

**STANDARD FORM FEED-IN TARIFF
POWER PURCHASE AGREEMENT
BETWEEN
CITY OF ANAHEIM
AND**

This POWER PURCHASE AGREEMENT (the “Agreement”) for an Eligible Renewable Energy Resource is dated for purposes of identification as this ____ day of _____, by and between the City of Anaheim, a municipal corporation, (“ANAHEIM”), and _____ (“SELLER”). ANAHEIM and SELLER are sometimes referred to in this Agreement individually as a “Party” and collectively as the “Parties”.

Recitals

- A. ANAHEIM’s Rates, Rules and Regulations authorize and establish the special conditions under which owners and operators of electric generation facilities located in ANAHEIM’s service territory are able to sell to ANAHEIM the power output from an eligible small-scale distributed generation resource with a maximum capacity of no more than 3 MW and a minimum capacity of 100 kW; provided, that certain conditions are met.
- B. SELLER desires to interconnect and operate a distributed generation Facility in parallel with ANAHEIM’s Distribution System and sell the Energy produced by the Facility directly to ANAHEIM as set forth in its Feed-In Tariff.
- C. This Agreement does not constitute an agreement by ANAHEIM to provide retail electrical service to SELLER or the Facility owner or operator. Such arrangements must be made separately between ANAHEIM and SELLER or the Facility owner or operator pursuant to ANAHEIM’s Rates, Rules and Regulations.
- D. The Parties wish to enter into a power purchase agreement for the sale and purchase of Energy, Contract Capacity, Capacity Attributes, and the Green Attributes from the Facility.

NOW THEREFORE, in consideration of the mutual covenants contained in this Agreement, and of other good and valuable consideration, the sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS

“Business Day” means any Monday through Friday, inclusive, but excluding days that are observed as business holidays by either Party. The holidays observed by ANAHEIM are available on ANAHEIM's website, but generally are New Year's Day, Martin Luther King's Birthday, President's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, Friday after Thanksgiving Day, and Christmas Day.

“CAISO” means the California Independent System Operator Corporation or any successor entity performing similar functions.

“CAISO Tariff” means the CAISO FERC Electric Tariff as amended from time to time.

“California Renewable Portfolio Standard” or “Renewable Portfolio Standard” means the standard adopted by the State of California pursuant to Senate Bill 1038 (SB 1038, Chapter 515, Statutes 2002, Sher), Senate Bill 1078 (SB 1078, Chapter 516, Statutes of 2002, Sher), codified in Public Utilities Code (“PUC”) Sections 399.11 through 399.20, and Public Resources Code (“PRC”) Sections 25740 through 25751, as may be amended from time to time, setting minimum Renewable Energy targets for entities under the legal jurisdiction of the California Public Utilities Commission.

“Capacity Attributes” means any current or future defined characteristic, certificate, tag, credit, or ancillary service attribute, whether general in nature or specific as to the location or any other attribute of the Facility, intended to value any aspect of the Contract Capacity of the Facility to produce energy or ancillary services, including, but not limited to, any accounting construct so that the full output of the Facility may be counted toward a Resource Adequacy requirement or any other measure by an entity invested with the authority under federal or state law, to require ANAHEIM to procure, or to procure at ANAHEIM's expense, Resource Adequacy or other such products.

“CEC” means the California Energy Resources Conservation and Development Commission, which is also known as the California Energy Commission, or its successor agency.

“Commercial Operation” means the period of operation of the Facility once the Commercial Operation Date has occurred.

“Commercial Operation Date” means the date specified in the Commercial Operation Date Confirmation Letter which the Parties execute and exchange in accordance with Section 2.3 of this Agreement.

“Contract Capacity” means the installed electrical capacity available upon Commercial Operation of the Facility in the amount shown in Exhibit A. Contract Capacity is measured at the ANAHEIM revenue meter in accordance with Section 8.9 at the Delivery Point and shall be the Facility's output in kilowatts (“kW”) and any reporting rights associated with such.

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“Contract Price” means the price paid by ANAHEIM to SELLER for Energy, Capacity, Capacity Attributes, and Green Attributes from the Facility. The Contract Price is shown in Exhibit B.

“Contract Year” means any of the one-year periods during the Delivery Term that begins on the first day of the calendar month following the date upon which SELLER commences Commercial Operation.

“Delivery Point” means the point of interconnection to the Distribution System where ANAHEIM accepts title to the Facility power and associated attributes as described herein.

“Delivery Term” means the period of Agreement from the Commercial Operation Date through the full term of the Agreement as defined in Section 2.3.

“Developmental Feed-In Tariff” shall have the same meaning as “Feed-In Tariff”.

“Distribution System” means the wires, transformers, and related equipment within ANAHEIM's utility service territory to deliver electric power to ANAHEIM's retail customers typically at sub-transmission level voltages or lower.

“Eligible Renewable Energy Resource” or “ERR” means a generating resource that qualifies as an Eligible Renewable Energy Resource as set forth in California Public Utilities Code Section 399.12 and California Public Resources Code Section 25471, as either code may be amended or supplemented from time to time, and which receives RPS Certification as such.

“Energy” means electrical energy delivered to the Distribution System with the voltage and quality required by ANAHEIM, and measured in megawatt-hours (“MWh”) or kilowatt-hours (“kWh”).

“Expected Annual Output” means the Energy that the Facility can be expected to produce during a typical year of operation, factoring in typical weather patterns, expected fuel availability, etc. The Expected Annual Output is shown in Exhibit A.

“Facility” means an Eligible Renewable Energy Resource with the meaning set forth in Section 2.1.

“Feed-In Tariff” or “Developmental Feed-in Tariff” means the standard price established by ANAHEIM's City Council as set forth in the Rates, Rules and Regulations on the Agreement's Effective Date under which ANAHEIM will purchase the output of Eligible Renewable Energy Resources that meets specified criteria.

“Feed-In Tariff Reservation Deposit” means the monetary deposit submitted by SELLER (or the Facility owner or operator on behalf of the SELLER) to ANAHEIM which secures SELLER's timely performance as set forth in Section 6.3. The amount of the Feed-In Tariff Reservation Deposit is set forth in Exhibit A and is refundable as set forth in Section 6.3.

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“FERC” means the Federal Energy Regulatory Commission or any successor government agency.

“Forced Outage” means an unplanned outage of one or more of the Facility’s components that results in a reduction of the ability of the Facility to produce Capacity or at zero output.

“Force Majeure” means an event or circumstance which prevents one Party from performing obligations under this Agreement, and which is not in the reasonable control of, or the result of negligence of, the Party claiming Force Majeure, and which by the exercise of due diligence is unable to overcome or cause to be avoided. Force Majeure shall include, but not be limited to: (a) An act of nature, riot, insurrection, war, explosion, labor dispute, fire, flood, earthquake, storm, lightning, tsunami, backwater caused by flood, act of the public enemy, terrorism, or epidemic; (b) Interruption of transmission or generation services as a result of a physical emergency condition (and not congestion-related or economic curtailment) not caused by the fault or negligence of the Party claiming Force Majeure and reasonably relied upon and without a reasonable source of substitution to make or receive deliveries hereunder, civil disturbances, strike, labor disturbances, labor or material shortage, national emergency, restraint by court order or other public authority or governmental agency, actions taken to limit the extent of disturbances on the electrical grid; or (c) Other similar causes beyond the control of the Party affected which causes such Party could not have avoided by the exercise of due diligence and reasonable care. Under no circumstances shall either Party's financial incapacity, SELLER's ability to sell electric Energy, Capacity, Capacity Attributes, or Green Attributes at a more favorable price or under more favorable conditions or ANAHEIM's ability to acquire electric Energy, Capacity, Capacity Attributes, or Green Attributes at a more favorable price or under more favorable conditions or other economic reasons constitute an event of Force Majeure. The term “Force Majeure” does not include Forced Outages to the extent such are not caused or exacerbated by an event of Force Majeure as described above, nor does it include SELLER's inability to obtain financing, permits, or other equipment and instruments necessary to plan for, construct, or operate the Facility.

