



**SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
NOTICE OF REGULAR MEETING
Board of Directors**

NOTICE IS HEREBY GIVEN by the undersigned, as the Executive Director of the Southern California Public Power Authority, that a regular meeting of the Board of Directors is to be held as follows:

Thursday, September 19, 2024
10:00 AM
Southern California Public Power Authority
1160 Nicole Court
Glendora, CA 91740

Any writings or documents provided to the Board of Directors regarding any item on this agenda subsequent to distribution of the agenda packet will be made available for public inspection at SCPPA's Office set forth above, during normal business hours. Members of the public may participate in the meeting in person or via teleconferencing and may also view any documents made available during the meeting, using the following information:

Call Dial: 888-788-0099 Meeting ID: 923 7238 1802 Passcode: 914368	Meeting Zoom: Join Meeting Meeting Materials: Access Here
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The meeting will be also conducted by teleconference from:

Los Angeles Department of Water & Power
111 North Hope St. Room 1520
Los Angeles, CA 90012

Azusa Light & Water
729 N Azusa Ave,
Azusa, CA 91702

City of Banning
176 East Lincoln St.
Banning, CA 92220

Burbank Water & Power
164 West Magnolia Blvd.
Burbank, CA 91502

Cerritos City Hall
Public Works Conference
Room
18125 Bloomfield Ave.
Cerritos, CA 90703

Glendale Water & Power
GWP Administration Office
141 N. Glendale Ave. Suite 450
Glendale, CA 91206

Pasadena Water and Power
150 S. Los Robles, Suite 200
Pasadena, CA 91101

Imperial Irrigation District
La Quinta Division
81-600 Avenue 58
La Quinta, CA 92253

Riverside Public Utilities
RPU Mission Square Building
5th Floor Training Room
3750 University Avenue
Riverside, CA 92501

Anaheim Public Utility
201 S. Anaheim Blvd
Suite 1101
Anaheim, CA 92805

Colton Electric Utility
150 South 10th St
Colton, CA 92324

SCPPA, upon request, will provide reasonable accommodation to the disabled to ensure equal access to its meetings. To ensure availability, such request should be made 24 hours in advance by contacting the Authority at (626) 793-9364 or administration@scppa.org during business hours.

The following matters are the business to be transacted and considered by the Board of Directors:

1. NOTICE / AGENDA AND OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

Members of the public may address the Board at this time on any item on today's agenda. Comments from members of the public shall be limited to three (3) minutes unless additional time is approved by the Board. Any member of the Board may request that items on the agenda be taken out of order, or that items be added to the agenda pursuant to the provisions of Section 54954.2(b) of the California Government Code.

2. EXECUTIVE DIRECTOR REPORT

The Executive Director will provide a report on the activities of the Authority since the last Board Meeting.

A. Working Group Update

3. CONSENT CALENDAR

All matters listed under the Consent Calendar are considered to be routine and will all be enacted by one motion. There will be no separate discussion of these items prior to the time the Board votes on the motion, unless one or more Board members, staff, or a member of the public requests that specific items be discussed and/or removed for separate discussion or action.

A. Minutes of the Board of Directors Meeting

- Regular Meeting Minutes: August 15, 2024

B. Receive and File:

1. Finance Committee Meeting Minutes: August 5, 2024
2. Monthly Investment Report: July 2024
3. SCPPA A&G Budget Comparison Report: July 2024
4. Palo Verde Decommissioning Annual Funding Status Report: Year 2023
5. Palo Verde Report: July 2024
6. Magnolia Power Project Operations Report: August 2024
7. Federal Legislative Report: August 2024

4. CHIEF FINANCIAL & ADMINISTRATIVE OFFICER REPORT

A. Resolution 2024-095

Authorizing all documents necessary and appropriate to sell and issue bonds, notes, or other securities, proceeds, of which will be used to refund outstanding Transmission Project Revenue Bonds, 2015 Subordinate Refunding Series C (Southern Transmission Project)

5. ASSET MANAGEMENT REPORT

A. Resolution 2024-096

Approval of Clean Energy Project (Prepaid PPA) FY 24/25 Project Budget

B. Resolution 2024-097

Approval of Eland Solar & Storage Center, Phase 2 FY 24/25 Project Budget

C. Report regarding San Juan Generating Station Stack Implosion – August 24, 2024

6. PROJECT DEVELOPMENT REPORT

A. Resolution 2024-098

Approval of Power Purchase Agreement with Grace Orchard Solar III, LLC for the Grace Orchard Solar III Project and Power Sales Agreements with the Cities of Anaheim, Colton, and Pasadena; Finding such Action Exempt from California Environmental Quality Act

7. GOVERNMENT AFFAIRS REPORT

The Director of Government Affairs will report on regional, state, and/or federal legislative and regulatory activities affecting Southern California public power utilities, including climate change, air quality, wildfire mitigation, renewable energy and traditional energy resources, transportation and building electrification, alternative energy supplies, resource planning, market and utility operations, and joint powers agreements.

A. Federal Issues Update

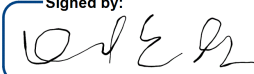
B. State Regulatory Update, Including a recap of California Energy Commissioner Noemí Gallardo’s August SCPPA visit

C. State Legislative Update, including end-of-session recap

8. BOARD MEMBER COMMENTS

A. Opportunity for Board Members to bring up informational items or request that an item be added to a future Board Agenda.

9. ADJOURNMENT

Signed by:

DAE0F3A6ECDE496...

Daniel E Garcia
Executive Director
Southern California Public Power Authority



SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

1160 NICOLE COURT
GLENDALE, CA 91740
(626) 793-9364

WWW.SCPPA.ORG

MEMO

TO: SCPPA Board of Directors
FROM: Daniel E Garcia, Executive Director
DATE: Wednesday, September 11, 2024
RE: Working Group Updates

WORKING GROUP SUMMARY

ASSET MANAGEMENT

The Asset Management Working Group last met on July 25, 2024. The next meeting is scheduled for Thursday, October 24, 2024.

ASSISTANT GENERAL MANAGER (AGM)

The Asset Management Working Group last met on July 24, 2024. The next meeting is scheduled for Wednesday, October 23, 2024.

CYBERSECURITY

The Cybersecurity Working Group (CWG) did not meet this month. The CWG meets on an ad-hoc basis.

FINANCIAL INCENTIVES and RATES

The Financial Incentives and Rates Working Group met on August 6, 2024, and received a presentation on “Decarbonization Impacts on Electric Rate Design and Costs” by guest speaker Bill Atzl of Consolidated Edison (ConEd) utility in New York.

The next meeting is scheduled for September 17, 2024.

KEY ACCOUNTS

This group meets on an ad hoc basis, and a future meeting is currently not scheduled.

LEGAL

The Legal Working Group meets quarterly. The next Legal Working Group meeting will be on September 26th.

LEGISLATIVE

The Legislative Working Group (LWG) met on August 14th, August 28th, and September 5th.

On federal issues, the LWG discussed a letter from 18 Congressional Republicans to the House Speaker expressing support for Inflation Reduction Act energy tax credits and concerns about repeal efforts. The LWG also discussed recent Department of Energy Grid Resilience and Innovation Partnerships (GRIP) grant awards, including \$600 million to California for IOU transmission reconductoring and a CAISO interconnection portal.

On state issues, the LWG focused on end-of-session activities in the state legislature. The following measures passed the legislature and were sent to the governor: AB 1834 (Garcia), SCPPA’s sponsored AB 1373 cleanup bill; AB 2073 (Papan) regarding electric vehicle charger inspections; SB 1420 (Caballero) regarding permit and judicial streamlining for hydrogen projects; and AB 3264 (Petrie-Norris), a study bill focused on reducing IOU energy costs.

The following measures failed to pass by the legislature's August 31st deadline: SB 1003 (Dodd), which would have established more flexible timelines for wildfire mitigation plans; AB 3121 (Petrie-Norris), which would have returned unspent ratepayer funds from various programs to IOU customers; SB 308 (Becker), which would have established a state carbon removal program; and SB 1272 (Laird), which would have authorized a programmatic environmental impact report for clean energy infrastructure.

Lastly, the LWG discussed major issues expected for the next legislative session, including bills on the Pathway's Initiative and the post-2030 Cap-and-Trade program.

The next LWG meeting will be held on September 18th.

MUTUAL ASSISTANCE

The Mutual Assistance Sub-working Group (MASG) met on September 3rd. The MASG discussed Member issues regarding the approaching heat wave, peak load variances, and aging over-stressed infrastructure. Supply chains are still a challenge for Members to procure critical power equipment. Members have prepared for the weeklong heat wave by anticipating many potential upcoming issues and their solutions.

The next meeting of the MASG will be on October 1st.

NATURAL GAS

The Asset Management Working Group last met on July 23, 2024. The Natural Gas Working Group will next meet on Tuesday, October 22, 2024.

PREPAY

The Prepay Working Group (PWG) held its first monthly meeting on August 28th. During the meeting, the PWG focused on Member readiness for prepay options, particularly utilizing existing power purchase agreements. Key topics included the challenges members face in preparing for prepay opportunities. An open discussion followed, where members explored potential solutions and identified areas needing additional support.

The next meeting is scheduled for September 25th.

CUSTOMER PROGRAMS

The Customer Programs Working Group met on September 4, 2024, and was joined by the Regulatory Affairs Working Group, and both groups welcomed staff from the California Energy Commission (CEC) who discussed the Building Energy Performance Strategy report efforts.

The next Customer Programs Working Group meeting is scheduled on October 2, 2024.

REGULATORY

The Regulatory Working Group (RWG) met on August 14th and September 5th.

The RWG discussed matters at the California Air Resources Board (CARB), including Cap-and-Trade, Advanced Clean Fleets, and SF 6; the California Energy Commission (CEC) including Power Source Disclosure, Building Energy Performance Strategy report, SB 100 Demand Scenarios workshop, and the SB 423 emerging renewable and zero firm resources report; and the California Independent System Operator (CAISO) including the 20-year Transmission Outlook and West Wide Governance Pathways Initiative.

In addition, the RWG discussed planning for the August 29th SCPPA visit by CEC Commissioner Noemí Gallardo, which took place at Riverside and Burbank. Most SCPPA Members participated in the tours and roundtable discussions with the commissioner and her chief of staff.

The next RWG meeting will be held on September 18th.

RENEWABLES

The Renewables Working Group (ReWG) last met on August 19th. The ReWG discussed the ongoing 9 developing projects and the status of each of them. The group also reviewed many new proposals received in August based in response to the 2024 Q3/Q4 Renewables RFP. SCPPA, as well as some Members, will be attending the 2024 RE+ Conference in Mid-September to be held at the Anaheim Convention Center.

The next ReWG meeting is scheduled for September 17th.

RESOURCE PLANNING

The Resource Planning Working Group (RPWG) met on September 5th. The RPWG discussed market updates provided by SCPPA for both the power and natural gas markets. Vernon presented their Integrated Resource Plan (IRP) to the RPWG. The group also discussed Vernon's long-term procurement plans and strategy for the next couple of years.

The next RPWG meeting will be held on October 3rd.

RISK MANAGEMENT

The Risk Management Working Group (RMWG) held its monthly meeting on September 4th. During the meeting, the RMWG received a presentation from SCPPA's Government Affairs Director, Mario DeBernardo. Mario provided an overview of California's Cap-and-Trade program, resource adequacy requirements, and updates on SB 100 related to renewable energy goals. He also highlighted the clean fleets mandate and its significance for SCPPA members, wildfire mitigation efforts, and the Inflation Reduction Act's financial impact on clean energy projects. Following the presentation, the RMWG received an update on the Anti-Market Manipulation Rules Training Services RFP and discussed topics for next month's meeting.

The next meeting is scheduled for October 3rd.

SAFETY

The Safety Working Group (SWG) did not meet this month. The SWG meets on an ad-hoc basis.

TRANSPORTATION ELECTRIFICATION

The Transportation Electrification Working Group (TEWG) met on September 11, 2024. The TEWG discussed the scope of potential transportation electrification programs. The meeting was attended by the SCPPA Executive Director and General Counsel.

The next Transportation Electrification Working Group meeting is scheduled for October 9, 2024.

TRANSMISSION & DISTRIBUTION ENGINEERING & OPERATIONS (TDE&O)

The Transmission Distribution Engineering & Operation (TDE&O) Working Group met on September 3rd. The TDE&O discussed the November 6th TDE&O Conference to be held at the SCPPA Training Center. SCPPA expects Members to finalize their presentations by Mid-September, as registrations are expected to be sent out by the end of the month. LADWP presented their EV Hub Plans to the group, which currently consists of 2 EV charging parking lots planned within the City of Los Angeles

The next TDE&O Working Group meeting will be held on October 1st.

DEMAND RESPONSE & REDUCTION SUB-WORKING GROUP (DRRWG)

The Demand Response & Reduction Working Group (DRRWG) did not meet this month. The DRRWG meets on a quarterly basis.

The next DRRWG meeting is tentatively calendared for the month of November. Specific Date TBD.

RECURRING/ROLLING SOLICITATIONS:

NAME: Request for Proposals: 2024 Stand-Alone Energy Storage Systems

WORKING GROUP: Resource Planning

ISSUE DATE: March 29, 2024 **CLOSE DATE:** December 31, 2024

DESCRIPTION:

SCPPA Members seek Stand-Alone Energy Storage Systems (ESS) to support Members' procurement of renewable resources in meeting their Renewable Portfolio Standards (RPS) and procurement targets regarding Assembly Bill (AB) 2514. This RFP seeks proposals for stand-alone ESS in areas relevant to SCPPA Members' territories (CAISO Balancing Authority (BA), IID BA, and at specific locations within the LADWP BA system).

NAME: Request for Proposals: 2024 Q3/Q4 SCPPA Renewables Energy Resources and Energy Storage Solutions

WORKING GROUP: Renewables

ISSUE DATE: July 23, 2024 **CLOSE DATE:** December 30, 2024

DESCRIPTION:

SCPPA's semi-annual rolling RFP to solicit proposals from developers for renewable resources with or without energy storage (Solar, Wind, Geothermal, Biomass, and Small Hydro) utilizing the Inflation Reduction Act to meet Members' IRP and RPS goals.

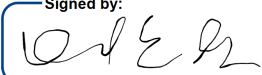
UPCOMING/RECENT SOLICITATIONS (NEW/CONTINUED SERVICES):

NAME: Request for Qualifications (RFQ): Request for Underwriter Qualifications
DEPARTMENT: Finance
ISSUE DATE: August 8, 2024 **CLOSE DATE:** September 5, 2024
DESCRIPTION:
SCPPA issued an RFQ to establish a pool of qualified underwriting firms to serve as senior manager(s) or co-manager(s) for future financing and refinancings.

NAME: Request for Proposals (RFP): Anti-Market Manipulation Rules Training Services
WORKING GROUP: Risk Management
ISSUE DATE: August 13, 2024 **CLOSE DATE:** September 10, 2024
DESCRIPTION:
SCPPA Members are seeking a comprehensive compliance training program on Anti-Market Manipulation Rules tailored to energy market participants.

NAME: Request for Proposals (RFP): Mead-Adelanto Project (MAP) High-Voltage Direct Current (HVDC) Upgrade - Feasibility Study
DEPARTMENT: Asset Management
ISSUE DATE: August 2, 2024 **CLOSE DATE:** September 4, 2024
DESCRIPTION:
SCPPA issued an RFP to soliciting competitive proposals from qualified respondents for a Technical Consultant to conduct a feasibility analysis for a potential Mead-Adelanto Project (MAP) High-Voltage Direct Current (HVDC) Upgrade.

NON-BOARD APPROVED CONTRACT EXTENSIONS

Signed by:

—DAE0E3A6ECDE496—
Daniel E Garcia, Executive Director
Southern California Public Power Authority



**MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS
OF THE SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY**

A regular meeting of the Board of Directors was held on **August 15, 2024**, at Southern California Public Power Authority, 1160 Nicole Court, Glendora, CA 91740. The meeting was called to order at **10:00 AM** by the President.

The meeting was conducted by teleconference from:

Colton Electric Utility
150 S. 10th Street
Colton, CA 92324

Daniel Garcia, Executive Director, went through the emergency safety protocols for the in-person meeting participants. Todd Dusenberry, Board First Vice President, went through the in-person and web conference protocol. Ms. Salpi Ortiz took roll.

The following Board Members (B) or Alternates (A) were present:

Anaheim: Dukku Lee (B)
Azusa:
Banning: Jim Steffens (B)
Burbank: Mandip Samra (B)
Cerritos:
Colton:
Glendale:
IID: Sabrina Barber (A)
LADWP: Aram Benyamin (A)
Pasadena: Kelly Nguyen (A)
Riverside: Scott Lesch (B)
Vernon: Todd Dusenberry (B)

1. NOTICE/AGENDA AND OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

Mr. Dusenberry noted that the meeting was noticed and posted as required under the Brown Act. Mr. Dusenberry noted that Item 7B on the Closed Session calendar has been pulled from the agenda and will not be considered. Mr. Dusenberry invited comments from the public. There were no public comments.

2. CONSENT CALENDAR

Mr. Dusenberry requested approval of the Consent Calendar, with the exception of items E and F. Due to the absence of project participants, items E and F were continued until later in the meeting.

Minutes of the Board of Directors Meeting

- Regular Meeting Minutes: July 18, 2024

A. Receive and File:

1. Finance Committee Meeting Minutes: July 8, 2024
2. Monthly Investment Report: June 2024
3. Quarterly Investment Report: June 2024
4. SCPA A&G Budget Comparison Report: June 2024
5. Palo Verde Report: June 2024
6. Magnolia Power Project Operations Report: July 2024
7. Federal Legislative Report: August 2024

B. Resolution 2024-088

Approve Amendment No. 4 to the Master Professional Services Agreement with Cohen Ventures, Inc. dba Energy Solutions to increase unit measure pricing

C. Resolution 2024-089

Approve Amendment No. 5 to the Master Goods and Services Agreement with Willdan Energy Solutions to Update Measure Pricing

F. Resolution 2024-092 Adoption of Updated Swap Guidelines for the Authority

Moved by: Dukku Lee, *Anaheim Public Utilities*

Seconded: Sabrina Barber, *Imperial Irrigation District*

Ms. Ortiz took a Roll Call vote:

	Yes	No	Present, Not Voting	Absent
Anaheim	X			
Azusa				X
Banning	X			
Burbank	X			
Cerritos				X
Colton				X
Glendale				X
IID	X			
LADWP				X
Pasadena	X			
Riverside	X			

Vernon	X			
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Mr. Aram Benyamin, LADWP, arrived following the roll call vote. Mr. Dusenberry requested a motion to approve Agenda items 2E and 2F:

E. Resolution 2024-090

Approve Amended and Restated Arizona Nuclear Power Project High Voltage Switchyard Hassayampa – North Gila #2 500kV transmission line (HANG II) Interconnection Agreement; find such action exempt under the California Environmental Quality Act (CEQA)

F. Resolution 2024-091

Approve Amended and Restated Arizona Nuclear Power Project High Voltage Switchyard Delaney Interconnection Agreement; find such action exempt under CEQA.

Moved by: Aram Benyamin, *Los Angeles Department of Water & Power*
Seconded: Dukku Lee, *Anaheim Public Utilities*

Ms. Ortiz took a Roll Call vote:

	Yes	No	Present, Not Voting	Absent
Anaheim	X			
Azusa				X
Banning	X			
Burbank	X			
Cerritos				X
Colton				X
Glendale				X
IID	X			
LADWP	X			
Pasadena	X			
Riverside	X			
Vernon	X			

3. EXECUTIVE DIRECTOR REPORT

A. Working Group Update

Mr. Garcia encouraged Board members and staff to register for the SCPA Annual Conference on October 10, 2024, emphasizing that higher attendance would lead to better

pricing for members. He also announced that Glendale Water and Power will be hosting an event to honor the retirement of Mr. Mark Young, a former SCPPA Board Member, in recognition of his dedicated service to the public.

Mr. Garcia concluded his remarks by announcing the formation of a new Prepay Working Group which hold its first meeting on August 28th. He stated that Pasadena, Burbank, Colton, Vernon, and Riverside have expressed an interest in participating and invited any other interested members to join.

4. ASSET MANAGEMENT REPORT

A. Resolution 2024-093

Approval of Revision No. 1 to the Canyon Power Project FY 24/25 Project Budget

Charles Guss, Senior Asset Manager, presented Resolution 2024-093 to the Board for consideration and approval.

Moved by: Dukku Lee, *Anaheim Public Utilities*

Seconded: Kelly Nguyen, *Pasadena Water & Power*

Ms. Ortiz took a Roll Call vote:

	Yes	No	Present, Not Voting	Absent
Anaheim	X			
Azusa				X
Banning	X			
Burbank	X			
Cerritos				X
Colton				X
Glendale				X
IID	X			
LADWP	X			
Pasadena	X			
Riverside	X			
Vernon	X			

B. Resolution 2024-094

Approval of Revision No. 1 to the Southern Transmission System FY 24/25 Project Budget

Mr. Guss presented Resolution 2024-094 to the Board for consideration and approval.

Moved by: Dukku Lee, *Anaheim Public Utilities*

Seconded: Kelly Nguyen, *Pasadena Water & Power*

Ms. Ortiz took a Roll Call vote:

	Yes	No	Present, Not Voting	Absent
Anaheim	X			
Azusa				X
Banning	X			
Burbank	X			
Cerritos				X
Colton				X
Glendale				X
IID	X			
LADWP	X			
Pasadena	X			
Riverside	X			
Vernon	X			

5. GOVERNMENT AFFAIRS REPORT

A. State Regulatory Update

Elisabeth de Jong, Government Affairs Manager, provided an update on the upcoming field trip, including visits to Riverside Public Utilities and Burbank Water and Power, scheduled for August 29th with California Energy Commissioner Noemi Gallardo, scheduled for August 29th.

B. Federal Issues Update

Mario De Bernardo, Government Affairs Director, provided a federal update, covering the implementation of the Inflation Reduction Act and the Grid Resilience and Innovation Partnerships (GRIP) program. He reported that the Department of Energy has announced the 2024 GRIP awards for grid innovation.

C. State Legislative Update

Mr. De Bernardo provided a state legislative update, highlighting key dates on the state legislative calendar and offering insights into the activities of the Appropriations Committee. He also discussed a potential affordability legislation proposal by Assemblymember Petrie-Norris.

Natalie Seitzman, Policy Advocate, then presented an update on state legislation, focusing on the Pathways initiative and outlining the next steps.

6. BOARD MEMBER COMMENTS

A. Opportunity for Board Members to bring up informational items or request that an item be added to a future Board Agenda.

Mr. Dusenberry invited Board members to bring up informational items or request that items be added to a future Board Agenda. No comments were made.

7. CLOSED SESSION

Mr. Dusenberry reiterated that Item 7B has been pulled from the agenda and will not be considered. The Board went into closed session at 10:53 a.m.

A. Public Employment - Attorney

B. Potential Litigation: Conference with legal counsel regarding significant exposure to litigation pursuant to subdivision (d)(2) of section 54956.9 of the California Government Code (one potential case).

8. NEW BUSINESS & REPORT OUT OF CLOSED SESSION

The Board reconvened in Open Session at 10:58 a.m.

A. New Business and Report Out of Closed Session

Regarding Closed Session Item 7A, Christine Godinez, General Counsel, reported out that the Board has approved an amendment to a legal services agreement with Ryan Law Firm, PLLC, pertaining to SCPPA gas projects.

9. ADJOURNMENT

Mr. Dusenberry adjourned the meeting at 11:00 a.m.

Respectfully Submitted,

Daniel E Garcia
Executive Director



SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

1160 NICOLE COURT
GLEN DORA, CA 91740
(626) 793-9364 – FAX: (626) 793-9461
WWW.SCPPA.ORG

MINUTES OF THE REGULAR MEETING OF THE FINANCE COMMITTEE OF SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

The meeting of the Finance Committee was held on **August 5, 2024**, at the SCPPA Glendora office and by teleconference from Imperial Irrigation District. The meeting commenced at 10:30 A.M. and adjourned at 11:45 A.M.

Committee members/Alternate Committee members participating were: Andrew Nguyen (*Anaheim*); Daniel Smith (*Azusa*); Jim Steffens (*Banning*); Joseph Lillio (*Burbank*); Ren Zhang (*Colton*); David Davis (*Glendale*); Belen Valenzuela (*IID-Teleconference*); Peter Huynh (*LADWP*); Lynne Chaimowitz (*Pasadena*); Brian Seinturier (*Riverside*); and Richard Corbi (*Vernon*)

Others attendees were: Herman Leung (*Pasadena*); Kristina Bernal (*Riverside-Teleconference*); Victor Hsu (*Norton Rose Fulbright*); Mike Berwanger, Jim Carbone and Louise Houghton (*PFM Financial Advisors-Teleconference*); Grace Mao (*LADWP/SCPPA-LA*); Francisco Olivares-Ortiz, John Equina, and Houbert Yousef (*LADWP/SCPPA-LA-Teleconference*); Daniel Garcia, Aileen Ma, Armando Arballo, and Troy Cook (*SCPPA*)

1. Opportunity for the Public to Address the Committee

Mr. Corbi (Committee Chair) invited any members of the public to provide comments. No public comments were made.

2. Consent Calendar

Mr. Corbi presented the Consent Calendar to the Committee for consideration. The Committee recommended forwarding the report to the Board of Directors (Board) for receipt and filing.

A. Minutes of the July 8, 2024 Finance Committee meeting

Moved By: Richard Corbi
Seconded By: Lynne Chaimowitz

The following roll call vote was taken:

	Yes	No	Present, Not Voting	Absent
Anaheim	X			
Azusa	X			

Banning	X			
Burbank	X			
Colton	X			
Glendale	X			
IID	X			
LADWP	X			
Pasadena	X			
Riverside	X			
Vernon	X			

3. Investment Reports

Ms. Mao presented the Monthly and Quarterly Investment Reports for the period ended June 30, 2024, to the Committee for review and consideration. The Committee recommended forwarding the reports to the Board for receipt and filing.

Moved By: Richard Corbi

Seconded By: David Davis

The following roll call vote was taken:

	Yes	No	Present, Not Voting	Absent
Anaheim	X			
Azusa	X			
Banning	X			
Burbank	X			
Colton	X			
Glendale	X			
IID	X			
LADWP	X			
Pasadena	X			
Riverside	X			
Vernon	X			

4. Administrative & General Expense (A&G) Budget Comparison Report

Mr. Cook presented the preliminary A&G Budget Comparison Report for the fiscal year ended June 30, 2024 to the Committee for review and consideration. The Committee recommended forwarding the report to the Board for receipt and filing.

Moved By: David Davis

Seconded By: Lynne Chaimowitz

The following roll call vote was taken:

	Yes	No	Present, Not Voting	Absent
Anaheim	X			
Azusa	X			
Banning	X			
Burbank	X			
Colton	X			
Glendale	X			
IID	X			
LADWP	X			
Pasadena	X			
Riverside	X			
Vernon	X			

5. Canyon Power Project Fiscal Year 2024-25 Budget

Ms. Ma presented the revised project budget for the Canyon Power Project for fiscal year 2024-25 to the Committee for review and consideration. The Committee recommended forwarding the revised project budget to the Board for approval. Project Vote with Anaheim as the sole project participant.

Moved By: Andrew Nguyen
Seconded By: Richard Corbi

The following roll call vote was taken:

	Yes	No	Present, Not Voting	Absent
Anaheim	X			
Azusa	X			
Banning	X			
Burbank	X			
Colton	X			
Glendale	X			
IID	X			
LADWP	X			
Pasadena	X			
Riverside	X			
Vernon	X			

6. Southern Transmission System Project Fiscal Year 2024-25 Budget

Ms. Ma presented the revised project budget for the Southern Transmission System Project for fiscal year 2024-25 to the Committee for review and consideration. The Committee recommended forwarding the revised project budget to the Board for approval. Project Vote with Anaheim, Burbank, Glendale, LADWP, Pasadena, and Riverside as the project participants.

Moved By: David Davis
Seconded By: Joseph Lillio

The following roll call vote was taken:

	Yes	No	Present, Not Voting	Absent
Anaheim	X			
Azusa	X			
Banning	X			
Burbank	X			
Colton	X			
Glendale	X			
IID	X			
LADWP	X			
Pasadena	X			
Riverside	X			
Vernon	X			

7. Southern Transmission Project Refunding Revenue Bonds

Mr. Berwanger (PFM Financial Advisors) provided the Committee with updated potential savings and savings sensitivity on the proposed refinancing of the Southern Transmission Project Revenue Bonds, 2015 Subordinate Refunding Series C (Southern Transmission Project). The Committee discussed the proposed refinancing, the refinancing schedule, and setting a floor on the minimum savings. To allow for staff time needed in preparing project participant disclosure, Brian Seinturier, Riverside, proposed taking the bond documents to the Board for approval in December 2024. The Committee supported a target of December Board approval of bond documents. The Committee also supported setting a minimum savings of at least to cover cost of issuance as the floor. Establishing a minimum savings floor is a policy decision to be made by the Board, which can be incorporated into the final Authorizing Resolution when the bond documents are ready to be presented to the Board for consideration. The Committee proposed discussing the minimum savings floor with the Board prior to the final Authorization Resolution. The Committee recommended a resolution to the Board authorizing the preparation of all necessary documents for the refinancing. Project Vote with Anaheim, Burbank, Glendale, LADWP, Pasadena, and Riverside as the project participants.

Moved By: Andrew Nguyen
Seconded By: Brian Seinturier

The following roll call vote was taken:

	Yes	No	Present, Not Voting	Absent
Anaheim	X			
Azusa	X			
Banning	X			
Burbank	X			
Colton	X			
Glendale	X			
IID	X			
LADWP	X			
Pasadena	X			
Riverside	X			
Vernon	X			

The Committee also discussed the establishment of an ad-hoc committee to discuss draft bond documents for the refinancing as needed. The Committee voted to approve the establishment of the ad-hoc committee comprised of representatives from Anaheim, LADWP, and Riverside. Project Vote with Anaheim, Burbank, Glendale, LADWP, Pasadena, and Riverside as the project participants.

Moved By: Andrew Nguyen
Seconded By: Brian Seinturier

The following roll call vote was taken:

	Yes	No	Present, Not Voting	Absent
Anaheim	X			
Azusa	X			
Banning	X			
Burbank	X			
Colton	X			
Glendale	X			
IID	X			
LADWP	X			
Pasadena	X			
Riverside	X			
Vernon	X			

8. Market and Variable Rate Demand Obligation (VRDO) Update

Mr. Berwanger provided the Committee with a market update and VRDO status report. The update included an analysis of the opportunity cost through 7/1/2024 if the Magnolia Power Project basis swaps were not suspended as of 1/1/2024.

9. Unsolicited Proposals

Mr. Berwanger provided the Committee with a summary of the unsolicited proposals that have been received from investment bankers.

10. Staff Reports

Mr. Garcia provided the Committee with an update on staff reports for Finance Committee items. After reviewing internal processes, Mr. Garcia recommended revisiting this item in 6-12 months, due to limited staff time currently. Preparing staff reports for Finance Committee items would require adding or reallocating resources.

11. Committee Member and Staff Comments

The Committee members and staff were given the opportunity to bring up informational items and/or suggest topics for future Committee meetings.

Mr. Corbi announced that due to the Labor Day holiday on September 2nd, the Committee will not meet on Monday, September 2, 2024, but will hold a Special Meeting on Monday, September 9, 2024.

Ms. Ma announced that the Executive Director has established a prepay working group. The purpose of this working group is to bring together members who have a high interest in doing a prepay transaction to further discuss potential PPAs for prepays, strategies, joint efforts, and potential next steps. Ms. Ma asked interested members to notify her of their staff's interest in participating in this working group.

Ms. Ma announced the date and time of its annual conference, which is set for October 10th in downtown Los Angeles at the Sheraton Grand Hotel.

**THE NEXT FINANCE COMMITTEE MEETING
WILL BE SEPTEMBER 9, 2024.**



Southern California Public Power Authority
1160 Nicole Court
Glendora, CA 91740
(626) 793-9364

September 03, 2024

Mr. Daniel E. Garcia
Executive Director
Southern California Public Power Authority
1160 Nicole Court
Glendora, California 91740

Dear Mr. Garcia:

Enclosed is the **July 2024 Investment Report** for the Palo Verde, Southern Transmission System (STS), Southern Transmission System Renewal, San Juan, Magnolia Power, Natural Gas, Natural Gas Prepaid, Mead-Adelanto, Mead-Phoenix, Don A. Campbell/Wild Rose Geothermal, Don A. Campbell 2 Geothermal, Canyon Power, Pebble Springs Wind, Tieton Hydropower, MWD Hydro, Linden Wind, Clean Energy Project, Milford Wind I, Milford Wind II, Windy Point/Flats, Ameresco, Apex Power, Copper Mountain Solar 3, Columbia 2 Solar, Eland 1, Heber 1 Geothermal, Ormat No. Nevada Geothermal, Ormesa Geothermal, ARP – Loyalton Biomass, Springbok 1 Solar, Springbok 2 Solar, Springbok 3 Solar, Kingbird Solar, Summer Solar, Astoria 2 Solar, Antelope Big Sky Ranch, Antelope DSR 1, Antelope DSR 2, Puente Hills Landfill Gas, Whitegrass No. 1 Geothermal, Star Peak Geothermal, Desert Harvest II, Roseburg Biomass, Red Cloud Wind, Coso Geothermal, Mammoth Casa Diablo IV, and Daggett Solar Power 2 Projects; and for the Project Stabilization, San Juan Mine Reclamation Trust, San Juan Decommissioning Trust, and the SCPPA Decommissioning Trust Funds. The Portfolios for the Projects and Funds included in the Investment Report are in compliance with the SCPPA Investment Policy.

During the month of July, the Investment Group coordinated variable debt service payments of \$783,516 for the Magnolia Power, Linden Wind and Canyon Power Projects. Net swap payments of \$533,326 were received in accordance with the Interest Swap agreements for the Canyon Power, Magnolia Power, and Natural Gas Prepaid Projects. The net commodity swap receipt for the Natural Gas Prepaid Project was \$1,645,652. On July 1, principal payments of \$103.4 million and fixed interest payments of \$43.6 million were made on various bond issues for Southern Transmission System, Magnolia, Mead-Adelanto, Mead-Phoenix, Natural Gas, Canyon Power, Tieton Hydropower, Windy Point/Flats, Milford Wind I, Milford II, Southern Transmission System Renewal and Apex Power Projects.

\$132.7 million of cash and maturities were invested in the various SCPPA project trust funds. Assets managed by the Investment Group for these funds had a market value of \$1.55 billion as of July 31, 2024, with an average yield of 4.85%. Total interest earned on the project funds for the month and year to date was \$6.8 million. The escrow funds had a market value of \$217.7 million with an average yield of 5.42%. Total interest earned on the escrow funds for the month and year to date was \$983,388.

Based upon anticipated expenditures for each Project and required receipts from each Participant, SCPPA believes that it will be able to meet all its expenditure requirements for the next six months.

Sincerely,

GRACE MAO

Manager of Finance
Los Angeles Department of Water & Power

The Members of Southern California Public Power Authority work together to power sustainable communities.



Monthly Investment Report July 31, 2024

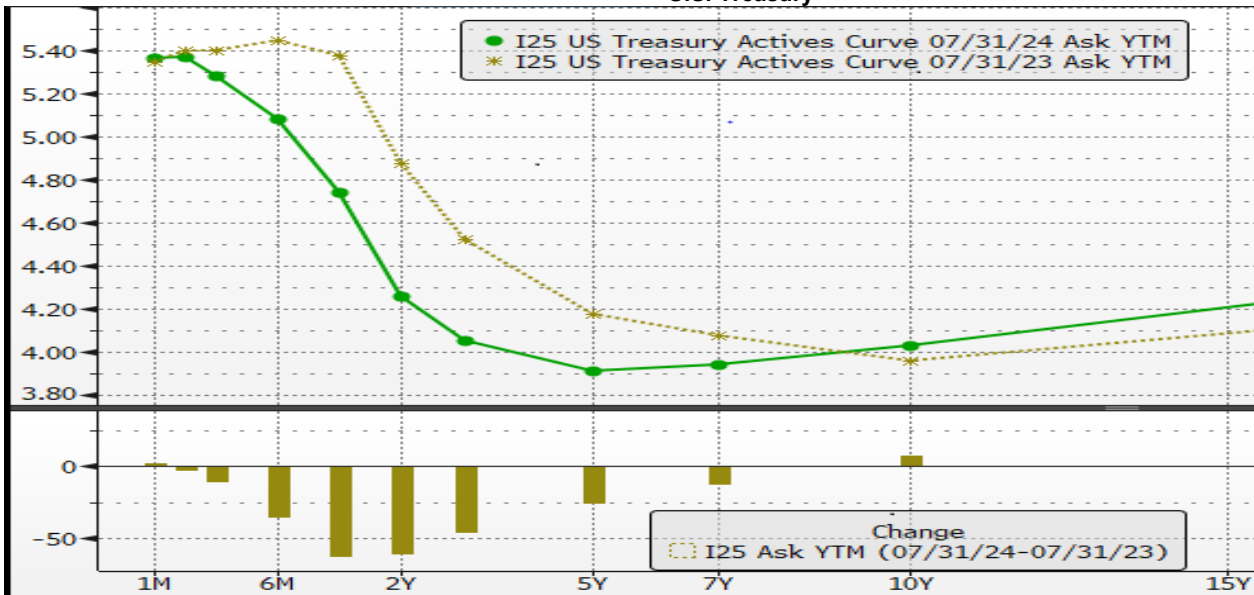
Projects	Portfolio Yield	Investment Cost	Carrying Value	Market Value	Portfolio Life ²	Cost of Capital ³
Palo Verde	5.09%	37,266,628	37,366,631	37,346,626	0.22	N/A
San Juan	5.35%	3,127,493	3,137,577	3,135,469	0.15	N/A
Magnolia	5.25%	76,766,970	77,115,862	77,079,942	0.30	2.97%
STS	3.99%	9,095,717	9,110,209	9,103,755	0.16	4.70%
STS Renewal	5.19%	789,892,357	793,508,942	793,520,204	0.56	4.01%
Mead-Phoenix	5.27%	2,687,476	2,689,508	2,688,648	0.06	2.53%
Mead-Adelanto	5.34%	1,925,609	1,925,609	1,924,815	0.07	2.53%
Natural Gas	5.25%	46,965,909	46,980,092	46,975,340	0.34	6.06%
Natural Gas Prepaid ¹	5.10%	24,141,484	24,141,917	24,141,895	9.30	5.09%
Canyon Power	5.24%	7,232,954	7,234,524	7,233,240	0.18	2.74%
Apex Power Project	5.38%	34,498,619	34,766,786	34,761,882	0.19	4.32%
SCPPA Decomm Trust Fund	3.32%	193,600,163	193,764,310	190,497,723	1.17	N/A
Project Stabilization Fund	4.78%	135,681,995	135,998,894	135,750,178	0.67	N/A
Tieton	5.27%	3,464,295	3,471,568	3,471,686	0.19	2.67%
Linden Wind	5.37%	6,244,470	6,268,285	6,267,793	0.07	3.15%
Milford Wind 1	5.34%	13,590,814	13,628,475	13,624,801	0.16	5.08%
Milford Wind 2	5.34%	4,680,864	4,697,942	4,697,739	0.17	1.05%
Windy Point Flats	5.38%	13,681,192	13,739,797	13,739,332	0.15	3.55%
Pwr Purchase Agreements Comb	4.33%	120,664,591	120,917,587	120,912,621	1.14	N/A
San Juan Reclaim Trust Fund	4.41%	19,079,302	19,096,229	18,981,023	0.21	N/A
San Juan Decomm Trust Fund	5.11%	4,447,135	4,478,107	4,473,622	0.41	N/A

¹ Weighted average remaining portfolio life for NG Prepaid includes GICs with AGL.

² In years

³ Cost of capital as of January 31, 2024 as provided by PFM.

U.S. Treasury



Tenor	I25 Ask YTM US Treasury Actives Curve 07/31/24	I25 Ask YTM US Treasury Actives Curve 07/31/23	I25 Ask YTM (Change) 07/31/24-07/31/23
1M	5.366	5.347	2.00
2M	5.370	5.402	-3.20
3M	5.284	5.400	-11.60
6M	5.086	5.448	-36.20
1Y	4.745	5.378	-63.30
2Y	4.257	4.877	-61.90
3Y	4.057	4.525	-46.80
5Y	3.913	4.177	-26.40



SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

1160 NICOLE COURT
GLENORA, CA 91740
(626) 793-9364 – FAX: (626) 793-9461
WWW.SCPPA.ORG

MEMO

To: SCPPA Finance Committee

From: Aileen Ma, Chief Financial & Administrative Officer

Date: September 9, 2024

Re: **FY 2024-25 Administrative & General (A&G) Expense Budget to Actual Comparison Report – July 2024**

As of July 31, 2024, total A&G expenditures were \$825,378 which was \$182,523 or 18.1% under the year-to-date budget.

Total Indirect A&G expenditures amounted to \$463,125 which was \$147,070 or 24.1% under budget. The under budget was primarily attributed to the timing of expenditures and invoices from vendors and consultants. In addition, SCPPA elected to prepay the entire annual required contribution of \$164,970 for CalPERS Miscellaneous Plans' Unfunded Accrued Liability in July, saving \$5,517 in interest for FY 2024-25.

Total Direct A&G expenditures amounted to \$362,253 which was \$35,453 or 8.9% under budget. The under budget was partially offset by the timing of invoices paid for consulting services and annual trustee fees on various project fund accounts. Agent billable costs were also over budget due to overtime costs incurred during year-end closing and preparation of the year-end financial statements. It is anticipated that trustee fees will trend back toward budget as the fiscal year progresses and agent billable costs will trend back toward budget after the year-end audit is completed.

Southern California Public Power Authority
FY 2024-25 Administrative & General (A&G) Expense Budget to Actual
July 31, 2024

	ANNUAL BUDGET FY 2024-2025	YTD BUDGET 07/31/2024	YTD ACTUAL 07/31/2024	Under / (Over) Budget	% Variance
Salaries	\$ 3,039,700	\$ 253,312	\$ 213,645	\$ 39,667	15.7%
Employee Benefits	838,300	226,150	210,086	16,064	7.1%
Office Building Costs	154,590	12,899	3,278	9,621	74.6%
Office Equipment and IT	110,290	14,793	12,550	2,243	15.2%
Office Expenses	61,400	5,113	2,681	2,432	47.6%
Insurance	164,000	4,187	3,875	312	7.4%
Meeting Expense	37,500	3,125	-	3,125	100.0%
Travel and Conferences	52,000	4,326	-	4,326	100.0%
Staff Training/Development	26,000	2,163	-	2,163	100.0%
Memberships and Dues	26,010	274	-	274	100.0%
Subscriptions	20,760	1,427	-	1,427	100.0%
Gov't Affairs (Sacramento Office)	184,530	14,088	6,130	7,958	56.5%
Legislative Advocacy	368,000	29,087	13,638	15,449	53.1%
Regulatory Advocacy	220,000	18,337	-	18,337	100.0%
General Legal Services	140,000	11,674	-	11,674	100.0%
Auditing Services	4,930	475	-	475	100.0%
Consulting & Other Services	69,500	5,788	851	4,937	85.3%
Financial Advisor	90,000	7,500	-	7,500	100.0%
Budget Contingency	140,190	-	-	-	0.0%
Subtotal	\$ 5,747,700	\$ 614,718	\$ 466,735	\$ 147,984	24.1%
Glendora Project Accounting - Direct A&G	(54,300)	(4,525)	(3,611)	(914)	20.2%
TOTAL INDIRECT A&G	\$ 5,693,400	\$ 610,193	\$ 463,125	\$ 147,070	24.1%
Outside Counsels	\$ 456,000	\$ 38,000	\$ -	\$ 38,000	100.0%
Auditing Services	365,260	15,000	-	15,000	100.0%
Consulting & Other Services	35,500	2,962	5,812	(2,850)	-96.2%
Project Travel Costs	18,350	1,531	-	1,531	100.0%
WREGIS Fees	18,160	1,517	-	1,517	100.0%
Agent Billable Costs	3,074,300	256,192	270,530	(14,338)	-5.6%
Trustee Fees	335,750	27,979	32,300	(4,321)	-15.4%
Rating Agency Fees	150,500	50,000	50,000	-	0.0%
Subtotal	\$ 4,453,820	\$ 393,181	\$ 358,642	\$ 34,539	8.8%
Glendora Project Accounting	54,300	4,525	3,611	914	20.2%
TOTAL DIRECT A&G	\$ 4,508,120	\$ 397,706	\$ 362,253	\$ 35,453	8.9%
TOTAL A&G EXPENSES	\$ 10,201,520	\$ 1,007,899	\$ 825,378	\$ 182,523	18.1%

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY



PALO VERDE PROJECT ANNUAL FUNDING STATUS REPORT FOR THE YEAR ENDING DECEMBER 31, 2023 (“Reporting Period”)

	Page No.
SECTION I 2023 STATUS REPORT INFORMATION	1-11
SECTION II FUNDING TABLES AND CURVES	12-23
SECTION III CERTIFICATE	24

**SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
ANNUAL FUNDING STATUS REPORT
FOR THE YEAR ENDING DECEMBER 31, 2023**

PART 1. GENERAL INFORMATION

1.1 Description of Funds:

1.1.1 FUND #1 – DECOMMISSIONING TRUST FUND I

- Units 1, 2, and 3
- Tax Status: Exempt from Federal and State Taxes
- Independent Trustee: U.S. Bank Trust, National Association
633 W. Fifth Street, 24th Floor
Los Angeles, California 90071
- Investment Manager: None
- Basic Documents:
 - Decommissioning Trust Fund Agreement I, dated July 13, 1990,
by and between the Southern California Public Power Authority (SCPPA)
and U.S. Bank Trust, National Association (Trustee).
 - Amendment No. 1 to the Decommissioning Trust Fund Agreement 1, dated
October 27, 1992.
 - Amendment No. 2 to the Decommissioning Trust Fund Agreement 1, dated
November 20, 2003.
- Changes since prior AFSR: None

Southern California Public Power Authority
Annual Funding Status Report
For the Year Ending December 31, 2023

1.1.2 FUND #2 - DECOMMISSIONING TRUST FUND II

- Units 1, 2 and 3
- Tax Status: Exempt from State and Federal Taxes
- Independent Trustee: U.S. Bank Trust, National Association
633 W. Fifth Street, 24th Floor
Los Angeles, California 90071
- Investment Manager: None
- Basic Documents:
 - Decommissioning Trust Fund Agreement I, dated July 13, 1990,
by and between the Southern California Public Power Authority (SCPPA)
and U.S. Bank Trust, National Association (Trustee).
 - Amendment No. 1 to the Decommissioning Trust Fund Agreement 1, dated
October 27, 1992.
 - Amendment No. 2 to the Decommissioning Trust Fund Agreement 1, dated
November 20, 2003.
- Changes since prior AFSR: None

Southern California Public Power Authority
 Annual Funding Status Report
 For the Year Ending December 31, 2023

1.2 Pro Rata Share:

- Generation Entitlement Share 5.91%
- Section 23.5.1 Obligations 0%
- Pro Rata Share 5.91%

Palo Verde Project SCPPA Participants	<u>Participation %</u>
City of Los Angeles	67.0%
City of Riverside	5.4
Imperial Irrigation District	6.5
City of Vernon	4.9
City of Azusa	1.0
City of Banning	1.0
City of Colton	1.0
City of Burbank	4.4
City of Glendale	4.4
City of Pasadena	4.4
Total	100.0%

Southern California Public Power Authority
Annual Funding Status Report
For the Year Ending December 31, 2023

1.3 Sale and Leaseback Transactions

Unit	Lessor/ Trustee	Lessor Ownership	Termination Funding Required	Date Full Funding Required	Funding Basis	Funding Compliance Status
1						
2						
3		NONE				

1.4 Summary of Non-NRC Laws and Regulatory Requirements Respecting Trusts, Electric Rates and Termination Funding:

- **SCPPA** is a joint agency and public entity organized under the laws of the State of California and a Joint Powers Agreement.
- As a public entity, **SCPPA**'s revenues from participants' billings and investment earnings are exempt from federal and state taxes.
- **SCPPA** issues tax-exempt and taxable debt that is secured by project participants' take-or-pay contracts to accomplish its purpose.

Southern California Public Power Authority
Annual Funding Status Report
For the Year Ending December 31, 2023

1.5 Statement of Adherence to Prudent Investment Criterion in Section 5.3, Termination Fund Investments Criterion in Section 5.4, and Investment Guidelines in Appendix 5-A:

SCPPA's Decommissioning Trust Funds comply with Sections 5.3, 5.4 and Appendix 5-A of the TFC Manual.

Investment Policy Objectives

- Safety of Principal
- Diversification of Risk
- Achievement of Maximum Allowable Yield

Restrictions

SCPPA's investments are governed by the State of California Government Code, Section 53601 et seq., and are limited to:

- United States Treasury Obligations
- Federal Agency & Government Sponsored Enterprise Obligations
- Repurchase Agreements
- Commercial Paper
- Bankers Acceptances
- Medium Term Notes
- Money Market Funds
- Negotiable Certificates of Deposit
- Tax-exempt and/or taxable debt of the State of California or any of its political subdivisions.
- Supranational Obligations

Southern California Public Power Authority
Annual Funding Status Report
For the Year Ending December 31, 2023

PART 2. Summary of Status of Termination Funds at the End of the Reporting Period

2.1 Committed Accumulations at End of Reporting Period in (\$000):

	<u>Unit #1</u>	<u>Unit #2</u>	<u>Unit #3</u>	<u>Total</u>
2.1.1 Latest Estimated Termination Costs	\$968,251	\$950,190	\$1,039,146	\$2,957,587
2.1.2 Generation Entitlement Share of Estimated Termination Costs	\$57,223	\$56,156	\$61,413	\$174,792
2.1.3 Cumulative Escalation Adjustment Factor	1.262477	1.262477	1.262477	1.262477
2.1.4 Adjusted Share of Estimated Termination Costs as of End of Reporting Period (2.12 Amount) x (2.13 Factor)	\$72,715	\$71,302	\$77,940	\$221,958
2.1.5 Percent Funding Requirement at End of Reporting Period from Percent Funded Curve	82.64%	84.64%	80.56%	82.55%
2.1.6 Committed Accumulations at End of Reporting Period (2.1.4 amount) x (2.1.5%)	\$60,092	\$60,350	\$62,792	\$183,235

2.1.7 Assumptions used to support a finding of reasonable assurance that the accumulations in SCPPA's Termination Fund(s) will be sufficient to meet its obligations under Section 8A.7.2.3 of the Arizona Nuclear Power Project Participation Agreement.

Estimated Termination Costs:	2019 Decommissioning Cost Study for Palo Verde Nuclear Generating Station (PVNGS), prepared by TLG Services, Inc. (Document A04-1761-001, Rev 1)
Generation Entitlement Share:	5.91%
Escalation Factors:	6.0% escalation rate applied to the Generation Entitlement Share of Estimated Termination Costs for four years to escalate 2019 dollars to 2023 dollars.
Percent Funded Curve:	Revised Percent Funded Curves consistent with the 20-year extension of the operating license of the Palo Verde Nuclear Generating Station reflected in the Participation Agreement as amended on April 28, 2014.

Southern California Public Power Authority
Annual Funding Status Report
For the Year Ending December 31, 2023

2.2.1 Actual Accumulations at End of the Reporting Period in (\$000):

	<u>Unit #1</u>	<u>Unit #2</u>	<u>Unit #3</u>	<u>Total</u>
Fund I	\$ 35,223	\$ 35,043	\$ 34,956	\$ 105,223
Fund II	24,905	25,181	31,468	81,555
Total	<u>\$ 60,129</u>	<u>\$ 60,224</u>	<u>\$ 66,425</u>	<u>\$ 186,778</u>

2.2.2 Computation of Actual Accumulations:

Fund	<u>Unit #1</u>	<u>Unit #2</u>	<u>Unit #3</u>	<u>Total</u>
Money Market Fund	\$ 153,239	\$ 71,917	\$ 231,106	\$ 456,262
Market Value	59,498,223	59,698,609	65,769,863	184,966,695
Accrued Interest	477,124	453,923	423,839	1,354,886
Value:	<u>\$ 60,128,586</u>	<u>\$ 60,224,449</u>	<u>\$ 66,424,808</u>	<u>\$ 186,777,843</u>
in (\$000):	<u>\$ 60,129</u>	<u>\$ 60,224</u>	<u>\$ 66,425</u>	<u>\$ 186,778</u>

2.3 Funding Floor Amount at End of Reporting Period:

	<u>Unit #1</u>	<u>Unit #2</u>	<u>Unit #3</u>	<u>Total</u>
2.3.1 Percentage of Committed Accumulations	66.11%	67.71%	64.45%	66.04%
2.3.2 Funding Floor Amount in (\$000)	<u>\$ 48,074</u>	<u>\$ 48,280</u>	<u>\$ 50,234</u>	<u>\$ 146,588</u>

2.4 Deposits Made During Reporting Period (All Termination Funds):

	<u>Unit #1</u>	<u>Unit #2</u>	<u>Unit #3</u>	<u>Total</u>
NRC Required Deposits	\$ 0	\$ 0	\$ 0	\$ 0
Normal Annual Deposits	0	0	0	0
Recovery Deposits	0	0	0	0
Correcting Deposits	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>

Southern California Public Power Authority
Annual Funding Status Report
For the Year Ending December 31, 2023

Explanation of Deposits Made During Reporting Period:

2.5 Mandatory Deposits During Reporting Period:

<u>Unit #1</u>	<u>Unit #2</u>	<u>Unit #3</u>	<u>Total</u>
\$ 0	\$ 0	\$ 0	\$ 0

2.6 Estimated Outstanding Balance of Recovery Deposits and Correction Deposits Outstanding at End of Reporting Period:

	<u>Recovery Deposits</u>		<u>Correction Deposits</u>	
	<u>Amt Outstanding</u>	<u>Due Date</u>	<u>Amt Outstanding</u>	<u>Due Date</u>
Unit #1	\$ 0	N/A	\$ 0	N/A
Unit #2	0	N/A	0	N/A
Unit #3	0	N/A	0	N/A
Total	\$ 0		\$ 0	

2.7 Annual Net Income (Loss) During Reporting Period (Each Fund; All Units):

<u>Fund</u>	<u>Amount</u>	<u>Rate</u>
Fund I - Unit 1	\$ 634,199	1.85%
Fund I - Unit 2	483,383	1.43%
Fund I - Unit 3	486,095	1.43%
Fund II - Unit 1	358,349	1.49%
Fund II - Unit 2	578,880	2.34%
Fund II - Unit 3	706,296	2.30%
Total	\$ 3,247,203	1.79%

Southern California Public Power Authority
Annual Funding Status Report
For the Year Ending December 31, 2023

Calculations:	Fund 1			Fund 2			TOTAL
	Unit #1	Unit #2	Unit #3	Unit #1	Unit #2	Unit #3	
Realized Income	\$ 634,199	\$ 483,383	\$ 486,095	\$ 358,349	\$ 578,880	\$ 706,296	\$ 3,247,203
Unrealized Income (Loss)	(756,772)	(1,226,373)	(1,246,250)	33,884	(872,605)	(698,579)	(4,766,695)
	\$ (122,573)	\$ (742,990)	\$ (760,155)	\$ 392,234	\$ (293,725)	\$ 7,717	\$ (1,519,492)
Less:							
Taxes Paid & Accrued	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Expenses Paid & Accrd	0	0	0	0	0	0	0
Net Income	\$ (122,573)	\$ (742,990)	\$ (760,155)	\$ 392,234	\$ (293,725)	\$ 7,717	\$ (1,519,492)

2.8 Summary of Market Values of Permitted Investments at End of the Reporting Period:

<u>Category</u>	<u>Fund I</u>	<u>Fund II</u>	<u>Total</u>
Cash & Equivalents	\$ 117,576	\$ 338,685	\$ 456,261
Debt Securities	105,105,068	81,216,514	186,321,582
Equity Securities	0	0	0
Derivatives	0	0	0
Alternative Investment Assets	0	0	0
Total	<u>\$ 105,222,644</u>	<u>\$ 81,555,199</u>	<u>\$ 186,777,843</u>

2.9 Inventory and Market Values of Investments at End of the Reporting Period:

<u>Permitted Investments</u>	<u>Value</u>	<u>Basis of Valuation</u>
U.S. Federal Agencies	\$ 180,032,607	Market value provided by Trustee Bank
U.S. Treasury Bills	0	Market value provided by Trustee Bank
Municipal Bonds	0	Market value provided by Trustee Bank
Corporate Notes	6,286,686	Market value provided by Trustee Bank
Certificates of Deposit	0	Market value provided by Trustee Bank
Commercial Paper	0	Market value provided by Trustee Bank
U.S. Money Market Fund	458,550	Market value provided by Trustee Bank
Total	<u>\$ 186,777,843</u>	

Southern California Public Power Authority
Annual Funding Status Report
For the Year Ending December 31, 2023

2.10 Fund Liabilities at End of Reporting Period: NONE

2.11 Defaults, If Any, Experienced on Investments: NONE

2.12 Summary of Fixed Income Securities Investment Ratings and Average Credit Quality:

	<u>All Units</u>
AAA/Aaa	96.62%
AA/Aa	0.00%
A/A	3.38%
BBB/Baa	0.00%
Other	0.00%
Average	AAA/Aaa

PART 3. TABLES AND CURVES

3.1 Table and Chart of Percent Funded Curve, Funding Floor Curve, and Actual Accumulations for Each Generating/Terminated Unit:

See attached Part 3.1 table and chart for each Generating Unit.

3.2 Table and Chart of Percent Funded Curve, Funding Floor Curve, and Actual Accumulations for All Generating/Terminated Units:

See attached Part 3.2 table and chart.

Note: The Termination Funding Committee approved the revised Percent Funded Curves and Funding Floor Curves consistent with the 20-year extension of the operating license of the Palo Verde Nuclear Generating Station at its June 18, 2012 meeting subject to the amendment of the Participation Agreement to reflect the operating license extension. The Participation Agreement was amended to reflect the operating license extension on April 28, 2014 and SCPPA began using the revised curves for its 2013 Annual Funding Status Report which was approved by the Termination Funding Committee at its June 25, 2014 meeting.

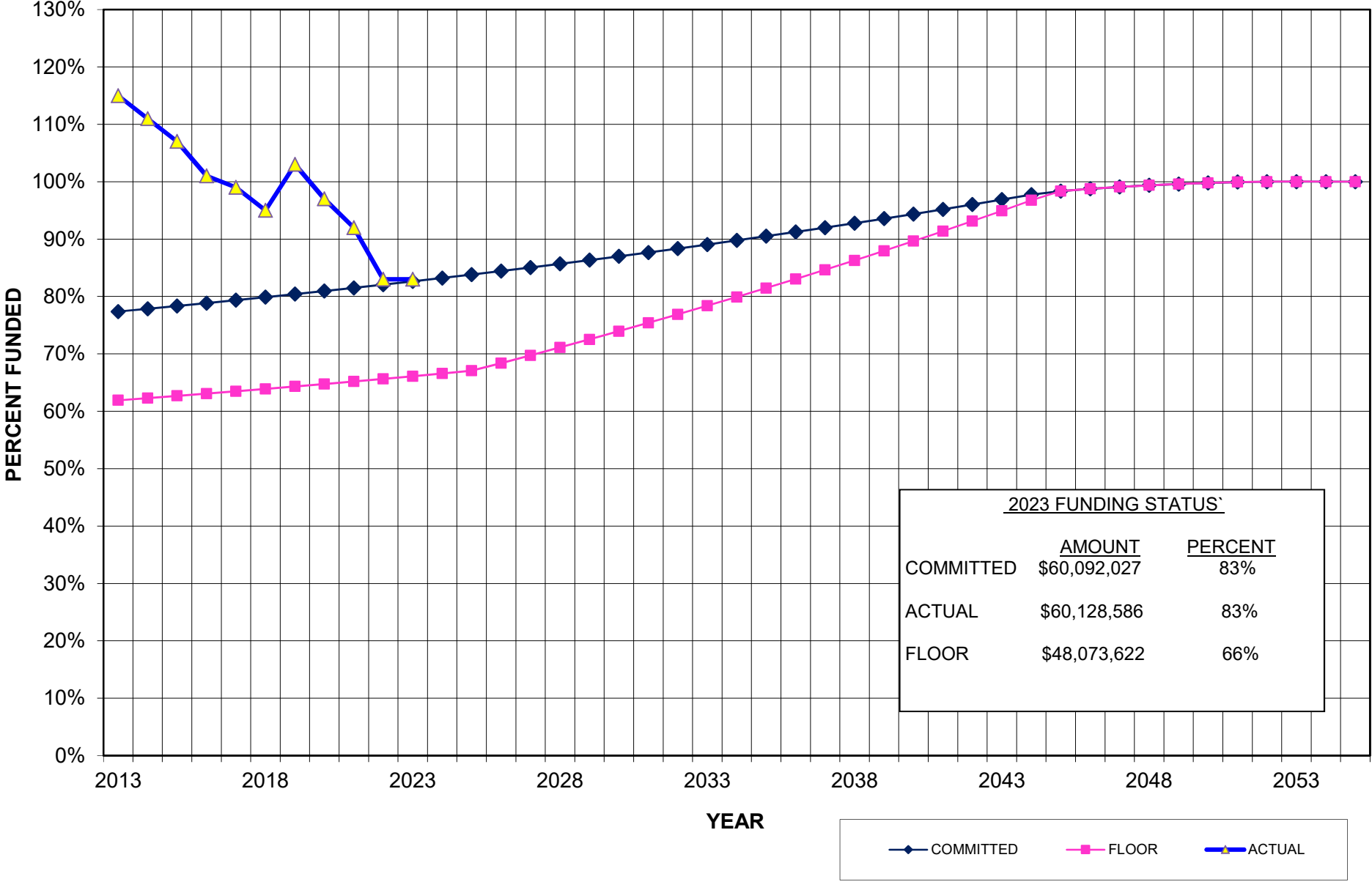
SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
3.1 TABLE OF PERCENT FUNDED CURVE, FUNDING FLOOR CURVE, AND ACTUAL ACCUMULATIONS
2023 PALO VERDE - UNIT #1

Year	EST. COST		PERCENT FUNDED CURVE		FUNDING FLOOR CURVE		ACTUAL ACCUMULATIONS		
	Dollars (\$)	Committed Accumulations	% of Est. Cost	% of Comm. Accumulations	Funding Floor (\$)	% of Est. Cost	Dollars (\$)	% of Est. Cost	Floor Satisfied?
DEC 2013	46,031,000	35,620,456	77.38%	80%	28,496,365	61.91%	52,827,000	115%	Yes
DEC 2014	48,793,000	37,991,935	77.86%	80%	30,393,548	62.29%	54,275,000	111%	Yes
DEC 2015	51,721,000	40,524,961	78.35%	80%	32,419,969	62.68%	55,141,000	107%	Yes
DEC 2016	54,824,000	43,230,022	78.85%	80%	34,584,018	63.08%	55,324,000	101%	Yes
DEC 2017	56,812,000	45,087,003	79.36%	80%	36,069,602	63.49%	56,134,000	99%	Yes
DEC 2018	60,221,000	48,105,373	79.88%	80%	38,484,298	63.91%	56,954,000	95%	Yes
DEC 2019	57,223,000	46,013,855	80.41%	80%	36,811,084	64.33%	58,736,000	103%	Yes
DEC 2020	61,053,000	49,423,747	80.95%	80%	39,538,998	64.76%	59,493,000	97%	Yes
DEC 2021	64,716,000	52,745,999	81.50%	80%	42,196,799	65.20%	59,239,109	92%	Yes
DEC 2022	68,599,000	56,296,789	82.07%	80%	45,037,431	65.65%	57,100,785	83%	Yes
DEC 2023	72,715,000	60,092,027	82.64%	80%	48,073,622	66.11%	60,128,586	83%	Yes
DEC 2024			83.23%	80%		66.58%			
DEC 2025			83.82%	80%		67.06%			
DEC 2026			84.43%	81%		68.39%			
DEC 2027			85.05%	82%		69.74%			
DEC 2028			85.69%	83%		71.12%			
DEC 2029			86.34%	84%		72.52%			
DEC 2030			86.99%	85%		73.95%			
DEC 2031			87.67%	86%		75.39%			
DEC 2032			88.35%	87%		76.87%			
DEC 2033			89.05%	88%		78.37%			
DEC 2034			89.77%	89%		79.89%			
DEC 2035			90.50%	90%		81.45%			
DEC 2036			91.24%	91%		83.03%			
DEC 2037			92.00%	92%		84.64%			
DEC 2038			92.77%	93%		86.28%			
DEC 2039			93.56%	94%		87.95%			
DEC 2040			94.37%	95%		89.65%			
DEC 2041			95.19%	96%		91.38%			
DEC 2042			96.02%	97%		93.14%			
DEC 2043			96.87%	98%		94.94%			
DEC 2044			97.74%	99%		96.76%			
DEC 2045			98.38%	100%		98.38%			

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
3.1 TABLE OF PERCENT FUNDED CURVE, FUNDING FLOOR CURVE, AND ACTUAL ACCUMULATIONS
2023 PALO VERDE - UNIT #1

		EST. COST	PERCENT FUNDED CURVE		FUNDING FLOOR CURVE		ACTUAL ACCUMULATIONS		
Year	Dollars (\$)	Committed Accumulations	% of Est. Cost	% of Comm. Accumulations	Funding Floor (\$)	% of Est. Cost	Dollars (\$)	% of Est. Cost	Floor Satisfied?
DEC	2046		98.76%	100%		98.76%			
DEC	2047		99.09%	100%		99.09%			
DEC	2048		99.37%	100%		99.37%			
DEC	2049		99.60%	100%		99.60%			
DEC	2050		99.79%	100%		99.79%			
DEC	2051		99.94%	100%		99.94%			
DEC	2052		100.00%	100%		100.00%			
DEC	2053		100.00%	100%		100.00%			
DEC	2054		100.00%	100%		100.00%			
DEC	2055		100.00%	100%		100.00%			
DEC	2056		100.00%	100%		100.00%			
DEC	2057		100.00%	100%		100.00%			

SCPPA
3.1 CHART OF PERCENT FUNDED CURVE, FUNDING FLOOR CURVE, & ACTUAL ACCUMULATIONS -UNIT #1



SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
3.1 TABLE OF PERCENT FUNDED CURVE, FUNDING FLOOR CURVE, AND ACTUAL ACCUMULATIONS
2023 PALO VERDE - UNIT #2

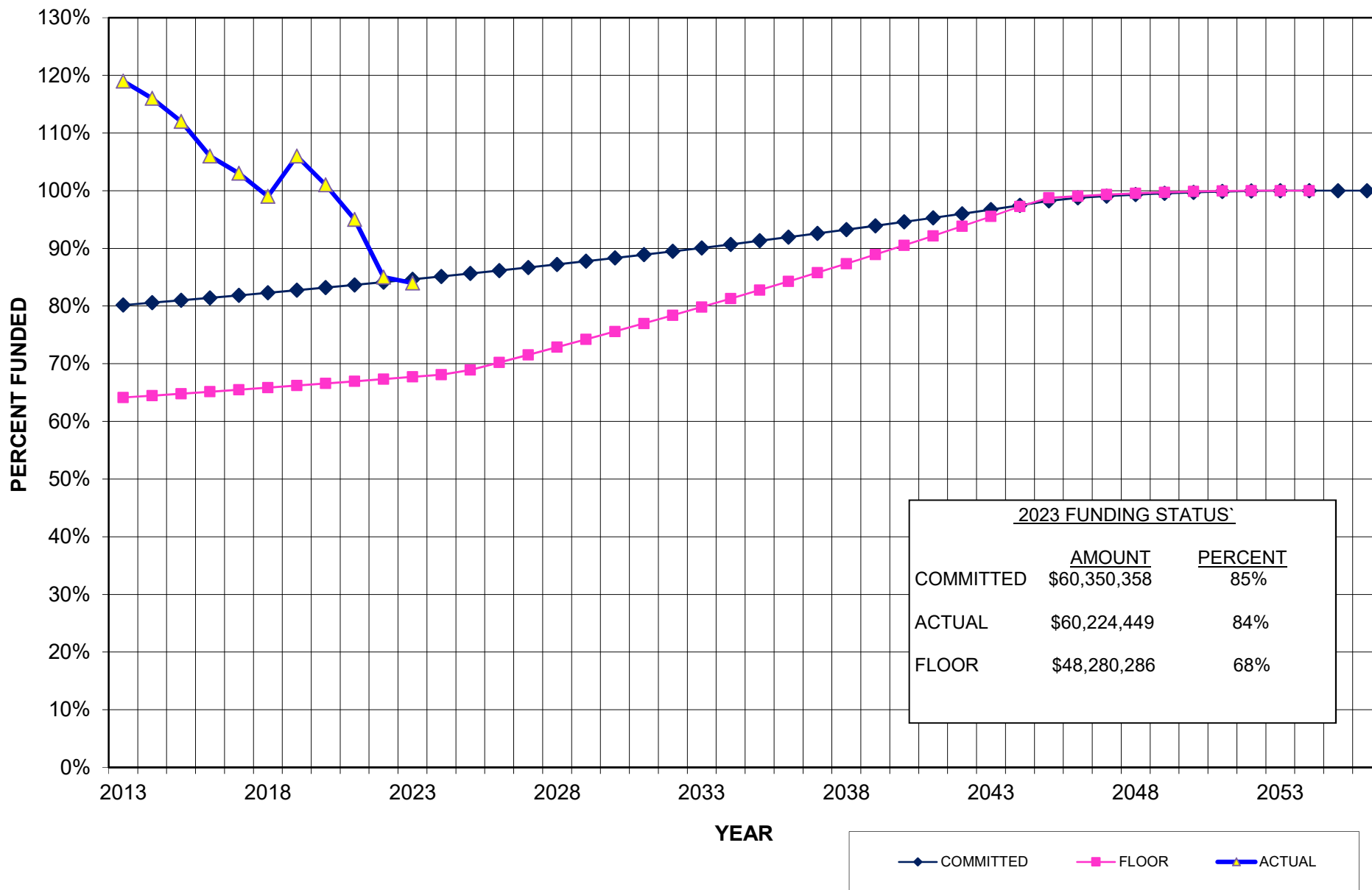
		EST. COST	PERCENT FUNDED CURVE		FUNDING FLOOR CURVE			ACTUAL ACCUMULATIONS		
Year	Dollars (\$)	Committed Accumulations	% of Est. Cost	% of Comm. Accumulations	Funding Floor (\$)	% of Est. Cost	Dollars (\$)	% of Est. Cost	Floor Satisfied?	
DEC 2013	44,782,000	35,904,047	80.18%	80%	28,723,238	64.14%	53,435,000	119%	Yes	
DEC 2014	47,468,920	38,251,763	80.58%	80%	30,601,410	64.47%	55,281,000	116%	Yes	
DEC 2015	50,317,055	40,756,072	81.00%	80%	32,604,858	64.80%	56,328,000	112%	Yes	
DEC 2016	53,336,079	43,427,648	81.42%	80%	34,742,118	65.14%	56,320,000	106%	Yes	
DEC 2017	55,043,680	45,056,169	81.86%	80%	36,044,935	65.48%	56,895,000	103%	Yes	
DEC 2018	58,346,301	48,017,050	82.30%	80%	38,413,640	65.84%	57,801,000	99%	Yes	
DEC 2019	56,156,000	46,467,331	82.75%	80%	37,173,865	66.20%	59,722,000	106%	Yes	
DEC 2020	59,866,825	49,812,871	83.21%	80%	39,850,297	66.56%	60,629,000	101%	Yes	
DEC 2021	63,458,834	53,098,947	83.67%	80%	42,479,158	66.94%	60,448,042	95%	Yes	
DEC 2022	67,266,364	56,606,361	84.15%	80%	45,285,089	67.32%	57,277,581	85%	Yes	
DEC 2023	71,302,346	60,350,358	84.64%	80%	48,280,286	67.71%	60,224,449	84%	Yes	
DEC 2024			85.14%	80%		68.11%				
DEC 2025			85.64%	80%		68.52%				
DEC 2026			86.16%	80%		68.93%				
DEC 2027			86.69%	81%		70.22%				
DEC 2028			87.23%	82%		71.53%				
DEC 2029			87.78%	83%		72.86%				
DEC 2030			88.34%	84%		74.20%				
DEC 2031			88.91%	85%		75.57%				
DEC 2032			89.49%	86%		76.96%				
DEC 2033			90.09%	87%		78.38%				
DEC 2034			90.69%	88%		79.81%				
DEC 2035			91.31%	89%		81.27%				
DEC 2036			91.95%	90%		82.75%				
DEC 2037			92.59%	91%		84.26%				
DEC 2038			93.25%	92%		85.79%				
DEC 2039			93.92%	93%		87.34%				
DEC 2040			94.60%	94%		88.92%				
DEC 2041			95.30%	95%		90.53%				
DEC 2042			96.01%	96%		92.17%				
DEC 2043			96.74%	97%		93.83%				
DEC 2044			97.48%	98%		95.53%				
DEC 2045			98.23%	99%		97.25%				

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
3.1 TABLE OF PERCENT FUNDED CURVE, FUNDING FLOOR CURVE, AND ACTUAL ACCUMULATIONS
2023 PALO VERDE - UNIT #2

EST. COST		PERCENT FUNDED CURVE		FUNDING FLOOR CURVE			ACTUAL ACCUMULATIONS		
Year	Dollars (\$)	Committed Accumulations	% of Est. Cost	% of Comm. Accumulations	Funding Floor (\$)	% of Est. Cost	Dollars (\$)	% of Est. Cost	Floor Satisfied?
DEC	2046		98.76%	100%		98.76%			
DEC	2047		99.07%	100%		99.07%			
DEC	2048		99.32%	100%		99.32%			
DEC	2049		99.53%	100%		99.53%			
DEC	2050		99.71%	100%		99.71%			
DEC	2051		99.85%	100%		99.85%			
DEC	2052		99.96%	100%		99.96%			
DEC	2053		100.00%	100%		100.00%			
DEC	2054		100.00%	100%		100.00%			
DEC	2055		100.00%	100%		100.00%			
DEC	2056		100.00%	100%		100.00%			
DEC	2057		100.00%	100%		100.00%			

SCPPA

3.1 CHART OF PERCENT FUNDED CURVE, FUNDING FLOOR CURVE, & ACTUAL ACCUMULATIONS -UNIT #2



SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
3.1 TABLE OF PERCENT FUNDED CURVE, FUNDING FLOOR CURVE, AND ACTUAL ACCUMULATIONS
2023 PALO VERDE - UNIT #3

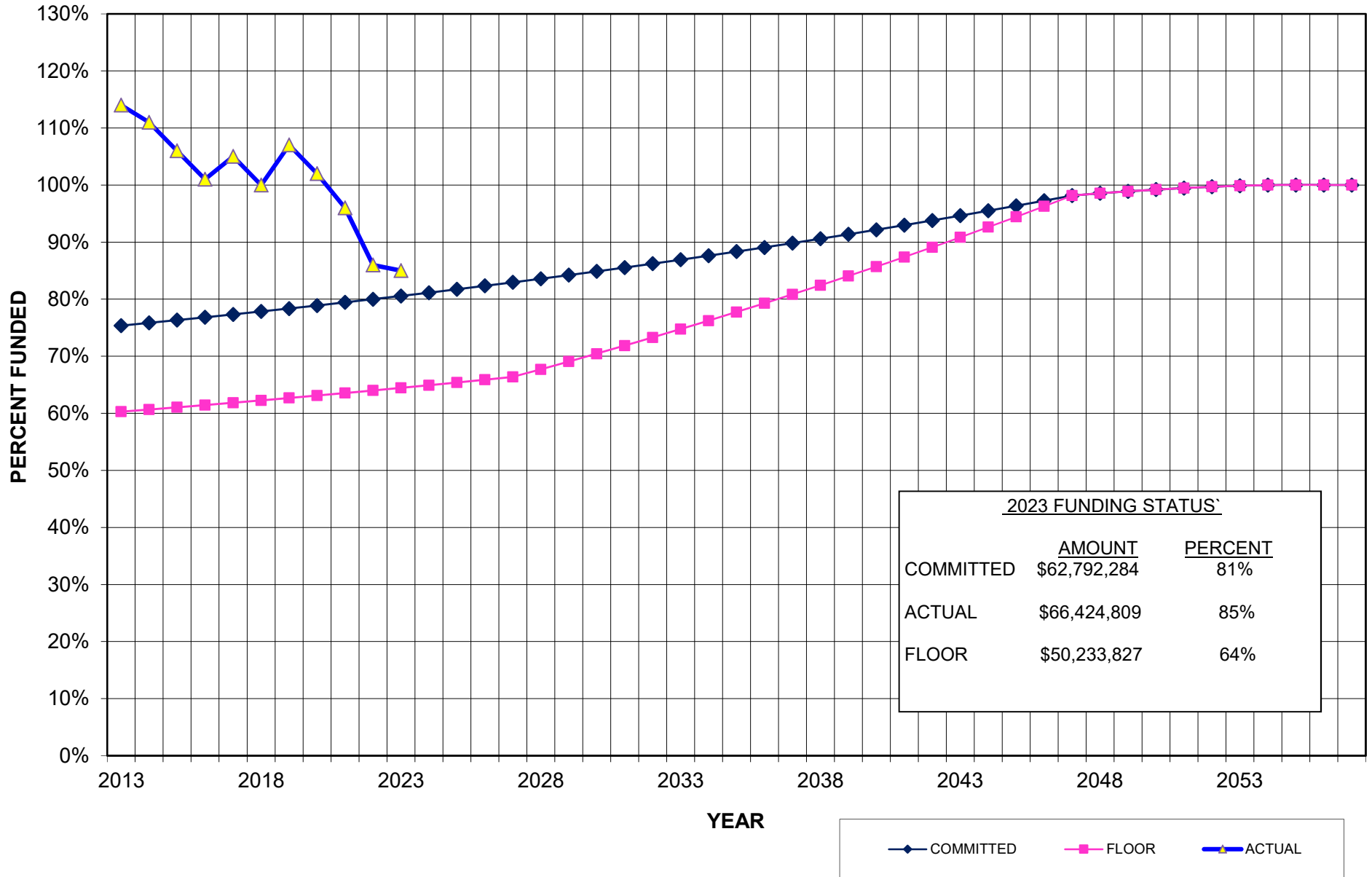
Year	EST. COST		PERCENT FUNDED CURVE		FUNDING FLOOR CURVE		ACTUAL ACCUMULATIONS		
	Dollars (\$)	Committed Accumulations	% of Est. Cost	% of Comm. Accumulations	Funding Floor (\$)	% of Est. Cost	Dollars (\$)	% of Est. Cost	Floor Satisfied?
DEC 2013	51,584,000	38,877,721	75.37%	80%	31,102,177	60.29%	58,696,000	114%	Yes
DEC 2014	54,679,040	41,469,771	75.84%	80%	33,175,817	60.67%	60,501,000	111%	Yes
DEC 2015	57,959,782	44,238,434	76.33%	80%	35,390,747	61.06%	61,483,000	106%	Yes
DEC 2016	61,437,369	47,196,021	76.82%	80%	37,756,817	61.46%	61,853,000	101%	Yes
DEC 2017	59,737,360	46,190,894	77.32%	80%	36,952,715	61.86%	62,521,000	105%	Yes
DEC 2018	63,321,602	49,287,622	77.84%	80%	39,430,098	62.27%	63,580,000	100%	Yes
DEC 2019	61,413,000	48,123,835	78.36%	80%	38,499,068	62.69%	65,515,000	107%	Yes
DEC 2020	65,440,254	51,629,438	78.90%	80%	41,303,550	63.12%	66,609,000	102%	Yes
DEC 2021	69,366,669	55,105,451	79.44%	80%	44,084,361	63.55%	66,330,168	96%	Yes
DEC 2022	73,528,669	58,820,781	80.00%	80%	47,056,625	64.00%	63,227,743	86%	Yes
DEC 2023	77,940,389	62,792,284	80.56%	80%	50,233,827	64.45%	66,424,809	85%	Yes
DEC 2024			81.14%	80%		64.91%			
DEC 2025			81.73%	80%		65.39%			
DEC 2026			82.34%	80%		65.87%			
DEC 2027			82.95%	80%		66.36%			
DEC 2028			83.58%	81%		67.70%			
DEC 2029			84.22%	82%		69.06%			
DEC 2030			84.87%	83%		70.44%			
DEC 2031			85.53%	84%		71.85%			
DEC 2032			86.21%	85%		73.28%			
DEC 2033			86.91%	86%		74.74%			
DEC 2034			87.61%	87%		76.22%			
DEC 2035			88.33%	88%		77.73%			
DEC 2036			89.07%	89%		79.27%			
DEC 2037			89.82%	90%		80.84%			
DEC 2038			90.58%	91%		82.43%			
DEC 2039			91.36%	92%		84.05%			
DEC 2040			92.16%	93%		85.71%			
DEC 2041			92.97%	94%		87.39%			
DEC 2042			93.80%	95%		89.11%			
DEC 2043			94.64%	96%		90.86%			
DEC 2044			95.50%	97%		92.64%			
DEC 2045			96.38%	98%		94.45%			

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
3.1 TABLE OF PERCENT FUNDED CURVE, FUNDING FLOOR CURVE, AND ACTUAL ACCUMULATIONS
2023 PALO VERDE - UNIT #3

EST. COST		PERCENT FUNDED CURVE		FUNDING FLOOR CURVE		ACTUAL ACCUMULATIONS			
Year	Dollars (\$)	Committed Accumulations	% of Est. Cost	% of Comm. Accumulations	Funding Floor (\$)	% of Est. Cost	Dollars (\$)	% of Est. Cost	Floor Satisfied?
DEC	2046		97.26%	99%		96.29%			
DEC	2047		98.15%	100%		98.15%			
DEC	2048		98.55%	100%		98.55%			
DEC	2049		98.91%	100%		98.91%			
DEC	2050		99.21%	100%		99.21%			
DEC	2051		99.48%	100%		99.48%			
DEC	2052		99.70%	100%		99.70%			
DEC	2053		99.87%	100%		99.87%			
DEC	2054		100.00%	100%		100.00%			
DEC	2055		100.00%	100%		100.00%			
DEC	2056		100.00%	100%		100.00%			
DEC	2057		100.00%	100%		100.00%			

SCPPA

3.1 CHART OF PERCENT FUNDED CURVE, FUNDING FLOOR CURVE, & ACTUAL ACCUMULATIONS -UNIT #3



SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
3.2 TABLE OF COMPOSITE PERCENT FUNDED CURVE, FUNDING FLOOR CURVE, AND ACTUAL ACCUMULATIONS
2023 PALO VERDE - ALL UNITS

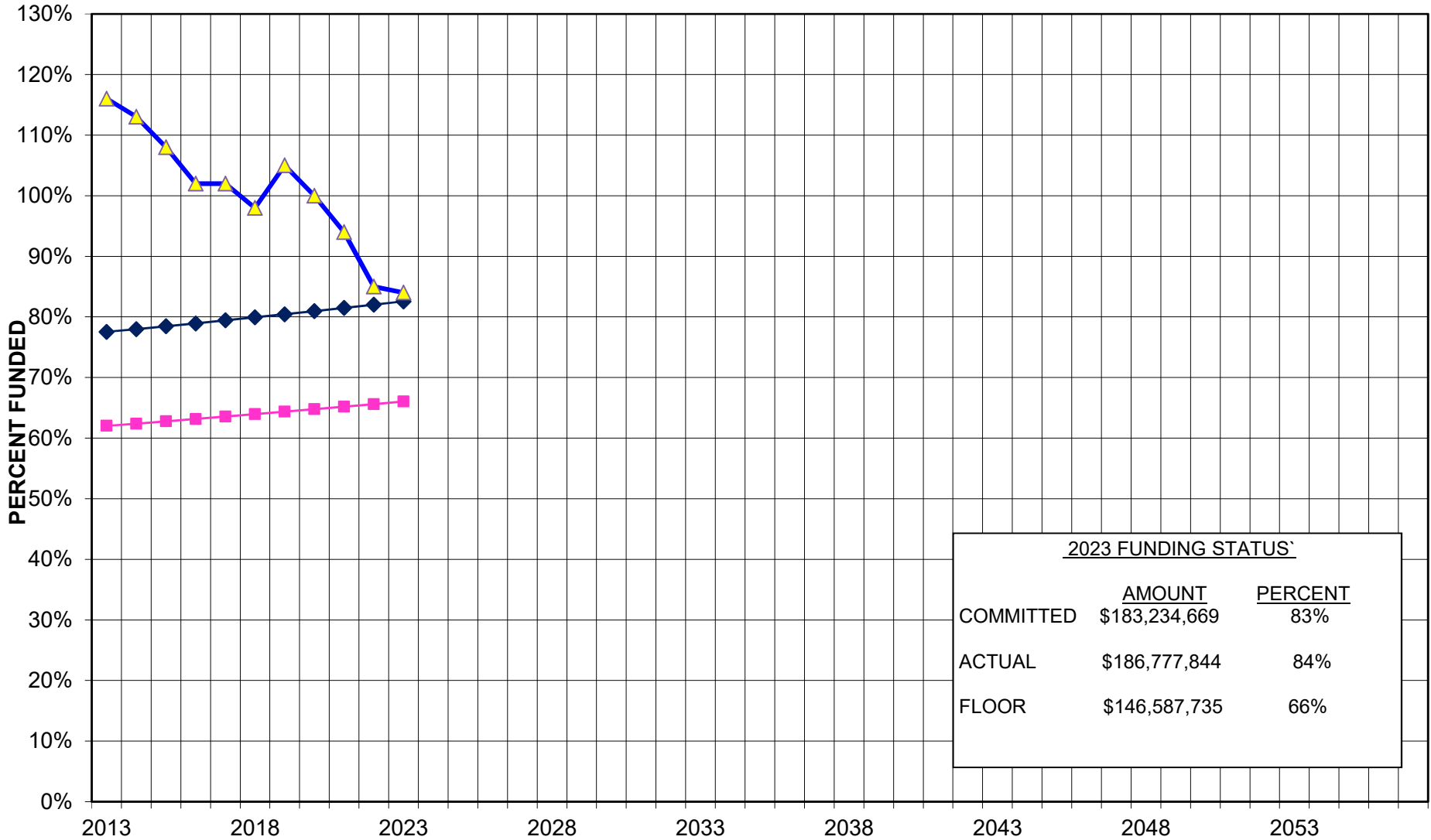
		EST. COST	PERCENT FUNDED CURVE		FUNDING FLOOR CURVE		ACTUAL ACCUMULATIONS		
Year	Dollars (\$)	Committed Accumulations	% of Est. Cost	% of Comm. Accumulations	Funding Floor (\$)	% of Est. Cost	Dollars (\$)	% of Est. Cost	Floor Satisfied?
DEC 2013	142,397,000	110,402,224	77.53%	80%	88,321,780	62.03%	164,958,000	116%	Yes
DEC 2014	150,940,960	117,713,469	77.99%	80%	94,170,775	62.39%	170,057,000	113%	Yes
DEC 2015	159,997,838	125,519,467	78.45%	80%	100,415,574	62.76%	172,952,000	108%	Yes
DEC 2016	169,597,448	133,853,691	78.92%	80%	107,082,953	63.14%	173,497,000	102%	Yes
DEC 2017	171,593,040	136,334,066	79.45%	80%	109,067,252	63.56%	175,550,000	102%	Yes
DEC 2018	181,888,902	145,410,045	79.94%	80%	116,328,036	63.96%	178,335,000	98%	Yes
DEC 2019	174,792,000	140,605,021	80.44%	80%	112,484,017	64.35%	183,973,000	105%	Yes
DEC 2020	186,360,079	150,866,056	80.95%	80%	120,692,845	64.76%	186,730,999	100%	Yes
DEC 2021	197,541,503	160,950,397	81.48%	80%	128,760,318	65.18%	186,017,320	94%	Yes
DEC 2022	209,394,034	171,723,931	82.01%	80%	137,379,145	65.61%	177,606,110	85%	Yes
DEC 2023	221,957,736	183,234,669	82.55%	80%	146,587,735	66.04%	186,777,844	84%	Yes
DEC 2024									
DEC 2025									
DEC 2026									
DEC 2027									
DEC 2028									
DEC 2029									
DEC 2030									
DEC 2031									
DEC 2032									
DEC 2033									
DEC 2034									
DEC 2035									
DEC 2036									
DEC 2037									
DEC 2038									
DEC 2039									
DEC 2040									
DEC 2041									
DEC 2042									
DEC 2043									
DEC 2044									
DEC 2045									

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
3.2 TABLE OF COMPOSITE PERCENT FUNDED CURVE, FUNDING FLOOR CURVE, AND ACTUAL ACCUMULATIONS
2023 PALO VERDE - ALL UNITS

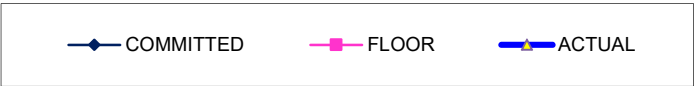
Year		EST. COST	PERCENT FUNDED CURVE		FUNDING FLOOR CURVE		ACTUAL ACCUMULATIONS			
		Dollars (\$)	Committed Accumulations	% of Est. Cost	% of Comm. Accumulations	Funding Floor (\$)	% of Est. Cost	Dollars (\$)	% of Est. Cost	Floor Satisfied?
DEC	2046									
DEC	2047									
DEC	2048									
DEC	2049									
DEC	2050									
DEC	2051									
DEC	2052									
DEC	2053									
DEC	2054									
DEC	2055									
DEC	2056									
DEC	2057									

SCPPA

3.2 CHART OF COMPOSITE PERCENT FUNDED CURVE, FUNDING FLOOR CURVE, & ACTUAL ACCUMULATIONS -ALL UNITS



<u>2023 FUNDING STATUS</u>		
	<u>AMOUNT</u>	<u>PERCENT</u>
COMMITTED	\$183,234,669	83%
ACTUAL	\$186,777,844	84%
FLOOR	\$146,587,735	66%





Southern California Public Power Authority

111 North Hope Street, Room 462
Los Angeles, CA 90012
(213) 367 - 4668 • Fax (213) 367 - 4330
www.scppa.org

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
CERTIFICATE FOR ANNUAL FUNDING STATUS REPORT
FOR THE PERIOD ENDING DECEMBER 31, 2023

Aileen Ma, Chief Financial and Administrative Officer of Southern California Public Power Authority certifies on behalf of Southern California Public Power Authority that the provisions of the trust agreements establishing, and all other instruments providing for investment management of the Termination Funds of Southern California Public Power Authority, taken together, comply with Section 8A.7.2.2 and all other provisions of the Arizona Nuclear Power Project Participation Agreement, dated August 23, 1973, as amended by Amendment Nos. 1 through 16, establishing requirements for such agreements and instruments; and further certifies that, to the best of the knowledge of Aileen Ma, the information contained in the report to which this certificate is attached is true and correct and accurately sets forth the status of the Termination Funds of Southern California Public Power Authority as of the date stated.

