARTICLE 20
NOTICES**

20.1 Notices.

All notices, consents, approvals, and other communications required or permitted by this Agreement or by Law to be served upon, delivered, provided or given to a Party by the other Party shall be in writing (whether or not a writing is expressly required by the applicable provision of this Agreement or Law) and deemed duly served, delivered, provided, or given and received (i) on the date of service, if served personally or sent by electronic mail to the Party to whom notice is to be given at the address or email address set forth below, or (ii) upon receipt or rejection, as evidenced by (a) a return receipt, if mailed by first class registered or certified mail, postage prepaid or (b) a tracking number, if sent by a nationally recognized courier for next day service, in each case, to the address set forth below:

If to Owner:

Southern California Public Power Authority

(SCPPA)
Richard J. Morillo, General Counsel
1160 Nicole Court
Glendora, CA 91740
Telephone: (626) 793-9364
Email: rmorillo@scppa.org

With copies to:

Los Angeles Department of Water and Power,
as Operating Agent
Attn: Saifuddin Mogri
111 North Hope Street, Room 1246
Los Angeles, CA 90012
Telephone: (213) 367-0447
Email: Saifuddin.Mogri@ladwp.com

If to the BOP Contractor: TBD

The Parties, by like notice in writing, may designate, from time to time, another address or office to which notices shall be given pursuant to this Agreement.

ARTICLE 21 CONFIDENTIALITY

21.1 Confidential Information.

Each Party agrees, and shall use reasonable efforts to cause its parent, subsidiary and Affiliates, and its and their respective members, directors, officers, employees and representatives, as a condition to receiving confidential information hereunder, to keep confidential, except as required by law, all documents, data, drawings, studies, projections, plans and other written information that relate to economic benefits to or amounts payable by either Party under this Agreement, and, with respect to documents, that are clearly marked “Confidential” at the time a Party shares such information with the other Party (“Confidential Information”). The provisions of this Article 21 shall survive and shall continue to be binding upon the Parties for period of one (1) year following the date of termination of this Agreement. Notwithstanding the foregoing, information shall not be considered confidential which (i) is disclosed with the prior written consent of the originating Party, (ii) was in the public domain prior to disclosure or is or becomes publicly known or available other than through the action of the receiving Party in violation of this Agreement, (iii) was lawfully in a Party’s possession or acquired by a Party outside of this Agreement, which acquisition was not known by the receiving Party to be in breach of any confidentiality obligation, or (iv) is developed independently by a Party based solely on information that is not considered confidential under this Agreement.

21.2 Permitted Disclosure.

Either Party may, without violating this Article 21, disclose matters that are made confidential by this Agreement:

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

(b) to governmental officials and parties involved in any proceeding in which either Party is seeking a permit, certificate, or other regulatory approval or order necessary or appropriate to carry out this Agreement; to governmental officials or the public as required by any law, regulation, order, rule, ruling or other requirement of Law, including oral questions, discovery requests, subpoenas, civil investigations or similar processes and laws or regulations requiring disclosure of financial information, information material to financial matters, and filing of financial reports. If a Party is requested or required, pursuant to any Applicable Law, regulation, order, rule, order, ruling or other requirement of Law, discovery request, subpoena, civil investigation or similar process to disclose any of the Confidential Information, such Party shall provide prompt written notice to the other Party of such request or requirement so that at such other Party's expense, such other Party can seek a protective order or other appropriate remedy concerning such disclosure.

21.3 Required Disclosure.

Notwithstanding the foregoing or any other provision of this Agreement, BOP Contractor acknowledges that Owner, as a California joint powers authority, is subject to disclosure as required by the California Public Records Act, Cal. Govt. Code §§ 6250 et. seq. ("CPRA") and the Ralph M. Brown Act, Cal. Govt. Code §§ 54950 et. seq. ("Brown Act"). Confidential Information of BOP Contractor provided to Owner pursuant to this Agreement will become the property of Owner and BOP Contractor acknowledges that Owner shall not be in breach of this Agreement or have any liability whatsoever under this Agreement or otherwise for any Claims whatsoever resulting from or arising out of Owner's copying or releasing to a third party any of the Confidential Information of BOP Contractor pursuant to the CPRA or Brown Act. Notwithstanding the foregoing or any other provision of this Agreement, Owner may record, register, deliver and file all such notices, statements, instruments and other documents as may be necessary or advisable to render fully valid, perfected and enforceable under all applicable law the credit support contemplated by this Agreement and the Ancillary Documents and the rights, Liens and priorities of Owner with respect to such credit support.

21.4 CPRA Requests.

If Owner receives a CPRA request for Confidential Information of BOP Contractor, and Owner determines that such Confidential Information, is subject to disclosure under the CPRA, then Owner will notify BOP Contractor of the request and its intent to disclose the documents. The Owner, as required by the CPRA, will release such documents unless BOP Contractor timely obtains a court order prohibiting such release. If BOP Contractor, at its sole expense, chooses to seek a court order prohibiting the release of Confidential Information pursuant to a CPRA request, then BOP Contractor undertakes and agrees to defend, indemnify and hold harmless Owner from and against all Claims brought against Owner for Owner's refusal to disclose Confidential Information of BOP Contractor to any person making a request pursuant to CPRA. BOP Contractor's indemnity obligations shall include all reasonable and actual

costs incurred by Owner, and specifically including costs of experts and consultants, as well as all damages or liability of any nature whatsoever arising out of any such Claims brought against Owner, through and including any appellate proceedings. BOP Contractor's obligations to Owner under this indemnification provision shall be due and payable on a monthly, on going basis within thirty (30) days after each submission to BOP Contractor of Owner's invoices for all fees and costs incurred by Owner, as well as all damages or liability of any nature.

ARTICLE 22 DISPUTE RESOLUTION

22.1 Step Negotiations.

The Parties shall attempt in good faith to resolve all disputes between the Parties arising out of or relating to or in connection with this Agreement promptly by negotiation, as set forth below.

(a) First Step. Either Party may give the other Party written notice of any dispute not resolved in the normal course of business. Representatives of both Parties at levels one level above the personnel who have previously been involved in the dispute shall meet at a mutually acceptable time and place within ten (10) days after delivery of such notice, and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute (the "First Step").

(b) Second Step. If the representatives of the Parties are unable to resolve the matter pursuant to First Step within fifteen (15) days after referral of the dispute to such representatives, or if no meeting of such representatives has taken place within fifteen (15) days after such referral, the matter shall be referred, by written notice, to the senior executives of each Party who shall meet at a mutually acceptable time and place within ten (10) days after delivery of such notice, and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute (the "Second Step").