“Good Utility Practice” shall mean those practices, methods and acts that would be implemented and followed by prudent operators of electric energy generating facilities in the Western United States, similar to the Facility, during the relevant time period, which practices, methods and acts, in the exercise of prudent and responsible professional judgment in the light of the facts known at the time the decision was made, could reasonably have been expected to accomplish the desired result consistent with good business practices, reliability, and safety. SELLER acknowledges that the use of Good Utility Practice by SELLER does not exempt SELLER from any obligations set forth in this Agreement.

Good Utility Practice includes, at a minimum, those professionally responsible practices, methods and acts described in the preceding paragraph that comply with manufacturers' warranties, restrictions in this Agreement, the interconnection

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requirements of ANAHEIM, the requirements of governmental authorities, and WECC and NERC standards.

Good Utility Practice also includes taking reasonable steps to ensure that:

- a) Equipment, materials, resources, and supplies, including spare parts inventories, are available to meet the Facility's needs;
- b) Sufficient operating personnel are available at all times and are adequately experienced and trained and licensed as necessary to operate the Facility properly and efficiently, and are capable of responding to reasonably foreseeable emergency conditions at the Facility and emergencies whether caused by events on or off the Facility site;
- c) Preventive, routine, and non-routine maintenance and repairs are performed on a basis that ensures reliable, long-term and safe operation of the Facility, and are performed by knowledgeable, trained, and experienced personnel utilizing proper equipment and tools;
- d) Appropriate monitoring and testing are performed to ensure equipment is functioning as designed;
- e) Equipment is not operated in a reckless manner, in violation of manufacturer's guidelines or in a manner unsafe to workers, the general public, or the connecting utility's electric system or contrary to environmental laws, permits or regulations or without regard to defined limitations such as, flood conditions, safety inspection requirements, operating voltage, current, volt ampere reactive ("VAR") loading, frequency, rotational speed, polarity, synchronization, and control system limits; and equipment and components are designed and manufactured to meet or exceed the standard of durability that is generally used for electric energy generating facilities operating in the Western United States and will function properly over the full range of ambient temperature and weather conditions reasonably expected to occur at the Facility site and under both normal and emergency conditions.

"Green Attributes" means any and all credits, benefits, emissions reductions, environmental air quality credits, offsets, and allowances, howsoever entitled, attributable to the generation from the Facility and its displacement of conventional energy generation, whether existing now or arising in the future. Green 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, nitrogen oxides, carbon monoxide and other pollutants; (2) any avoided emissions of carbon dioxide, methane, 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; and (3) the reporting rights to these avoided emissions such as Green Tag

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Reporting Rights and Renewable Energy Credits. Green Tag Reporting Rights are the right of a Green Tag Purchaser to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at the Green Tag Purchaser's discretion, and include without limitation those Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Green Tags are accumulated on a kWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of Energy. Green Attributes do not include (i) any Energy, Contract Capacity, Capacity Attributes, reliability or other power attributes from the Facility, (ii) production or investment tax credits associated with the construction or operation of the Facility and other financial incentives in the form of credits, grants, 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 pre-existing pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered, used or created by the Facility for compliance with or sale under local, state, or federal operating and/or air quality permits or programs. If the Facility is a biomass or landfill facility and SELLER receives any tradable Green Attributes based on the Facility's Greenhouse Gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide ANAHEIM with sufficient Green Attributes to ensure that there are zero net emissions associated with the production of electricity from the Facility. The term Green Attributes includes any other environmental credits or benefits recognized in the future and attributable to Energy generated by the Facility during the Term that may not be represented by Green Tag Reporting Rights or RECs, unless otherwise excluded herein. Any Green Attributes provided under this Agreement shall be documented by Renewable Energy Credits as per Exhibit E – Green Attribute Reporting and Conveyance Procedures, or any other representation of the environmental benefits of the Facility output, the monthly cumulative total of which shall be provided to ANAHEIM as specified herein.

"Green Tag Reporting Rights" means the right of a Green Tag Purchaser to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at the Green Tag Purchaser's discretion, and include without limitation those Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Said rights are transferred and delivered to ANAHEIM each month as part of the REC transfers.

"Greenhouse Gas" or "GHG" is a collective term for those gases which reduce the loss of heat from the earth's atmosphere, and thus contribute to global warming and climate change. The greenhouse gases most commonly used in calculations of global warming potential include carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulphur hexafluoride.

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“Interconnection Agreement” refers to a Standard Form Feed-In Tariff Interconnection Agreement between SELLER and ANAHEIM which specifically pertains to the interconnection of the Facility to the Distribution System.

“NERC” means the North American Electric Reliability Corporation, or any successor organization.

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

“Planned Outage” means an outage that has been scheduled in advance of one or more of the Facility's components that results in a reduction of the ability of the Facility to produce Capacity or at zero output.

“Pre-Commercial Energy” means any Energy delivered to ANAHEIM from the Facility prior to the Commercial Operation Date.

“Rates, Rules and Regulations” means ANAHEIM's Electric Rates, Rules and Regulations, as the same may be amended from time to time.

“Renewable Energy Credit” or “REC” means a certificate of proof that one unit of electricity was generated by an Eligible Renewable Energy Resource. Currently RECs are used to convey all Green Attributes associated with electricity production by a renewable energy resource. RECs are accumulated on a kWh basis and one REC represents the Green Attributes associated with the generation of 1 MWh (1,000 kWhs) from the Facility. For purposes of the Agreement, the term REC shall be synonymous with the term Green Tag, green ticket, bundled or unbundled renewable energy credit, tradable renewable energy certificates, or any other term used to describe the documentation that evidences the renewable and Green Attributes associated with electricity production by an Eligible Renewable Energy Resource.

“Resource Adequacy” means a requirement by a governmental authority or in accordance with an applicable FERC approved tariff, or a policy approved by a local regulatory authority, that is binding upon either Party and that requires such Party procure a certain amount of electric generating capacity.

“RPS Certification” means a finding by the CEC that the Facility qualifies as an Eligible Renewable Energy Resource for the purposes of the California Renewable Portfolio Standard, and that all Energy produced by the Facility qualifies as generation from an Eligible Renewable Energy Resource.

“Scheduled Commercial Operation Date” means the planned Commercial Operation Date of the Facility declared by SELLER at the time of execution of this Agreement, as shown in Exhibit A and as may be revised herein.

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“SP-15 EZ Gen Hub Price” means the day-ahead locational marginal price as published by the CAISO for generator transactions in the SP-15 zone of the CAISO, or such successor price established by the CAISO.