Dated: February 28, 2024

AILEEN MA
Chief Financial and Administrative Officer
Southern California Public Power Authority

SCPPA July BOARD MEETING
PALO VERDE NUCLEAR GENERATING STATION
STATUS REPORT

Plant Operations - Following is the status of the plant as of August 15th, 2024:

- Unit 1 is operating at full power and is in its 277th day of continuous operation.
- Unit 2 is operating at full power and is in its 438th day of continuous operation.
- Unit 3 is operating at full power and is in its 95th day of continuous operation.

Through July 2024, the year-to-date maximum dependable capacity factor of the station is as follows:

	Capacity Factor
Unit 1	97.5%
Unit 2	98.6%
Unit 3	97.3%
Station	97.8%

Budget:

Through July 2024, the year-to-date cost report is summarized as follows:

(In \$millions)

Year-to-Date	Budget	Actual	Variance
O&M	397.11	390.86	(6.25)
Capital	135.75	123.83	(11.89)
Fuel	137.06	123.90	(13.17)
Total	669.89	638.59	(31.30)

The year-end budget projection is as follows:

Year-End	Budget	Forecast	Variance
O&M	724.00	715.69	(8.31)
Capital	258.00	258.00	0.00
Fuel	210.05	210.05	0.00
Total	1,192.05	1,183.74	(8.31)

Developments:

- APS presented a preliminary Palo Verde Investment Plan on June 26, 2024 E&O Committee meeting, identifying projects for plant reliability, resiliency, modernization purposes, and in preparation for relicensing effort. The investment plan cost is estimated at \$2 billion for next 10 years, from 2025 to 2034, with goal to levelized total capital costs to appx. \$475-500 million per year.

CONFIDENTIAL

MAGNOLIA POWER PLANT OPERATIONS REPORT August 2024

Reporting Period

August 1-31, 2024

Workforce Safety Statistics

- There were zero (0) lost time accidents this month and zero (0) year-to-date (YTD).
- There were zero (0) reportable incidents in August and one (1) YTD.

Plant Performance Information

- **Availability:** 100% in August, 100% fiscal year-to-date (FYTD), and 96.7% YTD. (A table showing monthly plant availability for the past twenty months is attached.)
- **Unit Capacity Factor (240 MW):** 85.7% in August, 86.9% FYTD, and 74.7% YTD.
- **Fired Factored Hours:** 744.0 hours in August 2024.
- **Plant Starts (5 starts/month allowed):** Zero (0) starts used during August.
- **Plant Operating Hours (8,322 hours/year allowed):** 5,662.1 hours YTD.
- **Statistics:** Details are provided on the attached monthly production report entitled "Year-to-Date Summary of Statistics CY 2024 & FY2024-25".

Plant Outage Summary and Other Information

- There were no outages at MPP during the month of August 2024. A table entitled "Outage Summary" is attached which shows all the outages that have occurred over the past twelve (12) months. The "2024-2028 Scheduled Inspection Plan" is also attached showing the calendar for future planned outages at MPP.
- Performance testing of the MPP boiler feed water pumps, condensate pumps, and circulating water pumps took place on August 20 – 22, 2024. The test results will be used to determine the appropriate maintenance requirements during the upcoming major outage.
- There were no instances of stranded energy in August 2024 (a table showing stranded energy by month is attached).

MAGNOLIA MONTHLY PRODUCTION REPORT
Year-to-Date Summary of Statistics
CY 2024 & FY2024-25

		2024	2024	2024	2024	2024	2024	2024	2024	2024	2024	2024	2024		
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	FYTD	YTD
<u>ENERGY</u>															
Combustion Turbine (Gross)	MWH	103,171	86,488	64,558	71,736	68,986	70,804	101,587	97,251					198,838	664,581
Steam Turbine	MWH	58,944	52,629	42,990	49,726	50,578	47,545	61,116	61,303					122,418	424,830
Plant Generation (Gross)	MWH	162,115	139,116	107,548	121,462	119,564	118,349	162,702	158,554					321,256	1,089,411
Plant Auxiliaries (Unit Aux.)	MWH	5,286	4,779	3,945	4,712	4,932	4,484	5,490	5,461					10,951	39,089
Plant Auxiliaries (Reserve)	MWH	7	6	583	6	6	339	7	6					13	960
Plant Generation (Net)	MWH	156,829	134,337	103,603	116,751	114,632	113,865	157,212	153,093					310,305	1,050,322
Capacity Factor (240 MW Net)	%	87.8%	80.4%	58.0%	67.6%	64.2%	65.9%	88.0%	85.7%					86.9%	74.7%
<u>THERMAL EFFICIENCY</u>															
Combustion Turbine (Gross)	BTU/KWh	11,348	11,874	12,628	13,040	13,473	12,560	11,419	11,611					11,513	12,122
Total Plant (Gross)	BTU/KWh	7,228	7,384	7,588	7,702	7,774	7,527	7,214	7,274					7,244	7,433
Total Plant (Net)	BTU/KWh	7,472	7,646	7,877	8,013	8,108	7,823	7,466	7,533					7,499	7,710
<u>AVAILABILITY</u>															
Hours in the Month	Hours	744.0	696.0	744.0	720.0	744.0	720.0	744.0	744.0					1,488.0	5856.0
Plant Operating Hours	Hours	744.0	696.0	610.5	720.0	744.0	659.6	744.0	744.0					1,488.0	5662.1
Duct Burner Operating Hours	Hours	8.6	4.0	2.8	0.7	0.1	12.3	110.8	203.7					314.6	343.0
Plant Availability	%	100.0%	100.0%	82.1%	100.0%	100.0%	91.6%	100.0%	100.0%					100.0%	96.7%
Offline yet Available Hours	Hours	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0					0.0	0.0
Planned Outage Hours	Hours	0.0	0.0	132.5	0.0	0.0	60.4	0.0	0.0					0.0	192.9
Forced Outage Hours	Hours	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0					0.0	0.0
Forced Outage	%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%					0.0%	0.0%
Total Hours Offline	Hours	0.0	0.0	132.5	0.0	0.0	60.4	0.0	0.0					0.0	192.9
Forced Derated Hours	Hours	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0					0.0	0.0
(FFH) From Peak Power	Hours	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0					0.0	0.0
Total Factored Fired Hours	Hours	744.0	696.0	610.5	720.0	744.0	659.6	744.0	744.0					1,488.0	5,662.1
(FFH) Before Next Inspection	Hours	8,389	7,693	7,083	6,363	5,619	4,959	4,215	3,471					-	-
Estimated Date of Next Major Outage														Feb 2025	
<u>FUEL USAGE AND QUALITY</u>															
Combustion Turbine	DTH	1,170,829	1,026,952	815,267	935,442	929,469	889,288	1,159,967	1,129,164					2,289,131	8,056,379
Duct Burner	DTH	1,012	227	793	49	6	1,474	13,812	24,152					37,964	41,525
Duct Burner	MMSCF	1.0	0.2	0.8	0.0	0.0	1.4	13.2	23.0					36	40
Duct Burner Fuel Remaining	MMSCF	554.0	553.8	553.0	553.0	553.0	551.6	538.4	515.4					-	-
Total Plant Usage	DTH	1,171,841	1,027,179	816,060	935,491	929,475	890,762	1,173,779	1,153,316					2,327,096	8,097,903
Gas BTU (HHV)	BTU/SCF	1,039	1,039	1,033	1,030	1,030	1,032	1,027	1,050					1,039	1,035

Magnolia Power Plant - Outage Summary

Outages During the Reporting Period August 1-31, 2024				
Outage Type	Start Date/Time	End Date/Time	Hours	Comments
None				

Summary of Outages During the Past Twelve Months				
Outage Type	Start Date	End Date	Hours	Cause
PO	September 22, 2023	September 25, 2023	60.5	CT water wash
PO	December 15, 2023	December 18, 2023	60.5	CT water wash
PO	March 15, 2024	March 21, 2024	132.5	Boiler Inspection/CT water wash
PO	June 21, 2024	June 24, 2024	60.4	CT water wash

Outage Type Legend
RS - Reserve Shutdown
PO - Planned Outage
FO - Forced Outage
OMC - Outside of Management Control

Magnolia Power Plant - Availability Summary Table

Monthly	Quarterly	Semi-Annually	Annually
Jan-23 99.1%	Q1 '23 93.5%	H1 '23 95.4%	Yr '23 96.3%
Feb-23 100.0%			
Mar-23 82.1%			
Apr-23 100.0%	Q2 '23 97.2%		
May-23 100.0%			
Jun-23 91.6%			
Jul-23 100.0%	Q3 '23 97.3%	H2 '23 97.3%	
Aug-23 100.0%			
Sep-23 91.6%			
Oct-23 100.0%	Q4 '23 97.3%		
Nov-23 100.0%			
Dec-23 91.9%			
Jan-24 100.0%	Q1 '24 93.9%	H1 '24 95.6%	
Feb-24 100.0%			
Mar-24 82.1%			
Apr-24 100.0%	Q2 '24 97.2%		
May-24 100.0%			
Jun-24 91.6%			
Jul-24 100.0%			
Aug-24 100.0%			



Magnolia Power Project

2024-2028

Scheduled Inspection Plan with 32K Hardware

Offline Water Wash █

Hot Gas Path / Minor Inspection █

Major Inspection █

As of Sept. 3rd, 2024

Total Fired Time

140,825.0 Hours

Total Fired Hours PROJECTED ANNUALLY	2024 (8,322 Hours)	2025 (7,380 Hours)	2026 (8,448 Hours)	2027 (8,448 Hours)	2028 (8,472 Hours)
INSPECTIONS	69 136,897 Hrs.	73 3 █	76	80	84
Water Wash 90 Day Intervals Every 2,160 Hours	March 2024 Offline 6:00 PM 3/15/2024 Online 6:00 AM 3/21/2024 CT Borescope/Boiler Inspection	February 2025 Offline 6:00 PM 2/28/2025 Online 6:00 AM 4/21/2025 Minor Inspection/Rotor Rep./Boiler Inspection	January 2026 Offline 6:00 PM 1/23/2026 Online 6:00 AM 1/29/2026 CT Borescope/Boiler Inspection	February 2027 Offline 6:00 PM 2/5/2027 Online 6:00 AM 2/11/2027 CT Borescope/Boiler Inspection	February 2028 Offline 6:00 PM 2/4/2028 Online 6:00 AM 2/10/2028 CT Borescope/Boiler Inspection
Hot Gas Path / Minor Inspection Every 32,000 Hours Last HGP @ 81,095 Hrs	70 139,117 Hrs. June 2024 Offline 6:00 PM 6/21/2024 Online 6:00 AM 6/24/2024	74 July 2025 Offline 6:00 PM 7/18/2025 Online 6:00 AM 7/21/2025	77 May 2026 Offline 6:00 PM 5/1/2026 Online 6:00 AM 5/04/2026	81 May 2027 Offline 6:00 PM 5/7/2027 Online 6:00 AM 5/10/2027	85 May 2028 Offline 6:00 PM 5/5/2028 Online 6:00 AM 5/8/2028
Major Inspection Every 64,000 Hours Last Major @ 112,229 Hrs	71 September 2024 Offline 6:00 PM 9/20/2024 Online 6:00 AM 9/23/2024	75 October 2025 Offline 6:00 PM 10/17/2025 Online 6:00 AM 10/20/2025	78 July 2026 Offline 6:00 PM 07/31/2026 Online 6:00 AM 08/03/2026	82 August 2027 Offline 6:00 PM 8/6/2027 Online 6:00 AM 8/9/2027	86 August 2028 Offline 6:00 PM 8/4/2028 Online 6:00 AM 8/7/2028
Upcoming Inspections █ Minor Inspection CT Rotor Replacement 02/28/2025-04/21/2025	72 December 2024 Offline 6:00 PM 12/08/2024 Online 10:00 AM 12/17/2024		79 November 2026 Offline 6:00 PM 11/06/2026 Online 6:00 AM 11/09/2026	83 November 2027 Offline 6:00 PM 11/5/2027 Online 6:00 AM 11/8/2027	87 November 2028 Offline 6:00 PM 11/3/2028 Online 6:00 AM 11/6/2028
All future dates are estimates based on run hours and are subject to change.					
End Of Year Totals	143,428 Hours	150,808 Hours	159,256 Hours	167,704 Hours	176,176 Hours

Stranded Energy Monthly Report

Month	Participant	Energy (MWh)
Aug-23	Cerritos	2
Sep-23	-	-
Oct-23	Cerritos	19
Nov-23	-	-
Dec-23	-	-
Jan-24	-	-
Feb-24	-	-
Mar-24	-	-
Apr-24	-	-
May-24	-	-
Jun-24	-	-
Jul-24	-	-
Aug-24	-	-



TO: Southern California Public Power Authority
FROM: TFG
RE: Federal Legislative Report
DATE: September 10, 2024

September 2024 Federal Report

This legislative report covers activities related to appropriations, energy, and environment as well as telecommunication and cybersecurity issues from August 1 through August 30, 2024.

Executive Summary

Congressional Calendar. The House and Senate were in recess for the entirety of August.

FY 25 Budget and Appropriations. Congress took no action on the FY 25 budget during the recess. However, there was much action just before adjournment. An effort to continue to fund the government on a short term basis will be a high priority in Washington when members return.

Energy and Environment. Among other activities, energy permitting reform legislation advanced out of a Senate committee and key House Republicans sent a letter to Speaker Johnson urging him to protect the clean energy credits included in the Inflation Reduction Act.

Cybersecurity and Telecommunications. Among other activities, the National Telecommunications and Information Administration (NTIA) is seeking public input on [proposed guidance](#) for selecting alternative broadband technologies under the Broadband Equity, Access, and Deployment (BEAD) program.

FY 2025 Appropriations Process

As of August 1, the full House Appropriations Committee has marked up and advanced all 12 of their versions of their Fiscal Year (FY) 2025 appropriations bills; in June and July, the full House passed five of these FY25 spending bills on the floor (Military Construction-Veterans Affairs; Defense; Homeland Security; State-Foreign Operations; and Interior-Environment). As of August 1, the full Senate Appropriations Committee has marked up and advanced 11 of the 12 FY25 spending bills (only the Homeland Security spending bill has yet to be considered); none of these 11 spending bills have received votes on the Senate floor thus far. Lists of all approved FY25 Community Project Funding (CPF) requests in the House may be found [here](#); lists of all approved FY25 Congressionally Directed Spending (CDS) requests in the Senate may be found [here](#).

Upon return from the long congressional recess, House Republican leadership are expected to release text of the **Continuing Appropriations and Other Matters Act, 2025** (Continuing Resolution [CR]), which

reportedly will propose to temporarily fund the federal government at enacted FY24 funding levels from October 1, 2024 through March 28, 2025 and is expected to include the Safeguard American Voter Eligibility (SAVE) Act, which requires individuals to provide documentary proof of U.S. citizenship in order to register to vote in federal elections.

The House is scheduled to vote on this six-month CR by mid-September. Though the House schedule is exceeding fluid and Senate Democratic leadership and the White House are expected to oppose this approach. This leads to one of two likely outcomes in late September 2024: (1) Senate passage of a “clean” CR that extends government funding from October 1 to sometime in early December 2024 and does not include the SAVE Act, punting the bill back to the House for consideration by September 30, and averting a government shutdown; or (2) a government shutdown commencing at 12:01am ET on October 1 due to lack of passage of an identical CR in both the House and Senate by midnight on September 30.

Energy and Environment

Inflation Reduction Act: Key House Republicans Urge Speaker to Protect Energy Tax Incentives

Eighteen House Republicans asked Speaker Mike Johnson (R-LA) to avoid pushing for full repeal of the Inflation Reduction Act, arguing that the IRA’s credits are sparking energy investments. [In a letter to Johnson](#), the lawmakers said businesses are taking advantage of tax incentives that “have enjoyed bipartisan support historically” to invest in energy projects.

The Republican legislators raised concerns about calls for repealing the IRA and concluded the letter by stating, “As Republicans, we support an all-of-the-above approach to energy development and tax credits that incentivize domestic production, innovation, and delivery from all sources.”

This letter is significant in that it indicates that the IRA clean energy tax incentives will likely continue into the foreseeable future regardless of which political party is in power after the November 2024 election.

Energy Project Permitting Clears Senate Energy Committee

On a long awaited vote, the Senate Energy Committee advanced legislation on a bipartisan 15-4 vote to update permitting rules in an effort to speed up the development of energy infrastructure and boost production of both clean energy and fossil fuels. However, the bill, written by Chair Joe Manchin (I-WV) and Ranking Republican John Barrasso (R-WY) drew divisions among Democrats on the committee who disagreed on whether the mix of provisions measures would adversely impact Biden Administration climate goals. Manchin and Barrasso have developed the bill after more than a year of negotiations.

The legislation would expedite approvals for not just coal, oil and gas development — priorities for Republicans and Manchin — but also renewable energy, critical mineral mining projects, and the

transmission lines that Democrats favor to help spread the growth of wind and solar. Democrats who voted for the bill agreed with renewable industry groups who say the legislation provides enough new incentives for their businesses to be worthy the fossil fuel trade-off. They argued the transmission elements would build on recent and planned actions by FERC to allow clean energy that was assisted by expansion of credits provided in the Inflation Reduction Act not to be stranded because it can't connect to the grid.

Timing before full Senate action is uncertain.

Climate Mayors Announce Commitment to Accelerate Public EV Fleet Transition

More than 350 Mayors from the bipartisan group Climate Mayors – which includes Los Angeles -- [announced](#) a commitment to facilitate the electrification of at least half of their municipal vehicle fleets by 2035. The announcement, issued in conjunction with U.S. Secretary of Transportation Pete Buttigieg, also includes a commitment to increase the availability of EV chargers in their communities by 500 percent, with 40 percent of this overall infrastructure benefiting disadvantaged communities, mirroring the federal Justice40 Initiative.

The announcement comes nearly two years after the Inflation Reduction Act (August 2022) and Bipartisan Infrastructure Law (November 2021) were signed into law, both of which included significant incentives for the expansion of EV infrastructure and purchases. Climate Mayors estimates that the commitment will put between 80,000 and 100,000 new light- and medium-duty EVs on the road by the 2030 deadline.

2023 Tax Filings Reveal \$8.4 Billion Claimed in Consumer and Residential Clean Energy Credits

The Inflation Reduction Act of 2022 created and reformed a variety of clean energy and energy efficiency tax credits, including credits impacting individuals, tax exempt entities, and local governments. The first round of data published by the Internal Revenue Service (IRS) shows that families claimed \$6.3 billion in clean energy investment credits – such as residential solar and similar improvements. A further \$2.1 billion was claimed by American families for energy efficiency residential upgrades. Efficiency upgrades may include upgrading insulation, better sealing doors and windows, and more efficient appliances. This is a significant step in implementing the IRA, which has faced obstacles and [criticism](#) over the slow roll-out of its various programs and incentives.

So-called “direct-pay” credits – known formally as elective pay credits – which enable non-taxed entities such as local governments to claim [certain clean energy credits](#), had not been formally issued by the most recent tax deadline. Consequently, the first available data on these elective pay credits will not be published until next year.

Total outlays from the IRA’s tax credit provisions were estimated to top \$600 billion over the span of 10 years.

DOE Announces \$2.2 Billion in Grid Resiliency Investments

The Department of Energy has awarded \$2.2 billion through its Grid Resilience Innovation Partnership (GRIP) Program, including a single \$700 million award to a three-gigawatt transmission line to connect the Eastern and Western interconnect. The second largest award made under the GRIP program, also announced in this round of funding, was awarded to the California Energy Commission (CEC), in conjunction with SoCal Edison, Cal ISO, PG&E, and other partners, in the amount of \$600,651,319. The project will upgrade 100 miles of transmission lines with advanced conductors, create more than 300 jobs, and deliver an estimated \$200 million in savings. These awards were made under the GRIP Topic Area 3 (Grid Innovation) program, the largest of the three sub-funds of GRIP. Further award selections under the Topic Area 1 (Grid Resilience Utility and Industry Grants) and Topic Area 2 (Smart Grid Grants) are expected to be announced later this year.

The GRIP Program, authorized by the Bipartisan Infrastructure Law, has thus far issued awards of \$5.7 billion across 65 projects. In total, GRIP has \$10.7 billion in funding to award through 2026.

Telecommunications and Cybersecurity

BEAD Alternative Technologies: The National Telecommunications and Information Administration (NTIA) is seeking public input on [proposed guidance](#) for selecting alternative broadband technologies under the Broadband Equity, Access, and Deployment (BEAD) program. This initiative aims to connect even the most difficult and remote locations in the U.S. to high-speed internet. NTIA recognizes that while fiber optic technology is the "gold standard" for broadband due to its scalability and long-term reliability, it may not always be economically feasible in remote or challenging areas. Therefore, NTIA's guidance provides a framework for states and territories to prioritize different technologies based on cost and feasibility. The guidance outlines a cascade of options for selecting broadband providers, emphasizing "reliable broadband" technologies that meet high-speed and latency requirements..

BEAD Mismanagement Accusations: Sen. Ted Cruz (R-TX) sent a [letter](#) to National Telecommunications and Information Administration (NTIA) Chief Alan Davidson, expressing serious concerns about delays and administrative issues in the Broadband Equity, Access, and Deployment (BEAD) program, which was funded under the 2021 Bipartisan Infrastructure Law. Senator Cruz accused the agency of mismanaging the program by imposing unnecessary bureaucratic hurdles and pursuing political goals outside its legal authority, such as rate regulation, union labor requirements, and climate change policies. The letter claims that despite the program's goal of expanding internet access, the NTIA has yet to connect any Americans and has instead used a significant portion of the funds for administrative purposes. The senator requested detailed information on how the funds have been allocated and spent, as well as updates on the status of state proposals for BEAD funding.

Fifth Circuit Stays USF Ruling: A judge from the U.S. Court of Appeals for the Fifth Circuit (New Orleans) [granted a stay](#) of the court's [July ruling](#) that found the FCC's system for collecting contributions to support the Universal Service Fund is unconstitutional. The FCC plans to file a petition with the Supreme Court by September 30 to review the Fifth Circuit's decision. If the Commission does so, the stay will remain in effect until the Supreme Court's final disposition. Meanwhile, Consumers' Research, the

plaintiff who is challenging the FCC's USF contributions mechanism, submitted a [supplementary brief](#) to the U.S. Supreme Court in support of its request for a rehearing of the Court's July ruling, which denied the organization's request to review decisions by the Sixth and Eleventh Circuits that rejected its challenge of Universal Service Fund contribution factors. The group noted that the Fifth Circuit's ruling has created a conflict among the circuits.

FCC USF Fact Sheet: In response to the [July ruling](#) by the U.S. Court of Appeals for the Fifth Circuit, which declared the Universal Service Fund (USF) contribution mechanism to be an unconstitutional tax, the FCC released a [Fact Sheet](#) and supporting documents about the importance of the USF and its four programs: High-Cost (Connect America), Lifeline, E-Rate, and Rural Health Care.

Coalition Seeks Utility Pole Replacement Reforms: A coalition of advocacy groups, led by the Schools, Health & Libraries Broadband (SHLB) Coalition, is urging the FCC to [reform utility pole replacement policies](#). In a letter to the FCC, the coalition argues that the cost of replacing poles should not be borne entirely by ISPs that need to attach their equipment to these poles. Instead, they advocate for a more equitable cost-sharing arrangement between pole owners and ISPs.

Net Neutrality Oral Arguments: The U.S. Court of Appeals for the Sixth Circuit (Cincinnati) [has scheduled](#) oral arguments for October 31, 2024, to address challenges to the FCC's net neutrality rules. The Commission's rules, established in April 2024, classify broadband ISPs as common carriers, prohibiting practices like blocking or throttling lawful content and accepting payments to prioritize traffic. ISPs challenged these rules, arguing that the FCC overstepped its authority, particularly concerning rate regulation and pricing mechanisms. On August 1, the Sixth Circuit panel [issued a stay](#) of the FCC's rules, stating that ISPs are "likely to succeed on the merits" of their case.



AGENDA ITEM STAFF REPORT

MEETING DATE:

September 19, 2024

RESOLUTION NUMBER:

2024-095

SUBJECT:

Refinancing of the Transmission Project Revenue Bonds, 2015 Subordinate Refunding Series C (Southern Transmission Project)

DISCUSSION:



OR

CONSENT:



Select the appropriate box(es):

FROM:

- Finance
- Project Development
- Program Development
- Regulatory/Legislative
- Project Administration
- Legal
- Executive Director

METHOD OF SELECTION:

- Competitive
- Cooperative Purchase
- Sole Source
- Other

Other (Please describe):

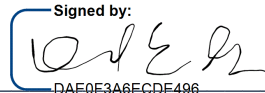
N/A

MEMBER PARTICIPATION:

Sponsoring Member: Anaheim, Burbank, Glendale, LADWP, Pasadena, and Riverside

Other Members Potentially Participating: None

Approved by Executive Director:

Signed by: 

DAE0F3A6ECDE496...

RECOMMENDATION:

Adopt a Resolution authorizing the preparation of all documents necessary for the refinancing of the Transmission Project Revenue Bonds, 2015 Subordinate Refunding Series C (Southern Transmission Project).

BACKGROUND:

SCPPA currently has \$89,480,000 in outstanding Transmission Project Revenue Bonds, 2015 Subordinate Refunding Series C. These bonds represent the final outstanding bonds for the Southern Transmission System (STS) Project and have an optional redemption date of January 1, 2025 and a final maturity of July 1, 2027.

The SCPPA Member participants of the STS Project are Anaheim, Burbank, Glendale, LADWP, Pasadena, and Riverside (Project Participants).

DISCUSSION:

The proposed financing plan anticipates issuing fixed rate tax-exempt refunding revenue bonds to refinance the outstanding 2015 Subordinate Refunding Series C bonds for debt service savings and amortizing the bonds to the same final maturity of July 1, 2027.

Per SCPPA's Policy for Financing and Selection of the Financing Team (Policy), "[f]or purposes of presenting proposals to the Finance Committee, a 5% minimum net present value savings as a percent of the refunded par amount...will be used as the general target for SCPPA when determining the potential to refund existing SCPPA debt." Because the outstanding bonds have a final maturity in less than three years, it reduces the amount of savings that can be generated as a percent of refunded par. It is highly unlikely that the proposed refinancing will achieve a 5 percent minimum net present value savings as a percent of refunded par. However, the potential debt service savings to be generated by the refinancing are anticipated to be meaningful in reducing debt service costs for the Project Participants. The Policy also provides that the "Board of Directors (Board) may make exceptions to the Policy at any time on a case-by-case basis."

Based on interest rates as of September 4, 2024, the net present value savings was approximately \$2.5 million (or \$2.75 million in cashflow savings), which was approximately 2.80% of refunded par. Actual savings will depend on market conditions at the time of bond pricing.

On August 5, 2024, the Finance Committee (Committee) discussed the proposed refinancing, including the potential savings, savings sensitivity to changes in interest rates, time commitment from Project Participants' staff, and the refinancing schedule. Due to market volatility, the Committee also discussed setting a floor for the minimum savings. The Committee supported the proposed refinancing with a target of bringing refinancing documents for Board consideration in December 2024.

The Committee recommended bringing a Resolution to the Board authorizing the preparation of all documents necessary for the sale and issuance of the refunding revenue bonds. The Committee also recommended that the Board establish a minimum savings floor of at least an amount to cover the cost of issuance. SCPPA will incur costs in connection with financial advisor, bond counsel, and tax counsel services for the preparation of the documents and related activities. The payment of financial advisor, bond counsel, and tax counsel fees and costs will be contingent on the successful closing of the transaction. Once the draft documents have been prepared, they will be brought to the Board for consideration and approval, which is currently anticipated in December 2024.

- **Selection Method:**

Per SCPPA's Policy for Financing and Selection of the Financing Team, SCPPA may issue refunding revenue bonds on a negotiated or competitive basis. Due to the size and tenor of the bonds, SCPPA staff recommends that the bonds be priced on a competitive basis, which is expected to reduce underwriting costs.

- **Environmental Review**

The proposed action is exempt from California Environmental Quality Act as it is not a project as defined under Section 15378 of the State CEQA Guidelines, as it does not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

- **SCPPA's Authority:**

The refinancing of the STS Project revenue bonds is in accordance with the California Joint Exercise of Powers Act and the SCPPA Joint Powers Agreement. The SCPPA Joint Powers Agreement provides the authority for SCPPA to finance generation and transmission projects, including the refinancing of such projects.

FISCAL IMPACT:

The refinancing is expected to generate debt service savings.

ATTACHMENT:

1. Resolution No. 2024-095

RESOLUTION NO. 2024-095

RESOLUTION OF THE BOARD OF DIRECTORS OF SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY (I) AUTHORIZING THE PREPARATION OF ALL DOCUMENTS NECESSARY OR APPROPRIATE TO SELL AND ISSUE BONDS, NOTES OR OTHER SECURITIES, PROCEEDS OF WHICH WILL BE USED TO REFUND OUTSTANDING TRANSMISSION PROJECT REVENUE BONDS, 2015 SUBORDINATE REFUNDING SERIES C AND (II) AUTHORIZING OFFICERS OF THE AUTHORITY TO DO ALL THINGS DEEMED NECESSARY OR APPROPRIATE (SOUTHERN TRANSMISSION PROJECT)

WHEREAS, the Finance Committee of the Southern California Public Power Authority (the “Authority”) has determined that it is in the best interest of the Authority to proceed with preparing all documents necessary or appropriate to sell and issue bonds, notes or other securities, in one or more series (collectively, the “Bonds”), the proceeds of which will be used to refund all or a portion of the Authority’s Transmission Project Revenue Bonds, 2015 Subordinate Refunding Series C; and

WHEREAS, once prepared, drafts of the contracts proposed to be entered into by the Authority in connection with the sale and issuance, or incurrence, as applicable, of the Bonds will be presented for the Board’s consideration.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Authority as follows:

1. The Authority’s staff and the Authority’s team of financing professionals (including the personnel at the Los Angeles Department of Water and Power who work on Authority matters, the Authority’s Bond Counsel, the Authority’s Special Tax Counsel and the Authority’s Municipal Advisor) are hereby authorized (i) to prepare all documents necessary or appropriate for the sale and issuance, or incurrence, as applicable, of the Bonds, and (ii) with the assistance of the Participants of the Southern Transmission Project, to solicit proposals from certain underwriters and financial institutions with respect to the sale and issuance, or incurrence, as applicable, of the Bonds.

2. Each of the President, any Vice President, the Executive Director, the Chief Financial and Administrative Officer, the Secretary, any Assistant Secretary, any other officer of the Authority, and any designee of the foregoing, is hereby authorized and directed to do and cause to be done any and all acts and things deemed necessary or appropriate for carrying out the transactions contemplated by this Resolution.

3. This Resolution shall become effective immediately.

THE FOREGOING RESOLUTION is approved and adopted by the Authority this 19th day of September, 2024.

TIKAN SINGH
PRESIDENT
Southern California Public
Power Authority

ATTEST:

DANIEL E GARCIA
ASSISTANT SECRETARY
Southern California Public
Power Authority

ANNUAL BUDGET

July 1, 2024 through June 30, 2025
 Clean Energy Project (Prepaid PPA)
 (\$000s)

Month	Working Capital	Direct Admin. & General	Indirect Admin. & General	SCPPA Cost of Project
-----	-----	-----	-----	-----
Jul	\$0	\$0	\$0	\$0
Aug	\$0	\$0	\$0	\$0
Sep	\$0	\$0	\$0	\$0
-----	-----	-----	-----	-----
Subtotal	\$0	\$0	\$0	\$0
Oct	\$6	\$7	\$0	\$13
Nov	\$6	\$7	\$0	\$13
Dec	\$6	\$7	\$0	\$13
-----	-----	-----	-----	-----
Subtotal	\$18	\$21	\$0	\$39
Jan	\$6	\$7	\$0	\$13
Feb	\$6	\$7	\$0	\$13
Mar	\$6	\$7	\$0	\$13
-----	-----	-----	-----	-----
Subtotal	\$18	\$21	\$0	\$39
Apr	\$6	\$7	\$0	\$13
May	\$6	\$7	\$0	\$13
Jun	\$6	\$7	\$0	\$13
-----	-----	-----	-----	-----
Subtotal	\$18	\$21	\$0	\$39
=====	=====	=====	=====	=====
Total FY	\$54	\$63	\$0	\$117

ANNUAL BUDGET

July 1, 2024 through June 30, 2025
 Clean Energy Project (Prepaid PPA)
 (\$000s)

Revenues			Revenue Fund Disbursements			
Month	Monthly SCPPA Costs	Interest Earnings	Total Revenues	Operating Fund	Reserve Account	Total Revenue Fund Dis- bursements
Jul	\$0	\$0	\$0	\$0	\$0	\$0
Aug	\$0	\$0	\$0	\$0	\$0	\$0
Sep	\$0	\$0	\$0	\$0	\$0	\$0
Subtotal	\$0	\$0	\$0	\$0	\$0	\$0
Oct	\$13	\$0	\$13	\$13	\$0	\$13
Nov	\$13	\$0	\$13	\$13	\$0	\$13
Dec	\$13	\$0	\$13	\$13	\$0	\$13
Subtotal	\$39	\$0	\$39	\$39	\$0	\$39
Jan	\$13	\$0	\$13	\$13	\$0	\$13
Feb	\$13	\$0	\$13	\$13	\$0	\$13
Mar	\$13	\$0	\$13	\$13	\$0	\$13
Subtotal	\$39	\$0	\$39	\$39	\$0	\$39
Apr	\$13	\$0	\$13	\$13	\$0	\$13
May	\$13	\$0	\$13	\$13	\$0	\$13
Jun	\$13	\$0	\$13	\$13	\$0	\$13
Subtotal	\$39	\$0	\$39	\$39	\$0	\$39
Total FY	\$117	\$0	\$117	\$117	\$0	\$117

RESOLUTION NO. 2024-096

**RESOLUTION OF THE SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
APPROVING THE ANNUAL BUDGET FOR
CLEAN ENERGY PROJECT (PREPAID PPA)
FOR THE FISCAL YEAR
JULY 1, 2024 THROUGH JUNE 30, 2025**

BE IT RESOLVED by the Board of Directors of the Southern California Public Power Authority (the "Authority") that:

1. The budget for the Clean Energy Project (Prepaid PPA) for the Fiscal Year July 1, 2024 through June 30, 2025, submitted to this Board of Directors, is hereby approved. The Executive Director is hereby authorized and directed to place the budget so approved in final form, with such changes as shall be necessary or advisable, consistent with Board Resolution No. 2024-082, and the budget hereby approved, in such final form, shall constitute the Authority's Annual Budget for Fiscal Year July 1, 2024 through June 30, 2025.

2. This Resolution shall become effective immediately.

THE FOREGOING RESOLUTION is approved and adopted by the Authority, this 19th day of September, 2024.

TIKAN SINGH
PRESIDENT
Southern California Public
Power Authority

ATTEST:

DANIEL E GARCIA
ASSISTANT SECRETARY
Southern California Public
Power Authority

ANNUAL BUDGET

July 1, 2024 through June 30, 2025
 Eland Solar 2 + Storage Project
 (\$000)

Month	Test Energy Payments	PPA Payments	Project Manager	Working Capital	Direct Admin. & General	Indirect Admin. & General	Total Cost of Power	Estimated Energy (MWH) to be Scheduled
Jul	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0
Aug	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0
Sep	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0
Subtotal	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0
Oct	\$397	\$0	\$4	\$334	\$4	\$0	\$739	16,286
Nov	\$397	\$0	\$4	\$334	\$4	\$0	\$739	20,214
Dec	\$397	\$0	\$4	\$334	\$4	\$0	\$739	29,811
Subtotal	\$1,191	\$0	\$12	\$1,002	\$12	\$0	\$2,217	66,311
Jan	\$926	\$0	\$4	\$334	\$4	\$0	\$1,268	36,186
Feb	\$926	\$0	\$4	\$334	\$4	\$0	\$1,268	41,024
Mar	\$926	\$0	\$4	\$334	\$4	\$0	\$1,268	61,945
Subtotal	\$2,778	\$0	\$12	\$1,002	\$12	\$0	\$3,804	139,156
Apr	\$0	\$3,497	\$4	\$334	\$4	\$0	\$3,839	64,126
May	\$0	\$3,497	\$4	\$334	\$4	\$0	\$3,839	72,167
Jun	\$0	\$3,497	\$4	\$334	\$4	\$0	\$3,839	72,713
Subtotal	\$0	\$10,491	\$12	\$1,002	\$12	\$0	\$11,517	209,006
Total FY	\$3,969	\$10,491	\$36	\$3,006	\$48	\$0	\$17,538	414,473

ANNUAL BUDGET
 July 1, 2024 through June 30, 2025
 Eland Solar 2 + Storage Project
 (\$000)

Revenues			Revenue Fund Disbursements			
Month	Monthly Power Costs	Interest Earnings	Total Revenues	Operating Fund	Reserve Account	Total Revenue Fund Dis- bursements
Jul	\$0	\$0	\$0	\$0	\$0	\$0
Aug	\$0	\$0	\$0	\$0	\$0	\$0
Sep	\$0	\$0	\$0	\$0	\$0	\$0
Subtotal	\$0	\$0	\$0	\$0	\$0	\$0
Oct	\$739	\$0	\$739	\$739	\$0	\$739
Nov	\$739	\$0	\$739	\$739	\$0	\$739
Dec	\$739	\$0	\$739	\$739	\$0	\$739
Subtotal	\$2,217	\$0	\$2,217	\$2,217	\$0	\$2,217
Jan	\$1,268	\$0	\$1,268	\$1,268	\$0	\$1,268
Feb	\$1,268	\$0	\$1,268	\$1,268	\$0	\$1,268
Mar	\$1,268	\$0	\$1,268	\$1,268	\$0	\$1,268
Subtotal	\$3,804	\$0	\$3,804	\$3,804	\$0	\$3,804
Apr	\$3,839	\$0	\$3,839	\$3,839	\$0	\$3,839
May	\$3,839	\$0	\$3,839	\$3,839	\$0	\$3,839
Jun	\$3,839	\$0	\$3,839	\$3,839	\$0	\$3,839
Subtotal	\$11,517	\$0	\$11,517	\$11,517	\$0	\$11,517
0	\$17,538	\$0	\$17,538	\$17,538	\$0	\$17,538

RESOLUTION NO. 2024-097

**RESOLUTION OF THE SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
APPROVING THE ANNUAL BUDGET FOR
ELAND SOLAR & STORAGE CENTER, PHASE 2 PROJECT
FOR THE FISCAL YEAR
JULY 1, 2024 THROUGH JUNE 30, 2025**

BE IT RESOLVED by the Board of Directors of the Southern California Public Power Authority (the "Authority") that:

1. The budget for the Eland Solar & Storage Center, Phase 2 Project for the Fiscal Year July 1, 2024 through June 30, 2025, submitted to this Board of Directors, is hereby approved. The Executive Director is hereby authorized and directed to place the budget so approved in final form, with such changes as shall be necessary or advisable to comply with the Eland Solar & Storage Center, Phase 2 Project Power Sales Contract; and the budget hereby approved, in such final form, shall constitute the Authority's Annual Budget for Fiscal Year July 1, 2024 through June 30, 2025.

2. This Resolution shall become effective immediately.

THE FOREGOING RESOLUTION is approved and adopted by the Authority, this 19th day of September, 2024.

TIKAN SINGH
PRESIDENT
Southern California Public
Power Authority

ATTEST:

DANIEL E GARCIA
ASSISTANT SECRETARY
Southern California Public
Power Authority



AGENDA ITEM STAFF REPORT

MEETING DATE:

September 19, 2024

RESOLUTION NUMBER:

2024-098

SUBJECT:

Power Purchase Agreement with Grace Orchard Solar III, LLC for the Grace Orchard Solar III Project and Power Sales Agreements with the Cities of Anaheim, Colton, and Pasadena; Finding such Action Exempt from California Environmental Quality Act

DISCUSSION:

OR

CONSENT:

Select the appropriate box(es):

FROM:

- Finance
- Project Development
- Program Development
- Regulatory/Legislative
- Project Administration
- Legal
- Executive Director

METHOD OF SELECTION:

- Competitive
- Cooperative Purchase
- Sole Source
- Other

Other (Please describe):

MEMBER PARTICIPATION:

Sponsoring Member: Anaheim Public Utilities (APU), Colton Electric Utilities (CEU), and Pasadena Water and Power (PWP)

Other Members Potentially Participating:

Approved by Executive Director:

Signed by: 
DAE0F3A6ECDE496...

RECOMMENDATION:

Authorize the negotiation, execution, and delivery of a Power Purchase Agreement (PPA) between the Southern California Public Power Authority (SCPPA) and Grace Orchard Solar III, LLC (Grace Solar) and corresponding Power Sales Agreements (PSAs) between SCPPA and the City of Anaheim Public Utilities (APU), City of Colton Electric Utilities (CEU), and Pasadena Water and Power (PWP) for the Grace Orchard Solar III Project (Project). The PPA and PSAs will provide long-term solar

renewable energy through SCPPA to three Participating Members – APU, CEU, and PWP – and support these utilities in achieving their renewable resource goals.

BACKGROUND:

To comply with the Renewable Portfolio Standards (RPS) mandate of 60% renewable energy by 2030, SCPPA issued a Request for Proposal (RFP) seeking Renewable Energy Resources and Energy Storage Solutions to address the renewable electrical energy needs of its Members.

The Project, a 500 MW solar facility located in Riverside County, California, is being developed by NextEra Energy Resources (NEER). SCPPA will function as a partial off-taker for the energy produced by this facility.

DISCUSSION:

PPA

The PPA between SCPPA and NEER will provide a total of 170 MW of Solar energy capacity. The Point of Delivery is at the Colorado River Substation and will have an expected commercial operation date (COD) of December 1, 2027. The term for the PPA is twenty (20) years. The PPA has a base contract price of \$43.7 per MWh, but this price may increase by up to \$3.75 per MWh, resulting in a maximum price of \$47.46 per MWh. This price increase is intended to reflect the potential for increased PV panel prices attributable to new trade measures or restrictions. Any request by Grace Solar to increase the contract price due to such trade measures or restrictions will be verified by an independent evaluator's report.

The independent evaluator’s report must detail the expected PV panel cost increases and justify these adjustments. The Participating Members may contest the report only based on material and manifest mathematical errors. The independent evaluator’s report must be kept confidential, with efforts made to protect market-sensitive details, though the overall cost increase will be disclosed.

- **Base Contract Price:** \$43.71 per MWh
- **Maximum Contract Price:** Up to +\$3.75 per MWh, resulting in a maximum price of \$47.46 per MWh, if there are PV panel cost increases due to Trade Events, as verified by an Independent Evaluator's report.

Member	MW (AC) of PV
Anaheim	100
Colton	20
Pasadena	50
Total	170

PSAs

The PSAs will authorize SCPPA to sell all energy products generated from the Project over the term of the PPA to APU, CEU, and PWP. Each Participating Member will present their respective PSA to their City Council for approval. SCPPA requires approval from the Participating Members to execute the PSAs. Grace Solar requires further internal approval before it can commit to constructing the Project. Accordingly, SCPPA and Grace Solar each have an early termination right in the event that further necessary approvals are not obtained. If the Participating Members’ respective City Councils do not approve the PSAs, SCPPA is permitted to terminate the PPA. Should NEER fail to secure all necessary internal approvals by November 15, 2024, NEER may elect to terminate the PPA. If NEER elects to

terminate the PPA for failure to secure necessary internal approvals, NEER is obligated to pay the Participating Members a termination fee of \$10,000,000 within 10 business days.

- **Selection Method:**

The Project was selected from 23 proposals received in response to the rolling RFP for Renewable Energy Resources and Energy Storage Solutions issued on February 7, 2023.

The RFP solicited competitive proposals for renewable energy projects or products consistent with the California Renewable Energy Resources Program (Public Resources Code sec. 25740 et seq.) and the California Renewables Portfolio Standard Program (Public Utilities Code sec. 399.11 et seq.), including amendments enacted by passage of SB 100 (De Leon 2018). SCPPA is targeting proposals for renewable resources with commercial operation or delivery starting in 2023 and beyond.

Grace Solar was selected by the Participating Members as a viable solar project to be delivered to the Colorado River Substation, which will help further their RPS goals and needs.

- **Environmental Review:**

The proposed Board Action is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 21065 of the California Public Resources Code and Section 15061(b)(3) of the State CEQA Guidelines. The SCPPA Board's approval of PPA and PSAs, and approval of the actions taken in furtherance thereof, is exempt from CEQA as this action is not a "project" under the California Environmental Quality Act ("CEQA") as it would not result in a direct or reasonably foreseeable indirect change in the physical environment, and it does not have the potential to cause a significant effect on the environment. Additionally, under the terms of the PPA, Grace Solar is required to obtain all permits, including all necessary environmental review, for the construction and operation of the Project as a condition for commercial operation of the Project. Grace Solar's failure to complete such environmental review and achieve commercial operation by a certain date would trigger a default that would entitle SCPPA to terminate the PPA and seek damages.

- **SCPPA's Authority:**

In accordance with the Joint Powers Agreement, SCPPA may facilitate contracts for the transaction involving procurement of electric generation capacity for SCPPA Members. The PPA and PSAs are directly related to the procurement of electric generation for and on behalf of SCPPA Members.

FISCAL IMPACT:

There is a de minimis impact on SCPPA's Administrative and General Budget outside of staff time to administer the PPA.

ATTACHMENTS:

1. Resolution 2024-098
2. Grace Orchard Solar III Power Purchase Agreement
3. Grace Orchard Solar III Power Sales Agreement – Anaheim
4. Grace Orchard Solar III Power Sales Agreement – Colton
5. Grace Orchard Solar III Power Sales Agreement – Pasadena

RESOLUTION NO. 2024-098

**RESOLUTION RELATING TO THE GRACE ORCHARD SOLAR PROJECT:
AUTHORIZING THE NEGOTIATION, EXECUTION, AND DELIVERY OF A
POWER PURCHASE AGREEMENT BETWEEN SOUTHERN CALIFORNIA
PUBLIC POWER AUTHORITY AND GRACE ORCHARD SOLAR III, LLC
AND POWER SALES AGREEMENTS BETWEEN SOUTHERN CALIFORNIA
PUBLIC POWER AUTHORITY AND EACH OF THE CITIES OF ANAHEIM,
COLTON, AND PASADENA, AND SUCH OTHER DOCUMENTS,
INSTRUMENTS, AND AGREEMENTS AS MAY BE NECESSARY OR
APPROPRIATE TO ACHIEVE THE FULL UTILIZATION OF THE
RESOURCES OF THE PROJECT AND AS SHALL BEST CARRY FORWARD
THE INTERESTS AND OBJECTIVES OF THE AUTHORITY; AND FINDING
THAT SUCH ACTION IS EXEMPT FROM THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT**

WHEREAS, the Southern California Public Power Authority ("SCPPA" or "the Authority") has issued Requests for Proposals for potential renewable electric resources to address SCPPA member renewable energy needs as part of that process the Authority, and as part of that process, the Authority, together with the City of Anaheim, City of Colton, and City of Pasadena ("Project Participants") have expressed an interest in receiving energy generated from a resource denominated as the Grace Orchard Solar III Project and located in Riverside County, California (the "Project"); and

WHEREAS, SCPPA and the Project Participants have negotiated with Grace Orchard Solar III, LLC (the "Power Purchase Provider") and developed in substantial final form a power purchase agreement (the "Power Purchase Agreement") whereby the Power Purchase Provider will sell and SCPPA will purchase solar energy and associated environmental rights and benefits; and

WHEREAS, the Authority and the Project Participants desire to enter into power sales agreements (each, a "Power Sales Agreement"), whereby the Authority will provide to the Project Participants the full output of the Project, and the Project Participants will pay all costs, liabilities, and obligations of the Authority in connection with the Project; and

WHEREAS, under the terms of the Power Purchase Agreement, SCPPA may terminate the Power Purchase Agreement if SCPPA and Project Participants are unable to negotiate and approve the Power Sales Agreements; and

WHEREAS, SCPPA and the Project Participants desire to provide for, and authorize, the further development, negotiation, entering into, execution, and delivery of such other documents, instruments, agreements, and arrangements with respect to the resources of the Project so as to facilitate the generation, transmission, and delivery of energy associated with the Project and to provide for the negotiation and approval of those

terms and conditions with respect to such agreements and arrangements as shall best carry forward the interests of the Authority and the Project Participants and as shall best achieve the Authority's and the Project Participants' objectives; and

WHEREAS, the Authority's approval of the aforementioned agreements and actions taken in furtherance thereof is not a "project" under the California Environmental Quality Act ("CEQA") as it would not result in a direct or reasonably foreseeable indirect change in the physical environment and further, the action does not have the potential to cause a significant effect on the environment and is thus exempt from CEQA; and further, the Power Purchase Provider is required to obtain all permits, including all necessary environmental review, for the construction and operation of the Project.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Southern California Public Power Authority as follows:

1. This action is exempt from the requirements of CEQA pursuant to Section 21065 of the California Public Resources Code and Section 15061(b)(3) of the State CEQA Guidelines.
2. The Executive Director is hereby delegated all right, power, and authority to negotiate and finalize, and each of the President, Vice President, and Executive Director of the Authority is hereby authorized and directed upon the successful negotiation thereof, to execute and deliver the Power Purchase Agreement, in substantial form as presented to the Board of Directors, and each of such other agreements, documents, and instruments, the substance or form of which are referenced in or otherwise attached to the Power Purchase Agreement or which may be contemplated by the terms of the Power Purchase Agreement and to which the Authority is to be a party or is to sign, each with such changes, insertions, and omissions as shall be approved by said President, Vice President, or Executive Director (such approval to be conclusively evidenced by her or his execution and delivery thereof), and each of the Secretary and any Assistant Secretary is hereby authorized to attest to such signature.
3. The Executive Director is hereby delegated all right, power, and authority to negotiate and finalize, and each of the President, Vice President, and Executive Director of the Authority is hereby authorized and directed upon the successful negotiation thereof, to execute and deliver the Power Sales Agreements, in substantial form as presented to the Board of Directors, and each of such other agreements, documents, and instruments, the substance or form of which are referenced or which may be contemplated by the terms of the Power Sales Agreements and to which the Authority is to be a party or is to sign, each with such changes, insertions, and omissions as shall be approved by said President, Vice President, or Executive Director (such approval to be conclusively evidenced by her or his execution and delivery thereof), and each of the Secretary and any Assistant Secretary is hereby authorized to attest to such signature.
4. In addition to the foregoing, in order to facilitate the negotiation and consummation of the contemplated arrangements for the generation and delivery of energy from the Project and to carry forward other necessary or appropriate agreements associated with the acquisition of energy and solar generation resources of the Project and the delivery of the energy and environmental attributes of the Project to Southern California, and to achieve the full utilization of the resources of the Project, the Board of Directors hereby delegates to the Executive Director of the Authority all right, power, and authority to negotiate, approve, and execute agreements and arrangements with respect to the resources of the Project to facilitate the generation,

transmission, and delivery of energy associated with the Project and to negotiate and approve those terms and conditions with respect to such agreements and arrangements as shall best carry forward the interests of the Authority and the Project Participants and as shall best achieve the Authority's and the Project Participants' objectives, including the negotiation, development, and execution of any consent agreement or other agreement pursuant to a change in control, project-related financing, or as otherwise necessary or appropriate to carry forward the interests of the Authority and the Project Participants which does not require a material modification to or material change to the Power Purchase Agreement.

5. Each of the President, Vice President, Secretary, any Assistant Secretary, and the Executive Director is hereby authorized to execute and deliver any and all agreements, documents, and instruments and to do and cause to be done any and all acts and things deemed necessary or advisable for carrying out the transactions contemplated by this Resolution (including, but not limited to, making such changes to the agreements, documents, and instruments referred to in this Resolution if such changes are determined by the President, Vice President, or Executive Director to be necessary or advisable). Each reference in this Resolution to the President, Vice President, Secretary, Assistant Secretary, or Executive Director shall refer to the person holding such office or position, as applicable, at the time a given action is taken and shall not be limited to the person holding such office or position at the time of the adoption of this Resolution. All actions heretofore taken by the officers, employees, and agents of the Authority in furtherance of the transactions contemplated by this Resolution are hereby approved, ratified, and confirmed.

THE FOREGOING RESOLUTION is approved and adopted by the Authority this 19th day of September 2024 and is effective immediately.

TIKAN SINGH
PRESIDENT
Southern California Public
Power Authority

ATTEST:

DANIEL E GARCIA
ASSISTANT SECRETARY
Southern California Public
Power Authority

POWER PURCHASE AGREEMENT

BETWEEN

GRACE ORCHARD SOLAR III, LLC

AND

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

Dated as of [____], 2024

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POWER PURCHASE AGREEMENT

THIS POWER PURCHASE AGREEMENT (this “*Agreement*”), dated as of this ___ day of September, 2024 (the “*Effective Date*”), is entered into by and between the SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY (“*Buyer*”), a public entity and joint powers authority formed and organized pursuant to the California Joint Exercise of Powers Act (California Government Code Section 6500, et. seq.) (“*Act*”), and Grace Orchard Solar III, LLC, a limited liability company organized and existing under the laws of the State of Delaware (“*Seller*”). Each of Buyer and Seller is referred to individually in this Agreement as a “*Party*” and together as the “*Parties.*”

RECITALS

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

WHEREAS, in 2023, Buyer issued a request for proposals (“*RFP*”) to acquire renewable energy resources; and

WHEREAS, NextEra Energy Resources Development, LLC, a Delaware limited liability company and Seller’s Affiliate responded to Buyer’s RFP and, following negotiation, Seller has agreed to sell to Buyer, and Buyer has agreed to purchase from Seller, certain renewable energy and associated environmental attributes for the purchase price set forth in Appendix A hereto; and

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

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein, the mutual covenants and agreements herein set forth, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE I DEFINITIONS AND INTERPRETATION

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

“**AASMTC AD/CVD Case**” means the filing of, and any proceedings, rulemakings, orders, determinations, tariffs, or duties related to, any of the Petitions for the Imposition of Antidumping and Countervailing Duties, filed on or around April 24, 2024 by the American Alliance for Solar Manufacturing Trade Committee, concerning Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Cambodia, Malaysia, Thailand, and Vietnam, in any of the DOC dockets A-555-003, A-557-830, A-549-851, A-552-841, C-555-004, C-557-831, C-549-852, or C-552-842.

“**AC**” means alternating current.

“**Act**” has the meaning set forth in the preamble of this Agreement.

“**Actual Cost Increase**” has the meaning set forth in Section 2.5(b).

“**AD/CVD**” means antidumping and/or countervailing duty.

“**Adjusted Energy Production**” means the sum of Facility Energy, plus Deemed Delivered Energy, plus Lost Output.

“**Affiliate**” means, with respect to any Person, each Person that directly or indirectly controls, is controlled by, or is under common control with such designated Person. For purposes of this definition and the definition of “Permitted Transfer” and “Permitted Transferee”, “control” (including, with correlative meanings, the terms “controlled by”, and “under common control with”), as used with respect to any Person, shall mean (a) the direct or indirect right to cast at least fifty percent (50%) of the votes exercisable at an annual general meeting (or its equivalent) of such Person or, if there are no such rights, ownership of at least fifty percent (50%) of the equity or other ownership interest in such Person, or (b) the right to direct the policies or operations of such Person. With respect to Seller, as contained in the illustrative organizational chart in Appendix R identifying NextEra Energy Partners, LP (“**NEP**”) and NextEra Energy Operating Partners, LP’s (“**NEOP**”) with respect to their relationship to Seller as under common control of Ultimate Parent at the Effective Date, Affiliate shall include NEP and NEOP, and their respective direct or indirect subsidiaries. Seller’s organizational chart is subject to change.

“**After-Tax Basis**” means, with respect to any payment received, or deemed to have been received, by any Person, the amount of such payment (the “Base Payment”), supplemented by a further payment (the “Additional Payment”) to such Person so that the sum of the Base Payment plus the Additional Payment will be equal to the Base Payment, after deduction of the amount of all taxes required to be paid by such Person in respect of the receipt or accrual of the Base Payment and the Additional Payment (taking into account any current or previous credits or deductions arising from the underlying event giving rise to the payment, the Base Payment and the Additional Payment). Such calculations shall be made on the assumption that the recipient is subject to Federal income taxation at the statutory rate applicable to corporations under subchapter C of the Internal Revenue Code of 1986, as amended, and subject to the highest state and local income tax rate then in effect for corporations in the states in which the Person is subject to taxation during the applicable fiscal year, and shall take into account the deductibility, if applicable (for Federal income tax purposes), of state and local income taxes.

“**Agreement**” has the meaning set forth in the preamble of this Agreement, and includes the Appendices attached hereto, and any designated collateral, credit support or similar arrangement between the Parties.

“**Agreement Term**” has the meaning set forth in Section 2.2(a).

“**Amendment Notice**” shall have the meaning set forth in Section 2.5(b).

“**Ancillary Services**” has the meaning set forth in the CAISO Tariff.

“**Annual Contract Quantity**” means, for each Contract Year, the number of MWh set forth on Appendix C.

“**Approved Forecast Vendor**” means a forecast vendor selected by Seller reasonably acceptable to Buyer during the Agreement Term, which (subject to Buyer’s approval) may include Seller or a Seller Affiliate; provided if the Parties cannot agree at least sixty (60) days prior the anticipated Commercial Operation Date, such forecast vendor shall be the CAISO.

“**Approved Vendor**” means: (a) for the solar photovoltaic panels with single axis tracking components, one or more credit worthy, reputable, high quality, and stable panel providers typically as included in the Bloomberg NEF’s manufacturer ranking (or if BloombergNEF no longer publishes such ranking, a successor ranking, or other comparable ranking then in use); and (b) for inverters and transformer(s), one or more credit worthy suppliers that have experience in successfully working through the due diligence process for similar projects, that typically involves a quality review with an independent engineer, as it relates to project level-tax equity or project debt financing with large national or international banks.

“**Assigned Product**” has the meaning set forth in Section 14.7(e).

“**Authorized Auditors**” means representatives of Buyer or Buyer’s Authorized Representative who are authorized to conduct audits on behalf of Buyer, subject to Seller’s consent, not to be unreasonably withheld, conditioned or delayed.

“**Authorized Officer**” means the Chairman, President, any Vice President, Treasurer, Assistant Treasurer, or Secretary or Assistant Secretary of the Seller.

“**Authorized Representative**” means, with respect to each Party, the Person designated as such Party’s authorized representative pursuant to Section 14.1.

“**Availability Standards**” means the program set forth in the CAISO Tariff, as it may be amended, supplemented or replaced (in whole or in part) from time to time, setting forth certain standards regarding the desired level of availability for Resource Adequacy (as defined in the CAISO Tariff) resources and possible charges and incentive payments for performance thereunder.

“**Available Generating Capacity**” means the capacity of the Facility, expressed in whole MWs, that is mechanically available to generate Energy.

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

“**Bankruptcy Code**” means Title 11 of the United States Code entitled “Bankruptcy”, as now and hereafter in effect.

“**BLM**” means the Bureau of Land Management.

“**Brown Act**” has the meaning set forth in Section 14.19(c).

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

“**Buyer**” has the meaning set forth in the preamble of this Agreement.

“**Buyer Bid Curtailment**” means the occurrence of both of the following:

(a) the CAISO provides notice to a Party or the Scheduling Coordinator for the Facility, requiring the Party to deliver less Facility Energy than the full amount of Energy forecasted in accordance with Section 7.3 to be produced from the Facility for a period of time; and

(b) for the same time period as referenced in (a), the notice referenced in (a) results from Buyer or the SC for the Facility, as the result of a Buyer instruction or lack of instruction to the SC:

(i) not having submitted a Self-Schedule or Energy Supply Bid for the MW subject to the reduction;

(ii) having submitted an Energy Supply Bid and the MW subject to the reduction were not awarded solely based on the price associated with such Energy Supply Bid; or

(iii) having submitted a Self-Schedule for less than the full amount of Facility Energy forecasted to be generated by or delivered from the Facility.

If the Facility is subject to a Scheduled Outage, Forced Outage, Force Majeure event and/or a Curtailment Period during the same time period as referenced in (a), then the calculation of Deemed Delivered Energy during such period shall not include any Facility Energy that was not generated due to such Scheduled Outage, Forced Outage, Force Majeure event, or Curtailment Period.

“**Buyer Curtailment Order**” means an instruction from Buyer or the Scheduling Coordinator to Seller to reduce Energy from the Facility by the amount, and for the period of time set forth in such instruction, for reasons unrelated to a Scheduled Outage, Forced Outage, Force Majeure event and/or Curtailment Order.

“**CAISO**” means the California Independent System Operator Corporation.

“**CAISO Controlled Grid**” means the system of transmission lines and associated facilities and entitlements of the participating transmission owners within the CAISO Balancing Authority Area (as defined in the CAISO Tariff) that have been placed under the CAISO’s operational control.

“**CAISO Costs**” means the costs, expenses, fees, charges, credits, penalties, sanctions, and other amounts assigned by the CAISO associated with Scheduling the Facility Energy into the CAISO grid which includes those related to Imbalance Energy, if any.

“CAISO Resource ID” means the number or name assigned by the CAISO to the CAISO-approved revenue-quality Electric Metering Device.

“CAISO Revenues” means the revenues, benefits, credits and other profits directly assigned by the CAISO associated with Scheduling the Facility Energy into the CAISO grid including those related to Imbalance Energy.

“CAISO Tariff” means the California Independent System Operator Corporation Agreement and Tariff, Business Practice Manuals (BPMs), and operating procedures, including the rules, protocols, procedures and standards attached thereto, as the same may be amended or modified from time-to-time and approved by FERC.

“Capacity Attributes” means any current or future defined characteristic, certificate, tag, credit, or accounting construct associated with the generating capability of the Facility or the amount of power that the Facility can deliver to the Delivery Point at a particular moment and that can be purchased, sold or conveyed under CAISO market rules, or any other balancing authority, reliability entity, or Governmental Authority, including Resource Adequacy Attributes, if any.

“Capacity Rights” means the rights to the Facility’s Capacity Attributes.

“CEC” means California’s State Energy Resources Conservation and Development Commission, also known as the California Energy Commission.

“CEC Certified” or **“CEC Certification”** means that the CEC has certified (or, with respect to periods before the date that is one hundred eighty (180) days following the Commercial Operation Date, that the CEC has pre-certified) that the Facility is an eligible renewable energy resource in accordance with RPS Law.

“CEQA” means the California Environmental Quality Act, California Public Resources Code §§ 21000, et seq. and Chapter 3 of Division 6 of Title 14 of the California Code of Regulations.

“CEQA Documents” means a categorical exemption, negative declaration, mitigated negative declaration, or final environmental impact report (or an addendum, supplement or subsequent to the same), relied upon by the Lead Agency in connection with CEQA review for the Facility.

“CEQA/NEPA Determinations” means that:

(a) The Lead Agency conducting the review of the Facility as required under CEQA shall have (i) reviewed and approved the CEQA Documents, (ii) issued any necessary final land use entitlement or other discretionary permit for the Facility, and (iii) filed a Notice of Determination in compliance with CEQA; and

(b) The Lead Agency conducting the review of the Facility as required under NEPA shall have issued a final record of decision or decision record under NEPA.

“Change in Law” means a change to any federal, state, provincial, local or other law (including any environmental law or RPS Law), resolution, standard, code, rule, ordinance, directive, regulation, order, judgment, decree, ruling, determination, permit, certificate, authorization, or approval of a Governmental Authority or WREGIS, including the adoption of any new law, resolution, standard, code, rule, ordinance, directive, regulation, order, judgment, decree, ruling, determination, permit, certificate, authorization, or approval, or approval or the issuance of any replacement or substitute law, resolution, standard, code, rule, ordinance, directive, regulation, order, judgment, decree, ruling, determination, permit, certificate, authorization, or approval, including for avoidance of doubt any order, decision, resolution, rule, regulation, guidance document, or other determination of the CEC, or any change in the CAISO Tariff, which adoption or implementation occurs after the Effective Date and is binding on a Party, the Parties, or the Facility or any of the products sold therefrom.

“Change of Control” means, except in connection with public market transactions of equity interests or capital stock of Seller’s Ultimate Parent, any circumstance in which Ultimate Parent ceases to own, directly or indirectly through one or more intermediate entities, more than fifty percent (50%) of the outstanding equity interests in Seller or ceases to have the right to direct the policies or operations of Seller; *provided* that in calculating ownership percentages for all purposes of the foregoing:

(a) any ownership interest in Seller held by Ultimate Parent indirectly through one or more intermediate entities shall not be counted towards Ultimate Parent’s ownership interest in Seller unless Ultimate Parent directly or indirectly owns more than fifty percent (50%) of the outstanding equity interests in each such intermediate entity; and

(b) ownership interests in Seller owned directly or indirectly by any Facility Lender (including any Tax Equity Investor) as part of a tax monetization financing shall be excluded from the total outstanding equity interests in Seller;

provided further, a Change of Control shall not be deemed to have occurred as a result of a Permitted Transfer.

“Commercial Operation” means all of the following have occurred:

(a) The Facility is operational, interconnected, and synchronized with the transmission system;

(b) Seller has installed equipment for the Facility with a nameplate capacity of no less than ninety-five percent (95%) of the Original Contract Capacity;

(c) The Facility’s testing included a performance test demonstrating peak electrical output of no less than ninety-five percent (95%) of the Original Contract Capacity for the Facility at the Delivery Point, as adjusted for ambient conditions on the date of the Facility testing;

(d) The Transmission Provider has provided documentation supporting release for Commercial Operation;

(e) The CAISO has provided notification supporting Commercial Operation, in accordance with the CAISO Tariff;

(f) Seller has delivered to Buyer a certification from an Independent Engineer regarding installation, commissioning and testing of the Facility, substantially in the form in all material respects attached as Appendix L, along with the Installed Capacity certificate substantially in the form in all material respects attached as Appendix G;

(g) Seller has received CEC pre-certification of the Facility and reasonably expects to receive final CEC Certification and verification for the Facility in no more than one hundred eighty (180) days from the COD;

(h) Seller (with the reasonable participation of Buyer) shall have completed all applicable WREGIS registration requirements that are reasonably capable of being completed prior to COD under WREGIS rules;

(i) Seller has delivered the Operation Security to Buyer and paid Buyer for any amounts then owing under the PPA; and

(j) All applicable regulatory authorizations, approvals (including CEQA/NEPA Determinations) and Permits (including any requisite Bureau of Land Management Right of Way Grant) required to commence operation of the Facility shall have been obtained, and such CEQA/NEPA Determinations are Materially Final and Non-Appealable.

“**Commercial Operation Date**” or “**COD**” means the date on which Commercial Operation of the Facility occurs, as determined pursuant to Section 3.2.

“**Commercial Operation Date Deadline**” means November 28, 2028.

“**Compensable Curtailment**” means any curtailment due to a Buyer Bid Curtailment, a Buyer Curtailment Order, or a Buyer Default hereunder which directly causes Seller to be unable to deliver Facility Energy to the Delivery Point.

“**Compensable Curtailment Period**” means the period of time, as measured using current Settlement Intervals, during which Seller reduces Energy from the Facility pursuant to or as a result of a Compensable Curtailment; *provided*, the duration of any Compensable Curtailment Period shall be inclusive of the time required for the Facility to ramp down and ramp up.

“**Complex**” means the means the entire up to 500 MW maximum interconnection capacity solar photovoltaic projects and storage projects located in Riverside, CA being developed by Seller and/or its Affiliates, of which the Facility comprises a portion, together with all other Phases.

“**Compliance Action Plan**” has the meaning set forth in Section 7.7(c).

“**Compliance Action Plan Estimate**” has the meaning set forth in Section 7.7(c).

“**Compliance Actions**” has the meaning set forth in Section 7.7(b).

“**Confidential Information**” has the meaning set forth in Section 14.19(a).

“**Construction Start**” will occur upon the occurrence of all of the following: Seller’s (i) acquisition of applicable regulatory authorizations, approvals, and permits for the construction of the Facility; (ii) execution of an engineering, procurement, and construction contract (or similar agreement); and (iii) the issuance thereunder of a notice to proceed that authorizes the contractor to mobilize to Site and begin physical construction at the Site.