(c) Final Step. If the senior executives are unable to resolve, or do not anticipate being able to resolve, the dispute pursuant to the Second Step within twenty (20) days after receiving notice of such dispute, either Party may pursue any legal remedy available to it in accordance with Section 23.2.

(d) Step Negotiation Procedures. If a Party intends to be accompanied at a meeting by an attorney, the other Party shall be given at least three (3) Business Days' notice of such intention so the other Party may also be accompanied by an attorney. All negotiations pursuant to this Section 22.1 are confidential and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and state rules of evidence. Each Party shall bear its own costs for this dispute resolution phase.

(e) Claims Presentment Under California Law. In addition to the dispute resolution process set forth in this Section 22.1, the Parties must comply with California Law governing Claims against public entities and presentment of such Claims.

22.2 Continued Prosecution of the Work.

In case of any dispute, BOP Contractor shall continue to diligently perform the Services and maintain its progress, and Owner shall continue to make payments to BOP Contractor for those portions of the Services completed that are not the subject of dispute in accordance with the Agreement.

ARTICLE 23 MISCELLANEOUS

23.1 Execution.

This Agreement may be executed in any number of counterparts and by the different Parties on separate counterparts, each of which, when so executed and delivered, shall be an original, but all such counterparts shall together constitute but one and the same instrument. A signature page in "PDF" format or other electronic signature to this Agreement shall be deemed an original and binding upon the party against which enforcement is sought.

23.2 Governing Law.

This Agreement shall be governed by, interpreted and enforced in accordance with and construed under the laws of the State of California 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.

23.3 Amendments, Supplements, Etc.

Neither this Agreement nor any of the terms hereof may be amended, supplemented, or modified orally, but only by an instrument in writing signed by BOP Contractor and by Owner.

23.4 Survival.

Upon the expiration or termination of this Agreement, this Agreement shall have no further force and effect, except that any rights and remedies that have arisen or accrued to a Party prior to such expiration or termination, or any obligations or liabilities that have arisen or accrued before such expiration or termination, and that expressly survive such expiration or termination pursuant to this Agreement, shall in each case survive expiration or termination. Except as otherwise set forth herein, (i) all representations and warranties of BOP Contractor set forth herein shall survive in full force and effect the expiration or termination of this Agreement until the expiration of the applicable statute of limitations, (ii) the rights, remedies and obligations set forth in Article 14 (Termination), Article 20 (Notices), Article 21 (Confidential Information), Article 22 (Dispute Resolution), and Article 23 (Miscellaneous Provisions), shall survive in full force and effect the expiration or termination of this Agreement to the extent necessary to enable a Party to exercise any of such accrued rights and remedies, (iii) the rights, remedies and obligations and Article 16 (Limitation of Liability) shall survive in full force and effect the expiration or termination of this Agreement for a period of two (2) years

from the date of such expiration or termination, (iv) the rights, remedies and obligations set forth in Article 13 (Indemnification) shall survive expiration or termination of this Agreement to cover all Claims instituted within the later of (x) the period set forth in the applicable statute of limitations or (y) one (1) year from the date of such termination or expiration. This Section 23.4 shall survive in full force and effect the expiration or termination of this Agreement.

23.5 Headings.

The headings of the Articles and Sections of this Agreement have been inserted for convenience of reference only and shall not modify, define or limit any of the terms or provisions hereof.

23.6 Counterparts.

This Agreement may be executed in one or more counterparts and the counterparts taken together shall constitute one and the same agreement. A signature in "PDF" format or an electronic signature shall be deemed an original and binding upon the party against which enforcement is sought.

23.7 Assignment.

BOP Contractor may not assign, pledge or otherwise transfer this Agreement without the prior written consent of Owner, which may not be unreasonably withheld. This Agreement may be assigned by Owner to a successor owner of the Linden Wind Energy Project; provided no such assignment shall impair the rights of BOP Contractor under to this Agreement. This Agreement may be assigned by Owner to any bank or other financial institution providing financing to Owner in connection with the development, construction, ownership or operation of the Linden Wind Energy Project, and BOP Contractor shall enter into a consent to assignment with any such assignee providing standard lender protections, including the right of any such lender to cure any Owner defaults, and the right of any such lender, without BOP Contractor's consent, to assume or transfer ownership of the Linden Wind Energy Project to a successor to Owner who will be recognized as the Owner for all purposes under this Agreement. Owner may, without consent of BOP Contractor, assign this Agreement, directly or indirectly, in whole or in part, to any member, or wholly-owned, direct or indirect, subsidiary or Affiliate of Owner, or to any California joint powers authority comprised of two or more members of Owner and any such assignment shall relieve Owner of its obligations hereunder; provided, any such assignee agrees in writing to assume all of Owner's obligations under this Agreement and has a long-term credit rating (corporate or long-term senior unsecured debt) of (i) "A3" or higher by Moody's or (ii) "A-" or higher by S&P. Any attempted assignment, pledge or other transfer in violation of this Section 23.7 shall be null and void.

23.8 Successors and Assigns.

This Agreement shall be binding upon and inure to the benefit of the Parties, and their respective successors and assigns, to the extent that assignment is permitted hereunder.

23.9 Other Customers.

Nothing in this Agreement shall be construed to prevent or prohibit BOP Contractor from providing the same or similar services to any Person not a Party to this Agreement, provided that the provision of such services does not adversely affect BOP Contractor's ability to perform its obligations hereunder.

23.10 Waiver; Cumulative Remedies.

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. Nothing in this Agreement shall preclude either party from pursuing any available remedies for breaches not rising to the level of default, including recovery of damages caused by the breach and specific performance or any other remedy given under this Agreement or existing in law or equity.

23.11 Severability.

If any provision of this Agreement is declared by a court of competent jurisdiction to be illegal, unenforceable or void, that provision shall be modified so as to be enforceable and as nearly as possible reflect the original intention of the Parties, it being agreed and understood by the Parties that (i) this Agreement and all the provisions hereof shall be enforceable in accordance with their respective terms to the fullest extent permitted by Law, and (ii) the remainder of this Agreement shall remain in full force and effect.

23.12 Construction.

Every term and provision of this Agreement shall be construed simply according to its fair meaning and not strictly for or against any Party.

23.13 Entire Agreement.

This Agreement, including the exhibits and schedules attached hereto, which are hereby incorporated by this reference as though fully set forth herein, constitutes the entire contract between the Parties with respect to the subject matter hereof. Nothing in this Agreement, express or implied, is intended to confer upon any Person other than the Parties any rights, remedies, obligations or liabilities under or by reason of this Agreement.