“Station Service Load” means the electrical loads associated with the operation and maintenance of the Facility which shall be provided by ANAHEIM pursuant to ANAHEIM's Electric Rates, Rules and Regulations.

“Term” has the meaning set forth in Section 13.1.

“WECC” means the Western Electricity Coordinating Council, which is the regional entity responsible for coordinating and promoting bulk electric system reliability in western Canada and the western United States, or any successor organization.

2. SELLER'S GENERATING FACILITY, PURCHASE PRICE AND PAYMENT

- 2.1 Facility. This Agreement governs ANAHEIM's purchase of Energy, Contract Capacity, Capacity Attributes, and Green Attributes from the Facility as described in Exhibit A. SELLER shall not modify the Facility to increase the Contract Capacity.
- 2.2 Products Purchased. During the Delivery Term, SELLER shall sell and deliver, or cause to be delivered, and ANAHEIM shall purchase and receive, or cause to be received, Energy, Contract Capacity, Capacity Attributes, and the Green Attributes from the Facility (“Products”). SELLER agrees to sell to ANAHEIM the Facility's gross output in kilowatt-hours. In no event shall SELLER have the right to procure Energy, Contract Capacity, Capacity Attributes, or Green Attributes from sources other than the Facility for sale or delivery to ANAHEIM under this Agreement or to substitute such Energy, Contract Capacity, Capacity Attributes, or Green Attributes. The Parties agree that the execution and performance of the Parties under this Agreement shall satisfy ANAHEIM's obligations, if any, under the California Public Utilities Code Section 387.6 as may be amended or supplemented from time to time.
- 2.3 Delivery Term. The Delivery Term shall commence on the Commercial Operation Date under this Agreement and continue until _____ [INSERT either: ten (10), fifteen (15), or twenty (20)] years following the first day of the calendar month after the Commercial Operation Date. As evidence of the Commercial Operation Date, the Parties shall execute and exchange the “Commercial Operation Date Confirmation Letter” in the form attached hereto as Exhibit C. The Commercial Operation Date shall occur on the latest date on which the following conditions have been satisfied, with the exception that in no event shall the Commercial

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Operation Date be prior to January 1 of the year of the Scheduled Commercial Operation Date:

- (i) Facility is operating and is in compliance with applicable interconnection and system protection requirements; and
- (ii) The first day, retroactively determined at the conclusion of a successful 168-hour continuous operation test, that SELLER has demonstrated that the Facility is capable of delivering the Contract Capacity at the Delivery Point on a reliable and continuous basis as evidenced by such 168-hour continuous operation test, during which all Facility components operate and are fully available during the 168-hour period. SELLER shall provide test results certified by a California registered electrical engineer as evidence of satisfactory completion of the 168-hour continuous operation test; and
- (iii) Facility's status as an Eligible Renewable Energy Resource is demonstrated by SELLER's receipt of certification from the CEC and is registered with the appropriate entity for the tracking of Green Attributes.

2.4 Payment for Products Purchased.

2.4.1 Pre-Commercial Energy. Prior to the Commercial Operation Date, ANAHEIM will pay for Energy and Green Attributes produced by the Facility by multiplying the applicable hourly SP-15 EZ Gen Hub Price by the applicable hourly Energy quantity as metered at the Delivery Point.

2.4.2 Deliveries After Commercial Operation Date. Once the Facility has achieved Commercial Operation, ANAHEIM shall pay SELLER for the Products identified in Section 2.2 by multiplying the applicable hourly Contract Price as set forth in ANAHEIM's Feed-In Tariff, by the applicable hourly Energy quantity as metered at the Delivery Point.

2.4.3 Energy in Excess of Contract Capacity. SELLER shall not receive payment for any Energy and Green Attributes delivered in any hour to ANAHEIM in excess of the maximum hourly energy delivery quantity, as specified in Exhibit A.

2.5 Billing. ANAHEIM shall pay SELLER by check sent to the address identified by SELLER in Exhibit H or Automated Clearing House transfer as specified in Exhibit H, on a monthly basis, within thirty (30) days of the meter reading date if the value of the purchased Energy in a month is at least fifty dollars (\$50); if less than fifty dollars (\$50),

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ANAHEIM, in its sole discretion, may pay SELLER quarterly. ANAHEIM shall have the right, but not the obligation, to review the Facility's meter on a daily basis.

- 2.6 Dispute Resolution. In the event of any claim, controversy or dispute between the Parties arising out of or relating to or in connection with this Agreement, a Party (the "Notifying Party") may deliver to the another Party (the "Recipient Party") notice of the Dispute with a detailed description of the underlying circumstances, using a spreadsheet for meter data information (a template will provided by ANAHEIM), of such Dispute (a "Dispute Notice") within thirty (30) days following either the date the check was issued or date of the wire transfer. If a Dispute Notice concerning payment is not received within thirty (30) days following the date the check was issued or the date of the wire transfer, the Notifying Party shall waive any and all rights to dispute the payment amount. The Dispute Notice shall include a schedule of the availability of the Party's senior officers (having a title of senior vice president or its equivalent or higher and in the case of Anaheim, the Public Utilities General Manager or designee) duly authorized to settle the Dispute during the thirty (30) day period following the delivery of the Dispute Notice. The Recipient Party shall within five (5) Business Days following receipt of the Dispute Notice, provide to the Notifying Party a parallel schedule of availability of the Recipient Party's senior officers (having a title of senior vice president or its equivalent or higher and in the case of ANAHEIM, the Public Utilities General Manager or designee) duly authorized to settle the Dispute. Following delivery of the respective senior officers' schedules of availability, the senior officers of the Parties shall discuss 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. In the event a Dispute is not resolved by the expiration of the thirty (30) day period, then either Party may pursue any legal or equitable remedy available to it.
- 2.7 Title and Risk of Loss. Title to and risk of loss related to the Energy produced from and capacity provided by the Facility shall transfer from SELLER to ANAHEIM at the Delivery Point. SELLER warrants that it will deliver to ANAHEIM all Energy, Contract Capacity, Capacity Attributes, and Green Attributes from the Facility free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any Person arising prior to the Delivery Point.
- 2.8 No Additional Incentives. SELLER warrants that it has not received nor shall SELLER apply for or seek any other incentives from ANAHEIM for the Facility, and SELLER further agrees that during the Term of this Agreement, SELLER shall not seek additional compensation or other benefits from ANAHEIM pursuant to ANAHEIM's Developmental Net Metering Tariff or successor tariff, the California Solar Initiative, or other

similar California ratepayer subsidized program relating to energy production with respect to the Facility.