“**Construction Start Certification**” means certification in the form of Appendix K, provided by Seller to Buyer evidencing the date of Construction Start.

“**Construction Start Date**” The date set forth in the Construction Start Certification as the date of Construction Start.

“**Contract Capacity**” means the 170 MWac capacity of the Facility, as may be adjusted downwards in accordance with Section 3.5.

“**Contract Price**” means the Contract Price set forth in Appendix A.

“**Contract Year**” means a period of twelve (12) consecutive months. The first Contract Year shall commence on the Commercial Operation Date and each subsequent Contract Year shall commence on the anniversary of the Commercial Operation Date.

“**Costs**” has the meaning set forth in Section 13.3(a)(iii).

“**COVID-19**” means the epidemic disease designated COVID-19 and the related virus designated SARS-CoV-2, and any mutations thereof.

“**CPRA**” has the meaning set forth in Section 14.19(c).

“**Curtailed Order**” means any of the following:

(a) CAISO orders, directs, alerts, or provides notice to a Party or the SC, including a CAISO Operating Order, to curtail deliveries of Facility Energy for the following reasons: (i) any System Emergency, or (ii) any warning of an anticipated System Emergency, or warning of an imminent condition or situation, which jeopardizes CAISO’s electric system integrity or the integrity of other systems to which CAISO is connected; or (iii) in response to an energy oversupply or potential energy oversupply;

(b) a curtailment ordered by the Participating Transmission Owner, WECC, NERC, CAISO or any other applicable reliability agency for reasons including, but not limited to, (i) any situation that affects normal function of the electric system including, but not limited to, Transmission System outage, any abnormal condition that requires action to prevent circumstances such as equipment damage, loss of load, or abnormal voltage conditions, or (ii) any warning, forecast or anticipation of conditions or situations that jeopardize the Participating Transmission Owner’s electric system integrity or the integrity of other systems to which the Participating Transmission Owner is connected; or (iii) system improvements, scheduled maintenance, unscheduled repairs, Force Majeure, or maintenance at or beyond the Point of Delivery; or

(c) a curtailment in accordance with Seller's obligations under its Interconnection Agreement with the Participating Transmission Owner or distribution operator.

"Curtailment Period" means the period of time, as measured using current Settlement Intervals, during which generation from the Facility is reduced pursuant to a Curtailment Order or Curtailment Error; *provided*, the Curtailment Period shall be inclusive of the time required for the Facility to ramp down and ramp up; *provided further that* the Curtailment Period shall include any period of time during which the generation of Facility Energy is curtailed (i) and Seller fails to allocate curtailment in accordance with Sections 4.4, 7.2, 7.3, and 7.4 of this Agreement or (ii) by CAISO, WECC, NERC or any other reliability entity due to Seller's failure to (A) secure and maintain interconnection or communication to the CAISO or Transmission Services to the Point of Delivery, (B) operate or maintain the Facility in accordance with this Agreement, or (C) comply with the terms and conditions of this Agreement (such (i) or (ii) a **"Curtailment Error"**).

"Daily Delay Damages" means the liquidated damages specified in Section 3.3(c) and Section 3.3(e).

"Damage Payment" means the liquidated damages specified in Section 13.2(b).

"Day-Ahead Market" has the meaning set forth in the CAISO Tariff.

"Dedicated Interconnection Capacity" means the maximum instantaneous amount of energy that is permitted to be delivered to the Delivery Point with respect to the Facility under the Interconnection Agreement, in total amount of 170 MW_{AC}.

"Deemed Delivered Energy" means the amount of Energy expressed in MWh that the Facility would have produced and delivered to the Delivery Point, but that is not produced by the Facility due to a Compensable Curtailment during a Compensable Curtailment Period, which amount shall, for any time period, be equal to the difference between (a) the total amount of Energy that the Facility would have produced and delivered during such Compensable Curtailment Period as provided in the forecast from the Approved Forecast Vendor in the applicable period, unless such forecast is unavailable, in which case the amount of MWh shall be based on a mutually agreed calculation reflecting relevant facility availability, weather, and other pertinent data in order to approximate the amount of Energy that the Facility would have produced and delivered, *minus* (b) the amount of energy that the Facility produced and delivered to the Delivery Point during the Compensable Curtailment Period; *provided that*, if the applicable difference between the foregoing clauses (a) and (b) is negative, the Deemed Delivered Energy shall be zero (0)

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

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

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

"Development Cure Period" means a day-for-day extension of the Key Milestones for each day of delay arising out of any of the following circumstances that are beyond the reasonable control of Seller and not the result of Seller's failure to take commercially reasonable actions to meet its requirements and deadlines to the extent Seller is actually delayed in achieving such Key

Milestones due to: (i) Force Majeure; (ii) Qualifying Interconnection Delay; (iii) Qualifying BLM Delay; (iv) Qualifying Transformer Delay; (v) Qualified Transformer Failure; and/or (vi) Trade Event Delay; *provided*, that the total permitted day-for-day extensions cannot exceed two-hundred seventy (270) days in aggregate; *provided further*, that the Development Cure Period cannot extend past the Commercial Operation Date Deadline; and provided further the permitted extensions under the Development Cure Period extend each of the Key Milestones simultaneously on a day-for-day basis.

“**Development Security**” has the meaning set forth in Section 5.5(a).

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

“**Dispute Notice**” has the meaning set forth in Section 14.3(a).

“**DOC**” means the U.S. Department of Commerce.

“**Early Termination Date**” has the meaning set forth in Section 13.2(a).

“**Effective Date**” means the first date that both Seller and Buyer have executed this Agreement.

“**Electric Metering Devices**” means all meters, metering equipment, metering schemes, and data processing equipment conforming to the requirements set forth in Section 11.6 and used to measure, record, or transmit data relating to the Facility Energy.

“**Electrical Losses**” means all transmission or transformation losses between the Facility and the Point of Delivery, including losses associated with delivery of Energy to the Point of Delivery, calculated in accordance with CAISO approved methodologies applicable to revenue metering.

“**Eligible Intermittent Resources Protocol**” or “**EIRP**” means the Eligible Intermittent Resource Protocol, as may be amended from time to time, as set forth in the CAISO Tariff.

“**Energy**” means electrical energy.

“**Energy-Only Deliverability Status**” has the meaning in the CAISO Tariff.

“**Energy Supply Bid**” has the meaning set forth in the CAISO Tariff.

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

“**Environmental Attributes**” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled (including under the RPS regulations and/or under any and all other international, federal, regional, state or other law, rule, regulation, bylaw, treaty or other intergovernmental compact, decision, administrative decision, program, business method, or

competitive market (including all credits, certificates, benefits, and emission measurements, reductions, offsets and allowances related thereto)), attributable to the generation from the Facility and its displacement of conventional energy generation, now or during the Agreement Term. Environmental Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; (3) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Tags are accumulated on a MWh basis and one Green Tag represents the Environmental Attributes associated with one (1) MWh of Energy. Environmental Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Facility, (ii) Renewable Energy Incentives including Tax Benefits including without limitation production tax credits or investment tax credits associated with the development, construction, operation or ownership of the Facility and other financial incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation, (iii) fuel-related subsidies or "tipping fees" that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits, which emission reduction credits are not generated by the Facility, that are encumbered or used by the Facility for compliance with local, state, or federal operating and/or air quality permits.

"Environmental Attributes Value" means the value of the Renewable Energy Credits of the same Portfolio Content Category (i.e., PCC1) as the Environmental Attributes portion of the Product and of the same timeframe for retirement as the Renewable Energy Credits that would have been generated by the Facility during the applicable Contract Year, determined based on the average of quotes for any volume available from at least three (3) brokers obtained by Buyer which brokers must be reasonably acceptable to Seller; *provided* that such broker quotes shall relate to Environmental Attributes with RECs that are PCC1 and are derived from comparable vintage as the Environmental Attributes that are being replaced, and are from a generator that qualifies as an "eligible renewable energy resource" within the meaning of the RPS Law at the time of such pricing or broker quotes, as applicable. If three broker quotes are not available to Buyer after sixty (60) days of commercially reasonable efforts to obtain such quotes, then the value will be equal to the average of any available broker quotes Buyer received. If Buyer has not obtained any such broker quotes Seller shall have a commercially reasonable amount of time to obtain such a quote(s) from a broker(s) which must be reasonably acceptable to Buyer. If no broker quotes are available after sixty (60) days of commercially reasonable efforts by Seller, Buyer may elect to continue to seek broker quotes or apply the WREGIS Withhold Amount in lieu of the broker quote methodology.

"Estoppel Certificate" has the meaning set forth in Section 14.7 and substantially in the form attached as Appendix O.

“Excess Energy” means, in any Contract Year, the amount of Facility Energy and Deemed Delivered Energy that is in excess of one hundred fifteen percent (115%) of the Annual Contract Quantity for such Contract Year.

“Excess Compliance Costs” has the meaning set forth in Section 7.7(c)(ii).

“Excess Settlement Interval MWh” has the meaning set forth in Appendix A, Section 6.

“Expected Commercial Operation Date” means the date set forth in Appendix I.

“Expected Cost Increase” has the meaning set forth in Section 2.5(b).

“Facility” means a separately metered one hundred seventy (170) MW photovoltaic solar facility located on the Site in Riverside County, California, and further described in Appendix B, and including mechanical equipment and associated facilities and equipment (but excluding any Shared Facilities) required to deliver Energy to the Delivery Point.

“Facility Cost” means, measured as of any date, the aggregate amount of all costs and expenses incurred by Seller during the Agreement Term for the development, design, engineering, equipping, procuring, constructing, installing, starting up, and testing of the Facility, including (a) the cost of all labor, services, materials, suppliers, equipment, tools, transportation, supervision, storage, training, demolition, site preparation, civil works, and remediation in connection therewith, (b) the cost of acquiring title to, the leasehold interest, and/or any other property, easement or other interest in the Site, (c) the interest costs during construction, (d) real and personal property taxes, ad valorem taxes, sale, use, and excise taxes, and insurance (including title insurance) premiums payable with respect to the Facility, (e) initial working capital requirements of the Facility, (f) the cost of acquiring necessary permits for the Facility, (g) the cost of establishing a spare parts inventory for the Facility, and (h) financial, legal, and consulting fees, costs, and expenses.

“Facility Debt” means any senior or subordinated construction, interim or long-term debt financing (not including any back leverage debt) or refinancing for or in connection with the development, construction, purchase, ownership, installation or operation of the Facility, including (a) any financing or refinancing provided to Seller or any upstream equity owner with respect to the Facility (including as part of a portfolio with other energy generation or storage projects, with the amount of such debt attributable to the Facility equal to the pro rata amount of the MW capacity of the Facility as compared to the total MW capacity of any other projects included in such financing/the entire portfolio) and (b) any interest rate protection agreements hedging any of the foregoing debt obligations. For avoidance of doubt, the term Facility Debt does not include tax equity financing.

“Facility Energy” means Energy generated by the Facility associated with the Contract Capacity delivered to the Delivery Point, as measured by the Electric Metering Devices installed at the Point of Delivery (which excludes Electrical Losses and Station Use).

“Facility Lender” means, collectively, any Person (a) providing senior or subordinated construction, interim, back leverage, mezzanine, or long-term debt, equity, or tax equity financing

(such Person providing tax equity financing, a “Tax Equity Investor”) or refinancing for or in connection with the development, construction, purchase, installation, or operation of the Facility, whether that financing or refinancing takes the form of private debt (including back-leverage debt), equity (including cash or tax equity), public debt, or any other form (including financing or refinancing provided to a member or other direct or indirect owner of Seller), including any equity or Tax Equity Investor directly or indirectly providing financing or refinancing for the Facility or purchasing equity ownership interests of Seller and/or its Affiliates, and any trustee or agent or similar representative acting on their behalf, (b) providing interest rate or commodity protection under an agreement hedging or otherwise mitigating the cost of any of the foregoing obligations, or (c) participating in a lease financing (including a sale leaseback or leveraged leasing structure) with respect to the Facility.

“**Facility Lender Consent**” has the meaning set forth in Section 14.7(d).

“**FERC**” means the Federal Energy Regulatory Commission.

“**Fitch**” means Fitch Ratings Ltd., or its successor.

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

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

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

“**Full Capacity Deliverability Status**” has the meaning in the CAISO Tariff.

“**Future Environmental Attributes**” means any and all Environmental Attributes that become recognized under any Requirement of Law after the Effective Date (and not before the Effective Date) that do not relate to RPS Compliance or a Successor Program. Future Environmental Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Facility, (ii) Renewable Energy Incentives including Tax Benefits including without limitation production tax credits or investment tax credits associated with the development, construction, operation or ownership of the Facility, or other financial incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation, (iii) fuel-related subsidies or “tipping fees” that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits, which emission reduction credits are not generated by the Facility, that are encumbered or used by the Facility for compliance with local, state, or federal operating and/or air quality permits.

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

“**Generator Interconnection Agreement**” means the agreement (or any successor agreement and associated documentation approved by FERC) by and among Seller or Seller’s Affiliate, Southern California Edison Company, and the CAISO governing the terms and

conditions of the Facility's interconnection with the CAISO grid, including any description of the plan for interconnecting to the CAISO grid and pursuant to which Seller's Interconnection Facilities and any other Interconnection Facilities will be constructed, operated and maintained during the Agreement Term.

"GEP Shortfall" has the meaning set forth in Section 9.1.

"GEP Shortfall Energy" means an amount of Energy equal to the positive difference, if any, obtained by subtracting (a) the Adjusted Energy Production from (b) the Guaranteed Generation for such applicable Performance Measurement Period. For avoidance of doubt, if such calculation results in a negative number, the GEP Shortfall Energy amount shall be zero (0).

"GEP Shortfall Makeup Period" means the Contract Year following the Performance Measurement Period during which a GEP Shortfall occurs.

"GEP Shortfall Damages" has the meaning set forth in Section 9.2.

"Governmental Authority" means any federal, state, provincial, local, or municipal, any political subdivision thereof, or any other governmental, congressional or parliamentary, regulatory, or judicial instrumentality, authority, body, agency, department, bureau, or any entity with authority to bind a Party at law, including the CAISO and CEC. The term "Governmental Authority" shall not include any Party or Buyer's Participating Members.

"Green Tag Reporting Rights" means the right of a purchaser of renewable energy to report ownership of accumulated "green tags" in compliance with and to the extent permitted by applicable Law and include, without limitation, rights under Section 1605(b) of the Energy Policy Act of 1992, and any present or future federal, state or local certification program or emissions trading program, including pursuant to the WREGIS Operating Rules.

"Guaranteed Construction Start Date" means July 1, 2026, which may be subject to a day-for-day extension under a Development Cure Period.

"Guaranteed Commercial Operation Date" means June 1, 2028, which may be subject to a day-for-day extension under a Development Cure Period up to the Commercial Operation Date Deadline (at the latest).

"Guaranteed Generation" means, an amount equal to eighty percent (80%) of the Annual Contract Quantity for a given Contract Year, as detailed in Appendix C.

"Imbalance Energy" means the amount of energy in MWh, in any given Settlement Period or Settlement Interval, by which the amount of Facility Energy deviates from the amount of Scheduled Energy.

"Indemnified Group" has the meaning set forth in Section 14.17(a).

"Indemnified Losses" has the meaning set forth in Section 14.17(a).

"Indemnified Party" has the meaning set forth in Section 14.17(a).

“**Indemnifying Party**” has the meaning set forth in Section 14.17(a).

“**Independent Engineer**” means (a) Black & Veatch, DNV, Burns & McDonnell, or Sargent & Lundy, or (b) if none of the firms identified in clause (a) are selected by Seller, then a Person selected by Seller reasonably acceptable to the Buyer, provided that for each of (a) and (b) such Person satisfies each of the following: (i) such Person is not an Affiliate of the Parties; (ii) any monthly revenues for such Person in a given month from a Party shall not exceed seventy-five percent (75%) of such Person’s total monthly revenues; and (iii) such Person is a qualified engineer licensed in the State of California; provided further that Seller shall retain and pay for the Independent Engineer.

“**Independent Evaluator**” means: (a) Burns & McDonnell or Sargent & Lundy, provided that such Person satisfies each of the following, (i) such Person is not an Affiliate of the Parties, and (ii) any monthly revenues for such Person in a given month from a Party shall not exceed seventy-five percent (75%) of such Person’s total monthly revenues; or (b) if none of the firms identified in clause (a) are selected by Seller, then a Person selected by Seller reasonably acceptable to the Buyer, provided that such Person satisfies each of the following: (i) such Person is not an Affiliate of the Parties; (ii) any monthly revenues for such Person in a given month from a Party shall not exceed seventy-five percent (75%) of such Person’s total monthly revenues; and (iii) such Person is qualified to provide an Independent Report; provided further that Seller shall retain and pay for the Independent Evaluator.

“**Independent Reports**” has the meaning set forth in Section 2.5(b).

“**Initial Independent Report**” has the meaning set forth in Section 2.5(b).

“**Initial Notice**” has the meaning set forth in Section 2.5(b).

“**Initial Synchronization**” means the initial delivery of Facility Energy to the Delivery Point in connection with Trial Operation (as defined in the CAISO Tariff).

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

“**Installed Capacity**” means the actual generating capacity of the Facility, as measured in MW_{AC} at the Delivery Point, that achieves Commercial Operation, as demonstrated by a performance test, adjusted for ambient conditions on the date of the performance test, and evidenced by a certificate substantially in the form attached as Appendix G hereto; *provided*, the Installed Capacity may not exceed the Original Contract Capacity (which, for avoidance of doubt, is 170 MW).

“**Interconnection Facilities**” means the interconnection facilities, control and protective devices and metering facilities required to connect the Facility with the Transmission System in accordance with the Interconnection Agreement.

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

“**Interim Deliverability Status**” has the meaning set forth in the Tariff.

“**ITCs**” means the investment tax credit established pursuant to Section 48, 48E or other applicable provisions of the United States Internal Revenue Code of 1986, as in effect from time-to-time throughout the Agreement Term or any successor provision.

“**Investment Grade Credit Rating**” has the meaning set forth in the definition of “Qualified Buyer Assignee”.

“**Key Milestone**” means a Milestone for which liquidated damages are provided in Appendix I.

“**Lead Agency**” means the public agency with the principal responsibility for approving the Facility or relevant portion thereof as defined pursuant to CEQA, 14 C.C.R. § 15367, and NEPA, 40 C.F.R. § 1508.1.

“**Letter(s) of Credit**” means one or more irrevocable, standby letters of credit, issued by a Qualified Issuer, in a form substantially similar to the letter of credit set forth in Exhibit E.

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

“**Locational Marginal Price**” or “**LMP**” has the meaning set forth in Appendix C of the CAISO Tariff.

“**Losses**” has the meaning set forth in Section 13.3(a)(ii).

“**Lost Output**” means Energy in the amount the Facility could reasonably have delivered to Buyer during a Contract Year or Performance Measurement Period, each as applicable, but was prevented from delivering to Buyer by reason of any Force Majeure events, System Emergency, a Qualifying Transformer Failure, and Curtailment Periods (except due to Curtailment Error). Lost Output shall be measured in the same manner as Deemed Delivered Energy.

“**Major Maintenance Blockout**” has the meaning set forth in Section 4.5(a).

“**Market Price Index**” means the weighted average of the Integrated Forward Market (as defined in the CAISO Tariff) hourly price for all the reference hours in the GEP Shortfall period as published by the CAISO, for the weighted by hourly and monthly volumes at the PNode; and, provided, further, that if a market price index for solar energy that would more accurately track the price of the Facility Energy is created, the Parties may mutually agree to adapt such index price as the “Market Price Index” at such time.

“**Materially Final and Non-Appealable**” means (a) any applicable review under CEQA and NEPA has been completed by the respective Lead Agency and all necessary CEQA approval(s) (the “**CEQA Approval(s)**”) and all necessary NEPA approvals (the “**NEPA Approvals**”) for the Facility have been issued by the respective Lead Agency; and (b) (i) the applicable period for any judicial challenges under CEQA relating to the Facility has expired

without any such challenge having been filed in a California Superior Court (“*CA Subject Court*”) with jurisdiction over such CEQA Approval(s), or (ii) in the event of any such challenge, the challenge has been dismissed by the CA Subject Court or, if filed pursuant to NEPA such challenge has been dismissed by a United States District Court (“*US Subject Court*”), as applicable, or settlement agreement, or (iii) in the event of any such CEQA challenge, there is not pending any motion for preliminary injunction (or similar action such as a stay) before the CA Subject Court and such CEQA Approval(s) by the Lead Agency have not been enjoined by the CA Subject Court (or such motion otherwise approved), and in the event of any such NEPA challenge, there is not pending any motion for preliminary injunction (or similar action such as a stay) before the US Subject Court and such NEPA Approval(s) by the Lead Agency have not been enjoined by the US Subject Court (or such motion otherwise approved).

“**Maximum Pre-COD Liability**” means seventeen million dollars (\$17,000,000) in aggregate, including without limitation when determining that cap figure any amounts attributable to any Daily Delay Damages, Pre-COD Termination Fee, Seller Approvals Termination Fee, any Damage Payment, any other payments by Seller to Buyer under this Agreement, and any draws on the Development Security permitted under the Agreement.

“**Milestone**” has the meaning set forth in Section 3.3(a).

“**Milestone Date**” has the meaning set forth in Section 3.3(a).

“**Module Baseline Date**” has the meaning set forth in Section 2.5(b).

“**Module Delivery Date**” means the date that the last shipment of PV Panels for the Facility is expected to arrive at the Site (which date shall not be later than ninety (90) days prior to the Commercial Operation Date).

“**Moody’s**” means Moody’s Investor Services, Inc.

“**Month**” means a calendar month commencing at 00:00 Pacific Prevailing Time on the first day of such month and ending at 24:00 Pacific Prevailing Time on the last day of such month.

“**Monthly Report**” means the report required to be delivered by Seller pursuant to Section 5.4 in form and substance substantially similar to Appendix P.

“**MW**” means megawatt in alternating current, or ac, unless expressly stated in terms of direct current.

“**MWh**” means megawatt-hours measured in alternating current, unless expressly stated in terms of direct current.

“**NEER**” means NextEra Energy Resources, LLC.

“**Negative LMP**” means, in any Settlement Period or Settlement Interval, whether in the Day-Ahead Market or Real-Time Market, the LMP at the Facility’s pNode is less than zero dollars (\$0).

“**NEOP**” has the meaning set forth in the definition of Affiliate.

“**NEP**” has the meaning set forth in the definition of Affiliate.

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

“**NEPA**” means the National Environmental Policy Act, 42 United States Code §§ 4321, et seq., and Council on Environmental Quality regulations at 40 Code of Federal Regulations Parts 1500-1508.

“**Network Upgrades**” has the meaning set forth in the CAISO Tariff.

“**New PV Trade Measure Event**” means any of the following events, that occur after the Subject Approvals Deadline, during the period while the applicable ruling request, inquiry, rulemaking, or other filing or proceeding remains pending or subject to appeal before the DOC or other applicable Governmental Authority:

- i. Filing of any anti-circumvention ruling request alleging that manufacturers or importers are circumventing any AD/CVD orders on PV Panels;
- ii. Initiation of any anti-circumvention inquiry into whether manufacturers or importers are circumventing any AD/CVD orders on PV Panels or issuance in any such inquiry of any finding or ruling that manufacturers or importers are circumventing any AD/CVD orders on PV Panels; or
- iii. Filing or initiation of any rulemakings, adjudications, or other proceedings to increase, extend, or expand application of, or impose any new, tariffs, duties (including but not limited to AD/CVD), or other trade measures, or issuance of any related determinations, orders, tariffs, duties, or trade measures, on PV Panels.

For the avoidance of doubt, the Parties acknowledge that any of the following shall trigger the occurrence of a New PV Trade Measure Event with respect to the Auxin Anti-Circumvention Proceeding to the extent any of the following after the Subject Approvals Deadline prevents or delays the delivery of or otherwise impacts the cost of the PV Panels for the Facility: (a) any legislative, judicial, or administrative challenge to, or withdrawal (in whole or in part) of, (I) that certain Declaration of Emergency and Authorization for Temporary Extensions of Time and Duty-Free Importation of Solar Cells and Modules from Southeast Asia, by the President of the United States, dated June 6, 2022, or supporting Presidential Determination Pursuant to Section 303 of the Defense Production Act, or (II) any implementation thereof by the DOC or other Governmental Authority, including through any rulemaking; or (b) any legislative, judicial, or administrative challenge that seeks to expand the scope of the DOC’s final affirmative circumvention determinations, as published on August 23, 2023 in 88 Fed. Reg. 57,419, to cover companies or activities excluded in such final affirmative determinations, or to narrow the scope of, or vacate or reverse, any negative circumvention determinations or guidance on avoiding circumvention in such published issuance.

For the avoidance of doubt, the Parties acknowledge that the AASMTC AD/CVD Case shall constitute a New PV Trade Measure Event to the extent after the Subject Approvals Deadline the AASMTC AD/CVD Case prevents or delays the delivery of or otherwise impacts the cost of the PV Panels for the Facility.

“**Non-Defaulting Party**” has the meaning set forth in Section 13.2.

“**Non-Merchant Agreement**” means any agreement to sell any Product from the Facility for a delivery term that is longer than one (1) year.

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

“**Operation Security**” has the meaning set forth in Section 5.5(b).

“**Original Contract Capacity**” has the meaning set forth in Section 3.5.

“**Pacific Prevailing Time**” means the local time in the State of California.

“**Participating Intermittent Resource**” has the meaning set forth in the CAISO Tariff.

“**Participating Members Agreement**” means the agreement(s) between Buyer and the Participating Members that sets forth the terms and conditions under which Buyer is authorized to enter into this Agreement on behalf of the Participating Members.

“**Participating Members**” means the members of Buyer that enter into the Participating Members Agreement. As of the Effective Date, such Participating Members are the City of Anaheim, City of Colton, and City of Pasadena. If the Participating Members change after the Effective Date, Buyer shall provide written notice to Seller confirming the then-current list of Participating Members, and such written notice shall not be considered to be an amendment to this Agreement.

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

“**PCC1**” has the meaning set forth in definition of “Products.”

“**Performance Measurement Period**” means each two (2) consecutive Contract Year periods during the Delivery Term, calculated on a non-rolling basis such that no Contract Year is included in more than one Performance Measurement Period. The first Performance Measurement Period shall include Contract Years 1 and 2. The second Performance Measurement Period shall be comprised of Contract Years 3 and 4, and so on.

“**Performance Security**” means the Development Security or Operation Security for the Facility, together or individually, as applicable.

“**Permits**” means all discretionary permits, licenses, authorizations, certifications, approvals, and similar requirements of whatever kind and however described that are required to be filed, submitted, obtained or maintained by any Person with respect to the development, siting, design, construction, operation or maintenance of the Facility, including any required Conditional

Use Permit, Public Use Permit, CEQA/NEPA Determinations, Bureau of Land Management Right of Way Grant and the Permits described in Appendix B.

“Permitted Transfer” means each of the following transactions:

(a) A Change of Control of the Ultimate Parent due to public market transactions of equity interests or capital stock of Seller’s Ultimate Parent;

(b) Any change of economic and voting rights triggered in Seller’s organization documents arising from the financing of the Facility and that does not result in the transfer of ownership, economic or voting rights in any entity that had no such rights immediately prior to the change provided that the entity is a Permitted Transferee; provided that, for the avoidance of doubt, any exercise of rights or remedies by a Tax Equity Investor (who is a Permitted Transferee) under the tax equity financing documents pursuant to which Tax Equity Investor becomes the managing member or otherwise obtains the right to direct the policies or operations of Seller shall be considered a Permitted Transfer; provided further this subsection (b) shall not apply to any associated transfer or assignment by Tax Equity Investor, which shall be governed by the other provisions of this Agreement;

(c) The direct or indirect transfer of shares of, or equity interests in, Seller to a Facility Lender provided that Section 14.7 is followed;

(d) Assignment to an Affiliate of Seller, including due to any corporate reorganization, merger, combination or similar transaction or transfer of assets or ownership interests involving Seller or its Affiliates, provided that: (i) there is no Change of Control; and (ii) such Affiliate is or has retained a Qualified Operator; (iii) such Affiliate assumes all liabilities and obligations of Seller under the Agreement, including the maintenance of Performance Security; and (iv) such Affiliate is not in litigation with Buyer or Buyer’s Participating Members.

(e) An assignment of the Agreement, or the transfer of the Facility or the direct or indirect ownership of equity interests in Seller, to a Permitted Transferee.

“Permitted Transferee” means any Person that satisfies, or is controlled by another Person that satisfies, all the following requirements:

(i) A tangible net worth of not less than One Hundred Fifty Million Dollars (\$150,000,000) or a credit rating of at least BBB- from S&P, BBB- from Fitch, or Baa3 from Moody’s;

(ii) Is a Qualified Operator or has retained a third-party Qualified Operator to operate the Facility;

(iii) Is not in litigation with Buyer or Buyer’s Participating Members; and

(iv) If such Person is a direct or indirect transferee of Seller, such Person assumes all liabilities and obligations of Seller under the Agreement, including the maintenance of Performance Security.

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

“**Phase**” or “**Phases**” means one or more separately metered photovoltaic solar facilities or battery facilities located adjacent to the Site or otherwise sharing any shared facilities under a Shared Facilities agreement, including the structures, facilities, equipment, fixtures, appurtenances, improvements, and associated real and personal property, physical and intangible property, including all property interests and related transmission and other facilities.

“**PNode**” means the CAISO Pricing Node as defined in the CAISO Tariff to be established by CAISO for the Facility that is associated with the Colorado River Substation within the CAISO Controlled Grid in Riverside County described in Appendix B, and Seller shall provide notice to Buyer of the name that CAISO designates for the PNode prior to the Commercial Operation Date.

“**Point of Delivery**” or “**Delivery Point**” means the PNode, or such other point as mutually agreed in writing by the Parties described in Appendix B; provided that in the case of Replacement Product, an alternative delivery point may be designated in accordance with Section 9.1.

“**Portfolio**” means a portfolio of electrical energy generating, energy storage, or other assets and entities, including the Facility (or the interests of Seller or Seller’s Affiliates or the interests of their respective direct or indirect parent companies), that entails assets in the United States, that is pledged as collateral security in connection with a Portfolio Financing.

“**Portfolio Financing**” means any tax equity or debt transactions with a Facility Lender entered into by an Affiliate of Seller that is secured only by a Portfolio. No Portfolio Financing may (i) divide the Facility or the Seller’s interest in this Agreement or (ii) to the extent that a Seller Affiliate holds a direct or indirect interest in Seller, partition such interest in Seller or such Seller Affiliate, excluding any tax equity financing with respect to Seller or such Seller Affiliate; provided that Seller shall not be precluded from entering into different types of financing concurrently (for example, Seller entering a tax equity financing and a back leverage facility) that satisfy the terms and conditions set forth in this Agreement.

“**Portfolio Financing Entity**” means any Affiliate of Seller that enters into a tax equity transaction or incurs debt (each with a Facility Lender) in connection with any Portfolio Financing.

“**Pre-CEC Certification Period**” has the meaning set forth in Section 6.1(a).

“**Pre-COD Termination Fee**” means seventeen million dollars (\$17,000,000), less each of any (A) Daily Delay Damages, (B) Damage Payment, (C) Seller Approvals Termination Fee, (D) other payments by Seller to Buyer under this Agreement, and (E) draws by Buyer on the Development Security permitted under this Agreement.

“**Present Value Rate**” means, at any date, the sum of 0.50% plus the yield reported on page “USD” of the Bloomberg Financial Markets Services Screen (or, if not available, any other nationally-recognized trading screen reporting on-line intraday trading in United States

government securities) at 11:00 a.m. (New York City, New York time) for the United States government securities having a maturity that most nearly matches the Remaining Term at that date.

“Product” and **“Products”** mean any and all Facility Energy, Environmental Attributes, Capacity Attributes (subject to the second paragraph of this defined term), and Ancillary Services (subject to the second paragraph of this defined term), and ancillary products, services or attributes similar to the foregoing that are or can be produced by, or are associated with, the Facility, including delivered energy, renewable attributes, and renewable energy credits. Unless otherwise provided under Section 7.7(c)(ii)(A)-(C), the Products shall meet the standard of “Portfolio Content Category 1” as defined by RPS Law, including under Section 399.16(b)(1) of the California Public Utilities Code (**“PCCI”**) and be produced on a bundled basis with all associated Environmental Attributes.

Buyer shall have the exclusive rights to any and all Capacity Attributes and Ancillary Services associated with the Facility, if any, and subject to Section 10.2 below. This commitment of Ancillary Services and Capacity Attributes is made with the understanding of Buyer that the Facility has Energy-Only Deliverability Status at the Effective Date and certain CAISO Ancillary Services certifications as of the Effective Date only pertain to certain resource types that are not the Facility (such as an energy storage system). For avoidance of doubt, in no event shall black start be included.

“Prudent Utility Practices” means those practices, methods, and acts, that are commonly used by a significant portion of the grid-interconnected, utility-scale generating facilities in the Western United States solar-photovoltaic electric generation industry in prudent engineering and operations to design, construct, and operate and maintain electric equipment (including solar-powered facilities) lawfully and with safety, dependability, reliability, efficiency, and economy, including any applicable practices, methods, acts, guidelines, standards and criteria of the CAISO, FERC, NERC, WECC, as each may be amended from time to time, and all applicable Requirements of Law. Prudent Utility Practices are not intended to be limited to the optimum practice, method, or act, to the exclusion of all others, but rather are intended to include acceptable practices, methods, and acts generally accepted in the solar-powered electric generation industry.

“PTC” or **“PTCs”** means the production tax credit(s) established pursuant to Section 45 or 45Y or other applicable provisions of the United States Internal Revenue Code of 1986, as in effect from time-to-time throughout the Agreement Term or any successor provision.

“PTC Amount” means the amount, on a dollar per MWh basis, equal to the PTCs that Seller would have earned in respect of Facility Energy at the time, grossed up on an After-Tax Basis at the then-highest marginal combined federal and state corporate tax rate, but failed to earn as a result of a Compensable Curtailment, with the applicable MWh figure to be calculated by reference to the amount of Deemed Delivered Energy; *provided that*, the PTC Rate shall be \$0/MWh to the extent the Facility is not then receiving any PTCs during the applicable period (other than due to reduced deliveries from a Compensable Curtailment), such as, for example, if Seller does not claim the PTC, or if the Facility does not qualify for the PTC, or if 10 years has elapsed after the Facility was originally placed into service.

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

“**PUC**” means the California Public Utilities Commission and any successor thereto.

“**PV Panels**” means the photovoltaic solar panels or any of their components used for photovoltaic production (including without limitation cells and modules, but for avoidance of doubt excludes inverters, mounts, and other equipment not used for production).

“**QRE**” has the meaning set forth in Section 8.5.

“**Qualified Buyer Assignee**” means a Participating Member that is a load serving entity purchasing energy for resale which assumes all of the obligations of Buyer under the PPA with (A) rate setting authority, and (B) a credit rating of at least BBB- from S&P, BBB- from Fitch, or Baa3 from Moody’s (such credit rating, an “**Investment Grade Credit Rating**”).

“**Qualified Issuer**” means (i) a United States commercial bank; (ii) a United States branch of a Canadian, Japanese, or Australian bank from which any draw can be made; (iii) a United States branch of another foreign bank from which any draw can be made that is acceptable to Buyer in its sole discretion; with any such bank having at least \$10 billion of assets and having a credit rating of at least A- from S&P or A3 from Moody’s, or (iv) other Person acceptable to Buyer in its sole discretion.

“**Qualified Operator**” means Seller or an operator of photovoltaic solar generation facilities that has sufficient experience and technical capability to perform for Seller’s benefit the obligations of Seller under this Agreement related to the operation and maintenance of the Facility in accordance with the applicable requirements of this Agreement, as evidenced by such operator having operated two (2) or more photovoltaic solar generation facilities in the CAISO, each having a nameplate capacity rating of fifty (50) MW or more, for not less than two (2) years.

“**Qualifying BLM Delay**” means the Bureau of Land Management’s notice to proceed for construction of the Complex (which includes the Facility) is not complete by the Guaranteed Construction Start Date despite Seller’s commercially reasonable efforts for reasons not caused by Seller or any Affiliate of Seller or resulting from inaction or omission of Seller or any Affiliate of Seller.

“**Qualifying Interconnection Delay**” means the Transmission Provider’s Interconnection Facilities, Distribution Upgrades, and Network Upgrades (each as defined in the Generator Interconnection Agreement), despite Seller’s commercially reasonable efforts, are or will not be complete by four (4) months prior to the Expected Commercial Operation Date for reasons not caused by Seller or any Affiliate of Seller or resulting from inaction or omission of Seller or any Affiliate of Seller.

“**Qualifying Transformer Delay**” means a development delay caused by a material problem with any final step-up transformer prudently procured by Seller for the Facility in a commercially reasonable manner to meet Facility construction timeframes, that is not caused by any actions or negligence of Seller.

“Qualifying Transformer Failure” means a failure of the Facility’s final step-up transformer prudently procured and maintained by Seller, which, despite commercially reasonable efforts (all in accordance with any applicable CAISO standards), prevents the delivery of more than fifteen percent (15%) of the Energy generated by the Facility to the Delivery Point; provided that such failure may only occur one time during the Agreement Term for a maximum period of one (1) year.

“Real-Time Forecast” means any Notice of any change to the available generating capacity or hourly expected Facility Energy delivered by or on behalf of Seller pursuant to Section 7.3(b)(vi).

“Real-Time Market” has the meaning set forth in the CAISO Tariff.

“Real-Time Price” means the Resource-Specific Settlement Interval LMP as defined in the CAISO Tariff. If there is more than one applicable Real-Time Price for the same period of time, Real-Time Price shall mean the price associated with the smallest time interval.

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

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

“Remedial Action Plan” has the meaning set forth in Section 3.3(a).

“Remaining Complex” means the other Phases and other portions of the Complex that are not a part of the Facility.

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

“Renewable Energy Incentives” means: (a) all federal, state, or local Tax credits or other Tax benefits associated with the production of electricity from, or the construction, operation or the ownership of, the Facility or any part thereof (including the Tax Benefits and other credits under Sections 38, 45, 45Y, 46, 48, and 48E of the Internal Revenue Code of 1986, as amended); (b) any federal, state, or local grants, subsidies or other like benefits relating in any way to the Facility, including a cash grant available under Section 1603 of Division B of the American Recovery and Reinvestment Act of 2009, in lieu of federal Tax credits or any similar or substitute payment available under subsequently enacted federal legislation; and (c) any other form of incentive relating in any way to the Facility that is not an Environmental Attribute, Future Environmental Attribute, or other component of the Product.

“Replacement Energy” means Energy produced by a facility other than the Facility that is reasonably acceptable to Buyer and, at the time delivered to Buyer, (i) is RPS Compliant,

(ii) qualifies under RPS Law; (iii) will be accompanied by Environmental Attributes that are only PCC1 RECs and have the same or comparable value, including with respect to the timeframe for retirement of such Environmental Attributes, if any, as the Environmental Attributes that would have been generated by the Facility during the Contract Year for which the Replacement Energy is being provided; and (iv) has the same or comparable value as the RPS Compliant Energy that would have been generated by the Facility during the relevant period considering the timing of delivery.

“Replacement Product” means (a) Replacement Energy and (b) the applicable Environmental Attributes.

“Requirement of Law” means any law (including any environmental law, RPS Law), resolution, standard, code, rule, ordinance, directive, regulation, order, judgment, decree, ruling, determination, permit, certificate, authorization, or approval by a Governmental Authority, including those pertaining to electrical, building, zoning, environmental and occupational safety and health requirements.

“Resource Adequacy Attributes” means the benefits or attributes, if any, now or existing in the future based on the procurement obligations of Buyer with respect to Resource Adequacy as prescribed by the PUC, the CAISO, the CEC, or any other regional entity, and that are associated with the electric generating capability of the Facility. Buyer will be entitled to all Resource Adequacy Attributes from the Facility, if any.

“RFP” has the meaning set forth in the recitals to this Agreement.

“RPS Compliance” or **“RPS Compliant”** means, when used with respect to the Facility or any other facility at any time, that all Energy generated by such facility at all times shall, together with all of the associated Environmental Attributes, qualify as a PCC1 eligible renewable resource, or equivalent if RPS Law is changed or under any Successor Program.

“RPS Compliance Period” means each “Compliance Period” as defined in the RPS Law.

“RPS Guidebook” means the RPS eligibility guidebook, ninth edition (or its successor), as may be revised from time-to-time by the CEC.

“RPS Law” means the renewable energy program and policies established by California State Senate Bills 1038 (2002), 1078 (2002), 107 (2008), X-1 2 (2011), 350 (2015), and 100 (2018), codified in, *inter alia*, California Public Utilities Code Sections 399.11 through 399.31 and California Public Resources Code Sections 25740 through 25751, and any related regulations or guidebooks promulgated by the CEC, as all of the foregoing may be promulgated and implemented from time to time, and any replacement laws or regulations.

“SCADA” means the supervisory control and data acquisition system for the Facility.

“Schedule” has the meaning set forth in the CAISO Tariff, and **“Scheduled”** and **“Scheduling”** have a corollary meaning.

“**Scheduled Outage**” means any outage with respect to the Facility other than a Forced Outage, scheduled in accordance with Section 4.5.

“**Scheduled Outage Projection**” has the meaning set forth in Section 4.5(a).

“**Scheduling Coordinator**” has the meaning set forth in the CAISO Tariff.

“**Self-Schedule**” has the meaning set forth in the CAISO Tariff.

“**Seller**” has the meaning set forth in the preamble of this Agreement.

“**Seller Approvals Termination Fee**” means Ten Million Dollars (\$10,000,000), less each of any (A) other payments by Seller to Buyer under this Agreement, and (B) draws by Buyer on the Development Security permitted under this Agreement.

“**Seller Safety Curtailment**” has the meaning set forth in Section 7.4(d).

“**Seller’s Compliance Expenditure Cap**” means Five Million One Hundred Thousand Dollars (\$5,100,000) in the aggregate during the Agreement Term.

“**Settlement Amount**” means the Non-Defaulting Party’s Costs and Losses, on the one hand, netted against its Gains, on the other.

“**Settlement Interval**” has the meaning set forth in the CAISO Tariff.

“**Settlement Period**” has the meaning set forth in the CAISO Tariff.

“**Shared Facilities**” means the gen-tie lines, transformers, substations, or other equipment, permits, contract rights, and other assets and property (real or personal), in each case, as necessary to enable delivery of Energy from the Facility (which is excluded from Shared Facilities) to the point of interconnection, including the Generator Interconnection Agreement itself, that are used in common with Seller’s Affiliates and/or third parties or by Seller for electric generation or storage facilities owned by Seller other than the Facility.

“**Site**” means the real property on which the Facility is or will be located, as further described in Appendix B, and as such description may be updated by Seller to reduce the size of the Site (but not to add any new parcels) at the time Seller provides an executed Construction Start Certificate in the form of Appendix K to Buyer or by other Notice by Seller to Buyer prior to the Construction Start Date.

“**Site Control**” means that, upon the Construction Start Date and for the remainder of the Agreement Term, Seller or its Affiliate: (a) owns the Site; (b) is the lessee of the Site; or (c) is the holder of an easement, a right-of-way grant or similar instrument with respect to the Site.

“**Special Purpose Entity**” means a limited liability company which during the Agreement Term is solely engaged in the business of developing, constructing, owning and operating the Facility and which shall (a) conduct business in its own name and hold itself out as a separate entity; (b) maintain separate books and records; (c) maintain adequate capital in light of its

contemplated business operations; and (d) allocate expenses shared with Affiliates in a fair and reasonable manner.

“**S&P**” means Standard & Poor’s Financial Services LLC.

“**Station Use**” means: (a) the Energy generated by the Facility that is used within the Facility to power the lights, motors, control systems and other electrical loads that are necessary for operation of the Facility; (b) the Energy generated by the Facility that is consumed within the Facility’s electric energy distribution system as losses; and (c) any other parasitic load that impacts the Facility.

“**Subject Approvals Deadline**” means November 15, 2024.

“**System Emergency**” means, in the judgment of CAISO or the Transmission Provider, as applicable, a: (a) “System Emergency” as set forth in the CAISO Tariff; or (b) automatic or immediate action is required to (1) prevent or limit harm to or loss of life or property, (2) prevent loss of transmission facilities or generation supply in the immediate vicinity of the Facility, or (3) to preserve Transmission System reliability.

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

“**Tax Benefits**” means the PTC, ITC, and any other domestic or foreign federal, state, county, local and/or other tax benefit or incentive, including energy credits determined under Sections 38, 45, 45Y, 46, 48 and 48E of the Internal Revenue Code of 1986, as amended, investment tax credits, production tax credits, depreciation, amortization, deduction, expense, exemption, preferential rate, and/or other tax benefit or incentive associated with the production or sale of renewable energy and/or the operation, construction, investments in or ownership of, the Facility (including any cash payment or grant).

“**Termination Notice**” has the meaning set forth in Section 13.2(a).

“**Termination Payment**” has the meaning set forth in Section 13.3.

“**Test Energy**” means Facility Energy that is delivered to the Point of Delivery prior to the Commercial Operation Date.

“**TP Deliverability**” has the meaning in the CAISO Tariff.

“**Trade Entity**” means any entity with jurisdiction over the PV Panels (including the manufacture, export, or import thereof).

“**Transmission Provider**” means the Person operating the Transmission System from the Point of Delivery.

“**Transmission Services**” means the transmission and other services required to transmit Facility Energy from the Point of Delivery.

“**Transmission System**” means the facilities utilized to provide Transmission Services.

“**Trade Event**” means any New PV Trade Measure Event or withhold release order or other import restraint issued by U.S. Customs and Border Protection, other applicable Governmental Authority, or Trade Entity, including under the Uyghur Forced Labor Prevention Act, that: (i) to the extent of any cost increases or schedule delays with respect to the Facility that occur after the Subject Approvals Deadline; (ii) prevents or delays the delivery of or otherwise impacts the cost of the PV Panels for the Facility; and (iii) such event occurs despite the use by Seller of commercially reasonable efforts to avoid procurement or sourcing of PV Panels that were reasonably foreseeable to become subject to such event.

“**True-Up Independent Report**” has the meaning set forth in Section 2.5(b).

“**True-Up Notice**” has the meaning set forth in Section 2.5(b).

“**Ultimate Parent**” means NextEra Energy, Inc. The Ultimate Parent may change, including possibly to NEER, NEP or NEOP, pursuant to the processes in Section 14.7 of this Agreement.

“**WECC**” means the Western Electricity Coordinating Council.

“**WREGIS**” means Western Renewable Energy Generation Information System.

“**WREGIS Certificates**” has the meaning set forth in WREGIS Operating Rules.

“**WREGIS Operating Rules**” means the rules describing the operations of the WREGIS, as published by WREGIS.

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

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

- (a) time is of the essence;
- (b) the singular number includes the plural number and vice versa;
- (c) reference to any Person includes such Person’s successors and assigns (regardless of whether such Person’s successors and assigns are expressly referenced in the provision) but, in case of a Party hereto, only if such successors and assigns are permitted by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity or individually;
- (d) reference to any gender includes the other;

(e) reference to any agreement (including this Agreement), document, act, statute, law, instrument, or tariff means such agreement, document, act, statute, law, instrument, or tariff, as amended, modified, restated, replaced or superseded and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof, regardless of whether the reference to the agreement, document, act, statute, law, instrument, or tariff expressly refers to amendments, modifications, replacements, or successors;

(f) reference to any Article, Section, or Appendix means such Article of this Agreement, Section of this Agreement, or such Appendix to this Agreement, as the case may be, and references in any Article or Section or definition to any clause means such clause of such Article or Section or definition;

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

(h) “including” (and with correlative meaning “include”) means including without limiting the generality of any description preceding such term, regardless of whether words such as “without limitation” are expressly included in the applicable provision;

(i) relative to the determination of any period of time, “from” means “from and including,” “to” means “to but excluding” and “through” means “through and including”;

(j) unless otherwise indicated, reference to time shall always refer to Pacific Prevailing Time; and reference to any “day” shall mean a calendar day, unless otherwise indicated;

(k) the term “or” is not exclusive, regardless of whether “and/or” is used in the applicable provision; and the expression “and/or” when used as a conjunction shall connote “any or all of”;

(l) references to any amount of money shall mean a reference to the amount in United States Dollars; and

(m) words, phrases or expressions not otherwise defined herein that (i) have a generally accepted meaning in Prudent Utility Practice shall have such meaning in this Agreement or (ii) do not have well known and generally accepted meaning in Prudent Utility Practice but that have well known and generally accepted technical or trade meanings, shall have such recognized meanings.

ARTICLE II

EFFECTIVE DATE, TERM, AND EARLY TERMINATION

Section 2.1 Effective Date. This Agreement is effective as of the Effective Date.

Section 2.2 Term.

(a) **Agreement Term.** The term of this Agreement (the “*Agreement Term*”) shall commence on the Effective Date and end on the last day of the Delivery Term or upon the earlier termination of this Agreement in accordance with the terms hereof.

(b) **Delivery Term.** This Agreement shall have a delivery term (the “*Delivery Term*”) commencing on the Commercial Operation Date and ending at 11:59 pm on the date that is twenty (20) years after the Commercial Operation Date, unless sooner terminated in accordance with the terms of this Agreement. For example purposes only, if the Commercial Operation Date occurs on December 1, 2027, the last day of the Delivery Term shall be November 30, 2047.

Section 2.3 Survivability. The provisions of Sections 2.3, 11.7, 13.4, 13.5, 13.7, 14.1 through 14.3, 14.8 through 14.16, 14.17(c), 14.18, 14.20 through 14.24, shall survive following the termination of this Agreement. The provisions of ARTICLE I shall survive to the extent necessary for the enforcement of other surviving provisions, the provisions in Section 2.4(i) shall survive for the time period therein for enforcement of Seller’s ROFO obligation and shall survive until Seller’s payment of the Pre-COD Termination Fee obligations (if any) and Buyer’s return of the Development Security, and the provisions of Section 2.6(b) shall survive until Seller’s payment of the Seller Approvals Termination Fee obligations (if any) and Buyer’s return of the Development Security. The provisions of Sections 11.5 (subject to any shorter limitation period set forth therein), 14.17(a), and 14.19 shall survive for a period of four (4) years following the applicable invoice date. The provisions of Section 5.5, ARTICLE VI, ARTICLE VIII, ARTICLE IX, and Sections 11.1 through 11.4 and 11.6 shall continue in effect after termination to the extent necessary to provide for final billing, adjustments, and deliveries (including the provision to Buyer by Seller of Replacement Product or GEP Shortfall Damages and the provision to Seller by Buyer of payment for any Product including any Deemed Delivered Energy) related to any period prior to termination of this Agreement, and Buyer’s return to Seller of the unused portion of any Performance Security.

Section 2.4 Early Termination.

(a) **Early Termination for Failure to Deliver Post-Effective Date Deliverable.** Buyer may, in its sole discretion and without penalty to Buyer, terminate this Agreement, effective upon notice to Seller, if Seller fails to deliver the Development Security within thirty (30) days after the Effective Date, and such failure is not remedied within ten (10) Business Days after notice thereof.

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

(c) **Early Termination for Failure to Achieve a Key Milestone.** Buyer may, in its sole discretion and without penalty to Buyer, terminate this Agreement for failure to achieve a Key Milestone after one hundred and eighty (180) days, subject to and in accordance with Section 3.3(c).

(d) **Early Termination for Failure to Achieve Commercial Operation Date by the Commercial Operation Date Deadline.** Either Party may terminate this Agreement if

Commercial Operation is not achieved by the Commercial Operation Date Deadline subject to and in accordance with Section 3.3(c).

(e) **Early Termination for Failure to Obtain CEC Certification.** Unless otherwise provided under Section 7.7(c)(ii)(A)-(B) (where certification is either not obtained or not maintained because RPS Law is completely removed with no successor or solar photovoltaic resources as a category no longer qualify), and subject to the cure period in Section 13.1(b) or to the extent applicable Section 7.7(c)(ii)(C), Buyer may, in its sole discretion and without penalty to Buyer, terminate this Agreement, effective upon notice to Seller if the Facility is not CEC Certified by the date that is one hundred eighty (180) days after the Commercial Operation Date, or if Seller thereafter fails to maintain CEC Certification.

(f) **Early Termination for Default.** Upon the occurrence of a Default, the Non-Defaulting Party may terminate this Agreement as set forth in Section 13.2.

(g) **Early Termination for Force Majeure.** This Agreement may be terminated pursuant to Section 14.6(c)

(h) **Early Termination for RPS Compliance.** Either Party may terminate this Agreement, without penalty, upon notice to the other Party pursuant to Section 7.7(c)(ii)(C).

(i) **Seller's Pre-COD Termination Rights.** Without limiting Seller's rights to terminate for other reasons set forth in this the Agreement, Seller shall have the right to terminate this Agreement:

(1) prior to the Construction Start Date in exchange for payment in the amount of the Pre-COD Termination Fee, if, despite commercially reasonable and diligent efforts by Seller, Seller reasonably determines either: (A) that CEQA/NEPA Determinations cannot be achieved by October 1, 2026; or (B) that a Qualifying Interconnection Delay or other transmission-related delay outside of the reasonable control of Seller (e.g., related to affected systems not included in the Generator Interconnection Agreement) exists such that Commercial Operation cannot occur on or prior to the Commercial Operation Date Deadline; provided that both (A) and (B) are subject to Buyer's consent not to be unreasonably withheld, conditioned or delayed. Seller shall provide any information reasonably requested by Buyer in connection with such consent evaluation by Buyer; and

(2) for failure to achieve Commercial Operation by the Guaranteed Commercial Operation Date (as such date may be extended by a Development Cure Period) in exchange for payment in the amount of the Pre-COD Termination Fee.

Seller's exercise of such termination right under each of (1) and (2) shall require that Seller provide at least ten (10) Business Days' Notice of such termination signed by a duly-authorized officer of Seller which specifically provides that Seller is exercising its right to terminate this Agreement and specifically provides that such termination is being made pursuant to this Section 2.4(i)(1) or (2) of the Agreement, and for Section 2.4(i)(1) is not effective until Buyer's consent (not to be unreasonably withheld, conditioned or delayed). Further, Seller's exercise of such termination right under Section 2.4(i)(1) shall require that Seller not enter into any Non-Merchant Agreement to sell any Product from the Facility within one (1) year after the Commercial Operation Date

Deadline (“**ROFO Period**”) without first having provided Notice to Buyer of an offer to purchase such Product (a “**ROFO Offer**”). Buyer shall have seventy-five (75) days to consider and respond to such ROFO Offer (the “**ROFO Exercise Period**”). If Buyer provides notice to Seller accepting the ROFO Offer within the ROFO Exercise Period, then the Parties shall negotiate in good faith to enter into a binding agreement (the “**ROFO Agreement**”), within seventy-five (75) days after Seller’s receipt of Buyer’s notice of acceptance (the “**ROFO Negotiation Period**”), for purchase and sale of the Product in accordance with the price in such ROFO Offer (i.e., the contract price in such ROFO may be different than the Contract Price in this Agreement to reflect market conditions at that time) and otherwise with terms substantially in the form of this Agreement. If Buyer does not provide notice accepting the ROFO Offer within the ROFO Exercise Period, or if the Parties fail to enter into the ROFO Agreement within the ROFO Negotiation Period, Seller shall have the right during the ROFO Period to enter into any Non-Merchant Agreement to sell any of the Product to any third parties, so long as the price under such Non-Merchant Agreement is equal to or greater than the respective price under the ROFO Offer.

For avoidance of doubt, Seller’s liability in connection with Seller’s termination under this Section 2.4(i) shall not exceed the Maximum Pre-COD Liability.

(j) **Effect of Termination.** Except as otherwise provided herein, any early termination of this Agreement under this Section 2.4 shall be without prejudice to the rights and remedies of a Party for Defaults occurring prior to termination.

Section 2.5 Trade Event. Notwithstanding anything to the contrary in this Agreement, in connection with any Trade Event:

(a) Seller shall receive a day-for-day extension of the Guaranteed Construction Start Date and the Guaranteed Commercial Operation Date (and not to exceed the Commercial Operation Date Deadline) for each day that a Trade Event delays the delivery of PV Panels to the Site necessary for construction of the Facility (“**Trade Event Delay**”) for up to two hundred seventy (270) days under the Development Cure Period process.

(b) Seller may, in its sole discretion at any time prior to the Construction Start Date provide a one-time written notice to Buyer (“**Initial Notice**”) so long as Seller provides a corresponding one-time written notice to Buyer true-up to actual PV Panel cost increases on the Module Delivery Date (“**True-Up Notice**”), of an increase to the Contract Price of up to \$3.75/MWh (for avoidance of doubt such total increase not-to-exceed \$3.75/MWh) to keep Seller whole with respect to any PV Panel cost increases that Seller reasonably expects to incur for the Facility, including under any replacement supply arrangements, as a result of such Trade Event (each Initial Notice and True-up Notice respectively, an “**Amendment Notice**”), and (subject to the dispute process below) the Agreement shall be deemed automatically amended to reflect such higher price. For any price increase under this Section 2.5(b) pursuant to an Initial Notice, Seller shall deliver to Buyer a report from an Independent Evaluator that explains in reasonable detail (1) the expected PV Panel cost increase (the “**Expected Cost Increase**”) to Seller and the Facility that results from the applicable Trade Event with the impact being measured from reasonably forecasted cost baseline obtained and preserved by Seller on the Subject Approvals Deadline (the “**Module Baseline Date**”) and ending on the Module Delivery Date, and (2) how the Expected Cost Increase was determined, including an explanation of why the Expected Cost Increase is

reasonably necessary to keep Seller whole with respect to the Expected Cost Increase for the Facility from the Module Baseline Date to the Module Delivery Date that Seller expects as a result of the Trade Event (“**Initial Independent Report**”). For the True-Up Notice, Seller shall deliver to Buyer a report from an Independent Evaluator that explains in reasonable detail (1) the actual PV Panel cost increase (the “**Actual Cost Increase**”) to Seller and the Facility that results from the applicable Trade Event with the impact being measured from reasonably forecasted cost baseline obtained and preserved by Seller on the Module Baseline Date and ending on the Module Delivery Date, and (2) how the Actual Cost Increase was determined, including an explanation of why the price increase is reasonably necessary to keep Seller whole with respect to the actual PV Panel cost increase for the Facility from the Module Baseline Date to the Module Delivery Date that Seller actually incurs as a result of the Trade Event, and why any positive or negative difference (if any) exists between the Expected Cost Increase and Actual Cost Increase (“**True-Up Independent Report**”), together with the Initial Independent Report, the “**Independent Reports**”). Cost impacts shall be shown in the Independent Report in terms of $\$/W_{Ac}$ to explain changes to the Contract Price. Buyer shall only be able to contest the Initial Independent Report on the basis that the Initial Independent Report contains a material and manifest mathematical error, which objection shall be raised by Buyer within ten (10) Business Days of Buyer’s receipt of the Initial Independent Report and, if so timely raised by Buyer, such objection shall be determined in compliance with the dispute resolution provisions set forth in Section 14.3. Buyer shall only be able to contest the True-Up Independent Report on the basis that the True-Up Independent Report contains a material and manifest mathematical error and such contest shall be solely with respect to the difference between the Expected Cost Increase and the Actual Cost Increase, which such objection shall be raised by Buyer within ten (10) Business Days of Buyer’s receipt of the True-Up Independent Report and, if so timely raised by Buyer, such objection shall be determined in compliance with the dispute resolution provisions set forth in Section 14.3. To the extent consistent with Requirements of Law and in compliance with Section 14.19, Buyer shall strive to protect the market sensitive details within the Independent Reports (but not the overall cost increase) from disclosure.

Section 2.6 Early Termination for Failure to Obtain Required Approvals.

(a) Buyer Early Termination for Failure to Obtain Required Approvals.

If Buyer has not obtained all required approvals associated with the Agreement, including without limitation Participating Members’ approval, by way of Participating Members’ board and city council approvals (each to the extent applicable) of the Participating Members Agreement, determinations with respect to the filing of any notices of exemption by Buyer and the Participating Members, and any other CEQA approvals required by Buyer and the Participating Members (“**Buyer Approvals**”), then within ten (10) Business Days after the Subject Approvals Deadline, either Buyer (subject to the immediately following sentence) or Seller may terminate this Agreement by providing written notice to the other Party signed by a duly-authorized officer of Buyer or Seller, as applicable, which specifically provides that Buyer or Seller, as applicable, is exercising its right to terminate this Agreement and specifically provides that such termination is being made pursuant to this Section 2.6(a) of the Agreement, with such termination to be effective immediately. Notwithstanding the immediately preceding sentence, Buyer’s right to terminate this Agreement shall expire the earliest to occur of the following: (1) when all Participating Members have received board and city council approval (each to the extent applicable) and the 45 day window for challenging any CEQA NOE filings has expired; and (2) ten (10) Business Days after

the Subject Approvals Deadline. Upon such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Section 2.3 and Buyer shall promptly return to Seller any Development Security then held by Buyer, less any amounts drawn in accordance with this Agreement.

(b) **Seller Early Termination for Failure to Obtain Required Approvals.** If Seller has not received all approvals of the management and board of directors (or equivalent governing body) of Seller and its Affiliates, including, if applicable, the approval of the board of directors of NextEra Energy, Inc. or a committee thereof, as Seller determines in its sole discretion are required under its and their respective constituting documents for the performance by Seller of its obligations under this Agreement (“*Seller Board Approval*”), on or before the Subject Approvals Deadline, then Seller may elect to terminate this Agreement by providing written notice of termination to Buyer within fifteen (15) Business Days after the Subject Approvals Deadline (“*Seller Board Approval Deadline*”), which specifically provides that Seller is exercising its right to terminate this Agreement and specifically provides that such termination is being made pursuant to this Section 2.6(b) of the Agreement, with such termination to be effective immediately. If this Agreement is terminated by Seller pursuant to this Section 2.6(b), then, within ten (10) Business Days of the date of such notice of termination, Seller shall pay to Buyer an amount equal to the Seller Approvals Termination Fee, which shall be Buyer’s sole and exclusive remedy associated with such failure to obtain the Seller Board Approval and related termination. Upon such termination under this Section 2.6(b), neither Party shall have any liability to the other Party, save and except for those obligations specified in Section 2.3 and Buyer shall promptly return to Seller any Development Security then held by Buyer to the extent not used by Seller to pay such Seller Approvals Termination Fee, less any amounts drawn in accordance with this Agreement.

ARTICLE III DEVELOPMENT OF THE FACILITY

Section 3.1 General.

(a) **Design.** Seller shall determine the proposed location, design, and configuration of the Facility as it deems appropriate, subject to any applicable Requirement of Law and this Agreement, and also subject to any conditions imposed by the Lead Agency as part of the CEQA review or NEPA review, if applicable, of the Facility and which Seller deems acceptable. Throughout the Agreement Term, Seller shall have and maintain sufficient interconnection capacity in an amount equal to 170 MW and rights to interconnect the Facility with the CAISO grid and fulfill its obligations under the Agreement. Seller shall use commercially reasonable efforts to ensure that the PV Panels are not sourced from the Xinjiang region of China, in response to the business advisory jointly issued by the U.S. Departments of State, Treasury, Commerce and Homeland Security on July 1, 2020.

(b) **Construction.** Seller shall develop, operate and maintain the Facility, at its sole risk and expense, and in compliance with any applicable Requirement of Law and in material compliance with applicable manufacturer’s and operator’s specifications and recommended procedures; *provided, however*, meeting these requirements shall not relieve Seller of its other obligations under this Agreement. Seller shall use reasonable efforts to ensure that all employees hired by Seller, and its contractors and subcontractors, that will perform construction work or

provide services at the Site related to construction of the Facility are paid wages at rates not less than those prevailing for workers performing similar work in the locality as provided by applicable California law, if any (“Prevailing Wage Requirement”). Nothing herein shall require Seller, its contractors and subcontractors to comply with, or assume liability created by inapplicable provisions of any California or federal labor laws.

(c) **Other Information.** Seller shall provide the reports required to be delivered under this Agreement, including Section 5.4. Buyer and Buyer’s Authorized Representative shall be permitted to inspect the Facility from time to time upon reasonable notice to Seller and during reasonable business hours subject to Site safety protocols and orientation as set forth in Section 5.2, but Buyer and Buyer’s Authorized Representative shall not interfere with the activities at the Facility and be escorted while on the Site by an employee or other representative of Seller. Without limiting Seller’s indemnification obligations in Section 14.17(a), the presence of Buyer, its representatives or both on the Site shall be at Buyer’s sole expense and risk.

Section 3.2 Certification of Commercial Operation Date. Seller shall provide Buyer with no fewer than sixty (60) days prior written notice of the date on which Seller anticipates achieving all of the conditions precedent to achieving Commercial Operation. When Seller believes that all conditions precedent to achieving Commercial Operation of the Facility as specified in the definition of “Commercial Operation” have been satisfied, Seller shall provide Buyer with written notice thereof together with all supporting documentation (the “**Commercial Operation Certificate**”); *provided, however*, that Buyer shall not be obligated to accept a Commercial Operation Date that is earlier than June 1, 2027. Buyer shall in writing either accept or reject the Commercial Operation Certificate in its reasonable discretion within two (2) Business Days, identifying any basis for rejection, and if Buyer rejects the Commercial Operation Certificate, Seller shall promptly correct any defects or deficiencies and resubmit the Commercial Operation Certificate. If Buyer accepts such certificate without rejection, the Commercial Operation Date shall be deemed to relate back to the date of the Commercial Operation Certificate that was provided to Buyer. Buyer’s failure to accept or reject such certificate within the timeframe provided upon receipt shall be deemed to be an acceptance of such Commercial Operation Certificate by Buyer pursuant to this Section 3.2, and the Commercial Operation Date shall be deemed to relate back to the date the Commercial Operation Certificate was provided to Buyer. If Buyer rejects the Commercial Operation Certificate, the Commercial Operation Date shall be deemed to relate back to the date any subsequent Commercial Operation Certificate was provided to Buyer that is either approved or deemed approved by Buyer.

Section 3.3 Milestone Schedule.

(a) Attached as Appendix I is a milestone schedule with deadlines for the development of the Facility through the Commercial Operation Date (each milestone, a “**Milestone**” and each date by which a Milestone is to be completed, a “**Milestone Date**”). From the Effective Date until the Commercial Operation Date, Seller shall provide Buyer with a report on a quarterly basis (until six (6) months prior to the scheduled Commercial Operation Date, at which time such reports shall be provided on a Monthly basis) that includes: (i) a description of the Site plan for the Facility, (ii) a description of any material or planned changes to the Facility or Site plan since the previously delivered report, (iii) a bar chart schedule showing progress to

achieving the remaining Milestones, (iv) a description about the progress relative to the Milestones, including whether Seller has met or is on target to meet the Milestones, (v) a summary of activities at the Facility during the previous Month or quarter, as applicable, (vi) a forecast of activities during the then-current Month or quarter, as applicable, (vii) a list of any issues that are likely to potentially impact Seller's achievement of Milestones by the applicable Milestone Dates, and (viii) pictures, in sufficient quantity and of appropriate detail, documenting construction and startup progress with respect to the Facility. If Seller misses a milestone set forth in Appendix I by more than ten (10) Business Days, then within thirty (30) days, Seller shall deliver to Buyer a remedial action plan that identifies (i) the anticipated period of delay; (ii) the basis for such delay; and (iii) a remedial action plan ("**Remedial Action Plan**") outlining the commercially reasonable steps that Seller is taking to address the delay and to ensure that future milestones, including the Commercial Operation Date, will be achieved by the required date to the extent possible. Except as set forth in Section 3.3(c), Seller shall not have any liability for failure to timely achieve a Milestone other than the obligation to submit a Remedial Action Plan; *provided, however*, that the foregoing shall not limit Buyer's right to exercise any right or remedy available under this Agreement, or at law or in equity (consistent with the terms of this Agreement), for any other Default occurring concurrently with or before or after Seller's delay in achievement of the applicable Milestone.

(b) Each Key Milestone may be extended without being subject to Daily Delay Damages under a Development Cure Period; *provided that*, for the avoidance of doubt, the Commercial Operation Date cannot occur after the Commercial Operation Date Deadline, and the Commercial Operation Date Deadline cannot be extended.

(c) If Seller fails to achieve any Key Milestone by the applicable Milestone Date, (as the Milestone Date may have been extended under a Development Cure Period), i.e., a failure to achieve the Construction Start Certification by the Guaranteed Construction Start Date or failure to achieve the Commercial Operation Date by the Guaranteed Commercial Operation Date, Seller shall pay liquidated damages to Buyer for up to one hundred eighty (180) days for each such failure in a daily amount for each Key Milestone equal to (1) the Development Security amount required hereunder, divided by (2) one hundred eighty (180) (the "**Daily Delay Damages**"). If Seller fails to achieve any Key Milestone within one hundred eighty (180) days of the Guaranteed Construction Start Date or Guaranteed Commercial Operation Date, as applicable, Buyer shall have the right in its sole discretion and without penalty to (1) terminate this Agreement for a Default under Section 13.2 or (2) allow Seller to continue to pay the Daily Delay Damages to Buyer, and, to the extent Seller continues to pay Daily Delay Damages, Buyer shall not terminate this Agreement based on Seller's failure to achieve such Key Milestone by the Milestone Date therefor. If Seller achieves the Commercial Operation Date by the Guaranteed Commercial Operation Date, then Buyer shall refund to Seller, without interest, any amounts previously paid to Buyer as Daily Delay Damages for failure to achieve a Key Milestone by the Milestone Date therefor. Buyer shall have the right to terminate this Agreement pursuant to Section 13.1(k) if Seller fails to pay the Daily Delay Damages as required by this Section 3.3(c). Either Party may terminate this Agreement, with no liability or penalty to Buyer, if Commercial Operation is not achieved by the Commercial Operation Date Deadline; *provided that*, Buyer is entitled to either the Pre-COD Termination Fee or the Damage Payment, as applicable, and within ten (10) Business Days Buyer shall return any remaining Development Security held by Buyer to

Seller; *provided further* that Seller's termination is not effective until the either the Pre-COD Termination Fee or the Damage Payment, as applicable, is received by Buyer.

(d) In no event shall the Commercial Operation Date occur beyond the Commercial Operation Date Deadline.

(e) The damages that Buyer would incur due to Seller's failure to timely achieve a Key Milestone would be difficult or impossible to predict with certainty, and it is impractical or difficult to assess actual damages in those circumstances, but the Daily Delay Damages are a fair and reasonable calculation of such damages, and shall be Seller's sole liability and obligation, and Buyer's sole rights and remedies, for Seller's failure to achieve any Key Milestone by the Milestone Date therefor. Notwithstanding the foregoing, the payment of Daily Delay Damages shall not limit Buyer's right to exercise any right or remedy available under this Agreement, or at law or in equity (consistent with the terms of this Agreement) for: (i) any Default occurring concurrently with, before or after Seller's delay in achievement of the applicable Key Milestone or (ii) in connection with any termination for failure to achieve a Key Milestone by the Key Milestone Date including Commercial Operation within 180 days of the Guaranteed Commercial Operation Date, as may be extended by the Development Cure Period (for Commercial Operation up to the Commercial Operation Date Deadline at the latest); *provided that* the payment of Daily Delay Damages or other amounts drawn from the Development Security shall be taken into account when determining any damages due Buyer for such termination; *provided further* that in no event shall any damages, including Daily Delay Damages, owed in connection with such termination exceed the limitation of liability provided in Section 14.17(c).

Section 3.4 Decommissioning and Other Costs. Without regard to whether or not there is any Requirement of Law requiring decommissioning or demolition of the Facility or any environmental or other liability associated with the decommissioning or demolition of the Facility, Buyer shall not be responsible for any cost of decommissioning or demolition of the Facility or any environmental or other liability associated with the decommissioning or demolition of the Facility, or any other environmental cost or liability associated with the Facility, without regard to the timing or cause of the decommissioning or demolition.

Section 3.5 Failure to Reach Contract Capacity. If, at Commercial Operation, the Installed Capacity is less than one hundred percent (100%) but greater than ninety-five percent (95%) of the original one hundred seventy (170) MWac Contract Capacity (such original 170 MW contract capacity, the "**Original Contract Capacity**"), then (i) the Contract Capacity shall be reduced to the Installed Capacity, and (ii) the Annual Contract Quantity and Guaranteed Generation shall be reduced in proportion to the Installed Capacity relative to the Original Contract Capacity (such adjustments in the foregoing (i) and (ii), the "**PV Shortfall Adjustments**"), and Seller shall have one hundred fifty (150) days after the Commercial Operation Date (the "**Capacity Cure Period**") to install additional capacity such that the Installed Capacity is equal to (but not greater than) the Original Contract Capacity. Prior to the expiration of the Capacity Cure Period, Seller shall provide Buyer with capacity testing contents substantially in the form of Appendix G specifying the new Installed Capacity (an "**Updated Capacity Certificate**"). If Seller fails to deliver an Updated Capacity Certificate prior to the expiration of the Capacity Cure Period or delivers an Updated Capacity Certificate that demonstrates Installed Capacity less than the Original Contract Capacity, then (1) Seller shall, within five (5) Business Days after the Capacity Cure Period, pay

“*PV Capacity Damages*” to Buyer in an amount equal to two hundred fifty thousand dollars (\$250,000) for each MW that the Original Contract Capacity exceeds the Installed Capacity, and (2) the PV Shortfall Adjustments shall become permanent based on the Installed Capacity (as updated by an Updated Capacity Certificate, if applicable). If Seller delivers an Updated Capacity Certificate demonstrating Installed Capacity equal to the Original Contract Capacity prior to the expiration of the Capacity Cure Period, then the PV Shortfall Adjustments shall no longer apply as of the date of delivery of such Updated Capacity Certificate.

ARTICLE IV OPERATION AND MAINTENANCE OF THE FACILITY

Section 4.1 General Operational Requirements. Seller shall, at all times during the Delivery Term:

(a) At its sole expense, operate and maintain the Facility (i) in accordance with applicable Requirements of Law and (ii) use reasonable efforts consistent with Prudent Utility Practices and the other provisions of this Agreement to maximize the output of Facility Energy from the Facility except as otherwise set forth and in accordance with this Agreement and to result in a useful life for the Facility of not less than the Delivery Term;

(b) At its sole expense, operate and maintain the Facility using a Qualified Operator in accordance with applicable Requirements of Law;

(c) Seller will maintain 24-7 remote monitoring of the Facility. This includes advanced alarm management, data analytics, emergency response, scheduling of preventative and corrective maintenance, troubleshooting, remote resets and dispatch of on-site resources.

Section 4.2 Operation and Maintenance Plan. Seller shall devise and implement a plan of inspection, maintenance, and repair for the Facility and the components thereof in order to maintain such equipment in accordance with Prudent Utility Practices and shall keep records with respect to inspections, maintenance, and repairs thereto. The aforementioned plan and all records of such activities shall be available for inspection by Buyer during Seller’s regular business hours upon reasonable notice.

Section 4.3 Environmental Credits. Seller shall, if applicable, obtain in its own name and at its own expense all pollution or environmental credits or offsets necessary to operate the Facility in compliance with any Requirement of Law; *provided* for the avoidance of doubt, Seller shall not use any Environmental Attributes to satisfy the foregoing obligation, if any such obligation exists.

Section 4.4 Shared Facilities. The Parties acknowledge and agree that certain of the Shared Facilities and Interconnection Facilities, and Seller’s rights and obligations under the Generator Interconnection Agreement, may be subject to certain shared facilities or co-tenancy agreements to be entered into among Seller, the Participating Transmission Owner, Seller’s Affiliates, or other third parties pursuant to which certain Shared Facilities and Interconnection Facilities may be subject to joint ownership and shared maintenance and operation arrangements; *provided* that such agreements (i) shall permit Seller to perform or satisfy, and shall not purport to limit, its obligations under this Agreement, including providing interconnection capacity in the

amount of 170 MW for the Facility's sole use, (ii) provide for separate metering of the Facility, (iii) provide that any other generating or energy storage facilities not included in the Facility but using Shared Facilities shall not be included within the Facility's CAISO Resource ID, and (iv) provide that any curtailment of the Shared Facilities that is ordered by the CAISO or Transmission Provider that Seller and its Affiliates have discretion to allocate across generating or energy storage facilities using the Shared Facilities shall not be allocated to the Facility in an amount that is higher than Buyer's pro rata portion of the total capacity of all generating or energy storage facilities using the Shared Facilities, provided further that the Facility shall not be allocated curtailment caused by or isolated to the Remaining Complex, or any portion thereof.

Section 4.5 Outages.

(a) Buyer and Seller shall cooperate to minimize Scheduled Outages during May 1 through September 30 of each calendar year in accordance with Prudent Utility Practices and this Section 4.5 (such periods, the "**Major Maintenance Blockout**"). Seller shall attempt to minimize its Scheduled Outages during the Major Maintenance Blockout consistent with Prudent Utility Practices; provided that Seller shall be permitted to perform scheduled and unscheduled maintenance on the Facility during Major Maintenance Blockouts (1) during such nighttime hours when solar irradiance levels are insufficient to permit the production of any Energy, if such maintenance is permitted under the CAISO Tariff and conducted in accordance with all applicable Requirements of Law and Prudent Utility Practices (including, for avoidance of doubt, the requirements of the Transmission Provider), (2) such outage or maintenance is required to avoid an emergency or damage to the Facility or its Interconnection Facilities, (3) such outage or maintenance is necessary to maintain equipment warranties or is otherwise required by the equipment manufacturer and cannot be scheduled outside the Major Maintenance Blockout, (4) such outage or maintenance occurs in connection with any Force Majeure event, (5) such outage or maintenance is required by any Requirement of Law or by the CAISO Tariff or the tariffs of the Transmission Provider, (6) the Parties agree to such outage or maintenance in writing, or (7) such outage is reasonably necessary and does not decrease the usable capacity of the Facility by more than 10%. No later than sixty (60) days prior to the anticipated Commercial Operation Date, and for each calendar year thereafter, no later than one hundred twenty (120) days prior to the deadline for providing the CAISO Resource Adequacy filings and proposed maintenance outages for the following year as described in the CAISO Tariff, Seller shall provide Buyer with its non-binding written projection of all Scheduled Outages for the succeeding calendar year (the "**Scheduled Outage Projection**") reflecting a minimized schedule of scheduled maintenance during the Major Maintenance Blockout. The Scheduled Outage Projection shall include information concerning all projected Scheduled Outages during such period, including (A) the anticipated start and end dates of each Scheduled Outage; (B) a description of the maintenance or repair work to be performed during the Scheduled Outage; and (C) the anticipated MW of operational capacity, if any, during the Scheduled Outage. Seller shall use commercially reasonable efforts to notify Buyer of any change in the Scheduled Outage Projection fifty (50) days prior to the first day of the month of the originally scheduled date of the Scheduled Outage, but in no event later than fifteen (15) days prior to the first day of the month of the originally-scheduled date of the Scheduled Outage. Seller shall use commercially reasonable efforts to accommodate reasonable requests of Buyer with respect to the timing of Scheduled Outages, to the extent consistent with Prudent Utility Practices, to arrange for Scheduled Outages to occur outside the Major Maintenance Blockout in accordance with this Section 4.5(a).