23.14 Representation by Legal Counsel.

Each Party was represented by legal counsel during the negotiations and execution of this agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the duly authorized officers of the Parties have executed this Agreement on behalf of the Parties, all as of the date first stated above.

By: _____
Signature

Name

Title

**SOUTHERN CALIFORNIA PUBLIC POWER
AUTHORITY**

By: _____
Signature:

Name

Executive Director, SCPPA
Title

EXHIBIT A
to
Balance of Plant (BOP) Agreement
between

and
Southern California Public Power Authority

SCHEDULE OF DEFINITIONS

The terms defined in this Schedule of Definitions shall include the plural as well as the singular and the singular as well as the plural. Except as otherwise indicated, all the agreements or instruments herein defined shall mean such agreements or instruments as the same may from time to time be supplemented or amended or the terms thereof waived or modified to the extent permitted by, and in accordance with, the terms thereof. When used in the Agreement (as defined below), unless otherwise defined therein, the following terms shall have the respective meanings set forth below:

“Affected Party” shall mean the Party declaring Force Majeure pursuant to Section 17.1.

“Affiliate” of a Person (“First Person”) shall mean a Person which directly or indirectly Controls, or is Controlled by, or is under common control with, the First Person, and shall also include any limited partnership or limited liability company of which the First Person or Affiliate thereof is the general partner, managing member or manager, as the case may be, and any subcontractor, agent, representative, employee or authorized personnel of the First Person. If Owner is the First Person, any current or future member of the First Person shall constitute an Affiliate. “Control” of a Person shall mean the ownership, directly or indirectly, of more than fifty percent (50%) of the voting securities of that Person.

“Agreement” shall mean this Balance of Plant (BOP) Agreement.

“Applicable Law” shall mean all local, state and federal Laws that are applicable to or that affect BOP Contractor, Owner, the Linden Wind Energy Project or the Linden Wind Energy Project Site, including the operation, maintenance or use of the Linden Wind Energy Project Site, the Linden Wind Energy Project, and the Interconnection Facilities, including any Permits, Environmental Laws, Safety Laws, bankruptcy Law, and zoning, sanitation, siting or building Laws in connection with the scope of the Services hereunder.

“Asset Purchase Agreement” shall mean the Asset Purchase Agreement, dated June 23, 2009, by and between NWWP and Owner.

“Balance of Plant” shall mean all equipment and materials and other items incorporated in the Linden Wind Energy Project, except for the WECs. Balance of Plant includes the civil, electrical and mechanical construction works, principally roads, foundations for transformers and WECs, cable and pipe ducting, pad-mount transformers, switch gears, electrical cables, communication cables and system, SCADA

system, meteorological station, transmission line between the collector system and the substation, and project substation.

“Books and Records” shall have the given thereto in Section 8.5.

“BOP Contractor” shall have the meaning given thereto in the introductory paragraph of this Agreement.

“BOP Contractor Party” shall mean BOP Contractor, its Affiliates, Subcontractors, and Representatives, and the Representatives of BOP Contractor’s Subcontractors and Affiliates.

“BOP Contractor’s Contract Representative” shall have the meaning given thereto in Section 5.5.

“BOP Facility” shall mean the facility to be used by WEC Operator and BOP Contractor as a warehouse, shop, and office facility located on, or in reasonable proximity, to the Linden Wind Energy Project Site.

“BOP Procedures Manual” shall mean the BOP Procedures Manual provided by WEC Manufacturer or WEC Operator, any operations and maintenance manuals delivered by Owner to WEC Manufacturer, and all operating manuals supplied by all vendors or manufacturers for all Spare Parts, components and systems of the Linden Wind Energy Project.

“BPA” shall mean the Bonneville Power Administration.

“Brown Act” shall have the meaning given thereto in Section 21.3.

“Budget” shall mean a budget in substantially the form attached hereto as Exhibit F.

“Business Day” shall mean any day except a Saturday, Sunday or other day on which commercial banks in The City of Los Angeles, California are authorized by law to close.

“Call-Out Protocols” shall mean the call-out protocols mutually agreed upon by the Parties.

“Claims” shall mean litigation, disputes, demands, judgments, claims, and actions against a Person.

“Commencement Date” shall have the meaning given thereto in Section 3.1.

“Confidential Information” shall have the meaning given thereto in Section 21.1.

“Consumables” shall mean those items that are installed, added to or otherwise used by the technicians in the process of performing Scheduled Maintenance; including rags, solvents, grease, lubricants (excluding gear oil and hydraulic fluid), and other fluids, wire ties, wire connectors (up to 10 gauge), mechanical fasteners less than 12 mm (1/2 inch) and excluding series replacements, fuses up to 30 amps, and

miscellaneous wind turbine parts (such as seals, o-rings, springs, hydraulic fittings, hoses, etc.) where the individual cost for such parts is less than ten dollars and excluding series replacements.

“CPRA” shall have the meaning given thereto in Section 21.3.

“Demobilization Charge” shall have the meaning given thereto in Section 14.6(a).

“Effective Date” shall have the meaning given thereto in the Preamble.

“EH&S Plan” shall have the meaning given thereto in the Section 4.5(a).

“Emergency” shall mean an event occurring at the Linden Wind Energy Project Site, or any adjoining property, that (a) poses actual, or imminent risk of, (i) serious personal injury, (ii) material physical damage to one or more WECs or to the Linden Wind Energy Project or (iii) material violation of Law, and (b) requires, in the good faith determination of the BOP Contractor or Owner, immediate preventative or remedial action.

“Encumbrance” shall mean (a) any mortgage, charge, lien, pledge, hypothecation, title retention arrangement or other security interest, as or in effect as security for the payment of a monetary obligation or the observance of any other obligation; (b) any easement, servitude, restrictive covenant, equity or interest in the nature of an encumbrance, garnishee order, writ of execution, right of set-off, lease, license to use or occupy, assignment of income or monetary claim; and (c) any agreement to create any of the foregoing or allow any of the foregoing to exist.