3. CERTIFICATION AS AN ELIGIBLE RENEWABLE ENERGY RESOURCE; GREEN ATTRIBUTES

- 3.1** California Energy Commission Certification. SELLER, at its sole cost and expense, shall obtain RPS Certification of the Facility from the California Energy Commission. SELLER shall maintain such RPS Certification throughout the Delivery Term. Notwithstanding the foregoing, SELLER shall not be in breach of this Agreement and ANAHEIM shall not have the right to terminate the Agreement if SELLER's failure to obtain or maintain RPS Certification is due to a change in California law occurring after the Commercial Operation Date, so long as SELLER has used commercially reasonable efforts to obtain and maintain RPS Certification, and SELLER's actions did not contribute to its inability to obtain or maintain RPS Certification. The Energy that does not come with RPS Certification, however, shall be paid a price based on the sum of the California Independent System Operator Integrated Forward Market South of Path 15 ("SP 15") Generation Hub price ("GHP") or its successor as of the Agreement's Effective Date.
- 3.2 Green Attribute Delivery Obligation. At ANAHEIM's option, SELLER shall sell and deliver under the terms of this Agreement, and ANAHEIM shall receive and purchase from SELLER, all rights, title, and interest in all Green Attributes associated with Energy produced by the Facility and delivered to ANAHEIM at the Delivery Point whether now existing or that hereafter come into existence during the Term, except as otherwise excluded herein, provided that ANAHEIM shall not be obligated to purchase and pay SELLER for any Green Attributes associated with any amount of Facility Energy that is generated by any fuel which is not renewable and which cannot be counted for the purpose of the production of Green Attributes. SELLER agrees to sell and make all such Green Attributes available to ANAHEIM to the fullest extent allowed by applicable law, in accordance with the terms of this Agreement. SELLER warrants that all Green Attributes provided under this Agreement to ANAHEIM shall be free and clear of all liens, security interests, claims and encumbrances.
- 3.3 Conveyance of Green Attributes. SELLER shall provide all Green Attributes associated with the Facility which shall be documented and conveyed to ANAHEIM in accordance with the procedure set forth in Exhibit E.
- 3.4 Additional Evidence of Green Attribute Conveyance. At ANAHEIM's request, SELLER shall provide additional reasonable evidence, at no additional cost or expense to ANAHEIM or to third parties, of

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ANAHEIM's right, title, and interest in Green Attributes and/or information with respect to Green Attributes.

- 3.5 Modification of Green Attribute Conveyance Procedure. ANAHEIM's Public Utilities General Manager or designee may unilaterally modify Exhibit E to reflect changes necessary in the Green Attribute conveyance procedure for ANAHEIM to be able to receive and report the Green Attributes purchased under the Agreement as belonging to ANAHEIM.
- 3.6 Reporting of Ownership of Green Attributes. SELLER shall not report to any Person or entity that the Green Attributes sold and conveyed hereunder to ANAHEIM belong to anyone other than ANAHEIM, and ANAHEIM may report under any such program that such Green Attributes purchased hereunder belong to it.
- 3.7 Greenhouse Gas (GHG) Emissions Offsets. SELLER shall comply with any laws or regulations regarding the need to offset emissions of GHGs such that SELLER delivers to ANAHEIM Energy from the Facility with net zero GHG Emissions impact.

4. CONVEYANCE OF CAPACITY ATTRIBUTES

- 4.1 Conveyance of Capacity Attributes. SELLER shall provide to ANAHEIM any attestation ANAHEIM requires in order for ANAHEIM to show evidence that it has procured and owns the Capacity Attributes associated with the Facility in accordance with the procedure set forth in Exhibit F. At ANAHEIM's request, SELLER, at no additional cost or expense to ANAHEIM, shall execute such documents and instruments as may be reasonably required to affect recognition and transfer of the Capacity Attributes, if any, to ANAHEIM.
- 4.2 Reporting of Ownership of Capacity Attributes. SELLER shall not report to any Person or entity that the Capacity Attributes sold and conveyed hereunder to ANAHEIM belong to anyone other than ANAHEIM, and ANAHEIM may report under any such program that such Capacity Attributes purchased hereunder belong to it.
- 4.3 Modification of Capacity Attribute Conveyance Procedure. ANAHEIM's Public Utilities General Manager or designee may unilaterally modify Exhibit F to reflect changes necessary in the Capacity Attribute conveyance procedure for ANAHEIM to be able to receive and report the Capacity Attributes purchased under the Agreement as belonging to ANAHEIM.

5. GREENHOUSE GAS EMISSIONS REPORTING

- 5.1 Greenhouse Gas Emissions Reporting. If the Facility combusts fuel in the production of Energy, SELLER shall provide ANAHEIM with such documentation as reasonable necessary concerning such reporting of the Facility Greenhouse Gas emissions production in accordance with Exhibit G.
- 5.2 Modification of Greenhouse Gas Emissions Reporting Procedure. ANAHEIM's Public Utilities General Manager or designee may unilaterally modify Exhibit G to reflect changes necessary in the Greenhouse Gas emissions reporting procedure for ANAHEIM to be able to account for the Greenhouse Gas emissions production related to serving load.

6. COMMERCIAL OPERATION DATE AND REFUND OF RESERVATION DEPOSIT

- 6.1 Scheduled Commercial Operation Date. The Scheduled Commercial Operation Date of the Facility is shown in Exhibit A. Subject to the provisions of Section 6.2, a revision of the Scheduled Commercial Operations Date shall not be a modification to the Agreement requiring an amendment to the Agreement.
- 6.2 Revision of Scheduled Commercial Operation Date. SELLER may change the Scheduled Commercial Operation Date of the Facility by providing written notice to ANAHEIM that SELLER wishes to revise the Scheduled Commercial Operation Date subject to the following conditions:
- 6.2.1 SELLER may only submit one revision of the Scheduled Commercial Operation Date.
- 6.2.2 SELLER must provide written notice of the revised Scheduled Commercial Operation Date at least ninety (90) days prior to the initial Scheduled Commercial Operation Date.
- 6.2.3 The revised Scheduled Commercial Operation Date cannot be earlier than January 1 of the same calendar year as the initial Scheduled Commercial Operation Date.
- 6.2.4 The revised Scheduled Commercial Operation Date cannot be later than ninety (90) days after the initial Scheduled Commercial Operation Date.

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6.3 Feed-In Tariff Reservation Deposit. The Parties acknowledge that SELLER has provided ANAHEIM the Feed-In Tariff Reservation Deposit shown on Exhibit A.

6.3.1 If the Facility achieves Commercial Operation within ninety (90) days following the Scheduled Commercial Operation Date, as it may be revised, ANAHEIM shall refund the entire Feed-In Tariff Reservation Deposit.

6.3.2 If the Facility has not achieved Commercial Operation within ninety (90) days following the Scheduled Commercial Operation Date, as it may be revised, SELLER shall forfeit the entire Feed-In Tariff Reservation Deposit and ANAHEIM shall terminate the Agreement in accordance with the terms of Section 13.

6.3.3 If the Agreement otherwise terminates under its own terms, and the Facility has not achieved Commercial Operation, SELLER shall forfeit the entire Feed-In Tariff Reservation Deposit.

6.3.4 Should SELLER terminate the Agreement prior to achieving Commercial Operation, ANAHEIM shall refund a portion of the Feed-In Tariff Reservation Deposit by multiplying the Feed-In Tariff Reservation Deposit by the following refund factor:

$$1 - \left(\frac{\text{Date of Notice of Termination} - \text{Effective Date}}{\text{Initial Scheduled Commercial Operation Date} - \text{Effective Date}} \right)$$

Where:

The term, "Initial Scheduled Commercial Operation Date - Effective Date" is the number of days from and including the Effective Date to the Initial Scheduled Commercial Operation Date.

The term, "Date of Notice of Termination - Effective Date" is the number of days from and including the Effective Date to the date the Termination Notice is received by ANAHEIM.

The refund factor is not greater than 1 and not less than 0.