(b) In addition to reporting outages to Buyer within any applicable time period for reporting outages under the CAISO Tariff and applicable rules and regulations of the CAISO, Seller shall notify Buyer immediately upon identification of a situation likely to result in a Forced Outage that is likely to cause or require removal of ten percent (10%) or more of the Facility from service, or a reduction in the maximum output capability of the Facility by ten percent (10%) or more from the value most recently recorded in the generation outage reporting system for the CAISO. For all other Forced Outages, Seller shall provide Buyer with as much advance notice as practicably possible, but in all cases, shall notify Buyer within 30 minutes after the commencement of the Forced Outage. Seller shall provide detailed information, once known to Seller, concerning each Forced Outage, including (i) the start and anticipated end dates of the Forced Outage; (ii) a description of the cause of the Forced Outage; (iii) a description of the maintenance or repair work to be performed during the Forced Outage; and (iv) the anticipated MW of nameplate capacity, if any, during the Forced Outage. In the event of any inconsistency between the provisions in this Section 4.5 and any applicable requirements of CAISO, the provisions of CAISO shall govern.

(c) Seller shall exercise commercially reasonable efforts to avoid Forced Outages and to limit the duration and extent of any such outages. In addition to the requirements set forth in Section 4.5(a) and Section 4.5(b), the Parties shall cooperate to develop mutually acceptable procedures for addressing Scheduled Outages and any other outages arising in connection with the Facility.

ARTICLE V COMPLIANCE DURING CONSTRUCTION AND OPERATIONS; SECURITY

Section 5.1 Construction, Operation, and Maintenance of Facility. Seller shall only engage with Approved Vendors for the solar panels, inverters, and transformers to be incorporated into the Facility. Seller shall, as between Seller and Buyer, be solely responsible for the operation and maintenance of the Facility, and shall comply with applicable Requirements of Law and Prudent Utility Practices relating to the construction, operation, and maintenance of the Facility.

Section 5.2 Buyer's Rights to Monitor in General. Buyer shall have the right, and Seller shall permit Buyer and its Authorized Representative, advisors, engineers and consultants, to observe, inspect, and monitor the construction and operations and activities of the Facility, including reviewing and monitoring all initial performance tests during Facility start-up. Seller shall provide Buyer at least ten (10) Business Days prior notice of the commencement of any initial performance tests during Facility start-up; *provided* that in no event shall Seller be required to reschedule any such tests should Buyer or its representatives not be available on the scheduled date for such tests. Upon any visit to the Site, Buyer and its representatives shall: (a) not interfere with the orderly progression of the work on Site or operation of the Facility; (b) follow Seller's rules and policies with respect to safety and protection of property and the environment; and (c) be escorted while on the Site by an employee or other representative of Seller. Without limiting Seller's obligations under Section 14.17(a), the presence of Buyer, its representatives or both on the Site shall be at Buyer's sole expense and risk.

Section 5.3 Effect of Review by Buyer. Any review by Buyer or a Buyer's Authorized Representative of the design, construction, engineering, operation or maintenance of the Facility, or observation of any testing, is solely for the information of Buyer. Buyer shall have no obligation

to share the results of any such review or observations with Seller, nor shall any such review or the results thereof (whether or not the results are shared with Seller), nor any failure to conduct any such review, nor any observation of testing or failure to observe testing, relieve Seller from any of its obligations under this Agreement. By making any such review or observing any such testing, Buyer makes no representation as to the economic and technical feasibility, operational capability or reliability of the Facility. Seller shall in no way represent to any third party that any such review by Buyer or Buyer's Authorized Representative of the Facility thereof, including any review of the design, construction, operation or maintenance, is a representation by Buyer as to the economic and technical feasibility, operational capability or reliability of the Facility. Seller is solely responsible for the economic and technical feasibility, operational capability and reliability thereof.

Section 5.4 Reporting and Information. Following the Commercial Operation Date, Seller shall provide monthly reports including (i) a summary of the Month and Contract Year-to-date Facility performance with respect to MWh of generation on an actual vs. expected basis, (ii) non-Buyer-caused curtailments and outages, and (iii) maintenance and repair actions, substantially in the form of Appendix P.

Section 5.5 Performance Security.

(a) Within twenty (20) days after the Effective Date, Seller shall furnish to Buyer one or more letters of credit issued by Qualified Issuers substantially in the form attached hereto as Appendix E in the aggregate amount of Seventeen Million Dollars (\$17,000,000), to secure Seller's obligations under this Agreement during the period of the Agreement Term prior to the Commercial Operation Date (the "**Development Security**"). Seller shall maintain the Development Security until either: (i) the Commercial Operation Date is achieved and Seller posts the Operation Security pursuant to Section 5.5(b); or (ii) until Buyer is required to return the Development Security under Section 5.5(c), and provided that Seller shall have no replenishment obligation with regard to the Development Security.

(b) On or before the date set forth on Appendix I and as a condition to the achievement of the Commercial Operation Date, Seller shall have furnished to Buyer one or more letters of credit issued by Qualified Issuers in the form attached hereto as Appendix E in the aggregate amount of Eighteen Million Seven Hundred Thousand Dollars (\$18,700,000), to secure Seller's obligations under this Agreement during the Delivery Term (collectively, the "**Operation Security**") and which Seller shall maintain in full force and effect, subject to the replenishments cap, in the required amount until the end of the Delivery Term or until Buyer is required to return the Operation Security to Seller as set forth in Section 5.5(c).

(c) Buyer shall return the unused portion of the (i) Development Security, if any, to Seller after: (A) Seller's provision of the Operation Security, unless Seller elects to apply the Development Security toward the Operation Security, or (B) the effective date of any early termination of this Agreement by Buyer or Seller upon payment (whether directly or indirectly such as through set-off or netting) of all damages due and owing to Buyer, if any, and (ii) Operation Security, if any, to Seller after: the later of (1) all payment obligations of Seller due and payable to Buyer arising under this Agreement are paid (whether directly or indirectly such as through set-off or netting) in full, and (2) six (6) months after the Agreement Term has ended.

(d) Buyer may draw on the Performance Security, subject to any Development Cure Period, a Qualifying Transformer Failure, and any applicable cure period provided under this Agreement, (i) at any time following Seller's failure to timely pay Daily Delay Damages when due hereunder in the amount of such Daily Delay Damages or any other liquidated damages provided for hereunder, (ii) upon Seller's failure to pay Buyer the GEP Shortfall Damages when due after the GEP Shortfall Makeup Period as provided in Article IX in the amount of such unpaid GEP Shortfall Damages, (iii) upon Seller's failure to make any other payment due when due to Buyer hereunder in the amount of such unpaid payment, including any Termination Payment, Pre-COD Termination Fee, or Seller Approvals Termination Fee; or (iv) upon the occurrence and during the continuation of any event of Default to pay all amounts due to Buyer hereunder at such time including all damages, costs, losses, expenses, other liabilities, and any Indemnifiable Losses, incurred by Buyer and the Indemnified Group, resulting from such event of Default. Buyer may draw all or any part of such amounts due to Buyer from any form of security provided under this Section 5.5, and in any sequence Buyer may elect, in its sole discretion. Any failure of, or delay by, Buyer in electing to draw any amount from the Performance Security shall in no way prejudice Buyer's rights to subsequently recover such amounts from the Performance Security or in any other manner. Within ten (10) Business Days following any draw by Buyer on the Operation Security, Seller shall replenish the amount drawn such that the Operation Security is restored to the applicable amount set forth in Section 5.5(b); *provided that* Seller's replenishment obligation with respect to the Operation Security shall be limited such that the total amount of any replenishments of such Operation Security shall not exceed two (2) times the initial \$18,700,000 amount of the original Operation Security (i.e., the total of any such replenishments shall be limited to \$37,400,000). For avoidance of doubt, (a) the limit on Seller's obligation to replenish the Operation Security shall not be construed as a cap on Seller's liability under the Agreement; and (b) the amount of any draw permitted prior to the Commercial Operation Date shall be subject to Section 13.7 and the limitation that Seller liability for the period prior to the Commercial Operation Date shall not exceed the Maximum Pre-COD Liability.

(e) Seller shall provide, or cause to be provided, a replacement Letter of Credit from a Qualified Issuer, in the amount required under this Section 5.5 within (1) ten (10) Business Days after Seller receives notice from Buyer requesting such replacement Performance Security due to the occurrence of any one of the following events, or (2) within fifteen (15) Business Days after Seller's Authorized Officers receive knowledge of the occurrence of any one of the following events: (A) the issuer of the letter of credit has provided a notice to Seller or Buyer indicating its intent not to renew such letter of credit and such letter of credit expires prior to the end of the Delivery Term; (B) the failure of the issuer of the letter of credit to timely honor Buyer's properly documented request to draw on such letter of credit; (C) the issuer of the letter of credit becomes Bankrupt; (D) Buyer is directed by a Governmental Authority to terminate any relationship with the issuer of the Letter of Credit; (E) the issuer of the letter of credit fails to maintain any of the requirements of a Qualified Issuer; (F) the issuer of the letter of credit denies any liability in respect to any draw request made in compliance with the issued letter of credit on the Performance Security; or (G) the issuer of the letter of credit fails to maintain the letter of credit in full force and effect. If the replacement Letter of Credit is not delivered in accordance with this Section 5.5(e), Buyer shall have the right to demand payment of the Performance Security, and Buyer shall retain such amount in order to secure Seller's obligations under this Agreement; *provided that*, if and to the extent such retained amount exceeds payment and performance in full of all of Seller's obligations under this Agreement, Buyer shall refund the excess to Seller promptly

after all payment obligations of Seller due and payable to Buyer arising under this Agreement are paid (whether directly or indirectly such as through set-off or netting) in full.

(f) Seller shall, from time to time as requested by Buyer's Authorized Representative, execute, acknowledge, record, register, deliver and file all such notices, statements, instruments and other documents as may be necessary under all applicable law to render fully valid, perfected and enforceable the Performance Security and the rights, Liens and priorities of Buyer in such Performance Security.

(g) Notwithstanding the other provisions of this Agreement, the Performance Security: (i) constitutes security for, but is not a limitation of, Seller's obligations under this Agreement, and (ii) except to the extent otherwise set forth herein, shall not be Buyer's exclusive remedy against Seller for Seller's failure to perform in accordance with this Agreement.

Section 5.6 Compliance with Required Laws. Seller shall cause the Facility to be constructed, operated and maintained in compliance with all applicable Requirements of Law. Seller shall comply with all reporting requirements for the Facility required under applicable Requirements of Law (other than reporting requirements for the Facility pertaining to the Scheduling Coordinator, which shall be the responsibility of the Scheduling Coordinator).

ARTICLE VI PURCHASE AND SALE OF PRODUCT

Section 6.1 Purchases by Buyer.

(a) Subject to the terms of this Agreement, prior to the Commercial Operation Date, Seller shall sell and deliver, and Buyer shall purchase, the Products associated with Test Energy for the applicable Contract Price set forth in Section 5 of Appendix A; provided that if any Test Energy is delivered before the Facility is CEC Certified (i.e., any Test Energy delivered prior to the Facility being pre-certified by the CEC), the Contract Price shall exclude the applicable Environmental Attributes Value for such period, if any, between the date Seller first delivers Test Energy from the Facility and the day that is one (1) day following the date upon which Seller delivers evidence to Buyer that the Facility is CEC Certified (any such period, the "***Pre-CEC Certification Period***").

(b) Subject to the terms of this Agreement, and except as set forth in this Agreement (including Section 6.1(e)), Buyer pay Seller for Deemed Delivered Energy as set forth in Section 7.4(b) and Section 3 of Appendix A.

(c) Subject to the terms of this Agreement, and except as set forth in Section 6.1(e), on and after the Commercial Operation Date and continuing for the Delivery Term, Seller shall sell and deliver, and Buyer shall purchase, the Products associated with Facility Energy (other than Excess Energy, Deemed Delivered Energy, or Test Energy) and Replacement Product at the Contract Price as set forth in Section 2 of Appendix A.

(d) Subject to this Agreement, and except as set forth in Section 6.1(e), on and after the Commercial Operation Date and continuing for the Delivery Term, Seller shall sell and

deliver, and Buyer shall purchase, the Products associated with Excess Energy as set forth in Section 4 of Appendix A.

(e) If during any Settlement Interval, Seller delivers Product amounts, as measured by the amount of Facility Energy, in excess of the product of the Installed Capacity and the duration of the Settlement Interval, expressed in hours (“*Excess Settlement Interval MWh*”), then the price applicable to all such Excess Settlement Interval MWh in such Settlement Interval shall be zero dollars (\$0), and if there is a Negative LMP during such Settlement Interval, Seller shall pay to Buyer an amount equal to the absolute value of the Negative LMP times such Excess Settlement Interval MWh.

Section 6.2 Energy from Third Party Sources. Except for Replacement Product, and as provided in ARTICLE IX, in no event shall Seller have the right to procure Energy from sources other than the Facility for sale and delivery pursuant to this Agreement.

Section 6.3 Third Party Sales. During the Agreement Term and subject to the terms and conditions of this Agreement, all of the Product from the Facility shall be dedicated to Buyer. Except with the prior written consent of Buyer or as provided in this Agreement, Seller shall not sell or otherwise transfer all or any part of the Products required to be delivered by Seller under this ARTICLE VI, ARTICLE VII, ARTICLE VIII or ARTICLE X to someone other than Buyer. A violation of this Section 6.3 with respect to transfer of the Products to someone other than Buyer shall be a Default subject to Section 13.1(b), in addition to any other rights and remedies available to Buyer under Section 13.2, Seller shall pay Buyer an amount for each MWh of such deficiency equal to the positive difference, if any, obtained by subtracting (A) the price per MWh that would have been payable by Buyer for the Energy had such Energy been delivered to Buyer from (B) the sum of (1) the Market Price Index for such Energy and (2) the Environmental Attributes Value associated therewith. Buyer shall provide Seller prompt written notice of the Environmental Attributes Value, together with back-up documentation.

Section 6.4 Nature of Remedies. The remedy set forth in Section 6.3 is in addition to, and not in lieu of, any other right or remedy of Buyer, under this Agreement, for failure of Seller to sell and deliver the Products as and when required in this Agreement.

ARTICLE VII TRANSMISSION AND SCHEDULING; TITLE AND RISK OF LOSS

Section 7.1 In General.

(a) Seller shall establish and maintain a separate and distinct CAISO Resource ID for the Facility, as defined in the CAISO Tariff, that is capable of being utilized by Buyer for scheduling purposes. Seller shall use reasonable efforts consistent with Prudent Utility Practices and the other provisions of this Agreement to maximize the output of Facility Energy from the Facility except as otherwise set forth and in accordance with this Agreement. Seller shall arrange for, and shall bear all risks and benefits associated with, delivery of all Facility Energy and Replacement Energy to the Point of Delivery, including the arrangement of and payment for the interconnection of the Facility to the CAISO grid and any Transmission Services required to deliver Test Energy, Facility Energy and Replacement Energy to the Point of Delivery in the

CAISO grid, including interconnection costs, transmission losses to the Point of Delivery, the transmission of Facility Energy associated with the transmission of Energy from the Facility to the Point of Delivery; provided that Replacement Energy may be delivered at locations approved by Buyer and subject to Seller's reimbursement of any costs incurred by Buyer associated with any alternate delivery location (including the amount, if any, by which the Real-Time LMP at such point of interconnection is less than the Real-Time LMP at the Point of Delivery).

(b) Buyer shall arrange for, and shall bear all risks associated with, acceptance and transmission of Facility Energy and Replacement Energy at and from the Point of Delivery, including the arrangement of and payment for Transmission Services at and from the Point of Delivery at the CAISO grid, and shall Schedule or arrange for Scheduling and Transmission Services to deliver Facility Energy and Replacement Energy at and from the Point of Delivery to Buyer, including charges related to control area services, inadvertent energy flows, transmission losses, the transmission of Facility Energy and Replacement Energy, and otherwise associated with the management of Buyer's loads.

Section 7.2 Scheduling Cost Allocation; CAISO Scheduling Coordinator. From and after Initial Synchronization, Buyer, or Buyer's designated third party, shall act as Scheduling Coordinator for the Facility and shall have the full right and obligation to Schedule all Energy from the Facility and Replacement Energy in accordance with all CAISO and other applicable requirements at and from the Point of Delivery. Seller shall cooperate and coordinate with Buyer ahead of Initial Synchronization to ensure Buyer's ability to act as Scheduling Coordinator on such date. Buyer as Scheduling Coordinator shall assist with the need to test, commission and to timely achieve Commercial Operation, and Buyer shall not knowingly provide any scheduling instructions which interferes with those purposes. Buyer shall be the recipient of all CAISO Revenues associated with operation of the Facility and shall be financially responsible for and shall pay for all CAISO Costs; *provided, however*, that notwithstanding the foregoing, Seller shall assume all liability and reimburse Buyer for any and all costs, penalties or charges to the extent such costs or charges are incurred by Buyer as a direct result of Seller's failure to perform any covenant or obligation set forth in this Agreement (including but not limited to Seller's failure to provide the required notices for outages of the Facility or comply with any curtailment order or any data request) or failure to comply with any CAISO Tariff, WECC, NERC, Prudent Utility Practices, or other Requirements of Law, each except to the extent such non-compliance is caused by Buyer's failure to perform its duties as Scheduling Coordinator for the Facility.

Section 7.3 Forecasting and Scheduling of Energy.

(a) Except upon the occurrence of a Curtailment Period under Section 7.4, Buyer or Buyer's designated agent, as Scheduling Coordinator, shall Schedule all Facility Energy in accordance with the CAISO Tariff, NERC and WECC operating policies and criteria, and any other applicable guidelines, and the Scheduling and forecasting procedures provided in or developed under this Section 7.3. Seller, at its own cost, shall install metering, telemetry and control equipment so as to be able to provide Facility Energy to the Point of Delivery and respond to CAISO, Transmission Provider, or reliability coordinator's dispatch orders. Seller will take all actions, at its sole costs and expense, required for the Facility to comply with the Eligible Intermittent Resources Protocol and the CAISO's new resource implementation process, as applicable, and all additional applicable tariffs and protocols issued after the Effective Date by the

CAISO applicable for Facility forecasting and scheduling of energy relating to eligible intermittent resources and the CAISO's new resource implementation process during the Delivery Term subject to, to the extent applicable, a change in electric market design in Section 14.4(b).

(b) Seller shall provide, or shall cause its designee to provide, the following non-binding forecasts, and any updates to such forecasts, to Buyer based on the most current forecast of Facility Energy and Replacement Energy, all in accordance with the requirements of the CAISO Tariff:

(i) At least one-hundred twenty (120) days before (a) the anticipated Commercial Operation Date and (b) the beginning of each Contract Year (other than the first Contract Year), a non-binding forecast of each Month's average-day deliveries of Facility Energy and Replacement Energy, for the shorter of (i) following eighteen (18) Months, and (ii) the remaining Delivery Term.

(ii) No later than sixty (60) days before the beginning of each Month during the Delivery Term, a non-binding forecast of each day's average hourly deliveries of Facility Energy and Replacement Energy, for such Month.

(iii) No later than ten (10) Business Days before the beginning of each Month during the Delivery Term, a non-binding forecast of each day's average hourly deliveries of Facility Energy and Replacement Energy for the following Month.

(iv) On the first Business Day of each calendar week during the Delivery Term, a non-binding forecast of each day's average deliveries of Facility Energy and Replacement Energy, by hour, for the following fourteen (14) days.

(v) By 5:30 a.m. Pacific Prevailing Time on the Business Day immediately preceding each day of delivery of Facility Energy and Replacement Energy during the Delivery Term, a copy of a non-binding hourly forecast of Seller deliveries of Facility Energy and Replacement Energy for each hour of the immediately succeeding day ("**Day-Ahead Forecast**"). Any forecast provided on a day prior to any non-Business Day shall include forecasts for the immediate day, each succeeding non-Business Day and the next Business Day. Seller shall, by 9:00 a.m. Pacific Prevailing Time, provide to Buyer a copy of any updates to such forecast indicating a change in forecasted Facility Energy or Replacement Energy from the then-current forecast.

(vi) During the Delivery Term, Seller shall notify Buyer of any changes from the Day-Ahead Forecast in (i) Available Generating Capacity of one (1) MW or more and (ii) hourly expected Energy of one (1) MWh or more, whether due to Forced Outage, Force Majeure or other cause, as soon as reasonably possible, but no later than one (1) hour prior to the deadline for submitting Schedules to the CAISO in accordance with the rules for participation in the Real-Time Market. If the Available Generating Capacity changes by at least one (1) MW or hourly expected Energy changes by one (1) MWh as of a time that is less than one (1) hour prior to the Real-Time Market deadline, but before such deadline, then Seller must notify Buyer as soon as reasonably possible. Such Real-Time Forecasts of Energy shall be provided by an Approved Forecast Vendor and shall contain information regarding the beginning date and time of the event

resulting in the change in Available Generating Capacity or hourly expected Energy, as applicable, the expected end date and time of such event, and any other information required by the CAISO or reasonably requested by Buyer. With respect to any Forced Outage, Seller shall use commercially reasonable efforts to notify Buyer of such outage within ten (10) minutes of the commencement of the Forced Outage. Seller shall inform Buyer of any developments that will affect either the duration of such outage or the availability of the Facility during or after the end of such outage. These Real-Time Forecasts shall be communicated in a method reasonably acceptable to Buyer; *provided* that Buyer specifies the method no later than fifteen (15) Business Days prior to the effective date of such requirement. In the event Buyer fails to provide Notice of an acceptable method for communications under this Section 7.3(b)(vi), then Seller shall send such communications by telephone or e-mail to Buyer. In the event Seller does not in a given hour provide the forecast required in this Section 7.3(b)(vi) and Buyer incurs a cost, loss, or penalty resulting from Seller's failure and Buyer's scheduling activities in such hour with respect to Facility Energy, Seller shall be responsible for any and all costs, losses, or penalties, including (but not limited to) the product of (a) the absolute difference (if any) between (i) the expected Energy for such hour set forth in the Day-Ahead Forecast, or if there is no Day-Ahead Forecast, then the Monthly Delivery Forecast, and (ii) the actual Energy produced by the Facility, multiplied by (b) the absolute value of the Real-Time Price in such hour.

(c) Seller shall, at its own cost and expense, develop and install all communication systems necessary for the operation of the Facility in accordance with Prudent Utility Practices and this Agreement, including communications systems that provide for (i) the receipt and following of automated dispatch instructions from the CAISO, (ii) enabling of automated generation control capability for Ancillary Services, and (iii) inter-control center communications protocol and distributed network protocol communications protocols.

(d) Throughout the Delivery Term, Seller shall provide to Buyer the following data on a real-time basis, and in a format that reasonably allows Buyer to copy, paste or otherwise use such data:

(i) Read-only access to meteorological and related solar measurements, megawatt capacity and any other Facility availability information required in accordance with EIRP requirements;

(ii) Read-only access via secure login credentials to Energy output information collected by the SCADA system for the Facility; *provided* that if Buyer is unable to access the Facility's SCADA system, then upon written request from Buyer, Seller shall provide Energy output information and meteorological measurements through such other format as may be mutually acceptable to Seller and Buyer, all as may be updated from time to time based on advancements in technology in accordance with Prudent Utility Practices; and

(iii) Read-only access to all Electric Metering Devices.

(e) The Parties shall work together after the Effective Date to develop Scheduling and operating procedures, which the Parties shall finalize no later than thirty (30) days prior to the Commercial Operation Date, or such other date agreed to by the Parties, in addition to those set forth in this Section 7.3, in order to administer the provisions of this Agreement in

compliance with all applicable Requirements of Law and requirements of the Transmission Provider, CAISO, NERC, WECC, and any balancing authority involved in the Scheduling of Energy under this Agreement. Procedures may be reviewed annually (date and time to be mutually agreed), or as needed to account for actual Scheduling and operating requirements, to optimize operations for both Parties.

Section 7.4 Curtailment.

(a) Seller shall reduce deliveries of Facility Energy to the Point of Delivery promptly upon notice from, as applicable, the CAISO, a Transmission Provider, or any applicable balancing authority or reliability entity during Curtailment Orders. If required by the CAISO, a Transmission Provider, or any balancing authority or reliability entity, Seller shall provide the capability to implement curtailments and adjust ramp rates, megawatt output, power factor and voltage, and (if applicable) megavar output in real-time by means of setpoints received from the SCADA system of Seller.

(b) Buyer may curtail deliveries of Facility Energy (including for economic reasons and bid offers into the CAISO), at any time and for the duration specified by Buyer, subject to the Deemed Delivered Energy requirements, as applicable. Seller shall comply with such request and respond to Buyer curtailment notices (including the end of such curtailment periods) in accordance with Prudent Utility Practices. Seller shall install equipment at the Facility capable of measuring and recording representative solar data twenty-four (24) hours per day and collecting other data necessary to reasonably determine the amount of Deemed Delivered Energy.

(i) Test Energy. Buyer shall not unreasonably curtail Test Energy in a manner that would materially delay Facility testing and the occurrence of the Commercial Operation Date. During the Test Energy period prior to the Commercial Operation Date, Buyer shall pay Seller for any Deemed Delivered Energy from a Compensable Curtailment in accordance with Appendix A, Section 5.

(ii) Commercial Operation. Starting on the Commercial Operation Date, Buyer shall pay Seller for any Deemed Delivered Energy from a Compensable Curtailment in accordance with Appendix A, Section 3; provided that the PTC Amount shall not be payable under Appendix A, Section 4 for Excess Energy.

(c) If delivery of Energy from the Complex is curtailed or reduced pursuant to Section 7.4(a), Seller shall allocate, and shall cause its Affiliates to allocate, to the extent it/they have discretion regarding such allocation, such curtailment or reduction, or cause the allocation of such curtailments or reductions as set forth in Section 4.4.

(d) Seller may reduce deliveries of Facility Energy to the Point of Delivery when necessary to prevent imminent risk of damage or injury to any Person or any Person's property that does not qualify as a System Emergency, a Force Majeure event, Scheduled Outage, or Forced Outage ("***Seller Safety Curtailment***"); provided that (i) such Facility Energy that would otherwise have been produced during a Seller Safety Curtailment shall not be considered Deemed Delivered Energy or count towards Lost Output, (ii) Seller will receive no compensation for such

reductions; and (iii) Seller shall reimburse Buyer for any costs or penalties, including CAISO Costs, associated with such Seller Safety Curtailment.

Section 7.5 No Payment. Aside from Compensable Curtailments, Buyer shall not be obligated to pay Seller for any Facility Energy that is not or cannot be delivered to the Point of Delivery for any reason (including Force Majeure).

Section 7.6 Title; Risk of Loss. As between the Parties, Seller shall be deemed to be in exclusive control (and responsible for any damages or injury caused thereby) of all Facility Energy and Replacement Energy prior to the Point of Delivery, and Buyer shall be deemed to be in exclusive control (and responsible for any damages or injury caused thereby), of all Facility Energy and Replacement Energy from and after the Point of Delivery. Seller warrants that it will deliver all Facility Energy and Replacement Energy, and all of the associated Environmental Attributes, Capacity Attributes, Ancillary Services, and any other portions of the Product and Replacement Product to Buyer free and clear of all Liens, security interests, claims, and encumbrances of any kind created by any Person other than Buyer. Title to and risk of loss as to all Facility Energy and Replacement Energy and all of the associated Products shall pass from Seller to Buyer at the Point of Delivery; *provided* that title to and risk of loss as to any (a) Replacement Energy specified by Buyer to be delivered to a point or points of delivery other than the Point of Delivery pursuant to Section 9.1 and all of the associated Environmental Attributes shall pass from Seller to Buyer upon delivery of such Replacement Energy to such point or points, and (b) renewable energy credits associated with the Products shall pass from Seller to Buyer upon the deposit of the applicable WREGIS Certificate into Buyer's WREGIS account in accordance with WREGIS protocols.

Section 7.7 RPS Compliance.

(a) Seller warrants and covenants that, from the time it receives notice from the CEC that the Facility is CEC Certified, and at all times thereafter until the expiration of the Delivery Term or earlier termination of this Agreement, the Facility (including the Facility Energy and the associated Environmental Attributes) shall be in RPS Compliance, subject to the remainder of this Section 7.7, and the provisions of this Section 7.7 shall apply notwithstanding any contrary provisions elsewhere in this Agreement.

(b) If a Change in Law occurs after the Effective Date that increases Seller's known or reasonable expected costs to be in RPS Compliance, then the Parties agree that the maximum aggregate amount of costs and expenses ("**Compliance Costs**") that Seller shall be required to bear during the Agreement Term to comply with all of such obligations (collectively, the "**Compliance Actions**") shall be up to the Compliance Expenditure Cap; *provided, however*, that Seller's Compliance Expenditure Cap shall not apply to Compliance Actions that are required due to the installation of storage technologies at the Facility or related to cost of facilities, material, or equipment that are part of the Remaining Complex but not the Facility, and shall further be subject to Section 7.7(c) below. Seller's Compliance Expenditure Cap shall be reduced by any amounts that have accrued toward Seller's Compliance Expenditure Cap under any provision in this Agreement.

(c) Compliance Action Notice; Responsibility for Expenditures.

(i) If after a commercially reasonable period of time after such Change in Law, Seller reasonably expects that the Compliance Action costs necessary to cause the Facility to be in RPS Compliance will exceed Seller's Compliance Expenditure Cap even after Seller's future efforts to comply with such Change in Law, including Seller's expenditure of Compliance Action costs in an amount no less than Seller's Compliance Expenditure Cap, or if it is not possible to overcome through the payment of money the Change in Law to remain in RPS Compliance, then, in either case, Seller shall promptly provide notice to Buyer of the foregoing along with a reasonably detailed report (the "**Compliance Action Notice**") consisting of (A) the Compliance Actions that Seller has performed and an itemized list of costs of such Compliance Actions, (B) Seller's proposed additional Compliance Actions and a good faith itemized estimate of the applicable costs, and (C) a good faith estimate of the date that the Facility will again be in RPS Compliance or the applicable portions of the Product will be in compliance with the successor RPS Law (if any), as applicable, (the aggregate estimated costs of all performed and proposed Compliance Actions, "**Compliance Action Plan Estimate**"), or (D) a statement that if it is not possible to overcome through the payment of money the Change in Law for the Facility to remain in RPS Compliance or for the applicable portions of the Product to be in compliance with the successor RPS Law (if any), as applicable.

(ii) For sixty (60) days after delivery of the Compliance Action Notice, either Party may elect to pay costs in excess of Seller's Compliance Expenditure Cap ("**Excess Compliance Costs**"). If a Party does elect through notice to the other Party to pay Excess Compliance Costs, then Seller shall be responsible for all Compliance Action costs up to Seller's Compliance Expenditure Cap, and the electing Party shall be responsible for Compliance Action costs in excess thereof. If neither Party has provided notice to the other Party in writing of its election to pay the Excess Compliance Costs after sixty (60) days from the delivery of the Compliance Action Notice, or if it is not possible to overcome through the payment of money the Change in Law for the Facility to remain in RPS Compliance or for the applicable portions of the Product to be in compliance with the successor RPS Law (if any), as applicable, then one of the following scenarios (A)-(C) shall apply:

(A) In the event that the RPS Law is completely removed, with no similar successor state or federal requirement or program established that mandates the procurement of Environmental Attributes such as RECs or other environmental attributes (such successor requirement or program, a "**Successor Program**"), then both Parties shall continue performance of the Agreement (subject to Seller being excused from any related provisions including any RPS related representations, warranties and obligations under the Agreement), including Buyer paying to the Seller the Contract Price in accordance with this Agreement.

(B) In the event that the RPS Law or a Successor Program remains, and solar photovoltaic resources as a category no longer qualifies but the Facility remains a carbon-free resource, then both Parties shall continue performance of the Agreement (subject to Seller being excused from any related provisions including any RPS related representations, warranties and obligations under the Agreement); *provided that* the Contract Price set forth in Appendix A, Section 1 during any period in this scenario (B) shall be equal to eighty percent (80%) of the then-current Contract Price (together, the "**Reduced Contract Price**"); provided that if the Facility, despite being a solar photovoltaic resource, subsequently nonetheless is considered RPS Compliant, the Contract Price in Appendix A, Section 1 shall revert to the full Contract Price.

(C) In the event that neither scenario (A) nor (B) immediately above applies, but the Facility in particular no longer qualifies for the RPS or a Successor Program, then if not cured by Seller within 180 days after notice to Seller by Buyer, Buyer may, in its sole discretion and without penalty to Buyer, terminate this Agreement by notice to Seller, without liability to either Party, except for such liabilities that accrued prior to the date of termination or that otherwise survive termination in accordance with the terms of this Agreement. During any period in scenario (C), Buyer shall pay Seller the Reduced Contract Price (and for avoidance of doubt if and when Seller timely cures any deficiency under this scenario (C), Buyer from that date forward shall revert to paying Seller the full Contract Price).

(d) From time to time and at any time reasonably requested by Buyer or Buyer's Authorized Representative, Seller shall furnish to Buyer, Buyer's Authorized Representative, Governmental Authorities, or other Persons designated by Buyer, all certificates and other documentation reasonably requested by Buyer or Buyer's Authorized Representative in order to demonstrate that the Facility, the Facility Energy, and the associated Environmental Attributes were or are in RPS Compliance, subject and except to the extent set forth in Section 7.4(c).

ARTICLE VIII ENVIRONMENTAL ATTRIBUTES

Section 8.1 Transfer of Environmental Attributes. For and in consideration of Buyer entering into this Agreement, and in addition to the agreement by and between Buyer and Seller to purchase and sell Facility Energy on the terms and conditions set forth herein, Seller shall transfer to Buyer, and Buyer shall receive from Seller, all right, title, and interest in and to all Environmental Attributes, whether now existing or acquired by Seller or that hereafter come into existence or are acquired by Seller during the Agreement Term associated with the Facility Energy and any Replacement Energy. Seller agrees to transfer and make such Environmental Attributes available to Buyer immediately to the fullest extent allowed by applicable law upon Seller's production or acquisition of the Environmental Attributes. Seller represents and covenants that it has not assigned, transferred, conveyed, encumbered, sold or otherwise disposed of and shall not assign, transfer, convey, encumber, sell or otherwise dispose of all or any portion of such Environmental Attributes to any Person other than Buyer or attempt to do any of the foregoing with respect to any of the Environmental Attributes. Buyer and Seller acknowledge and agree that the consideration for the transfer of Environmental Attributes is contained within the Contract Price.

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

Section 8.3 Environmental Attributes. Seller shall take all necessary steps in making or supporting timely filings with the CEC to obtain and maintain CEC Certification and verification for the Facility throughout the Delivery Term, including compliance with all applicable requirements for certified facilities set forth in the current version of the RPS Guidebook (or its successor), subject to Section 7.7. Seller shall be responsible for any compliance obligations, and other regulatory or legal obligations associated with the Facility and delivery of

the Product, including but not limited to costs and expenses incurred by Seller to third parties in connection with or related to environmental liabilities, losses, damages or costs, Greenhouse Gas Emissions Reporting, WREGIS (for Seller's WREGIS account only), and CEC Certification and verification. Upon the request of Buyer or Buyer's Authorized Representative and subject to Section 7.7, Seller execute all documents or instruments necessary under applicable law regulations, guidebooks promulgated by the CEC or PUC, or bilateral arrangements, as applicable, necessary for the attribution, accrual, realization, generation, production, recognition and validation of Environmental Attributes for the benefit of Buyer consistent with the other terms of this Agreement throughout the Agreement Term and Seller shall file with the CEC and any other applicable Persons all materials and documents required to demonstrate that the Facility is entitled to be CEC Certified.

Section 8.4 Future Environmental Attributes.

(a) The Parties acknowledge and agree that as of the Effective Date, environmental attributes sold under this Agreement are restricted to the Environmental Attributes; however, Future Environmental Attributes may be created by a Governmental Authority through Requirements of Law enacted after the Effective Date that do not relate to RPS Compliance or a Successor Program (such as a new third-party green credit associated with a new voluntary program). Buyer shall have the exclusive right to such Future Environmental Attributes and there shall be no increase in the Contract Price; *provided, however*, Buyer shall bear all costs and risks associated with the transfer, qualification, and verification for such Future Environmental Attributes. Upon Seller's receipt of Notice from Buyer of Buyer's intent to claim such Future Environmental Attributes, the Parties shall determine the necessary actions and additional costs associated with such Future Environmental Attributes. Seller shall have no obligation to bear any costs, losses or liability, or alter the Facility or the operation of the Facility, unless the Parties have agreed on all necessary terms and conditions relating to such alteration or change in operation and Buyer has agreed to reimburse Seller for all costs, losses, and liabilities associated with such alteration or change in operation.

(b) Seller agrees to work with Buyer in good faith to provide reasonably requested documentation and execute reasonable documentation necessary to effectuate the transfer and registration of such Future Environmental Attributes, including agreement with respect to (i) appropriate transfer, delivery and risk of loss mechanisms, and (ii) appropriate allocation of any additional costs to Buyer, as set forth above; *provided*, that the Parties acknowledge and agree such terms shall not alter the other material terms of this Agreement.

Section 8.5 WREGIS. In furtherance and not in limitation of Section 8.3, Seller shall ensure all applicable steps have been taken to register the Facility with WREGIS that are reasonably capable of being completed prior to the Commercial Operation Date under WREGIS Operating Rules, and, within ninety (90) days after Commercial Operation, Seller shall ensure the Facility is registered with active status in WREGIS and is associated with an active account in WREGIS, which Seller shall maintain until the end of the Delivery Term. After the Facility is registered with WREGIS, Seller shall transfer WREGIS Certificates using the Forward Certificate Transfer method as described in WREGIS Operating Rules from Seller's WREGIS account to Buyer's WREGIS accounts, as designated by Buyer's Authorized Representative. Seller shall be responsible for WREGIS Certificate issuance fees and WREGIS expenses associated with

registering the Facility, maintaining its account, acquiring and arranging for a Qualified Reporting Entity (“**QRE**”) to the extent required, and any applicable QRE agreements, and transferring WREGIS Certificates to Buyer or any Buyer designees (provided that if Seller makes any change to the recipient of the WREGIS Certificates to any third-party designated by Buyer, pursuant to instructions provided by Buyer to Seller, and any such Product due to such designation fails to meet any requirements of this Agreement, then Seller shall not be deemed to be in breach of any obligation of this Agreement, including without limitation any representation or warranty herein). Buyer shall be responsible for its WREGIS expenses associated with maintaining its own account, or the accounts of its designees, if any, and subsequent transferring or retiring by it of WREGIS Certificates. Forward Certificate Transfers shall occur monthly based on the certificate creation timeline established by the WREGIS Operating Rules. Seller shall be responsible for, at its expense, validating and disputing data with WREGIS prior to WREGIS Certificate creation each Month. If Buyer accepts any WREGIS Certificate for a Product and that Product is later deemed not to be Compliant, Seller shall reimburse Buyer for such WREGIS Certificate at the Environmental Attributes Value plus interest at the Interest Rate within ninety (90) days after Seller is notified of such non-compliance, and if after such Seller reimbursement any such Product is later deemed compliant by WREGIS then Buyer shall further refund such amount back to Seller within ninety (90) days after Buyer is notified of thereof.

Section 8.6 Further Assurances. In addition to and not in limitation of Section 8.5, Seller shall document the production of Environmental Attributes by delivering with each invoice to Buyer an attestation for the Environmental Attributes associated with Facility Energy or included with Replacement Energy, if any, for the preceding Month in the form of attestation set forth as Appendix D.

ARTICLE IX GEP SHORTFALL

Section 9.1 Makeup of GEP Shortfall. Within thirty (30) days after the end of each Contract Year, Seller shall provide Buyer with a calculation of Adjusted Energy Production during such Contract Year, and if the end of a Performance Measurement Period, the amount of Adjusted Energy Production during such Performance Measurement Period. If Seller fails during any Performance Measurement Period to deliver (or be deemed to deliver) Adjusted Energy Production in an amount greater than or equal to the Guaranteed Generation, then such failure is a “**GEP Shortfall**” and the Performance Measurement Period in which the GEP Shortfall occurs is a “**GEP Shortfall Performance Period**”. During the GEP Shortfall Makeup Period, (i) the Adjusted Energy Production during such Shortfall Makeup Period will not be counted toward make-up of the GEP Shortfall Energy until such time the Adjusted Energy Production for the Contract Year composing such GEP Shortfall Makeup Period is equal to the Guaranteed Generation for such Contract Year and (ii) the amount of GEP Shortfall Energy shall first be reduced by the amount of any (a) Adjusted Energy Production during the applicable Shortfall Makeup Period in excess of the Guaranteed Generation, and then (b) Replacement Product delivered by Seller. Such Replacement Product shall be delivered to the Point of Delivery or such other point of delivery as is mutually agreed upon by the Parties (which point of delivery shall be deemed the “Point of Delivery” for such Replacement Product and the other Scheduling and delivery provisions hereof) and on a delivery schedule mutually agreed to by Seller and Buyer. The Parties agree to update Appendix H in a mutually agreeable manner related to facilities used for Replacement Product, or at Buyer’s

election, Seller shall alternatively provide notice consistent with Section 14.2 of the facilities used for Replacement Product in a form that includes the content of Part B of Appendix H. Any additional costs or expenses associated the Replacement Product or with delivery of Replacement Product to a Point of Delivery designated under this Section 9.1 shall be borne by Seller. To the extent Seller is unable to deliver or provide sufficient Adjusted Energy Production or Replacement Product in excess of the Guaranteed Generation to make up the remaining GEP Shortfall Energy, then Seller shall, at the end of the GEP Shortfall Makeup Period, pay Buyer GEP Shortfall Damages. Notwithstanding the foregoing, if a GEP Shortfall occurs during the last Contract Year, Seller shall pay GEP Shortfall Damages as provided in Section 9.2 without a GEP Shortfall Makeup Period which, except as set forth in Section 13.1(i), shall be Buyer's sole and exclusive remedy in connection with Seller's failure to meet the achieve the Guaranteed Generation amount.

Section 9.2 GEP Shortfall Damages. If Seller fails to make up the full amount of any GEP Shortfall Energy by the end of the GEP Shortfall Makeup Period, then Seller shall within sixty (60) days after the end of such GEP Shortfall Makeup Period pay Buyer the GEP Shortfall Damages; *provided that*, if the GEP Shortfall occurs during the final Contract Year, then Seller shall within sixty (60) days after the end of that final Contract Year pay Buyer the GEP Shortfall Damages, if any. The damages shall be an amount equal to the positive difference (if any), for each MWh of remaining GEP Shortfall, resulting from subtracting (a) the Contract Price that Buyer would have paid for such remaining GEP Shortfall had it been delivered from (b) the sum of (1) the Market Price Index for such remaining GEP Shortfall and (2) the Environmental Attributes Value associated therewith (such positive difference of (a) and (b) for each MWh, the "***GEP Shortfall Damages***") No payment shall be due if the calculation yields a negative number. For the avoidance of doubt, Buyer shall not be obligated to procure Replacement Product in order to recover GEP Shortfall Damages, but may elect to procure replacement product from the GEP Shortfall Damages as a result of Seller's GEP Shortfall. If Seller fails following ten (10) Business Days' Notice from Buyer to pay Buyer the GEP Shortfall Damages within sixty (60) days after the end of the GEP Shortfall Makeup Period, Buyer shall have the right to immediately draw the applicable amount of GEP Shortfall Damages owed to Buyer from the Operation Security.

ARTICLE X CAPACITY RIGHTS

Section 10.1 Capacity Rights. For and in consideration of Buyer entering into this Agreement, and in addition to the agreement by Buyer and Seller to purchase and sell Facility Energy and Environmental Attributes on the terms and conditions set forth herein, Seller hereby transfers to Buyer, and Buyer hereby accepts from Seller, all of Seller's rights, title and interest in and to the Capacity Rights, including any Resource Adequacy Attributes and other present and future capacity attribute values related to the Facility, if available and to the extent set forth in Section 10.2. The Parties acknowledge that the Product as of the Effective Date does not contain any Resource Adequacy Attributes or any other Capacity Attributes, and as of the Effective Date the Facility has Energy-Only Deliverability Status. Similarly, Sellers's commitment of Ancillary Services is made with the acknowledgment of Buyer that the Facility as of the Effective Date has Energy-Only Deliverability Status and certain CAISO Ancillary Services certifications as of the Effective Date only pertain to certain resource types that are not the Facility (such as an energy storage system). Under this Agreement, there is no energy storage facility contemplated as of the Effective Date and any possible future installation is subject to the provisions of Section 12.4.

Further, for avoidance of doubt, black start is not included. Buyer and Seller acknowledge and agree that the consideration for the transfer of Capacity Rights, and associated Capacity Attributes (if any), is contained within the applicable Contract Price.

Section 10.2 Covenant Regarding Capacity Rights. Without limiting any of Seller's obligations under this Agreement at Seller's cost, Seller shall conduct commercially reasonable efforts (which efforts may include actions that occurred prior to the Effective Date) through the CAISO affidavit process existing as of the Effective Date to obtain from the CAISO by July 1, 2025 an award of solar generation TP Deliverability that is both sufficient and timely enough to provide the Facility deliverability by the Guaranteed Commercial Operation Date in the full amount of the Contract Capacity and qualified for Full Capacity Deliverability Status (the "**Facility TP Deliverability Allocation Condition**"). If Seller receives an allocation of solar generation TP Deliverability for the Complex that is in excess of 330 MW, then any such excess amount of solar generation TP Deliverability, up to a maximum amount of 170 MW, shall be attributable to the Facility (the "**Facility Allocation Amount**"). In the event of a Change in Law that affords the ability to secure Resource Adequacy Attributes or Capacity Attributes associated with the Capacity Rights of the Facility, upon Buyer's reasonable request and at Buyer's sole cost, Seller shall conduct commercially reasonable efforts to secure Resource Adequacy Attributes or Capacity Attributes associated with the Capacity Rights of the Facility. Subject to the preceding sentence, if the Facility TP Deliverability Allocation Condition has not occurred by Seller July 1, 2025, then Seller shall not have any further obligation to seek an allocation of TP Deliverability for the Project. The achievement of Full Capacity Deliverability Status or Interim Deliverability Status shall not be a condition to the achievement of Commercial Operation, and no Default shall occur due to the failure of the Facility to obtain Full Capacity Deliverability Status, Interim Deliverability Status, or any Resource Adequacy Attributes or any other Capacity Attributes, unless such failure is due to Seller's failure to comply with this Section 10.2. At a minimum, Seller will obtain Energy-Only Deliverability Status for the Facility upon Commercial Operation and maintain it during the Delivery Term, or be equivalently authorized by the CAISO and Governmental Authorities to deliver Product to Buyer to the same extent Product may be delivered under an Energy-Only Deliverability Status construct under any successor designation, each at Seller's own cost. To the extent that the Facility becomes subject to the Availability Standards from the CAISO, Seller shall be responsible for all availability incentive costs and penalties, and shall receive any availability incentive revenues. Seller further represents and covenants that it has not assigned, transferred, conveyed, encumbered, sold or otherwise disposed of and shall not in the future assign, transfer, convey, encumber, sell or otherwise dispose of any of the Capacity Rights to any Person other than Buyer or attempt to do any of the foregoing with respect to any of the Capacity Rights.

ARTICLE XI

BILLING; PAYMENT; AUDITS; METERING; ATTESTATIONS; POLICIES

Section 11.1 Billing and Payment. Billing and payment for all Products shall be as set forth in this ARTICLE XI.

Section 11.2 Calculation of Energy Delivered; Invoices and Payment.

(a) Commencing with the Month following the Month in which Test Energy is first delivered by Seller and received by Buyer under this Agreement, Seller shall use

commercially reasonable efforts to deliver by the fifteenth (15th) day of such Month to Buyer an invoice showing the amount due from Buyer to Seller in accordance with this Agreement for Test Energy, Facility Energy, Replacement Energy, Deemed Delivered Energy and Compensable Curtailments, and Excess Energy (if any) during the preceding Month, any other amounts due to Seller including amounts due under Section 7.4, and any supporting calculations (including Curtailment Periods and Lost Output) and records of meter data. Seller shall calculate the amount of Facility Energy from meter readings at the Electric Metering Devices maintained pursuant to Section 11.6. Each invoice shall reference this Agreement, and the name, address and identifying information of Seller and the identification of the Facility, and shall be sent to the address set forth in Appendix J or such other address as Buyer may provide to Seller. Any electronic information delivered by Seller under this Section 11.2 shall be in a format such as Microsoft Excel (or its equivalent) that allows Buyer to cut, paste or otherwise readily use and work with such information or documentation or as otherwise mutually agreed by the Parties. The Parties shall, and Buyer shall cause its Scheduling Coordinator to, provide each other with all reasonable access to any records, including invoices or settlement data from the CAISO, forecast data and other information, all as may be necessary from time to time for Seller to prepare and the Parties to verify the accuracy of all invoices.

(i) Concurrently with the delivery of each monthly invoice and to the extent received in time by Seller from WREGIS and except as otherwise provided in Section 7.7, Seller shall deliver information regarding the WREGIS Certificates, including the WREGIS certificates created in the prior month vintage and serial numbers.

(b) Subject to this Section 11.2 and Section 11.3, not later than the sixtieth (60th) day after receipt by Buyer of Seller's Monthly invoice (or the next succeeding Business Day, if the sixtieth (60th) day is not a Business Day), Buyer shall pay to Seller, by wire transfer of immediately available funds to an account specified by Seller or by any other means agreed to by the Parties from time to time, the amount set forth as due in such Monthly invoice. Buyer shall use commercially reasonable efforts to pay Seller for undisputed amounts within thirty (30) days after invoice receipt; *provided that* payment for undisputed amounts shall not be due to Seller until sixty (60) days after receipt of invoice as provided in the preceding sentence.

(c) Seller shall, in subsequent invoices, adjust previously invoiced amounts to reflect adjustments, reconciliations or final settlements with WREGIS occurring after the date of the initial invoice, or any other adjustments agreed to by the Parties (other than adjustments resulting from the resolution of invoice disputes, which are addressed in Section 11.3), which shall be without interest of any kind.

(d) Buyer shall not be required to make invoice payments if the invoice is received more than twelve (12) Months after the applicable Monthly billing period except with respect to any disputed amounts for which an invoice was provided within twelve (12) Months after the applicable Monthly billing period and for which Buyer's liability is established and for any corrections or adjustments resulting in amounts owing by Buyer pursuant to Section 11.6(a).

(e) Buyer may withhold from payment to Seller an amount equal to twenty dollars (\$20) per MWh (such amount, the "**WREGIS Withhold Amount**") for each MWh of Facility Energy in accordance with this Agreement (including in accordance with Section 6.1 and

Section 9.1) until such time as the WREGIS Certificate associated with such MWh of Facility Energy or Replacement Energy has been accurately and fully credited to Buyer's WREGIS account as set forth in Section 8.5, at which point Buyer shall pay or release the respective WREGIS Withhold Amount to Seller within sixty (60) days.

Section 11.3 Disputed Invoices. If any portion of any invoice is in dispute, the undisputed amount shall be paid when due. The Party disputing a payment shall promptly notify the other Party of the basis for the dispute, setting forth the details of such dispute in reasonable specificity. Disputes shall be discussed directly by the Parties' Authorized Representatives, who shall use reasonable efforts to amicably and promptly resolve such Disputes, and any failure to agree shall be subject to resolution in accordance with Section 14.3. Upon resolution of any Dispute, if all or part of the disputed amount is later determined to have been due, then the Party owing such payment or refund shall pay within ten (10) Business Days after receipt of notice of such determination the amount determined to be due plus interest thereon at the Interest Rate from the due date until the date of payment. "**Interest Rate**" shall mean the lesser of (i) two percent (2%) above the per annum Prime Rate reported daily in *The Wall Street Journal*, or (ii) the maximum rate permitted by applicable Requirements of Law.

Section 11.4 Netting of Payments. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other with respect to this Agreement on the same date through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Product during the monthly billing period under this Agreement or otherwise arising out of this Agreement, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it. For avoidance of doubt, in addition to any right now or hereafter granted under applicable law and not by way of limitation of any such rights, each Party shall have the right at any time or from time to time without notice to the other Party or to any other Person, any such notice being hereby expressly waived, to set off against any amount due the other Party from that Party under this Agreement any amount due that Party from the other Party under this Agreement, including any amounts due because of breach of this Agreement or any other obligation. Payment adjustments shall be made if Buyer or Seller discovers there have been good faith inaccuracies in invoicing that are not otherwise disputed under Section 11.3 or an adjustment to an amount previously invoiced or paid is required due to a correction of data by the CAISO; *provided, however*, that there shall be no adjustments to prior invoices based upon meter inaccuracies except to the extent that such meter adjustments are accepted by CAISO for revenue purposes. If the required adjustment is in favor of Buyer, Buyer's next monthly payment shall be credited in an amount equal to the adjustment. If the required adjustment is in favor of Seller, Seller shall add the adjustment amount to Buyer's next monthly invoice. Adjustments in favor of either Buyer or Seller shall bear interest, until settled in full, in accordance with Section 11.3, accruing from the date on which the adjusted amount should have been due.

Section 11.5 Books and Records. To facilitate payment and verification, each Party shall maintain all books and records necessary for billing and payments, including copies of all invoices under this Agreement, for a period of at least four (4) years after the creation of such related invoice or as otherwise required by any applicable Requirement of Law. Such books and records shall include documentation and materials necessary to verify all costs claimed to have been incurred under this Agreement, such as meter data. In the event of a Dispute, records that

relate to the Dispute, litigation or costs, shall be maintained. Buyer or Buyer's Authorized Auditors may inspect, reproduce, photocopy, download, transcribe, and the like any such records, provided, however (except for any required public disclosure of findings in accordance with Section 14.19(e) below) any such Authorized Auditors shall be subject to the confidentiality obligations set forth in Section 14.19 below. Upon fifteen (15) Business Days' Notice to the other Party, either Party shall be granted reasonable access to the accounting books and records within the possession or control of the other Party pertaining to all invoices generated pursuant to this Agreement. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice rendered under this Agreement or adjust any invoice for any arithmetic or computational error within four (4) years of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within ten (10) Business Days of such resolution along with interest accrued at the Interest Rate from and including the original due date to but excluding the date paid; provided that notwithstanding anything to the contrary set forth in this Section 11.5 or anywhere else in this Agreement, there shall be no adjustments to prior invoices except to the extent that such adjustments are accepted by CAISO for revenue purposes. Inadvertent overpayments shall be returned via adjustments in accordance with Section 11.4. Any dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section 11.5 within four (4) years after the invoice is rendered or subsequently adjusted. If an invoice is not rendered within twelve (12) months after the close of the month during which performance occurred, the right to payment for such performance is waived. Seller acknowledges that in accordance with California Government Code Section 8546.7, Seller may be subject to audit by the California State Auditor with regard to Seller's performance of this Agreement because the compensation under this Agreement exceeds \$10,000.

Section 11.6 Electric Metering Devices.

(a) Facility Energy shall be measured using CAISO-approved revenue-quality Electric Metering Devices that comply with the CAISO Tariff (including adjustment for losses occurring between the Facility and the Delivery Point), RPS Guidebook, and relevant protocols and is dedicated exclusively to the Facility. Seller shall arrange and bear all costs associated with the installation of the Electric Metering Devices needed for the registration, recording and transmission of information regarding the Facility Energy. Seller hereby agrees to provide a mutually agreed set of meter data to Buyer, which data shall be accessible to, and usable by, Buyer. In addition to providing Buyer with such meter data, Seller shall use commercially reasonable efforts to support any efforts by Buyer to obtain CAISO meter data applicable to the Facility and all inspection, testing and calibration data and reports from the CAISO. All such Electric Metering Devices used to provide data for the computation of payments shall be sealed and Seller shall only break the seal when such Electric Metering Devices are to be inspected and tested or adjusted in accordance with this Section 11.6. If the CAISO makes any adjustment to any CAISO meter data for a given time period which adjustment is accepted by the CAISO for revenue purposes, Seller agrees that it shall submit revised Monthly invoices, pursuant to this ARTICLE XI covering the entire applicable time period in order to fully conform such adjustments to the meter data. Seller

shall submit any revised invoices no later than thirty (30) days after the date on which the CAISO provides Seller with binding adjustments for revenue purposes to the meter data.

(b) Telemetry of Energy quantities for revenue reporting shall utilize DNP 3.0, Inter-Control Center Communications Protocol, or any other mutually agreed upon, industry-standard protocol that ensures proper counter operation. Seller or its Authorized Representative, at no expense to Buyer, shall inspect and test all Electric Metering Devices upon installation and annually thereafter, or upon Buyer's reasonable request. Seller shall provide Buyer with reasonable advance notice of, and permit representatives of Buyer to witness and verify, such inspections and tests, provided Seller shall not be required to delay or reschedule such inspections and tests. The actual expense of any such requested additional inspection or testing shall be borne by Seller, though Buyer shall be responsible for the costs and expenses of Buyer's representatives. Seller shall provide copies of any inspection or testing reports to Buyer.

(c) If an Electric Metering Device fails to register, or if the measurement made by an Electric Metering Device is found upon testing to be inaccurate by more than plus or minus one percent (+/- 1.0%), an adjustment shall be made to correct all measurements made by the inaccurate or defective Electric Metering Device for both the amount of the inaccuracy and the period of the inaccuracy. If the period of the inaccuracy cannot be reasonably ascertained, any such adjustment shall be for a period equal to one-half of the time elapsed since the preceding test of the applicable Electric Metering Devices; *provided*, such period may not exceed twelve (12) months. To the extent that the adjustment period covers a period of deliveries for which payment has already been made by Buyer, the Parties shall use the corrected measurements as determined in accordance with this Section 11.6 to recompute the amount due for the period of the inaccuracy and shall subtract the previous payments by Buyer for this period from such recomputed amount. If the difference is a positive number, the difference shall be paid by Buyer to Seller; if the difference is a negative number, that difference shall be paid by Seller to Buyer, or at the direction of Buyer, may take the form of an offset to payments due to Seller from Buyer. Payment of such difference by the owing Party shall be made not later than thirty (30) days after the owing Party receives notice of the amount due, unless Buyer elects payment via an offset. Notwithstanding anything to the contrary set forth in this Section 11.6 or anywhere else in this Agreement, there shall be no adjustments to prior invoices based upon meter inaccuracies except to the extent that such meter adjustments are accepted by CAISO for revenue purposes.

(d) On or before the first date on which Test Energy is produced by the Facility, and continuing throughout the Delivery Term, Seller shall provide to Buyer at Seller's cost read-only access to all Electric Metering Devices installed, owned, and operated by Seller that are used to measure Facility Energy.

Section 11.7 Taxes. Seller shall be responsible for and pay any and all federal, state, and local Taxes incurred by it as a result of entering into this Agreement and all Taxes imposed or assessed with respect to the Facility, the Site or any other assets of Seller, the Products or the transaction arising before the Point of Delivery per transfer of title provisions in Section 7.6 (excluding, for avoidance of doubt, withholding or other Taxes imposed on Buyer's income, revenue, receipts, or employees), if any. Buyer shall be responsible for and pay or cause to be paid all Taxes on or with respect to the Products or the transaction from and after the Point of Delivery per the transfer of title provisions in Section 7.6 (excluding, for avoidance of doubt, withholding

or other Taxes imposed on Seller's income, revenue, receipts, or employees), if any. If Seller is required by a Requirement of Law to remit or pay Taxes that are the responsibility of Buyer hereunder, Buyer shall promptly reimburse Seller for such Taxes. If Buyer is required by Requirement of Law to remit or pay Taxes that are Seller's responsibility hereunder, Buyer may deduct such amounts from payments to Seller hereunder; if Buyer elects not to deduct such amounts from Seller's payments, Seller shall promptly reimburse Buyer for such amounts upon request. Nothing shall obligate or cause a Party to pay or be liable to pay any Taxes for which it is exempt under law. In the event any sale of Product hereunder is exempt from or not subject to any particular Tax, the Party claiming the exemption shall provide the other Party with all necessary documentation to evidence such exemption or exclusion within thirty (30) days upon the request of the other Party to the claiming Party. The claiming Party shall indemnify, defend, and hold the other Party harmless from any liability with respect to Taxes for which the claiming Party is responsible hereunder and from which the claiming Party claims it is exempt. Each Party shall use reasonable efforts to implement the provisions of and administer this Agreement in accordance with the intent of the Parties to minimize all Taxes, so long as no Party is materially adversely affected by such efforts. The Parties shall cooperate to minimize Tax exposure; *provided, however*, that neither Party shall be obligated to incur any financial or operational burden (or undertake any activities which in its sole discretion such Party believes are not lawful) to reduce Taxes for which the other Party is responsible hereunder. All Product delivered by Seller to Buyer hereunder shall be a sale made at wholesale, with Buyer reselling such Product.

ARTICLE XII REPRESENTATIONS, WARRANTIES AND COVENANTS

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

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

(b) The execution, delivery and performance by Buyer of this Agreement (i) have been duly authorized by all necessary action; and (ii) does not violate any federal, state, and local law, including the California Government Code and similar laws.

(c) Buyer has the power and authority to enter into and, subject to the Buyer Approvals termination rights in Section 2.6(a), perform this Agreement and is not prohibited from entering into this Agreement or, subject to the Buyer Approvals termination rights in Section 2.6(a), discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Buyer's performance under this Agreement. The execution, delivery and, subject to the Buyer Approvals termination rights in Section 2.6(a), performance of this Agreement by Buyer Approvals has been duly authorized by all necessary action on the part of Buyer and does not and will not require the consent of any trustee or holder of any indebtedness.

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

(e) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Buyer with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Buyer formation documents, and Buyer has been given all requisite authority by the Buyer's governing body to execute this Agreement.

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

(a) Seller is a limited liability company, duly organized, validly existing, and in good standing under the laws of the jurisdiction of its formation, and is qualified to conduct business in the State of California and each jurisdiction where the failure to so qualify would have a material adverse effect on the business or financial condition of Seller.

(b) Seller has the power and authority to enter into and, subject to the Seller Board Approval termination rights in Section 2.6, perform this Agreement and is not prohibited from entering into this Agreement or subject to the Seller Board Approval termination rights in Section 2.6 to discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Seller's performance under this Agreement. The execution, delivery and, subject to the Seller Board Approval termination rights under Section 2.6, performance of this Agreement by Seller has been duly authorized by all necessary limited liability company action on the part of Seller and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Seller or any other party to any other agreement with Seller.

(c) The execution and delivery of this Agreement, consummation of the obligations contemplated herein, and fulfillment of and compliance by Seller with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Requirement of Law presently in effect having applicability to Seller, the documents of formation of Seller, or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Seller is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Seller. This Agreement is a legal, valid and binding obligation of Seller enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) Seller has (i) not entered into this Agreement with the actual intent to hinder, delay or defraud any creditor, and (ii) has or will receive reasonably equivalent value in exchange

for its obligations under this Agreement. No petition in bankruptcy has been filed against Seller (other than petitions that have been dismissed within thirty (30) days after filing), and Seller has never made an assignment for the benefit of creditors or taken advantage of any insolvency act for its benefit as a debtor. There is no pending or threatened action or proceeding affecting Seller before any Governmental Authority, which purports to affect the legality, validity or enforceability of this Agreement.

(f) Seller has not assigned, transferred, conveyed, encumbered, sold or otherwise disposed of the Products except as provided herein.

(g) The Site is located in the State of California and the Facility is or will be located in the State of California.

Section 12.3 General Covenants. Commencing on the Effective Date (unless otherwise noted below) and thereafter continuing throughout the Agreement Term:

(a) Each Party covenants that it shall continue to be duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and to be qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on its business or financial condition;

(b) Each Party covenants that it shall maintain (or obtain from time to time as required) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement;

(c) Each Party covenants that it shall perform its obligations under this Agreement in compliance with all terms and conditions in its governing documents and in compliance with any Requirement of Law;

(d) Seller covenants that it shall be a Special Purpose Entity;

(e) Seller shall not, at any time during the Delivery Term, incur or permit Facility Debt in an amount that, in the aggregate as of the date it is incurred, exceeds ninety percent (90%) of the Facility Cost;

(f) Seller covenants that it will obtain by the Construction Start Date and maintain Site Control required for constructing, operating, and maintaining the Facility (and Seller shall provide evidence of Site Control to Buyer prior to Construction Start to Buyer, which may be satisfied by providing the publicly recorded information for such Site or other documentation subject to redaction for confidential information that still allows Buyer to reasonably verify such Site Control).

(g) Seller shall maintain (or obtain from time to time as required) at its sole cost all Permits (including those issued under the CEQA/NEPA Determinations) and ministerial permits necessary for the construction and operation of the Facility and for it to legally perform its obligations under this Agreement.

Section 12.4 Storage Technology. In order to optimize the benefits of the Facility by potentially adding a co-located storage facility for Buyer (“**Buyer Storage**”) to the Agreement if the CAISO were to timely allocate sufficient deliverability for the Complex including the Facility (subject to the deliverability provisions in Section 10.2 above), Buyer and Seller each agree that if requested by Buyer, then Buyer and Seller will discuss in good faith potential reconfiguration of the Facility to accommodate Buyer Storage that preserves each Party’s benefits and obligations under the Agreement to the extent not affected by the addition of Buyer Storage with the Facility, but subject to any changes in light of the addition of such a possible Buyer Storage, and subject to each Party’s agreement in each Party’s sole discretion. Buyer shall have a right of first offer to evaluate and negotiate an agreement for such storage facility and subject to any such possible storage facility being a co-located facility with the Facility (i.e., such right of first refusal is in connection with the Facility only, and not any other third-party facilities or Phases located at the Complex, one of which already includes a proposed storage facility, or elsewhere) and subject to any such proposed storage facility sharing with the Facility the same 170 MW of interconnection capacity to which the Facility is already entitled. For the avoidance of doubt, (a) as of the Effective Date the Facility has Energy-Only Deliverability Status; and (b) Seller makes no representation or warranty that the Facility, or any potential Buyer Storage, will obtain deliverability or any allocation of TP Deliverability, or achieve Full Capacity Deliverability Status or Interim Deliverability Status.

ARTICLE XIII

DEFAULT; TERMINATION AND REMEDIES; PERFORMANCE DAMAGE

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

(a) **Payment Default.** Failure by a Party to make any payment under this Agreement when and as due (other than payments disputed in good faith), including payment of GEP Shortfall Damages, that is not cured within ten (10) Business Days after receipt of notice thereof from the other Party (which amount shall include payment of interest from the due date at the Interest Rate).

(b) **Performance Default.** Failure by a Party to perform any of its material duties or obligations under this Agreement (other than any failure that is separately listed as a Default of Seller under this Section 13.1; and except for failures to achieve the Guaranteed Generation that do not trigger the provisions of Section 13.1(i), the exclusive remedies for which are set forth in Section 9.2)), that is not cured within thirty (30) days after receipt of notice thereof from the other Party; *provided* that if such failure cannot be cured within such thirty (30) day period despite reasonable commercial efforts, such failure is not a failure to make a payment when due, such Party expeditiously commences to cure such breach following its receipt of notice, and such Party continues to diligently proceed with such cure within such longer period of time, such Party shall have an additional sixty (60) days to cure.

(c) **Breach of Representation and Warranty.** Any representation or warranty made by a Party in this Agreement is materially false or inaccurate or omits a material fact or circumstance present at the time made; *provided* that no Default shall exist if such falsity, inaccuracy, or omission is remedied within thirty (30) days after receipt of notice thereof from the

other Party (or such longer additional period, not to exceed an additional sixty (60) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30) day period despite exercising commercially reasonable efforts).

(d) **Bankruptcy.** Bankruptcy of a Party.

(e) **Performance Security Failure.** The failure of Seller to furnish, maintain, or replace Performance Security, or otherwise be in full force or effect as and to the extent required by and in the times set forth in Section 5.5, subject to a ten (10) Business Day cure period in total for the Development Security posting under the first sentence of Section 5.5(a).

(f) **Insurance Default.** The failure of Seller to maintain acceptable evidence of the required insurance for the required period of coverage as set forth in Section 14.17(b) and such failure is not remedied within thirty (30) days after Notice thereof.

(g) **Construction Start Date.** Seller's failure to achieve Construction Start on or before one-hundred eighty (180) days after the Guaranteed Construction Start Date (as may be extended by a Developer Cure Period).

(h) **Commercial Operation Date.** Seller's failure to achieve Commercial Operation: (i) on or before one-hundred eighty (180) days after the Guaranteed Commercial Operation Date (as may be extended by a Developer Cure Period); or (ii) by the Commercial Operation Date Deadline.

(i) **Adjusted Energy Production Default Event.** The amount of Adjusted Energy Production for the following respective time periods is not at least: (i) fifty percent (50%) of the Annual Contract Quantity amount measured over a single Contract Year or (ii) an average of at least 70% of the Annual Contract Quantity during any Performance Measurement Period (either (i) or (ii) a "**GEP Failure**"). To the extent that a GEP Failure is due to a Qualifying Transformer Failure, then such GEP Failure is not subject to Default; *provided that* a Qualifying Transformer Failure shall only be applied to a GEP Failure one time during the Delivery Term for a maximum period of one (1) year.

(j) **Fundamental Change.** (1) A Party assigns this Agreement or any of its rights hereunder, (2) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity, or (3) a foreclosure of Seller's interests in this Agreement, other than for each of (1), (2) and (3), (A) in compliance with Section 14.7, or (B) with the other Party's prior written consent..

(k) **Failure to pay Daily Delay Damages.** Failure by Seller to make any payment of Daily Delay Damages pursuant to Section 3.3(c) when and as due (other than payments disputed in good faith) that is not cured within fifteen (15) Business Days after receipt of notice thereof from Buyer (which amount shall include payment of interest from the due date at the Interest Rate).

(l) **CEQA/NEPA.** Seller's CEQA/NEPA Determinations (and as applicable any BLM right-of-way grant described in Appendix B) are no longer Materially Final and Non-Appellable, and such occurrence, if curable, is not cured within 180 days thereof.

Section 13.2 Default Remedy; Declaration of Early Termination Date. If an event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party (“*Non-Defaulting Party*”) shall have the following rights:

(a) to send Notice (a “*Termination Notice*”), designating a day, no earlier than the day such notice is deemed to be received and no later than twenty (20) days after such notice is deemed to be received, as an early termination date of this Agreement (“*Early Termination Date*”) that terminates this Agreement (the “*Terminated Transaction*”) and ends the Delivery Term effective as of the Early Termination Date;

(b) to accelerate all amounts owing between the Parties, and to collect as liquidated damages (i) a damage payment in the amount of the Development Security less each of the following items (A) – (E) already paid or drawn (and for avoidance of doubt no unpaid or undrawn amounts pertaining to items (A) – (E) shall be further owing by Seller) (A) Daily Delay Damages, (B) Pre-COD Termination Fee, (C) Seller Approvals Termination Fee, (D) other payments by Seller under this Agreement, and (E) draws by Buyer on the Development Security permitted under this Agreement (the “*Damage Payment*”) (in the case of an event of Default by Seller occurring before the Commercial Operation Date, including without limitation an event of Default under Section 13.1(g), (h) & (k) subject to the limitations in Section 13.7), or (ii) the Termination Payment calculated in accordance with Section 13.3 below (in the case of any other event of Default by either Party);

(c) to withhold any payments due to the Defaulting Party under this Agreement;

(d) to suspend performance;

(e) if Buyer, to apply the Development Security or Operation Security to the extent of any outstanding amounts owed by Seller; and

(f) to exercise any other right or remedy available at law or in equity, including specific performance or injunctive relief, except to the extent such remedies are expressly limited under this Agreement;

provided, payment by the Defaulting Party of the Damage Payment or Termination Payment, as applicable, shall constitute liquidated damages and the Non-Defaulting Party’s sole and exclusive remedy for the Terminated Transaction and the event of Default related thereto, and *further provided*, promptly upon Buyer’s receipt of the Damage Payment or Termination Payment, as applicable, Buyer shall promptly return to Seller the Development Security or the Operation Security to the extent either of them, as applicable, did not comprise (i.e., was not used as) the Damage Payment or the Termination Payment, as applicable, or applied to any outstanding amounts owed by Seller; *provided further*; that, the Termination Payment shall not be construed to limit Seller’s indemnification obligations under this Agreement.

Section 13.3 Notice of Termination Payment. The Termination Payment (“*Termination Payment*”) for the Terminated Transaction shall be the Settlement Amount owing to the Non-Defaulting Party plus (or minus) any and all other outstanding amounts due to or from the Non-Defaulting Party (including any Product delivered and any Deemed Delivered Energy as of the Early Termination Date), netted into a single amount. If the Non-Defaulting Party’s

aggregate Gains exceed its aggregate Losses and Costs, if any, resulting from the termination of this Agreement, the net Settlement Amount shall be zero. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Termination Payment for the Terminated Transaction as of the Early Termination Date. Without prejudice to the Non-Defaulting Party's duty to mitigate, the Non-Defaulting Party shall not have to enter into replacement transactions to establish a Settlement Amount. Each Party agrees and acknowledges that (a) the actual damages that the Non-Defaulting Party would incur in connection with the Terminated Transaction would be difficult or impossible to predict with certainty, (b) the Damage Payment or Termination Payment described in Section 13.2 or this Section 13.3 (as applicable) is a reasonable and appropriate approximation of such damages, and (c) the Damage Payment or Termination Payment described in Section 13.2 or this Section 13.3 (as applicable) is the exclusive remedy of the Non-Defaulting Party in connection with the Terminated Transaction but shall not otherwise act to limit any of the Non-Defaulting Party's rights or remedies if the Non-Defaulting Party does not elect a Terminated Transaction as its remedy for an event of Default by the Defaulting Party *provided further*; that, the Termination Payment shall not be construed to limit Seller's indemnification obligations under this Agreement.

(a) For purposes of this Agreement:

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

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

(iii) “**Costs**” means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar transaction costs and expenses reasonably incurred in terminating any arrangement pursuant to which it has hedged its obligations or in entering into new arrangements which replace this Agreement, excluding attorneys' fees, if any, incurred in connection with enforcing its rights under this Agreement.

(iv) In no event shall a Party's Gains, Losses or Costs include any penalties or similar charges imposed by the Non-Defaulting Party. In no event shall a Party's Gains, Losses or Costs include any consequential, incidental, punitive, exemplary or indirect or business interruption damages.

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

Section 13.4 Notice of Payment of Damage Payment or Termination Payment. As soon as practicable after a Terminated Transaction, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Damage Payment or Termination Payment, as applicable and whether the Damage Payment or Termination Payment, as applicable, is due to or

from the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount and the sources for such calculation. The Damage Payment or Termination Payment, as applicable, shall be made to or from the Non-Defaulting Party, as applicable, within ten (10) Business Days after such Notice is effective.

Section 13.5 Disputes With Respect to Damage Payment or Termination Payment. If Defaulting Party disputes the Non-Defaulting Party's calculation of the Damage Payment or the Termination Payment, as applicable, in whole or in part, the Defaulting Party shall, within ten (10) Business Days of receipt of the Non-Defaulting Party's calculation of the Damage Payment or the Termination Payment, as applicable, (i) provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute, and (ii) pay the Non-Defaulting Party any undisputed portion of the Damage Payment or Termination Payment, as applicable. Disputes regarding the Damage Payment or Termination Payment, as applicable, shall be determined in accordance with Section 14.3.

Section 13.6 Rights And Remedies Are Cumulative. Except where an express and exclusive remedy or measure of liquidated damages is provided, the rights and remedies of a Party pursuant to this Article XIII shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement. Any Non-Defaulting Party shall be obligated to use commercially reasonable efforts to mitigate its Costs, Losses and damages resulting from or arising out of any event of Default of the other Party under this Agreement.

Section 13.7 Seller's Pre-COD Liability Limitation. Notwithstanding any other provision of this Agreement, Seller's aggregate liability under this Agreement prior to the Commercial Operation Date, including for Daily Delay Damages, the Damage Payment, any other payments owed under this Agreement, and any draws by Buyer on the Development Security, shall not exceed the Maximum Pre-COD Liability.

ARTICLE XIV MISCELLANEOUS

Section 14.1 Authorized Representative. Each Party shall designate an authorized representative who shall be authorized to act on its behalf with respect to those matters contained herein (each an "***Authorized Representative***"), which shall be the functions and responsibilities of such Authorized Representatives. Each Party may also designate an alternate who may act for the Authorized Representative. Within thirty (30) days after execution of this Agreement, each Party shall notify the other Party of the identity of its Authorized Representative, and alternates if designated, and shall promptly notify the other Party of any subsequent changes in such designation. The Authorized Representatives shall have no authority to alter, modify, or delete any of the provisions of this Agreement. To the extent that an Authorized Representative's contact information is not provided in Appendix J, at the time a Party designates such Authorized Representative, such Party shall concurrently provide written notice to the other Party of such Authorized Representative's contact information.

Section 14.2 Notices. With the exception of billing invoices pursuant to Section 11.2, all notices, requests, demands, consents, approvals, waivers and other communications which are required under this Agreement shall be (a) in writing (regardless of whether the applicable

provision expressly requires a writing), (b) deemed properly sent if delivered in person or sent by electronic mail transmission, reliable next business day courier, or sent by registered or certified mail, postage prepaid to the persons specified in Appendix J (or at such other address or addresses as a Party may designate for itself from time to time by Notice hereunder), and (c) deemed delivered, given and received on the date of delivery, in the case of email transmission (*provided* that notice by email transmission will not be deemed effective until confirmed by return electronic communication from the recipient), or on the date of receipt or rejection in the case of delivery in person, by reliable next business day courier, or by registered or certified mail.

Section 14.3 Dispute Resolution; Governing Law; Venue.

(a) In the event of any claim, controversy or dispute between the Parties arising out of or relating to or in connection with this Agreement (including any dispute concerning the validity of this Agreement or the scope and interpretation of this Section 14.3) (a “*Dispute*”), either Party (the “*Notifying Party*”) may deliver to the other Party (the “*Recipient Party*”) notice of the Dispute with a detailed description of the underlying circumstances of such Dispute (a “*Dispute Notice*”). The Dispute Notice shall include a schedule of the availability of the Notifying Party’s senior officers (having a title of vice president (or its equivalent) or higher) duly authorized to settle the Dispute during the thirty (30) day period following the delivery of the Dispute Notice.

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

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

(d) In addition to the Dispute resolution process set forth in this Section 14.3, the Parties shall comply with California law governing claims against public entities and presentment of claims, including that nothing in this Agreement shall waive the obligations or rights set forth in the California Government Claims Act (Government Code Section 810 et seq.), each to the extent applicable.

(e) This Agreement was made and entered into in the County of Los Angeles, California and shall be governed by, interpreted and enforced in accordance with the laws of the State of California, without regard to conflict of law principles.

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

Section 14.4 Further Assurances; Change in Electric Market Design.

(a) Each Party agrees to execute and deliver all further instruments and documents, and take all further actions not inconsistent with the provisions of this Agreement, and which do not involve the assumptions of obligations other than those provided for in this Agreement, that may be reasonably necessary to effectuate the purposes and intent of this Agreement.

(b) Seller shall at its own cost take any necessary actions to ensure the Facility's ability to deliver Facility Energy to the Point of Delivery and participate in the CAISO day ahead and real-time markets, or its successors. If a change in the CAISO Tariff, or a regionalization or other major change to the market structure of the western interconnection overseen by WECC (other than a Change in Law as addressed in Section 7.7 above), renders this Agreement or any provisions hereof incapable of being performed or administered, then either Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to make this Agreement capable of being performed and administered, while attempting to preserve to the maximum extent possible the benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, Buyer and Seller shall engage in such negotiations in good faith. If Buyer and Seller are unable, within sixty (60) days after delivery of such request, to agree upon changes to this Agreement or to resolve issues relating to changes to this Agreement, then either Party may submit issues pertaining to changes to this Agreement to the Dispute resolution process set forth in Section 14.3. Notwithstanding the foregoing, (i) a change in cost shall not in and of itself be deemed to render this Agreement or any of the provisions hereof incapable of being performed or administered, or constitute, or form the basis of, a Force Majeure, and (ii) all of the unaffected provisions of this Agreement shall remain in full force and effect during any period of such negotiation or dispute resolution.

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

Section 14.6 Force Majeure.

(a) A Party shall not be considered to be in Default in the performance of any of its obligations under this Agreement when and to the extent such Party's performance is prevented by a Force Majeure that, despite the exercise of due diligence and commercially reasonable efforts, such Party is unable to prevent or mitigate, *provided* the Party has given a written detailed description of the particulars of the Force Majeure to the other Party within fourteen (14) days after becoming aware that the claimed Force Majeure event will have a negative impact on the Facility or the Party's obligations under this Agreement (the "***Force Majeure Notice***") which notice shall include information with respect to the nature, cause and date and time of commencement of such event, and the anticipated scope and duration of the delay; provided that the Force Majeure event shall not have occurred more than ninety (90) days prior to the date of the Force Majeure Notice. The Party providing such Force Majeure Notice shall be excused from fulfilling its obligations under this Agreement until such time as the Force Majeure has ceased

to prevent performance or other remedial action is taken, at which time such Party shall promptly notify the other Party of the resumption of its obligations under this Agreement. If Seller is unable to deliver, or Buyer is unable to receive, Facility Energy due to a Force Majeure, then Buyer shall have no obligation to pay Seller for Facility Energy not delivered or received by reason thereof. The foregoing provisions shall not excuse any obligation of Seller with respect to delivery of GEP Shortfall Energy or Replacement Product, as applicable, or any obligation of Buyer for payment of Product including for Deemed Delivered Energy, each arising prior to the occurrence of any Force Majeure event. In no event shall a Party be obligated to compensate the other Party or any other Person for any losses, expenses or liabilities that the other Party or such other Person may sustain as a consequence of any Force Majeure.

(b) The term “**Force Majeure**” means any act or event that delays or prevents a Party from timely performing all or a portion of its obligations under this Agreement or from complying with all or a portion of the conditions under this Agreement, including without limitation any act of God (including fire, flood, mudslide, earthquake, extremely severe storm, ice storm or hail, lightning strike, tornado, volcanic eruption, hurricane or other natural disaster, new epidemic or pandemic distinct from COVID-19), labor disturbance, strike or lockout of a national scope, act of the public enemy, war, insurrection, riot, explosion, terrorist activities, or any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities that (i) could not be reasonably anticipated as of the Effective Date, (ii) 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 (iii) by the exercise of due diligence the affected Party is unable to overcome or avoid or cause to be avoided; *provided*, nothing in clause (iii) above shall be construed so as to require a 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. Notwithstanding the foregoing, the conditions existing as of the date of this Agreement due to the COVID-19 pandemic shall not be considered a Force Majeure, but any subsequent material government restrictions that materially impact a Party’s obligations under this Agreement due to a worsening or resurgence of the COVID-19 pandemic may be considered a Force Majeure. Any Party rendered unable to fulfill any of its obligations by reason of a Force Majeure shall exercise due diligence to attempt to remove such inability with reasonable dispatch within a reasonable time period and mitigate the effects of the Force Majeure. The relief from performance shall be of no greater scope and of no longer duration than is required by the Force Majeure, *provided* the suspension of performance due to a claim of Force Majeure Event shall include any reasonable time period for mobilization/re-mobilization which inclusion shall be subject to the temporal caps for Force Majeure events set forth in this Agreement in Section 14.6(c) and the defined term “Development Cure Period”. Without limiting the generality of the foregoing, a Force Majeure does not include any of the following (each an “**Unexcused Cause**”): (1) any requirement to comply with a RPS Law or any change (whether voluntary or mandatory) in any RPS Law, or other Change in Law, that may affect the value of the Products; (2) events arising from the failure by Seller to construct, operate or maintain the Facility in accordance with this Agreement, except to the extent caused by a Force Majeure Event described above this sentence in this Section 14.6(b); (3) any increase of any kind in any cost; (4) delays in or inability of a Party to obtain financing or other economic hardship of any kind, including a Trade Event, Qualifying BLM Delay, Qualifying Transformer Delay, or Qualifying

Interconnection Delay; (5) Seller's ability to sell any Facility Energy at a price in excess of those provided in this Agreement or Buyer's ability to purchase the Product or any part thereof at a price lower than that provided in this Agreement; (6) curtailment or other interruption of any Transmission Service, except to the extent caused by a Force Majeure Event described above this sentence in this Section 14.6(b); (7) failure of third parties to provide goods or services essential to a Party's performance, except to the extent caused by a Force Majeure Event described above this sentence in this Section 14.6(b); (8) Facility or equipment failure of any kind, including a Qualifying Transformer Failure, except to the extent caused by a Force Majeure Event described above this sentence in this Section 14.6(b); (9) any changes in the financial condition of Buyer, Seller, the Facility Lender or any subcontractor or supplier affecting the affected Party's ability to perform its obligations under this Agreement; or (10) Seller's inability to obtain sufficient fuel, including due to lack of wind, sun or other fuel source of an inherently intermittent nature, or power to operate the Facility, except to the extent caused by a Force Majeure Event described above this sentence in this Section 14.6(b).

(c) Buyer may terminate this Agreement if (i) a Force Majeure event occurs that reduces the production of the Facility by more than 50% of the Contract Capacity for a period of three hundred sixty five (365) consecutive days, or (ii) the Facility is rendered inoperable and the Independent Engineer, determines that the Facility cannot be repaired or replaced within a period of twenty four (24) months following the date of the occurrence of the Force Majeure event.

(d) Any termination of this Agreement under Section 14.6(c) shall be "no-fault" and neither Party shall have any liability or obligation to the other Party arising out of such termination. Notwithstanding the foregoing, upon any such termination, each Party shall pay the other Party for any and all amounts hereunder that may be owing, including with respect to payments by Seller, for any existing GEP Shortfall Energy, or other outstanding payments due in the ordinary course that occurred prior to the termination. Buyer shall return to Seller the Performance Security (less any amounts drawn by Buyer in accordance with this Agreement). The exercise by Buyer of its right to terminate this Agreement under Section 14.6(c) shall not render Buyer liable for any losses or damages incurred by Seller whatsoever.

Section 14.7 Assignment.

(a) Except as provided below in this Section 14.7, neither Party may assign this Agreement or its rights or obligations under this Agreement, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned, or delayed. A Change of Control is deemed an assignment for purposes of this Agreement. Any assignment, including any Change of Control, made without written consent (except as otherwise permitted by this Section 14.7), or in violation of the conditions to assignment set out in this Section 14.7, shall be null and void. Each Party ("**Party A**") shall be responsible for the reasonable costs (including reasonable attorneys' fees) of the other Party ("**Party B**") associated with Party B's preparation, review, execution and delivery of documents in connection with any assignment of this Agreement by Party A.

(b) Buyer's consent shall not be required in connection with the collateral assignment of this Agreement or a pledge of the equity interests in Seller to any Facility Lender for the sole purpose of financing this Facility; *provided, however*, that the terms of such financing

and the documentation relating thereto shall not conflict with the applicable terms and conditions of this Agreement. Seller shall provide Buyer with ninety (90) days' prior notice of any such collateral assignment or pledge. If a Facility Lender, any designee of the Facility Lender, or a purchaser or grantee at a foreclosure sale by judicial or nonjudicial foreclosure and sale or by a conveyance in lieu of foreclosure shall take possession of or title to the Facility, such Facility Lender, designee, purchaser or grantee shall agree to be bound by the covenants and agreements of Seller in this Agreement, including the requirement that the Facility be operated and maintained by a Qualified Operator; *provided, however*, that until the Person who acquires title to the Facility executes and delivers to Buyer a written assumption of Seller's obligations under this Agreement in form and substance acceptable to Buyer, such Person shall not be entitled to any of the benefits of this Agreement. Any sale or transfer of the Facility by any Facility Lender in connection with any foreclosure, whether judicial or nonjudicial, or any deed in lieu of foreclosure, in connection with any deed of trust, mortgage or Lien on the Facility shall be made only to an entity that is a Permitted Transferee. Seller shall comply with the terms set forth in the defined term "Portfolio Financing".

(c) In addition to assignments addressed in Section 14.7(b), Seller may, without the prior written consent of Buyer, engage in a Permitted Transfer. Seller shall provide notice to Buyer of any Permitted Transfer upon the earlier of (i) within ten (10) Business Days prior to the Permitted Transfer, and (ii) within ten (10) Business Days after a FERC filing is submitted in advance of such Permitted Transfer.

(d) In connection with any financing or refinancing of the Facility, Buyer shall execute a consent to collateral assignment of this Agreement substantially in the form attached hereto as Appendix M; *provided* Buyer shall have no obligation to amend the terms and conditions of this Agreement (such consent, the "**Facility Lender Consent**"). The Facility Lender Consent shall provide the Facility Lender, as applicable, or its agent notice of the occurrence of any Default described in Section 13.1 and the opportunity to cure any such default to the extent Seller has an opportunity hereunder to cure such Default. In addition, Buyer shall, if reasonably requested by a Tax Equity Investor, provide a written consent providing such Tax Equity Investor with the right, but not the obligation, at any time, to pay any or all amounts due from Seller to Buyer hereunder, and to do any other act or thing required of Seller, in each case to cure any default of Seller under this Agreement in a manner that is consistent with the applicable terms and conditions of this Agreement, and to provide a customary estoppel certificate substantially in the form attached as Appendix O; *provided* that (a) the terms and conditions of any such consent, or any estoppel certificate, shall have no (and could not reasonably be expected to have any) adverse effect on Buyer's rights under this Agreement, and (b) Buyer shall have no obligation to amend the terms and conditions of this Agreement. In no event will a Facility Lender or Tax Equity Investor have a cure period in addition to Seller's cure period set forth in this Agreement, if any, except as set forth in any applicable Facility Lender Consent or an estoppel. Seller shall pay Buyer for the reasonable costs and expenses incurred by Buyer arising in connection with the negotiation of the Facility Lender Consent and any consent or estoppel prepared at the Tax Equity Investor's request (including reasonable attorneys' fees and expenses) as provided in Section 14.9.

(e) Subject to the terms and conditions of this Agreement, Buyer may make a limited assignment in connection with a municipal prepayment transaction to any entity ("**Limited Buyer Assignee**") that has an Investment Grade Credit Rating of all or a portion of Buyer's rights

to receive certain Products (which shall not be for a retail sale) and Buyer's obligations to make payments for such Product under this Agreement to the Seller ("**Assigned Product**"). The limited assignment shall not introduce, or purport to convey or otherwise allege, any right of Buyer or Limited Buyer Assignee to make any prepayment to Seller under the Agreement or to file or impose any lien on the Facility, or otherwise modify any provision of this Agreement, and shall be expressly subject to the Limited Buyer Assignee's timely payment of amounts due under this Agreement with respect to the Assigned Product. Buyer shall pay Seller for any payments not timely made by Limited Buyer Assignee, and Buyer shall remain obligated to perform all of its obligations under this Agreement notwithstanding the limited assignment, including without limitation any credit-related requirements, and payment for all amounts due and owing under this Agreement, including the total gross amount due to Seller under each invoice. Any failure by the Limited Buyer Assignee to make payments to Seller when due hereunder shall be a Buyer Event of Default if not cured within the applicable cure period specified in this Agreement. Subject to the foregoing, Buyer may make such an assignment upon not less than thirty (30) days' advance written notice by delivering to Seller a written request for Seller's consent to such assignment and the proposed form of limited assignment agreement in form and substance consistent with this Agreement, subject to additional terms and conditions reasonably requested by Buyer which terms are approved by Seller, such Seller approval not to be unreasonably withheld, conditioned or delayed (and provided for avoidance of doubt, Seller shall not be required to agree to any terms or conditions which are reasonably expected to have an adverse effect on Seller or its Facility Lenders or are inconsistent with the terms of this Agreement). Notwithstanding anything to the contrary in connection with such limited assignment, if (1) the assignment, transfer or conveyance of the Assigned Product pursuant to such limited assignment, or (2) Seller's performance of any obligation under the assignment agreement, including without limitation if Seller makes any change to the recipient of the WREGIS Certificates, fails to meet any requirements of this Agreement, then Seller shall not be deemed to be in breach of any obligation in this Agreement, including without limitation any representation or warranty herein. Limited Buyer Assignee and Buyer shall comply with all reasonable requests by Seller or any Facility Lender in connection with such limited assignment, including providing any requested acknowledgments with respect to any collateral assignment agreement.

(f) Buyer may, without the prior written consent of Seller, but upon not less than thirty (30) days' advance written notice to Seller, assign this Agreement to a Qualified Buyer Assignee.

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

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

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

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

Section 14.12 Execution in Counterparts. This Agreement may be executed in counterparts and upon execution by each signatory, each executed counterpart shall have the same force and effect as an original instrument and as if all signatories had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signature thereon, and may be attached to another counterpart of this Agreement identical in form hereto by having attached to it one or more signature pages.

Section 14.13 Effect of Section Headings. Section headings appearing in this Agreement are inserted for convenience only and shall not be construed as interpretations of text.

Section 14.14 Waiver; Available 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. Except to the extent this Agreement expressly provides an exclusive remedy for a breach or as otherwise limited in this Agreement, nothing contained herein shall preclude either Party from seeking and obtaining any available remedies hereunder, including recovery of damages caused by the breach of this Agreement, or any other remedy given under this Agreement or now or hereafter existing in law or equity or otherwise. The rights granted herein are cumulative.

Section 14.15 Relationship of the Parties. This Agreement shall not be interpreted to create an association, joint venture or partnership between the Parties hereto or to impose any partnership obligation or liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as an agent or representative of, the other Party.

Section 14.16 Third Party Beneficiaries. The provisions of this Agreement are solely for the benefit of the Parties, and through Buyer, the Participating Members. Nothing in this

Agreement, whether express or implied, shall be construed to give to, or be deemed to create in, any other Person, whether as a third party beneficiary of this Agreement or otherwise, any legal or equitable right, remedy or claim in respect of this Agreement or any covenant, condition, provision, duty, obligation or undertaking contained or established herein. This Agreement shall not be construed in any respect to be a contract in whole or in part for the benefit of any Person that is not a party hereto.

Section 14.17 Indemnification; Insurance; Limit of Liability.

(a) **Indemnification.** Seller (the “*Indemnifying Party*”) agrees to defend, indemnify and hold harmless Buyer, its Participating Members, and all their respective directors, officers, agents, attorneys, employees and representatives (each an “*Indemnified Party*” and collectively, the “*Indemnified Group*”) from and against all third party claims, demands, losses, liabilities, penalties, and expenses, including reasonable attorneys’ and expert witness fees, for personal injury or death to Persons (including Seller’s employees and agents) and damage to the property of any third party (including Seller’s employees and agents, and any third-party’s interest (if any) in the Facility) to the extent arising out of, resulting from, or caused by the negligent or willful misconduct of the Indemnifying Party, its Affiliates, its directors, officers, employees or agents (collectively, “*Indemnifiable Losses*”). Nothing in this Section shall enlarge or relieve Seller or Buyer of any liability to the other for any breach of this Agreement. Neither Party shall be indemnified for its damages resulting from its sole negligence, intentional acts, or willful misconduct. These indemnity provisions shall not be construed to relieve any insurer of its obligations to pay claims consistent with the provisions of a valid insurance policy.

(b) **Insurance.** Within thirty (30) days after the Subject Approvals Deadline and throughout the Agreement Term, Seller shall obtain and maintain the Insurance coverages listed in Appendix F.

(c) **Limitation of Liability.** EXCEPT TO THE EXTENT INCLUDED IN THE LIQUIDATED DAMAGES, INDEMNIFICATION OBLIGATIONS RELATED TO THIRD PARTY CLAIMS, OR OTHER SPECIFIC CHARGES EXPRESSLY PROVIDED FOR HEREIN, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR IN THE CASE OF SELLER TO THE INDEMNIFIED GROUP FOR SPECIAL, INCIDENTAL, EXEMPLARY, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES, LOST PROFITS OR OTHER COSTS, BUSINESS INTERRUPTION DAMAGES RELATED TO OR ARISING OUT OF A PARTY’S PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT, WHETHER BASED ON OR CLAIMED UNDER STATUTE, CONTRACT, TORT (INCLUDING SUCH PARTY’S OWN NEGLIGENCE) OR ANY OTHER THEORY OF LIABILITY AT LAW OR IN EQUITY.

EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. ALL LIMITATIONS OF LIABILITY CONTAINED IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE PERTAINING TO SELLER’S LIMITATION OF LIABILITY AND THE PARTIES’

WAIVER OF CONSEQUENTIAL DAMAGES, SHALL APPLY EVEN IF THE REMEDIES FOR BREACH OF WARRANTY PROVIDED IN THIS AGREEMENT ARE DEEMED TO “FAIL OF THEIR ESSENTIAL PURPOSE” OR ARE OTHERWISE HELD TO BE INVALID OR UNENFORCEABLE.

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS AND EXCLUSIVE REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR’S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR’S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES ONLY.

TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, INCLUDING WITHOUT LIMITATION UNDER ARTICLE IX AND SECTIONS 13.2, 13.3 & 13.7, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT, AND THAT THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE ANTICIPATED HARM OR LOSS. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. THE PARTIES HEREBY WAIVE ANY RIGHT TO CONTEST SUCH PAYMENTS AS AN UNREASONABLE PENALTY.

PRIOR TO THE COMMERCIAL OPERATION DATE, IN NO EVENT SHALL SELLER BE LIABLE TO BUYER IN EXCESS OF THE MAXIMUM PRE-COD LIABILITY.

Section 14.18 Severability. In the event any of the terms, covenants or conditions of this Agreement, or the application of any such terms, covenants or conditions, shall be held invalid, illegal or unenforceable by any court having jurisdiction, all other terms, covenants and conditions of this Agreement and their application not adversely affected thereby shall remain in force and effect, *provided* that the remaining valid and enforceable provisions materially retain the essence of the Parties’ original bargain.

Section 14.19 Confidentiality.

(a) Each Party agrees, and shall use reasonable efforts to cause its Affiliates, and its and their respective directors, officers, employees and representatives, as a condition to receiving confidential information hereunder, to keep confidential, except as required by law: (i) 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 (ii) all documents that are clearly marked “Confidential” at the time a Party shares such information with the other Party (clauses (i) and (ii) above, “*Confidential Information*”). The provisions of this Section 14.19 shall survive and shall continue to be binding upon the Parties for a period of one (1) year following the date of termination or expiration of this Agreement. Notwithstanding the

foregoing, information shall not be considered Confidential Information if such information (i) is disclosed with the prior written consent of the originating Party, (ii) was in the public domain prior to disclosure or is or becomes publicly known or available other than through the action of the receiving Party in violation of this Agreement, (iii) was lawfully in a Party's possession or acquired by a Party outside of this Agreement, which acquisition was not known by the receiving Party to be in breach of any confidentiality obligation, or (iv) is developed independently by a Party based solely on information that is not considered confidential under this Agreement.

(b) Either Party may, without violating this Section 14.19, disclose matters that are made confidential by this Agreement:

(i) to its counsel, accountants, auditors, advisors, other professional consultants, credit rating agencies, actual or prospective, co-owners, investors, purchasers, lenders (including Facility Lenders), underwriters, contractors, suppliers, and others involved in construction, operation, and financing transactions and arrangements for a Party or Affiliates, in each case who have a valid business purpose and reasonable need to know such Confidential Information, provided each Party will use commercially reasonable efforts to keep Confidential Information confidential to the extent consistent with this Agreement and Requirements of Law. Further, Buyer may disclose Confidential Information to its Participating Members;

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

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

(iv) with respect to Buyer, to any member of Buyer from time to time, including in a public distribution of the agenda of Buyer or any Participating Member.

(c) Notwithstanding the foregoing or any other provision of this Agreement, Seller acknowledges that Buyer 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**"). Seller acknowledges that Buyer shall not be in breach of this Agreement or have any liability whatsoever under this Agreement or otherwise for any claims or causes of action whatsoever resulting from or arising out of Buyer copying or releasing to a third party any of the Confidential Information of Seller to the extent required under CPRA or Brown Act (such CPRA process in accordance with Section 14.19(e) below).

(d) Notwithstanding the foregoing or any other provision of this Agreement, Buyer may record, register, deliver and file all such notices, statements, instruments and other documents as may be necessary or advisable to render fully valid, perfected and enforceable under all applicable law the credit support contemplated by this Agreement and the rights, Liens and priorities of Buyer with respect to such credit support.

(e) If a Party is requested or required, pursuant to any applicable law, regulation, order, rule, ruling or other Requirement of Law, discovery request, subpoena, civil investigation or similar process to disclose any of the Confidential Information, and if permitted by applicable law, 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. If Buyer receives a CPRA request for Confidential Information of Seller, and Buyer or Buyer's Authorized Representative determines that such Confidential Information is subject to disclosure under CPRA, then Buyer shall promptly notify Seller of the request and its intent to disclose the documents. Buyer, as required by CPRA, shall release such documents unless Seller timely obtains a court order prohibiting such release. If Seller, at its sole expense, chooses to seek a court order prohibiting the release of Confidential Information pursuant to a CPRA request, then Seller undertakes and agrees to defend, indemnify and hold harmless Buyer and the Indemnified Party from and against all suits, claims, and causes of action brought against Buyer or any Indemnified Party for Buyer's refusal to disclose Confidential Information of Seller to any person making a request pursuant to CPRA. Seller's indemnity obligations shall include, but are not limited to, all actual costs incurred by Buyer and any Indemnified Party, and specifically including costs of experts and consultants, as well as all damages or liability of any nature whatsoever arising out of any suits, claims, and causes of action brought against Buyer or any Indemnified Party, through and including any appellate proceedings. Seller's obligations to Buyer and all Indemnified Party under this indemnification provision shall be due and payable on a Monthly, on-going basis within thirty (30) days after each submission to Seller of Buyer's invoices for all fees and costs incurred by Buyer and all Indemnified Party, as well as all damages or liability of any nature.

(f) Each Party acknowledges that any disclosure or misappropriation of Confidential Information by such Party in violation of this Agreement could cause the other Party or their Affiliates irreparable harm, the amount of which may be extremely difficult to estimate, thus making any remedy at law or in damages inadequate. Therefore with respect to the confidentiality obligations set forth in this Section 14.19 each Party agrees that the non-breaching Party shall have the right to apply to any court of competent jurisdiction for a restraining order or an injunction without the necessity of proving actual damages or providing a bond, restraining or enjoining any breach or threatened breach of this Agreement and for any other equitable relief that such non-breaching Party deems appropriate. This right shall be in addition to any other remedy available to the Parties in law or equity.

(g) Neither Party shall issue a press release to the media coincident with the approval of the project regarding the transactions contemplated by this Agreement unless both Parties have agreed upon the contents of any such press release, provided, for clarification purposes, nothing shall preclude Buyer from making public statements about the Agreement or the Facility, other than as may be limited or conditioned elsewhere in this Agreement, in furtherance of Buyer's statutory governmental function consistent with the initial agreed project approval statement or as required by law.

Section 14.20 Mobile-Sierra. The Parties hereby stipulate and agree that this Agreement was entered into as a result of arm's-length negotiations between the Parties. Further, the Parties believe that, to the extent the sale of Energy under this Agreement is subject to Sections 205 and 206 of the Federal Power Act, 16 U.S.C. Sections 824d and 824e, the rates, terms and conditions

of this Agreement are just and reasonable within the meanings of Sections 205 and 206 of the Federal Power Act, and that the rates, terms and conditions of this Agreement will remain so during the Agreement Term. Notwithstanding any provision of this Agreement, the Parties waive all rights to challenge the validity of this Agreement or whether it is just and reasonable for and with respect to the Agreement Term, under Sections 205 and 206 of the Federal Power Act, and to request the FERC to revise the terms and conditions and the rates or services specified in this Agreement, and hereby agree not to seek, nor support any third party in seeking, to prospectively or retroactively revise the rates, terms or conditions of this Agreement through application or complaint to FERC or any other state or federal agency, board, court or tribunal, related in any manner as to whether such rates, terms or conditions are just and reasonable or in the public interest under the Federal Power Act, absent prior written agreement of the Parties. The Parties also agree that, absent prior agreement in writing by the Parties to a proposed change, the standard of review for changes to any rate, charge, classification, term or condition of this Agreement proposed by a Party (to the extent that any provision of this Section is unenforceable or ineffective as to such Party), shall be the “public interest” application of the “just and reasonable” standard of review that requires FERC to find an “unequivocal public necessity” or “extraordinary circumstances where the public will be severely harmed” to modify a contract, as set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956), and clarified by *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish*, 554 U.S. 527 at 550-51 (2008) and *NRG Power Marketing, LLC v. Maine Public Utilities Comm’n*, 558 U.S. 165 (2010). Changes proposed by a non-Party or FERC acting *sua sponte* shall be subject to the most stringent standard permissible under applicable Law.

Section 14.21 Taxpayer Identification Number (TIN). Each Party shall provide its taxpayer identification number to the other Party within one-hundred twenty (120) days of the Effective Date.

Section 14.22 Counterparts; Electronic Signatures. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument and each of which shall be deemed an original. The Parties may rely on electronic or scanned signatures as originals.

Section 14.23 Binding Effect. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

Section 14.24 Ownership of Renewable Energy Incentives. Seller shall have all right, title and interest in and to all Renewable Energy Incentives. Buyer acknowledges that any Renewable Energy Incentives belong to Seller. If any Renewable Energy Incentives, or values representing the same, are initially credited or paid to Buyer, Buyer shall cause such Renewable Energy Incentives or values relating to same to be assigned or transferred to Seller without delay. Buyer shall reasonably cooperate with Seller, at Seller’s sole expense, in Seller’s efforts to meet the requirements for any certification, registration, or reporting program relating to Renewable Energy Incentives.

[Remainder of Page Intentionally Left Blank]

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

BUYER:

**SOUTHERN CALIFORNIA
PUBLIC POWER AUTHORITY**

By: _____

Name: _____

Its: _____

Date: _____

SELLER:

GRACE ORCHARD SOLAR III, LLC

By: _____

Name: _____

Its: _____

Date: _____

APPENDIX A

TO POWER PURCHASE AGREEMENT

DATED AS OF [_____], 2024

BETWEEN

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

AND

GRACE ORCHARD SOLAR III, LLC

CONTRACT PRICE & COMPENSATION

Section 1. Contract Price. The Contract Price is \$43.71 per MWh, which is: (i) subject to increase in an amount not-to-exceed \$3.75 per MWh (for a total not-to-exceed amount of \$47.46 per MWh) in accordance with the terms and conditions of Section 2.5(b); and (ii) subject to a reduction in accordance with the terms and conditions of Section 7.7(c).

Section 2. Delivered Energy. Commencing on the Commercial Operation Date, for each MWh of Facility Energy in each Settlement Period, Buyer shall pay Seller the Contract Price.

Section 3. Deemed Delivered Energy. Commencing on the Commercial Operation Date, for each Settlement Period, Buyer shall pay Seller the Contract Price plus the PTC Amount for each MWh of Deemed Delivered Energy.

Section 4. Excess Energy. Commencing on the Commercial Operation Date, if, at any point in any Contract Year, the amount of Facility Energy plus the amount of Deemed Delivered Energy exceeds one hundred fifteen percent (115%) up to one hundred twenty percent (120%) of the Annual Contract Quantity for such Contract Year, the price to be paid for that additional Facility Energy or Deemed Delivered Energy shall be equal to forty percent (40%) of the Contract Price; *provided that* if Seller delivers to Buyer Facility Energy plus the amount of Deemed Delivered Energy in excess of 120% of the Annual Contract Quantity in any Contract Year, such additional Facility Energy shall be twenty five percent (25%) of the Contract Price and there shall be no compensation for Deemed Delivered Energy above 120% of the Annual Contract Quantity in any Contract Year. For avoidance of doubt, Buyer shall not be responsible for paying the PTC Rate for any Deemed Delivered Energy above 115% of the Annual Contract Quantity for such Contract Year.

Section 5. Test Energy. For Test Energy delivered prior to Commercial Operation, Buyer shall pay Seller: (i) fifty percent (50%) of the Contract Price up to the first eight (8) months that Test Energy is produced; and (ii) twenty five percent (25%) of the Contract Price for any period following the initial eight (8) month period set forth in (i). During the Test Energy period prior to Commercial Operation, Buyer shall pay Seller for any Deemed Delivered Energy from a Compensable Curtailment at the Contract Price and the PTC Rate; provided that no compensation is owed if such curtailment is due to specific testing activities of Seller (including related to the CAISO's new resource implementation process) or Buyer's activities stemming from such specific testing activities (together, a "*Seller Specific Testing Activity Curtailment*"), which Seller Specific Testing Activity Curtailments for avoidance of doubt shall not be deemed to have occurred simply

because a Compensable Curtailment occurs during the period of Test Energy prior to Commercial Operation.

Section 6. Excess Settlement Interval MWh. Any Excess Settlement Interval MWh shall be dealt with as set forth in Section 6.1(e) of the Agreement.

Section 7. Tax Benefits. The Parties agree that neither the Contract Price nor the Test Energy Rate are subject to adjustment or amendment if Seller fails to receive any Tax Benefits, or if any Tax Benefits expire, are repealed or otherwise cease to apply to Seller or the Facility in whole or in part, or Seller or its investors are unable to benefit from any Tax Benefits. Seller shall bear all risks, financial and otherwise, throughout the Agreement Term, associated with Seller's or the Facility's eligibility to receive Tax Benefits or to qualify for accelerated depreciation for Seller's accounting, reporting or Tax purposes. The obligations of the Parties hereunder, including those obligations set forth herein regarding the purchase and price for and Seller's obligation to deliver Facility Energy and Product, shall be effective regardless of whether the sale of Facility Energy is eligible for, or receives Tax Benefits during the Agreement Term.

APPENDIX B

TO POWER PURCHASE AGREEMENT

DATED AS OF [_____], 2024

BETWEEN

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

AND

GRACE ORCHARD SOLAR III, LLC

FACILITY

- 1. Name of Facility: Grace Solar Facility
- 2. Site: Riverside County, California

The Site is or will be located at some or all of the following APNs: 821020007, 821020019, 821020020, 821020021, 821020022, 821020023, 821020024, 821020025, 821020026, 821020027, 821020028, 821020029, 821050004, 821050016, 821050017, 821050018, 821050019, 821050020, 821050021, 821050022, 821050023, 821050028, 821050029, 821060001, 821060002, 821060003, 821060006, 821080043, 821080044, 821080045, 821080046, 821080047, 821080050, 821090011, 821090012, 821090013, 821090014, 821090015, 821090016, 821090017, 821090018, 821100034, 818180011, 818180014, 818180015, 821020013, 821060007, 821080042, 821090006*

*Seller may update the foregoing description to reduce the size of the Site (but not to add any new parcels) up until Construction Start by Notice to Buyer without amendment of this Agreement.

- 3. Owner: Grace Orchard Solar III, LLC
- 4. Point of Interconnection: Colorado River Substation
- 5. Point of Delivery/PNode: Southern California Edison Colorado River Substation [SELLER TO PROVIDE PNODE AT LEAST SIXTY (60) DAYS PRIOR TO THE COMMERCIAL OPERATION DATE]
Balancing Authority Area: CAISO
- 6. Equipment:
 - (a) Type of Facility: Photovoltaic solar generation
 - (b) Technology: Horizontal Single Axis Tracking
 - (c) Contract Capacity: 170 MWac
- 7. Permits:

Permits	Notes/Status/Estimated Dates as of Execution Date
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Conditional Use Permit (CUP) / Public Use Permit (PUP) / Development Agreement (DA)	CUP No. 3684, PUP No. 916 and DA No. 86 approved by Riverside County in September 2017, to be amended to conform to revised Facility design. Expected Q3/Q4 2025
CEQA Clearance – EIR Addendum	Final EIR certified by Riverside County in September 2017, for which Riverside County expected to prepare an addendum or supplement, as necessary, in connection with any further discretionary action. Expected Q3/Q4 2025
Construction/ Grading/ Stormwater Permit	Expected to begin Q4 2025
BLM Notice to Proceed	Expected to be issued May 2026
NEPA Compliance	BLM expected to prepare an Environmental Assessment to address NEPA compliance.
BLM Record of Decision/FONSI	Expected to be issued Q3 2025
BLM Right-of-Way Grant	ROW application submitted July 2023. ROW expected to be issued Q3/Q4 2025.

[SELLER TO PROVIDE MAP OF FACILITY AT LEAST SIXTY (60) DAYS PRIOR TO CONSTRUCTION START]

APPENDIX C

TO POWER PURCHASE AGREEMENT

DATED AS OF [_____], 2024

BETWEEN

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

AND

GRACE ORCHARD SOLAR III, LLC

ANNUAL CONTRACT QUANTITY

Contract Year	Annual Contract Quantity, MWh	Guaranteed Generation, MWh (80% of Annual Contract Quantity)
1	500,766	400,612.81
2	499,582	399,665.52
3	496,789	397,431.18
4	493,915	395,131.97
5	490,961	392,768.52
6	487,922	390,337.49
7	484,796	387,836.72
8	481,579	385,263.26
9	478,270	382,616.09
10	474,879	379,903.59
11	471,413	377,130.23
12	467,865	374,292.35
13	464,230	371,383.72
14	460,503	368,402.14
15	456,685	365,347.63
16	452,772	362,217.97
17	448,776	359,020.98
18	444,719	355,775.24
19	440,621	352,496.77
20	436,497	349,197.60

APPENDIX D

**TO POWER PURCHASE AGREEMENT
DATED AS OF [____], 2024**

**BETWEEN
SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
AND
GRACE ORCHARD SOLAR III, LLC**

FORM OF ATTESTATION

Grace Orchard Solar III, LLC Environmental Attribute Attestation and Bill of Sale

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

Facility name and location:

Fuel Type:

Capacity (MW): _____ Operational Date:

As applicable: CEC Reg. no. ____ Energy Admin. ID no. ____ QF ID no. ____

<u>Dates</u>	<u>MWhs generated</u>
_____ 20__	_____
_____ 20__	_____
_____ 20__	_____

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

Seller further attests as follows:

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

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

Contact Person/telephone: _____

APPENDIX E

**TO POWER PURCHASE AGREEMENT
DATED AS OF [_____] , 2024
BETWEEN
SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
AND
GRACE ORCHARD SOLAR III, LLC
FORM OF LETTER OF CREDIT**

**IRREVOCABLE AND UNCONDITIONAL, STANDBY
LETTER OF CREDIT NO. _____**

Date: _____
Amount:
USD[\$XX,XXX,XXX]
Our ref.: _____
Expiry Date: _____

Beneficiary:
Southern California Public Power Authority
1160 Nicole Court
Glendora, California 91740

Ladies and Gentlemen:

By order of Grace Orchard Solar III, LLC, and for the account of [], hereby issue our Irrevocable Standby Letter of Credit No. (the 'Letter of Credit') in your favor in the amount of USD\$XX,XXX,XXX (United States Dollars XX,XXX,XXX), effective immediately.

Funds under this Letter of Credit are available at sight

- (a) upon presentation to us at our office at our address above, of: (i) your written demand for payment containing the text of Exhibit I and (ii) your signed statement containing the text of Exhibit II (the "Documents"); or
- (b) upon presentation to us of your Documents by facsimile at fax number (xxx) xxx-xxxx.

Upon presentation to us of your Documents in conformity with the foregoing, on the second succeeding Business Day after such presentation (unless such presentation occurs after 1:00 p.m., Eastern Time on the day of such presentation, in which event payment will be made on

the third succeeding Business Day), but without any other delay whatsoever, irrevocably and without reserve or condition, we will make payment to your order in the account at the bank designated by you in the demand in immediately available funds. Funds may be drawn under this Letter of Credit, from time to time, in one or more drawings, in amounts not exceeding in the aggregate the amount specified above.

It is a condition of this Letter of Credit that it shall be deemed automatically extended, without amendment, for additional periods of one year from the present and each future expiry date, unless at least 60 days prior to the then current expiry date we notify you by nationally recognized overnight courier, return receipt requested, that we elect not to consider this Letter of Credit so extended, in which case it will expire on the date specified in such notice.

We agree that if, on the expiration date of this Letter of Credit, the office specified above is not open for business by virtue of an interruption of the nature described in the "Uniform Customs and Practices for Documentary Credits (2007 Revision) of the International Chamber of Commerce Publication No. 600 (the "UCP600") Article 36, this Letter of Credit will be duly honored if the specified Documents are presented by you within thirty (30) days after such office is reopened for business.

"Business Day" means a day other than a Saturday, Sunday or any other day on which banking institutions in the State of New York are authorized or required by law to close.

Provided that the presentation under this Letter of Credit is made on or prior to the Expiration Date and the applicable Documents as set forth above conform to the requirements of this Letter of Credit, payment hereunder shall be made regardless of: (a) any written or oral direction, request, notice or other communication now or hereafter received by us from Grace Orchard Solar III, LLC or any other person except you, including without limitation any communication regarding fraud, forgery, lack of authority or other defect not apparent on the face of the documents presented by you, but excluding solely a written order issued by a court of competent jurisdiction, which order is legally binding on us and specifically orders us not to make such payment; (b) the solvency, existence or condition, financial or other, of [NextEra Energy Capital Holdings, Inc.]. or any other person or property from whom or which we may be entitled to reimbursement for such payment; and (c) without limiting clause (b) above, whether we are in receipt of or expect to receive funds or other property as reimbursement in whole or in part for such payment.

We agree that the time set forth herein for payment of any demand(s) for payment is sufficient to enable us to examine such demand(s) and the related Documents referred to above with care so as to ascertain that on their face they appear to comply with the terms of this Letter of Credit, and that if such demand(s) and Documents on their face appear to so comply, failure to make any such payment within such time shall constitute dishonor of such demand(s).

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

We hereby engage with you that your demand(s) for payment in conformity with the terms of this Letter of Credit will be duly honored as set forth above. All fees and other costs associated with

the issuance of and any drawing(s) against this Letter of Credit shall be for the account of [NextEra Energy Capital Holdings, Inc.] All of the rights of the Beneficiary set forth above shall inure to the benefit of your successors by operation of law.

Except so far as otherwise expressly stated herein, this Letter of Credit is subject to the UCP600. As to matters not governed by the UCP600, this Letter of Credit shall be governed by and construed in accordance with the laws of the State of New York. Any litigation arising out of, or relating to this Letter of Credit, shall be brought in a State or Federal court in the County of New York, New York. The parties irrevocably agree to submit to the exclusive jurisdiction of such courts in the state of New York and waive any defense of *forum non conveniens*.

Please address all correspondence regarding this Letter of Credit to [], referring specifically to Issuer's Letter of Credit No.. For telephone assistance, please contact Issuer's Standby Letter of Credit Department at (xxx) xxx- xxxx and have this Letter of Credit available.

Yours faithfully,

[]

By _____
Title _____

EXHIBIT I
Demand for Payment

Re: Irrevocable Standby Letter of Credit No. Dated _____

To Whom It May Concern:

Demand is hereby made upon you for payment to us of USD _____ by deposit to our account no. _____ at [insert name of bank]. This demand is made under, and is subject to and governed by, your Irrevocable Standby Letter of Credit No. dated _____ in the amount of USD [\$X] established by you in our favor for the account of [].

DATED: _____, 20__.

SOUTHERN CALIFORNIA PUBLIC POWER
AUTHORITY

By: _____
[_____]

EXHIBIT II
Statement

Re: Your Irrevocable Standby Letter of Credit No. Dated _____

Reference is made to your Irrevocable Standby Letter of Credit No. dated _____
in the amount of USD[\$X] established by you in our favor for the account of [].

We hereby certify to you that USD _____ is payable to us as provided in our
agreement with Grace Orchard Solar III, LLC.

DATED: _____,

SOUTHERN CALIFORNIA PUBLIC POWER
AUTHORITY

By: _____
[_____]

EXHIBIT III
Amendment

Re: Irrevocable Standby Letter of Credit No. Dated _____

Beneficiary:

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

By order of:

To Whom It May Concern:

The above referenced Irrevocable Standby Letter of Credit is hereby amended as follows: by [increasing][decreasing] the stated amount by USD _____ to a new stated amount of \$ [and][by extending the Expiration Date to _____ from _____]. All other terms _____ and _____ conditions _____ of _____ the Letter of Credit remain unchanged.

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

DATED: _____

Yours faithfully,

By _____
Title _____

ACCEPTED

Southern California Public Power Authority

By _____
Title _____
Date _____

APPENDIX F

TO POWER PURCHASE AGREEMENT DATED AS OF [____], 2024

BETWEEN SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY AND GRACE ORCHARD SOLAR III, LLC

INSURANCE

I. GENERAL REQUIREMENTS

Within thirty (30) days after the Subject Approvals Deadline (and with respect to the Builders' Risk policy, no later than thirty (30) days prior to the start of construction of the Facility), Seller shall furnish Buyer evidence of coverage from insurers identified in this Appendix F. Such insurance shall be maintained by Seller at Seller's sole cost and expense.

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

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

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

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

Seller shall be responsible for all major Subcontractors' (those Subcontractors of all agreements entered into after the Effective Date and having a value in excess of \$25,000) compliance with the insurance requirements set forth herein, and shall be responsible for ensuring that all other Subcontractors obtain and maintain, throughout the performance of any work, types of insurance with limits and terms that are normal and customary for the industry and types of services being provided.

II. SPECIFIC COVERAGES REQUIRED

A. Commercial Automobile Liability

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

The Commercial Automobile Liability policy shall include each of Buyer and its members, officers, agents, and employees as additional insureds with Seller, and shall insure against liability for death, bodily injury, or property damage resulting from the performance of this Agreement.

B. Commercial General Liability

Seller shall provide Commercial General Liability insurance on an occurrence basis ISO GL form or equivalent with Blanket Contractual Liability, Independent Contractors, Broad Form Property Damage, Premises and Operations, Products and Completed Operations, Sudden and Accidental Pollution, Fire Legal Liability and Personal Injury coverages included. Sudden and Accidental Pollution shall provide coverage with limits of liability of not less than Seven Million Dollars (\$7,000,000), and all such other insurance shall provide coverage with limits of liability not less than Seven Million Dollars (\$7,000,000) combined single limit per occurrence and in the aggregate. The limits of liability are to be specific for this Agreement. Umbrella or Excess Liability coverages may be used to supplement primary coverages to meet the required limits. Evidence of such coverage shall include Buyer as an additional insured, and shall provide for the following:

1. Include Buyer and its members, officers, agents, and employees as additional insureds for the activities and operations under this Agreement.
2. Severability-of-Interest or Cross-Liability Clause.
3. A description of the coverages included under the policy.

C. Excess Liability

Seller may use an Umbrella or Excess Liability Coverage to meet coverage limits specified in this Agreement. Such policy shall include, as appropriate, coverage for Commercial General Liability, Commercial Automobile Liability, Employer's Liability, or other applicable insurance coverages.

D. Workers' Compensation/Employer's Liability Insurance

Seller shall provide Workers' Compensation insurance covering all of Seller's employees in accordance with the laws of any state in which the work is to be performed and including Employer's Liability insurance and a Waiver of Subrogation in favor of Buyer. The limit for

Employer's Liability coverage shall be not less than One Million Dollars (\$1,000,000) each accident and shall be a separate policy if not included with Workers' Compensation coverage. Umbrella or Excess Liability coverages may be used to supplement primary coverages to meet the required limits. Workers' Compensation/Employer's Liability exposure may be self-insured provided that Buyer is furnished with a copy of the certificate issued by the state authorizing Seller to self-insure. Seller shall notify Buyer's Risk Management Section by receipted delivery as soon as possible of the state withdrawing authority to self-insure.

E. Builders' Risk

Prior to commencing Site construction activities, Seller, or Seller's EPC Contractor, shall provide Builder's Risk insurance, which shall be of the "all risk" type, shall be written in completed value form, and shall protect Seller, Southern California Public Power Authority, the Board of Directors, and Buyer's members against risks of damage to buildings, structures, and materials and equipment that constitute part of the Facility, whether on site or in transit from any location worldwide. Outside of the United States; this transit insurance requirement may be satisfied by the purchase of a global marine specific policy, if applicable. The amount of such insurance shall be not less than the insurable value of the of the work at completion except for sublimits that are prudent with industry practice. Buyer shall be named additional insured on the policy as their interest may appear. The Builder's Risk insurance shall provide for losses to be payable to Seller. The policy shall contain a provision that in the event of payment for any loss under the coverage provided, the insurance company shall have no rights of recovery against Seller and the aforementioned named additional insured. The Builders' Risk policy shall insure against all risks of direct physical loss or damage to property from any cause including testing, ensuing loss, commissioning, and, to the extent available in the insurance market on generally commercially reasonable terms, earthquake and flood, *provided*, that should Seller determine that either coverage is not available on generally commercially reasonable terms as aforesaid, Seller shall notify Buyer not less than thirty (30) days in advance of the date when such coverage will not, or will no longer, be available together with a description of Seller's efforts to obtain such coverage and an explanation of the basis for Seller's determination in reasonable detail. The policy shall be in full force and effect until the earlier of (1) the Commercial Operation Date or substantial completion date of the Facility, whichever completion date is the later or (2) the effective date of the Property All Risk Insurance referenced below.

F. Property All Risk Insurance

Seller shall procure and maintain or cause to be procured and maintained an All Risk Physical Damage policy to insure the full replacement value of the property located at Facility as described in this Agreement. The policy shall include coverage for boiler and machinery breakdown, earthquake, flood, expediting expense, extra expense, Business Interruption, ensuing loss from faulty workmanship, faulty materials, and/or faulty design. Earthquake and flood may be sublimited with limits that are within industry standard. This policy shall incept as of the Commercial Operation Date. This policy shall be obtained and placed in full force and effect prior to the expiration of the Builder's Risk Policy. This policy shall have the same insured and all losses shall be payable in the same manner, as provided for the Builders' Risk Policy in Paragraph I.I.E.

APPENDIX G

FORM OF INSTALLED CAPACITY CERTIFICATE

This certification (“Certification”) of Installed Capacity is delivered by _____, an Independent Engineer, licensed in the State of California, to SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY (“Buyer”) in accordance with the terms of that certain Power Purchase Agreement dated _____ (“Agreement”) by and between [SELLER ENTITY] and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

I hereby certify the following:

The performance test for the Facility, substantially in the form of Appendix N (confirmed by the Independent Engineer), demonstrated peak electrical output of __ MW AC at the Delivery Point, as adjusted for ambient conditions on the date of the performance test (“Installed Capacity”).

[LICENSED PROFESSIONAL ENGINEER]

By: _____

Its: _____

Date: _____

APPENDIX H

**TO POWER PURCHASE AGREEMENT
DATED AS OF [_____], 2024
BETWEEN
SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
AND
GRACE ORCHARD SOLAR III, LLC**

FORM OF REPLACEMENT PRODUCT FACILITIES

A. Replacement Product Facilities List:

B. Form for Additional Facilities (if any):

Unit Name:

RPS ID:

CAISO Resource ID:

WREGIS ID:

Facility Location: County

Facility Location: State

Facility Location: Country

Facility Location: Longitude

Facility Location: Latitude

Balancing Authority Interconnection:

Facility Fuel Type:

APPENDIX I

**TO POWER PURCHASE AGREEMENT
DATED AS OF [_____], 2024**

**BETWEEN
SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
AND
GRACE ORCHARD SOLAR III, LLC**

MILESTONE SCHEDULE

*Designates a Key Milestone

No.	<u>Milestone Date</u>	<u>Milestone Description</u>	<u>Daily Delay Damages</u>	<u>Security Deposit at Milestone Achievement</u>
1.	Twenty (20) days after the Effective Date	Seller has delivered the Development Security		\$100/kW of Contract Capacity (i.e., a total of \$17,000,000)
2.	Thirty (30) days after the Subject Approvals Deadline	Seller has delivered all evidence of required Insurance other than Builder's Risk		
3.	On or before Construction Start Date	Seller has achieved the Site Control Milestone		
4.	Completed	Seller has executed and delivered to Buyer a copy of the Generator Interconnection Agreement with respect to the CAISO Point of Delivery		
5.	July 1, 2026	Guaranteed Construction Start Date *	For each day of delay after such date that is unexcused by a Development Cure Period, a daily amount equal to the Development	

No.	<u>Milestone Date</u>	<u>Milestone Description</u>	<u>Daily Delay Damages</u>	<u>Security Deposit at Milestone Achievement</u>
			Security divided by one hundred eighty (180), applied for up to 180 days of delay (which, for avoidance of doubt, is \$94,444.44 per day for each such day of delay up to 180 days)	
6.	On or before the Commercial Operation Date	Seller has delivered the Operation Security		\$110/kW of Installed Capacity (i.e., if Installed Capacity is 170 MW, then this figure will be \$18,700,000)
7.	December 1, 2027	Expected Commercial Operation Date		
8.	June 1, 2028	Guaranteed Commercial Operation Date*	For each day of delay after such date that is unexcused by a Development Cure Period, a daily amount equal to the Development Security divided by one hundred eighty (180), applied for up to 180 days of delay (which, for avoidance of doubt, is \$94,444.44 per day for each such day of delay up to 180 days)	

No.	<u>Milestone Date</u>	<u>Milestone Description</u>	<u>Daily Delay Damages</u>	<u>Security Deposit at Milestone Achievement</u>
9.	November 28, 2028	Commercial Operation Date Deadline		

APPENDIX J

TO POWER PURCHASE AGREEMENT

DATED AS OF [_____], 2024

BETWEEN

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

AND

GRACE ORCHARD SOLAR III, LLC

BUYER AND SELLER BILLING, NOTIFICATION AND SCHEDULING **CONTACT INFORMATION**

1. Authorized Representative. Correspondence pursuant to Section 14.1 shall be transmitted to the following addresses:

- 1.1 If to Buyer:

Southern California Public Power Authority
1160 Nicole Court
Glendora, CA 91740
Telephone: 626-793-9364
Facsimile: 626-704-9461
Email: projects@scppa.org

- 1.2 If to Seller:

Grace Orchard Solar III, LLC
Street: 700 Universe Blvd.
City: Juno Beach, FL 33408
Attn: Business Management
Phone: 561-691-7723 (Office)
561-301-4685 (Mobile)
Email: DL-NEXTERA-WESTINTERNATIONALREGION@nexteraenergy.com
and
Emre.Ergas@nexteraenergy.com
and
Jeff.Rehfeld@nexteraenergy.com

2. Billings and payments pursuant to Section 6.1 and Appendix A shall be transmitted to the following addresses:

2.1 If Billing to Buyer:

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

2.2 If Payment to Buyer:

Southern California Public Power Authority
c/o Executive Director
1160 Nicole Court
Glendora, CA 91740
Attention: Finance and Accounting
Email: projectinvoices@scppa.org

2.3 If Billing or Payment to Seller:

Attn: Business Management
Phone: 561-691-7723 (Office)
561-301-4685 (Mobile)
E-mail: NEER-REVENUETEAM.SharedMailbox@nexteraenergy.com
and
DL-NEXTERA-WEST-INTERNATIONALREGION@ nexteraenergy.com

3. All notices (other than scheduling notices) required under the Agreement shall be sent pursuant to Section 14.2, to the address specified below:

If to Buyer:

Southern California Public Power Authority
1160 Nicole Court
Glendora, CA 91740
Telephone: 626-793-9364
Facsimile: 626-793-9461
Email: projects@scppa.org

If to Seller:

Grace Orchard Solar III, LLC
Street: 700 Universe Blvd.
City: Juno Beach, FL 33408
Attn: Business Management
Phone: 561-691-7723 (Office)

561-301-4685 (Mobile)

Email: DL-NEXTERA-WESTINTERNATIONALREGION@nexteraenergy.com
and

Emre.Ergas@nexteraenergy.com

and

Jeff.Rehfeld@nexteraenergy.com

and

NEER-General-Counsel@nexteraenergy.com

APPENDIX K

TO POWER PURCHASE AGREEMENT

DATED AS OF [_____], 2024

BETWEEN

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

AND

GRACE ORCHARD SOLAR III, LLC

FORM OF CONSTRUCTION START DATE CERTIFICATION

This certification (“*Certification*”) of the Construction Start Date is delivered by [_____] (“*Seller*”) to the SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY (“*Buyer*”) in accordance with the terms of that certain Power Purchase Agreement dated _____ (“*Agreement*”) by and between Seller and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Seller hereby certifies and represents to Buyer the following:

1. the Construction Start (as defined in the Agreement) has occurred, and a copy of the notice to proceed that Seller issued to its primary engineering, procurement, and construction contractor as part of Construction Start is attached hereto;
2. the Construction Start Date occurred on _____ (the “*Construction Start Date*”); and
3. the precise Site on which the Facility is located is:
_____ (such description shall amend the description of the Site in Appendix B of the Agreement).

IN WITNESS WHEREOF, the undersigned has executed this Certification on behalf of Seller as of the ___ day of _____.

[_____]

By: _____

Its: _____

Date: _____

APPENDIX L

**TO POWER PURCHASE AGREEMENT
DATED AS OF [____], 2024**

**BETWEEN
SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
AND
GRACE ORCHARD SOLAR III, LLC**

FORM OF COMMERCIAL OPERATION DATE CERTIFICATION

INDEPENDENT ENGINEER CERTIFICATE

In accordance with the terms of that certain Power Purchase Agreement dated as of _____, 2024 (“*Agreement*”) by and between Southern California Public Power Authority (“*Buyer*”) and Grace Orchard Solar III, LLC (“*Seller*”), in order determine achievement of Commercial Operation of the Facility, I, _____, an Independent Engineer, licensed in the State of California, certify the following regarding the Facility’s ability to deliver Facility Energy:

(a) All capitalized terms used in this Independent Engineer Certificate but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

(b) The Facility is operational, interconnected, and synchronized with the Transmission System at or above the Installed Capacity.

(c) Seller has installed equipment for the Facility with a nameplate capacity of no less than ninety-five percent (95%) of the Original Contract Capacity.

(d) Seller has commissioned all Facility equipment in accordance with its respective manufacturer’s specifications.

(e) The Facility’s testing included a performance test, substantially in the form of Appendix N to the Agreement, demonstrating peak electrical output of no less than ninety-five percent (95%) of the Original Contract Capacity for the Facility at the Delivery Point, adjusted for ambient conditions on the date of the Facility testing, and such peak electrical output, as adjusted, was [*peak output in MW*].

(f) Authorization to parallel the Facility was obtained by the Transmission Provider on [DATE].

(g) The Transmission Provider has provided documentation supporting release for the Facility’s Commercial Operation at or above the Installed Capacity on [DATE].

(h) The CAISO has provided notification supporting Commercial Operation, in accordance with the CAISO Tariff on [DATE].

Signed,

Name:

Title:

Date:

APPENDIX M

TO POWER PURCHASE AGREEMENT

DATED AS OF [_____], 2024

BETWEEN

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

AND

GRACE ORCHARD SOLAR III, LLC

FORM OF LENDER (DEBT) CONSENT

CONSENT AND AGREEMENT

([NAME OF CONTRACTING PARTY])
([NAME OF ASSIGNED AGREEMENT])

This CONSENT AND AGREEMENT (this “Consent”), dated as of _____, 20[], is executed by and among [NAME OF CONTRACTING PARTY], a [legal form of Contracting Party] organized under the laws of the State of [_____] (the “Contracting Party”), [_____] a [_____] (the “Project Owner”), and [_____] as collateral agent (in such capacity, together with its successors and permitted assigns, the “Collateral Agent”) for various financial institutions named from time to time as Lenders under the Credit Agreement (as defined below) and any other parties (or any of their agents) who hold any other secured indebtedness permitted to be incurred under the Credit Agreement (the Collateral Agent and all such parties collectively, the “Secured Parties”).

A. The Project Owner owns, operates and maintains [_____] (the “Project”).

B. The Contracting Party and the Project Owner have entered into the agreement specified in Schedule I hereto (as further amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof and hereof, the “Assigned Agreement”).

C. The Borrower, the Project Owner, the other affiliates of the Borrower as Guarantors, various financial institutions named therein from time to time as Lenders, [_____] , as the Administrative Agent and Collateral Agent, have entered into a Credit Agreement, dated as of [_____] (as amended, modified or supplemented from time to time, the “Credit Agreement”), providing for the extension of the credit facilities described therein.

D. As security for the payment and performance by the Project Owner of its obligations under the Credit Agreement and the other Financing Documents (as defined below) and for other obligations owing to the Secured Parties, the Project Owner has collaterally assigned all of its right, title and interest in, to and under, and granted a security interest in, the Assigned Agreement to the Collateral Agent pursuant to the Assignment and Security

[Signature Page to Consent – Power Purchase Agreement]

Agreement, dated as of [_____] between the Project Owner and the Collateral Agent (as amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof, the "Security Agreement", and, together with the Credit Agreement and any other financing documents relating to the issuance of the Notes, the "Financing Documents").

E. It is a requirement under the Credit Agreement that the Project Owner cause the Contracting Party to execute and deliver this Consent.

NOW, THEREFORE as an inducement for Lenders to make the Loans, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and intending to be legally bound, the parties hereto hereby agree as follows:

1. Consent to Assignment. The Contracting Party hereby acknowledges and consents to the pledge and assignment of all right, title and interest of the Project Owner in, to and under (but, unless otherwise provided in Section 4 and 5 of this Consent, not its obligations, liabilities or duties with respect to) the Assigned Agreement by the Project Owner to the Collateral Agent pursuant to the Security Agreement (collectively, the "Collateral").

2. Representations and Warranties.

(a) No Amendments. The Contracting Party represents and warrants that [Except as described in Schedule I hereto,] there are no amendments, modifications or supplements (whether by waiver, consent or otherwise) by Buyer, or to Buyer's knowledge, by Seller, to the Assigned Agreement.

(b) No Previous Assignments. The Contracting Party affirms that it has no knowledge of any assignment relating to the right, title and interest of the Project Owner in, to and under the Assigned Agreement other than the pledge and assignment to the Collateral Agent referred to in Section 1 above.

(c) No Termination Event: No Disputes. The Contracting Party represents and warrants that after giving effect to the pledge and assignment referred to in Section 1, and after giving effect to the consent to such pledge and assignment by the Contracting Party, to the knowledge of Contracting Party, there exists no event or condition (a "Termination Event") that would, either immediately or with the giving of notice, or both, entitle the Contracting Party to terminate the Assigned Agreement or suspend the performance of its obligations under the Assigned Agreement. [Except as set forth on Schedule III hereto,] there are no unresolved disputes between Contracting Party and Project Owner under the Assigned Agreement. All amounts due under the Assigned Agreement as of the date hereof have been paid in full [, except as set forth on Schedule III hereto].

(d) Financing Documents. Collateral Agent represents and warrants that it has been instructed by the relevant Secured Parties to enter into this Consent, and Project Owner represents and warrants that it is duly authorized to enter into this Consent. The Collateral Agent and the Project Owner acknowledge and agree that, except as expressly provided in this Consent, the

[Signature Page to Consent – Power Purchase Agreement]

Contracting Party's rights and remedies under the Assigned Agreement continue to be and shall remain in full force and effect in accordance with their terms, and notwithstanding anything to the contrary in the Financing Documents (or any related agreements or documents to which the Contracting Party is not a party), shall not conflict with the applicable terms and conditions of this Agreement and no other amendments, waivers or consents with respect to Contracting Party's rights and remedies under the Assigned Agreement may be construed or implied.

3. Right to Cure.

(a) From and after the date hereof and unless and until the Contracting Party shall have received written notice from the Collateral Agent that the liens under the Financing Documents have been released in full, the Collateral Agent shall have the right, but not the obligation, following an event of Default by the Project Owner under the Assigned Agreement, to pay all sums due under the Assigned Agreement by the Project Owner and to perform any other act, duty or obligation required of the Project Owner thereunder as described in Section 3(c) below; provided, that no such payment or performance shall be construed as an assumption by the Collateral Agent or any other Secured Party of any covenants, agreements or obligations of the Project Owner under or in respect of the Assigned Agreement.

(b) The Contracting Party agrees that it will not (i) terminate the Assigned Agreement (other than pursuant to Section __ of the Assigned Agreement) for Default by the Project Owner or any other Termination Event that gives Contracting Party the right to terminate the Assigned Agreement (each, a "Project Owner Default") or (ii) suspend the performance of any of its obligations under the Assigned Agreement for Project Owner Default without first giving the Collateral Agent notice and opportunity to cure as provided below. The Contracting Party further agrees that it will not assign any obligation under the Assigned Agreement inconsistent with the terms of the Assigned Agreement without the prior consent of [the Collateral Agent, acting at the direction of the Required Lenders], which [consent][direction] shall not be unreasonably withheld, delayed or conditioned.

(c) If a Termination Event shall occur (other than a termination pursuant to Section __ of the Assigned Agreement) pursuant to a Project Owner Default, and the Contracting Party shall then be entitled to and shall desire to terminate the Assigned Agreement or suspend the performance of any of its obligations under the Assigned Agreement, the Contracting Party shall, prior to exercising such remedies or taking any other action with respect to such Termination Event, give written notice to the Collateral Agent of such Termination Event. Collateral Agent will have the right, but not the obligation, to cure a Termination Event on behalf of Project Owner, only if Collateral Agent sends a written notice to Contracting Party before the later of (i) the expiration of any cure period under this Agreement, and (ii) ten (10) Business Days after Collateral Agent's receipt of notice of such Termination Event from Contracting Party, indicating Collateral Agent's intention to cure. If the Collateral Agent elects to exercise its right to cure as herein provided, it shall have a period of 30 days after receipt by it of notice from the Contracting Party referred to in the preceding sentence in which to cure the Termination Event specified in such notice if such Termination Event consists of a payment default, or if such Termination Event is an event other than a failure to pay amounts due and owing by the Project Owner (a "Non-monetary Event") the Collateral Agent shall have a period of ninety (90) days after receipt by it of notice from the Contracting Party referred to in the preceding sentence in which to cure the Termination

[Signature Page to Consent – Power Purchase Agreement]

Event so long as the Collateral Agent has promptly commenced and is diligently pursuing appropriate action to cure such Termination Event; provided, however, that (x) if possession of the Project is necessary to cure such Non-monetary Event and the Collateral Agent has commenced foreclosure proceedings, the Collateral Agent will be allowed a reasonable time to complete such proceedings, and (y) if the Collateral Agent is prohibited from curing any such Non-monetary Event by any process, stay or injunction issued by any governmental authority or pursuant to any bankruptcy or insolvency proceeding or other similar proceeding involving the Project Owner, then the time periods specified herein for curing a Termination Event shall be extended for the period of such prohibition; provided, further, that in the event of items (x) or (y), such time period shall not exceed one hundred eighty (180) day after receipt by it of notice from the Contracting Party referred to in the preceding sentence.

(d) Any curing of or attempt to cure any Termination Event shall not be construed as an assumption by the Collateral Agent or the other Secured Parties of any covenants, agreements or obligations of the Project Owner under or in respect of the Assigned Agreement.

(e) Following a Termination Event due to the Project Owner under the Assigned Agreement, the Contracting Party may require the Collateral Agent, if the Collateral Agent has provided the notice set forth in subsection (c) above, to provide to Contracting Party a report concerning:

- (i) The status of efforts by the Secured Parties to develop a plan to cure the Termination Event;
- (ii) Impediments to the cure plan or its development;
- (iii) If a cure plan has been adopted, the status of the cure plan's implementation (including any modifications to the plan as well as the expected timeframe within which any cure is expected to be implemented); and
- (iv) Any other information which Contracting Party may reasonably require related to the development, implementation and timetable of the cure plan.

Unless the Termination Event has been cured, Collateral Agent must provide the report to Contracting Party within twenty (20) Business Days after Notice from Contracting Party requesting the report. Contracting Party will have no further right to require the report with respect to a particular Termination Event after that Termination Event has been cured.

4. Replacement Agreements. Notwithstanding any provision in the Assigned Agreement to the contrary, in the event the Assigned Agreement is rejected or otherwise terminated as a result of any bankruptcy, insolvency, reorganization or similar proceedings affecting the Project Owner, at the Collateral Agent's request, the Contracting Party will for a reasonable period not to exceed one hundred eighty (180) days enter into a new agreement with the Collateral Agent or the Collateral Agent's designee for the remainder of the originally scheduled term of the Assigned Agreement, effective as of the date of such rejection, with the same covenants, agreements, terms, provisions and

limitations as are contained in the Assigned Agreement; provided that on or before the date of such new agreement, all conditions (i)-(iv) listed within Section 5 are satisfied.

5. Substitute Owner. The Contracting Party acknowledges that in connection with the exercise of remedies following a default under the Financing Documents, the Collateral Agent may (but shall not be obligated to) assume, or cause any purchaser at any foreclosure sale or any assignee or transferee under any instrument of assignment or transfer in lieu of foreclosure to assume, all of the interests, rights and obligations of the Project Owner thereafter arising under the Assigned Agreement. If the interest of the Project Owner in the Assigned Agreement shall be assumed, sold or transferred as provided above, the assuming party shall directly or indirectly, on or before the date of such assumption: (i) cure any and all Defaults under the Assigned Agreement (to the extent capable of cure, including by performance or the payment of money damages) and be, or maintain (or cause to maintain), a Qualified Operator for the Facility; (ii) pay the Contracting Party any and all sums due and payable to Contracting Party prior to any such assumption, sale or disposition, including but not limited to any and all damages owed by Project Owner to Contracting Party; (iii) execute and deliver to Contracting Party a written assumption in which such assuming party (aa) expressly assumes all of Project Owner's rights and obligations under the Assigned Agreement, (bb) expressly agrees to be bound by the terms of the Assigned Agreement to the same extent Project Owner is thereunder, and (cc) agree it is subject to Contracting Party's rights and defenses under the Assigned Agreement and applicable law; and (iv) be a Permitted Transferee under the Assigned Agreement.

6. Payments. The Contracting Party shall make all payments due to the Project Owner under the Assigned Agreement directly into the account specified on Schedule II hereto, or to such other person or account as shall be specified from time to time by the Collateral Agent to the Contracting Party in writing. Project Owner acknowledges and consents to Contracting Party making such payments directly into the account specified on Schedule II hereto. All parties (including the Project Owner) hereto agree that each payment by the Contracting Party as specified in the preceding sentence of amounts due to the Project Owner from the Contracting Party under the Assigned Agreement shall satisfy the Contracting Party's corresponding payment obligation under the Assigned Agreement.

7. No Amendments. The Contracting Party acknowledges that the Financing Documents restrict the right of the Project Owner to amend or modify the Assigned Agreement, or to waive or provide consents with respect to waiver of certain provisions of the Assigned Agreement, unless certain conditions specified in the Financing Documents are met. The Contracting Party shall not, without the prior written consent of [the Collateral Agent, acting at the direction of the Required Lenders], which [consent][direction] shall not be unreasonably withheld, delayed, or conditioned, amend or modify the Assigned Agreement in any material respect, or accept any waiver or consent with respect to any material provision of the Assigned Agreement, unless the Contracting Party has received from the Project Owner a copy of a certificate delivered by the Project Owner to the Collateral Agent to the effect that such amendment, modification, waiver or consent has been made in accordance with the terms and conditions of the Financing Documents, which certificate may in certain circumstances require the prior written consent of the Collateral Agent thereto.

[Signature Page to Consent – Power Purchase Agreement]

8. **Additional Provisions.** [To be specified if necessary in a mutually agreeable manner to clarify the Assigned Agreement.]

9. **Notices.** Notice to any party hereto shall be in writing and shall be deemed to be delivered on the earlier of: (a) the date of personal delivery, (b) postage prepaid, registered or certified mail, return receipt requested, or sent by express courier, in each case addressed to such party at the address indicated below (or at such other address as such party may have theretofore specified by written notice delivered in accordance herewith), upon delivery or refusal to accept delivery, or (c) if transmitted by facsimile, the date when sent and facsimile confirmation is received; provided that any facsimile communication shall be followed promptly by a hard copy original thereof by express courier:

The Collateral Agent: [_____]
[_____]
Attn: [_____]
Telephone No.: [_____]
Facsimile No.: [_____]

The Project Owner: _____

The Contracting Party: _____

10. **Successors and Assigns.** This Consent shall be binding upon and shall inure to the benefit of the successors and assigns of the Contracting Party, and shall inure to the benefit of the Collateral Agent, the other Secured Parties, the Project Owner and their respective successors, transferees and assigns.

11. **Counterparts.** This Consent may be executed in one or more counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

12. **Governing Law.** This Consent shall be governed by, interpreted and enforced in accordance with the laws of the State of California, without regard to conflict of law principles.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officers to execute and deliver this Consent as of the date first written above.

[NAME OF CONTRACTING PARTY]

By: _____
Name:
Title:

[_____] as Collateral Agent

By: _____
Name:
Title:

Acknowledged and Agreed:

[_____]

By: _____
Name:
Title:

Assigned Agreement

[Signature Page to Consent – Power Purchase Agreement]

Payment Instructions
(Section 6)

All payments due to the Project Owner pursuant to the Assigned Agreement shall be made to [INSERT REVENUE ACCOUNT INFORMATION].

[Schedule III]

[Amounts Due and Unpaid under the Assigned Agreement
(Section 2(c))]

APPENDIX N

TO POWER PURCHASE AGREEMENT

DATED AS OF [_____], 2024

BETWEEN

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

AND

GRACE ORCHARD SOLAR III, LLC

PERFORMANCE TEST

Solar Energy Center PV

Capacity Test Procedure

Prepared by [NextEra Energy Resources](#)

[xx/xx/2022](#)

Procedure preparer to edit blue text to make specific for the project.

Revision History

Revision Number	Description of Change	Date
A	Draft	xx/xx/2021
0	Execution Version	xx/xx/2022

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List of Acronyms

Acronym	Description
AC	Alternating Current
DAS	Data Acquisition System
DC	Direct Current
MET	Meteorology (MET Station)
MST	Module Surface Temperature (aka T_{BOM})
MW	Megawatt
NEER	NextEra Energy Resources "NextEra"
PF	Power Factor
POA	Plane of Array
PPA	Power Purchase Agreement
PPC	Power Plant Controller
RM	Reference Module
RTD	Resistive Temperature Device
SCADA	Supervisory Control and Data Acquisition
STC	Standard Test Conditions
W	Watt

3 Pre-Test Meeting, Notifications & Check

3.1 Pre-Test Meeting

Notification will be provided **10 days** prior to testing and a pre-test meeting may be held between relevant representatives from NextEra and Off-Taker Entities. If a meeting occurs, notes of the meeting will be taken by NextEra and submitted to the attendees.

3.2 Pre-functional checks

Pre-functional checks will be performed for all equipment and the corresponding functional check sheets will be reviewed by NextEra prior to the start of Performance Testing. Any functional issues that occur during Capacity Testing will be entered into the Commissioning Log by a NextEra representative and will be referenced in the Capacity Test Report. Capacity Testing will be performed when the following conditions are satisfied:

- Weather conditions required to support collection of appropriate range and quantity of test data
- Utility grid voltage is stable and within $\pm 5\%$ of design voltage
- There is grid connectivity at each inverter such that a Capacity Test can be accomplished under load
- The site is substantially complete and the systems are in automatic operation.

3.3 Data Acquisition

Prior to the start of the Capacity Test, NextEra will ensure that data points are being recorded by the historian in, at a minimum, 1 minute samples.

4 Calculation Method

The method to calculate capacity is described as follows. This method will be used to determine both daily capacity (an estimate of the Tested Capacity) as well as the overall Tested Capacity of the Plant.

1. At a minimum, the PV plant AC power output, Reference Module irradiance levels, and module surface temperature measurements are collected and recorded.
2. Reference Module irradiance measurements are then averaged; module surface temperature measurements are also averaged.
3. Ideally the plant will operate at power factor of 1.0 during the test however the Transmission Owner or the System Operator may require otherwise for grid support. The Plant AC power output measurement, P_M , is corrected to a power factor of 1.0 according to the following equation:

$$P_{1PF} = P_M \times \frac{PF_{STC}}{PF_M}$$

P_{1PF} = AC Power corrected to power factor of 1.0
 P_M = measured AC power output at the Revenue Meter
 PF_M = measured power factor at the Revenue Meter
 PF_{STC} = power factor at standard test conditions (1.0pf)

4. Power factor-corrected AC power output, P_{1PF} , is corrected to 25 °C according to the following equation:

$$P_{STC} = \frac{P_{1PF}}{1 + C_t(T_M - 25^\circ C)}$$

P_{1PF} = AC Power corrected to 1.0pf
 P_{STC} = AC Power corrected to 25°C
 C_t = module power temperature coefficient (-0.xxx% /°C, Weighted Average)
 T_M = mean module surface temperature (°C)

5. A plot of P_{STC} vs. mean Reference Module irradiance is created as shown in **Figure 1**.
6. A linear fit is then performed for all Valid Data Points (shown in **BLUE**) while all other data points (shown in **RED**) are excluded from the regression. These **RED** data points represent discrete times in the data set where one or more event is present as defined in Section 5 **Table 3** of this procedure. The coefficient of determination (R^2) for the capacity regression shall be at least **0.92**. The linear fit yields an equation of the following form:

$$y = N * x + b$$

y = P_{STC} power (temperature corrected)
 N = slope of the line
 x = mean Reference Module irradiance (W/m²)



b = y intercept

Note: A Valid Data Point is defined as an instantaneous, 1-minute sample of plant data which has not been excluded according to the guidelines in Section 5.

7. The Tested Capacity is determined by evaluating the equation at 1,000 W/m²:

$$\text{Tested Capacity} = y(1000)$$

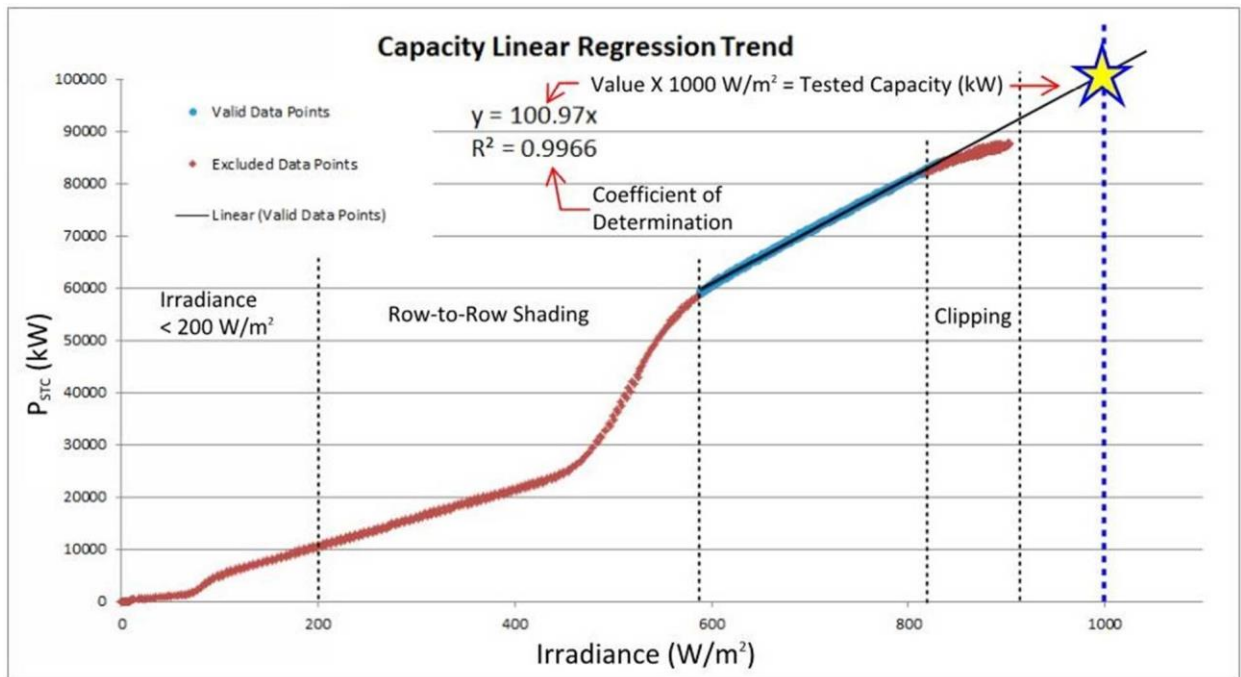


Figure 1 – Example linear fit to Temperature-Corrected Power vs. POA Irradiance

5 Data Exclusions

Data will be excluded from the linear fit if and when any of the following events in **Table 3** occur. Any point not excluded is considered to be a Valid Data Point.

Table 3 - Data Exclusion Events

Event	Definition
Low Irradiance	Mean Reference Module irradiance is less than 200 W/m²
High Irradiance	Mean Reference Module irradiance is greater than 1200 W/m²
Inverter(s) Offline	At least one inverter is offline or otherwise producing minimal power relative to the other inverters such that inverter generation is unable to reach nameplate capacity for site.
Grid Interruption	The Fault State of one or more inverters indicates a Grid Failure, or the Utility grid voltage is more than 5% different from the design voltage. The previous five minutes of data will be excluded the event of a Grid Interruption.
Negative Power Flow	The power meter records a net negative power output (power is flowing to the Plant)
Inverter Clipping	At least one inverter has reached the AC power set point OR at least one inverter is commanded to less than 100% output by the PPC.
Row-to-Row Shading	Direct beam row-to-row shading as confirmed by visual inspection
Erratic Irradiance	Erratic irradiance is observed
Snow or Frost	From visual inspection, there is snow or frost on the modules or critical sensors
Irradiance Sensor Failure	There are less than X Reference Modules reading correctly (50% of installed quantity and round up)
MST Sensor Failure	There are less than XX module surface temperature sensors reading correctly (50% of installed quantity and round up)
SCADA/DAS Failure	There is a system-wide failure to collect critical data, including: irradiance, MST and energy meter AC power. The previous five minutes of data will be excluded the event of a Grid Interruption.

6 Capacity Test Execution

6.1 Daily Capacity Test

A capacity value for each calendar day of the Capacity Test period will be calculated according to the procedure outlined in Section 4, using data points subjected to the exclusions described in Section 5.

For each calendar day of the test, the NextEra Test Manager will do the following:

- Confirm all inverters start up at approximately the same time
- Ensure that data is recorded in 1 minute intervals
- Review the Daily Alarm Log and other non-conformance items and ensure that they do not affect the test results

6.2 Tested Capacity

The Tested Capacity of the PV Power Plant will be determined using all Valid Data Points collected over the Capacity Test period. The Tested Capacity value will be calculated according to the procedure outlined in Section 4, using data points subjected to the exclusions described in Section 5. This value will be compared to Guaranteed Tested Capacity shown in Section 1, **Table 1** to determine pass/fail.

6.3 Site Specific Test Configuration (Optional)

Site Pre-Test Assumptions:

1. Xxx
2. Xxx
3. Xxx

Site Testing Configuration:

1. Xxx
2. Xxx

-
-
-
-
-
-
-
-
-

7 Capacity Test Report

Following the conclusion of the Capacity Test, NextEra will issue a Capacity Test Report within **five (5)** business days of the successful completion of the Capacity Test to all relevant parties. The report will include the following:

- Executive summary of testing (e.g., Tested Capacity value, R² value, Daily Capacity Values)
- Instrument calibration certificates
- Test data
- Field notes including non-conformance events (See “Daily Log”)
- Capacity calculations
- Conclusions

NextEra will provide the raw test data (consisting of both Valid Data Points and excluded values) and instrument calibration certificates to relevant parties as a separate attachment. This procedure will be appended to the submitted report.

8 Reference Documents

- SCADA Design Drawings – [xxxxxxxxxxxxxxxxxxxxxxxx](#)
- Substation Functional Single Line Diagram – [xxxxxxxxxxxxxxxxxxxxxxxx](#)

APPENDIX O

TO POWER PURCHASE AGREEMENT

DATED AS OF [____], 2024

BETWEEN

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

AND

GRACE ORCHARD SOLAR III, LLC

FORM OF ESTOPPEL FROM BUYER

ESTOPPEL CERTIFICATE

(PPA)

This **ESTOPPEL CERTIFICATE** (this “Estoppel Certificate”), dated as of _____, 20__, is executed by Southern California Public Power Authority (“Buyer”) for the benefit of _____ (“Lender”).

RECITALS

A. Buyer and Grace Orchard Solar III, LLC, a Delaware limited liability company (the “Project Company”) are parties to that certain Power Purchase Agreement, dated as of _____, 2024 (the “Power Purchase Agreement”), in connection with the _____ solar project (“Solar Project”).

B. Pursuant to that certain [describe Lender financing agreement].

C. Pursuant to Section [__] of the [Lender financing agreement], the [Lenders] have required that this Estoppel Certificate be delivered as a condition precedent to the consummation of the transactions described therein.

NOW, THEREFORE, in consideration of the foregoing recitals, Buyer hereby certifies, agrees and acknowledges as follows:

1. No Default with respect to Buyer, nor, to the knowledge of Buyer, with respect to the Project Company, has occurred under the Power Purchase Agreement, and there are no Defaults presently existing (or which would exist after giving of notice) that would allow the Project Company or, to the knowledge of Buyer, Buyer to terminate the Power Purchase Agreement.
2. There exists no event or condition that would, either immediately or with the giving of notice, or both, entitle either the Project Company or, to the knowledge of Buyer, Buyer to suspend the performance of its obligations under the Power Purchase Agreement.
3. Each representation or warranty made or given by Buyer in Section [__] of

the Power Purchase Agreement is complete, true and correct.

4. As of the date hereof, (i) the Power Purchase Agreement is in full force and effect and has not been assigned [except as permitted under the Power Purchase Agreement as set for the Schedule __ of this Estoppel Certificate], amended, supplemented or modified by Buyer, or to Buyer's knowledge, by Seller, (ii) there are no pending or threatened material disputes or legal proceedings between Buyer and the Project Company, (iii) there is no pending or, to the knowledge of Buyer, threatened action or proceeding against Buyer before any court, tribunal, governmental authority or arbitrator which purports to affect the legality, validity or enforceability of the Power Purchase Agreement, (iv) Buyer is not aware of any event, act, circumstance or condition constituting an event of Force Majeure under the Power Purchase Agreement, and (v) to Buyer's knowledge, the Project Company owes no indemnity payments or other amounts to Buyer under the Power Purchase Agreement.
5. The execution, delivery and performance by Buyer of this Estoppel Certificate have been duly authorized by all necessary action on the part of Buyer and does not require any approval or consent of any other person or entity and does not violate any provision of any law, regulation, order, judgment, injunction or breach any agreement presently in effect with respect to or binding on Buyer.
6. Buyer agrees that any notices required to be delivered to Seller under Section [__] of the Power Purchase Agreement, including notices of an [Event of Default], shall be delivered by Buyer to each of the [Lenders] at their respective notice addresses set forth on Exhibit A hereto. Buyer further agrees that the [Lenders] shall have the right (but not the obligation) to cure the defaults listed in any notice of default in accordance with Section [__] of the Power Purchase Agreement within a cure period commencing on the later of (i) the same date that the Seller's cure period expires under the Power Purchase Agreement or (ii) the date that the [Lenders] receive such notice that lists the default or defaults of the Seller under the Power Purchase Agreement and thereafter continuing for (i) thirty (30) days, in the case of payment defaults and (ii) ninety (90) days in the case of defaults consisting of an event other than a failure to pay amounts due and owing (a "Non-Monetary Default") the Seller so long as [Lenders] have promptly commenced and is diligently pursuing appropriate action to cure such Non-Monetary Default.
7. [Mutually agreeable additional provisions to be included if necessary to clarify the Power Purchase Agreement.]
8. This Estoppel Certificate shall be governed by the laws of the State of California, without regard to principles of conflict of law.

[signature page follows]

IN WITNESS WHEREOF, Buyer has caused this Estoppel Certificate to be duly executed by its authorized representative as of the date first set forth above.

**SOUTHERN CALIFORNIA PUBLIC
POWER AUTHORITY**

By: _____
Name: _____
Title: _____

Exhibit A
to
Estoppel Certificate (PPA)
dated _____, 20__
by SCPPA for the benefit of _____

PPA

APPENDIX P

TO POWER PURCHASE AGREEMENT

DATED AS OF [_____], 2024

BETWEEN

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

AND

GRACE ORCHARD SOLAR III, LLC

FORM OF MONTHLY REPORT

1. Month Year

Facility name and location:

Fuel Type:

Capacity (MW): _____ Operational Date:

2. Summary Contract Year-to-date performance with respect to MWh of generation on an actual vs. expected basis during subject month with respect to the Facility.

3. Summary of non-Buyer-caused curtailments during subject month with respect to the Facility.

4. Summary of maintenance and repair actions during subject month with respect to the Facility.

APPENDIX R

TO POWER PURCHASE AGREEMENT

DATED AS OF [_____], 2024

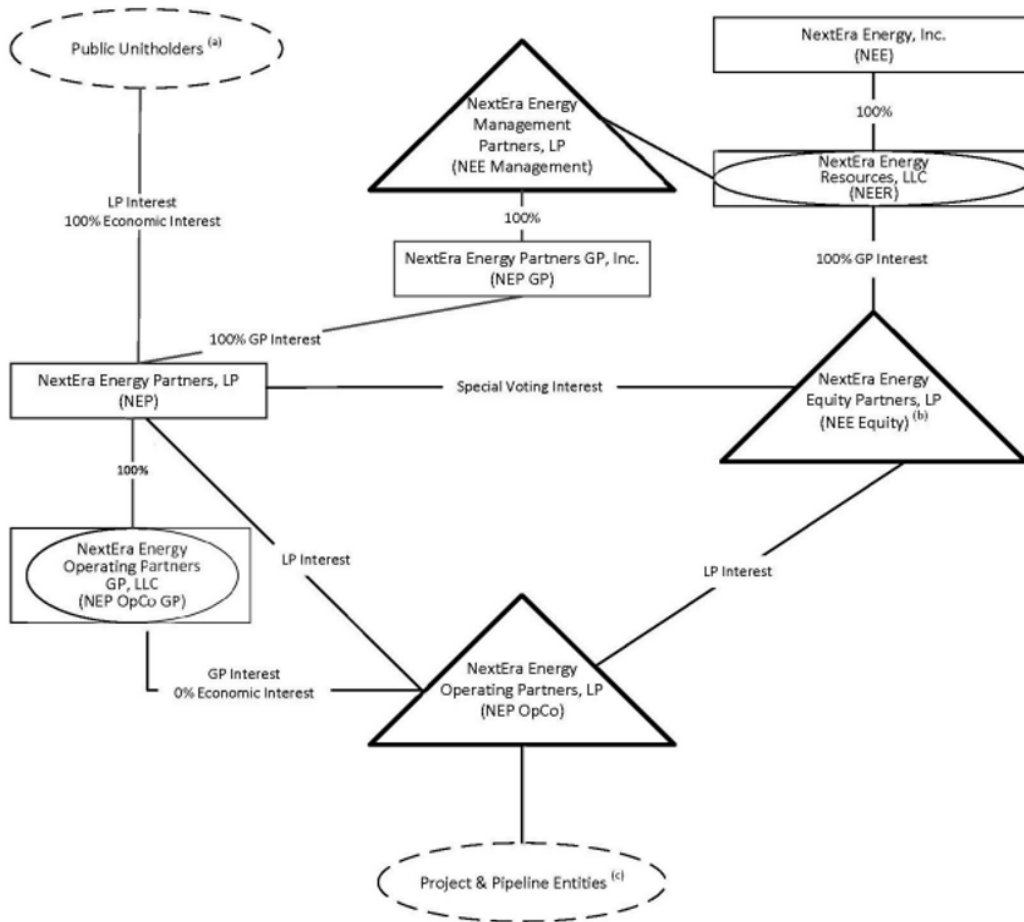
BETWEEN

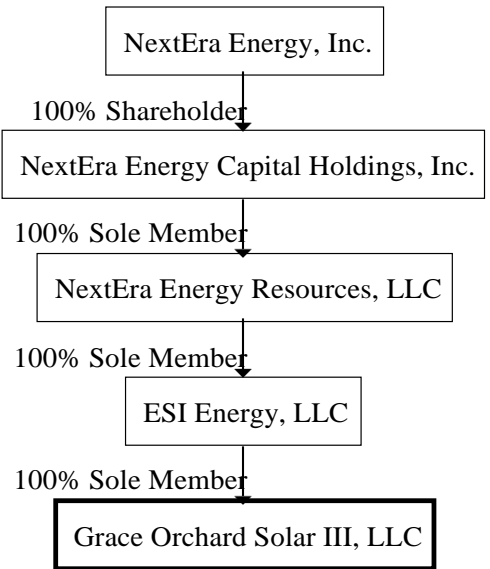
SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

AND

GRACE ORCHARD SOLAR III, LLC

ORGANIZATIONAL CHART





EXECUTION VERSION

GRACE ORCHARD SOLAR PROJECT

**POWER SALES AGREEMENT
BETWEEN**

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

AND

CITY OF ANAHEIM

Dated as of September 19, 2024

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GRACE ORCHARD SOLAR PROJECT

POWER SALES AGREEMENT

1. **PARTIES.** This Grace Orchard Solar Project Power Sales Agreement (this “Agreement”) is dated for convenience as of the September 19, 2024, by and between the SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, a joint powers agency and a public entity organized under the laws of the State of California, hereinafter designated as “SCPPA,” and the City of Anaheim, a municipal corporation organized and existing under the laws of the State of California. The City of Anaheim is also periodically designated in this Agreement as “Anaheim” or as “Purchaser,” or, depending upon the context as “SCPPA Participant”. Anaheim and SCPPA are also sometimes herein referred to individually as a “Party” and together as the “Parties.”

2. **RECITALS, CONSTRUCTION AND PRELIMINARY MATTERS.** The Recitals set forth herein and the facts, which follow, are incorporated into this Agreement by reference for all purposes. The facts and the circumstances of the Parties contained in the Recitals, among others, represent the background and framework for this Agreement, the aim and purpose of this Agreement and the intent of the Parties with respect thereto. This Agreement has been reviewed by attorneys for both Parties and shall not be interpreted with reference to the rules of construction providing for construction against a Party responsible for drafting or creating a particular provision or section but should instead be interpreted in a manner which broadly implements the goals and objectives of the Parties as expressed herein. References to “Sections,” and “Appendices,” shall be to Sections, and Appendices as the case may be, of this Agreement unless otherwise specifically provided. Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose or given any substantive effect. Any of the terms defined herein may, unless the context otherwise requires, be used in the singular or the plural, depending on the reference. The use herein of the word “include” or “including”, when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not nonlimiting language (such as “without limitation” or “but not limited to” or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term or matter. This Agreement is made with reference to the following facts among others:
 - 2.1 SCPPA was created pursuant to provisions contained in the Act, by its members, which are municipalities and an irrigation district that supply, among other things, electrical energy in the State of California, for the purpose of jointly and cooperatively undertaking the planning, financing, development, acquisition, construction, improvement, betterment, operation, and maintenance of projects for the generation or transmission of electric energy, including the development and implementation of systems and frameworks for the acquisition and delivery of secure, long-term reliable supplies of renewable electric energy.

- 2.2 Pursuant to the terms of the Act, SCPPA has the power, for the purpose of promoting, maintaining and operating electric generation and transmission, to plan, develop, contract for, finance, acquire, design, undertake, own, construct, manage, operate, maintain and administer projects involving systems, methodologies and programs for the acquisition, supply, procurement and delivery of secure, long-term reliable supplies of renewable electric energy, including solar energy products, and to cause such projects to be planned, developed, contracted for, financed, acquired, designed, undertaken, constructed, managed, operated, maintained and administered and to provide by agreement for the performance and carrying out of any such activities.
 - 2.3 Purchaser is a California municipality that provides electric energy to its citizens through its municipally owned electric power system. Purchaser is one of the parties to the SCPPA Joint Powers Agreement.
 - 2.4 In pursuit of potential renewable electric resources to address SCPPA member renewable energy needs, SCPPA issued a request for proposals to acquire renewable energy resources and projects with energy storage capability. As a result of the response by NextEra Energy, Inc. on behalf of its affiliate, Grace Orchard Solar III, LLC (“Power Purchase Provider”), SCPPA and three of its members, Purchaser and City of Colton and City of Pasadena, have identified and investigated the feasibility of a photovoltaic solar energy generation resource to be located in Riverside County, California. The facility known as the Grace Orchard Solar Project is to be developed by Grace Orchard Solar III, LLC.
 - 2.5 SCPPA intends to enter into a Power Purchase Agreement with Grace Orchard Solar III, LLC for the purchase of electric output and related products from a solar photovoltaic facility at the Grace Orchard Solar Project (the “Project”, as further defined in Appendix A hereof).
 - 2.6 Purchaser has a need for a percentage of the Facility Products and has determined to enter into this Agreement with SCPPA for the purpose of meeting such needs.
 - 2.7 SCPPA is authorized to exercise the powers vested in SCPPA pursuant to the Act, its Joint Powers Agreement and this Agreement, as agent for Purchaser to fully implement Purchaser’s objectives in the Project as set forth herein.
3. **AGREEMENT.** For and in consideration of the promises and the mutual covenants and agreements hereinafter set forth, and in order to pay SCPPA for Purchaser’s share of SCPPA’s costs with respect to the Project, the Parties agree as herein set forth.
 4. **DEFINITIONS.** Appendix A to this Agreement attached hereto and incorporated herein, sets forth definitions of certain terms used in this Agreement. Certain other capitalized terms used herein are defined in the Power Purchase Agreement and shall have the meaning ascribed therein. The terms defined in Appendix A, the Power Purchase Agreement and this Section 4, whether in the singular or plural, unless specifically provided otherwise, when used herein or in the Appendices hereto and initially capitalized, shall have the meaning ascribed thereto in said Appendix A, the Power Purchase Agreement or as set out below:
 - 4.1 Agreement. This Agreement, as it may be amended, modified or supplemented from

time to time.

- 4.2 Effective Date. The date described in Section 16.1 hereof.
- 4.3 Total Power Costs. Total Power Costs mean all of SCPPA's costs resulting from SCPPA's contracting for, providing for, accommodating, and facilitating the Project, including costs arising under any of the Power Purchase Agreement or other Project Agreements. SCPPA shall apply, as a credit against Total Power Costs, any receipts, revenues and other moneys received by SCPPA (a) from surplus equipment, materials, supplies or assets relating to the Project sold prior to the date of Commercial Operation for the benefit of SCPPA, and (b) for such other amounts to be applied as a credit against Total Power Costs pursuant to this Agreement. Total Power Costs shall consist of (i) the Delivery Output Cost Component (described in Section 4.3.1), (ii) the Power Purchase Agreement General and Administrative Cost Component (described in Section 4.3.2), (iii) a Supplementary Services Cost Component to the extent SCPPA incurs such costs (described in Section 4.3.3), (iv) a Reserve Funds Cost Component (described in Section 4.3.4), and (v) a Power Purchase Agreement Cost Component (described in Section 4.3.5), and shall include, but not be limited to, the items of cost and expense referred to in the Power Purchase Agreement and this Section 4.3 that are accrued or paid by SCPPA during each Month of each Power Supply Year. In the event any Power Supply Year shall consist of fewer than twelve Months, the fraction set forth in Section 4.3.2 shall be adjusted accordingly and, in the event of any revision of the Annual Budget after the commencement of any Power Supply Year, the amount determined pursuant to Section 4.3.2 shall be appropriately adjusted so that any increase or decrease in the portion of the Annual Budget applicable to Section 4.3.2 shall be evenly apportioned over the remaining Months of such Power Supply Year.
- 4.3.1 The Delivery Output Cost Component of Total Power Costs for each Month shall consist of the costs paid by SCPPA to the Power Purchase Provider under the Power Purchase Agreement, as calculated in accordance with the Power Purchase Agreement.
- 4.3.2 The Power Purchase Agreement General and Administrative Cost Component of Total Power Costs for each Month shall consist of the administrative and general costs with respect to the Project, including (i) legal fees, costs relating to litigation (including disbursements and other amounts paid as a result of such litigation), insurance costs (including amounts to fund any self-insurance program), overhead costs, any taxes required to be paid by SCPPA with respect to the Project, (ii) all expenses incurred in enforcing the Power Purchase Agreement and other Project Agreements, and (iii) all costs related to the conducting of the business of SCPPA with respect to the Project, including the applicable portion of salaries, fees for legal, engineering, financial and other services, and costs of the Project Manager, as well as all other costs attributable to miscellaneous and incidental expenses in connection with the administration of the Project, and all other expenses properly related to the conduct of such affairs of SCPPA.
- 4.3.3 The Supplementary Services Cost Component of Total Power Costs for each Month shall consist of all costs incurred by SCPPA, if any, and to the extent

not included in Section 4.3.1, in connection with services for transmission, dispatching, scheduling, tagging, firming, balancing, swapping, exchanging or delivering and for otherwise facilitating the disposition, movement, taking, receiving, crediting and accounting for Facility Products provided for under this Agreement. The Supplementary Services Cost Component of the Total Power Costs shall also entail all costs incurred by SCPPA, if any, which are necessary to move or otherwise handle delivery of any portion of Facility Products from the Point of Delivery to one or more specified delivery point(s) as determined by Purchaser pursuant to Section 9.2 and by other SCPPA Participating Members pursuant to the terms of their respective power sales agreements relating to the Project. Absent a request by Purchaser for SCPPA to provide Supplementary Services during a Month, no Supplementary Services cost component shall be included in Purchaser's Total Power Costs for such Month.

4.3.4 The Reserve Funds Cost Component of Total Power Costs for each Month shall consist of the amount for such Month necessary to establish and maintain the Reserve Funds at the level deemed prudent and appropriate by the Board of Directors.

4.3.5 The Power Purchase Agreement Cost Component of Total Power Costs for each Month shall consist of: the costs, without duplication, associated with the Power Purchase Agreement, including, to the extent not otherwise included in this Section 4.3, all costs for such Month of SCPPA in connection with its enforcement of the Power Purchase Agreement or the performance required of SCPPA under the Power Purchase Agreement or any Project Agreement and shall include, without duplication, SCPPA's monthly payment of any applicable associated ancillary costs under the Power Purchase Agreement, and any costs SCPPA is required to pay for the Facility Products.

5. PURCHASE AND SALE OF FACILITY PRODUCTS AND THE OBLIGATIONS OF SCPPA AND THE PURCHASER.

5.1 Purchase and Sale of Participant Facility Products Share. In accordance with the terms and conditions of this Agreement, commencing on the earliest of (i) the date SCPPA is obligated to pay any portion of the costs of the Project, (ii) the effective date of the Power Purchase Agreement, or (iii) the date of the first delivery of Energy to Purchaser pursuant to this Agreement, and continuing through the term of this Agreement, except as otherwise provided herein, SCPPA shall provide Purchaser its Participant Facility Products Share of any and all products, rights, and benefits, whether tangible or intangible, received or obtained by SCPPA with respect to the Project, including without limitation the Facility Products, and Purchaser shall be responsible for and pay its Participant Facility Products Cost Share of any and all Total Power Costs associated with the acquisition of its Participant Facility Products Share and such associated products, rights, and benefits, as applicable, under the Power Purchase Agreement and any other applicable Project Agreement, including purchase or acquisition of any rights pursuant to the Power Purchase Agreement and any other applicable Project Agreement.

5.2 Facility Products and Deliverables. SCPPA shall provide and Purchaser shall purchase

and receive Purchaser's Participant Facility Products Share of the Facility Products pursuant to the terms of this Agreement. To the extent permitted by the Power Purchase Agreement, the applicable Project Agreements, or otherwise determined by the Board of Directors, SCPPA will endeavor to take such actions or implement such measures as may be necessary or desirable for the utilization, maintenance or preservation of the rights and interests of Purchaser in the Project including, if appropriate, such enforcement actions or other measures as the Board of Directors deems to be in the Purchaser's best interests. To the extent such services are available and can be implemented in accordance with the Power Purchase Agreement or other applicable Project Agreements, SCPPA shall also provide such other services, as approved by the Board of Directors, as may be deemed necessary to secure the benefits and/or satisfy the obligations associated with the Power Purchase Agreement or other applicable Project Agreements. SCPPA shall use its best efforts, on behalf of Purchaser, to secure the benefits of the transactions contemplated under the Power Purchase Agreement or other applicable Project Agreements including the delivery of the Facility Products, as applicable, contemplated by this Agreement, and shall endeavor to maintain and secure the rights and benefits accruing to SCPPA through the Power Purchase Agreement and the other applicable Project Agreements. Upon request, the SCPPA Participants shall provide reasonable efforts to assist the Operating Agent, Project Manager, and/or SCPPA in the performance of their respective obligations under this Agreement.

5.3 Project Manager. SCPPA or its designee or designees shall act as Project Manager as provided in this Agreement to administer the Project, or cause the Project to be administered, as provided in this Agreement or pursuant to assignments, instructions or requests by the Board of Directors, or through any project management or agency agreement, or contracts for services between SCPPA and a third party or in consultation with the Operating Agent in accordance with Section 6 of this Agreement. Prior to appointment of a Project Manager (other than SCPPA), SCPPA shall consult with the SCPPA Participant as to such appointment. The Project Manager may from time to time enter into project agreements or other agreements related to the Project as appropriate or otherwise authorized by the Board of Directors.

5.3.1 The Project Manager may establish, as needed, committees, subcommittees, or working groups to advise the Project Manager, including, but not limited to, auditing, legal, financial, engineering, mechanical, weather, diurnal, barometric, meteorological, operating, insurance, governmental relations, environmental and public information subcommittees.

5.4 Adoption of Annual Budget. The Annual Budget and any amendments to the Annual Budget shall be prepared and approved in accordance with Sections 5.4.1, 5.4.2 or 5.4.3, respectively.

5.4.1 SCPPA will prepare and submit to Purchaser a proposed Annual Budget at least sixty (60) Days prior to the beginning of each Power Supply Year. In connection with the preparation of the Annual Budget, SCPPA shall incorporate therein the Operating Budget for such Power Supply Year as prepared by the Project Manager and approved by the Board of Directors. Purchaser may then submit to SCPPA, at any time until the Annual Budget is

adopted, any matters or suggestions relating to the Annual Budget. SCPPA shall adopt the Annual Budget not less than thirty (30) nor more than sixty (60) Days prior to the beginning of such Power Supply Year and shall cause copies of such adopted Annual Budget to be delivered to the Purchaser; provided, however, the Annual Budget for the first Power Supply Year shall be prepared, considered, adopted and delivered in the most practicable manner available prior to Commercial Operation of the Facility.

5.4.2 As required from time to time during any Power Supply Year, after seven (7) Days' written notice to the Purchaser, SCPPA may, pursuant to the foregoing provisions for adopting the Annual Budget, adopt an amended Annual Budget for and applicable to such Power Supply Year for the remainder of such Power Supply Year. The Annual Budget shall establish the basis for monthly Billing Statements to be sent to each SCPPA Participant, as provided in Section 7 hereof.

5.4.3 Any adjustment, and any other or further mechanism for adjustment, as may be required to address the variability of costs of operation of the Project at any time during the Power Supply Year or the variability of or addition to any other Annual Budget component, may be incorporated into the Annual Budget as provided above, or by any amendment to an Annual Budget at any time during any Power Supply Year upon the seven (7) Days' written notice to the Purchaser as set forth in Section 5.4.2.

5.5 Reports. SCPPA will prepare and issue to Purchaser the following reports as soon as reasonably practicable after the end of each quarter of a Power Supply Year:

5.5.1 Financial and operating statement relating to the Project.

5.5.2 Variance report comparing the costs in the Annual Budget versus actual costs, and the status of other cost-related issues with respect to the Project.

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

5.7 Provide Information. Purchaser agrees to supply SCPPA, upon reasonable request during regular business hours, with such information, documentation, and certifications as SCPPA shall reasonably determine to be requisite to and necessary or desirable for the administration and ongoing activities of the Project, including information reasonably available to allow SCPPA to respond to requests for such information from any federal, state, or local regulatory body or other authority.

5.8 Consultants and Advisors Available. SCPPA shall make available to the Project Manager (if other than SCPPA) and to the SCPPA Participants all consultants and

advisors that are retained by SCPPA, and such consultants and advisors shall be authorized to consult with and advise the Project Manager and SCPPA Participants on Project matters.

- 5.9 Liquidated Damages. Any amounts paid to SCPPA as and for Daily Delay Damages, GEP Shortfall Damages, PV Capacity Damages, the Damage Payment, or any other damages owed to SCPPA by the Power Purchase Provider as provided under the Power Purchase Agreement shall be remitted to the SCPPA Participants in accordance with their respective Participant Facility Products Shares.

6. OPERATING AGENT AND PROJECT MANAGEMENT.

- 6.1 Operating Agent. The City of Anaheim shall act as operating agent (“Operating Agent”) as provided in this Agreement to assist the Project Manager in the administration of the Project, as provided in this Agreement or pursuant to assignments, instructions, or requests by the Board of Directors.
- 6.2 Operating Agent Responsibilities. The Operating Agent shall have the following responsibilities:
- 6.2.1 Provide liaison between SCPPA and the SCPPA Participants at the management or other levels with respect to the ongoing administration of the Project and maintain a liaison between the SCPPA Participants and all other SCPPA members with respect to the Project, and where SCPPA deems it appropriate, maintain a liaison with the counterparties to any Project Agreements and with any other entities or utilities engaged in or in connection with the Project.
 - 6.2.2 In consultation with SCPPA and the SCPPA Participants, review, develop, and discuss budgets and revisions thereof prepared and submitted by SCPPA or the Project Manager.
 - 6.2.3 In consultation with SCPPA and the SCPPA Participants, review, develop, and discuss any systems or procedures for adjustment of the Annual Budget or any alternative methodologies for budgeting or billing as set forth in Section 5 and Section 7 of this Agreement.
 - 6.2.4 In consultation with SCPPA and the SCPPA Participants, review, discuss and attempt to resolve any disputes among the SCPPA Participants or the parties to any Project Agreements including, without limitation, the Power Purchase Provider, the counterparty under the Power Purchase Agreement or any other counterparty with respect to any Project Agreement.
 - 6.2.5 Make recommendations to SCPPA with respect to the ongoing administration of the Project.
 - 6.2.6 In consultation with SCPPA and the SCPPA Participants, review, develop, and if appropriate, modify and approve rules, procedures, and protocols for the administration of the Project or Project Agreements, including rules,

procedures, and protocols for the management of the costs of the scheduling, handling, tagging, dispatching, and crediting of Facility Products and the handling and crediting of Environmental Attributes associated with the Project.

- 6.2.7 In consultation with SCPPA and the SCPPA Participants, review, and, if appropriate, modify, approve or otherwise act upon the form or content of any written statistical, administrative, or operational reports, solar energy related data, electric generation information, solar energy production data, technical information, facility reliability data, transmission information, forecasting, scheduling, dispatching, tagging, parking, exchanging, balancing, movement, or other delivery information, climate and weather related matters, regulatory matters or requirements, and other information and other similar records or matters pertaining to the Project which are furnished to the Project Manager, or by the counterparties to Project Agreements, experts, consultants or others.
- 6.2.8 In consultation with SCPPA and the SCPPA Participants and pursuant to any scheduling coordinator agreement, review, and, if appropriate, modify, approve, or otherwise act upon, practices and procedures as formulated by the Project Manager or, if applicable, the counterparty to any Project Agreement, to be followed by the SCPPA Participants for, among other things, the production, scheduling, tagging, transmission, delivery, balancing, exchanging, crediting, tracking, monitoring, remarketing, sale or disposition of Facility Products. For avoidance of doubt, upon SCPPA's delivery and sale of Facility Products to Purchaser at the Point of Delivery, Purchaser shall have full unilateral rights to remarket, sell or otherwise dispose of such Facility Products.
- 6.2.9 In consultation with SCPPA and the SCPPA Participants, review, modify and approve, if appropriate, any activities with respect to the performance of any Project Agreement, including policies for selection and utilization of contractors and consultants included in the budgets with respect to the Project. In approving such activities, consideration may be given, if possible, to each SCPPA Participant's electric power system conditions, which may prevail during such planned activities.
- 6.2.10 In consultation with SCPPA and the SCPPA Participants, review, and, if appropriate, recommend, modify, approve or otherwise act with respect to the exercise of SCPPA's rights under the Power Purchase Agreement or review, recommend, approve or otherwise act with respect to the procurement of resources in connection with the Power Purchase Agreement.
- 6.2.11 In consultation with SCPPA and the SCPPA Participants, review, modify, approve or otherwise act upon any proposed change, extension or modification of any date set forth in Appendix I of the Power Purchase Agreement of the milestone schedule or to any Milestone under the Power Purchase Agreement as the Project Manager shall deem to be desirable, appropriate or otherwise in SCPPA's interest. The Project Manager may impose such other terms, conditions or qualifications upon any such action as the Project Manager shall deem appropriate.

- 6.2.12 In consultation with SCPPA and SCPPA Participants, review and act upon any present, potential or possible future anticipated failure of Power Purchase Provider to deliver Guaranteed Generation (as defined in the Power Purchase Agreement) in such manner as the Project Manager shall deem appropriate.
- 6.2.13 In consultation with SCPPA and the SCPPA Participants, review, and if appropriate, recommend, modify or approve practices and procedures formulated by the Project Manager, or by any counterparty to any Project Agreements giving due recognition to the needs, rights and electric system requirements and capabilities of all SCPPA Participants.
- 6.2.14 In consultation with SCPPA and the SCPPA Participants, review and act upon any matters involving any of the Power Purchase Agreement, any guarantee or letter of credit delivered to or for the benefit of SCPPA by the Power Purchase Provider or any other counterparty to any Project Agreement in connection with the Project, and take such actions or make such recommendations as may be appropriate or desirable in connection therewith.
- 6.2.15 In consultation with SCPPA and the SCPPA Participants, review, modify or approve recommendations of the counterparties made pursuant to the provisions of any Project Agreement.
- 6.2.16 In consultation with SCPPA and the SCPPA Participants, review, modify and where appropriate, recommend or approve the implementation of metering technologies and methodologies appropriate for the delivery, accounting for, transferring and crediting of the Facility Products to the Point of Delivery or to other points or destinations, as applicable.
- 6.2.17 In consultation with SCPPA and the SCPPA Participants, review, modify and where appropriate, recommend approval of Consent Agreements.
- 6.2.18 In consultation with SCPPA and the SCPPA Participants, review, examine modify and where appropriate, recommend or approve the implementation of methods for addressing curtailments or other interruptions tending to cause deemed generated energy.
- 6.2.19 In consultation with SCPPA and the SCPPA Participants, review, modify and where appropriate, recommend the implementation of practices and procedures to implement the provisions of Section 9 herein, as may be applicable with respect to any of the SCPPA Participants.
- 6.2.20 In consultation with SCPPA and the SCPPA Participants, review and provide SCPPA with comments on adjustments to the Participant Facility Products Shares and the Participant Facility Products Cost Shares set forth in Appendix B of this Agreement when and as required by this Agreement; provided, that such resolution shall require the affirmative vote of the Board of Directors if such adjustment would change its Participant Facility Products Share and its Participant Facility Products Cost Share.

- 6.2.21 Track the Operating Agent's reasonable costs performing its responsibilities under this Agreement, and, in consultation with the SCPPA Participants and approval by SCPPA, seek and receive cost recovery from the SCPPA Participants in proportion to the Participant Facility Products Cost Share.
- 6.2.22 In consultation with SCPPA and the SCPPA Participants, perform such other functions and duties as may be provided for under this Agreement, the Power Purchase Agreement, or any other applicable Project Agreement or as may otherwise be appropriate or beneficial to the Project. Upon request, the SCPPA Participants shall provide reasonable efforts to assist the Operating Agent, the Project Manager, and/or SCPPA in the performance of their respective obligations of the Agreement.
- 6.3 Management Decisions and the Role of Board of Directors. To the extent not provided for under this Agreement, the rights and obligations of SCPPA under the Project Agreements shall be subject to the ultimate control at all times of the Board of Directors. Purchaser shall be entitled to participate in the decisions of the Board of Directors with respect to SCPPA's rights and interests with respect to the Project as provided in this Section 6.3, provided that Purchaser shall disqualify its right to participate upon assuming the status of a Defaulting Purchaser as provided in Section 11 of this Agreement. SCPPA, through the Board of Directors shall have, in addition to the duties and responsibilities set forth elsewhere in this Agreement, the following duties and responsibilities, among others:
- 6.3.1 Dispute Resolution. The Board of Directors shall endeavor to review, discuss and attempt to resolve any disputes among SCPPA, the SCPPA Participants, the Operating Agent, and the counterparties under the Project Agreements relating to the Project, the operation and management of the Facility, and SCPPA's rights and interests with respect to the Facility.
- 6.3.2 Scheduling Procedures. When recommended by the Project Manager, or when otherwise appropriate, the Board of Directors shall act upon and approve or modify the practices and procedures to be followed by the SCPPA Participants for scheduling, delivering, controlling and allocating the Facility Products.
- 6.3.3 Project Agreements. The Board of Directors shall have the authority to approve the Project Agreements, including agreements for scheduling coordinator services, if any, and to review, modify, and approve, as appropriate, all amendments, modifications and supplements to the Project Agreements.
- 6.3.4 Budgeting. The Board of Directors shall review, modify, and approve each Annual Budget and the revisions thereto in accordance with Section 5.4 of this Agreement.
- 6.3.5 Application of Certain Payments Under the Power Purchase Agreement. The Board of Directors shall review, modify, and approve recommendations of the Project Manager as to the application of any payments or amounts received by SCPPA from any source or as a result of a Default by the Power Purchase

Provider under the Power Purchase Agreement or other non-compliance with the Power Purchase Agreement as provided therein; provided that such payments and amounts shall be applied to one or more of the purposes set forth in Section 4.3 to the credit of Purchaser and the other SCPPA Participants in proportion to their respective Participant Facility Products Cost Share.

6.3.6 Other Matters. The Board of Directors is authorized to perform such other functions and duties, including oversight of those matters and responsibilities addressed by the Project Manager, as may be provided for under this Agreement and under the other Project Agreements, or as may otherwise be appropriate.

6.3.7 Voting. Unless the Board of Directors shall otherwise determine to require a majority vote pursuant to the terms of the Joint Powers Agreement, all actions with respect to the Project taken by the SCPPA Board of Directors shall require an affirmative vote of at least eighty percent (80%) of the Project Votes (as defined in SCPPA's Joint Powers Agreement, dated as of November 1, 1980, as amended from time to time) cast thereon.

6.4 Periodic Audits. The Board of Directors or SCPPA may arrange for the annual audit under Section 5.6 of this Agreement by certified accountants, selected by SCPPA and experienced in electric generation or electric utility accounting, of the books and accounting records of SCPPA, the Operating Agent (pertaining to the Operating Agent's activities under this Agreement and the associated cost recovery), and where deemed appropriate the Project Manager (if other than SCPPA), the Power Purchase Provider (to the extent provided under the Power Purchase Agreement) and any other counterparty under any Project Agreement to the extent allowable, and any cost reimbursable to a consultant or contractor relevant to the administration of the Project, and such audit shall be completed and submitted to SCPPA as soon as reasonably practicable after the close of the Fiscal Year. SCPPA shall promptly furnish to Purchaser copies of all audits. No more frequently than once every calendar year, the Purchaser may, at its sole cost and expense, audit or cause to be audited the books and cost records of SCPPA, the Project Manager (if other than SCPPA), the counterparty under any Project Agreement to the extent so provided in the applicable Project Agreement, and any cost reimbursable to a consultant or contractor relevant to the administration of the Project.

6.5 [Reserved.]

6.6 Costs of Consultants. Costs (or the applicable portion thereof) of consultants and others employed or appointed by the Board of Directors or SCPPA to perform the duties required hereunder shall be included in Total Power Costs, as appropriate, and shall be billed to SCPPA or the Project Manager (if other than SCPPA).

6.7 [Reserved.]

7. CHARGES AND BILLINGS.

7.1 Monthly Costs. The amount of monthly costs which shall be paid by Purchaser to

SCPPA for a particular Month (“Monthly Costs”) shall be the sum of the following, as applicable, subject to any adjustments as provided in Section 12 hereof:

- 7.1.1 Purchaser’s Participant Facility Products Cost Share multiplied by the Delivery Output Cost Component of Total Power Costs (as provided in Section 4.3.1) for such Month.
- 7.1.2 Purchaser’s Participant Facility Products Cost Share multiplied by the Power Purchase Agreement General and Administrative Cost Component of Total Power Costs (as provided in Section 4.3.2 hereof) for such Month.
- 7.1.3 Purchaser’s share of the Supplementary Services Cost Component of Total Power Costs (as provided in Section 4.3.3 hereof) based on Purchaser’s allocated share of any such services procured by SCPPA on behalf of the Purchaser for such Month.
- 7.1.4 Purchaser’s Participant Facility Products Cost Share multiplied by the Reserve Funds Cost Component of Total Power Costs (as provided in Section 4.3.4 hereof) for such Month.
- 7.1.5 Purchaser’s Participant Facility Products Cost Share multiplied by the Power Purchase Agreement Cost Component of Total Power Costs (as provided in Section 4.3.5 hereof) for such Month.

7.2 Billing Statement. By the fifth Day of each Month during each Power Supply Year, SCPPA shall bill Purchaser for the amount of Monthly Costs to be paid by Purchaser for the current Month by providing Purchaser with a Billing Statement in accordance with the charges established pursuant to the provisions of this Agreement; provided, however, that such Billing Statement, with respect to the cost of Facility Products provided by SCPPA to Purchaser under this Agreement, shall also include with respect to the performance by SCPPA or the counterparty under and pursuant to applicable Project Agreements, any charge or credit to Purchaser with respect to the costs or revenues attributable to Purchaser pursuant to and under any applicable Project Agreement. Purchaser consents to the timely payment of the respective Participant Facility Products Costs Share of the Operating Agent’s reasonable costs as determined and provided in accordance with Section 6.2.21. Such Billing Statement shall detail the costs described in Section 7.1 hereof and shall set forth, among other things, the amounts due for such Month by Purchaser with respect to the items of Monthly Costs set forth in Section 7.1, as such Monthly Costs may be adjusted from time to time in accordance with Section 5 and this Section 7. Such Billing Statement shall be paid by Purchaser on or before twenty (20) Days after receipt of such Billing Statement.

7.3 Adoption of Alternative Billing Statement Procedures. The Project Manager may recommend the adoption of an alternative Billing Statement billing methodology in connection with each SCPPA Participant’s Billing Statement with respect to the Total Power Costs and the costs associated with any Project Agreement. Such alternative Billing Statement procedures may be placed into effect with the approval of the same by resolution of the Board of Directors. Any such alternative Billing Statement billing methodology shall be fiscally prudent, financially sound and shall assure coverage of

all potential and actual costs and obligations of SCPPA.

- 7.4 Disputed Monthly Billing Statement. In case any portion of any Billing Statement received by Purchaser from SCPPA shall be in bona fide dispute, Purchaser shall pay SCPPA the full amount of such Billing Statement and, upon determination of the correct amount, the difference between such correct amount and such full amount, if any, including interest at the rate received by SCPPA on any overpayment, will be credited to Purchaser by SCPPA after such determination; provided, however, that such interest shall not accrue on any overpayment that is acknowledged by SCPPA and returned to Purchaser by the fifth Day following the receipt by SCPPA of the disputed overpayment. In the event such Billing Statement is in dispute, SCPPA will give consideration to such dispute and will advise Purchaser with regard to SCPPA's position relative thereto within thirty (30) Days following receipt of written notification by Purchaser of such dispute.
- 7.5 Reconciliation of Monthly Costs. As soon as practicable after the end of each Power Supply Year, or more frequently if so determined by the Board of Directors, SCPPA will submit to Purchaser and each of the other SCPPA Participants a detailed statement of the actual aggregate Monthly Costs and other amounts payable hereunder, including any credits thereto, for all of the Months of such Power Supply Year, and the adjustments of the aggregate Monthly Costs and other amounts payable hereunder, if any, for any prior Power Supply Year, based on the annual audit of accounts provided for in Section 5.6. If, on the basis of the statement submitted as provided in this Section 7.5, the actual aggregate Monthly Costs and other amounts payable by the Purchaser for any Power Supply Year exceed the amount thereof which Purchaser has been billed, Purchaser shall pay SCPPA, within twenty (20) Days after receipt of SCPPA's invoice, the amount to which SCPPA is entitled. If, on the basis of the statement submitted pursuant to this Section 7.5, the actual aggregate Monthly Costs or other amounts payable by the Purchaser for any Power Supply Year are less than the amount therefor which Purchaser has been billed, SCPPA shall, unless otherwise directed by Purchaser with respect to moneys owed to it, credit such excess against Purchaser's next monthly Billing Statement.
- 7.6 Other or Additional Cost Reconciliation Mechanisms. The Board of Directors may, by resolution, authorize or prescribe other billing, payment, costing and cost reconciliation mechanisms to address such billing, payment, costing and cost reconciliation issues as may from time to time arise with respect to the Project.
- 7.7 Prepayment of Monthly Costs. Purchaser may, at any time, pay moneys to SCPPA or utilize any credits due or amounts owed by SCPPA to Purchaser with respect to the Project for the purpose of prepaying its monthly Billing Statement. Such moneys and amounts owed by SCPPA under any Project Agreement shall be deposited into an account established by, or at the direction of, SCPPA. Consistent with SCPPA's investment policy, moneys in such account shall be invested pursuant to instructions provided to SCPPA by Purchaser and all investment income shall be credited to such account. Payment of the amount of any monthly Billing Statement or Default Invoice shall be made from moneys available in such account to the extent set forth in written directions from Purchaser to SCPPA received at least five business days prior to the due date of such payment. Any credit or prepayment with respect to its monthly Billing

Statement shall not relieve or reduce Purchaser's other obligations under this Agreement.

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

- 8.1 Unconditional Payment Obligation. Beginning with the earliest of (i) the date SCPPA incurs or becomes obligated to pay any portion of the costs of the Project, (ii) the effective date of any Project, or (iii) the date of the first delivery of Facility Products to Purchaser and continuing through the term of this Agreement, Purchaser shall pay SCPPA the amounts of Monthly Costs set forth in the Billing Statements submitted by or on behalf of SCPPA to Purchaser in accordance with the provisions of Section 7 hereof and, without duplication, any amount set forth in any Default Invoice received by Purchaser as a result of the operation of Section 11 hereof, whether or not this Agreement has been terminated, or the Project or any part thereof has been completed, is functioning, producing, operating or operable or its output is suspended, interrupted, interfered with, reduced or curtailed or terminated in whole or in part, and such payments shall not be subject to reduction whether by offset or otherwise and shall not be conditional upon the performance or nonperformance by any party of any agreement for any cause whatsoever.
- 8.2 Source of Payments. Purchaser hereby represents and warrants that the obligations of Purchaser to make the payments to SCPPA under this Agreement shall constitute a cost of purchased power and an operating expense of Purchaser payable solely from its electric power revenue fund, including any and all legally available electric power system reserves. Purchaser will annually in each and every fiscal year of Purchaser during the term of this Agreement include in its electric power system budget, whether or not any other items are included, an appropriation from the revenues of its electric power system (including moneys derived from sales to third parties) sufficient to satisfy all the payments required to be made in such year under this Agreement until all payments required under this Agreement have been paid in full.
- 8.3 Rate Covenant. Purchaser will establish, maintain and collect rates and charges for the electric power service of its electric power system each year so as to provide revenues sufficient, together with any legally available electric power system reserves, to enable Purchaser to pay to SCPPA all amounts payable when due under this Agreement and to pay all other amounts payable from, and all lawful charges against or liens on, the revenues of its electric power system.
- 8.4 Authorizations. Purchaser hereby represents and warrants that no order, approval, consent or authorization of any governmental or public agency, authority or person, is required on the part of Purchaser for the execution and delivery by the Purchaser of this Agreement, or the performance by Purchaser of its obligations under this Agreement except for such as have been obtained.
- 8.5 Conflicts. Purchaser represents and warrants to SCPPA as of the Effective Date that, to Purchaser's knowledge, the execution and delivery of this Agreement by Purchaser, and Purchaser's performance thereunder, will not constitute a default under any agreement or instrument to which it is a party, or any order, judgment, decree or ruling

of any court that is binding on Purchaser, or a violation of any applicable law of any governmental authority, which default or violation would have a material adverse effect on the financial condition of Purchaser's electric power revenue fund.

8.6 Litigation. Purchaser represents and warrants to SCPPA as of the Effective Date that, to Purchaser's knowledge, except as disclosed, there are no actions, suits or proceedings pending against Purchaser (service of process on Purchaser having been made) in any court that questions the validity of the authorization, execution or delivery by Purchaser of this Agreement, or the enforceability as to Purchaser of this Agreement.

9. OTHER TERMS AND SERVICES.

9.1 Delivery Procedures. Prior to the time at which any Energy is to be delivered to Purchaser from the Facility, to the extent applicable, Purchaser shall schedule and be obligated to take delivery of Energy to be delivered under this Agreement. The Facility Products generated and produced from the Project shall be scheduled and delivered at the Point of Delivery under the practices and procedures approved pursuant to Section 6.2, as applicable, all in accordance with the Power Purchase Agreement.

9.2 Other Services and Transmission From Point of Delivery. It is the obligation of Purchaser to receive its Participant Facility Products Share from SCPPA all in accordance with the Power Purchase Agreement. However, to the extent specified by Purchaser, and to the extent practicable for SCPPA to do so, SCPPA shall assist in arranging for Supplementary Services and for such additional transmission, interconnection arrangements, energy management, firming, shaping, swaps, exchanges or other services associated with the transmission, use or disposition of Facility Products to be utilized by the Purchaser and to provide for delivery, accounting for, transferring and crediting the ownership and transfer of such Facility Products from the Point of Delivery to any other points or destinations, as determined by the Purchaser.

9.3 Energy Services. Except as otherwise provided in this Agreement, nothing herein shall prevent or restrict Purchaser from providing for its own transmission, energy management services, firming, balancing, or exchanging services or otherwise using or dispatching its Energy under this Agreement; provided, however, that such services, use or activities shall not affect any of the obligations of Purchaser under this Agreement.

9.4 [Reserved.]

9.5 [Reserved.]

9.6 Transfer of Environmental Attributes to Purchaser. SCPPA shall transfer all Environmental Attributes received by SCPPA under the Power Purchase Agreement to each Purchaser based upon the Participant Facility Products Share of such SCPPA Participant in the same manner by which SCPPA receives Environmental Attributes.

10. PROJECT SPECIFIC MATTERS AND PURCHASER RIGHTS AND OBLIGATIONS.

UNDER PROJECT AGREEMENTS.

- 10.1 Rights and Obligations under the Project Agreements. Notwithstanding anything to the contrary contained herein: (i) the obligation of SCPPA to deliver to Purchaser its Participant Facility Products Share during the term of this Agreement is limited to the Facility Products which SCPPA receives from the Power Purchase Provider for redelivery to Purchaser hereunder during such time; (ii) the obligation of SCPPA to pay any amount to Purchaser hereunder or to give credits against amounts due from Purchaser hereunder is limited to amounts SCPPA receives in connection with the transaction to which the payment or credit relates (or is otherwise available to SCPPA in connection with this Agreement for which such payment or credit relates); (iii) any purchase costs, operating costs, energy costs, capacity costs, environmental attribute costs, transmission costs, tax costs, insurance costs, indemnifications, other costs or other charges for which SCPPA is responsible under the Project Agreements shall be considered purchase costs, operating costs, energy costs, capacity costs, environmental attribute costs, transmission costs, tax costs, insurance costs, indemnifications, other costs or other charges incurred by SCPPA and payable by Purchaser as provided in this Agreement; and (iv) any Force Majeure under the Power Purchase Agreement or other event of force majeure affecting the delivery of Energy pursuant to applicable provisions of the Project Agreements shall be considered an event caused by Uncontrollable Forces affecting SCPPA with respect to the delivery of Facility Products hereunder and SCPPA forwarding to Purchaser notices and information from the Power Purchase Provider concerning an event of Force Majeure upon receipt thereof shall be sufficient to constitute a notice that Uncontrollable Forces have occurred pursuant to Section 12.2 of this Agreement. Any net proceeds received by SCPPA from the sale of Guaranteed Delivered Energy by the Power Purchase Provider to any third-party purchaser as a result of a Force Majeure event or failure by SCPPA to accept delivery of Energy pursuant to the Power Purchase Agreement and any reimbursement received by SCPPA for purchase of Replacement Product shall be remitted by SCPPA to Purchaser in accordance with its Participant Facility Products Cost Share.
- 10.2 Revision of Appendix B. The Parties agree that adjustments of the Participant Facility Products Shares and Participant Facility Products Cost Shares in Appendix B in compliance with this Agreement shall be made and treated as an element of administration and not an amendment of this Agreement. The revised Appendix B shall become Appendix B to this Agreement in replacement of the prior Appendix B hereof.

11. NONPERFORMANCE AND PAYMENT DEFAULT.

- 11.1 Nonperformance by Purchaser. If Purchaser shall fail to perform any covenant, agreement or obligation under this Agreement or shall cause SCPPA to be in default with respect to any undertaking entered into for the Project or to be in default under the Power Purchase Agreement, or any other Project Agreement, as applicable, or cause a default to occur pursuant to such agreements, SCPPA may, in the event the performance of any such obligation remains unsatisfied after thirty (30) Days' prior written notice thereof to the Purchaser and a demand to so perform, take any action permitted by law to enforce its rights under this Agreement, including but not limited

to termination of this Agreement, and/or (unless SCPPA has already taken action pursuant to the immediately following sentence) bring any suit, action or proceeding at law or in equity as may be necessary or appropriate to recover damages and/or enforce any covenant, agreement or obligation against the Purchaser with regard to its failure to so perform.

- 11.2 Notice of Payment Default. In the event of a Payment Default by Purchaser, on or promptly following the Initial Payment Default Date SCPPA shall issue a Default Invoice and shall provide written notice to Purchaser that as a result of a Payment Default, it is in default under this Agreement and has assumed the status of a Defaulting Purchaser and that Purchaser's Project Rights are subject to discontinuance, termination and disposal in accordance with Sections 11.4 and 11.5 of this Agreement. Notice of such Payment Default shall be provided promptly by SCPPA to the other SCPPA Participants. In addition to the foregoing, the notice of Payment Default shall specify that five (5) Days after the issuance of the written notice of Payment Default by SCPPA, deliveries of Facility Products to Purchaser pursuant to this Agreement shall be thereafter suspended until such time as Purchaser is in Compliance. SCPPA may take any action through or in conjunction with the Power Purchase Provider or any other counterparty under a Project Agreement or with the Project Manager, if applicable, to expeditiously implement the provisions of this Section 11.
- 11.3 Cured Payment Default. If after a Payment Default Purchaser cures such Payment Default within the Cure Period, its Project Rights shall not be subject to discontinuance, termination or disposal as provided for in Sections 11.4 and 11.5 of this Agreement as a result of any Payment Default associated with such Cured Payment Default.
- 11.4 Failure to Cure Payment Default. If, at any time after expiration of the Cure Period Purchaser fails to be in Compliance due to its failure to cure its Payment Default in a timely manner in accordance with this Agreement, Purchaser's Project Rights shall immediately be discontinued and terminated and its Project Rights and Obligations shall be disposed of by SCPPA in accordance with Section 11.5 of this Agreement; provided, however, the Defaulting Purchaser's obligation to make payments under this Agreement shall not be eliminated or reduced except to the extent provided in Section 11.5. SCPPA shall provide to the Defaulting Purchaser a separate monthly invoice of any such payment obligations under this Agreement. SCPPA shall immediately notify the Project Manager (if other than SCPPA), the other SCPPA Participants and such others as SCPPA deems appropriate, of such discontinuance and termination of the Defaulting Purchaser's Project Rights.
- 11.5 Treatment of the Defaulting Purchaser's Project Rights and Obligations upon its Payment Default. In the event Defaulting Purchaser's Project Rights are discontinued and terminated pursuant to Section 11.4 of this Agreement, SCPPA shall undertake or cause to be undertaken the following actions in the order indicated:
- 11.5.1 SCPPA shall, to the extent permitted under the Project Agreements, offer to convey, transfer and assign to all non-Defaulting SCPPA Participants, on a temporary or permanent basis as determined by SCPPA, the Project Rights and Obligations of the Defaulting Purchaser, and SCPPA shall so convey, transfer and assign on such basis so determined by SCPPA to (i) all requesting non-

Defaulting SCPPA Participants the amount of Project Rights and Obligations requested if the aggregate of such requests does not exceed the amount of the Project Rights and Obligations of the Defaulting Purchaser, or (ii) all requesting non-Defaulting SCPPA Participants on a pro-rata basis (based upon the amount requested) if the aggregate of such requests exceeds the amount of the Project Rights and Obligations of the Defaulting Purchaser. Each such requesting non-Defaulting Participant shall assume all, but not less than all, Project Rights and Obligations so conveyed, transferred and assigned to it by SCPPA.

- 11.5.2 If one hundred percent (100%) of Defaulting Purchaser's Project Rights and Obligations are not conveyed, transferred and assigned to non-Defaulting SCPPA Participants as provided in Section 11.5.1 of this Agreement, SCPPA shall, to the extent permitted under the Project Agreements and to the extent SCPPA in its discretion determines it appropriate, offer to convey, transfer and assign, on a temporary or permanent basis as determined by SCPPA, the remainder (or, all, if applicable) of Defaulting Purchaser's Project Rights and Obligations to third parties, all in accordance with applicable law. Each such requesting third party shall assume all, but not less than all, Project Rights and Obligations so conveyed, transferred and assigned to it by SCPPA. If such third party is a SCPPA Member but not a SCPPA Participant as defined herein, such SCPPA Member, upon accepting such conveyance, transfer and assignment on a permanent basis, shall be deemed a SCPPA Participant.
- 11.5.3 If, at any time or from time to time, any of the Project Rights and Obligations of the Defaulting Purchaser are not conveyed, transferred and assigned as provided in Sections 11.5.1 or 11.5.2 of this Agreement, SCPPA shall use its best efforts, to the extent reasonably possible and economically beneficial, to offer all non-Defaulting SCPPA Participants and third parties, for long-term or short-term sale as determined by SCPPA, Facility Products associated with such Project Rights and Obligations or to remarket or resell such Facility Products, or cause the same to be remarketed or resold; provided, however, that without eliminating Defaulting Purchaser's obligation to make payments under this Agreement (notwithstanding anything to the contrary in this Agreement), including payment of SCPPA's costs and expenses related to such default and sale, such payment obligation shall be offset, mitigated and satisfied to the extent that payments are received by SCPPA from the remarketing or sale of Facility Products associated with Defaulting Purchaser's Project Rights.
- 11.5.4 If any of Defaulting Purchaser's Project Rights and Obligations are not conveyed, transferred and assigned as provided in Sections 11.5.1 or 11.5.2, the associated voting rights with respect to Defaulting Purchaser's Project Rights and Obligations shall be redistributed pro rata among the non-Defaulting SCPPA Participants, based upon the Participant Facility Products Share of such SCPPA Participant, so that the total voting rights remain at one hundred percent (100%).
- 11.5.5 Upon the termination, conveyance, transfer or assignment of a Defaulting Purchaser's Project Rights and Obligations pursuant to Section 11.4 and this

Section 11.5, SCPPA shall make any necessary adjustments to the Participant Facility Products Shares set forth in Appendix B and give written notice thereof to the non-Defaulting SCPPA Participants.

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

11.6 Elimination or Reduction of Payment Obligations. Upon termination of Defaulting Purchaser's Project Rights pursuant to Section 11.4 and conveyance, transfer or assignment of Defaulting Purchaser's Project Rights and Obligations pursuant to Sections 11.5.1 or 11.5.2, Defaulting Purchaser's obligation to make payments under this Agreement (notwithstanding anything to the contrary in this Agreement) shall not be eliminated or reduced except to the extent of moneys received by SCPPA as a result of the conveyance, transfer and assignment of Defaulting Purchaser's Project Rights and Obligations, less SCPPA's related costs and expenses.

11.7 Use of Reserve Funds. With respect to a Payment Default by Purchaser, funds in the Reserve Funds may be used, to the extent necessary and to the extent available, to cover any deficiency with respect to any payment due by SCPPA attributable to Purchaser's participation in the Project.

11.8 Step-Up Invoices. Step-Up Invoices shall be issued in accordance with the provisions set forth below.

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

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

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

manner.

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

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

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

11.11 Application of Moneys Received from Compliance Payments. Moneys received by or on behalf of SCPPA from a Defaulting SCPPA Participant that makes payments to remain in Compliance with respect to a Payment Default, associated with a Defaulting SCPPA Participant's payments to remain in Compliance, shall be credited on each non-Defaulting SCPPA Participant's next monthly Billing Statement(s) in an amount equal to the aggregate amount such non-Defaulting SCPPA Participant paid as a result of Step-Up Invoices with respect to such Compliance payment, plus a pro rata share, based upon the Participant Facility Products Cost Shares of the non-Defaulting SCPPA Participants, of the amount SCPPA received regarding late payment interest charges.

11.12 Application of Moneys Received from Sale of Facility Products. Moneys received by or on behalf of SCPPA from the sale of Facility Products related to a Defaulting SCPPA Participant's Project Rights and Obligations, as provided in Section 11.5.3 hereof, shall be applied in the following manner in order:

11.12.1 SCPPA shall credit on each non-Defaulting SCPPA Participant's next monthly Billing Statement(s) an amount up to, but not in excess of, the aggregate amount paid to SCPPA by such non-Defaulting SCPPA Participant with respect to each such non-Defaulting SCPPA Participant's Step-Up Invoices.

11.12.2 Following consultation with the non-Defaulting SCPPA Participants, SCPPA shall determine the disposition of any moneys received that are in excess of the aggregate amount of related Step-Up Invoices paid by non-Defaulting SCPPA Participants. Unless otherwise required by law, the Defaulting SCPPA Participant shall have no claim or right to any such monies.

11.13 Purchaser shall be responsible for Purchaser's Participant Facility Products Share of all claims, demands, liabilities, obligations, losses, damages (whether direct, indirect or consequential), penalties, actions, loss of profits, judgments, orders, suits, costs, expenses (including attorneys' fees and expenses) or disbursements of any kind or nature whatsoever in law, equity or otherwise incurred or owed by SCPPA under the Power Purchase Agreement, including any termination payment incurred or owed by SCPPA to Power Purchase Provider thereunder.

12. CHARACTER, CONTINUITY OF SERVICE.

12.1 Outages, Interruptions and Curtailment of Energy Deliveries. The Power Purchase Provider, or other counterparty, may under certain conditions set forth in the applicable provisions of a Project Agreement or other applicable operating agreement, interrupt or curtail deliveries of Facility Products to SCPPA which SCPPA was to deliver to Purchaser. Should such an interruption or curtailment occur, Purchaser shall be credited with such revenues as are credited or paid to SCPPA on Purchaser's behalf in accordance with Purchaser's Participant Facility Products Share and shall be obligated to pay any costs incurred by SCPPA in accordance with Purchaser's Participant Facility Products Cost Share which are payable by SCPPA pursuant to the Power Purchase Agreement or any other applicable Project Agreement. SCPPA or the Project Manager (if other than SCPPA) or SCPPA's agent will use its best efforts to apprise Purchaser of potential outages, interruptions or curtailments, the reason therefor and the probable duration thereof, when such outages, interruptions or curtailments can be deemed likely to occur.

12.2 Uncontrollable Forces. SCPPA shall not be required to provide, and SCPPA shall not be liable for failure to provide, Facility Products or other service under this Agreement when such failure or the cessation or curtailment of or interference with the service is caused by Uncontrollable Forces or the terms of the Agreement or by the inability of the Power Purchase Provider or other applicable counterparty to obtain any required governmental permits, licenses or approvals to enable the Power Purchase Provider to acquire, administer or operate the Project; provided, however, that Purchaser shall not thereby be relieved of its obligations to make payments under this Agreement except to the extent SCPPA is so relieved pursuant to the Project Agreements.

13. [RESERVED.]

14. LIABILITY.

14.1 Participants' Obligations Several. Except as otherwise provided in Section 11 of this Agreement, Purchaser and each of the other SCPPA Participants shall be solely responsible and liable for performance under its respective Power Sales Agreement. The obligation of Purchaser to make payments under this Agreement is a several obligations and not a joint obligation with those of the other SCPPA Participants under the other Power Sales Agreements to which such SCPPA Participants are parties.

14.2 No Liability of SCPPA, Directors, Officers, Etc. Each Party agrees that neither Party nor any of its past, present, future directors, officers, employees, board members, agents, attorneys or advisors and shall be liable to the other Party for loss of profits or

direct or consequential loss or damage suffered by a released Party as a result of the performance or non-performance (excluding gross negligence or willful misconduct which, unless otherwise agreed to by the Parties, are both to be determined and established by a court of competent jurisdiction in a final, non-appealable order) of a releasing Party or any of its directors, officers, employees or agents under this Agreement. To the fullest extent permitted by law, Purchaser releases SCPPA and its directors, officers, employees and agents from any claim or liability (whether negligent or otherwise) as a result of any actions or inactions of SCPPA under this Agreement. No such performance or non-performance by SCPPA shall relieve Purchaser from its obligations under this Agreement, including its obligation to make payments required under this Agreement, and such undisputed payments shall not be subject to any reduction, whether by offset, counterclaim or otherwise. The provisions of this Section 14.2 shall not be construed so as to relieve SCPPA from any obligation under this Agreement.

- 14.3 Extent of Exculpation; Enforcement of Rights. The exculpation provision set forth in Section 14.2 hereof shall apply to all types of claims or actions including, but not limited to, claims or actions based on contract or tort. Notwithstanding the foregoing, either Party may protect and enforce its rights under this Agreement by a suit or suits in equity for specific performance of any obligations or duty of the other Party, and each Party shall at all times retain the right to recover, by appropriate legal proceedings, any amount determined to have been an overpayment, underpayment or other monetary damages owed by the other Party in accordance with the terms of this Agreement.
- 14.4 Indemnification for Claims of Retail Customers. Purchaser shall assume all liability for any claim, action or judgment, whether or not caused by negligence, arising out of or in connection with electric service to any of its retail customers caused by the operation or failure of operation of the Facility or any portion thereof, and shall indemnify and hold harmless SCPPA from any such claim, action or judgment (including reasonable attorneys' fees and other costs of defense).
- 14.5 Determination or Enforcement of Rights. Notwithstanding the provisions of Sections 14.2, 14.3 and 14.4 hereof, Purchaser or SCPPA may determine, protect and enforce its rights under this Agreement by a suit or suits in equity for specific performance of, or declaratory action with respect to, any obligation or duty hereunder or thereunder.
- 14.6 No Relief from Insurer's Obligations. Notwithstanding any provision in this Agreement to the contrary, including but not limited to the provisions in this Section 14, the provisions of this Section 14 shall not be construed or applied so as to relieve any insurer of its obligation to pay any insurance claims in accordance with any applicable insurance policy.
- 14.7 SCPPA Directors, Officers, Employees, Agents Not Individually Liable; No General Liability of SCPPA. It is hereby recognized and agreed that no member of SCPPA's Board of Directors, officer, employee or agent of SCPPA or member of SCPPA in its capacity as a member of SCPPA shall be individually liable in respect of any undertakings by SCPPA under this Agreement. The undertakings by SCPPA under the Power Sales Agreements shall never constitute a debt or indebtedness of SCPPA within the meaning of any provision or limitation of the Constitution or statutes of the State

of California and shall not constitute or give rise to a charge against its general credit.

15. RESTRICTIONS ON DISPOSITION.

15.1 Assignment. It is understood and agreed each SCPPA Participant (including Purchaser) may sell, assign or otherwise dispose of some or all of its Project Rights and Obligations to other SCPPA Participants or SCPPA members under the same terms and conditions as set forth in this Agreement, provided that each such other participating SCPPA member agrees in writing to be bound by the provisions of the Power Sales Agreement of the SCPPA Participant making such sale, assignment or other disposition. In the event of such a sale, assignment or other disposition, SCPPA shall revise Appendix B to reflect the new Participant Facility Products Share allocation and such revision to Appendix B shall not be considered an amendment to any Power Sales Agreement.

Participant may from time to time assign the right to receive all or a portion of the Energy that would otherwise be delivered to Participant hereunder. In connection with any such assignment, Participant and SCPPA agree to execute a Limited Assignment Agreement. For the avoidance of doubt, Participant will remain responsible for all of its obligations under this Agreement related to such assigned Energy, including (i) the obligation to pay for such Energy to the extent the assignee thereof does not do so and (ii) any damages associated with such assignee's failure to take any such Energy.

15.2 Restrictions on Elimination of Payment Obligations. No sale, assignment or other disposition of Purchaser's Project Rights and Obligations to any Person ("Assignee") shall release Purchaser from its payment obligations under this Agreement; provided, however, such payment obligations may be eliminated or reduced if the sale, assignment or other disposition is made pursuant to Section 15.1 of this Agreement, or if (i) such Assignee shall assume and agree in writing to fully perform and discharge the Project Rights and Obligations under its Power Sales Agreement, (ii) such Assignee shall have a corporate or long-term senior unsecured credit rating of "A-" or higher by S&P or "A3" or higher by Moody's, unless otherwise provided by the Board of Directors, and (iii) the Board of Directors, by resolution, determines to eliminate or reduce such payment obligations, which determination shall not be unreasonably withheld.

15.3 Restrictions on Disposition of Purchaser's Entire System. Purchaser shall not sell, lease or otherwise dispose of all or substantially all of its electric system to any Person ("Acquiring Entity") unless the Acquiring Entity shall assume and agree to fully perform and discharge the Project Rights and Obligations under this Agreement, and such Acquiring Entity shall have a corporate or long-term senior unsecured credit rating not less than investment grade.

15.4 Successors and Assigns. Subject in all respects to Sections 11 and 15 hereof, the Project Rights and Obligations under this Agreement shall inure to the benefit of and shall be binding upon the respective successors and assigns of the Parties to this Agreement.

16. EFFECTIVE DATE, TERM AND EXPIRATION.

- 16.1 Effective Date; Execution in Counterparts. This Agreement shall become effective on the first Day when each and all of the following shall have occurred: (i) this Agreement shall have been duly executed and delivered by SCPPA and Purchaser, (ii) the Power Purchase Agreement shall have been duly executed and delivered by SCPPA and the Power Purchase Provider and (iii) the Power Sales Agreement between SCPPA and any other SCPPA Participant shall have been duly executed and delivered by the parties thereto. Once the Power Purchase Agreement has been executed and delivered as set forth above, SCPPA shall deliver a copy of the same to Purchaser. This Agreement may be executed in any number of counterparts, each of which shall constitute an original.
- 16.2 Termination Conditions. This Agreement shall be effective upon satisfaction of the conditions set forth in Section 16.1 and shall extend for the term specified in Section 16.3 unless earlier terminated pursuant to an express provision of this Agreement; provided, however, that any obligation to make payments by Purchaser or SCPPA or any outstanding liability of Purchaser or SCPPA hereunder which either exists or may exist as of the date of termination of this Agreement, or which comes into existence at any future time as a result of any activity or transaction implemented under this Agreement, shall survive such termination.
- 16.3 Expiration. The term of this Agreement shall begin on the Day this Agreement becomes effective pursuant to Section 16.1 hereof. Unless terminated earlier pursuant to Section 16.4, the term of this Agreement shall expire on the date on which the Power Purchase Agreement is terminated and all obligation(s) of the parties under the Power Purchase Agreement have been fully satisfied or otherwise adequate provision for satisfaction of such obligation(s) have been made and no other such obligation(s) under the Power Purchase Agreement is outstanding; provided, however, that in no event shall the term of this Agreement expire so long as the Power Purchase Agreement is of any force or effect.
- 16.4 Termination of Agreement before Expiration Date. Notwithstanding the expiration date set forth in Section 16.3 hereof, this Agreement shall terminate on the date, if any, by which SCPPA notifies Purchaser that this Agreement is superseded as a result of Purchaser having (i) succeeded to SCPPA's rights through another agreement or agreements, or (ii) entered into a replacement power sales agreement or other agreement with SCPPA. The purchase price and consideration to be paid to SCPPA by Purchaser with respect to any such superseding arrangement shall consist of the payments and satisfaction of all obligations by Purchaser under and pursuant to this Agreement prior to the effective date of the superseding arrangement plus any remaining costs or obligations incurred by SCPPA in connection with the Project.
- 16.5 Final Distribution of Reserve Funds. Following the expiration or earlier termination of this Agreement, and upon payment and satisfaction of any and all liabilities and obligations to make payments of the SCPPA Participating Members under this Agreement and upon satisfaction of all remaining costs and obligations of SCPPA under this Agreement and in connection with the Facility, any amounts then remaining

in the Reserve Funds shall be paid to the SCPPA Participating Member pro rata in accordance with their respective Participant Facility Products Share.

17. **SEVERABILITY.** In case any one or more of the provisions of this Agreement shall for any reason be held to be illegal or invalid by a court of competent jurisdiction, it is the intention of each of the Parties hereto that such illegality or invalidity shall not affect any other provision hereof, but this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein unless a court holds that the provisions are not separable from all other provisions of this Agreement.
18. **REPRESENTATION AND GOVERNING LAW.** The Parties acknowledge that each Party was represented by counsel in the negotiation and execution of this Agreement. This Agreement was made and entered into in the County of Los Angeles, California, and shall be governed by, interpreted and enforced in accordance with the laws of the State of California. All litigation arising out of, or relating to this Agreement, shall be brought in a State or Federal court in the County of Los Angeles, 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*.
19. **ARBITRATION AND ATTORNEYS' FEES.** If a dispute arises between the Parties which the Board of Directors is unable to resolve, the Parties may by mutual agreement submit the dispute to mediation or non-binding arbitration. With respect to any such dispute the Parties agree that each Party shall bear its own attorneys' fees and costs. Notwithstanding the foregoing, Purchaser and SCPPA recognize and agree that SCPPA's attorneys' fees associated with any matter relating to the Project or this Agreement, including any dispute relating thereto, shall constitute a Project cost which shall be allocated and billed as set forth in Sections 4 and 7 of this Agreement.
20. **CONDITIONS TO TERMINATION OR AMENDMENT.** Neither Party may terminate this Agreement without the prior written consent of each of the other SCPPA Participants. None of the Power Sales Agreements may be amended as to any one or more of the SCPPA Participants so as to provide terms and conditions materially different from those contained therein, unless the SCPPA Participant seeking the amendment obtains a written consent or waiver of each other SCPPA Participant.
21. **[RESERVED.]**
22. **NOTICES.** Any notice, demand or request provided for in this Agreement shall be in writing and shall be deemed properly served, given or made if delivered in person or sent by registered or certified mail, postage prepaid, to the persons specified below:

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

City of Anaheim
Attention: Principal Integrated Resources Planner
201 S. Anaheim Boulevard, Suite 802
Anaheim, California 92805

- 23. AMENDMENTS.** The Parties acknowledge and agree that any amendment to this Agreement shall be in writing and duly executed by the Parties.

[SIGNATURE PAGE FOLLOWS]

Each Party hereto has duly caused this Grace Orchard Solar Project Power Sales Agreement Between Southern California Public Power Authority and City of Anaheim to be executed on its behalf by its duly authorized representative.

SOUTHERN CALIFORNIA PUBLIC
POWER AUTHORITY

By: _____
DANIEL E GARCIA
Executive Director

Approved as to Legal Form:

By: _____
ARMANDO V. ARBALLO
Assistant General Counsel

CITY OF ANAHEIM

By: _____
DUKKU LEE
Public Utilities General Manager

Attest: _____
Theresa Bass, City Clerk

Approved as to Legal Form:

By: _____
Teresa Chen
Deputy City Attorney

APPENDIX A

DEFINITIONS

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

1. Act. All of the provisions contained in the California Joint Exercise of Powers Act found in Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California, beginning at California Government Code Section 6500 et seq., as amended from time to time.
2. [Reserved.]
3. Annual Budget. The budget adopted by SCPPA pursuant to Section 5.4.1 of this Agreement not less than thirty (30) Days nor more than sixty (60) Days prior to the beginning of each Power Supply Year, including any amendments thereto, which shall show a detailed estimate of the Total Power Costs under this Agreement and all credits, charges, revenues, income, or other funds to be applied to such costs, for and applicable to such Power Supply Year.
4. [Reserved.]
5. Billing Statement. The written statement prepared or caused to be prepared each Month by, or on behalf of, SCPPA which shall be based upon certain of the information in the Annual Budget and shall show for such Month the amount to be paid to SCPPA by Purchaser in accordance with the provisions of Section 7 of this Agreement.
6. Board of Directors. The Board of Directors of the Southern California Public Power Authority.
7. Commercial Operation. "Commercial Operation" shall have the same definition set forth in the Power Purchase Agreement.
8. Compliance. Following a Payment Default, the Defaulting Purchaser shall be in compliance with its payment obligations under this Agreement if it (i) no later than the last Day of the Cure Period fully pays all amounts owed as reflected in any Default Invoice; (ii) pays any monthly Billing Statement which comes due during the Cure Period; and (iii) replenishes any reduction made to the Reserve Funds as a result of any Payment Default.
9. Consent Agreements. All consents to assignments and all agreements relating thereto entered into with any lender, financial institution or other Person for the purpose of consenting to the assignment of the rights or securing the obligations of the Power Purchase Provider under the Power Purchase Agreement, and all consents or agreements relating to a Change in Control (as defined in the Power Purchase Agreement) under the Power Purchase Agreement.
10. Cure Period. That period of time beginning on the date of a Payment Default and concluding thirty (30) Days thereafter.
11. Cured Payment Default. A Payment Default which has been cured in accordance with Section 11.3 of this Agreement. If at any time during the Cure Period the Defaulting Purchaser is in Compliance, then the requirements of a Cured Payment Default shall be deemed to have been

satisfied as of the date of receipt of such payments by SCPPA and the Cure Period shall expire.

12. Daily Delay Damages. “Daily Delay Damages” shall have the same definition set forth in the Power Purchase Agreement.
13. [Reserved.]
14. Day. “Day” means calendar day unless otherwise specified herein.
15. Default Invoice. An invoice during the Payment Default Period and the Cure Period issued to the Defaulting Purchaser pursuant to Section 11 of this Agreement that identifies the total defaulted amount owed, including late payment interest, to achieve a Cured Payment Default. During the Cure Period, the Default Invoice shall also include the amount that must be paid to achieve Compliance.
16. Defaulting Purchaser. “Defaulting Purchaser” means Purchaser, where Purchaser has caused a Payment Default under Section 11.1 of this Agreement that has not been remedied or cured.
17. Defaulting SCPPA Participant. A SCPPA Participant (not including Purchaser) that causes a Payment Default under its Power Sales Agreement that has not been remedied or cured by the Defaulting SCPPA Participant.
18. Delivery Output Cost Component. “Delivery Output Cost Component” is defined in Section 4.3.1.
19. Energy. “Energy” shall have the same definition as in the Power Purchase Agreement.
20. Environmental Attributes. “Environmental Attributes” shall have the same definition set forth in the Power Purchase Agreement.
21. Facility. “Facility” shall have the same definition as the Power Purchase Agreement.
22. Facility Products. All output, rights, and other tangible or intangible benefits derived from the Facility, whatsoever, including without limitation all Energy, Test Energy, Environmental Attributes, Capacity Rights, Resource Adequacy Attributes, Replacement Product rights with respect to the battery energy storage system, whether received by SCPPA under or pursuant to the Power Purchase Agreement or other applicable Project Agreement.
23. Fiscal Year. The twelve-month period commencing at 12:01 a.m. on July 1 of each year and ending at 12:01 a.m. on the following July 1, or such other time frame as determined by the Board of Directors.
24. Force Majeure. “Force Majeure” shall have the definition set forth in the Power Purchase Agreement.
25. GEP Shortfall Damages. “GEP Shortfall Damages” shall have the same definition set forth in the Power Purchase Agreement.

26. [Reserved.]
27. Initial Payment Default Date. The earlier of (i) the end of the fifth Day following the first Payment Default for which no remedy in payment has occurred and been received by SCPPA, or (ii) the last Day of the Month in which the first Payment Default has occurred for which no remedy in payment has occurred and been received by SCPPA.
28. Joint Powers Agreement. The “Southern California Public Power Authority Joint Powers Agreement” dated as of November 1, 1980, as amended and modified from time to time, entered into pursuant to the provisions of the Act, among SCPPA and its members.
29. Month. A calendar month.
30. Monthly Costs. “Monthly Costs” is defined in Section 7.1.
31. Moody’s. “Moody’s” shall mean Moody’s Investor Services, Inc.
32. Operating Budget. The operating budget approved by the Board of Directors which shall show a detailed estimate of Total Power Costs for a Power Supply Year and all revenues, income or other funds to be applied to Total Power Costs for and applicable to such Power Supply Year.
33. Operating Reserve Depletion Date. The date that is two Months prior to the date on which SCPPA anticipates, assuming continued Payment Defaults by the Defaulting Purchaser, that the moneys in the operating reserve account held at any time by SCPPA will be fully depleted; provided, however, if as of the date on which a Payment Default occurs SCPPA determines that the moneys in the operating reserve account held by SCPPA will be fully depleted in less than two Months (or currently are fully depleted), then the Operating Reserve Depletion Date shall be deemed to have occurred when such a Payment Default occurs.
34. Participant Facility Products Cost Share. With respect to a particular SCPPA Participant and during each Power Supply Year, the applicable percentage of SCPPA costs under this Agreement payable by such SCPPA Participant, as set forth for such SCPPA Participant in Appendix B of this Agreement.
35. Participant Facility Products Share. With respect to a particular SCPPA Participant and during each Power Supply Year, the applicable percentage entitlement of the Facility Products under this Agreement, as set forth for such SCPPA Participant in Appendix B of this Agreement.
36. Payment Default. A failure by the Purchaser to pay when due all of its Billing Statement for any Month.
37. Payment Default Period. That period of time beginning on the initial date of a Payment Default and ending thirty (30) Days following a notice of default as provided in accordance with Section 11.2 hereof.
38. Person. “Person” means any individual, corporation, partnership, joint venture, limited liability company, association, joint stock company, trust, unincorporated organization, entity, government or other political subdivision.
39. Point of Delivery. Point of Delivery shall have the definition set forth in the Power Purchase

Agreement.

40. Power Purchase Agreement. The Power Purchase Agreement between Southern California Public Power Authority and Grace Orchard Solar III, LLC, dated as of September 19, 2024, attached hereto as Appendix C, as the same may be amended from time to time, and all other agreements associated with the Facility.
41. [Reserved.]
42. Power Purchase Agreement Cost Component. “Power Purchase Cost Component” is defined in Section 4.3.5.
43. Power Purchase Agreement General and Administrative Cost Component. “Power Purchase Agreement General and Administrative Cost Component” is defined in Section 4.3.2.
44. Power Purchase Provider. Grace Orchard Solar III, LLC, and any other entity named under any applicable operating agreement to operate or otherwise run or manage the Facility, along with each of their successors, or any successors or assigns to the rights of these entities.
45. Power Sales Agreements. This Agreement and that certain Power Sales Agreement dated September 19, 2024, as may be amended from time to time, by and between SCPPA and the City of Anaheim, and those certain Power Sales Agreements dated September 19, 2024, as may be amended from time to time, by and between SCPPA and City of Colton and City of Pasadena.
46. Power Supply Year. The Fiscal Year, except that the first Power Supply Year shall begin on the first to occur of (i) the date SCPPA is obligated to pay any portion of the costs of the Project, (ii) the Commercial Operation Date of the Facility, or (iii) the date of the first delivery of Energy to Purchaser pursuant to this Agreement. The first Power Supply Year shall end on the last Day of the then current Fiscal Year.
47. Project. The term “Project” means the Grace Orchard Solar Power Project and shall be broadly construed to entail the aggregate of rights, liabilities, interests and obligations of SCPPA pursuant to the Power Purchase Agreement and the other Project Agreements, including but not limited to all associated rights, liabilities, interests and obligations; provided, that for purposes of this Agreement it shall be limited to those rights, liabilities, interests and obligations acquired or undertaken by SCPPA in the Power Purchase Agreement and the Project Agreements associated with that agreement. The term Project shall also include those rights, liabilities, interests or obligations necessary or appropriate to carry out the functions specified in Section 6 and to utilize or deliver the Energy of the Facility as specified in Section 9.
48. Project Agreements. Insofar as they pertain to this Project, any project management agreement, the Power Sales Agreements, the Power Purchase Agreement, and any other contracts for the purchase, procurement, delivery or transmission of Facility Products, and any other agreements for scheduling, dispatching, exchanging, tagging, movement or transmission of Facility Products, and agreements to which SCPPA is a party relating to the administration or management of the Project.

49. Project Manager. SCPPA in its capacity as Project Manager or a designee or designees appointed by SCPPA to carry out SCPPA's responsibilities as Project Manager under this Agreement.
50. Project Rights. All rights and privileges of the Purchaser under this Agreement, including but not limited to its right to receive its Participant Facility Products Share under this Agreement.
51. Project Rights and Obligations. The Purchaser's Project Rights and obligations under the terms of this Agreement.
52. Replacement Product. "Replacement Product" shall have the same definition as set forth in the Power Purchase Agreement.
53. Reserve Funds Cost Component. "Reserve Funds Cost Component" is defined in Section 4.3.4.
54. Reserve Funds. Those reserve accounts deemed appropriate to afford a reliable source of funds for the payment obligations of the Project and, taking into account the variability of costs associated with the Project, for the purpose of providing a reliable payment mechanism to address the ongoing costs associated with the Project.
55. S&P. "S&P" shall mean Standard & Poor's Financial Services LLC.
56. SCPPA Members. Each of the following: City of Anaheim, California; City of Azusa, California; City of Banning, California; City of Burbank, California; City of Cerritos, California; City of Colton, California; City of Glendale, California; Imperial Irrigation District; City of Los Angeles, California; City of Pasadena, California; City of Riverside, California; and City of Vernon, California.
57. SCPPA Participants. Those entities that have executed a Power Sales Agreement for the Project, together in each case with each entity's successors or assigns, identified as "SCPPA Participants" in Appendix B of this Agreement.
58. [Reserved.]
59. Step-Up Invoice. An invoice sent pursuant to Section 11.8.1 to a non-Defaulting SCPPA Participant as a result of one or more Payment Defaults, which invoice shall separately identify any amount owed with respect to the monthly Billing Statement of one or more Defaulting SCPPA Participants for Total Power Costs reflected in the Defaulting SCPPA Participant(s) unpaid monthly Billing Statement.

60. Supplementary Services. Those services in connection with the delivery of Energy involving additional transmission, interconnection arrangements, energy management, firming, shaping, energy balancing, dispatching, tagging, scheduling, transmitting, interconnecting, swapping, exchanging or other services associated with the transmission, use or disposition of Facility Products to be utilized by the Purchaser under this Agreement, and to otherwise provide for delivery and facilitate the disposition, movement, taking, receiving, accounting for, transferring and crediting the transfer of Facility Products from the Point of Delivery to any other points or destinations, as determined by the Purchaser. Supplementary Services include but are not limited to delivery point swaps, stranded energy/transmission curtailments, tiepoint liquidity improvement, transmission loss savings, tiepoint price spread optimization, on-peak/off-peak exchanges, peak shifting exchanges, seasonal exchanges, and both simultaneous or non-simultaneous green energy exchanges.
61. Supplementary Services Cost Component. “Supplementary Services Cost Component” is defined in Section 4.3.3.
62. Test Energy. “Test Energy” shall have the definition set forth in the Power Purchase Agreement.
63. Total Power Costs. “Total Power Costs” is defined in Section 4.3.
64. [Reserved.]
65. Uncontrollable Forces. Any Force Majeure event and any cause beyond the control of any Party, and which by the exercise of due diligence such Party is unable to prevent or overcome, including but not limited to, failure or refusal of any other Person to comply with then existing contracts, an act of God, fire, flood, explosion, earthquake, strike, sabotage, pestilence, an act of the public enemy (including terrorism), civil or military authority including court orders, injunctions and orders of governmental agencies with proper jurisdiction or the failure of such agencies to act, insurrection or riot, an act of the elements, failure of equipment, a failure of any governmental entity to issue a requested order, license or permit, inability of any Party or any Person engaged in work on the Project to obtain or ship materials or equipment because of the effect of similar causes on suppliers or carriers. Notwithstanding the foregoing, Uncontrollable Forces as defined herein shall also include events of Force Majeure pursuant to the Power Purchase Agreement, as defined therein.
66. WECC. The Western Electricity Coordinating Council or its successor.

APPENDIX B*

**GRACE ORCHARD SOLAR POWER PROJECT
POWER SALES AGREEMENT**

**SCHEDULE OF SCPPA PARTICIPANTS,
PARTICIPANT FACILITY PRODUCTS SHARES,
PARTICIPANT FACILITY PRODUCTS COST SHARES**

SCPPA PARTICIPANTS	PARTICIPANT FACILITY PRODUCTS SHARES		PARTICIPANT FACILITY PRODUCTS COST SHARES	
	PV SHARE	GENERAL SHARE	PV COST	GENERAL COST
City of Anaheim	58.8%	58.8%	58.8%	58.8%
City of Colton	11.8%	11.8%	11.8%	11.8%
City of Pasadena	29.4%	29.4%	29.4%	29.4%
TOTAL	100.00%	100.00%	100.00%	100.00%

* Appendix B may be revised in accordance with the provisions of Section 10.2 of this Agreement.

APPENDIX C
POWER PURCHASE AGREEMENT

EXECUTION VERSION

GRACE ORCHARD SOLAR PROJECT

**POWER SALES AGREEMENT
BETWEEN**

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

AND

CITY OF COLTON

Dated as of September 19, 2024

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GRACE ORCHARD SOLAR PROJECT

POWER SALES AGREEMENT

1. **PARTIES.** This Grace Orchard Solar Project Power Sales Agreement (this “Agreement”) is dated for convenience as of the September 19, 2024, by and between the SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, a joint powers agency and a public entity organized under the laws of the State of California, hereinafter designated as “SCPPA,” and the CITY OF COLTON, a municipal corporation organized and existing under the laws of the State of California. The CITY OF COLTON is also periodically designated in this Agreement as “COLTON” or as “Purchaser,” or, depending upon the context as “SCPPA Participant”. COLTON and SCPPA are also sometimes herein referred to individually as a “Party” and together as the “Parties.”

2. **RECITALS, CONSTRUCTION AND PRELIMINARY MATTERS.** The Recitals set forth herein and the facts, which follow, are incorporated into this Agreement by reference for all purposes. The facts and the circumstances of the Parties contained in the Recitals, among others, represent the background and framework for this Agreement, the aim and purpose of this Agreement and the intent of the Parties with respect thereto. This Agreement has been reviewed by attorneys for both Parties and shall not be interpreted with reference to the rules of construction providing for construction against a Party responsible for drafting or creating a particular provision or section but should instead be interpreted in a manner which broadly implements the goals and objectives of the Parties as expressed herein. References to “Sections,” and “Appendices,” shall be to Sections, and Appendices as the case may be, of this Agreement unless otherwise specifically provided. Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose or given any substantive effect. Any of the terms defined herein may, unless the context otherwise requires, be used in the singular or the plural, depending on the reference. The use herein of the word “include” or “including”, when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not nonlimiting language (such as “without limitation” or “but not limited to” or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term or matter. This Agreement is made with reference to the following facts among others:
 - 2.1 SCPPA was created pursuant to provisions contained in the Act, by its members, which are municipalities and an irrigation district that supply, among other things, electrical energy in the State of California, for the purpose of jointly and cooperatively undertaking the planning, financing, development, acquisition, construction, improvement, betterment, operation, and maintenance of projects for the generation or transmission of electric energy, including the development and implementation of systems and frameworks for the acquisition and delivery of secure, long-term reliable supplies of renewable electric energy.

- 2.2 Pursuant to the terms of the Act, SCPPA has the power, for the purpose of promoting, maintaining and operating electric generation and transmission, to plan, develop, contract for, finance, acquire, design, undertake, own, construct, manage, operate, maintain and administer projects involving systems, methodologies and programs for the acquisition, supply, procurement and delivery of secure, long-term reliable supplies of renewable electric energy, including solar energy products, and to cause such projects to be planned, developed, contracted for, financed, acquired, designed, undertaken, constructed, managed, operated, maintained and administered and to provide by agreement for the performance and carrying out of any such activities.
- 2.3 Purchaser is a California municipality that provides electric energy to its citizens through its municipally owned electric power system. Purchaser is one of the parties to the SCPPA Joint Powers Agreement.
- 2.4 In pursuit of potential renewable electric resources to address SCPPA member renewable energy needs, SCPPA issued a request for proposals to acquire renewable energy resources and projects with energy storage capability. As a result of the response by NextEra Energy, Inc. on behalf of its affiliate, Grace Orchard Solar III, LLC (“Power Purchase Provider”), SCPPA and three of its members, Purchaser and City of Anaheim and City of Pasadena, have identified and investigated the feasibility of a photovoltaic solar energy generation resource to be located in Riverside County, California. The facility known as the Grace Orchard Solar Project is to be developed by Grace Orchard Solar III, LLC.
- 2.5 SCPPA intends to enter into a Power Purchase Agreement with Grace Orchard Solar III, LLC for the purchase of electric output and related products from a solar photovoltaic facility at the Grace Orchard Solar Project (the “Project”, as further defined in Appendix A hereof).
- 2.6 Purchaser has a need for a percentage of the Facility Products and has determined to enter into this Agreement with SCPPA for the purpose of meeting such needs.
- 2.7 SCPPA is authorized to exercise the powers vested in SCPPA pursuant to the Act, its Joint Powers Agreement and this Agreement, as agent for Purchaser to fully implement Purchaser’s objectives in the Project as set forth herein.
3. **AGREEMENT.** For and in consideration of the promises and the mutual covenants and agreements hereinafter set forth, and in order to pay SCPPA for Purchaser’s share of SCPPA’s costs with respect to the Project, the Parties agree as herein set forth.
4. **DEFINITIONS.** Appendix A to this Agreement attached hereto and incorporated herein, sets forth definitions of certain terms used in this Agreement. Certain other capitalized terms used herein are defined in the Power Purchase Agreement and shall have the meaning ascribed therein. The terms defined in Appendix A, the Power Purchase Agreement and this Section 4, whether in the singular or plural, unless specifically provided otherwise, when used herein or in the Appendices hereto and initially capitalized, shall have the meaning ascribed thereto in said Appendix A, the Power Purchase Agreement or as set out below:
- 4.1 Agreement. This Agreement, as it may be amended, modified or supplemented from

time to time.

- 4.2 Effective Date. The date described in Section 16.1 hereof.
- 4.3 Total Power Costs. Total Power Costs mean all of SCPPA's costs resulting from SCPPA's contracting for, providing for, accommodating, and facilitating the Project, including costs arising under any of the Power Purchase Agreement or other Project Agreements. SCPPA shall apply, as a credit against Total Power Costs, any receipts, revenues and other moneys received by SCPPA (a) from surplus equipment, materials, supplies or assets relating to the Project sold prior to the date of Commercial Operation for the benefit of SCPPA, and (b) for such other amounts to be applied as a credit against Total Power Costs pursuant to this Agreement. Total Power Costs shall consist of (i) the Delivery Output Cost Component (described in Section 4.3.1), (ii) the Power Purchase Agreement General and Administrative Cost Component (described in Section 4.3.2), (iii) a Supplementary Services Cost Component to the extent SCPPA incurs such costs (described in Section 4.3.3), (iv) a Reserve Funds Cost Component (described in Section 4.3.4), and (v) a Power Purchase Agreement Cost Component (described in Section 4.3.5), and shall include, but not be limited to, the items of cost and expense referred to in the Power Purchase Agreement and this Section 4.3 that are accrued or paid by SCPPA during each Month of each Power Supply Year. In the event any Power Supply Year shall consist of fewer than twelve Months, the fraction set forth in Section 4.3.2 shall be adjusted accordingly and, in the event of any revision of the Annual Budget after the commencement of any Power Supply Year, the amount determined pursuant to Section 4.3.2 shall be appropriately adjusted so that any increase or decrease in the portion of the Annual Budget applicable to Section 4.3.2 shall be evenly apportioned over the remaining Months of such Power Supply Year.
- 4.3.1 The Delivery Output Cost Component of Total Power Costs for each Month shall consist of the costs paid by SCPPA to the Power Purchase Provider under the Power Purchase Agreement, as calculated in accordance with the Power Purchase Agreement.
- 4.3.2 The Power Purchase Agreement General and Administrative Cost Component of Total Power Costs for each Month shall consist of the administrative and general costs with respect to the Project, including (i) legal fees, costs relating to litigation (including disbursements and other amounts paid as a result of such litigation), insurance costs (including amounts to fund any self-insurance program), overhead costs, any taxes required to be paid by SCPPA with respect to the Project, (ii) all expenses incurred in enforcing the Power Purchase Agreement and other Project Agreements, and (iii) all costs related to the conducting of the business of SCPPA with respect to the Project, including the applicable portion of salaries, fees for legal, engineering, financial and other services, and costs of the Project Manager, as well as all other costs attributable to miscellaneous and incidental expenses in connection with the administration of the Project, and all other expenses properly related to the conduct of such affairs of SCPPA.
- 4.3.3 The Supplementary Services Cost Component of Total Power Costs for each Month shall consist of all costs incurred by SCPPA, if any, and to the extent

not included in Section 4.3.1, in connection with services for transmission, dispatching, scheduling, tagging, firming, balancing, swapping, exchanging or delivering and for otherwise facilitating the disposition, movement, taking, receiving, crediting and accounting for Facility Products provided for under this Agreement. The Supplementary Services Cost Component of the Total Power Costs shall also entail all costs incurred by SCPPA, if any, which are necessary to move or otherwise handle delivery of any portion of Facility Products from the Point of Delivery to one or more specified delivery point(s) as determined by Purchaser pursuant to Section 9.2 and by other SCPPA Participating Members pursuant to the terms of their respective power sales agreements relating to the Project. Absent a request by Purchaser for SCPPA to provide Supplementary Services during a Month, no Supplementary Services cost component shall be included in Purchaser's Total Power Costs for such Month.

4.3.4 The Reserve Funds Cost Component of Total Power Costs for each Month shall consist of the amount for such Month necessary to establish and maintain the Reserve Funds at the level deemed prudent and appropriate by the Board of Directors.

4.3.5 The Power Purchase Agreement Cost Component of Total Power Costs for each Month shall consist of: the costs, without duplication, associated with the Power Purchase Agreement, including, to the extent not otherwise included in this Section 4.3, all costs for such Month of SCPPA in connection with its enforcement of the Power Purchase Agreement or the performance required of SCPPA under the Power Purchase Agreement or any Project Agreement and shall include, without duplication, SCPPA's monthly payment of any applicable associated ancillary costs under the Power Purchase Agreement, and any costs SCPPA is required to pay for the Facility Products.

5. PURCHASE AND SALE OF FACILITY PRODUCTS AND THE OBLIGATIONS OF SCPPA AND THE PURCHASER.

5.1 Purchase and Sale of Participant Facility Products Share. In accordance with the terms and conditions of this Agreement, commencing on the earliest of (i) the date SCPPA is obligated to pay any portion of the costs of the Project, (ii) the effective date of the Power Purchase Agreement, or (iii) the date of the first delivery of Energy to Purchaser pursuant to this Agreement, and continuing through the term of this Agreement, except as otherwise provided herein, SCPPA shall provide Purchaser its Participant Facility Products Share of any and all products, rights, and benefits, whether tangible or intangible, received or obtained by SCPPA with respect to the Project, including without limitation the Facility Products, and Purchaser shall be responsible for and pay its Participant Facility Products Cost Share of any and all Total Power Costs associated with the acquisition of its Participant Facility Products Share and such associated products, rights, and benefits, as applicable, under the Power Purchase Agreement and any other applicable Project Agreement, including purchase or acquisition of any rights pursuant to the Power Purchase Agreement and any other applicable Project Agreement.

5.2 Facility Products and Deliverables. SCPPA shall provide and Purchaser shall purchase

and receive Purchaser's Participant Facility Products Share of the Facility Products pursuant to the terms of this Agreement. To the extent permitted by the Power Purchase Agreement, the applicable Project Agreements, or otherwise determined by the Board of Directors, SCPPA will endeavor to take such actions or implement such measures as may be necessary or desirable for the utilization, maintenance or preservation of the rights and interests of Purchaser in the Project including, if appropriate, such enforcement actions or other measures as the Board of Directors deems to be in the Purchaser's best interests. To the extent such services are available and can be implemented in accordance with the Power Purchase Agreement or other applicable Project Agreements, SCPPA shall also provide such other services, as approved by the Board of Directors, as may be deemed necessary to secure the benefits and/or satisfy the obligations associated with the Power Purchase Agreement or other applicable Project Agreements. SCPPA shall use its best efforts, on behalf of Purchaser, to secure the benefits of the transactions contemplated under the Power Purchase Agreement or other applicable Project Agreements including the delivery of the Facility Products, as applicable, contemplated by this Agreement, and shall endeavor to maintain and secure the rights and benefits accruing to SCPPA through the Power Purchase Agreement and the other applicable Project Agreements. Upon request, the SCPPA Participants shall provide reasonable efforts to assist the Operating Agent, Project Manager, and/or SCPPA in the performance of their respective obligations under this Agreement.

5.3 Project Manager. SCPPA or its designee or designees shall act as Project Manager as provided in this Agreement to administer the Project, or cause the Project to be administered, as provided in this Agreement or pursuant to assignments, instructions or requests by the Board of Directors, or through any project management or agency agreement, or contracts for services between SCPPA and a third party or in consultation with the Operating Agent in accordance with Section 6 of this Agreement. Prior to appointment of a Project Manager (other than SCPPA), SCPPA shall consult with the SCPPA Participant as to such appointment. The Project Manager may from time to time enter into project agreements or other agreements related to the Project as appropriate or otherwise authorized by the Board of Directors.

5.3.1 The Project Manager may establish, as needed, committees, subcommittees, or working groups to advise the Project Manager, including, but not limited to, auditing, legal, financial, engineering, mechanical, weather, diurnal, barometric, meteorological, operating, insurance, governmental relations, environmental and public information subcommittees.

5.4 Adoption of Annual Budget. The Annual Budget and any amendments to the Annual Budget shall be prepared and approved in accordance with Sections 5.4.1, 5.4.2 or 5.4.3, respectively.

5.4.1 SCPPA will prepare and submit to Purchaser a proposed Annual Budget at least sixty (60) Days prior to the beginning of each Power Supply Year. In connection with the preparation of the Annual Budget, SCPPA shall incorporate therein the Operating Budget for such Power Supply Year as prepared by the Project Manager and approved by the Board of Directors. Purchaser may then submit to SCPPA, at any time until the Annual Budget is

adopted, any matters or suggestions relating to the Annual Budget. SCPPA shall adopt the Annual Budget not less than thirty (30) nor more than sixty (60) Days prior to the beginning of such Power Supply Year and shall cause copies of such adopted Annual Budget to be delivered to the Purchaser; provided, however, the Annual Budget for the first Power Supply Year shall be prepared, considered, adopted and delivered in the most practicable manner available prior to Commercial Operation of the Facility.

5.4.2 As required from time to time during any Power Supply Year, after seven (7) Days' written notice to the Purchaser, SCPPA may, pursuant to the foregoing provisions for adopting the Annual Budget, adopt an amended Annual Budget for and applicable to such Power Supply Year for the remainder of such Power Supply Year. The Annual Budget shall establish the basis for monthly Billing Statements to be sent to each SCPPA Participant, as provided in Section 7 hereof.

5.4.3 Any adjustment, and any other or further mechanism for adjustment, as may be required to address the variability of costs of operation of the Project at any time during the Power Supply Year or the variability of or addition to any other Annual Budget component, may be incorporated into the Annual Budget as provided above, or by any amendment to an Annual Budget at any time during any Power Supply Year upon the seven (7) Days' written notice to the Purchaser as set forth in Section 5.4.2.

5.5 Reports. SCPPA will prepare and issue to Purchaser the following reports as soon as reasonably practicable after the end of each quarter of a Power Supply Year:

5.5.1 Financial and operating statement relating to the Project.

5.5.2 Variance report comparing the costs in the Annual Budget versus actual costs, and the status of other cost-related issues with respect to the Project.

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

5.7 Provide Information. Purchaser agrees to supply SCPPA, upon reasonable request during regular business hours, with such information, documentation, and certifications as SCPPA shall reasonably determine to be requisite to and necessary or desirable for the administration and ongoing activities of the Project, including information reasonably available to allow SCPPA to respond to requests for such information from any federal, state, or local regulatory body or other authority.

5.8 Consultants and Advisors Available. SCPPA shall make available to the Project Manager (if other than SCPPA) and to the SCPPA Participants all consultants and

advisors that are retained by SCPPA, and such consultants and advisors shall be authorized to consult with and advise the Project Manager and SCPPA Participants on Project matters.

- 5.9 Liquidated Damages. Any amounts paid to SCPPA as and for Daily Delay Damages, GEP Shortfall Damages, PV Capacity Damages, the Damage Payment, or any other damages owed to SCPPA by the Power Purchase Provider as provided under the Power Purchase Agreement shall be remitted to the SCPPA Participants in accordance with their respective Participant Facility Products Shares.

6. OPERATING AGENT AND PROJECT MANAGEMENT.

- 6.1 Operating Agent. The City of Anaheim shall act as operating agent (“Operating Agent”) as provided in this Agreement to assist the Project Manager in the administration of the Project, as provided in this Agreement or pursuant to assignments, instructions, or requests by the Board of Directors.
- 6.2 Operating Agent Responsibilities. The Operating Agent shall have the following responsibilities:
- 6.2.1 Provide liaison between SCPPA and the SCPPA Participants at the management or other levels with respect to the ongoing administration of the Project and maintain a liaison between the SCPPA Participants and all other SCPPA members with respect to the Project, and where SCPPA deems it appropriate, maintain a liaison with the counterparties to any Project Agreements and with any other entities or utilities engaged in or in connection with the Project.
 - 6.2.2 In consultation with SCPPA and the SCPPA Participants, review, develop, and discuss budgets and revisions thereof prepared and submitted by SCPPA or the Project Manager.
 - 6.2.3 In consultation with SCPPA and the SCPPA Participants, review, develop, and discuss any systems or procedures for adjustment of the Annual Budget or any alternative methodologies for budgeting or billing as set forth in Section 5 and Section 7 of this Agreement.
 - 6.2.4 In consultation with SCPPA and the SCPPA Participants, review, discuss and attempt to resolve any disputes among the SCPPA Participants or the parties to any Project Agreements including, without limitation, the Power Purchase Provider, the counterparty under the Power Purchase Agreement or any other counterparty with respect to any Project Agreement.
 - 6.2.5 Make recommendations to SCPPA with respect to the ongoing administration of the Project.
 - 6.2.6 In consultation with SCPPA and the SCPPA Participants, review, develop, and if appropriate, modify and approve rules, procedures, and protocols for the administration of the Project or Project Agreements, including rules,

procedures, and protocols for the management of the costs of the scheduling, handling, tagging, dispatching, and crediting of Facility Products and the handling and crediting of Environmental Attributes associated with the Project.

- 6.2.7 In consultation with SCPPA and the SCPPA Participants, review, and, if appropriate, modify, approve or otherwise act upon the form or content of any written statistical, administrative, or operational reports, solar energy related data, electric generation information, solar energy production data, technical information, facility reliability data, transmission information, forecasting, scheduling, dispatching, tagging, parking, exchanging, balancing, movement, or other delivery information, climate and weather related matters, regulatory matters or requirements, and other information and other similar records or matters pertaining to the Project which are furnished to the Project Manager, or by the counterparties to Project Agreements, experts, consultants or others.
- 6.2.8 In consultation with SCPPA and the SCPPA Participants and pursuant to any scheduling coordinator agreement, review, and, if appropriate, modify, approve, or otherwise act upon, practices and procedures as formulated by the Project Manager or, if applicable, the counterparty to any Project Agreement, to be followed by the SCPPA Participants for, among other things, the production, scheduling, tagging, transmission, delivery, balancing, exchanging, crediting, tracking, monitoring, remarketing, sale or disposition of Facility Products. For avoidance of doubt, upon SCPPA's delivery and sale of Facility Products to Purchaser at the Point of Delivery, Purchaser shall have full unilateral rights to remarket, sell or otherwise dispose of such Facility Products.
- 6.2.9 In consultation with SCPPA and the SCPPA Participants, review, modify and approve, if appropriate, any activities with respect to the performance of any Project Agreement, including policies for selection and utilization of contractors and consultants included in the budgets with respect to the Project. In approving such activities, consideration may be given, if possible, to each SCPPA Participant's electric power system conditions, which may prevail during such planned activities.
- 6.2.10 In consultation with SCPPA and the SCPPA Participants, review, and, if appropriate, recommend, modify, approve or otherwise act with respect to the exercise of SCPPA's rights under the Power Purchase Agreement or review, recommend, approve or otherwise act with respect to the procurement of resources in connection with the Power Purchase Agreement.
- 6.2.11 In consultation with SCPPA and the SCPPA Participants, review, modify, approve or otherwise act upon any proposed change, extension or modification of any date set forth in Appendix I of the Power Purchase Agreement of the milestone schedule or to any Milestone under the Power Purchase Agreement as the Project Manager shall deem to be desirable, appropriate or otherwise in SCPPA's interest. The Project Manager may impose such other terms, conditions or qualifications upon any such action as the Project Manager shall deem appropriate.

- 6.2.12 In consultation with SCPPA and SCPPA Participants, review and act upon any present, potential or possible future anticipated failure of Power Purchase Provider to deliver Guaranteed Generation (as defined in the Power Purchase Agreement) in such manner as the Project Manager shall deem appropriate.
- 6.2.13 In consultation with SCPPA and the SCPPA Participants, review, and if appropriate, recommend, modify or approve practices and procedures formulated by the Project Manager, or by any counterparty to any Project Agreements giving due recognition to the needs, rights and electric system requirements and capabilities of all SCPPA Participants.
- 6.2.14 In consultation with SCPPA and the SCPPA Participants, review and act upon any matters involving any of the Power Purchase Agreement, any guarantee or letter of credit delivered to or for the benefit of SCPPA by the Power Purchase Provider or any other counterparty to any Project Agreement in connection with the Project, and take such actions or make such recommendations as may be appropriate or desirable in connection therewith.
- 6.2.15 In consultation with SCPPA and the SCPPA Participants, review, modify or approve recommendations of the counterparties made pursuant to the provisions of any Project Agreement.
- 6.2.16 In consultation with SCPPA and the SCPPA Participants, review, modify and where appropriate, recommend or approve the implementation of metering technologies and methodologies appropriate for the delivery, accounting for, transferring and crediting of the Facility Products to the Point of Delivery or to other points or destinations, as applicable.
- 6.2.17 In consultation with SCPPA and the SCPPA Participants, review, modify and where appropriate, recommend approval of Consent Agreements.
- 6.2.18 In consultation with SCPPA and the SCPPA Participants, review, examine modify and where appropriate, recommend or approve the implementation of methods for addressing curtailments or other interruptions tending to cause deemed generated energy.
- 6.2.19 In consultation with SCPPA and the SCPPA Participants, review, modify and where appropriate, recommend the implementation of practices and procedures to implement the provisions of Section 9 herein, as may be applicable with respect to any of the SCPPA Participants.
- 6.2.20 In consultation with SCPPA and the SCPPA Participants, review and provide SCPPA with comments on adjustments to the Participant Facility Products Shares and the Participant Facility Products Cost Shares set forth in Appendix B of this Agreement when and as required by this Agreement; provided, that such resolution shall require the affirmative vote of the Board of Directors if such adjustment would change its Participant Facility Products Share and its Participant Facility Products Cost Share.

- 6.2.21 Track the Operating Agent's reasonable costs performing its responsibilities under this Agreement, and, in consultation with the SCPPA Participants and approval by SCPPA, seek and receive cost recovery from the SCPPA Participants in proportion to the Participant Facility Products Cost Share.
- 6.2.22 In consultation with SCPPA and the SCPPA Participants, perform such other functions and duties as may be provided for under this Agreement, the Power Purchase Agreement, or any other applicable Project Agreement or as may otherwise be appropriate or beneficial to the Project. Upon request, the SCPPA Participants shall provide reasonable efforts to assist the Operating Agent, the Project Manager, and/or SCPPA in the performance of their respective obligations of the Agreement.
- 6.3 Management Decisions and the Role of Board of Directors. To the extent not provided for under this Agreement, the rights and obligations of SCPPA under the Project Agreements shall be subject to the ultimate control at all times of the Board of Directors. Purchaser shall be entitled to participate in the decisions of the Board of Directors with respect to SCPPA's rights and interests with respect to the Project as provided in this Section 6.3, provided that Purchaser shall disqualify its right to participate upon assuming the status of a Defaulting Purchaser as provided in Section 11 of this Agreement. SCPPA, through the Board of Directors shall have, in addition to the duties and responsibilities set forth elsewhere in this Agreement, the following duties and responsibilities, among others:
- 6.3.1 Dispute Resolution. The Board of Directors shall endeavor to review, discuss and attempt to resolve any disputes among SCPPA, the SCPPA Participants, the Operating Agent, and the counterparties under the Project Agreements relating to the Project, the operation and management of the Facility, and SCPPA's rights and interests with respect to the Facility.
- 6.3.2 Scheduling Procedures. When recommended by the Project Manager, or when otherwise appropriate, the Board of Directors shall act upon and approve or modify the practices and procedures to be followed by the SCPPA Participants for scheduling, delivering, controlling and allocating the Facility Products.
- 6.3.3 Project Agreements. The Board of Directors shall have the authority to approve the Project Agreements, including agreements for scheduling coordinator services, if any, and to review, modify, and approve, as appropriate, all amendments, modifications and supplements to the Project Agreements.
- 6.3.4 Budgeting. The Board of Directors shall review, modify, and approve each Annual Budget and the revisions thereto in accordance with Section 5.4 of this Agreement.
- 6.3.5 Application of Certain Payments Under the Power Purchase Agreement. The Board of Directors shall review, modify, and approve recommendations of the Project Manager as to the application of any payments or amounts received by SCPPA from any source or as a result of a Default by the Power Purchase

Provider under the Power Purchase Agreement or other non-compliance with the Power Purchase Agreement as provided therein; provided that such payments and amounts shall be applied to one or more of the purposes set forth in Section 4.3 to the credit of Purchaser and the other SCPPA Participants in proportion to their respective Participant Facility Products Cost Share.

6.3.6 Other Matters. The Board of Directors is authorized to perform such other functions and duties, including oversight of those matters and responsibilities addressed by the Project Manager, as may be provided for under this Agreement and under the other Project Agreements, or as may otherwise be appropriate.

6.3.7 Voting. Unless the Board of Directors shall otherwise determine to require a majority vote pursuant to the terms of the Joint Powers Agreement, all actions with respect to the Project taken by the SCPPA Board of Directors shall require an affirmative vote of at least eighty percent (80%) of the Project Votes (as defined in SCPPA's Joint Powers Agreement, dated as of November 1, 1980, as amended from time to time) cast thereon.

6.4 Periodic Audits. The Board of Directors or SCPPA may arrange for the annual audit under Section 5.6 of this Agreement by certified accountants, selected by SCPPA and experienced in electric generation or electric utility accounting, of the books and accounting records of SCPPA, the Operating Agent (pertaining to the Operating Agent's activities under this Agreement and the associated cost recovery), and where deemed appropriate the Project Manager (if other than SCPPA), the Power Purchase Provider (to the extent provided under the Power Purchase Agreement) and any other counterparty under any Project Agreement to the extent allowable, and any cost reimbursable to a consultant or contractor relevant to the administration of the Project, and such audit shall be completed and submitted to SCPPA as soon as reasonably practicable after the close of the Fiscal Year. SCPPA shall promptly furnish to Purchaser copies of all audits. No more frequently than once every calendar year, the Purchaser may, at its sole cost and expense, audit or cause to be audited the books and cost records of SCPPA, the Project Manager (if other than SCPPA), the counterparty under any Project Agreement to the extent so provided in the applicable Project Agreement, and any cost reimbursable to a consultant or contractor relevant to the administration of the Project.

6.5 [Reserved.]

6.6 Costs of Consultants. Costs (or the applicable portion thereof) of consultants and others employed or appointed by the Board of Directors or SCPPA to perform the duties required hereunder shall be included in Total Power Costs, as appropriate, and shall be billed to SCPPA or the Project Manager (if other than SCPPA).

6.7 [Reserved.]

7. CHARGES AND BILLINGS.

7.1 Monthly Costs. The amount of monthly costs which shall be paid by Purchaser to

SCPPA for a particular Month (“Monthly Costs”) shall be the sum of the following, as applicable, subject to any adjustments as provided in Section 12 hereof:

- 7.1.1 Purchaser’s Participant Facility Products Cost Share multiplied by the Delivery Output Cost Component of Total Power Costs (as provided in Section 4.3.1) for such Month.
- 7.1.2 Purchaser’s Participant Facility Products Cost Share multiplied by the Power Purchase Agreement General and Administrative Cost Component of Total Power Costs (as provided in Section 4.3.2 hereof) for such Month.
- 7.1.3 Purchaser’s share of the Supplementary Services Cost Component of Total Power Costs (as provided in Section 4.3.3 hereof) based on Purchaser’s allocated share of any such services procured by SCPPA on behalf of the Purchaser for such Month.
- 7.1.4 Purchaser’s Participant Facility Products Cost Share multiplied by the Reserve Funds Cost Component of Total Power Costs (as provided in Section 4.3.4 hereof) for such Month.
- 7.1.5 Purchaser’s Participant Facility Products Cost Share multiplied by the Power Purchase Agreement Cost Component of Total Power Costs (as provided in Section 4.3.5 hereof) for such Month.

7.2 Billing Statement. By the fifth Day of each Month during each Power Supply Year, SCPPA shall bill Purchaser for the amount of Monthly Costs to be paid by Purchaser for the current Month by providing Purchaser with a Billing Statement in accordance with the charges established pursuant to the provisions of this Agreement; provided, however, that such Billing Statement, with respect to the cost of Facility Products provided by SCPPA to Purchaser under this Agreement, shall also include with respect to the performance by SCPPA or the counterparty under and pursuant to applicable Project Agreements, any charge or credit to Purchaser with respect to the costs or revenues attributable to Purchaser pursuant to and under any applicable Project Agreement. Purchaser consents to the timely payment of the respective Participant Facility Products Costs Share of the Operating Agent’s reasonable costs as determined and provided in accordance with Section 6.2.21. Such Billing Statement shall detail the costs described in Section 7.1 hereof and shall set forth, among other things, the amounts due for such Month by Purchaser with respect to the items of Monthly Costs set forth in Section 7.1, as such Monthly Costs may be adjusted from time to time in accordance with Section 5 and this Section 7. Such Billing Statement shall be paid by Purchaser on or before twenty (20) Days after receipt of such Billing Statement.

7.3 Adoption of Alternative Billing Statement Procedures. The Project Manager may recommend the adoption of an alternative Billing Statement billing methodology in connection with each SCPPA Participant’s Billing Statement with respect to the Total Power Costs and the costs associated with any Project Agreement. Such alternative Billing Statement procedures may be placed into effect with the approval of the same by resolution of the Board of Directors. Any such alternative Billing Statement billing methodology shall be fiscally prudent, financially sound and shall assure coverage of

all potential and actual costs and obligations of SCPPA.

- 7.4 Disputed Monthly Billing Statement. In case any portion of any Billing Statement received by Purchaser from SCPPA shall be in bona fide dispute, Purchaser shall pay SCPPA the full amount of such Billing Statement and, upon determination of the correct amount, the difference between such correct amount and such full amount, if any, including interest at the rate received by SCPPA on any overpayment, will be credited to Purchaser by SCPPA after such determination; provided, however, that such interest shall not accrue on any overpayment that is acknowledged by SCPPA and returned to Purchaser by the fifth Day following the receipt by SCPPA of the disputed overpayment. In the event such Billing Statement is in dispute, SCPPA will give consideration to such dispute and will advise Purchaser with regard to SCPPA's position relative thereto within thirty (30) Days following receipt of written notification by Purchaser of such dispute.
- 7.5 Reconciliation of Monthly Costs. As soon as practicable after the end of each Power Supply Year, or more frequently if so determined by the Board of Directors, SCPPA will submit to Purchaser and each of the other SCPPA Participants a detailed statement of the actual aggregate Monthly Costs and other amounts payable hereunder, including any credits thereto, for all of the Months of such Power Supply Year, and the adjustments of the aggregate Monthly Costs and other amounts payable hereunder, if any, for any prior Power Supply Year, based on the annual audit of accounts provided for in Section 5.6. If, on the basis of the statement submitted as provided in this Section 7.5, the actual aggregate Monthly Costs and other amounts payable by the Purchaser for any Power Supply Year exceed the amount thereof which Purchaser has been billed, Purchaser shall pay SCPPA, within twenty (20) Days after receipt of SCPPA's invoice, the amount to which SCPPA is entitled. If, on the basis of the statement submitted pursuant to this Section 7.5, the actual aggregate Monthly Costs or other amounts payable by the Purchaser for any Power Supply Year are less than the amount therefor which Purchaser has been billed, SCPPA shall, unless otherwise directed by Purchaser with respect to moneys owed to it, credit such excess against Purchaser's next monthly Billing Statement.
- 7.6 Other or Additional Cost Reconciliation Mechanisms. The Board of Directors may, by resolution, authorize or prescribe other billing, payment, costing and cost reconciliation mechanisms to address such billing, payment, costing and cost reconciliation issues as may from time to time arise with respect to the Project.
- 7.7 Prepayment of Monthly Costs. Purchaser may, at any time, pay moneys to SCPPA or utilize any credits due or amounts owed by SCPPA to Purchaser with respect to the Project for the purpose of prepaying its monthly Billing Statement. Such moneys and amounts owed by SCPPA under any Project Agreement shall be deposited into an account established by, or at the direction of, SCPPA. Consistent with SCPPA's investment policy, moneys in such account shall be invested pursuant to instructions provided to SCPPA by Purchaser and all investment income shall be credited to such account. Payment of the amount of any monthly Billing Statement or Default Invoice shall be made from moneys available in such account to the extent set forth in written directions from Purchaser to SCPPA received at least five business days prior to the due date of such payment. Any credit or prepayment with respect to its monthly Billing

Statement shall not relieve or reduce Purchaser's other obligations under this Agreement.

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

- 8.1 Unconditional Payment Obligation. Beginning with the earliest of (i) the date SCPPA incurs or becomes obligated to pay any portion of the costs of the Project, (ii) the effective date of any Project, or (iii) the date of the first delivery of Facility Products to Purchaser and continuing through the term of this Agreement, Purchaser shall pay SCPPA the amounts of Monthly Costs set forth in the Billing Statements submitted by or on behalf of SCPPA to Purchaser in accordance with the provisions of Section 7 hereof and, without duplication, any amount set forth in any Default Invoice received by Purchaser as a result of the operation of Section 11 hereof, whether or not this Agreement has been terminated, or the Project or any part thereof has been completed, is functioning, producing, operating or operable or its output is suspended, interrupted, interfered with, reduced or curtailed or terminated in whole or in part, and such payments shall not be subject to reduction whether by offset or otherwise and shall not be conditional upon the performance or nonperformance by any party of any agreement for any cause whatsoever.
- 8.2 Source of Payments. Purchaser hereby represents and warrants that the obligations of Purchaser to make the payments to SCPPA under this Agreement shall constitute a cost of purchased power and an operating expense of Purchaser payable solely from its electric power revenue fund, including any and all legally available electric power system reserves. Purchaser will annually in each and every fiscal year of Purchaser during the term of this Agreement include in its electric power system budget, whether or not any other items are included, an appropriation from the revenues of its electric power system (including moneys derived from sales to third parties) sufficient to satisfy all the payments required to be made in such year under this Agreement until all payments required under this Agreement have been paid in full.
- 8.3 Rate Covenant. Purchaser will establish, maintain and collect rates and charges for the electric power service of its electric power system each year so as to provide revenues sufficient, together with any legally available electric power system reserves, to enable Purchaser to pay to SCPPA all amounts payable when due under this Agreement and to pay all other amounts payable from, and all lawful charges against or liens on, the revenues of its electric power system.
- 8.4 Authorizations. Purchaser hereby represents and warrants that no order, approval, consent or authorization of any governmental or public agency, authority or person, is required on the part of Purchaser for the execution and delivery by the Purchaser of this Agreement, or the performance by Purchaser of its obligations under this Agreement except for such as have been obtained.
- 8.5 Conflicts. Purchaser represents and warrants to SCPPA as of the Effective Date that, to Purchaser's knowledge, the execution and delivery of this Agreement by Purchaser, and Purchaser's performance thereunder, will not constitute a default under any agreement or instrument to which it is a party, or any order, judgment, decree or ruling

of any court that is binding on Purchaser, or a violation of any applicable law of any governmental authority, which default or violation would have a material adverse effect on the financial condition of Purchaser's electric power revenue fund.

8.6 Litigation. Purchaser represents and warrants to SCPPA as of the Effective Date that, to Purchaser's knowledge, except as disclosed, there are no actions, suits or proceedings pending against Purchaser (service of process on Purchaser having been made) in any court that questions the validity of the authorization, execution or delivery by Purchaser of this Agreement, or the enforceability as to Purchaser of this Agreement.

9. OTHER TERMS AND SERVICES.

9.1 Delivery Procedures. Prior to the time at which any Energy is to be delivered to Purchaser from the Facility, to the extent applicable, Purchaser shall schedule and be obligated to take delivery of Energy to be delivered under this Agreement. The Facility Products generated and produced from the Project shall be scheduled and delivered at the Point of Delivery under the practices and procedures approved pursuant to Section 6.2, as applicable, all in accordance with the Power Purchase Agreement.

9.2 Other Services and Transmission From Point of Delivery. It is the obligation of Purchaser to receive its Participant Facility Products Share from SCPPA all in accordance with the Power Purchase Agreement. However, to the extent specified by Purchaser, and to the extent practicable for SCPPA to do so, SCPPA shall assist in arranging for Supplementary Services and for such additional transmission, interconnection arrangements, energy management, firming, shaping, swaps, exchanges or other services associated with the transmission, use or disposition of Facility Products to be utilized by the Purchaser and to provide for delivery, accounting for, transferring and crediting the ownership and transfer of such Facility Products from the Point of Delivery to any other points or destinations, as determined by the Purchaser.

9.3 Energy Services. Except as otherwise provided in this Agreement, nothing herein shall prevent or restrict Purchaser from providing for its own transmission, energy management services, firming, balancing, or exchanging services or otherwise using or dispatching its Energy under this Agreement; provided, however, that such services, use or activities shall not affect any of the obligations of Purchaser under this Agreement.

9.4 [Reserved.]

9.5 [Reserved.]

9.6 Transfer of Environmental Attributes to Purchaser. SCPPA shall transfer all Environmental Attributes received by SCPPA under the Power Purchase Agreement to each Purchaser based upon the Participant Facility Products Share of such SCPPA Participant in the same manner by which SCPPA receives Environmental Attributes.

10. PROJECT SPECIFIC MATTERS AND PURCHASER RIGHTS AND OBLIGATIONS.

UNDER PROJECT AGREEMENTS.

- 10.1 Rights and Obligations under the Project Agreements. Notwithstanding anything to the contrary contained herein: (i) the obligation of SCPPA to deliver to Purchaser its Participant Facility Products Share during the term of this Agreement is limited to the Facility Products which SCPPA receives from the Power Purchase Provider for redelivery to Purchaser hereunder during such time; (ii) the obligation of SCPPA to pay any amount to Purchaser hereunder or to give credits against amounts due from Purchaser hereunder is limited to amounts SCPPA receives in connection with the transaction to which the payment or credit relates (or is otherwise available to SCPPA in connection with this Agreement for which such payment or credit relates); (iii) any purchase costs, operating costs, energy costs, capacity costs, environmental attribute costs, transmission costs, tax costs, insurance costs, indemnifications, other costs or other charges for which SCPPA is responsible under the Project Agreements shall be considered purchase costs, operating costs, energy costs, capacity costs, environmental attribute costs, transmission costs, tax costs, insurance costs, indemnifications, other costs or other charges incurred by SCPPA and payable by Purchaser as provided in this Agreement; and (iv) any Force Majeure under the Power Purchase Agreement or other event of force majeure affecting the delivery of Energy pursuant to applicable provisions of the Project Agreements shall be considered an event caused by Uncontrollable Forces affecting SCPPA with respect to the delivery of Facility Products hereunder, and SCPPA forwarding to Purchaser notices and information from the Power Purchase Provider concerning an event of Force Majeure upon receipt thereof shall be sufficient to constitute a notice that Uncontrollable Forces have occurred pursuant to Section 12.2 of this Agreement. Any net proceeds received by SCPPA from the sale of Guaranteed Delivered Energy by the Power Purchase Provider to any third-party purchaser as a result of a Force Majeure event or failure by SCPPA to accept delivery of Energy pursuant to the Power Purchase Agreement and any reimbursement received by SCPPA for purchase of Replacement Product shall be remitted by SCPPA to Purchaser in accordance with its Participant Facility Products Cost Share.
- 10.2 Revision of Appendix B. The Parties agree that adjustments of the Participant Facility Products Shares and Participant Facility Products Cost Shares in Appendix B in compliance with this Agreement shall be made and treated as an element of administration and not an amendment of this Agreement. The revised Appendix B shall become Appendix B to this Agreement in replacement of the prior Appendix B hereof.

11. NONPERFORMANCE AND PAYMENT DEFAULT.

- 11.1 Nonperformance by Purchaser. If Purchaser shall fail to perform any covenant, agreement or obligation under this Agreement or shall cause SCPPA to be in default with respect to any undertaking entered into for the Project or to be in default under the Power Purchase Agreement, or any other Project Agreement, as applicable, or cause a default to occur pursuant to such agreements, SCPPA may, in the event the performance of any such obligation remains unsatisfied after thirty (30) Days' prior written notice thereof to the Purchaser and a demand to so perform, take any action permitted by law to enforce its rights under this Agreement, including but not limited

to termination of this Agreement, and/or (unless SCPPA has already taken action pursuant to the immediately following sentence) bring any suit, action or proceeding at law or in equity as may be necessary or appropriate to recover damages and/or enforce any covenant, agreement or obligation against the Purchaser with regard to its failure to so perform.

- 11.2 Notice of Payment Default. In the event of a Payment Default by Purchaser, on or promptly following the Initial Payment Default Date SCPPA shall issue a Default Invoice and shall provide written notice to Purchaser that as a result of a Payment Default, it is in default under this Agreement and has assumed the status of a Defaulting Purchaser and that Purchaser's Project Rights are subject to discontinuance, termination and disposal in accordance with Sections 11.4 and 11.5 of this Agreement. Notice of such Payment Default shall be provided promptly by SCPPA to the other SCPPA Participants. In addition to the foregoing, the notice of Payment Default shall specify that five (5) Days after the issuance of the written notice of Payment Default by SCPPA, deliveries of Facility Products to Purchaser pursuant to this Agreement shall be thereafter suspended until such time as Purchaser is in Compliance. SCPPA may take any action through or in conjunction with the Power Purchase Provider or any other counterparty under a Project Agreement or with the Project Manager, if applicable, to expeditiously implement the provisions of this Section 11.
- 11.3 Cured Payment Default. If after a Payment Default Purchaser cures such Payment Default within the Cure Period, its Project Rights shall not be subject to discontinuance, termination or disposal as provided for in Sections 11.4 and 11.5 of this Agreement as a result of any Payment Default associated with such Cured Payment Default.
- 11.4 Failure to Cure Payment Default. If, at any time after expiration of the Cure Period Purchaser fails to be in Compliance due to its failure to cure its Payment Default in a timely manner in accordance with this Agreement, Purchaser's Project Rights shall immediately be discontinued and terminated and its Project Rights and Obligations shall be disposed of by SCPPA in accordance with Section 11.5 of this Agreement; provided, however, the Defaulting Purchaser's obligation to make payments under this Agreement shall not be eliminated or reduced except to the extent provided in Section 11.5. SCPPA shall provide to the Defaulting Purchaser a separate monthly invoice of any such payment obligations under this Agreement. SCPPA shall immediately notify the Project Manager (if other than SCPPA), the other SCPPA Participants and such others as SCPPA deems appropriate, of such discontinuance and termination of the Defaulting Purchaser's Project Rights.
- 11.5 Treatment of the Defaulting Purchaser's Project Rights and Obligations upon its Payment Default. In the event Defaulting Purchaser's Project Rights are discontinued and terminated pursuant to Section 11.4 of this Agreement, SCPPA shall undertake or cause to be undertaken the following actions in the order indicated:
- 11.5.1 SCPPA shall, to the extent permitted under the Project Agreements, offer to convey, transfer and assign to all non-Defaulting SCPPA Participants, on a temporary or permanent basis as determined by SCPPA, the Project Rights and Obligations of the Defaulting Purchaser, and SCPPA shall so convey, transfer and assign on such basis so determined by SCPPA to (i) all requesting non-

Defaulting SCPPA Participants the amount of Project Rights and Obligations requested if the aggregate of such requests does not exceed the amount of the Project Rights and Obligations of the Defaulting Purchaser, or (ii) all requesting non-Defaulting SCPPA Participants on a pro-rata basis (based upon the amount requested) if the aggregate of such requests exceeds the amount of the Project Rights and Obligations of the Defaulting Purchaser. Each such requesting non-Defaulting Participant shall assume all, but not less than all, Project Rights and Obligations so conveyed, transferred and assigned to it by SCPPA.

- 11.5.2 If one hundred percent (100%) of Defaulting Purchaser's Project Rights and Obligations are not conveyed, transferred and assigned to non-Defaulting SCPPA Participants as provided in Section 11.5.1 of this Agreement, SCPPA shall, to the extent permitted under the Project Agreements and to the extent SCPPA in its discretion determines it appropriate, offer to convey, transfer and assign, on a temporary or permanent basis as determined by SCPPA, the remainder (or, all, if applicable) of Defaulting Purchaser's Project Rights and Obligations to third parties, all in accordance with applicable law. Each such requesting third party shall assume all, but not less than all, Project Rights and Obligations so conveyed, transferred and assigned to it by SCPPA. If such third party is a SCPPA Member but not a SCPPA Participant as defined herein, such SCPPA Member, upon accepting such conveyance, transfer and assignment on a permanent basis, shall be deemed a SCPPA Participant.
- 11.5.3 If, at any time or from time to time, any of the Project Rights and Obligations of the Defaulting Purchaser are not conveyed, transferred and assigned as provided in Sections 11.5.1 or 11.5.2 of this Agreement, SCPPA shall use its best efforts, to the extent reasonably possible and economically beneficial, to offer all non-Defaulting SCPPA Participants and third parties, for long-term or short-term sale as determined by SCPPA, Facility Products associated with such Project Rights and Obligations or to remarket or resell such Facility Products, or cause the same to be remarketed or resold; provided, however, that without eliminating Defaulting Purchaser's obligation to make payments under this Agreement (notwithstanding anything to the contrary in this Agreement), including payment of SCPPA's costs and expenses related to such default and sale, such payment obligation shall be offset, mitigated and satisfied to the extent that payments are received by SCPPA from the remarketing or sale of Facility Products associated with Defaulting Purchaser's Project Rights.
- 11.5.4 If any of Defaulting Purchaser's Project Rights and Obligations are not conveyed, transferred and assigned as provided in Sections 11.5.1 or 11.5.2, the associated voting rights with respect to Defaulting Purchaser's Project Rights and Obligations shall be redistributed pro rata among the non-Defaulting SCPPA Participants, based upon the Participant Facility Products Share of such SCPPA Participant, so that the total voting rights remain at one hundred percent (100%).
- 11.5.5 Upon the termination, conveyance, transfer or assignment of a Defaulting Purchaser's Project Rights and Obligations pursuant to Section 11.4 and this

Section 11.5, SCPPA shall make any necessary adjustments to the Participant Facility Products Shares set forth in Appendix B and give written notice thereof to the non-Defaulting SCPPA Participants.

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

11.6 Elimination or Reduction of Payment Obligations. Upon termination of Defaulting Purchaser's Project Rights pursuant to Section 11.4 and conveyance, transfer or assignment of Defaulting Purchaser's Project Rights and Obligations pursuant to Sections 11.5.1 or 11.5.2, Defaulting Purchaser's obligation to make payments under this Agreement (notwithstanding anything to the contrary in this Agreement) shall not be eliminated or reduced except to the extent of moneys received by SCPPA as a result of the conveyance, transfer and assignment of Defaulting Purchaser's Project Rights and Obligations, less SCPPA's related costs and expenses.

11.7 Use of Reserve Funds. With respect to a Payment Default by Purchaser, funds in the Reserve Funds may be used, to the extent necessary and to the extent available, to cover any deficiency with respect to any payment due by SCPPA attributable to Purchaser's participation in the Project.

11.8 Step-Up Invoices. Step-Up Invoices shall be issued in accordance with the provisions set forth below.

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

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

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

manner.

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

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

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

11.11 Application of Moneys Received from Compliance Payments. Moneys received by or on behalf of SCPPA from a Defaulting SCPPA Participant that makes payments to remain in Compliance with respect to a Payment Default, associated with a Defaulting SCPPA Participant's payments to remain in Compliance, shall be credited on each non-Defaulting SCPPA Participant's next monthly Billing Statement(s) in an amount equal to the aggregate amount such non-Defaulting SCPPA Participant paid as a result of Step-Up Invoices with respect to such Compliance payment, plus a pro rata share, based upon the Participant Facility Products Cost Shares of the non-Defaulting SCPPA Participants, of the amount SCPPA received regarding late payment interest charges.

11.12 Application of Moneys Received from Sale of Facility Products. Moneys received by or on behalf of SCPPA from the sale of Facility Products related to a Defaulting SCPPA Participant's Project Rights and Obligations, as provided in Section 11.5.3 hereof, shall be applied in the following manner in order:

11.12.1 SCPPA shall credit on each non-Defaulting SCPPA Participant's next monthly Billing Statement(s) an amount up to, but not in excess of, the aggregate amount paid to SCPPA by such non-Defaulting SCPPA Participant with respect to each such non-Defaulting SCPPA Participant's Step-Up Invoices.

11.12.2 Following consultation with the non-Defaulting SCPPA Participants, SCPPA shall determine the disposition of any moneys received that are in excess of the aggregate amount of related Step-Up Invoices paid by non-Defaulting SCPPA Participants. Unless otherwise required by law, the Defaulting SCPPA Participant shall have no claim or right to any such monies.

11.13 Purchaser shall be responsible for Purchaser's Participant Facility Products Share of all claims, demands, liabilities, obligations, losses, damages (whether direct, indirect or consequential), penalties, actions, loss of profits, judgments, orders, suits, costs, expenses (including attorneys' fees and expenses) or disbursements of any kind or nature whatsoever in law, equity or otherwise incurred or owed by SCPPA under the Power Purchase Agreement, including any termination payment incurred or owed by SCPPA to Power Purchase Provider thereunder.

12. CHARACTER, CONTINUITY OF SERVICE.

12.1 Outages, Interruptions and Curtailment of Energy Deliveries. The Power Purchase Provider, or other counterparty, may under certain conditions set forth in the applicable provisions of a Project Agreement or other applicable operating agreement, interrupt or curtail deliveries of Facility Products to SCPPA which SCPPA was to deliver to Purchaser. Should such an interruption or curtailment occur, Purchaser shall be credited with such revenues as are credited or paid to SCPPA on Purchaser's behalf in accordance with Purchaser's Participant Facility Products Share and shall be obligated to pay any costs incurred by SCPPA in accordance with Purchaser's Participant Facility Products Cost Share which are payable by SCPPA pursuant to the Power Purchase Agreement or any other applicable Project Agreement. SCPPA or the Project Manager (if other than SCPPA) or SCPPA's agent will use its best efforts to apprise Purchaser of potential outages, interruptions or curtailments, the reason therefor and the probable duration thereof, when such outages, interruptions or curtailments can be deemed likely to occur.

12.2 Uncontrollable Forces. SCPPA shall not be required to provide, and SCPPA shall not be liable for failure to provide, Facility Products or other service under this Agreement when such failure or the cessation or curtailment of or interference with the service is caused by Uncontrollable Forces or the terms of the Agreement or by the inability of the Power Purchase Provider or other applicable counterparty to obtain any required governmental permits, licenses or approvals to enable the Power Purchase Provider to acquire, administer or operate the Project; provided, however, that Purchaser shall not thereby be relieved of its obligations to make payments under this Agreement except to the extent SCPPA is so relieved pursuant to the Project Agreements.

13. [RESERVED.]

14. LIABILITY.

14.1 Participants' Obligations Several. Except as otherwise provided in Section 11 of this Agreement, Purchaser and each of the other SCPPA Participants shall be solely responsible and liable for performance under its respective Power Sales Agreement. The obligation of Purchaser to make payments under this Agreement is a several obligation and not a joint obligation with those of the other SCPPA Participants under the other Power Sales Agreements to which such SCPPA Participants are parties.

14.2 No Liability of SCPPA, Directors, Officers, Etc. Each Party agrees that neither Party nor any of its past, present, future directors, officers, employees, board members, agents, attorneys or advisors and shall be liable to the other Party for loss of profits or

direct or consequential loss or damage suffered by a released Party as a result of the performance or non-performance (excluding gross negligence or willful misconduct which, unless otherwise agreed to by the Parties, are both to be determined and established by a court of competent jurisdiction in a final, non-appealable order) of a releasing Party or any of its directors, officers, employees or agents under this Agreement. To the fullest extent permitted by law, Purchaser releases SCPPA and its directors, officers, employees and agents from any claim or liability (whether negligent or otherwise) as a result of any actions or inactions of SCPPA under this Agreement. No such performance or non-performance by SCPPA shall relieve Purchaser from its obligations under this Agreement, including its obligation to make payments required under this Agreement, and such undisputed payments shall not be subject to any reduction, whether by offset, counterclaim or otherwise. The provisions of this Section 14.2 shall not be construed so as to relieve SCPPA from any obligation under this Agreement.

- 14.3 Extent of Exculpation; Enforcement of Rights. The exculpation provision set forth in Section 14.2 hereof shall apply to all types of claims or actions including, but not limited to, claims or actions based on contract or tort. Notwithstanding the foregoing, either Party may protect and enforce its rights under this Agreement by a suit or suits in equity for specific performance of any obligations or duty of the other Party, and each Party shall at all times retain the right to recover, by appropriate legal proceedings, any amount determined to have been an overpayment, underpayment or other monetary damages owed by the other Party in accordance with the terms of this Agreement.
- 14.4 Indemnification for Claims of Retail Customers. Purchaser shall assume all liability for any claim, action or judgment, whether or not caused by negligence, arising out of or in connection with electric service to any of its retail customers caused by the operation or failure of operation of the Facility or any portion thereof, and shall indemnify and hold harmless SCPPA from any such claim, action or judgment (including reasonable attorneys' fees and other costs of defense).
- 14.5 Determination or Enforcement of Rights. Notwithstanding the provisions of Sections 14.2, 14.3 and 14.4 hereof, Purchaser or SCPPA may determine, protect and enforce its rights under this Agreement by a suit or suits in equity for specific performance of, or declaratory action with respect to, any obligation or duty hereunder or thereunder.
- 14.6 No Relief from Insurer's Obligations. Notwithstanding any provision in this Agreement to the contrary, including but not limited to the provisions in this Section 14, the provisions of this Section 14 shall not be construed or applied so as to relieve any insurer of its obligation to pay any insurance claims in accordance with any applicable insurance policy.
- 14.7 SCPPA Directors, Officers, Employees, Agents Not Individually Liable; No General Liability of SCPPA. It is hereby recognized and agreed that no member of SCPPA's Board of Directors, officer, employee or agent of SCPPA or member of SCPPA in its capacity as a member of SCPPA shall be individually liable in respect of any undertakings by SCPPA under this Agreement. The undertakings by SCPPA under the Power Sales Agreements shall never constitute a debt or indebtedness of SCPPA within the meaning of any provision or limitation of the Constitution or statutes of the State

of California and shall not constitute or give rise to a charge against its general credit.

15. RESTRICTIONS ON DISPOSITION.

15.1 Assignment. It is understood and agreed each SCPPA Participant (including Purchaser) may sell, assign or otherwise dispose of some or all of its Project Rights and Obligations to other SCPPA Participants or SCPPA members under the same terms and conditions as set forth in this Agreement, provided that each such other participating SCPPA member agrees in writing to be bound by the provisions of the Power Sales Agreement of the SCPPA Participant making such sale, assignment or other disposition. In the event of such a sale, assignment or other disposition, SCPPA shall revise Appendix B to reflect the new Participant Facility Products Share allocation and such revision to Appendix B shall not be considered an amendment to any Power Sales Agreement.

Participant may from time to time assign the right to receive all or a portion of the Energy that would otherwise be delivered to Participant hereunder. In connection with any such assignment, Participant and SCPPA agree to execute a Limited Assignment Agreement. For the avoidance of doubt, Participant will remain responsible for all of its obligations under this Agreement related to such assigned Energy, including (i) the obligation to pay for such Energy to the extent the assignee thereof does not do so and (ii) any damages associated with such assignee's failure to take any such Energy.

15.2 Restrictions on Elimination of Payment Obligations. No sale, assignment or other disposition of Purchaser's Project Rights and Obligations to any Person ("Assignee") shall release Purchaser from its payment obligations under this Agreement; provided, however, such payment obligations may be eliminated or reduced if the sale, assignment or other disposition is made pursuant to Section 15.1 of this Agreement, or if (i) such Assignee shall assume and agree in writing to fully perform and discharge the Project Rights and Obligations under its Power Sales Agreement, (ii) such Assignee shall have a corporate or long-term senior unsecured credit rating of "A-" or higher by S&P or "A3" or higher by Moody's, unless otherwise provided by the Board of Directors, and (iii) the Board of Directors, by resolution, determines to eliminate or reduce such payment obligations, which determination shall not be unreasonably withheld.

15.3 Restrictions on Disposition of Purchaser's Entire System. Purchaser shall not sell, lease or otherwise dispose of all or substantially all of its electric system to any Person ("Acquiring Entity") unless the Acquiring Entity shall assume and agree to fully perform and discharge the Project Rights and Obligations under this Agreement, and such Acquiring Entity shall have a corporate or long-term senior unsecured credit rating not less than investment grade.

15.4 Successors and Assigns. Subject in all respects to Sections 11 and 15 hereof, the Project Rights and Obligations under this Agreement shall inure to the benefit of and shall be binding upon the respective successors and assigns of the Parties to this Agreement.

16. EFFECTIVE DATE, TERM AND EXPIRATION.

- 16.1 Effective Date; Execution in Counterparts. This Agreement shall become effective on the first Day when each and all of the following shall have occurred: (i) this Agreement shall have been duly executed and delivered by SCPPA and Purchaser, (ii) the Power Purchase Agreement shall have been duly executed and delivered by SCPPA and the Power Purchase Provider and (iii) the Power Sales Agreement between SCPPA and any other SCPPA Participant shall have been duly executed and delivered by the parties thereto. Once the Power Purchase Agreement has been executed and delivered as set forth above, SCPPA shall deliver a copy of the same to Purchaser. This Agreement may be executed in any number of counterparts, each of which shall constitute an original.
- 16.2 Termination Conditions. This Agreement shall be effective upon satisfaction of the conditions set forth in Section 16.1 and shall extend for the term specified in Section 16.3 unless earlier terminated pursuant to an express provision of this Agreement; provided, however, that any obligation to make payments by Purchaser or SCPPA or any outstanding liability of Purchaser or SCPPA hereunder which either exists or may exist as of the date of termination of this Agreement, or which comes into existence at any future time as a result of any activity or transaction implemented under this Agreement, shall survive such termination.
- 16.3 Expiration. The term of this Agreement shall begin on the Day this Agreement becomes effective pursuant to Section 16.1 hereof. Unless terminated earlier pursuant to Section 16.4, the term of this Agreement shall expire on the date on which the Power Purchase Agreement is terminated and all obligation(s) of the parties under the Power Purchase Agreement have been fully satisfied or otherwise adequate provision for satisfaction of such obligation(s) have been made and no other such obligation(s) under the Power Purchase Agreement is outstanding; provided, however, that in no event shall the term of this Agreement expire so long as the Power Purchase Agreement is of any force or effect.
- 16.4 Termination of Agreement before Expiration Date. Notwithstanding the expiration date set forth in Section 16.3 hereof, this Agreement shall terminate on the date, if any, by which SCPPA notifies Purchaser that this Agreement is superseded as a result of Purchaser having (i) succeeded to SCPPA's rights through another agreement or agreements, or (ii) entered into a replacement power sales agreement or other agreement with SCPPA. The purchase price and consideration to be paid to SCPPA by Purchaser with respect to any such superseding arrangement shall consist of the payments and satisfaction of all obligations by Purchaser under and pursuant to this Agreement prior to the effective date of the superseding arrangement plus any remaining costs or obligations incurred by SCPPA in connection with the Project.
- 16.5 Final Distribution of Reserve Funds. Following the expiration or earlier termination of this Agreement, and upon payment and satisfaction of any and all liabilities and obligations to make payments of the SCPPA Participating Members under this Agreement and upon satisfaction of all remaining costs and obligations of SCPPA under this Agreement and in connection with the Facility, any amounts then remaining

in the Reserve Funds shall be paid to the SCPPA Participating Member pro rata in accordance with their respective Participant Facility Products Share.

17. **SEVERABILITY.** In case any one or more of the provisions of this Agreement shall for any reason be held to be illegal or invalid by a court of competent jurisdiction, it is the intention of each of the Parties hereto that such illegality or invalidity shall not affect any other provision hereof, but this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein unless a court holds that the provisions are not separable from all other provisions of this Agreement.
18. **REPRESENTATION AND GOVERNING LAW.** The Parties acknowledge that each Party was represented by counsel in the negotiation and execution of this Agreement. This Agreement was made and entered into in the County of Los Angeles, California, and shall be governed by, interpreted and enforced in accordance with the laws of the State of California. All litigation arising out of, or relating to this Agreement, shall be brought in a State or Federal court in the County of Los Angeles, 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*.
19. **ARBITRATION AND ATTORNEYS' FEES.** If a dispute arises between the Parties which the Board of Directors is unable to resolve, the Parties may by mutual agreement submit the dispute to mediation or non-binding arbitration. With respect to any such dispute the Parties agree that each Party shall bear its own attorneys' fees and costs. Notwithstanding the foregoing, Purchaser and SCPPA recognize and agree that SCPPA's attorneys' fees associated with any matter relating to the Project or this Agreement, including any dispute relating thereto, shall constitute a Project cost which shall be allocated and billed as set forth in Sections 4 and 7 of this Agreement.
20. **CONDITIONS TO TERMINATION OR AMENDMENT.** Neither Party may terminate this Agreement without the prior written consent of each of the other SCPPA Participants. None of the Power Sales Agreements may be amended as to any one or more of the SCPPA Participants so as to provide terms and conditions materially different from those contained therein, unless the SCPPA Participant seeking the amendment obtains a written consent or waiver of each other SCPPA Participant.
21. **[RESERVED.]**
22. **NOTICES.** Any notice, demand or request provided for in this Agreement shall be in writing and shall be deemed properly served, given or made if delivered in person or sent by registered or certified mail, postage prepaid, to the persons specified below:

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

City of Colton
Colton Electric Utility
Attn: Electric Utility Director

150 South 10th Street
Colton, CA 92324
(909) 370-6196

- 23. AMENDMENTS.** The Parties acknowledge and agree that any amendment to this Agreement shall be in writing and duly executed by the Parties.

[SIGNATURE PAGE FOLLOWS]

Each Party hereto has duly caused this Grace Orchard Solar Project Power Sales Agreement Between Southern California Public Power Authority and City of Colton to be executed on its behalf by its duly authorized representative.

SOUTHERN CALIFORNIA PUBLIC
POWER AUTHORITY

By: _____
DANIEL E GARCIA
Executive Director

Approved as to Legal Form:

By: _____
ARMANDO V. ARBALLO
Assistant General Counsel

CITY OF COLTON

By: _____
WILLIAM R. SMITH
City Manager

Attest: _____
STEPHANIE M. VARGAS
Deputy City Clerk

APPENDIX A

DEFINITIONS

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

1. Act. All of the provisions contained in the California Joint Exercise of Powers Act found in Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California, beginning at California Government Code Section 6500 et seq., as amended from time to time.
2. [Reserved.]
3. Annual Budget. The budget adopted by SCPPA pursuant to Section 5.4.1 of this Agreement not less than thirty (30) Days nor more than sixty (60) Days prior to the beginning of each Power Supply Year, including any amendments thereto, which shall show a detailed estimate of the Total Power Costs under this Agreement and all credits, charges, revenues, income, or other funds to be applied to such costs, for and applicable to such Power Supply Year.
4. [Reserved.]
5. Billing Statement. The written statement prepared or caused to be prepared each Month by, or on behalf of, SCPPA which shall be based upon certain of the information in the Annual Budget and shall show for such Month the amount to be paid to SCPPA by Purchaser in accordance with the provisions of Section 7 of this Agreement.
6. Board of Directors. The Board of Directors of the Southern California Public Power Authority.
7. Commercial Operation. "Commercial Operation" shall have the same definition set forth in the Power Purchase Agreement.
8. Compliance. Following a Payment Default, the Defaulting Purchaser shall be in compliance with its payment obligations under this Agreement if it (i) no later than the last Day of the Cure Period fully pays all amounts owed as reflected in any Default Invoice; (ii) pays any monthly Billing Statement which comes due during the Cure Period; and (iii) replenishes any reduction made to the Reserve Funds as a result of any Payment Default.
9. Consent Agreements. All consents to assignments and all agreements relating thereto entered into with any lender, financial institution or other Person for the purpose of consenting to the assignment of the rights or securing the obligations of the Power Purchase Provider under the Power Purchase Agreement, and all consents or agreements relating to a Change in Control (as defined in the Power Purchase Agreement) under the Power Purchase Agreement.
10. Cure Period. That period of time beginning on the date of a Payment Default and concluding thirty (30) Days thereafter.
11. Cured Payment Default. A Payment Default which has been cured in accordance with Section 11.3 of this Agreement. If at any time during the Cure Period the Defaulting Purchaser is in Compliance, then the requirements of a Cured Payment Default shall be deemed to have been

satisfied as of the date of receipt of such payments by SCPPA and the Cure Period shall expire.

12. Daily Delay Damages. “Daily Delay Damages” shall have the same definition set forth in the Power Purchase Agreement.
13. [Reserved.]
14. Day. “Day” means calendar day unless otherwise specified herein.
15. Default Invoice. An invoice during the Payment Default Period and the Cure Period issued to the Defaulting Purchaser pursuant to Section 11 of this Agreement that identifies the total defaulted amount owed, including late payment interest, to achieve a Cured Payment Default. During the Cure Period, the Default Invoice shall also include the amount that must be paid to achieve Compliance.
16. Defaulting Purchaser. “Defaulting Purchaser” means Purchaser, where Purchaser has caused a Payment Default under Section 11.1 of this Agreement that has not been remedied or cured.
17. Defaulting SCPPA Participant. A SCPPA Participant (not including Purchaser) that causes a Payment Default under its Power Sales Agreement that has not been remedied or cured by the Defaulting SCPPA Participant.
18. Delivery Output Cost Component. “Delivery Output Cost Component” is defined in Section 4.3.1.
19. Energy. “Energy” shall have the same definition as in the Power Purchase Agreement.
20. Environmental Attributes. “Environmental Attributes” shall have the same definition set forth in the Power Purchase Agreement.
21. Facility. “Facility” shall have the same definition as the Power Purchase Agreement.
22. Facility Products. All output, rights, and other tangible or intangible benefits derived from the Facility, whatsoever, including without limitation all Energy, Test Energy, Environmental Attributes, Capacity Rights, Resource Adequacy Attributes, Replacement Product rights with respect to the battery energy storage system, whether received by SCPPA under or pursuant to the Power Purchase Agreement or other applicable Project Agreement.
23. Fiscal Year. The twelve-month period commencing at 12:01 a.m. on July 1 of each year and ending at 12:01 a.m. on the following July 1, or such other time frame as determined by the Board of Directors.
24. Force Majeure. “Force Majeure” shall have the definition set forth in the Power Purchase Agreement.
25. GEP Shortfall Damages. “GEP Shortfall Damages” shall have the same definition set forth in the Power Purchase Agreement.
26. [Reserved.]

27. Initial Payment Default Date. The earlier of (i) the end of the fifth Day following the first Payment Default for which no remedy in payment has occurred and been received by SCPPA, or (ii) the last Day of the Month in which the first Payment Default has occurred for which no remedy in payment has occurred and been received by SCPPA.
28. Joint Powers Agreement. The “Southern California Public Power Authority Joint Powers Agreement” dated as of November 1, 1980, as amended and modified from time to time, entered into pursuant to the provisions of the Act, among SCPPA and its members.
29. Month. A calendar month.
30. Monthly Costs. “Monthly Costs” is defined in Section 7.1.
31. Moody’s. “Moody’s” shall mean Moody’s Investor Services, Inc.
32. Operating Budget. The operating budget approved by the Board of Directors which shall show a detailed estimate of Total Power Costs for a Power Supply Year and all revenues, income or other funds to be applied to Total Power Costs for and applicable to such Power Supply Year.
33. Operating Reserve Depletion Date. The date that is two Months prior to the date on which SCPPA anticipates, assuming continued Payment Defaults by the Defaulting Purchaser, that the moneys in the operating reserve account held at any time by SCPPA will be fully depleted; provided, however, if as of the date on which a Payment Default occurs SCPPA determines that the moneys in the operating reserve account held by SCPPA will be fully depleted in less than two Months (or currently are fully depleted), then the Operating Reserve Depletion Date shall be deemed to have occurred when such a Payment Default occurs.
34. Participant Facility Products Cost Share. With respect to a particular SCPPA Participant and during each Power Supply Year, the applicable percentage of SCPPA costs under this Agreement payable by such SCPPA Participant, as set forth for such SCPPA Participant in Appendix B of this Agreement.
35. Participant Facility Products Share. With respect to a particular SCPPA Participant and during each Power Supply Year, the applicable percentage entitlement of the Facility Products under this Agreement, as set forth for such SCPPA Participant in Appendix B of this Agreement.
36. Payment Default. A failure by the Purchaser to pay when due all of its Billing Statement for any Month.
37. Payment Default Period. That period of time beginning on the initial date of a Payment Default and ending thirty (30) Days following a notice of default as provided in accordance with Section 11.2 hereof.
38. Person. “Person” means any individual, corporation, partnership, joint venture, limited liability company, association, joint stock company, trust, unincorporated organization, entity, government or other political subdivision.
39. Point of Delivery. Point of Delivery shall have the definition set forth in the Power Purchase Agreement.

40. Power Purchase Agreement. The Power Purchase Agreement between Southern California Public Power Authority and Grace Orchard Solar III, LLC, dated as of September 19, 2024, attached hereto as Appendix C, as the same may be amended from time to time, and all other agreements associated with the Facility.
41. [Reserved.]
42. Power Purchase Agreement Cost Component. “Power Purchase Cost Component” is defined in Section 4.3.5.
43. Power Purchase Agreement General and Administrative Cost Component. “Power Purchase Agreement General and Administrative Cost Component” is defined in Section 4.3.2.
44. Power Purchase Provider. Grace Orchard Solar III, LLC, and any other entity named under any applicable operating agreement to operate or otherwise run or manage the Facility, along with each of their successors, or any successors or assigns to the rights of these entities.
45. Power Sales Agreements. This Agreement and that certain Power Sales Agreement dated September 19, 2024, as may be amended from time to time, by and between SCPPA and COLTON, and those certain Power Sales Agreements dated September 19, 2024, as may be amended from time to time, by and between SCPPA and City of Anaheim and City of Pasadena.
46. Power Supply Year. The Fiscal Year, except that the first Power Supply Year shall begin on the first to occur of (i) the date SCPPA is obligated to pay any portion of the costs of the Project, (ii) the Commercial Operation Date of the Facility, or (iii) the date of the first delivery of Energy to Purchaser pursuant to this Agreement. The first Power Supply Year shall end on the last Day of the then current Fiscal Year.
47. Project. The term “Project” means the Grace Orchard Solar Power Project and shall be broadly construed to entail the aggregate of rights, liabilities, interests and obligations of SCPPA pursuant to the Power Purchase Agreement and the other Project Agreements, including but not limited to all associated rights, liabilities, interests and obligations; provided, that for purposes of this Agreement it shall be limited to those rights, liabilities, interests and obligations acquired or undertaken by SCPPA in the Power Purchase Agreement and the Project Agreements associated with that agreement. The term Project shall also include those rights, liabilities, interests or obligations necessary or appropriate to carry out the functions specified in Section 6 and to utilize or deliver the Energy of the Facility as specified in Section 9.
48. Project Agreements. Insofar as they pertain to this Project, any project management agreement, the Power Sales Agreements, the Power Purchase Agreement, and any other contracts for the purchase, procurement, delivery or transmission of Facility Products, and any other agreements for scheduling, dispatching, exchanging, tagging, movement or transmission of Facility Products, and agreements to which SCPPA is a party relating to the administration or management of the Project.
49. Project Manager. SCPPA in its capacity as Project Manager or a designee or designees appointed by SCPPA to carry out SCPPA’s responsibilities as Project Manager under this

Agreement.

50. Project Rights. All rights and privileges of the Purchaser under this Agreement, including but not limited to its right to receive its Participant Facility Products Share under this Agreement.
51. Project Rights and Obligations. The Purchaser's Project Rights and obligations under the terms of this Agreement.
52. Replacement Product. "Replacement Product" shall have the same definition as set forth in the Power Purchase Agreement.
53. Reserve Funds Cost Component. "Reserve Funds Cost Component" is defined in Section 4.3.4.
54. Reserve Funds. Those reserve accounts deemed appropriate to afford a reliable source of funds for the payment obligations of the Project and, taking into account the variability of costs associated with the Project, for the purpose of providing a reliable payment mechanism to address the ongoing costs associated with the Project.
55. S&P. "S&P" shall mean Standard & Poor's Financial Services LLC.
56. SCPPA Members. Each of the following: City of Anaheim, California; City of Azusa, California; City of Banning, California; City of Burbank, California; City of Cerritos, California; City of Colton, California; City of Glendale, California; Imperial Irrigation District; City of Los Angeles, California; City of Pasadena, California; City of Riverside, California; and City of Vernon, California.
57. SCPPA Participants. Those entities that have executed a Power Sales Agreement for the Project, together in each case with each entity's successors or assigns, identified as "SCPPA Participants" in Appendix B of this Agreement.
58. [Reserved.]
59. Step-Up Invoice. An invoice sent pursuant to Section 11.8.1 to a non-Defaulting SCPPA Participant as a result of one or more Payment Defaults, which invoice shall separately identify any amount owed with respect to the monthly Billing Statement of one or more Defaulting SCPPA Participants for Total Power Costs reflected in the Defaulting SCPPA Participant(s) unpaid monthly Billing Statement.
60. Supplementary Services. Those services in connection with the delivery of Energy involving additional transmission, interconnection arrangements, energy management, firming, shaping, energy balancing, dispatching, tagging, scheduling, transmitting, interconnecting, swapping, exchanging or other services associated with the transmission, use or disposition of Facility Products to be utilized by the Purchaser under this Agreement, and to otherwise provide for delivery and facilitate the disposition, movement, taking, receiving, accounting for, transferring and crediting the transfer of Facility Products from the Point of Delivery to any other points or destinations, as determined by the Purchaser. Supplementary Services include but are not limited to delivery point swaps, stranded energy/transmission curtailments, tiepoint liquidity improvement, transmission loss savings, tiepoint price spread optimization, on-peak/off-peak exchanges, peak shifting exchanges, seasonal exchanges, and both simultaneous or non-simultaneous green energy exchanges.

61. Supplementary Services Cost Component. “Supplementary Services Cost Component” is defined in Section 4.3.3.
62. Total Power Costs. “Total Power Costs” is defined in Section 4.3.
63. Test Energy. “Test Energy” shall have the definition set forth in the Power Purchase Agreement.
64. Uncontrollable Forces. Any Force Majeure event and any cause beyond the control of any Party, and which by the exercise of due diligence such Party is unable to prevent or overcome, including but not limited to, failure or refusal of any other Person to comply with then existing contracts, an act of God, fire, flood, explosion, earthquake, strike, sabotage, pestilence, an act of the public enemy (including terrorism), civil or military authority including court orders, injunctions and orders of governmental agencies with proper jurisdiction or the failure of such agencies to act, insurrection or riot, an act of the elements, failure of equipment, a failure of any governmental entity to issue a requested order, license or permit, inability of any Party or any Person engaged in work on the Project to obtain or ship materials or equipment because of the effect of similar causes on suppliers or carriers. Notwithstanding the foregoing, Uncontrollable Forces as defined herein shall also include events of Force Majeure pursuant to the Power Purchase Agreement, as defined therein.
65. WECC. The Western Electricity Coordinating Council or its successor.

APPENDIX B*

**GRACE ORCHARD SOLAR POWER PROJECT
POWER SALES AGREEMENT**

**SCHEDULE OF SCPPA PARTICIPANTS,
PARTICIPANT FACILITY PRODUCTS SHARES,
PARTICIPANT FACILITY PRODUCTS COST SHARES**

SCPPA PARTICIPANTS	PARTICIPANT FACILITY PRODUCTS SHARES		PARTICIPANT FACILITY PRODUCTS COST SHARES	
	PV SHARE	GENERAL SHARE	PV COST	GENERAL COST
City of Anaheim	58.8%	58.8%	58.8%	58.8%
City of Colton	11.8%	11.8%	11.8%	11.8%
City of Pasadena	29.4%	29.4%	29.4%	29.4%
TOTAL	100.00%	100.00%	100.00%	100.00%

* Appendix B may be revised in accordance with the provisions of Section 10.2 of this Agreement.

APPENDIX C
POWER PURCHASE AGREEMENT

EXECUTION VERSION

GRACE ORCHARD SOLAR PROJECT

**POWER SALES AGREEMENT
BETWEEN**

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

AND

CITY OF PASADENA

Dated as of September 19, 2024

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GRACE ORCHARD SOLAR PROJECT

POWER SALES AGREEMENT

1. **PARTIES.** This Grace Orchard Solar Project Power Sales Agreement (this “Agreement”) is dated for convenience as of the September 19, 2024, by and between the SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY, a joint powers agency and a public entity organized under the laws of the State of California, hereinafter designated as “SCPPA,” and the City of Pasadena, a municipal corporation organized and existing under the laws of the State of California. The City of Pasadena is also periodically designated in this Agreement as “Pasadena” or as “Purchaser,” or, depending upon the context as “SCPPA Participant.” Pasadena and SCPPA are also sometimes herein referred to individually as a “Party” and together as the “Parties.”

2. **RECITALS, CONSTRUCTION AND PRELIMINARY MATTERS.** The Recitals set forth herein and the facts, which follow, are incorporated into this Agreement by reference for all purposes. The facts and the circumstances of the Parties contained in the Recitals, among others, represent the background and framework for this Agreement, the aim and purpose of this Agreement and the intent of the Parties with respect thereto. This Agreement has been reviewed by attorneys for both Parties and shall not be interpreted with reference to the rules of construction providing for construction against a Party responsible for drafting or creating a particular provision or section but should instead be interpreted in a manner which broadly implements the goals and objectives of the Parties as expressed herein. References to “Sections,” and “Appendices,” shall be to Sections, and Appendices as the case may be, of this Agreement unless otherwise specifically provided. Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose or given any substantive effect. Any of the terms defined herein may, unless the context otherwise requires, be used in the singular or the plural, depending on the reference. The use herein of the word “include” or “including”, when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not nonlimiting language (such as “without limitation” or “but not limited to” or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term or matter. This Agreement is made with reference to the following facts among others:
 - 2.1 SCPPA was created pursuant to provisions contained in the Act, by its members, which are municipalities and an irrigation district that supply, among other things, electrical energy in the State of California, for the purpose of jointly and cooperatively undertaking the planning, financing, development, acquisition, construction, improvement, betterment, operation, and maintenance of projects for the generation or transmission of electric energy, including the development and implementation of systems and frameworks for the acquisition and delivery of secure, long-term reliable supplies of renewable electric energy.

- 2.2 Pursuant to the terms of the Act, SCPPA has the power, for the purpose of promoting, maintaining and operating electric generation and transmission, to plan, develop, contract for, finance, acquire, design, undertake, own, construct, manage, operate, maintain and administer projects involving systems, methodologies and programs for the acquisition, supply, procurement and delivery of secure, long-term reliable supplies of renewable electric energy, including solar energy products, and to cause such projects to be planned, developed, contracted for, financed, acquired, designed, undertaken, constructed, managed, operated, maintained and administered and to provide by agreement for the performance and carrying out of any such activities.
- 2.3 Purchaser is a California municipality that provides electric energy to its citizens through its municipally owned electric power system. Purchaser is one of the parties to the SCPPA Joint Powers Agreement.
- 2.4 In pursuit of potential renewable electric resources to address SCPPA member renewable energy needs, SCPPA issued a request for proposals to acquire renewable energy resources and projects with energy storage capability. As a result of the response by NextEra Energy, Inc. on behalf of its affiliate, Grace Orchard Solar III, LLC (“Power Purchase Provider”), SCPPA and three of its members, Purchaser and City of Colton and City of Anaheim, have identified and investigated the feasibility of a photovoltaic solar energy generation resource to be located in Riverside County, California. The facility known as the Grace Orchard Solar Project is to be developed by Grace Orchard Solar III, LLC.
- 2.5 SCPPA intends to enter into a Power Purchase Agreement with Grace Orchard Solar III, LLC for the purchase of electric output and related products from a solar photovoltaic facility at the Grace Orchard Solar Project (the “Project”, as further defined in Appendix A hereof).
- 2.6 Purchaser has a need for a percentage of the Facility Products and has determined to enter into this Agreement with SCPPA for the purpose of meeting such needs.
- 2.7 SCPPA is authorized to exercise the powers vested in SCPPA pursuant to the Act, its Joint Powers Agreement and this Agreement, as agent for Purchaser to fully implement Purchaser’s objectives in the Project as set forth herein.
3. **AGREEMENT.** For and in consideration of the promises and the mutual covenants and agreements hereinafter set forth, and in order to pay SCPPA for Purchaser’s share of SCPPA’s costs with respect to the Project, the Parties agree as herein set forth.
4. **DEFINITIONS.** Appendix A to this Agreement attached hereto and incorporated herein, sets forth definitions of certain terms used in this Agreement. Certain other capitalized terms used herein are defined in the Power Purchase Agreement and shall have the meaning ascribed therein. The terms defined in Appendix A, the Power Purchase Agreement and this Section 4, whether in the singular or plural, unless specifically provided otherwise, when used herein or in the Appendices hereto and initially capitalized, shall have the meaning ascribed thereto in said Appendix A, the Power Purchase Agreement or as set out below:
- 4.1 Agreement. This Agreement, as it may be amended, modified or supplemented from

time to time.

- 4.2 Effective Date. The date described in Section 16.1 hereof.
- 4.3 Total Power Costs. Total Power Costs mean all of SCPPA's costs resulting from SCPPA's contracting for, providing for, accommodating, and facilitating the Project, including costs arising under any of the Power Purchase Agreement or other Project Agreements. SCPPA shall apply, as a credit against Total Power Costs, any receipts, revenues and other moneys received by SCPPA (a) from surplus equipment, materials, supplies or assets relating to the Project sold prior to the date of Commercial Operation for the benefit of SCPPA, and (b) for such other amounts to be applied as a credit against Total Power Costs pursuant to this Agreement. Total Power Costs shall consist of (i) the Delivery Output Cost Component (described in Section 4.3.1), (ii) the Power Purchase Agreement General and Administrative Cost Component (described in Section 4.3.2), (iii) a Supplementary Services Cost Component to the extent SCPPA incurs such costs (described in Section 4.3.3), (iv) a Reserve Funds Cost Component (described in Section 4.3.4), and (v) a Power Purchase Agreement Cost Component (described in Section 4.3.5), and shall include, but not be limited to, the items of cost and expense referred to in the Power Purchase Agreement and this Section 4.3 that are accrued or paid by SCPPA during each Month of each Power Supply Year. In the event any Power Supply Year shall consist of fewer than twelve Months, the fraction set forth in Section 4.3.2 shall be adjusted accordingly and, in the event of any revision of the Annual Budget after the commencement of any Power Supply Year, the amount determined pursuant to Section 4.3.2 shall be appropriately adjusted so that any increase or decrease in the portion of the Annual Budget applicable to Section 4.3.2 shall be evenly apportioned over the remaining Months of such Power Supply Year.
- 4.3.1 The Delivery Output Cost Component of Total Power Costs for each Month shall consist of the costs paid by SCPPA to the Power Purchase Provider under the Power Purchase Agreement, as calculated in accordance with the Power Purchase Agreement.
- 4.3.2 The Power Purchase Agreement General and Administrative Cost Component of Total Power Costs for each Month shall consist of the administrative and general costs with respect to the Project, including (i) legal fees, costs relating to litigation (including disbursements and other amounts paid as a result of such litigation), insurance costs (including amounts to fund any self-insurance program), overhead costs, any taxes required to be paid by SCPPA with respect to the Project, (ii) all expenses incurred in enforcing the Power Purchase Agreement and other Project Agreements, and (iii) all costs related to the conducting of the business of SCPPA with respect to the Project, including the applicable portion of salaries, fees for legal, engineering, financial and other services, and costs of the Project Manager, as well as all other costs attributable to miscellaneous and incidental expenses in connection with the administration of the Project, and all other expenses properly related to the conduct of such affairs of SCPPA.
- 4.3.3 The Supplementary Services Cost Component of Total Power Costs for each Month shall consist of all costs incurred by SCPPA, if any, and to the extent

not included in Section 4.3.1, in connection with services for transmission, dispatching, scheduling, tagging, firming, balancing, swapping, exchanging or delivering and for otherwise facilitating the disposition, movement, taking, receiving, crediting and accounting for Facility Products provided for under this Agreement. The Supplementary Services Cost Component of the Total Power Costs shall also entail all costs incurred by SCPPA, if any, which are necessary to move or otherwise handle delivery of any portion of Facility Products from the Point of Delivery to one or more specified delivery point(s) as determined by Purchaser pursuant to Section 9.2 and by other SCPPA Participating Members pursuant to the terms of their respective power sales agreements relating to the Project. Absent a request by Purchaser for SCPPA to provide Supplementary Services during a Month, no Supplementary Services cost component shall be included in Purchaser's Total Power Costs for such Month.

4.3.4 The Reserve Funds Cost Component of Total Power Costs for each Month shall consist of the amount for such Month necessary to establish and maintain the Reserve Funds at the level deemed prudent and appropriate by the Board of Directors.

4.3.5 The Power Purchase Agreement Cost Component of Total Power Costs for each Month shall consist of: the costs, without duplication, associated with the Power Purchase Agreement, including, to the extent not otherwise included in this Section 4.3, all costs for such Month of SCPPA in connection with its enforcement of the Power Purchase Agreement or the performance required of SCPPA under the Power Purchase Agreement or any Project Agreement and shall include, without duplication, SCPPA's monthly payment of any applicable associated ancillary costs under the Power Purchase Agreement, and any costs SCPPA is required to pay for the Facility Products.

5. PURCHASE AND SALE OF FACILITY PRODUCTS AND THE OBLIGATIONS OF SCPPA AND THE PURCHASER.

5.1 Purchase and Sale of Participant Facility Products Share. In accordance with the terms and conditions of this Agreement, commencing on the earliest of (i) the date SCPPA is obligated to pay any portion of the costs of the Project, (ii) the effective date of the Power Purchase Agreement, or (iii) the date of the first delivery of Energy to Purchaser pursuant to this Agreement, and continuing through the term of this Agreement, except as otherwise provided herein, SCPPA shall provide Purchaser its Participant Facility Products Share of any and all products, rights, and benefits, whether tangible or intangible, received or obtained by SCPPA with respect to the Project, including without limitation the Facility Products, and Purchaser shall be responsible for and pay its Participant Facility Products Cost Share of any and all Total Power Costs associated with the acquisition of its Participant Facility Products Share and such associated products, rights, and benefits, as applicable, under the Power Purchase Agreement and any other applicable Project Agreement, including purchase or acquisition of any rights pursuant to the Power Purchase Agreement and any other applicable Project Agreement.

5.2 Facility Products and Deliverables. SCPPA shall provide and Purchaser shall purchase

and receive Purchaser's Participant Facility Products Share of the Facility Products pursuant to the terms of this Agreement. To the extent permitted by the Power Purchase Agreement, the applicable Project Agreements, or otherwise determined by the Board of Directors, SCPPA will endeavor to take such actions or implement such measures as may be necessary or desirable for the utilization, maintenance or preservation of the rights and interests of Purchaser in the Project including, if appropriate, such enforcement actions or other measures as the Board of Directors deems to be in the Purchaser's best interests. To the extent such services are available and can be implemented in accordance with the Power Purchase Agreement or other applicable Project Agreements, SCPPA shall also provide such other services, as approved by the Board of Directors, as may be deemed necessary to secure the benefits and/or satisfy the obligations associated with the Power Purchase Agreement or other applicable Project Agreements. SCPPA shall use its best efforts, on behalf of Purchaser, to secure the benefits of the transactions contemplated under the Power Purchase Agreement or other applicable Project Agreements including the delivery of the Facility Products, as applicable, contemplated by this Agreement, and shall endeavor to maintain and secure the rights and benefits accruing to SCPPA through the Power Purchase Agreement and the other applicable Project Agreements. Upon request, the SCPPA Participants shall provide reasonable efforts to assist the Operating Agent, Project Manager, and/or SCPPA in the performance of their respective obligations under this Agreement.

5.3 Project Manager. SCPPA or its designee or designees shall act as Project Manager as provided in this Agreement to administer the Project, or cause the Project to be administered, as provided in this Agreement or pursuant to assignments, instructions or requests by the Board of Directors, or through any project management or agency agreement, or contracts for services between SCPPA and a third party or in consultation with the Operating Agent in accordance with Section 6 of this Agreement. Prior to appointment of a Project Manager (other than SCPPA), SCPPA shall consult with the SCPPA Participant as to such appointment. The Project Manager may from time to time enter into project agreements or other agreements related to the Project as appropriate or otherwise authorized by the Board of Directors.

5.3.1 The Project Manager may establish, as needed, committees, subcommittees, or working groups to advise the Project Manager, including, but not limited to, auditing, legal, financial, engineering, mechanical, weather, diurnal, barometric, meteorological, operating, insurance, governmental relations, environmental and public information subcommittees.

5.4 Adoption of Annual Budget. The Annual Budget and any amendments to the Annual Budget shall be prepared and approved in accordance with Sections 5.4.1, 5.4.2 or 5.4.3, respectively.

5.4.1 SCPPA will prepare and submit to Purchaser a proposed Annual Budget at least sixty (60) Days prior to the beginning of each Power Supply Year. In connection with the preparation of the Annual Budget, SCPPA shall incorporate therein the Operating Budget for such Power Supply Year as prepared by the Project Manager and approved by the Board of Directors. Purchaser may then submit to SCPPA, at any time until the Annual Budget is

adopted, any matters or suggestions relating to the Annual Budget. SCPPA shall adopt the Annual Budget not less than thirty (30) nor more than sixty (60) Days prior to the beginning of such Power Supply Year and shall cause copies of such adopted Annual Budget to be delivered to the Purchaser; provided, however, the Annual Budget for the first Power Supply Year shall be prepared, considered, adopted and delivered in the most practicable manner available prior to Commercial Operation of the Facility.

5.4.2 As required from time to time during any Power Supply Year, after seven (7) Days' written notice to the Purchaser, SCPPA may, pursuant to the foregoing provisions for adopting the Annual Budget, adopt an amended Annual Budget for and applicable to such Power Supply Year for the remainder of such Power Supply Year. The Annual Budget shall establish the basis for monthly Billing Statements to be sent to each SCPPA Participant, as provided in Section 7 hereof.

5.4.3 Any adjustment, and any other or further mechanism for adjustment, as may be required to address the variability of costs of operation of the Project at any time during the Power Supply Year or the variability of or addition to any other Annual Budget component, may be incorporated into the Annual Budget as provided above, or by any amendment to an Annual Budget at any time during any Power Supply Year upon the seven (7) Days' written notice to the Purchaser as set forth in Section 5.4.2.

5.5 Reports. SCPPA will prepare and issue to Purchaser the following reports as soon as reasonably practicable after the end of each quarter of a Power Supply Year:

5.5.1 Financial and operating statement relating to the Project.

5.5.2 Variance report comparing the costs in the Annual Budget versus actual costs, and the status of other cost-related issues with respect to the Project.

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

5.7 Provide Information. Purchaser agrees to supply SCPPA, upon reasonable request during regular business hours, with such information, documentation, and certifications as SCPPA shall reasonably determine to be requisite to and necessary or desirable for the administration and ongoing activities of the Project, including information reasonably available to allow SCPPA to respond to requests for such information from any federal, state, or local regulatory body or other authority.

5.8 Consultants and Advisors Available. SCPPA shall make available to the Project Manager (if other than SCPPA) and to the SCPPA Participants all consultants and

advisors that are retained by SCPPA, and such consultants and advisors shall be authorized to consult with and advise the Project Manager and SCPPA Participants on Project matters.

- 5.9 Liquidated Damages. Any amounts paid to SCPPA as and for Daily Delay Damages, GEP Shortfall Damages, PV Capacity Damages, the Damage Payment, or any other damages owed to SCPPA by the Power Purchase Provider as provided under the Power Purchase Agreement shall be remitted to the SCPPA Participants in accordance with their respective Participant Facility Products Shares.

6. OPERATING AGENT AND PROJECT MANAGEMENT.

- 6.1 Operating Agent. The City of Anaheim shall act as operating agent (“Operating Agent”) as provided in this Agreement to assist the Project Manager in the administration of the Project, as provided in this Agreement or pursuant to assignments, instructions, or requests by the Board of Directors.
- 6.2 Operating Agent Responsibilities. The Operating Agent shall have the following responsibilities:
- 6.2.1 Provide liaison between SCPPA and the SCPPA Participants at the management or other levels with respect to the ongoing administration of the Project and maintain a liaison between the SCPPA Participants and all other SCPPA members with respect to the Project, and where SCPPA deems it appropriate, maintain a liaison with the counterparties to any Project Agreements and with any other entities or utilities engaged in or in connection with the Project.
 - 6.2.2 In consultation with SCPPA and the SCPPA Participants, review, develop, and discuss budgets and revisions thereof prepared and submitted by SCPPA or the Project Manager.
 - 6.2.3 In consultation with SCPPA and the SCPPA Participants, review, develop, and discuss any systems or procedures for adjustment of the Annual Budget or any alternative methodologies for budgeting or billing as set forth in Section 5 and Section 7 of this Agreement.
 - 6.2.4 In consultation with SCPPA and the SCPPA Participants, review, discuss and attempt to resolve any disputes among the SCPPA Participants or the parties to any Project Agreements including, without limitation, the Power Purchase Provider, the counterparty under the Power Purchase Agreement or any other counterparty with respect to any Project Agreement.
 - 6.2.5 Make recommendations to SCPPA with respect to the ongoing administration of the Project.
 - 6.2.6 In consultation with SCPPA and the SCPPA Participants, review, develop, and if appropriate, modify and approve rules, procedures, and protocols for the administration of the Project or Project Agreements, including rules,

procedures, and protocols for the management of the costs of the scheduling, handling, tagging, dispatching, and crediting of Facility Products and the handling and crediting of Environmental Attributes associated with the Project.

- 6.2.7 In consultation with SCPPA and the SCPPA Participants, review, and, if appropriate, modify, approve or otherwise act upon the form or content of any written statistical, administrative, or operational reports, solar energy related data, electric generation information, solar energy production data, technical information, facility reliability data, transmission information, forecasting, scheduling, dispatching, tagging, parking, exchanging, balancing, movement, or other delivery information, climate and weather related matters, regulatory matters or requirements, and other information and other similar records or matters pertaining to the Project which are furnished to the Project Manager, or by the counterparties to Project Agreements, experts, consultants or others.
- 6.2.8 In consultation with SCPPA and the SCPPA Participants and pursuant to any scheduling coordinator agreement, review, and, if appropriate, modify, approve, or otherwise act upon, practices and procedures as formulated by the Project Manager or, if applicable, the counterparty to any Project Agreement, to be followed by the SCPPA Participants for, among other things, the production, scheduling, tagging, transmission, delivery, balancing, exchanging, crediting, tracking, monitoring, remarketing, sale or disposition of Facility Products. For avoidance of doubt, upon SCPPA's delivery and sale of Facility Products to Purchaser at the Point of Delivery, Purchaser shall have full unilateral rights to remarket, sell or otherwise dispose of such Facility Products.
- 6.2.9 In consultation with SCPPA and the SCPPA Participants, review, modify and approve, if appropriate, any activities with respect to the performance of any Project Agreement, including policies for selection and utilization of contractors and consultants included in the budgets with respect to the Project. In approving such activities, consideration may be given, if possible, to each SCPPA Participant's electric power system conditions, which may prevail during such planned activities.
- 6.2.10 In consultation with SCPPA and the SCPPA Participants, review, and, if appropriate, recommend, modify, approve or otherwise act with respect to the exercise of SCPPA's rights under the Power Purchase Agreement or review, recommend, approve or otherwise act with respect to the procurement of resources in connection with the Power Purchase Agreement.
- 6.2.11 In consultation with SCPPA and the SCPPA Participants, review, modify, approve or otherwise act upon any proposed change, extension or modification of any date set forth in Appendix I of the Power Purchase Agreement of the milestone schedule or to any Milestone under the Power Purchase Agreement as the Project Manager shall deem to be desirable, appropriate or otherwise in SCPPA's interest. The Project Manager may impose such other terms, conditions or qualifications upon any such action as the Project Manager shall deem appropriate.

- 6.2.12 In consultation with SCPPA and SCPPA Participants, review and act upon any present, potential or possible future anticipated failure of Power Purchase Provider to deliver Guaranteed Generation (as defined in the Power Purchase Agreement) in such manner as the Project Manager shall deem appropriate.
- 6.2.13 In consultation with SCPPA and the SCPPA Participants, review, and if appropriate, recommend, modify or approve practices and procedures formulated by the Project Manager, or by any counterparty to any Project Agreements giving due recognition to the needs, rights and electric system requirements and capabilities of all SCPPA Participants.
- 6.2.14 In consultation with SCPPA and the SCPPA Participants, review and act upon any matters involving any of the Power Purchase Agreement, any guarantee or letter of credit delivered to or for the benefit of SCPPA by the Power Purchase Provider or any other counterparty to any Project Agreement in connection with the Project, and take such actions or make such recommendations as may be appropriate or desirable in connection therewith.
- 6.2.15 In consultation with SCPPA and the SCPPA Participants, review, modify or approve recommendations of the counterparties made pursuant to the provisions of any Project Agreement.
- 6.2.16 In consultation with SCPPA and the SCPPA Participants, review, modify and where appropriate, recommend or approve the implementation of metering technologies and methodologies appropriate for the delivery, accounting for, transferring and crediting of the Facility Products to the Point of Delivery or to other points or destinations, as applicable.
- 6.2.17 In consultation with SCPPA and the SCPPA Participants, review, modify and where appropriate, recommend approval of Consent Agreements.
- 6.2.18 In consultation with SCPPA and the SCPPA Participants, review, examine modify and where appropriate, recommend or approve the implementation of methods for addressing curtailments or other interruptions tending to cause deemed generated energy.
- 6.2.19 In consultation with SCPPA and the SCPPA Participants, review, modify and where appropriate, recommend the implementation of practices and procedures to implement the provisions of Section 9 herein, as may be applicable with respect to any of the SCPPA Participants.
- 6.2.20 In consultation with SCPPA and the SCPPA Participants, review and provide SCPPA with comments on adjustments to the Participant Facility Products Shares and the Participant Facility Products Cost Shares set forth in Appendix B of this Agreement when and as required by this Agreement; provided, that such resolution shall require the affirmative vote of the Board of Directors if such adjustment would change its Participant Facility Products Share and its Participant Facility Products Cost Share.

- 6.2.21 Track the Operating Agent's reasonable costs performing its responsibilities under this Agreement, and, in consultation with the SCPPA Participants and approval by SCPPA, seek and receive cost recovery from the SCPPA Participants in proportion to the Participant Facility Products Cost Share.
- 6.2.22 In consultation with SCPPA and the SCPPA Participants, perform such other functions and duties as may be provided for under this Agreement, the Power Purchase Agreement, or any other applicable Project Agreement or as may otherwise be appropriate or beneficial to the Project. Upon request, the SCPPA Participants shall provide reasonable efforts to assist the Operating Agent, the Project Manager, and/or SCPPA in the performance of their respective obligations of the Agreement.
- 6.3 Management Decisions and the Role of Board of Directors. To the extent not provided for under this Agreement, the rights and obligations of SCPPA under the Project Agreements shall be subject to the ultimate control at all times of the Board of Directors. Purchaser shall be entitled to participate in the decisions of the Board of Directors with respect to SCPPA's rights and interests with respect to the Project as provided in this Section 6.3, provided that Purchaser shall disqualify its right to participate upon assuming the status of a Defaulting Purchaser as provided in Section 11 of this Agreement. SCPPA, through the Board of Directors shall have, in addition to the duties and responsibilities set forth elsewhere in this Agreement, the following duties and responsibilities, among others:
- 6.3.1 Dispute Resolution. The Board of Directors shall endeavor to review, discuss and attempt to resolve any disputes among SCPPA, the SCPPA Participants, the Operating Agent, and the counterparties under the Project Agreements relating to the Project, the operation and management of the Facility, and SCPPA's rights and interests with respect to the Facility.
- 6.3.2 Scheduling Procedures. When recommended by the Project Manager, or when otherwise appropriate, the Board of Directors shall act upon and approve or modify the practices and procedures to be followed by the SCPPA Participants for scheduling, delivering, controlling and allocating the Facility Products.
- 6.3.3 Project Agreements. The Board of Directors shall have the authority to approve the Project Agreements, including agreements for scheduling coordinator services, if any, and to review, modify, and approve, as appropriate, all amendments, modifications and supplements to the Project Agreements.
- 6.3.4 Budgeting. The Board of Directors shall review, modify, and approve each Annual Budget and the revisions thereto in accordance with Section 5.4 of this Agreement.
- 6.3.5 Application of Certain Payments Under the Power Purchase Agreement. The Board of Directors shall review, modify, and approve recommendations of the Project Manager as to the application of any payments or amounts received by SCPPA from any source or as a result of a Default by the Power Purchase

Provider under the Power Purchase Agreement or other non-compliance with the Power Purchase Agreement as provided therein; provided that such payments and amounts shall be applied to one or more of the purposes set forth in Section 4.3 to the credit of Purchaser and the other SCPPA Participants in proportion to their respective Participant Facility Products Cost Share.

6.3.6 Other Matters. The Board of Directors is authorized to perform such other functions and duties, including oversight of those matters and responsibilities addressed by the Project Manager, as may be provided for under this Agreement and under the other Project Agreements, or as may otherwise be appropriate.

6.3.7 Voting. Unless the Board of Directors shall otherwise determine to require a majority vote pursuant to the terms of the Joint Powers Agreement, all actions with respect to the Project taken by the SCPPA Board of Directors shall require an affirmative vote of at least eighty percent (80%) of the Project Votes (as defined in SCPPA's Joint Powers Agreement, dated as of November 1, 1980, as amended from time to time) cast thereon.

6.4 Periodic Audits. The Board of Directors or SCPPA may arrange for the annual audit under Section 5.6 of this Agreement by certified accountants, selected by SCPPA and experienced in electric generation or electric utility accounting, of the books and accounting records of SCPPA, the Operating Agent (pertaining to the Operating Agent's activities under this Agreement and the associated cost recovery), and where deemed appropriate the Project Manager (if other than SCPPA), the Power Purchase Provider (to the extent provided under the Power Purchase Agreement) and any other counterparty under any Project Agreement to the extent allowable, and any cost reimbursable to a consultant or contractor relevant to the administration of the Project, and such audit shall be completed and submitted to SCPPA as soon as reasonably practicable after the close of the Fiscal Year. SCPPA shall promptly furnish to Purchaser copies of all audits. No more frequently than once every calendar year, the Purchaser may, at its sole cost and expense, audit or cause to be audited the books and cost records of SCPPA, the Project Manager (if other than SCPPA), the counterparty under any Project Agreement to the extent so provided in the applicable Project Agreement, and any cost reimbursable to a consultant or contractor relevant to the administration of the Project.

6.5 [Reserved.]

6.6 Costs of Consultants. Costs (or the applicable portion thereof) of consultants and others employed or appointed by the Board of Directors or SCPPA to perform the duties required hereunder shall be included in Total Power Costs, as appropriate, and shall be billed to SCPPA or the Project Manager (if other than SCPPA).

6.7 [Reserved.]

7. CHARGES AND BILLINGS.

7.1 Monthly Costs. The amount of monthly costs which shall be paid by Purchaser to

SCPPA for a particular Month (“Monthly Costs”) shall be the sum of the following, as applicable, subject to any adjustments as provided in Section 12 hereof:

- 7.1.1 Purchaser’s Participant Facility Products Cost Share multiplied by the Delivery Output Cost Component of Total Power Costs (as provided in Section 4.3.1) for such Month.
- 7.1.2 Purchaser’s Participant Facility Products Cost Share multiplied by the Power Purchase Agreement General and Administrative Cost Component of Total Power Costs (as provided in Section 4.3.2 hereof) for such Month.
- 7.1.3 Purchaser’s share of the Supplementary Services Cost Component of Total Power Costs (as provided in Section 4.3.3 hereof) based on Purchaser’s allocated share of any such services procured by SCPPA on behalf of the Purchaser for such Month.
- 7.1.4 Purchaser’s Participant Facility Products Cost Share multiplied by the Reserve Funds Cost Component of Total Power Costs (as provided in Section 4.3.4 hereof) for such Month.
- 7.1.5 Purchaser’s Participant Facility Products Cost Share multiplied by the Power Purchase Agreement Cost Component of Total Power Costs (as provided in Section 4.3.5 hereof) for such Month.

7.2 Billing Statement. By the fifth Day of each Month during each Power Supply Year, SCPPA shall bill Purchaser for the amount of Monthly Costs to be paid by Purchaser for the current Month by providing Purchaser with a Billing Statement in accordance with the charges established pursuant to the provisions of this Agreement; provided, however, that such Billing Statement, with respect to the cost of Facility Products provided by SCPPA to Purchaser under this Agreement, shall also include with respect to the performance by SCPPA or the counterparty under and pursuant to applicable Project Agreements, any charge or credit to Purchaser with respect to the costs or revenues attributable to Purchaser pursuant to and under any applicable Project Agreement. Purchaser consents to the timely payment of the respective Participant Facility Products Costs Share of the Operating Agent’s reasonable costs as determined and provided in accordance with Section 6.2.21. Such Billing Statement shall detail the costs described in Section 7.1 hereof and shall set forth, among other things, the amounts due for such Month by Purchaser with respect to the items of Monthly Costs set forth in Section 7.1, as such Monthly Costs may be adjusted from time to time in accordance with Section 5 and this Section 7. Such Billing Statement shall be paid by Purchaser on or before twenty (20) Days after receipt of such Billing Statement.

7.3 Adoption of Alternative Billing Statement Procedures. The Project Manager may recommend the adoption of an alternative Billing Statement billing methodology in connection with each SCPPA Participant’s Billing Statement with respect to the Total Power Costs and the costs associated with any Project Agreement. Such alternative Billing Statement procedures may be placed into effect with the approval of the same by resolution of the Board of Directors. Any such alternative Billing Statement billing methodology shall be fiscally prudent, financially sound and shall assure coverage of

all potential and actual costs and obligations of SCPPA.

- 7.4 Disputed Monthly Billing Statement. In case any portion of any Billing Statement received by Purchaser from SCPPA shall be in bona fide dispute, Purchaser shall pay SCPPA the full amount of such Billing Statement and, upon determination of the correct amount, the difference between such correct amount and such full amount, if any, including interest at the rate received by SCPPA on any overpayment, will be credited to Purchaser by SCPPA after such determination; provided, however, that such interest shall not accrue on any overpayment that is acknowledged by SCPPA and returned to Purchaser by the fifth Day following the receipt by SCPPA of the disputed overpayment. In the event such Billing Statement is in dispute, SCPPA will give consideration to such dispute and will advise Purchaser with regard to SCPPA's position relative thereto within thirty (30) Days following receipt of written notification by Purchaser of such dispute.
- 7.5 Reconciliation of Monthly Costs. As soon as practicable after the end of each Power Supply Year, or more frequently if so determined by the Board of Directors, SCPPA will submit to Purchaser and each of the other SCPPA Participants a detailed statement of the actual aggregate Monthly Costs and other amounts payable hereunder, including any credits thereto, for all of the Months of such Power Supply Year, and the adjustments of the aggregate Monthly Costs and other amounts payable hereunder, if any, for any prior Power Supply Year, based on the annual audit of accounts provided for in Section 5.6. If, on the basis of the statement submitted as provided in this Section 7.5, the actual aggregate Monthly Costs and other amounts payable by the Purchaser for any Power Supply Year exceed the amount thereof which Purchaser has been billed, Purchaser shall pay SCPPA, within twenty (20) Days after receipt of SCPPA's invoice, the amount to which SCPPA is entitled. If, on the basis of the statement submitted pursuant to this Section 7.5, the actual aggregate Monthly Costs or other amounts payable by the Purchaser for any Power Supply Year are less than the amount therefor which Purchaser has been billed, SCPPA shall, unless otherwise directed by Purchaser with respect to moneys owed to it, credit such excess against Purchaser's next monthly Billing Statement.
- 7.6 Other or Additional Cost Reconciliation Mechanisms. The Board of Directors may, by resolution, authorize or prescribe other billing, payment, costing and cost reconciliation mechanisms to address such billing, payment, costing and cost reconciliation issues as may from time to time arise with respect to the Project.
- 7.7 Prepayment of Monthly Costs. Purchaser may, at any time, pay moneys to SCPPA or utilize any credits due or amounts owed by SCPPA to Purchaser with respect to the Project for the purpose of prepaying its monthly Billing Statement. Such moneys and amounts owed by SCPPA under any Project Agreement shall be deposited into an account established by, or at the direction of, SCPPA. Consistent with SCPPA's investment policy, moneys in such account shall be invested pursuant to instructions provided to SCPPA by Purchaser and all investment income shall be credited to such account. Payment of the amount of any monthly Billing Statement or Default Invoice shall be made from moneys available in such account to the extent set forth in written directions from Purchaser to SCPPA received at least five business days prior to the due date of such payment. Any credit or prepayment with respect to its monthly Billing

Statement shall not relieve or reduce Purchaser's other obligations under this Agreement.

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

- 8.1 Unconditional Payment Obligation. Beginning with the earliest of (i) the date SCPPA incurs or becomes obligated to pay any portion of the costs of the Project, (ii) the effective date of any Project, or (iii) the date of the first delivery of Facility Products to Purchaser and continuing through the term of this Agreement, Purchaser shall pay SCPPA the amounts of Monthly Costs set forth in the Billing Statements submitted by or on behalf of SCPPA to Purchaser in accordance with the provisions of Section 7 hereof and, without duplication, any amount set forth in any Default Invoice received by Purchaser as a result of the operation of Section 11 hereof, whether or not this Agreement has been terminated, or the Project or any part thereof has been completed, is functioning, producing, operating or operable or its output is suspended, interrupted, interfered with, reduced or curtailed or terminated in whole or in part, and such payments shall not be subject to reduction whether by offset or otherwise and shall not be conditional upon the performance or nonperformance by any party of any agreement for any cause whatsoever.
- 8.2 Source of Payments. Purchaser hereby represents and warrants that the obligations of Purchaser to make the payments to SCPPA under this Agreement shall constitute a cost of purchased power and an operating expense of Purchaser payable solely from its electric power revenue fund, including any and all legally available electric power system reserves. Purchaser will annually in each and every fiscal year of Purchaser during the term of this Agreement include in its electric power system budget, whether or not any other items are included, an appropriation from the revenues of its electric power system (including moneys derived from sales to third parties) sufficient to satisfy all the payments required to be made in such year under this Agreement until all payments required under this Agreement have been paid in full.
- 8.3 Rate Covenant. Purchaser will establish, maintain and collect rates and charges for the electric power service of its electric power system each year so as to provide revenues sufficient, together with any legally available electric power system reserves, to enable Purchaser to pay to SCPPA all amounts payable when due under this Agreement and to pay all other amounts payable from, and all lawful charges against or liens on, the revenues of its electric power system.
- 8.4 Authorizations. Purchaser hereby represents and warrants that no order, approval, consent or authorization of any governmental or public agency, authority or person, is required on the part of Purchaser for the execution and delivery by the Purchaser of this Agreement, or the performance by Purchaser of its obligations under this Agreement except for such as have been obtained.
- 8.5 Conflicts. Purchaser represents and warrants to SCPPA as of the Effective Date that, to Purchaser's knowledge, the execution and delivery of this Agreement by Purchaser, and Purchaser's performance thereunder, will not constitute a default under any agreement or instrument to which it is a party, or any order, judgment, decree or ruling

of any court that is binding on Purchaser, or a violation of any applicable law of any governmental authority, which default or violation would have a material adverse effect on the financial condition of Purchaser's electric power revenue fund.

8.6 Litigation. Purchaser represents and warrants to SCPPA as of the Effective Date that, to Purchaser's knowledge, except as disclosed, there are no actions, suits or proceedings pending against Purchaser (service of process on Purchaser having been made) in any court that questions the validity of the authorization, execution or delivery by Purchaser of this Agreement, or the enforceability as to Purchaser of this Agreement.

9. OTHER TERMS AND SERVICES.

9.1 Delivery Procedures. Prior to the time at which any Energy is to be delivered to Purchaser from the Facility, to the extent applicable, Purchaser shall schedule and be obligated to take delivery of Energy to be delivered under this Agreement. The Facility Products generated and produced from the Project shall be scheduled and delivered at the Point of Delivery under the practices and procedures approved pursuant to Section 6.2, as applicable, all in accordance with the Power Purchase Agreement.

9.2 Other Services and Transmission From Point of Delivery. It is the obligation of Purchaser to receive its Participant Facility Products Share from SCPPA all in accordance with the Power Purchase Agreement. However, to the extent specified by Purchaser, and to the extent practicable for SCPPA to do so, SCPPA shall assist in arranging for Supplementary Services and for such additional transmission, interconnection arrangements, energy management, firming, shaping, swaps, exchanges or other services associated with the transmission, use or disposition of Facility Products to be utilized by the Purchaser and to provide for delivery, accounting for, transferring and crediting the ownership and transfer of such Facility Products from the Point of Delivery to any other points or destinations, as determined by the Purchaser.

9.3 Energy Services. Except as otherwise provided in this Agreement, nothing herein shall prevent or restrict Purchaser from providing for its own transmission, energy management services, firming, balancing, or exchanging services or otherwise using or dispatching its Energy under this Agreement; provided, however, that such services, use or activities shall not affect any of the obligations of Purchaser under this Agreement.

9.4 [Reserved.]

9.5 [Reserved.]

9.6 Transfer of Environmental Attributes to Purchaser. SCPPA shall transfer all Environmental Attributes received by SCPPA under the Power Purchase Agreement to each Purchaser based upon the Participant Facility Products Share of such SCPPA Participant in the same manner by which SCPPA receives Environmental Attributes.

10. PROJECT SPECIFIC MATTERS AND PURCHASER RIGHTS AND OBLIGATIONS.

UNDER PROJECT AGREEMENTS.

- 10.1 Rights and Obligations under the Project Agreements. Notwithstanding anything to the contrary contained herein: (i) the obligation of SCPPA to deliver to Purchaser its Participant Facility Products Share during the term of this Agreement is limited to the Facility Products which SCPPA receives from the Power Purchase Provider for redelivery to Purchaser hereunder during such time; (ii) the obligation of SCPPA to pay any amount to Purchaser hereunder or to give credits against amounts due from Purchaser hereunder is limited to amounts SCPPA receives in connection with the transaction to which the payment or credit relates (or is otherwise available to SCPPA in connection with this Agreement for which such payment or credit relates); (iii) any purchase costs, operating costs, energy costs, capacity costs, environmental attribute costs, transmission costs, tax costs, insurance costs, indemnifications, other costs or other charges for which SCPPA is responsible under the Project Agreements shall be considered purchase costs, operating costs, energy costs, capacity costs, environmental attribute costs, transmission costs, tax costs, insurance costs, indemnifications, other costs or other charges incurred by SCPPA and payable by Purchaser as provided in this Agreement; and (iv) any Force Majeure under the Power Purchase Agreement or other event of force majeure affecting the delivery of Energy pursuant to applicable provisions of the Project Agreements shall be considered an event caused by Uncontrollable Forces affecting SCPPA with respect to the delivery of Facility Products hereunder, and SCPPA forwarding to Purchaser notices and information from the Power Purchase Provider concerning an event of Force Majeure upon receipt thereof shall be sufficient to constitute a notice that Uncontrollable Forces have occurred pursuant to Section 12.2 of this Agreement. Any net proceeds received by SCPPA from the sale of Guaranteed Delivered Energy by the Power Purchase Provider to any third-party purchaser as a result of a Force Majeure event or failure by SCPPA to accept delivery of Energy pursuant to the Power Purchase Agreement and any reimbursement received by SCPPA for purchase of Replacement Product shall be remitted by SCPPA to Purchaser in accordance with its Participant Facility Products Cost Share.
- 10.2 Revision of Appendix B. The Parties agree that adjustments of the Participant Facility Products Shares and Participant Facility Products Cost Shares in Appendix B in compliance with this Agreement shall be made and treated as an element of administration and not an amendment of this Agreement. The revised Appendix B shall become Appendix B to this Agreement in replacement of the prior Appendix B hereof.

11. NONPERFORMANCE AND PAYMENT DEFAULT.

- 11.1 Nonperformance by Purchaser. If Purchaser shall fail to perform any covenant, agreement or obligation under this Agreement or shall cause SCPPA to be in default with respect to any undertaking entered into for the Project or to be in default under the Power Purchase Agreement, or any other Project Agreement, as applicable, or cause a default to occur pursuant to such agreements, SCPPA may, in the event the performance of any such obligation remains unsatisfied after thirty (30) Days' prior written notice thereof to the Purchaser and a demand to so perform, take any action permitted by law to enforce its rights under this Agreement, including but not limited

to termination of this Agreement, and/or (unless SCPPA has already taken action pursuant to the immediately following sentence) bring any suit, action or proceeding at law or in equity as may be necessary or appropriate to recover damages and/or enforce any covenant, agreement or obligation against the Purchaser with regard to its failure to so perform.

- 11.2 Notice of Payment Default. In the event of a Payment Default by Purchaser, on or promptly following the Initial Payment Default Date SCPPA shall issue a Default Invoice and shall provide written notice to Purchaser that as a result of a Payment Default, it is in default under this Agreement and has assumed the status of a Defaulting Purchaser and that Purchaser's Project Rights are subject to discontinuance, termination and disposal in accordance with Sections 11.4 and 11.5 of this Agreement. Notice of such Payment Default shall be provided promptly by SCPPA to the other SCPPA Participants. In addition to the foregoing, the notice of Payment Default shall specify that five (5) Days after the issuance of the written notice of Payment Default by SCPPA, deliveries of Facility Products to Purchaser pursuant to this Agreement shall be thereafter suspended until such time as Purchaser is in Compliance. SCPPA may take any action through or in conjunction with the Power Purchase Provider or any other counterparty under a Project Agreement or with the Project Manager, if applicable, to expeditiously implement the provisions of this Section 11.
- 11.3 Cured Payment Default. If after a Payment Default Purchaser cures such Payment Default within the Cure Period, its Project Rights shall not be subject to discontinuance, termination or disposal as provided for in Sections 11.4 and 11.5 of this Agreement as a result of any Payment Default associated with such Cured Payment Default.
- 11.4 Failure to Cure Payment Default. If, at any time after expiration of the Cure Period Purchaser fails to be in Compliance due to its failure to cure its Payment Default in a timely manner in accordance with this Agreement, Purchaser's Project Rights shall immediately be discontinued and terminated and its Project Rights and Obligations shall be disposed of by SCPPA in accordance with Section 11.5 of this Agreement; provided, however, the Defaulting Purchaser's obligation to make payments under this Agreement shall not be eliminated or reduced except to the extent provided in Section 11.5. SCPPA shall provide to the Defaulting Purchaser a separate monthly invoice of any such payment obligations under this Agreement. SCPPA shall immediately notify the Project Manager (if other than SCPPA), the other SCPPA Participants and such others as SCPPA deems appropriate, of such discontinuance and termination of the Defaulting Purchaser's Project Rights.
- 11.5 Treatment of the Defaulting Purchaser's Project Rights and Obligations upon its Payment Default. In the event Defaulting Purchaser's Project Rights are discontinued and terminated pursuant to Section 11.4 of this Agreement, SCPPA shall undertake or cause to be undertaken the following actions in the order indicated:
- 11.5.1 SCPPA shall, to the extent permitted under the Project Agreements, offer to convey, transfer and assign to all non-Defaulting SCPPA Participants, on a temporary or permanent basis as determined by SCPPA, the Project Rights and Obligations of the Defaulting Purchaser, and SCPPA shall so convey, transfer and assign on such basis so determined by SCPPA to (i) all requesting non-

Defaulting SCPPA Participants the amount of Project Rights and Obligations requested if the aggregate of such requests does not exceed the amount of the Project Rights and Obligations of the Defaulting Purchaser, or (ii) all requesting non-Defaulting SCPPA Participants on a pro-rata basis (based upon the amount requested) if the aggregate of such requests exceeds the amount of the Project Rights and Obligations of the Defaulting Purchaser. Each such requesting non-Defaulting Participant shall assume all, but not less than all, Project Rights and Obligations so conveyed, transferred and assigned to it by SCPPA.

- 11.5.2 If one hundred percent (100%) of Defaulting Purchaser's Project Rights and Obligations are not conveyed, transferred and assigned to non-Defaulting SCPPA Participants as provided in Section 11.5.1 of this Agreement, SCPPA shall, to the extent permitted under the Project Agreements and to the extent SCPPA in its discretion determines it appropriate, offer to convey, transfer and assign, on a temporary or permanent basis as determined by SCPPA, the remainder (or, all, if applicable) of Defaulting Purchaser's Project Rights and Obligations to third parties, all in accordance with applicable law. Each such requesting third party shall assume all, but not less than all, Project Rights and Obligations so conveyed, transferred and assigned to it by SCPPA. If such third party is a SCPPA Member but not a SCPPA Participant as defined herein, such SCPPA Member, upon accepting such conveyance, transfer and assignment on a permanent basis, shall be deemed a SCPPA Participant.
- 11.5.3 If, at any time or from time to time, any of the Project Rights and Obligations of the Defaulting Purchaser are not conveyed, transferred and assigned as provided in Sections 11.5.1 or 11.5.2 of this Agreement, SCPPA shall use its best efforts, to the extent reasonably possible and economically beneficial, to offer all non-Defaulting SCPPA Participants and third parties, for long-term or short-term sale as determined by SCPPA, Facility Products associated with such Project Rights and Obligations or to remarket or resell such Facility Products, or cause the same to be remarketed or resold; provided, however, that without eliminating Defaulting Purchaser's obligation to make payments under this Agreement (notwithstanding anything to the contrary in this Agreement), including payment of SCPPA's costs and expenses related to such default and sale, such payment obligation shall be offset, mitigated and satisfied to the extent that payments are received by SCPPA from the remarketing or sale of Facility Products associated with Defaulting Purchaser's Project Rights.
- 11.5.4 If any of Defaulting Purchaser's Project Rights and Obligations are not conveyed, transferred and assigned as provided in Sections 11.5.1 or 11.5.2, the associated voting rights with respect to Defaulting Purchaser's Project Rights and Obligations shall be redistributed pro rata among the non-Defaulting SCPPA Participants, based upon the Participant Facility Products Share of such SCPPA Participant, so that the total voting rights remain at one hundred percent (100%).
- 11.5.5 Upon the termination, conveyance, transfer or assignment of a Defaulting Purchaser's Project Rights and Obligations pursuant to Section 11.4 and this

Section 11.5, SCPPA shall make any necessary adjustments to the Participant Facility Products Shares set forth in Appendix B and give written notice thereof to the non-Defaulting SCPPA Participants.

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

11.6 Elimination or Reduction of Payment Obligations. Upon termination of Defaulting Purchaser's Project Rights pursuant to Section 11.4 and conveyance, transfer or assignment of Defaulting Purchaser's Project Rights and Obligations pursuant to Sections 11.5.1 or 11.5.2, Defaulting Purchaser's obligation to make payments under this Agreement (notwithstanding anything to the contrary in this Agreement) shall not be eliminated or reduced except to the extent of moneys received by SCPPA as a result of the conveyance, transfer and assignment of Defaulting Purchaser's Project Rights and Obligations, less SCPPA's related costs and expenses.

11.7 Use of Reserve Funds. With respect to a Payment Default by Purchaser, funds in the Reserve Funds may be used, to the extent necessary and to the extent available, to cover any deficiency with respect to any payment due by SCPPA attributable to Purchaser's participation in the Project.

11.8 Step-Up Invoices. Step-Up Invoices shall be issued in accordance with the provisions set forth below.

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

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

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

manner.

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

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

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

11.11 Application of Moneys Received from Compliance Payments. Moneys received by or on behalf of SCPPA from a Defaulting SCPPA Participant that makes payments to remain in Compliance with respect to a Payment Default, associated with a Defaulting SCPPA Participant's payments to remain in Compliance, shall be credited on each non-Defaulting SCPPA Participant's next monthly Billing Statement(s) in an amount equal to the aggregate amount such non-Defaulting SCPPA Participant paid as a result of Step-Up Invoices with respect to such Compliance payment, plus a pro rata share, based upon the Participant Facility Products Cost Shares of the non-Defaulting SCPPA Participants, of the amount SCPPA received regarding late payment interest charges.

11.12 Application of Moneys Received from Sale of Facility Products. Moneys received by or on behalf of SCPPA from the sale of Facility Products related to a Defaulting SCPPA Participant's Project Rights and Obligations, as provided in Section 11.5.3 hereof, shall be applied in the following manner in order:

11.12.1 SCPPA shall credit on each non-Defaulting SCPPA Participant's next monthly Billing Statement(s) an amount up to, but not in excess of, the aggregate amount paid to SCPPA by such non-Defaulting SCPPA Participant with respect to each such non-Defaulting SCPPA Participant's Step-Up Invoices.

11.12.2 Following consultation with the non-Defaulting SCPPA Participants, SCPPA shall determine the disposition of any moneys received that are in excess of the aggregate amount of related Step-Up Invoices paid by non-Defaulting SCPPA Participants. Unless otherwise required by law, the Defaulting SCPPA Participant shall have no claim or right to any such monies.

11.13 Purchaser shall be responsible for Purchaser's Participant Facility Products Share of all claims, demands, liabilities, obligations, losses, damages (whether direct, indirect or consequential), penalties, actions, loss of profits, judgments, orders, suits, costs, expenses (including attorneys' fees and expenses) or disbursements of any kind or nature whatsoever in law, equity or otherwise incurred or owed by SCPPA under the Power Purchase Agreement, including any termination payment incurred or owed by SCPPA to Power Purchase Provider thereunder.

12. CHARACTER, CONTINUITY OF SERVICE.

12.1 Outages, Interruptions and Curtailment of Energy Deliveries. The Power Purchase Provider, or other counterparty, may under certain conditions set forth in the applicable provisions of a Project Agreement or other applicable operating agreement, interrupt or curtail deliveries of Facility Products to SCPPA which SCPPA was to deliver to Purchaser. Should such an interruption or curtailment occur, Purchaser shall be credited with such revenues as are credited or paid to SCPPA on Purchaser's behalf in accordance with Purchaser's Participant Facility Products Share and shall be obligated to pay any costs incurred by SCPPA in accordance with Purchaser's Participant Facility Products Cost Share which are payable by SCPPA pursuant to the Power Purchase Agreement or any other applicable Project Agreement. SCPPA or the Project Manager (if other than SCPPA) or SCPPA's agent will use its best efforts to apprise Purchaser of potential outages, interruptions or curtailments, the reason therefor and the probable duration thereof, when such outages, interruptions or curtailments can be deemed likely to occur.

12.2 Uncontrollable Forces. SCPPA shall not be required to provide, and SCPPA shall not be liable for failure to provide, Facility Products or other service under this Agreement when such failure or the cessation or curtailment of or interference with the service is caused by Uncontrollable Forces or the terms of the Agreement or by the inability of the Power Purchase Provider or other applicable counterparty to obtain any required governmental permits, licenses or approvals to enable the Power Purchase Provider to acquire, administer or operate the Project; provided, however, that Purchaser shall not thereby be relieved of its obligations to make payments under this Agreement except to the extent SCPPA is so relieved pursuant to the Project Agreements.

13. [RESERVED.]

14. LIABILITY.

14.1 Participants' Obligations Several. Except as otherwise provided in Section 11 of this Agreement, Purchaser and each of the other SCPPA Participants shall be solely responsible and liable for performance under its respective Power Sales Agreement. The obligation of Purchaser to make payments under this Agreement is a several obligation and not a joint obligation with those of the other SCPPA Participants under the other Power Sales Agreements to which such SCPPA Participants are parties.

14.2 No Liability of SCPPA, Directors, Officers, Etc. Each Party agrees that neither Party nor any of its past, present, future directors, officers, employees, board members, agents, attorneys or advisors and shall be liable to the other Party for loss of profits or

direct or consequential loss or damage suffered by a released Party as a result of the performance or non-performance (excluding gross negligence or willful misconduct which, unless otherwise agreed to by the Parties, are both to be determined and established by a court of competent jurisdiction in a final, non-appealable order) of a releasing Party or any of its directors, officers, employees or agents under this Agreement. To the fullest extent permitted by law, Purchaser releases SCPPA and its directors, officers, employees and agents from any claim or liability (whether negligent or otherwise) as a result of any actions or inactions of SCPPA under this Agreement. No such performance or non-performance by SCPPA shall relieve Purchaser from its obligations under this Agreement, including its obligation to make payments required under this Agreement, and such undisputed payments shall not be subject to any reduction, whether by offset, counterclaim or otherwise. The provisions of this Section 14.2 shall not be construed so as to relieve SCPPA from any obligation under this Agreement.

- 14.3 Extent of Exculpation; Enforcement of Rights. The exculpation provision set forth in Section 14.2 hereof shall apply to all types of claims or actions including, but not limited to, claims or actions based on contract or tort. Notwithstanding the foregoing, either Party may protect and enforce its rights under this Agreement by a suit or suits in equity for specific performance of any obligations or duty of the other Party, and each Party shall at all times retain the right to recover, by appropriate legal proceedings, any amount determined to have been an overpayment, underpayment or other monetary damages owed by the other Party in accordance with the terms of this Agreement.
- 14.4 Indemnification for Claims of Retail Customers. Purchaser shall assume all liability for any claim, action or judgment, whether or not caused by negligence, arising out of or in connection with electric service to any of its retail customers caused by the operation or failure of operation of the Facility or any portion thereof, and shall indemnify and hold harmless SCPPA from any such claim, action or judgment (including reasonable attorneys' fees and other costs of defense).
- 14.5 Determination or Enforcement of Rights. Notwithstanding the provisions of Sections 14.2, 14.3 and 14.4 hereof, Purchaser or SCPPA may determine, protect and enforce its rights under this Agreement by a suit or suits in equity for specific performance of, or declaratory action with respect to, any obligation or duty hereunder or thereunder.
- 14.6 No Relief from Insurer's Obligations. Notwithstanding any provision in this Agreement to the contrary, including but not limited to the provisions in this Section 14, the provisions of this Section 14 shall not be construed or applied so as to relieve any insurer of its obligation to pay any insurance claims in accordance with any applicable insurance policy.
- 14.7 SCPPA Directors, Officers, Employees, Agents Not Individually Liable; No General Liability of SCPPA. It is hereby recognized and agreed that no member of SCPPA's Board of Directors, officer, employee or agent of SCPPA or member of SCPPA in its capacity as a member of SCPPA shall be individually liable in respect of any undertakings by SCPPA under this Agreement. The undertakings by SCPPA under the Power Sales Agreements shall never constitute a debt or indebtedness of SCPPA within the meaning of any provision or limitation of the Constitution or statutes of the State

of California and shall not constitute or give rise to a charge against its general credit.

15. RESTRICTIONS ON DISPOSITION.

15.1 Assignment. It is understood and agreed each SCPPA Participant (including Purchaser) may sell, assign or otherwise dispose of some or all of its Project Rights and Obligations to other SCPPA Participants or SCPPA members under the same terms and conditions as set forth in this Agreement, provided that each such other participating SCPPA member agrees in writing to be bound by the provisions of the Power Sales Agreement of the SCPPA Participant making such sale, assignment or other disposition. In the event of such a sale, assignment or other disposition, SCPPA shall revise Appendix B to reflect the new Participant Facility Products Share allocation and such revision to Appendix B shall not be considered an amendment to any Power Sales Agreement.

Participant may from time to time assign the right to receive all or a portion of the Energy that would otherwise be delivered to Participant hereunder. In connection with any such assignment, Participant and SCPPA agree to execute a Limited Assignment Agreement. For the avoidance of doubt, Participant will remain responsible for all of its obligations under this Agreement related to such assigned Energy, including (i) the obligation to pay for such Energy to the extent the assignee thereof does not do so and (ii) any damages associated with such assignee's failure to take any such Energy.

15.2 Restrictions on Elimination of Payment Obligations. No sale, assignment or other disposition of Purchaser's Project Rights and Obligations to any Person ("Assignee") shall release Purchaser from its payment obligations under this Agreement; provided, however, such payment obligations may be eliminated or reduced if the sale, assignment or other disposition is made pursuant to Section 15.1 of this Agreement, or if (i) such Assignee shall assume and agree in writing to fully perform and discharge the Project Rights and Obligations under its Power Sales Agreement, (ii) such Assignee shall have a corporate or long-term senior unsecured credit rating of "A-" or higher by S&P or "A3" or higher by Moody's, unless otherwise provided by the Board of Directors, and (iii) the Board of Directors, by resolution, determines to eliminate or reduce such payment obligations, which determination shall not be unreasonably withheld.

15.3 Restrictions on Disposition of Purchaser's Entire System. Purchaser shall not sell, lease or otherwise dispose of all or substantially all of its electric system to any Person ("Acquiring Entity") unless the Acquiring Entity shall assume and agree to fully perform and discharge the Project Rights and Obligations under this Agreement, and such Acquiring Entity shall have a corporate or long-term senior unsecured credit rating not less than investment grade.

15.4 Successors and Assigns. Subject in all respects to Sections 11 and 15 hereof, the Project Rights and Obligations under this Agreement shall inure to the benefit of and shall be binding upon the respective successors and assigns of the Parties to this Agreement.

16. EFFECTIVE DATE, TERM AND EXPIRATION.

- 16.1 Effective Date; Execution in Counterparts. This Agreement shall become effective on the first Day when each and all of the following shall have occurred: (i) this Agreement shall have been duly executed and delivered by SCPPA and Purchaser, (ii) the Power Purchase Agreement shall have been duly executed and delivered by SCPPA and the Power Purchase Provider and (iii) the Power Sales Agreement between SCPPA and any other SCPPA Participant shall have been duly executed and delivered by the parties thereto. Once the Power Purchase Agreement has been executed and delivered as set forth above, SCPPA shall deliver a copy of the same to Purchaser. This Agreement may be executed in any number of counterparts, each of which shall constitute an original.
- 16.2 Termination Conditions. This Agreement shall be effective upon satisfaction of the conditions set forth in Section 16.1 and shall extend for the term specified in Section 16.3 unless earlier terminated pursuant to an express provision of this Agreement; provided, however, that any obligation to make payments by Purchaser or SCPPA or any outstanding liability of Purchaser or SCPPA hereunder which either exists or may exist as of the date of termination of this Agreement, or which comes into existence at any future time as a result of any activity or transaction implemented under this Agreement, shall survive such termination.
- 16.3 Expiration. The term of this Agreement shall begin on the Day this Agreement becomes effective pursuant to Section 16.1 hereof. Unless terminated earlier pursuant to Section 16.4, the term of this Agreement shall expire on the date on which the Power Purchase Agreement is terminated and all obligation(s) of the parties under the Power Purchase Agreement have been fully satisfied or otherwise adequate provision for satisfaction of such obligation(s) have been made and no other such obligation(s) under the Power Purchase Agreement is outstanding; provided, however, that in no event shall the term of this Agreement expire so long as the Power Purchase Agreement is of any force or effect.
- 16.4 Termination of Agreement before Expiration Date. Notwithstanding the expiration date set forth in Section 16.3 hereof, this Agreement shall terminate on the date, if any, by which SCPPA notifies Purchaser that this Agreement is superseded as a result of Purchaser having (i) succeeded to SCPPA's rights through another agreement or agreements, or (ii) entered into a replacement power sales agreement or other agreement with SCPPA. The purchase price and consideration to be paid to SCPPA by Purchaser with respect to any such superseding arrangement shall consist of the payments and satisfaction of all obligations by Purchaser under and pursuant to this Agreement prior to the effective date of the superseding arrangement plus any remaining costs or obligations incurred by SCPPA in connection with the Project.
- 16.5 Final Distribution of Reserve Funds. Following the expiration or earlier termination of this Agreement, and upon payment and satisfaction of any and all liabilities and obligations to make payments of the SCPPA Participating Members under this Agreement and upon satisfaction of all remaining costs and obligations of SCPPA under this Agreement and in connection with the Facility, any amounts then remaining

in the Reserve Funds shall be paid to the SCPPA Participating Member pro rata in accordance with their respective Participant Facility Products Share.

17. **SEVERABILITY.** In case any one or more of the provisions of this Agreement shall for any reason be held to be illegal or invalid by a court of competent jurisdiction, it is the intention of each of the Parties hereto that such illegality or invalidity shall not affect any other provision hereof, but this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein unless a court holds that the provisions are not separable from all other provisions of this Agreement.
18. **REPRESENTATION AND GOVERNING LAW.** The Parties acknowledge that each Party was represented by counsel in the negotiation and execution of this Agreement. This Agreement was made and entered into in the County of Los Angeles, California, and shall be governed by, interpreted and enforced in accordance with the laws of the State of California. All litigation arising out of, or relating to this Agreement, shall be brought in a State or Federal court in the County of Los Angeles, 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*.
19. **ARBITRATION AND ATTORNEYS' FEES.** If a dispute arises between the Parties which the Board of Directors is unable to resolve, the Parties may by mutual agreement submit the dispute to mediation or non-binding arbitration. With respect to any such dispute the Parties agree that each Party shall bear its own attorneys' fees and costs. Notwithstanding the foregoing, Purchaser and SCPPA recognize and agree that SCPPA's attorneys' fees associated with any matter relating to the Project or this Agreement, including any dispute relating thereto, shall constitute a Project cost which shall be allocated and billed as set forth in Sections 4 and 7 of this Agreement.
20. **CONDITIONS TO TERMINATION OR AMENDMENT.** Neither Party may terminate this Agreement without the prior written consent of each of the other SCPPA Participants. None of the Power Sales Agreements may be amended as to any one or more of the SCPPA Participants so as to provide terms and conditions materially different from those contained therein, unless the SCPPA Participant seeking the amendment obtains a written consent or waiver of each other SCPPA Participant.
21. **[RESERVED.]**
22. **NOTICES.** Any notice, demand or request provided for in this Agreement shall be in writing and shall be deemed properly served, given or made if delivered in person or sent by registered or certified mail, postage prepaid, to the persons specified below:

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

City of Pasadena
Attention: Assistant General Manager – Power Supply
150 S. Los Robles Avenue, Suite 200
Pasadena, California 91101

- 23. AMENDMENTS.** The Parties acknowledge and agree that any amendment to this Agreement shall be in writing and duly executed by the Parties.

[SIGNATURE PAGE FOLLOWS]

Each Party hereto has duly caused this Grace Orchard Solar Project Power Sales Agreement Between Southern California Public Power Authority and City of Pasadena to be executed on its behalf by its duly authorized representative.

SOUTHERN CALIFORNIA PUBLIC
POWER AUTHORITY

By: _____
DANIEL E GARCIA
Executive Director

Approved as to Legal Form:

By: _____
ARMANDO V. ARBALLO
Assistant General Counsel

CITY OF PASADENA

By: _____
MIGUEL MARQUEZ
City Manager

Attest: _____
Mark Jomsky, City Clerk

Approved as to Legal Form:

By: _____
Lisa Hosey
Assistant City Attorney

APPENDIX A

DEFINITIONS

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

1. Act. All of the provisions contained in the California Joint Exercise of Powers Act found in Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California, beginning at California Government Code Section 6500 et seq., as amended from time to time.
2. [Reserved.]
3. Annual Budget. The budget adopted by SCPPA pursuant to Section 5.4.1 of this Agreement not less than thirty (30) Days nor more than sixty (60) Days prior to the beginning of each Power Supply Year, including any amendments thereto, which shall show a detailed estimate of the Total Power Costs under this Agreement and all credits, charges, revenues, income, or other funds to be applied to such costs, for and applicable to such Power Supply Year.
4. [Reserved.]
5. Billing Statement. The written statement prepared or caused to be prepared each Month by, or on behalf of, SCPPA which shall be based upon certain of the information in the Annual Budget and shall show for such Month the amount to be paid to SCPPA by Purchaser in accordance with the provisions of Section 7 of this Agreement.
6. Board of Directors. The Board of Directors of the Southern California Public Power Authority.
7. Commercial Operation. "Commercial Operation" shall have the same definition set forth in the Power Purchase Agreement.
8. Compliance. Following a Payment Default, the Defaulting Purchaser shall be in compliance with its payment obligations under this Agreement if it (i) no later than the last Day of the Cure Period fully pays all amounts owed as reflected in any Default Invoice; (ii) pays any monthly Billing Statement which comes due during the Cure Period; and (iii) replenishes any reduction made to the Reserve Funds as a result of any Payment Default.
9. Consent Agreements. All consents to assignments and all agreements relating thereto entered into with any lender, financial institution or other Person for the purpose of consenting to the assignment of the rights or securing the obligations of the Power Purchase Provider under the Power Purchase Agreement, and all consents or agreements relating to a Change in Control (as defined in the Power Purchase Agreement) under the Power Purchase Agreement.
10. Cure Period. That period of time beginning on the date of a Payment Default and concluding thirty (30) Days thereafter.
11. Cured Payment Default. A Payment Default which has been cured in accordance with Section 11.3 of this Agreement. If at any time during the Cure Period the Defaulting Purchaser is in Compliance, then the requirements of a Cured Payment Default shall be deemed to have been

satisfied as of the date of receipt of such payments by SCPPA and the Cure Period shall expire.

12. Daily Delay Damages. “Daily Delay Damages” shall have the same definition set forth in the Power Purchase Agreement.
13. [Reserved.]
14. Day. “Day” means calendar day unless otherwise specified herein.
15. Default Invoice. An invoice during the Payment Default Period and the Cure Period issued to the Defaulting Purchaser pursuant to Section 11 of this Agreement that identifies the total defaulted amount owed, including late payment interest, to achieve a Cured Payment Default. During the Cure Period, the Default Invoice shall also include the amount that must be paid to achieve Compliance.
16. Defaulting Purchaser. “Defaulting Purchaser” means Purchaser, where Purchaser has caused a Payment Default under Section 11.1 of this Agreement that has not been remedied or cured.
17. Defaulting SCPPA Participant. A SCPPA Participant (not including Purchaser) that causes a Payment Default under its Power Sales Agreement that has not been remedied or cured by the Defaulting SCPPA Participant.
18. Delivery Output Cost Component. “Delivery Output Cost Component” is defined in Section 4.3.1.
19. Energy. “Energy” shall have the same definition as in the Power Purchase Agreement.
20. Environmental Attributes. “Environmental Attributes” shall have the same definition set forth in the Power Purchase Agreement.
21. Facility. “Facility” shall have the same definition as the Power Purchase Agreement.
22. Facility Products. All output, rights, and other tangible or intangible benefits derived from the Facility, whatsoever, including without limitation all Energy, Test Energy, Environmental Attributes, Capacity Rights, Resource Adequacy Attributes, Replacement Product rights with respect to the battery energy storage system, whether received by SCPPA under or pursuant to the Power Purchase Agreement or other applicable Project Agreement.
23. Fiscal Year. The twelve-month period commencing at 12:01 a.m. on July 1 of each year and ending at 12:01 a.m. on the following July 1, or such other time frame as determined by the Board of Directors.
24. Force Majeure. “Force Majeure” shall have the definition set forth in the Power Purchase Agreement.
25. GEP Shortfall Damages. “GEP Shortfall Damages” shall have the same definition set forth in the Power Purchase Agreement.

26. [Reserved.]
27. Initial Payment Default Date. The earlier of (i) the end of the fifth Day following the first Payment Default for which no remedy in payment has occurred and been received by SCPPA, or (ii) the last Day of the Month in which the first Payment Default has occurred for which no remedy in payment has occurred and been received by SCPPA.
28. Joint Powers Agreement. The “Southern California Public Power Authority Joint Powers Agreement” dated as of November 1, 1980, as amended and modified from time to time, entered into pursuant to the provisions of the Act, among SCPPA and its members.
29. Month. A calendar month.
30. Monthly Costs. “Monthly Costs” is defined in Section 7.1.
31. Moody’s. “Moody’s” shall mean Moody’s Investor Services, Inc.
32. Operating Budget. The operating budget approved by the Board of Directors which shall show a detailed estimate of Total Power Costs for a Power Supply Year and all revenues, income or other funds to be applied to Total Power Costs for and applicable to such Power Supply Year.
33. Operating Reserve Depletion Date. The date that is two Months prior to the date on which SCPPA anticipates, assuming continued Payment Defaults by the Defaulting Purchaser, that the moneys in the operating reserve account held at any time by SCPPA will be fully depleted; provided, however, if as of the date on which a Payment Default occurs SCPPA determines that the moneys in the operating reserve account held by SCPPA will be fully depleted in less than two Months (or currently are fully depleted), then the Operating Reserve Depletion Date shall be deemed to have occurred when such a Payment Default occurs.
34. Participant Facility Products Cost Share. With respect to a particular SCPPA Participant and during each Power Supply Year, the applicable percentage of SCPPA costs under this Agreement payable by such SCPPA Participant, as set forth for such SCPPA Participant in Appendix B of this Agreement.
35. Participant Facility Products Share. With respect to a particular SCPPA Participant and during each Power Supply Year, the applicable percentage entitlement of the Facility Products under this Agreement, as set forth for such SCPPA Participant in Appendix B of this Agreement.
36. Payment Default. A failure by the Purchaser to pay when due all of its Billing Statement for any Month.
37. Payment Default Period. That period of time beginning on the initial date of a Payment Default and ending thirty (30) Days following a notice of default as provided in accordance with Section 11.2 hereof.
38. Person. “Person” means any individual, corporation, partnership, joint venture, limited liability company, association, joint stock company, trust, unincorporated organization, entity, government or other political subdivision.
39. Point of Delivery. Point of Delivery shall have the definition set forth in the Power Purchase

Agreement.

40. Power Purchase Agreement. The Power Purchase Agreement between Southern California Public Power Authority and Grace Orchard Solar III, LLC, dated as of September 19, 2024, attached hereto as Appendix C, as the same may be amended from time to time, and all other agreements associated with the Facility.
41. [Reserved.]
42. Power Purchase Agreement Cost Component. “Power Purchase Cost Component” is defined in Section 4.3.5.
43. Power Purchase Agreement General and Administrative Cost Component. “Power Purchase Agreement General and Administrative Cost Component” is defined in Section 4.3.2.
44. Power Purchase Provider. Grace Orchard Solar III, LLC, and any other entity named under any applicable operating agreement to operate or otherwise run or manage the Facility, along with each of their successors, or any successors or assigns to the rights of these entities.
45. Power Sales Agreements. This Agreement and that certain Power Sales Agreement dated September 19, 2024, as may be amended from time to time, by and between SCPPA and the City of Pasadena, and those certain Power Sales Agreements dated September 19, 2024, as may be amended from time to time, by and between SCPPA and City of Colton and City of Anaheim.
46. Power Supply Year. The Fiscal Year, except that the first Power Supply Year shall begin on the first to occur of (i) the date SCPPA is obligated to pay any portion of the costs of the Project, (ii) the Commercial Operation Date of the Facility, or (iii) the date of the first delivery of Energy to Purchaser pursuant to this Agreement. The first Power Supply Year shall end on the last Day of the then current Fiscal Year.
47. Project. The term “Project” means the Grace Orchard Solar Power Project and shall be broadly construed to entail the aggregate of rights, liabilities, interests and obligations of SCPPA pursuant to the Power Purchase Agreement and the other Project Agreements, including but not limited to all associated rights, liabilities, interests and obligations; provided, that for purposes of this Agreement it shall be limited to those rights, liabilities, interests and obligations acquired or undertaken by SCPPA in the Power Purchase Agreement and the Project Agreements associated with that agreement. The term Project shall also include those rights, liabilities, interests or obligations necessary or appropriate to carry out the functions specified in Section 6 and to utilize or deliver the Energy of the Facility as specified in Section 9.
48. Project Agreements. Insofar as they pertain to this Project, any project management agreement, the Power Sales Agreements, the Power Purchase Agreement, and any other contracts for the purchase, procurement, delivery or transmission of Facility Products, and any other agreements for scheduling, dispatching, exchanging, tagging, movement or transmission of Facility Products, and agreements to which SCPPA is a party relating to the administration or management of the Project.

49. Project Manager. SCPPA in its capacity as Project Manager or a designee or designees appointed by SCPPA to carry out SCPPA's responsibilities as Project Manager under this Agreement.
50. Project Rights. All rights and privileges of the Purchaser under this Agreement, including but not limited to its right to receive its Participant Facility Products Share under this Agreement.
51. Project Rights and Obligations. The Purchaser's Project Rights and obligations under the terms of this Agreement.
52. Replacement Product. "Replacement Product" shall have the same definition as set forth in the Power Purchase Agreement.
53. Reserve Funds Cost Component. "Reserve Funds Cost Component" is defined in Section 4.3.4.
54. Reserve Funds. Those reserve accounts deemed appropriate to afford a reliable source of funds for the payment obligations of the Project and, taking into account the variability of costs associated with the Project, for the purpose of providing a reliable payment mechanism to address the ongoing costs associated with the Project.
55. S&P. "S&P" shall mean Standard & Poor's Financial Services LLC.
56. SCPPA Members. Each of the following: City of Anaheim, California; City of Azusa, California; City of Banning, California; City of Burbank, California; City of Cerritos, California; City of Colton, California; City of Glendale, California; Imperial Irrigation District; City of Los Angeles, California; City of Pasadena, California; City of Riverside, California; and City of Vernon, California.
57. SCPPA Participants. Those entities that have executed a Power Sales Agreement for the Project, together in each case with each entity's successors or assigns, identified as "SCPPA Participants" in Appendix B of this Agreement.
58. [Reserved.]
59. Step-Up Invoice. An invoice sent pursuant to Section 11.8.1 to a non-Defaulting SCPPA Participant as a result of one or more Payment Defaults, which invoice shall separately identify any amount owed with respect to the monthly Billing Statement of one or more Defaulting SCPPA Participants for Total Power Costs reflected in the Defaulting SCPPA Participant(s) unpaid monthly Billing Statement.

60. Supplementary Services. Those services in connection with the delivery of Energy involving additional transmission, interconnection arrangements, energy management, firming, shaping, energy balancing, dispatching, tagging, scheduling, transmitting, interconnecting, swapping, exchanging or other services associated with the transmission, use or disposition of Facility Products to be utilized by the Purchaser under this Agreement, and to otherwise provide for delivery and facilitate the disposition, movement, taking, receiving, accounting for, transferring and crediting the transfer of Facility Products from the Point of Delivery to any other points or destinations, as determined by the Purchaser. Supplementary Services include but are not limited to delivery point swaps, stranded energy/transmission curtailments, tiepoint liquidity improvement, transmission loss savings, tiepoint price spread optimization, on-peak/off-peak exchanges, peak shifting exchanges, seasonal exchanges, and both simultaneous or non-simultaneous green energy exchanges.
61. Supplementary Services Cost Component. “Supplementary Services Cost Component” is defined in Section 4.3.3.
62. Test Energy. “Test Energy” shall have the definition set forth in the Power Purchase Agreement.
63. Total Power Costs. “Total Power Costs” is defined in Section 4.3.
64. [Reserved.]
65. Uncontrollable Forces. Any Force Majeure event and any cause beyond the control of any Party, and which by the exercise of due diligence such Party is unable to prevent or overcome, including but not limited to, failure or refusal of any other Person to comply with then existing contracts, an act of God, fire, flood, explosion, earthquake, strike, sabotage, pestilence, an act of the public enemy (including terrorism), civil or military authority including court orders, injunctions and orders of governmental agencies with proper jurisdiction or the failure of such agencies to act, insurrection or riot, an act of the elements, failure of equipment, a failure of any governmental entity to issue a requested order, license or permit, inability of any Party or any Person engaged in work on the Project to obtain or ship materials or equipment because of the effect of similar causes on suppliers or carriers. Notwithstanding the foregoing, Uncontrollable Forces as defined herein shall also include events of Force Majeure pursuant to the Power Purchase Agreement, as defined therein.
66. WECC. The Western Electricity Coordinating Council or its successor.

APPENDIX B*

**GRACE ORCHARD SOLAR POWER PROJECT
POWER SALES AGREEMENT**

**SCHEDULE OF SCPPA PARTICIPANTS,
PARTICIPANT FACILITY PRODUCTS SHARES,
PARTICIPANT FACILITY PRODUCTS COST SHARES**

SCPPA PARTICIPANTS	PARTICIPANT FACILITY PRODUCTS SHARES		PARTICIPANT FACILITY PRODUCTS COST SHARES	
	PV SHARE	GENERAL SHARE	PV COST	GENERAL COST
City of Anaheim	58.8%	58.8%	58.8%	58.8%
City of Colton	11.8%	11.8%	11.8%	11.8%
City of Pasadena	29.4%	29.4%	29.4%	29.4%
TOTAL	100.00%	100.00%	100.00%	100.00%

* Appendix B may be revised in accordance with the provisions of Section 10.2 of this Agreement.

APPENDIX C
POWER PURCHASE AGREEMENT