“Environmental Laws” shall mean all Laws relating to (i) the control of any pollutant, or protection of the air, water, or land, (ii) solid, gaseous or liquid waste generation, handling, treatment, storage, disposal or transportation, (iii) exposure to hazardous, toxic or other harmful substances, (iv) the protection and enhancement of the environment, and (v) the handling and management of Hazardous Materials at the Linden Wind Energy Project Site. Environmental Laws shall include the Clean Air Act, 42 U.S.C. § 7401 et seq., (“CAA”), the Clean Water Act, 33 U.S.C. § 1251 et seq., (“CWA”), the National Environmental Policy Act, 42 U.S.C. § 4321 et seq., the Endangered Species Act, 16 U.S.C. § 1531 et seq., the Resource Conservation Recovery Act, 42 U.S.C. § 6901 et seq., (“RCRA”), the Safe Drinking Water Act 42 U.S.C. § 300f et seq., the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”) as amended by the Superfund Amendments and Reauthorization Act, 32 U.S.C. § 9601 et seq., the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 136 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq., the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., (“TSCA”), and the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq., any state or local laws relating to Permits, such as the Washington State Environmental Policy Act, RCW Ch. 43.21C et seq., the State Water Code, RCW Ch. 90.03 et seq., and local land use control ordinances or similar laws, any state or local laws implementing or substantially equivalent to the foregoing federal requirements, including the Model Toxics Control Act, RCW Ch. 70.105D et seq., the Hazardous Waste Management Act, RCW Ch. 70.105 et seq., the Solid Waste Management Act, RCW Ch. 70.95 et seq., the Washington Clean Air Act, RCW Ch. 70.94 et seq., the

Washington Water Pollution Control Act, RCW Ch. 90.48 et seq., and their implementing regulations; and other similar Laws.

“EOZ Permit” shall mean the Linden Wind Farm EOZ Permit granted by the Klickitat County Planning Department on December 29, 2006.

“Extension Term” shall have the meaning given thereto in Section 3.2.

“FERC” means the Federal Energy Regulatory Commission.

“First Person” shall have the meaning given thereto in the definition of “Affiliate” in Exhibit A.

“First Step” shall have the meaning given thereto in Section 22.1(a).

“Force Majeure” shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm, flood, or explosion, or any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities (i) which prevents one Party from performing any of its obligations under this Agreement, (ii) which could not reasonably be anticipated as of the date of this Agreement, (iii) which is not within the reasonable control of, or the result of negligence, willful misconduct, breach of contract, intentional act or omission, or wrongdoing on the part of the Affected Party (or any subcontractor or Affiliate of that Party, or any Person under the control of that Party or any of its subcontractors or Affiliates, or any Person for whose acts such subcontractor or Affiliate is responsible), and (iv) which by the exercise of due diligence the Affected Party is unable to overcome or avoid or cause to be avoided; provided, nothing in this clause (iv) shall be construed so as to require either Party to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or labor dispute in which it may be involved. Without limiting the generality of the foregoing, a Force Majeure does not include any of the following: (1) events arising from the failure by BOP Contractor to operate or maintain the Linden Wind Energy Project in accordance with this Agreement; (2) any increase of any kind in any cost; (3) delays in or inability of a Party to obtain financing or other economic hardship of any kind; (4) failure of third parties to provide goods or services essential to a Party’s performance; (5) Linden Wind Energy Project or equipment failure of any kind; or (6) any changes in the financial condition of the Owner, any BOP Contractor Party, or any Subcontractor or supplier affecting the Affected Party’s ability to perform its obligations under this Agreement.

“GDPIPD” shall mean the Gross Domestic Product Implicit Price Deflator, as published by the United States General Accounting Office immediately preceding the applicable date of adjustment, or such other index as mutually agreed upon between the BOP Contractor and the Owner.

“Governmental Authority” shall mean any federal, provincial, state or local government authority, agency, court or other body, officer or public entity, including any zoning authority, building inspector, or health or safety inspector.

“Hazardous Materials” shall mean any dangerous, hazardous or toxic substance or constituent or pollutant or contaminant which, pursuant to any Applicable Law as of the Effective Date, has been determined, to be hazardous, toxic or dangerous to human

health or the environment, including any hazardous substance under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C.A. § 9601 et. seq.), any solid waste under the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C.A. § 6901 et. seq.), or any contaminant, pollutant, waste, dangerous waste or toxic substance under the Clean Air Act (42 U.S.C.A. § 7401 et. seq.), the Federal Water Pollution Control Act (33 U.S.C.A. § 1251 et. seq.), the Safe Drinking Water Act, as amended (42 U.S.C.A. § 300f et. seq.), the Emergency Planning and Community Right-To-Know Act (42 U.S.C.A. § 110001 et. seq.), the Occupational Safety and Health Act (29 U.S.C.A. § 651 et. seq.), the Hazardous Materials Transportation Act, (49 U.S.C.A. § 5101 et. seq.), or the Toxic Substances Control Act (15 U.S.C.A. § 2601 et. seq.), and any equivalent or applicable state or local laws., including the Washington Model Toxics Control Act, as amended (ch. 70.105B RCW) and implementing regulations (ch. 173-340 WAC), and the Washington Hazardous Waste Management Act of 1976, as amended (ch. 70.105 RCW) and implementing regulations (ch. 173-303 WAC).

“Improvement” shall have the meaning given thereto in Section 11.2.

“Intellectual Property Rights” shall mean all (i) intellectual property rights existing from time to time under any laws or regulations, including copyrights, patents, industrial design rights, trademarks, logos, slogans, corporate names, trade names, rights of priority, and applications and registrations for any of the foregoing, and (ii) trade secrets, know how, mask works, software, firmware, specifications, algorithms, designs, drawings, methodologies, ideas, concepts, inventions, plans, processes, techniques, tools, hardware, works of authorship, and other technology, whether or not protectable by any form of intellectual property rights.

“Interconnection Facilities” shall mean facilities and devices (e.g., circuit breakers, filters, protection devices, relays and metering) necessary to interconnect and deliver power from the Linden Wind Energy Project to the utility transmission system.

“Internal Revenue Code” shall have the meaning given thereto in Section 8.2(d).

“KPUD” shall mean the Klickitat Public Utility District No. 1.

“Laws” shall mean all laws, statutes, orders, decrees, injunctions, agreements and regulations of any Governmental Authority having jurisdiction over the matter in question, including any Environmental Laws and any Safety Laws.

“Linden Wind Energy Project” shall mean the WECs and the Balance of Plant constructed on the Linden Wind Energy Project Site, all as described in Exhibit I.

“Linden Wind Energy Project Agreements” shall mean the Transmission and Interconnection Agreements, the BOP Procedures Manual, the Turbine Supply and Commissioning Contracts, the Real Property Documents, and any documents in replacement thereof.

“Linden Wind Energy Project Drawings” shall have the meaning given thereto in Section 8.5(b).

“Linden Wind Energy Project Site” shall mean the site, including the Real Property Documents, on which the Linden Wind Energy Project is located, as described in Exhibit I.

“Linden Wind Energy Project Warranties” shall mean all rights of Owner under or pursuant to all warranties and guaranties provided to Owner (i) by WEC Manufacturer pursuant to the Turbine Supply and Commissioning Contracts, (ii) by WEC Operator pursuant to the Service Agreement, and (iii) by any subcontractor pursuant to any subcontract entered into in connection with the Turbine Supply and Commissioning Contracts, the Service Agreement, or the Asset Purchase Agreement by WEC Manufacturer, WEC Operator, NWWP, or Owner.