7. REPRESENTATION AND WARRANTIES; COVENANTS

7.1 Each Party represents and warrants to the other Parties that: (i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation or organization; (ii) it has all regulatory authorizations necessary for it to legally perform its obligations under this

Agreement and any other documentation relating to this Agreement to which it is a party or by which it is bound; (iii) the execution, delivery and performance of this Agreement and any other documentation relating to this Agreement to which it is a party are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party (or by which it is bound) or any law, rule, regulation, order or the like applicable to it; (iv) this Agreement and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms; (v) there are no bankruptcy proceedings pending or being contemplated by it or, to its knowledge, threatened against it; (vi) there are no pending or, to its knowledge, threatened against it or any of its affiliates (if any) legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement or any other document relating to this Agreement to which it is a party; and (vii) it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the any other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement.

8. GENERAL CONDITIONS

8.1 Facility Care and Interconnection. SELLER shall execute an Interconnection Agreement with ANAHEIM and shall pay and be responsible for designing, installing, operating, and maintaining the Facility in accordance with all applicable laws and regulations and shall comply with all applicable ANAHEIM, WECC, FERC, and NERC provisions, including applicable interconnection and metering requirements. SELLER shall also comply with any modifications, amendments or additions to the applicable ANAHEIM's Rates, Rules and Regulations and protocols. During the Delivery Term, SELLER shall arrange and pay independently for any and all necessary costs under an Interconnection Agreement with ANAHEIM. To make deliveries to ANAHEIM, SELLER must maintain an Interconnection Agreement with ANAHEIM in full force and effect.

8.2 Standard of Care. SELLER shall at no additional cost or expense to ANAHEIM: (a) operate and maintain the Facility in a safe manner in accordance with ANAHEIM's Interconnection Agreement and Guidelines for Interconnection, manufacturer's guidelines, warranty requirements, Good Utility Practice, industry norms [including standards of the National Electrical Code ("NEC"), Institute of Electrical and Electronic Engineers, American National Standards, and the Underwriters Laboratories ("UL")], and in accordance with the requirements of all

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applicable federal, state and local laws and the National Electric Safety Code, as such laws and code norms may be amended from time to time; (b) obtain any governmental authorizations and permits required for the construction and operation thereof. SELLER shall make any necessary and commercially reasonable repairs with the intent of optimizing the availability of Energy to ANAHEIM. SELLER shall reimburse ANAHEIM for any and all losses, damages, claims, penalties, or liability ANAHEIM incurs as a result of SELLER's failure to obtain or maintain any governmental authorizations and permits required for construction and operation of the Facility throughout the Term of this Agreement.

8.3 Access Rights. ANAHEIM, its authorized contractors, agents, employees, and inspectors shall have the right to inspect the Facility on reasonable advance notice during normal business hours and for any purposes reasonably connected with this Agreement or the exercise of any and all rights secured to ANAHEIM by law or its Rates, Rules and Regulations. ANAHEIM shall make reasonable efforts to coordinate its emergency activities with the safety and security departments, if any, of the Facility operator. SELLER shall keep ANAHEIM advised of current procedures for communicating with the Facility operator's safety and security departments.

8.4 Protection of Property. Each Party shall be responsible for protecting its own facilities from possible damage resulting from electrical disturbances or faults caused by the operation, faulty operation, or non-operation of the other Party's facilities and such other Party shall not be liable for any such damages so caused.

8.5 Insurance. SELLER shall comply with the insurance requirements set forth in the Interconnection Agreement.

8.6 ANAHEIM Performance Excuse; SELLER Curtailment.

8.6.1 ANAHEIM Performance Excuse. ANAHEIM shall not be obligated to accept or pay for Energy produced by or Capacity provided from the Facility during a Force Majeure that affects ANAHEIM's ability to accept Energy from the Facility.

8.6.2 SELLER Curtailment. ANAHEIM may require SELLER to interrupt or reduce deliveries of Energy: (a) when necessary to construct, install, maintain, repair, replace, remove, or investigate any of its equipment or part of ANAHEIM's transmission system or distribution system or facilities; or (b) if ANAHEIM determines that curtailment, interruption, or reduction is necessary because of a system emergency. For curtailments under this section 8.6.2 that exceed sixty (60) hours of Facility production time in any Contract Year, ANAHEIM will compensate SELLER for the Energy that

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SELLER would have been able to produce but for ANAHEIM's event of curtailment, as calculated by ANAHEIM in a commercially reasonable manner; provided, however, that at the end of the Delivery Term SELLER shall deliver to ANAHEIM, at no additional cost or expense, the cumulative amount of Energy and all associated Green Attributes from the Facility not delivered by SELLER but for which ANAHEIM compensated SELLER under this section 8.6.2 during the Delivery Term.

- 8.7 Notices of Outages. Whenever possible, ANAHEIM shall give SELLER reasonable notice of the possibility that interruption or reduction of deliveries may be required.
- 8.8 No Additional Loads. SELLER shall not connect any loads at the location of the Facility in a manner that would reduce the Energy provided from the Facility to ANAHEIM hereunder. SELLER shall obtain separate retail electric service under existing ANAHEIM Rates, Rules and Regulations for the service of such additional loads.
- 8.9 Metering. ANAHEIM shall install the appropriate meter(s) that will be used for billing and all costs involved in the purchase and installation of the required meter(s) will be at the SELLER's sole cost and expense in accordance with ANAHEIM's Rates, Rules and Regulations.

9. FORCE MAJEURE

- 9.1 Effect of Force Majeure. ANAHEIM or SELLER, as the case may be, shall be excused from performance under this Agreement to the extent, but only to the extent, that performance hereunder is prevented by an act or event of Force Majeure. ANAHEIM or SELLER, as the case may be, shall exercise due diligence to overcome or mitigate the effects of such an act or event of Force Majeure; *provided, however*, that nothing in this Agreement shall be deemed to obligate the Party affected by an act or event of Force Majeure (a) to forestall or settle any strike, lock-out or other labor dispute against its will or (b) for Force Majeure affecting SELLER only, to purchase electric power to cure the event of Force Majeure.
- 9.2 Notice of Force Majeure. In the event of any delay or nonperformance resulting from an event of Force Majeure, the Party suffering the Force Majeure shall, as soon as practicable under the circumstances, notify the other Party in writing of the nature, cause, date of commencement thereof and the anticipated extent of any delay or interruption in performance.

Termination Due to Force Majeure Event. If a Party is prevented from performing its material obligations under this Agreement for a period of twelve (12) consecutive months or longer, the unaffected Party may terminate this

Agreement, without liability of either Party to the other, upon thirty (30) days written notice at any time during the Force Majeure event.

10. INDEMNITY

10.1 Indemnity by SELLER. SELLER shall defend, release, indemnify and hold harmless ANAHEIM, its directors, officers, employees, agents, and representatives against and from any and all losses, claims, demands, liabilities and expenses, actions or suits, including reasonable costs and attorney's fees, resulting from, or arising out of or in any way connected with claims by third parties associated with: (A) (i) the Energy delivered at the Delivery Point, (ii) SELLER's operation and/or maintenance of the Facility, or (iii) SELLER's actions or inactions with respect to this Agreement; and (B) any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to, or death of, persons, or for damage to or destruction of property belonging to ANAHEIM, SELLER, or others, excepting only such loss, claim, action or suit as may be caused solely by the willful misconduct or negligence of ANAHEIM, its agents, employees, directors or officers.

10.2 Indemnity by ANAHEIM. ANAHEIM shall defend, release, indemnify and hold harmless SELLER, its directors, officers, employees, agents, and representatives against and from any and all losses, claims, demands, liabilities and expenses, actions or suits, including reasonable costs and attorney's fees resulting from, or arising out of or in any way connected with claims by third parties associated with acts of ANAHEIM, its directors, officers, employees, agents, and representatives, relating to: (A) the Energy delivered by SELLER under this Agreement after the Delivery Point, and (B) any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to, or death of, persons, or for damage to or destruction of property belonging to ANAHEIM, SELLER, or others, excepting only such loss, claim, action or suit as may be caused solely by the willful misconduct or negligence of SELLER, its agents, employees, directors or officers.

11. LIMITATION OF DAMAGES

Each Party's liability to the other Party for any first-party loss, cost, claim, injury, liability, or expense, including reasonable attorneys' fees, relating to or arising from any act or omission in its performance of this Agreement, shall be limited to the amount of direct damage actually incurred. In no event shall either Party be liable to the other Party for any indirect, special, consequential, or punitive damages of any kind whatsoever.

12. NOTICES

Notices shall, unless otherwise specified herein, be in writing and may be delivered by hand delivery, United States mail, overnight courier service, facsimile or electronic

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messaging (“e-mail”). Whenever this Agreement requires or permits delivery of a “notice” (or requires a Party to “notify”), the Party with such right or obligation shall provide a written communication in the manner specified below. A notice sent by facsimile transmission or e-mail will be recognized and shall be deemed received on the Business Day on which such notice was transmitted if received before 5 p.m. Pacific prevailing time (and if received after 5 p.m., on the next Business Day) and a notice by overnight mail or courier shall be deemed to have been received two (2) Business Days after it was sent or such earlier time as is confirmed by the receiving Party unless it confirms a prior oral communication, in which case any such notice shall be deemed received on the day sent. A Party may change its addresses by providing notice of same in accordance with this provision. All written notices shall be directed as shown in Exhibit H. Either Party may request a change to Exhibit H as necessary to keep the Exhibit H information current. Such changes to Exhibit H are not deemed amendments to the Agreement necessitating that the Agreement be amended.

13. TERM, TERMINATION EVENT AND TERMINATION

13.1 Term. The term of this Agreement (“Term”) shall commence upon the execution by the duly authorized representatives of each of ANAHEIM and SELLER, and shall remain in effect until the conclusion of the Delivery Term, or if applicable, until SELLER has fulfilled its obligation to deliver true-up Energy and Green Attributes pursuant to Section 8.6.2, unless terminated sooner pursuant to the terms of this Agreement. All indemnity rights shall survive the termination of this Agreement.

13.2 Termination Event. ANAHEIM shall have the right, but not the obligation, to terminate the Agreement upon the occurrence of any of the following, each of which is a “Termination Event”: (a) The Facility has not achieved Commercial Operation within ninety (90) days of the Scheduled Commercial Operation Date, as it may be revised hereunder; (b) After the Commercial Operation Date SELLER has not sold or delivered Energy from the Facility to ANAHEIM for a period of twelve (12) consecutive months; (c) Facility does not maintain RPS Certification as required by Section 3.2; (d) if applicable law prevents ANAHEIM from fulfilling its obligations under this Agreement; or (e) SELLER fails to maintain an ANAHEIM Interconnection Agreement or otherwise fails to comply with the requirements of Section 8.2.

13.3 Termination.

13.3.1 Declaration of a Termination Event. If a Termination Event has occurred and is continuing, ANAHEIM shall have the right to: (a) send a written notice, designating a day, no earlier than five (5) days after such notice is deemed to be received (as provided in Section 12) and no later than twenty (20) days after such notice is deemed to be received (as provided in Section 12), as an early termination date of this Agreement (“Early Termination Date”)

unless SELLER has timely communicated with ANAHEIM and the Parties have agreed to resolve the circumstances giving rise to the Termination Event; (b) accelerate all amounts owing between the Parties; and (c) terminate this Agreement and end the Delivery Term effective as of the Early Termination Date.

13.3.2 Release of Liability for Termination Event. Upon termination of this Agreement pursuant to this section neither Party shall be under any further obligation or subject to liability hereunder, except with respect to the indemnity provision in Section 10 hereof for the defaulting Party.

14. SCHEDULING AND OUTAGES

- 14.1 Scheduling Procedure. ANAHEIM may require SELLER to provide ANAHEIM with Facility Energy forecasts on a periodic basis as necessary for ANAHEIM to account for expected Facility generation in its daily power scheduling process. The requirements are detailed in Exhibit D.
- 14.2 Planned Outages. For the purposes of this Agreement a maintenance outage shall constitute a Planned Outage. SELLER shall provide Planned Outage notifications in accordance with the Scheduling and Outage Procedure detailed in Exhibit D.
- 14.3 Forced Outages. SELLER shall notify ANAHEIM of any Forced Outage of the Facility that will reduce the Facility Capacity for more than one (1) hour duration. SELLER shall provide Forced Outage notifications in accordance with the Scheduling and Outage Procedure detailed in Exhibit D.
- 14.4 Modification of Scheduling and Outage Notification Procedure. ANAHEIM's Public Utilities General Manager or designee may unilaterally modify Exhibit D to reflect changes necessary in the Scheduling and Outage Procedure notification.

15. RELEASE OF DATA

SELLER authorizes ANAHEIM to release to any regulatory or governmental authority having jurisdiction information regarding the Facility, including but not limited to the SELLER's name and location, operational characteristics, the Term of Agreement, the Facility resource type, the Scheduled Commercial Operation Date, the actual Commercial Operation Date, the Contract Capacity, and Energy production information. SELLER acknowledges that this information may be made publicly available by ANAHEIM or the regulatory or governmental authority ANAHEIM released such information to. SELLER, at its sole cost and expense, may undertake such action as SELLER deems appropriate to protect the confidentiality, if any, of such information.

16. ASSIGNMENT

Neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld; provided, however;

- 16.1 Upon written request of SELLER, ANAHEIM will cooperate with SELLER and SELLER's lender to execute a collateral assignment agreement on such terms as are mutually agreeable.
- 16.2 Notwithstanding the foregoing, no consent shall be required so long as ANAHEIM receives prior written notice at least ten (10) Business Days prior to the event:
 - 16.2.1 Any assignment or transfer of this Agreement by SELLER to an affiliate of SELLER, provided that such affiliate's creditworthiness is equal to or better than that of SELLER; or
 - 16.2.2 Any assignment or transfer of this Agreement by SELLER or ANAHEIM to a Person succeeding to all or substantially all of the assets of such Party, provided that such Person's creditworthiness is equal to or greater than that of such Party, as reasonably determined by the non-assigning or non-transferring Party.

17. APPLICABLE LAW

THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW.

18. SEVERABILITY

If any provision in this Agreement is determined to be invalid, void or unenforceable by any court having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of this Agreement and the Parties shall use their best efforts to modify this Agreement to give effect to the original intention of the Parties.