“Losses” means losses, costs, expenses, liabilities, damages, fines, or penalties, including court costs, reasonable attorneys’ and professionals’ fees and expenses and other litigation or settlement expenses.

“Maintenance Reports” shall mean the maintenance and repair reports maintained by BOP Contractor relating to the Linden Wind Energy Project.

“Moody’s” shall mean Moody’s Investors Service, Inc.

“NERC” shall mean the North American Electric Reliability Corporation.

“NWWP” shall mean Northwest Wind Partners, LLC.

“Non-Affected Party” shall mean the Party not declaring Force Majeure pursuant to Section 17.1.

“OEM” shall mean the original equipment manufacturer for the relevant equipment.

“Operating Agent” shall have the meaning given thereto in Section 5.5.

“Operating Logs” shall mean the daily operating logs for the Linden Wind Energy Project, including energy production from the Linden Wind Energy Project and the meter and gauge readings and during BOP contract period shall also include, as available from SCADA system, the average availability of the Linden Wind Energy Project, planned and unplanned maintenance outages, circuit breaker trip operations requiring a manual reset, partial de-ratings of equipment and any other significant event related to the operation of the Linden Wind Energy Project.

“Operating Plan” shall mean an operating plan in substantially the form of Exhibit E.

“Overtime” shall mean hours worked in excess of those for which Site Personnel are paid straight time pursuant to the laws of the State of Washington.

“Owner” shall have the meaning given thereto in the introductory paragraph of the Agreement.

“Owner Indemnified Party” shall mean Owner, Owner’s Affiliates and member agencies, and the shareholders, partners, directors, officers, agents, employees and representatives of Owner and Owner’s Affiliates and member agencies.

“Owner’s Property” shall have the meaning given thereto in Section 11.1(a).

“Owner’s Contract Representative” shall have the meaning given thereto in Section 5.5.

“Payment Obligations” shall have the meaning given thereto in Section 5.2.

“Permit” shall mean the waiver, exemption, variance, franchise, certification, approval, permit, authorization, license, consent, or similar order of or from any Governmental Authority having jurisdiction over the matter in question.

“Person” shall mean any individual, partnership, joint stock company, corporation, trust, unincorporated association or joint venture, a government or any department or agency thereof, or any other entity.

“Point of Interconnection” shall mean the point in the Linden 230 kV switchyard adjacent to Klickitat County Public Utility District’s EE Clouse-Harvalum Transmission Line where the interconnection facilities for the Linden Wind Energy Project connect to the district’s transmission system.

“Pre-existing Contamination” shall mean any Hazardous Material present in any environmental medium as a result of a Release at the Linden Wind Energy Project Site prior to the commencement of the Services and not arising from or relating to the activities of BOP Contractor or any of its Subcontractors.

“Production Year” shall mean each twelve (12)-month period following first day of the Term.

“Prudent Industry Practice” shall mean the practices, methods and acts engaged in or approved by a significant portion of the wind power industry in the United States that, at a particular time, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with Applicable Laws, regulations, codes, standards, equipment manufacturer’s recommendations, warranties and guaranties, insurance policies, reliability, safety, environmental protection, economy and expedition. Prudent Industry Practice does not necessarily mean the highest standard in the industry.

“Quote” shall have the meaning given thereto in Section 9.1.

“Quote Expiration Date” shall have the meaning given thereto in Section 9.1(e).

“Quote Number” shall have the meaning given thereto in Section 9.1(d).

“Real Property Documents” shall mean easements, option agreements, leases, subordinations and other real property agreements that create or evidence any real

property interests relating to the Linden Wind Energy Project, as amended, restated or otherwise modified from time to time.

“Reimbursable Expenses” shall have the meaning given thereto in Section 8.2(a).

“Release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any Hazardous Material).

“Representative” shall mean, with respect to any Person, any officer, director, shareholder, partner, principal, agent, employee, attorney, advisor or other representative of such Person, including, in the case of Owner, Owner’s Contract Representative, and in the case of BOP Contractor, BOP Contractor’s Contract Representative, provided that in no event shall (a) Owner be deemed to be a Representative of BOP Contractor or (b) BOP Contractor be deemed to be a Representative of Owner.

“S&P” shall mean Standard & Poor’s Ratings Services.

“Safety Laws” shall have the meaning given thereto in Section 4.5(b).

“Schedule of Definitions” shall mean this Schedule of Definitions.

“Scheduled Maintenance” shall mean scheduled maintenance as described in the BOP Procedures Manual. Typically this maintenance is required to be performed on three (3), six (6) and twelve (12) month intervals.

“Second Step” shall have the meaning given thereto in Section 22.1(b).

“Separate Contractor” shall have the meaning given thereto in Section 5.3.

“Service Agreement” shall mean that certain Second Operations and Maintenance Agreement entered into by WEC Operator and Owner, and any replacement thereof.

“Services” shall have the meaning given thereto in Section 4.2.

“Site Personnel” shall mean all individuals employed by BOP Contractor in the performance of the Services.

“Spare Parts” shall mean all applicable parts, accessories, instruments, appurtenances, furnishings, and other equipment of whatever nature that may from time to time be appropriate or necessary to maintain the proper operation of the Balance of Plant.

“Subcontractors” shall mean any subcontractor, of any tier, or supplier of materials, equipment or services to BOP Contractor or any subcontractor, of any tier, of any Person engaged or employed by BOP Contractor or any Subcontractor in connection with the performance of the scope of this Agreement. To the extent

available, the BOP Contractor shall use Subcontractors that employ organized labor, unless otherwise approved by Owner.

“Successor BOP Contractor” shall have the meaning given thereto in Section 14.6(b).

“Task Order” shall have the meaning given thereto in Section 9.2.

“Taxes” shall mean each federal, state, provincial, 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 excise, tax, (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.

“T&M” shall mean a time and materials basis based on the rates set forth in Exhibit H attached hereto.

“Term” shall have the meaning given thereto in Section 3.1.

“Termination Notice” shall have the meaning given thereto in Section 14.4(a).

“Terminating Party” shall have the meaning given thereto in Section 14.1.

“Title 50 RCW” shall have the meaning given thereto in Section 13.1(b).

“Transition Period” shall have the meaning given thereto in Section 14.6(b).