19. COUNTERPARTS

This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall be deemed one and the same Agreement. Delivery of an executed counterpart of this Agreement by facsimile or PDF transmission will be deemed as effective as delivery of an originally executed counterpart. Each Party delivering an executed counterpart of this Agreement by facsimile or PDF transmission will also deliver an originally executed counterpart, but the failure of any Party to deliver

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an originally executed counterpart of this Agreement will not affect the validity or effectiveness of this Agreement.

20. GENERAL

Except as otherwise provided for herein, no amendment to or modification of this Agreement shall be enforceable unless reduced to writing and executed by both Parties. This Agreement shall not impart any rights enforceable by any third party other than a permitted successor or assignee bound to this Agreement. Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default. The term "including" when used in this Agreement shall be by way of example only and shall not be considered in any way to be in limitation. The headings used herein are for convenience and reference purposes only.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF, each Party has caused this Agreement to be duly executed by its authorized representative as of the date of last signature provided below.

BUYER:

SELLER:

CITY OF ANAHEIM,
a municipal corporation

_____, an individual or
a(n) _____ corporation

By: _____
Marcie L. Edwards
Public Utilities General Manager

By: _____
(Signature)
Name (Printed): _____

Title: _____

Date: _____

APPROVED AS TO FORM:
CRISTINA L. TALLEY, CITY ATTORNEY

APPROVED AS TO FORM:
[INSERT LAW FIRM OR LAWYER NAME]

By: _____
[INSERT NAME]
[INSERT TITLE]

By: _____
Name (Printed): _____

Title: _____

ATTEST:

By: _____
Linda N. Andal, City Clerk

ATTACHMENTS:

- Exhibit A - Description and Location of Facility
- Exhibit B - Contract Price – Electric Rates, Rules and Regulations - Schedule D-FIT (Developmental Feed-In Tariff)
- Exhibit C - Commercial Operation Date Confirmation Letter
- Exhibit D - Scheduling and Outage Notification Procedure
- Exhibit E - Green Attribute Reporting and Conveyance Procedures
- Exhibit F - Capacity Attribute Reporting and Conveyance Procedures
- Exhibit G - Greenhouse Gas Emissions Reporting Requirements
- Exhibit H – Notices

DESCRIPTION AND LOCATION OF FACILITY

A.1 SELLER's Feed-In Tariff Record Number: _____.

A.2 The Facility is described as _____

_____.

A.3 The Facility is located at (physical address) _____
Anaheim, California _____(zip code).

A.4 The Facility's primary fuel is _____.

A.5 The Contract Capacity is _____ kilowatts ("kW"- the AC rating at unity power factor, ambient conditions of 60 Fahrenheit at sea level).

A.6 The maximum hourly energy delivery quantity is _____ kWh (Contract Capacity x 1 hour).

A.7 The Expected Annual Energy Output of the Facility is _____ kWh.

A.8 The initial Scheduled Commercial Operation Date is _____.

If applicable, the revised Scheduled Commercial Operation Date is _____.

A.9 The Feed-In Tariff Reservation Deposit is \$_____ (the amount is \$20/kW times the proposed Facility Capacity).

A.10 The Facility is connected to the ANAHEIM's Distribution System at _____ kV.

Exhibit B

CONTRACT PRICE

ELECTRIC RATES, RULES AND REGULATIONS
SCHEDULE D-FIT (DEVELOPMENTAL FEED-IN TARIFF)

[ATTACHED BEIND THIS PAGE]

Exhibit C

COMMERCIAL OPERATION DATE CONFIRMATION LETTER

In accordance with the terms of that certain Standard Form Feed-In Tariff Power Purchase Agreement dated _____ (“Agreement”) by and between the City of Anaheim (“ANAHEIM”) and _____ (“SELLER”), this letter serves to document the Parties further agreement that (i) the conditions precedent to the occurrence of the Commercial Date have been satisfied, and (ii) ANAHEIM has received the Energy, as specified in the Agreement, as of this ____ day of _____, _____.

This letter shall confirm the Commercial Operation Date, as defined in the Agreement, as the date referenced in the preceding sentence.

IN WITNESS WHEREOF, each Party has caused this Confirmation Operation Date Confirmation Letter to be duly executed by its authorized representative as of the date of last signature provided below:

By: SELLER

By: ANAHEIM

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit D

SCHEDULING AND OUTAGE NOTIFICATION PROCEDURE

D.1 Additional Definitions for the Scheduling and Outage Procedure:

None.

D.2 Scheduling Requirements. Scheduling shall conform to the requirements established by the California Independent System Operator (CAISO) and the Western Electricity Coordinating Council (WECC), to the extent applicable. SELLER will make and submit annually its own forecasts of Facility Energy production for use by ANAHEIM in its power scheduling process. For changes greater than 1,000 kW (1 MW), SELLER shall submit any changes to the output of the Facility via email by noon the normal working day before each prescheduling day as identified in WECC prescheduling calendar or as soon as possible. These submittals should be by email to the addresses shown in the Scheduling section of the Notices Exhibit H

D.3 Planned Outage Notifications. Planned Outages may only be taken upon thirty (30) days written notice to ANAHEIM. SELLER may not schedule or take any Planned Outages from 6:00 a.m. through 10:00 p.m. Pacific Prevailing Time during the months of May through October. SELLER shall notify ANAHEIM at least 72 hours in advance of Planned Outages that result in a reduction in the effective output of the Facility during period over which the Planned Outage is scheduled.

SELLER shall submit to ANAHEIM the planned and scheduled outages 1 week prior to the following due dates (per CAISO Tariff):

January 15th: Quarterly Updates on the Planned Outages

April 15th: Quarterly Updates on the Planned Outages

July 15th: Quarterly Updates on the Planned Outages

October 15th: Planned Outages for the next calendar year.

Notification should be by email to the addresses shown in the Outages section of Exhibit H - Notices.

D.4 Notification of Cleaning. If SELLER has scheduled cleaning that will reduce the Facility Capacity by greater than 1,000 kW (1 MW), SELLER shall notify ANAHEIM at least 72 hours in advance of scheduled cleaning, and should include details of the cleaning plan. SELLER shall also follow-up with ANAHEIM after cleaning of the Facility in order to verify the actual cleaning dates and times. Notification should be made by email to the addresses shown in the Outages section of Exhibit H - Notices.

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- D.5 Forced Outage Notifications. Within 8 hours of a Forced Outage of the Facility that impacts the ability of the Facility to produce Energy, SELLER shall notify ANAHEIM of the Forced Outage, including the Capacity of the Facility that is impacted, and the expected duration of the Forced Outage. Within 1 hour of the return of the Facility to service following the Forced Outage SELLER shall notify ANAHEIM of the return to service details. Notification shall be made by email to the addresses shown in the Outages section of the Notices Exhibit H.
- D.6 Changes in Scheduling and Outage Procedure. ANAHEIM shall revise this Exhibit D as appropriate, give written notice SELLER regarding the revision, and issue a new Exhibit D which shall then become part of the Agreement to reflect changes in the scheduling and outage notification procedure.

Exhibit E

GREEN ATTRIBUTE REPORTING AND CONVEYANCE PROCEDURES

E.1 Additional Definitions for the Conveyance of Green Attributes:

“Certificate Transfers” means the process, as described in the WREGIS Operating Rules whereby a WREGIS account holder may request that WREGIS Certificates from a specific generating unit be directly deposited into another WREGIS account.