“Transmission and Interconnection Agreements” shall mean (i) the Generator Interconnection Agreement, dated September 22, 2009, between KPUD and Owner, (ii) the Transmission Service Agreement, September 22, 2009, between KPUD and Owner, (iii) the Balancing Authority Area Services Agreement, Contract Number 09TX-14524, dated September 30, 2009, among BPA, KPUD, and Owner, (iv) the Operations and Maintenance Agreement, dated September 30, 2009, among KPUD, BPA, and Owner, (v) the Linden Wind Generation Integration Construction Agreement, Contract Number 09TX-13968, dated September 30, 2009, among KPUD, BPA, and Owner, (vi) the 2008 Network Open Season Precedent Transmission Service Agreement, Contract Number 08TX-13559, between the Los Angeles Department of Water and Power and BPA, and (vii) the Conditional Firm Point-to-Point-Transmission Service Agreement, Contract No. 08TX-13169, between the Los Angeles Department of Water and Power and BPA, each as amended, restated or otherwise modified from time to time, and any other transmission or interconnection agreements entered into between Owner or LADWP and the transmission provider or interconnection provider.

“Turbine Completion” shall have the meaning given thereto in the Turbine Supply and Commissioning Contract.

“Turbine Services” shall mean the operations and maintenance services to be performed by WEC Operator pursuant to the Service Agreement.

“Turbine Supply and Commissioning Contracts” shall mean (i) the Turbine Supply and Commissioning Contract, Linden Wind Energy Project Linden, dated November 24, 2009, by and between WEC Manufacturer and Owner, and (ii) the Supplemental Towers Supply Agreement, Linden Wind Energy Project Linden, dated November 24, 2009, by and between WEC Manufacturer and Owner.

“Unscheduled Maintenance” shall mean all non-routine maintenance and repairs of the Linden Wind Energy Project, including major repairs, any inspection, maintenance, repair or other Services that are not included as part of the Scheduled Maintenance and which are authorized by Owner to be provided by BOP Contractor.

“Variable Fee Limit” shall have the meaning given thereto in Section 8.2(c).

“Warranty” shall have the meaning given thereto in Section 15.1.

“Warranty Period” shall have the meaning given thereto in Section 15.1.

“WEC” means all or any portion of the 2 Megawatt Model MM92 wind turbine generators each including equipment and machinery related thereto and the following components: a tower, a turbine nacelle, blades, controller (including interconnecting cabling from the turbine nacelle to the ground controller), control panels, converters, any var control technology, wind vanes, FAA lighting (if and as required), grounding, and anemometers. WECs shall not include special tools required for operation of the Linden Wind Energy Project or Spare Parts.

“WEC Manufacturer” shall mean REpower Systems AG.

“WEC Operator” shall have the meaning given thereto in Recital C.

EXHIBIT B
to
Balance of Plant (BOP) Agreement
between

and
Southern California Public Power Authority

SCOPE OF SERVICES

Generally:

The BOP Contractor shall develop and implement detailed programs in coordination and compliance with this Agreement and Owner's policies and procedures to cover various areas of the Linden Wind Energy Project, including:

- a) Overall operation and maintenance of the Balance of Plant activities;
- b) Preventive and maintenance actions;
- c) Administrative and Site Personnel support and reporting;
- d) Safety and health;
- e) Quality assurance (QA);
- f) Site safety and security;
- g) Productivity;
- h) Environmental compliance;
- i) Training/qualification;
- j) Human resources;
- k) Remote control and monitoring of WEC Operator's SCADA system;
- l) IT Services;
- m) Outages and curtailments;
- n) Spare Parts and Consumables;
- o) Permit and regulatory compliances;
- p) NERC/FERC compliance;
- q) Betterment and improvement to reduce long-term main component replacement expenses; and
- r) Oversight of the various activities performed by WEC Operator.

1 Operation and Maintenance Services:

- 1.1 Performance of all Balance of Plant Scheduled Maintenance as set forth in the BOP Procedures Manual;
- 1.2 Operation of all Balance of Plant and, in respect thereof, coordinate actions with WEC Manufacturer and WEC Operator as necessary;
- 1.3 Remote monitoring of all WECs;
- 1.4 Operate the SCADA overlay system for the Linden Wind Energy Project, including processing, gathering and reporting all data therefrom,

- 1.5 Curtail the operation of any or all of the WECs as and when requested by Owner and coordinate such curtailment with WEC Operator and BPA, as described in the “Linden Ranch Wind Linden Wind Energy Project – Operations Control Center Procedures – Curtailment and Emergency Shutdown” document;
- 1.6 Coordinate with WEC Operator as necessary to optimize power generation as it relates to the operations of WECs, provided that Owner has placed on WEC Operator a similar obligation to cooperate with BOP Contractor;
- 1.7 Subject to Section 4.1(d)(xiv), interface with Governmental Authorities in respect of the Services as necessary or as otherwise requested from time to time by Owner;
- 1.8 To the extent that necessary data is available from the WEC Manufacturer or the SCADA overlay system, provide performance data on actual WEC performance;
- 1.9 Review performance analysis provided to Owner by WEC Operator, and develop recommendations for performance improvement or provide comments on such analysis based on observations of the BOP Contractor at the Linden Wind Energy Project;
- 1.10 Provide notice to Owner of any of the following that BOP Contractor becomes aware of in the course of performing the Services: (i) any material defect in any major component or failure in any element of the Linden Wind Energy Project, regardless of whether such defect may be the subject of a warranty claim, (ii) all events, occurrences, conditions, and issues that BOP Contractor reasonably considers material to, or likely to have a material effect on, the Linden Wind Energy Project or the operations, maintenance, or results of operations thereof;
- 1.11 Perform other associated Linden Wind Energy Project activities, including:
 - (a) Provide on-site staffing sufficient to perform the Services during normal business hours, Monday through Friday, 40 hours per week;
 - (b) Notify Owner of any changes in Site Personnel;
 - (c) Provide notice to Owner immediately upon BOP Contractor’ knowledge of any forced outage, curtailment, which notice shall include (to the extent available from WEC Operator) the amount of generation capacity that will not be available during the outage or shutdown, the expected return date of such generation capacity and upon any changed circumstances, promptly update Owner thereof;
 - (d) Provide appropriate notices to Owner in accordance with the BOP Procedures Manual for all outages (including planned, forced, and reactive), curtailments, and other related matters as applicable;

- (e) Coordinate planned and reactive outages of major equipment of the BOP with WEC Operator to minimize outage duration and impact on Linden Wind Energy Project production;
- (f) Develop and implement a detailed schedule to track all outage preparations, work, and testing, including corrective maintenance actions, contractor work, and scheduled preventive maintenance. Conduct preparations to support this plan, including ordering and receiving all required Spare Parts;
- (g) Perform housekeeping, janitorial and garbage pickup and procure on Owner's behalf and manage landscape services;
- (h) Maintain all access roads at the Linden Wind Energy Project Site,
- (i) Maintain the BOP Facility, and other structures in good repair at all times;
- (j) Monitor and apply adequate measure to maintain site security, including:
 1. Maintaining the safeguards, including any danger signs, barricades and other warnings against hazards at the Linden Wind Energy Project or installed at the Linden Wind Energy Project by Owner as of the Effective Date; provided that such maintenance includes the minimum repairs to such safeguards and the prompt reporting of any more significant or extraordinary repairs required for such safeguards to Owner;
 2. Locking gates and doors at appropriate times, including immediately prior to Site Personnel leaving the Linden Wind Energy Project Site before any non-work hours;
 3. Reviewing the integrity of fences, gates, and other security measures during the course of normal business; and
 4. Dismissing or reporting trespassers as appropriate.
 5. Responding immediately in case of security breach related calls from "Security Plus" (which provides intrusion alarm, access control system and monitoring services to BOP Facility and substation control room.

2 Routine and Preventive Maintenance Services:

Perform various routine and preventive maintenance actions on Balance of Plant, with approval from Owner, in accordance with vendor instruction and the O&M Procedures Manual, including:

- 2.1 Conducting regular visual equipment inspections and log significant parameters and report anything out of the ordinary to Owner;

- 2.2 Identifying all preventive maintenance requirements for the Balance of Plant, including meter calibration and testing. Schedule and assign routine maintenance during operations, planned outages, and maintenance that can be conducted in parallel (but not extend required actions) in the event of a forced or unscheduled outage;
- 2.3 As appropriate and consistent with the O&M Procedures Manual, conducting and overseeing predictive maintenance on the Balance of Plant within the cost-effective capability of the Site Personnel. For those maintenance requirements that are not cost-effective for the Site Personnel, overseeing predictive maintenance services and Subcontractors;
- 2.4 Assigning work that is a subset of the Services to either Site Personnel or Subcontractors as cost-effective and appropriate; and
- 2.5 Verifying and providing recommendations to Owner with respect all reports provided by BOP Contractor, the WEC Operator, and the WEC Manufacturer regarding the operation and maintenance of the Linden Wind Energy Project.

3 Administration and Reporting Services:

BOP Contractor shall perform various administration and reporting to Owner and all applicable entities to meet the requirements of this Agreement, including:

- 3.1 In coordination with the Owner, conduct a community relations program to establish the Linden Wind Energy Project and the Site Personnel as “good citizens” in the local community;
- 3.2 Oversee and report on all services performed under this Agreement and all services performed by WEC Operator, including preparing and submitting periodic Maintenance Reports relative to Budget, performance, safety, environmental compliance, maintenance and repair status, plant operating data, and any other information reasonably requested by the Owner, provided that WEC Operator, and any other Contractor provides such information to BOP Contractor in reasonably sufficient detail and in a timely manner to allow BOP Contractor to comply with this requirement;
- 3.3 Notify Owner immediately in the event of inconsistency, variation, malpractice, misconduct, or negligence, or any difficulty to collect data from WEC Operator or any other entity;
- 3.4 Document, file, and otherwise archive project documentation, including:
 - (a) Safety records;
 - (b) Planning documents;
 - (c) General recordkeeping;
 - (d) Work completion logs, checklists, explanations, and conformance;
 - (e) Labor tracking;

- (f) Parts usage;
 - (g) Daily, weekly, and monthly reports on various Linden Wind Energy Project activities;
 - (h) Maintenance records;
 - (i) Ongoing and planned activities;
 - (j) Reimbursable expenses with explanations; and
 - (k) Betterment and improvement plans and activities.
- 3.5 Perform drawing/manual maintenance on the Balance of Plant drawings, manuals and updates, including maintaining the plant library and updating plant manuals and vendor service manuals as provided by Owner to BOP Contractor;
- 3.6 Provide assistance to Owner as required pursuant to the terms and conditions of this Agreement, which includes such activities as the preparation and coordination of warranty claims under vendor and Subcontractor warranties (including the Linden Wind Energy Project Warranties) and their resolution, support of license and Permit renewals, interfacing with Owner's management personnel at Owner's reasonable request, and interfacing with other third parties at Owner's reasonable request, including:
- (a) real property owners or lessors;
 - (b) transmission provider or interconnection provider;
 - (c) insurance carriers or insurance claims;
 - (d) WEC Manufacturer warranty claims;
 - (e) Infrastructure Facilities Warranty (as defined in the Asset Purchase Agreement) claims;
 - (f) accident investigations and safety corrective actions; and
 - (g) other third-parties relevant to the Linden Wind Energy Project Agreements;
- 3.7 Review weekly the Operating Log for each WEC maintained by the WEC Operator if provided to BOP Contractor by Owner or WEC Operator;
- 3.8 Provide daily, weekly, and monthly reports containing data from the Operating Logs;
- 3.9 Attend such monthly, quarterly, and other meetings as Owner may reasonably request; provided BOP Contractor receives reasonable notice of such meetings, and the meetings may be attended telephonically;

- 3.10 Monitor and promptly report of all damages and malfunctions, failures, defects, and retrofits on the Balance of Plant, including recommendations for any Unscheduled Maintenance that BOP Contractor deems necessary;
- 3.11 Cooperation with Owner regarding the management of the Linden Wind Energy Project, and, if and when requested by Owner, the provision of such reports and information and taking of such other actions, as may be reasonably requested by Owner;
- 3.12 Manage operations of the Balance of Plant to comply with the Budget and Operating Plan, including the purchase, rent, or other acquisition of equipment, machinery, and tools necessary for the performance of Services on the Balance of Plant in each case in accordance with the Budget, in the ordinary course of business and on a cost plus basis; and
- 3.13 On or before the first day of each Production Year, provide (a) a non-binding, good faith three (3) year projection of planned maintenance, (b) a five (5) budget estimate for performance of Services and expected Reimbursable Expenses, (c) a proposal setting forth capital improvements to the Facility that, in BOP Contractor's good faith opinion, will be appropriate or necessary during the next ten (10) years, and (d) a document comparing the safety, environmental, operations, and budget performance of the Linden Wind Energy Project against the safety, environmental, operations, and budget performance of two other wind energy projects located in Klickitat County, Washington.

4 Spare Parts and Consumables.

BOP Contractor shall maintain a flawless inventory and tracking system to monitor and maintain adequate Spare Parts and Consumables for the Linden Wind Energy Project. BOP Contractor shall perform all appropriate related activities, including the following:

- 4.1 Receive and warehouse all Spare Parts owned by Owner in accordance with the supplier's recommendations in Owner's BOP Facility with Owner's equipment and using BOP Contractor's inventory system unless Owner has a preferred inventory system and then on Owner's inventory system provided Owner has provided training on such system, at Owner's cost and expense, to BOP Contractor;
- 4.2 Provide Consumables for the Balance of Plant as required for performance of Services under this Agreement;
- 4.3 Establish the required Spare Parts list, and submit to Owner for verification and approval. Once approved by Owner, proceed with the procurement process for all required parts for the Linden Wind Energy Project.
- 4.4 With the approval of the Owner, procure all materials, equipment, chemicals, supplies, services, parts, and other items required for routine performance of Services on the Balance of Plant.

- 4.5 With the prior approval of Owner, dispose of items of equipment or machinery that are worn out, obsolete, surplus or no longer useful for the proper operation of the Balance of Plant with such sale or disposal to be made in a commercially reasonable manner and on an “as is,” “where is” and without warranties basis and with all monies received in respect thereof and an accounting thereof provided to Owner; and
- 4.6 Implement a cost-effective inventory control system designed to ensure that Spare Parts, materials, and supplies are properly accounted for.

5 Permit and Regulatory Compliance:

BOP Contractor shall perform all required activities for Permit and regulatory compliance, as well as maintain NERC and FERC compliance for the Linden Wind Energy Project. BOP Contractor shall perform activities that include the following:

- 5.1 Perform activities on the Linden Wind Energy Project Site required for NERC and FERC compliance. Provide Owner a weekly and monthly report establishing compliance;
- 5.2 Maintain up-to-date certification for all required Permits on site for the Linden Wind Energy Project;
- 5.3 Maintain up-to-date Permit for Storm Water Pollution Prevention Plan (SWPPP)
- 5.4 Maintain up-to-date Permit for Spill Prevention and Control Countermeasure (SPCC) plan;
- 5.5 Monitor and promptly remove, in compliance with all Applicable Laws, carcasses of livestock and big game after becoming aware of same in the ordinary course of performing the Services;
- 5.6 Monitor bird and bat fatalities for one year pursuant to a procedure meeting the requirements of the EOZ Permit and provide to Owner estimates of bird and bat fatalities during such year;
- 5.7 Monitor Linden Wind Energy Project Site for significant erosion weekly and after large rainfall or snowfall events;
- 5.8 Monitor reseeded and restored areas within the Linden Wind Energy Project Site for conformance with the reseeded/restoration and weed management plan; and
- 5.9 Report bird fatalities in a form approved by Owner monthly to the Washington Department of Fish and Wildlife and the United States Fish and Wildlife Services, as required by the EOZ Permit;

EXHIBIT C
to
Balance of Plant (BOP) Agreement
between

and
Southern California Public Power Authority

INSURANCE

BOP Contractor shall maintain the following insurance types in the following amounts:

(a) comprehensive general liability insurance, covering bodily injury, property damage, products and completed operations, contractual and personal injury liability, premises and operations, and fire legal liability with limits of not less than \$5,000,000 per occurrence;

(b) all forms and types of insurance required by Applicable Law with respect to employees, including workers compensation and disability benefits insurance and employers liability insurance, in amounts equal to the greater of \$1,000,000, or the amount required by Applicable Law;

(c) automobile liability insurance including coverage for owned, non-owned and hired automobiles with a minimum of \$1,000,000 combined single limit coverage for any occurrence, covering automobiles used by BOP Contractor in connection with the operation and maintenance of the Linden Wind Energy Project; and

(d) excess/umbrella liability insurance or equivalent form with a minimum of \$10,000,000 combined single limit coverage for any occurrence following the terms of the primary insurance set forth in clauses (a) and (c) above.

**EXHIBIT D
to
Balance of Plant (BOP) Agreement
between**

**and
Southern California Public Power Authority**

DAILY/ WEEKLY/MONTHLY/ANNUAL REPORTS

[Bid responder to provide sample reports]

EXHIBIT E
to
Balance of Plant (BOP) Agreement
between

and
Southern California Public Power Authority

FORM OF OPERATING PLAN

[Bid responder to provide a sample Operating Plan]

**EXHIBIT F
to
Balance of Plant (BOP) Agreement
between**

**and
Southern California Public Power Authority**

FORM OF BUDGET

[Bid responder to provide a sample budget]

**EXHIBIT G
to
Balance of Plant (BOP) Agreement
between**

**and
Southern California Public Power Authority**

BOP CONTRACTOR REPRESENTATIVE AND OWNER REPRESENTATIVE

[Bid responder to provide sample information]

**EXHIBIT H
to
Balance of Plant (BOP) Agreement
between**

**and
Southern California Public Power Authority**

RATE SCHEDULE

[Bid responder to provide sample information]

EXHIBIT I
to
Balance of Plant (BOP) Agreement
between

and
Southern California Public Power Authority

LINDEN WIND ENERGY PROJECT DESCRIPTION

The Linden Wind Energy Project is a wind generation facility with a nameplate capacity of 50 MW, located in Klickitat County in South Central Washington, approximately 4.5 miles southeast of the city of Goldendale, east of Highway 97. The Linden Wind Energy Project sits on a ridge at an elevation of approximately 2700 feet overlooking the Columbia River. The Linden Wind Energy Project site consists of twenty-five wind turbines, approximately ten miles of roads, foundations, a collector station, a one mile 230 kv transmission line, one meteorological tower, a switchyard owned by the KPUD and the BOP Facility.

The Linden Wind Energy Project has twenty-five (25) REpower mm 92 2.0 MW wind turbine generators. Each turbine is a three bladed, upwind, horizontal-axis wind turbine with a rotor diameter of approximately 92.5 meters. The turbine rotor and the nacelle are mounted on top of a tubular tower giving a rotor hub height of approximately 80 meters. The nacelle contains the electrical generating equipment. The maximum height of the turbines is approximately 127 meters when a rotor blade is at the top of its rotation.

The Linden Wind Energy Project has a 230/34.5 KV Linden collection substation that includes a 64 MVA main transformer, two 9.6 MVAR capacitor banks, two +/- 4 MVAR DVAR units and related switchgear. The Linden Collection Substation connects to KPUD's new Linden 230 KV switchyard via a Linden owned one mile 230 KV radial transmission line. Point of interconnection is at a switchyard located at the Linden Wind Energy Project that is owned by KPUD. The KPUD switchyard is then connected to KPUD's existing EE Clouse Substation via a 230 KV transmission line. The EE Clouse Substation is then connected to BPA's Harvalum Substation. The point of delivery is at BPA's Harvalum substation.