“WREGIS” means the Western Renewable Energy Generation Information System, sponsored by the WECC and utilized by the CEC for tracking the generation and transfer of RECs. The URL for WREGIS is www.WREGIS.org.

“WREGIS Certificates” means a certificate created within the WREGIS system that represents all Renewable and Environmental Attributes from one MWh of electricity generation from an Eligible Renewable Energy Resource that is registered with WREGIS.

“WREGIS Operating Rules” means the document published by WREGIS that govern the operation of the WREGIS system for registering, tracking, conveying, etc. Renewable Energy Credits produced from Eligible Renewable Energy Resources that are registered with WREGIS.

E.2 Renewable Energy Credits. Green Attributes shall be conveyed by SELLER to ANAHEIM through Renewable Energy Credits (“RECs”) which shall be registered tracked and conveyed to ANAHEIM using WREGIS.

E.3 WREGIS Registration. Prior to the Commercial Operation Date, ANAHEIM will register the Facility in ANAHEIM's WREGIS account on behalf of SELLER. WREGIS provides account holders a methodology to aggregate small-scale projects and allow them to be registered and tracked since a REC cannot be created until one MWh has been accumulated. ANAHEIM shall charge back to SELLER any costs of registering, maintaining the registration of the Facility, and creating RECs with WREGIS.

E.4 ANAHEIM's WREGIS Account. ANAHEIM shall, at its sole expense, establish and maintain ANAHEIM's WREGIS account sufficient to accommodate the WREGIS Certificates produced by the output of the Facility. ANAHEIM shall be responsible for all expenses associated with (A) establishing and maintaining ANAHEIM's WREGIS Account, and (B) subsequently transferring or retiring WREGIS Certificates.

E.5 Qualified Reporting Entity. ANAHEIM shall be the Qualified Reporting Entity for Facility, and shall be responsible for providing metered Facility output data to WREGIS.

E.6 Reporting of Green Attributes. In lieu of SELLER transferring the WREGIS Certificates using Certificate Transfers from SELLER's WREGIS account to the WREGIS account of ANAHEIM, ANAHEIM shall report the Facility as being directly in its WREGIS account, which will preclude SELLER from reporting the Facility in its own WREGIS account.

E.6.1 By avoiding the use of Certificate Transfers, there will be no transaction costs to SELLER or ANAHEIM for the Certificate Transfers that would otherwise be used.

E.6.2 WREGIS Certificates for the Facility will be created on a calendar month basis in accordance with the certification procedure established by the WREGIS Operating Rules in an amount equal to the Energy generated by the Project and delivered to ANAHEIM in the same calendar month.

E.6.3 WREGIS Certificates will only be created for whole MWh amounts of energy generated. Any fractional MWh amounts (*i.e.*, kWh) will be carried forward until sufficient generation is accumulated for the creation of a WREGIS Certificate and all such accumulated MWh of Green Attributes will then be available to ANAHEIM.

E.6.4 Should a WREGIS Certificate Modification be required to reflect any errors or omissions regarding the Green Attributes from the Facility ANAHEIM will manage the submission of the WREGIS Certificate Modification.

E.6.5 Due to the expected delay in the creation of WREGIS Certificates relative to the timing of invoice payments under Section 2, ANAHEIM shall make an invoice payment for a given month in accordance with Section 2 before the WREGIS Certificates for such month may be created in ANAHEIM's WREGIS account. Notwithstanding this delay, ANAHEIM shall have all right and title to all such WREGIS Certificates upon payment to SELLER in accordance with Section 2.

E.7 Changes in Green Attributes Reporting and Conveyance Procedure. ANAHEIM shall revise this Exhibit F as appropriate, give written notice SELLER regarding the revision, and issue a new Exhibit F which shall then become part of the Agreement in the event that:

E.7.1 WREGIS changes the WREGIS Operating Rules after the Effective Date or applies the WREGIS Operating Rules in a manner inconsistent with this Exhibit E after the Effective Date; or,

E.7.2 WREGIS is replaced as the primary method that ANAHEIM uses for conveyance of Green Attributes, or additional methods to convey all Green Attributes are required.

Exhibit F

CAPACITY ATTRIBUTE REPORTING AND CONVEYANCE PROCEDURES

F.1 Additional Definitions for the Conveyance of Capacity Attributes:

None

F.2 Reporting of Capacity Attributes. ANAHEIM will report the Capacity Attributes acquired herein in any regulatory filing that ANAHEIM is required to make in order to declare the Capacity of the Facility (or any portion thereof) as meeting ANAHEIM's Capacity planning requirements (also known as Resource Adequacy).

F.3 Changes in Capacity Attributes Conveyance Procedure. ANAHEIM shall revise this Exhibit F as appropriate, give written notice SELLER regarding the revision, and issue a new Exhibit F which shall then become part of the Agreement in the event that the method for reporting and conveying Capacity Attributes changes from the process described herein.

Exhibit G

GREENHOUSE GAS EMISSIONS REPORTING REQUIREMENTS

G.1 Additional Definitions for Greenhouse Gas Emissions Reporting Requirements:

“The Climate Registry” means the nonprofit collaboration among North American states, provinces, territories and Native Sovereign Nations that sets consistent and transparent standards to calculate, verify and publicly report Greenhouse Gas emissions into a single registry.

G.2 Greenhouse Gas Emissions Reporting. If the Facility combusts fuel in the production of Energy, SELLER shall provide ANAHEIM with the annual Greenhouse Gas emissions production from the Facility, determined in accordance with the protocols of The Climate Registry.

G.3 Changes in Greenhouse Gas Emissions Reporting. ANAHEIM shall revise this Exhibit G as appropriate, give written notice SELLER regarding the revision, and issue a new Exhibit G which shall then become part of the Agreement in the event ANAHEIM requires a change in the form of Greenhouse Gas emissions that it reports for its own account.

Exhibit H

NOTICES

For Contract Administration:

To ANAHEIM:

Integrated Resources Division
City of Anaheim
201 S. Anaheim Blvd., Suite 802
Anaheim, CA 92805
Phone: (714) 765-4145
Emails: gbowen@anaheim.net; knguyen@anaheim.net; mfrazee@anaheim.net

To SELLER:

For Settlements (Billing, Payment and Dispute Resolution):

To ANAHEIM:

Public Utilities Wholesale Energy Settlements
City of Anaheim
201 South Anaheim Blvd., Suite 1101
Anaheim, CA 92805
Fax: (714) 765-4020
Email: energysettlements@anaheim.net

To SELLER for Payments:

To SELLER for Billing:

To SELLER for Dispute Resolution:

For Scheduling:

To ANAHEIM:

Day Ahead Trading Desk

Phone: (714) 765-4257

Emails: thammond@anaheim.net; cguss@anaheim.net; knguyen@anaheim.net;
gbowen@anaheim.net

To SELLER:

For Planned Outages:

To ANAHEIM:

Day Ahead Trading Desk

Phone: (714) 765-4257

Email: thammond@anaheim.net; cguss@anaheim.net; knguyen@anaheim.net;
gbowen@anaheim.net

To SELLER:

For Forced Outages and Curtailments:

To ANAHEIM:

Real Time Scheduling Desks

Phone: (714) 765-5109

Email: scheduler@anaheim.net; thammond@anaheim.net; cguss@anaheim.net;
knguyen@anaheim.net; gbowen@anaheim.net

To SELLER:

