
RENEWABLE ENERGY POWER PURCHASE AGREEMENT

between

NORTHERN CALIFORNIA POWER AGENCY

and

MONTEREY COUNTY WATER RESOURCES AGENCY

RENEWABLE ENERGY POWER PURCHASE AGREEMENT

This Renewable Energy Power Purchase Agreement, together with the exhibits (collectively, the “Agreement”) is made by and between the Northern California Power Agency, a joint powers agency established pursuant to the laws of the State of California (“Buyer” or “NCPA”) and the Monterey County Water Resources Agency, a California public agency created by the Monterey County Water Resources Agency Act, Chapter 52 of the California Water Code Appendix (“Seller” or “MCWRA”).

W I T N E S S E T H:

WHEREAS, Seller owns and operates a hydroelectric generating facility located at Lake Nacimiento in Bradley, San Luis Obispo County, California, which, as of the Effective Date, as defined below, qualifies as an eligible renewable energy resource (“ERR”) under the State of California Renewables Portfolio Standard (“RPS”) Program requirements, as codified at California Public Utilities Code Section 399.11, *et seq.* and Seller desires to sell all of the Output produced by such generating facility, together with all Environmental Attributes and Capacity Attributes, each as defined below, to Buyer pursuant to the terms and conditions set forth herein; and

WHEREAS, Seller is authorized to provide, generate and deliver hydroelectric power, and to contract to provide, generate and sell hydroelectric power; and

WHEREAS, Buyer was created by a joint powers agreement dated July 19, 1968, as amended, entered into pursuant to Chapter 5, Division 7, Title 1 of the California Government Code commencing with Section 6500, and is authorized to contract for and acquire power supply for the benefit of one or more of its members or for resale; and

WHEREAS, Seller desires to sell and Buyer desires to purchase all of the Output generated by Seller’s generating facility, together with all Environmental Attributes and Capacity Attributes, pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, the Parties agree as follows:

ARTICLE 1: RULES OF INTERPRETATION; DEFINITIONS

Unless otherwise required by the context in which any term appears, (i) initially-capitalized terms used in this Agreement shall have the meanings specified in this Article; (ii) terms defined in the singular shall include the plural and vice versa; (iii) references to “Articles,” “Sections,” and “Exhibits” shall be to articles, sections, or exhibits hereof; (iv) all references to a particular entity shall include a reference to such entity’s successors and permitted assigns; (v) the words “herein,” “hereof,” and “hereunder” shall refer to this Agreement as a whole and not to any particular section or subsection hereof; (vi) all accounting terms not specifically defined herein shall be construed in accordance with GAAP, consistently applied; (vii) references to this Agreement shall include a reference to all exhibits hereto, as the same may be amended, modified, supplemented, or replaced from time to time; (viii) terms used in the masculine shall include the feminine and neuter and vice versa; (ix) the term “including,” when used in this Agreement, shall mean to include without limitation; and (x) references to Requirements of Law means to such Requirements of Law as they may hereafter be amended.

- 1.1** “Adjustment Period” means (i) the actual period when inaccurate measurements were made by a defective Meter, if that period can be determined to the mutual satisfaction of the Parties, or (ii) if the actual period cannot be determined to the mutual satisfaction of the Parties, one-half the period from the date of the last previous test of the Meter to the date such failure is discovered.
- 1.2** “Agreement” has the meaning set forth in the preamble of this Agreement.
- 1.3** “Arbitration Panel” has the meaning set forth in Section 10.2(c)(iii).
- 1.4** “Business Day” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday. A Business Day shall begin at 8:00 a.m. and end at 5:00 p.m. local time for the relevant Party’s principal place of business. The relevant Party, in each instance unless otherwise specified, shall be the Party from whom the notice, payment or delivery is being sent, or by whom the notice, payment or delivery is received, as the context requires.
- 1.5** “Buyer” has the meaning set forth in the preamble of this Agreement.
- 1.6** “Capacity” means the total installed electrical generating capability of the Generating Facility, net of all onsite and other uses permitted under this Agreement and of all line transformation losses to the Delivery Point.
- 1.7** “Capacity Attributes” means any and all current or future defined characteristics, certificates, tags, credits, ancillary service attributes, or accounting constructs, howsoever entitled, including Resource Adequacy Benefits, and any tracking or accounting associated with the foregoing, attributed to or associated with part or all of the Capacity during the Term.

- 1.8** “Confidential Information” has the meaning set forth in Section 10.5.
- 1.9** “Contract Price” means the price in United States dollars (\$U.S.) (unless otherwise provided for) to be paid by Buyer to Seller for the purchase of the Output, as specified in Exhibit 2 or Section 3.3(i), as applicable.
- 1.10** “Contractual Obligations” means, as to Seller, any material agreement, instrument or undertaking to which Seller is a party or by which it or any of its property is bound.
- 1.11** “Contract Year” means each year beginning on January 1 and ending on December 31; provided, however, the first Contract Year of the Term shall begin on the Effective Date but shall nevertheless end on December 31.
- 1.12** “Control Area” means the electric power system (or combination of electric power systems) under the operational control of the ISO or any other electric power system under the operational control of another organization vested with authority comparable to that of the ISO. Control Area is also commonly referred to as Balancing Authority Area.
- 1.13** “Damages” has the meaning set forth in Section 8.3.
- 1.14** “Delivery Point” means the high side (60 kV) of the bus bar at the ISO-controlled grid commonly known as ISO PNode (OILFLDS_6_GN009) in San Luis Obispo County, California, or such other designation established by the ISO from time to time for the purpose of delivering the Output to the ISO-controlled grid, as further specified in Exhibit 1.
- 1.15** “EA Agency” means any local, state or federal entity, or any other Person, that has responsibility for or jurisdiction over a program involving transferability of Environmental Attributes, including the Clean Air Markets Division of the United States Environmental Protection Agency, the State Energy Resources Conservation and Development Commission (commonly referred to as “the California Energy Commission”), the California Public Utilities Commission, and any successor agency to any of the foregoing.
- 1.16** “Effective Date” means April 1, 2014, the date on which the Parties expect that the Output will first be sold to Buyer under this Agreement.
- 1.17** “Energy” means the electric power generated by the Generating Facility pursuant to this Agreement, as expressed in units of kWh or MWh.
- 1.18** “Environmental Attributes” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Generating Facility or Expansion Plant(s), as the case may be, and its displacement of conventional energy generation. Environmental Attributes include: (i) 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; (ii) any avoided emissions of carbon dioxide (CO₂), methane (CH₄) and other greenhouse gases that have been

determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (iii) the reporting rights to these avoided emissions such as, but not limited to, a Renewable Energy Credit ("REC").

Environmental Attributes do not include the following attributes and such other attributes that are not an environmental credit or benefit directly attributable to the Output during the Term, including but not necessarily limited to (i) any Energy, Capacity, reliability or other power attributes from the Generating Facility or Expansion Plant(s), (ii) Production Tax Credits associated with the construction or operation of the Generating Facility, or Expansion Plant(s), and other financial incentives in the form of credits, reductions, or allowances associated with the Generating Facility or Expansion Plant(s) that are applicable to a state or federal income taxation obligation, and (iii) water or water-related rights or benefits.

- 1.19** "Environmental Attributes Reporting Rights" means all rights to report ownership of the Environmental Attributes to any Person, including, but not limited to, under Section 1605(b) of the Energy Policy Act of 1992 and the RPS Program.
- 1.20** "ERR" has the meaning set forth in the recitals of this Agreement.
- 1.21** "Event of Default" has the meaning set forth in Section 8.1.
- 1.22** "Expansion Plant" means an expansion of the Generating Facility that results in the Capacity of the Generating Facility exceeding five (5.0) MW. For the avoidance of doubt, an expansion or modification of the Generating Facility that does not result in the Capacity of the Generating Facility exceeding five (5.0) MW shall not be considered an Expansion Plant, and all Output associated with any such expansion or modification of the Generating Facility shall be purchased and sold hereunder, as generally described in Section 3.1.
- 1.23** "Expansion Plant Output" means all Capacity and associated Energy, Test Energy, and associated Environmental Attributes and Capacity Attributes produced by Seller at an Expansion Plant.
- 1.24** "Expected Annual Contract Quantity" means an approximation of the average historic electrical output of the Generating Facility, and an approximation of the Output that Seller expects to deliver to Buyer hereunder in a given Contract Year, as set forth in Exhibit 3.
- 1.25** "Expiration Date" has the meaning set forth in Section 2.1.
- 1.26** "Force Majeure Event" has the meaning set forth in Section 7.1.
- 1.27** "GAAP" means Generally Accepted Accounting Principles in the United States of America that are consistently applied.

- 1.28** “Generating Facility” means Seller’s Lake Nacimiento hydroelectric power generating facility as more particularly described in Exhibit 1, together with all materials, equipment systems, structures, features and improvements necessary to produce electric power at such facility, excluding the Site, land rights and interests in land.
- 1.29** “Governmental Authority” means any federal or state government, or political subdivision thereof, including any municipality, township or county, or any entity or authority exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, and also including any corporation or other entity owned or controlled by any of the foregoing.
- 1.30** “Interconnection” means the interconnection of the Generating Facility with the Transmission System, including construction, installation, operation and maintenance of all Interconnection Facilities.
- 1.31** “Interconnection Agreement” means the agreement between Seller and the Transmission Provider pursuant to which Seller and the Transmission Provider set forth the terms and conditions for Interconnection of the Generating Facility to the Transmission System, as amended from time to time.
- 1.32** “Interconnection Facilities” means all of the facilities installed for the purpose of interconnecting the Generating Facility to the Transmission System, including transformers and associated equipment, relay and switching equipment and safety equipment.
- 1.33** “Interest Rate” means, for any date, the per annum rate of interest equal to the prime lending rate as may from time to time be published in the *Wall Street Journal* under “Money Rates” on such day (or if not published on such day on the most recent preceding day on which published).
- 1.34** “Inter-SC Trade” means a trade between Scheduling Coordinators in accordance with the ISO Tariff.
- 1.35** “ISO” means the California Independent System Operator Corporation, or its functional successor.
- 1.36** “ISO Tariff” means the duly authorized tariff, rules, protocols and other requirements of the ISO, as amended from time to time.
- 1.37** “kWh” means a kiloWatt-hour of electric energy.
- 1.38** “Meter” means the physical metering device, data processing equipment and apparatus associated with the meter owned by Seller or its designee, and used to determine the quantities of Output generated by the Generating Facility and to record other related parameters required for the reporting of data to Buyer in accordance with the requirements of Article 4.

- 1.39** “Meter Service Agreement for ISO Metered Entities” has the meaning set forth in the ISO Tariff.
- 1.40** “MW” means a megaWatt of electric capacity.
- 1.41** “MWh” means a megaWatt-hour of electric energy.
- 1.42** “Outage” means a physical state in which all or a portion of the Generating Facility is unavailable to provide energy to the Delivery Point, including any duration or reduction in the Capacity of the Generating Facility, whether planned or unplanned, or any required full or partial maintenance or repair shutdown of the Generation Facility, whether planned or unplanned.
- 1.43** “Output” means, with respect to the Generating Facility operating at a Capacity up to and including five (5.0) MW and such additional Expansion Plant Output agreed to be purchased by Buyer under Section 3.4, (i) the Energy delivered to Buyer at the Delivery Point and (ii) all associated Environmental Attributes and Capacity Attributes. Unless expressly stated otherwise, the term “Output” shall refer to Energy delivered by the Generating Facility after adjustment, if any, for the distribution compensation factor under the ISO Tariff to reflect losses or credits, as the case may be, from the Interconnection, where the Energy is metered, across the Transmission Provider’s distribution system to the Delivery Point, where the Energy is transacted and the Output is sold to Buyer.
- 1.44** “Participating Generator Agreement” has the meaning set forth in the ISO Tariff.
- 1.45** “Parties” means Buyer and Seller, and their respective successors and permitted assignees.
- 1.46** “Party” means Buyer or Seller, and each such Party’s respective successors and permitted assignees.
- 1.47** “Permits” means, collectively, all federal, state or local authorizations, certificates, permits, licenses or approvals required by any Governmental Authority for the construction, ownership, operation and maintenance of the Generating Facility.
- 1.48** “Person” means an individual, partnership, corporation (including a business trust), limited liability company, joint stock company, trust, unincorporated association, joint venture, Governmental Authority or other entity.
- 1.49** “Physical Trade” means an Inter-SC Trade of Energy at an individual generating unit’s pricing node or at the unique aggregated pricing node of a physical scheduling plant that is submitted to the ISO for settlement through the ISO market and is subject to physical validation.
- 1.50** “Production Tax Credits” or “PTC” means production tax credits under Section 45 of the Internal Revenue Code, as amended from time-to-time during the Term.

- 1.51** “Prudent Utility Practice” means those practices, methods and equipment, as changed from time to time, that: (i) when engaged in, or employed, are commonly used in the State of California in prudent electrical engineering and operations to operate electricity equipment lawfully and with safety, reliability, efficiency and expedition; or (ii) in the exercise of reasonable judgment considering the facts known, when engaged in could have been expected to achieve the desired result consistent with applicable law, safety, reliability, efficiency and expedition. Prudent Utility Practices are not limited to an optimum practice, method, selection of equipment or act, but rather are a range of acceptable practices, methods, selections of equipment or acts.
- 1.52** “Qualified Reporting Entity” or “QRE” shall have the meaning as defined in the WREGIS Operating Rules, as such may be amended from time to time.
- 1.53** “Renewable Energy Credits” or “REC” shall have the meaning set forth in California Public Utilities Code Section 399.12(h), and generally means the right to claim title to Environmental Attributes attributable to the generation of electric energy from ERRs. RECs are measured in one MWh increments and evidenced by a WREGIS Certificate.
- 1.54** “Resource Adequacy Benefits” means the rights and privileges attached to any generating resource that satisfy any entity’s resource adequacy obligations imposed by any Governmental Authority.
- 1.55** “Requirements of Law” means, collectively, any federal or state law, local ordinance, treaty, franchise, rule, regulation, tariff, order, writ, judgment, injunction, decree, award or determination of any arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon Seller or Buyer or any of their property or to which Seller or Buyer or any of their respective properties are subject.
- 1.56** “RPS” or “Renewables Portfolio Standard” or “RPS Program” means California’s renewables portfolio standard established in California Public Utilities Code Section 399.11 *et seq.* relating to the requirement that a specified percentage of a load-serving entity’s retail sales should be supplied with electricity generated by eligible renewable energy resources.
- 1.57** “Schedule” or “Scheduled” or “Scheduling” means the actions of Seller, Buyer and/or their designated representatives, including each Party’s Transmission Providers and Scheduling Coordinator, if applicable, of notifying, requesting and confirming to each other and the ISO the quantity of Energy to be delivered on any given day or days hereunder during the Term at the Delivery Point.
- 1.58** “Scheduling Coordinator” means an entity certified by the ISO for the purposes of undertaking the responsibilities specified by the ISO Tariff with respect to the Scheduling Coordinator function.
- 1.59** “Seller” has the meaning set forth in the preamble of this Agreement.
- 1.60** “Site” means the real property on which the Generating Facility is located, as more particularly described in Exhibit 1.

- 1.61** “Taxes” means any federal, state, local or foreign income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental, customs duties, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, real property (including assessments, fees or other charges based on the use or ownership of real property), personal property, transactional, sales, use, transfer, registration, value added, alternative or add on minimum, estimated tax, or other tax of any kind whatsoever, or any liability for unclaimed property or escheatment under common law principles, including any interest, penalty or addition thereto, whether disputed or not, including any item for which liability arises as a transferee or successor-in-interest.
- 1.62** “Term” means the period of time set forth in Section 2.1 during which this Agreement is in effect; provided, however, as to provisions of this Agreement that relate to the sale of the Output, “Term” shall mean the period of time commencing on the Effective Date and continuing through the Expiration Date.
- 1.63** “Transmission Provider” means any entity or entities responsible for the Interconnection of the Generating Facility with a Control Area or transmitting Energy on behalf of Seller from the Generating Facility to the Delivery Point, and on behalf of Buyer from the Delivery Point.
- 1.64** “Transmission System” means the facilities used for the transmission of electric power in interstate commerce, including any modifications or upgrades made to such facilities, owned or operated by the Transmission Provider.
- 1.65** “Unit Contingent” means that the delivery of the Output is dependent upon the availability and operation of the Generating Facility, and that Seller is excused from any failure to deliver the Output, unless expressly stated otherwise herein.
- 1.66** “WECC” means the Western Electricity Coordinating Council, or its successor(s).
- 1.67** “WREGIS” means the Western Renewable Energy Generation Information System, or its functional successor.
- 1.68** “WREGIS Certificate” means “Certificate” as defined by WREGIS in the WREGIS Operating Rules.
- 1.69** “WREGIS Operating Rules” means the operating rules and requirements established by WECC, and adopted and made effective by WREGIS on July 15, 2013, as such may be amended from time to time.

ARTICLE 2: TERM

2.1 Term

This Agreement shall become effective on the date of last execution of this Agreement by the Parties, as stated on the signature pages hereof, and, unless earlier terminated

pursuant to an express provision of this Agreement, shall continue to be effective through 11:59:59 p.m. on December 31, 2033 (“Expiration Date”).

ARTICLE 3: PURCHASE AND SALE

3.1 Purchase and Sale of Output

(a) Generally. In accordance with the terms and conditions hereof, commencing on the Effective Date and continuing throughout the remaining portion of the Term, Seller shall sell and deliver at the Delivery Point, and Buyer shall purchase and accept from Seller at the Delivery Point, and pay the Contract Price for, all of the Output. Without limiting the generality of the foregoing and for the avoidance of doubt, Buyer’s obligation to purchase, accept and pay the Contract Price for the Output shall not be conditioned on or affected by Buyer’s receipt of payments from its member(s) for Buyer’s resale or transfer of the Output to its member(s). The Buyer is purchasing a Unit Contingent REC that is bundled with Unit Contingent Energy, as further described in Section 3.1(b), and all other Environmental Attributes and Capacity Attributes associated with the Output. Seller shall only be obligated to Schedule and deliver Energy, Environmental Attributes and Capacity Attributes from the Generating Facility, and shall not be obligated to provide replacement Energy, Environmental Attributes and Capacity Attributes due to (i) an Outage, or (ii) an actual quantity of Output that is less than the Expected Annual Contract Quantity.

(b) As-Available; Use-Limited. Seller acknowledges that the Output is produced by water flows, the availability of which is dictated primarily by non-economic, hydrological factors that may result in the Generating Facility not being subject to discretionary variations in the Output. The Output is being sold to Buyer on an as-available, Unit Contingent basis, which means that Seller’s failure to deliver the Output shall be excused where the failure is caused by: (i) the unavailability of water or the unavailability of sufficient differential pressure required for operation of the Generating Facility, as reasonably determined by Seller within its operating procedures and the use of Prudent Utility Practices, and (ii) unavailability of the Generating Facility due to any Outage.

(c) Scheduled and Delivered Amounts. The Seller shall operate the Generating Facility consistent with Prudent Utility Practice and Seller shall deliver the Output consistent with water flow and other factors as described in Section 3.1(b). Buyer shall accept all delivered amounts of the Output. Seller shall use good faith efforts to ensure that the amount of Scheduled deliveries of forecasted Output matches the amount of the actual Output. Seller's Scheduling Coordinator shall Schedule from the Generating Facility to Buyer’s Scheduling Coordinator using a Physical Trade Scheduled on a day-ahead basis in accordance with the applicable tariffs, including the ISO Tariff, an amount of Energy equal to the forecasted Output for each applicable ISO settlement interval. Notwithstanding the foregoing, the Parties acknowledge that because of the scheduling and settlement requirements of the ISO, as specified in the ISO Tariff, Scheduled deliveries of the forecasted Output on a day-ahead basis and the actual Output may be

unequal during any applicable ISO settlement interval. Due to the differences between Scheduled deliveries of the forecasted Output and the actual Output, any payment due from Buyer to Seller, as set forth in Section 3.1(a), shall be adjusted based on the imbalance energy settlement adjustment equations set forth in Exhibit 2.

3.2 Delivery Point

(a) Allocation of Costs and Risks. Seller shall be responsible for any costs or charges imposed on or associated with the Output or the delivery of the Output hereunder up to and at the Delivery Point. Buyer shall be responsible for any costs or charges imposed on or associated with the Output, or its receipt, after the Delivery Point.

(b) Title and Risk of Loss. Title to, and risk of loss related to, the Output shall transfer from Seller to Buyer at the Delivery Point.

3.3 Environmental Attributes and Capacity Attributes

(a) Generally. Throughout the Term of this Agreement, Seller shall transfer to Buyer, and Buyer shall receive from Seller, all rights, title and interest in and to the Environmental Attributes and Capacity Attributes associated with the Output, whether now existing or that subsequently come into existence during the Term. Seller agrees to transfer title to and make such Environmental Attributes and Capacity Attributes available to Buyer as soon as reasonably practicable following the creation or existence of the Environmental Attributes and Capacity Attributes, as further described in Section 3.3(f). Seller agrees that the Contract Price is the full compensation for the Output, including all Energy, Environmental Attributes, and Capacity Attributes.

(b) No Assignment. Seller shall not assign, transfer, convey, encumber, sell or otherwise dispose of any portion of the Environmental Attributes and Capacity Attributes to any Person other than Buyer.

(c) RPS Compliance. Subject to Section 3.3(i), Seller, at its sole cost, shall ensure that the Generating Facility maintains throughout the Term the ERR status under the RPS Program that existed as of the Effective Date. Seller shall cooperate reasonably with Buyer and provide such certifications or attestations to Buyer as are reasonably necessary to verify that all Environmental Attributes attributable to the Energy have been transferred to Buyer, including, but not limited to, performing all actions and requirements necessary to transfer RECs generated from the Generating Facility from Seller to Buyer.

(d) Reporting Rights. During the Term, Seller shall not report to any Person that the Environmental Attributes and Capacity Attributes granted hereunder to Buyer belong to anyone other than Buyer. Buyer, as the purchaser of RECs sourced from the Generating Facility and, as applicable, the Expansion Plant, has the right to report and publicly disclose its ownership of RECs purchased under this Agreement. For the avoidance of doubt, Buyer may provide a report regarding the RECs to any federal or state agency or any other party at its discretion, and, for the purpose of such reports, RECs shall include those RECs accruing under Section 1605(b) of The Energy Policy Act of 1992, the RPS

Program, and any present or future federal, state, or local law, regulation or bill, or any international or foreign emissions trading program.

(e) Reporting Obligation. Buyer shall have no obligation to report greenhouse gas emissions associated with the Generating Facility to a governmental authority, and any such obligation shall be the sole responsibility of the Seller performed at its own cost.

(f) Transferring Environmental Attributes from Seller to Buyer. Seller shall perform all actions and requirements necessary to transfer all Environmental Attributes, including RECs, associated with the Output to Buyer.

- (i) If the Generating Facility is assigned to Buyer's WREGIS account, whereby RECs produced by WREGIS are deposited directly into Buyer's WREGIS account when created, then no explicit transfer shall be required between Seller and Buyer and RECs attributed to the Output are effectively transferred from Seller to Buyer when the Output is reported by the applicable QRE to WREGIS and RECs are deposited by WREGIS directly into Buyer's WREGIS account.
- (ii) If the Generating Facility is registered and assigned to Seller's WREGIS Account, whereby RECs produced by WREGIS are deposited directly into Seller's WREGIS account when created, then Seller shall perform all actions and requirements necessary, at its sole cost, to transfer to Buyer all RECs attributed to the Output when created by WREGIS. Seller shall be deemed to have delivered the applicable quantity of RECs to Buyer after the transfer of the applicable quantity of RECs to Buyer's WREGIS account is completed. Seller shall initiate the transfer into Buyer's WREGIS account of the quantity of RECs as soon as reasonably practicable after the date on which RECs corresponding to the Output have been created in the WREGIS account for the Generating Facility.
- (iii) The Parties expect that it may be more timely and efficient to follow the process described in subsection (i), above, whereby the Generating Facility is assigned to Buyer's WREGIS account. Buyer agrees to cooperate with Seller as may be reasonably requested by Seller in order to have the Generating Facility assigned to Buyer's WREGIS account.
- (iv) The Parties agree to modify the REC transfer process described herein and to take such other reasonable action as may be necessary in order to effectuate the timely and efficient transfer of RECs to Buyer's WREGIS account. Subsequent to the Effective Date, if the process under which Environmental Attributes, including RECs, are transferred from Seller to Buyer is modified such that the WREGIS process is no longer applicable, the Parties agree to modify the transfer process stated herein to enable the timely and efficient delivery of Environmental Attributes from Seller to Buyer.

(g) Documentation. At Buyer's reasonable request, the Parties, each at their own expense, shall execute all such documents and instruments in order to effectuate the transfer of the Environmental Attributes specified in this Agreement to Buyer. Upon notification by an EA Agency that any transfers contemplated by this Agreement will not be recorded, the Parties shall promptly cooperate in taking all reasonable actions necessary so that such transfer can be recorded. Each Party shall promptly give the other Party copies of all documents it submits to the EA Agency to effectuate any transfers.

(h) Resource Adequacy Benefits. Seller hereby grants, pledges, assigns and otherwise commits to Buyer the full Capacity of the Generating Facility on a Unit Contingent, use-limited basis during the Term for the purpose, among other things, of providing a Resource Adequacy Benefit to Buyer. Seller represents, warrants, and covenants to Buyer that Seller shall not, during the Term, use, grant, pledge, assign, or otherwise commit any portion of the Generating Facility or its Output to provide a Resource Adequacy Benefit to any entity other than Buyer. The Parties shall take commercially reasonable actions to effectuate the use of the Resource Adequacy Benefits of the Generating Facility for Buyer's sole benefit throughout the Term, including but not limited to coordinating and promptly exchanging information that would allow Seller's Scheduling Coordinator to submit Schedules that are reflective of changing hydrological conditions and associated Energy deliveries so as to eliminate or mitigate any diminution in the Resource Adequacy Benefits. Notwithstanding the foregoing, Seller makes no representation or warranty that Buyer will actually realize a Resource Adequacy Benefit from the Generating Facility given the Unit Contingent, use-limited nature of the Generating Facility, as further described in Section 3.1(b), it being understood and agreed that realization of a Resource Adequacy Benefit is determined by resource adequacy rules established under the ISO Tariff.

(i) Change in Law or Regulation; Material Adverse Impact on Parties' Expectations. If a change in law or regulation is reasonably expected to occur after the Effective Date that, if adopted, would cause any of representations and warranties stated in Section 3.3(j) to be materially false or misleading, and that would have a material adverse impact on the Parties' expectation that the Output sold hereunder shall count towards meeting applicable Renewables Portfolio Standard procurement requirements ("Adverse Law"), the procedures and requirements in this sub-section shall apply. Either Party shall inform the other Party upon its awareness of an Adverse Law. Upon notice from one Party to the other Party, the Parties shall meet and confer for the purpose of discussing the impact of the Adverse Law on the Parties' expectations under this Agreement. The Parties shall cooperate in good faith and in a commercially reasonable manner to consider modifications or amendments to this Agreement that would address the effect of the Adverse Law ("Adverse Law Modifications"); provided, however, the foregoing shall not be construed as a requirement that this Agreement must be modified or amended in response to an Adverse Law. If, notwithstanding the Parties' efforts, the Parties are unable to mutually agree on Adverse Law Modifications, Buyer may terminate this Agreement upon written notice to Seller; provided, however, except as described in the following sentence, such termination shall not be effective until the later to occur of (i) ninety (90) calendar days after the effectiveness of the Adverse Law and (ii) ninety (90) calendar days after the termination notice. Notwithstanding the preceding sentence,

during the ninety (90) calendar day-period described in the preceding sentence, Buyer may extend the effectiveness of the termination up to an additional ninety (90) calendar days by providing no less than thirty (30) calendar days' notice to Seller. If termination is extended beyond the original ninety (90) calendar-day period, the Contract Price during the period after the original ninety (90) calendar day-period shall be the greater of (a) sixty percent (60%) of the otherwise applicable Contract Price, as described in Exhibit 2, and (b) the then-applicable day-ahead market price for the Delivery Point, as reflected under the ISO Tariff or a mutually agreeable index.

(j) Seller Representations and Warranties.

Seller represents and warrants that, as of the Effective Date and throughout the Term:

- (i) The Generating Facility qualifies and is certified by the California Energy Commission (CEC-RPS-ID-60169A) as an ERR, as such is defined in California Public Utilities Code Section 399.12(e), and is therefore eligible to be counted towards meeting applicable Renewables Portfolio Standard procurement requirements;
- (ii) The Generating Facility has a first point of interconnection with a California balancing authority, such that the Output qualifies as Portfolio Content Category 1 pursuant to the requirements of California Public Utilities Code Section 399.16(b)(1) in a manner consistent with Section 3203(a) of the *Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities*, adopted by the California Energy Commission and made effective on October 1, 2013;
- (iii) The RECs transferred from Seller to the Buyer conform to the definition and characteristics required for compliance with the RPS Program;
- (iv) (a) the Generating Facility is a “qualifying small power production facility” as that term is defined in Section 3(17)(C) of the Federal Power Act, and will possess all of the exemptions from regulation provided in 18 C.F.R. Sections 292.601(c) and 292.602; or (b) Seller has market-based rate authority, if applicable, and has made all filings required in connection with this Agreement, under Federal Power Act;
- (v) Seller holds the rights to all Environmental Attributes and Capacity Attributes; and
- (vi) Seller will deliver to Buyer at the Delivery Point the Output free and clear of all liens, security interests, claims and encumbrances or any interest therein, or thereto, by any Person.

3.4 Right of First Refusal for Expansion Plant and Expansion Plant Output

- (a) Buyer's Right to Purchase. Seller may in its sole discretion determine, from time to time, to develop, finance, construct and/or operate an Expansion Plant, provided such

Expansion Plant shall not impair, diminish or alter Seller's ability to satisfy its obligations to deliver the Output to Buyer; provided, however, Buyer acknowledges that Seller's ability to satisfy its obligations to deliver the Output may be temporarily impaired, diminished or altered due to development and construction of an Expansion Plant. For the avoidance of doubt, an expansion or modification of the Generating Facility that does not result in the Capacity of the Generating Facility exceeding five (5.0) MW shall not be considered an Expansion Plant, and all Output associated with any such expansion or modification of the Generating Facility shall be purchased and sold hereunder, as generally described in Section 3.1. Each time a determination is made to develop, finance, construct and/or operate an Expansion Plant, Seller shall notify Buyer of such determination and shall offer in writing to sell the Expansion Plant Output to Buyer. The offer shall include the price to be paid by Buyer for the Expansion Plant Output, and other material terms and conditions associated with the offer. If Buyer wishes to accept such offer to purchase all of the Expansion Plant Output on the price and terms described in the offer, Buyer shall so notify Seller within ninety (90) calendar days of Buyer's receipt of such offer. The Parties shall promptly thereafter enter into a good faith negotiation to enter into a definitive agreement incorporating the terms of such offer.

(b) Seller's Right to Sell to Third Parties. If Buyer does not notify Seller in writing within ninety (90) calendar days of receipt of Seller's offer stating that Buyer accept Seller's offer to purchase all of the Expansion Plant Output, Seller shall be free to offer to sell the Expansion Plant Output to one or more third parties at a price and on other terms and conditions which, taken as a whole, are at least as favorable to Seller as the price and other terms and conditions set forth in Seller's offer to Buyer; provided, however, that Buyer's refusal of Expansion Plant Output from one Expansion Plant shall not affect Buyer's right to be offered the Expansion Plant Output from a later Expansion Plant.

ARTICLE 4: METERING

4.1 Metering Requirements

(a) Meter. The purchase and sale of the Output shall be measured by a revenue quality Meter. Such Meter shall be selected, provided, installed, owned, maintained and operated, at Seller's sole cost and expense, by Seller or its designee in accordance with the ISO Tariff. Seller shall exercise reasonable care in the maintenance and operation of the Meter, and shall test and verify the accuracy of the Meter at least annually. Seller shall inform Buyer in advance of the time and date of these tests, and shall permit Buyer to be present at such tests and to receive the results of such tests.

(b) SCADA. As required under the ISO Tariff, Seller shall install and maintain all equipment and data circuits necessary to determine and transmit real time supervisory control and data acquisition ("SCADA") system data and real time data from the Meter to the ISO. Seller shall provide to Buyer a copy of each certificate of compliance, or denial of such certificate, issued by ISO, if any.

(c) Access by Buyer. Buyer shall be provided access to all monitored SCADA points to be used at its discretion in real time monitoring. Buyer may further, at its sole cost and expense, install any updates or upgrades to the Meter, as well as install and maintain check meters and all associated measuring equipment necessary to permit an accurate determination of the quantities of Output delivered under this Agreement, provided that such equipment does not interfere with Seller's Meter. Seller shall permit Buyer or Buyer's representative access to its Generating Facility for the purpose of installing and maintaining such check meters; provided Buyer or Buyer's representative agrees to access and safety rules reasonably established by Seller. Seller shall also list Buyer's Scheduling Coordinator as an "authorized user" pursuant to the Seller's Meter Service Agreement for ISO Metered Entities.

(d) ISO Requirements. Seller shall submit to the ISO, or allow the ISO to retrieve, any meter data required by the ISO related to the Generating Facility and its Output in accordance with the ISO Tariff.

4.2 Meter Inaccuracies and Retroactive Adjustments

If, as determined under the ISO Tariff, including the ISO Business Practice Manual for Metering, the Meter fails to register, the measurement made by the Meter is found upon testing to be inaccurate by an amount exceeding the standard set forth in the ISO Tariff, or the Meter otherwise fails to comply with a standard set forth in the ISO Tariff, an adjustment shall be made in accordance with the ISO Tariff correcting all measurements made by the inaccurate or defective Meter during the Adjustment Period. If the Parties are unable to agree on the amount of the adjustment to be applied to the Adjustment Period, the amount of the adjustment shall be determined: (i) by correcting the error if the percentage of error is ascertainable by calibration, tests or mathematical calculation, or (ii) if not so ascertainable, by estimating on the basis of the deliveries under similar conditions during periods when the Meter was registering accurately. Upon the determination of the amount of any adjustment and upon acceptance of such adjustment by the ISO, Buyer shall pay to Seller any additional amounts then due for deliveries of the Output during the Adjustment Period at such time as other payments are due for the billing period in which the determination is made, or Buyer shall be entitled to a credit against the next subsequent payments due for the deliveries of the Output, whichever case is applicable.

4.3 Records and Audits

Seller and Buyer shall each keep complete and accurate records and all other data reasonably required by each Party for the purposes of proper administration of this Agreement, including such records as may be required by state or federal regulatory authorities. To facilitate payment and verification, Seller and Buyer shall keep all books and records necessary for billing and payments and grant the other Party reasonable access to those records. Seller and Buyer, at their own expense, shall have the right to audit and to examine the billing and operating records and data kept by the other Party relating to the transactions under, and the administration of, this Agreement. All such records and data shall be maintained by each Party throughout the Term and for a period

of not less than two (2) years following the expiration or earlier termination hereof. All such audits and examinations shall be conducted upon reasonable notice, during normal business hours and subject reasonable access and safety rules.

ARTICLE 5: BILLING AND PAYMENT

5.1 Billing

(a) Generally. Seller shall read the Meter at the end of each calendar month of the Term. As soon thereafter as reasonably practicable, and following the transfer of RECs to Buyer's WREGIS account, as described in Section 3.3(f), Seller shall provide, or cause to be provided, to Buyer an invoice for the amount due for the Output delivered in such previous calendar month. Such invoice shall be delivered as specified under Section 10.1.

(b) Disputes over Invoice. Should either Seller or Buyer determine at a later date, but in no event later than one (1) year after the original invoice date, that the invoice amount was incorrect, that Party shall promptly notify the other Party of the error. In the event that an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the disputed portion of the invoice shall be required to be made when due, with notice of the objection given to the other Party. Upon resolution of the dispute, any required payment shall be made within thirty (30) calendar days of such resolution along with interest accrued at the Interest Rate from, and including, the due date to, but excluding, the date paid. Inadvertent overpayments by Buyer shall be returned upon request or deducted by Seller from subsequent payments, with interest accrued at the Interest Rate from, and including, the date of such overpayment to, but excluding, the date repaid or deducted by Seller. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this Section 5.1(b) within one (1) year after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within one (1) year after the close of the month during which performance occurred, the right to payment for such performance is waived. Failure of Buyer or its agent to withhold any payment amount is not a waiver of Buyer's right to challenge such amount.

(c) ISO-related Adjustments. As described in Section 5.1(a), the Parties generally expect that an invoice shall relate to amounts due for the Output delivered in the previous calendar month. The Parties acknowledge that delays in the ISO's processes may affect finalization of factors used in the calculation of the imbalance energy settlement adjustment, as described in Exhibit 2. The Parties agree that the issuance of an invoice for the Output delivered in the previous month does not need to be delayed or held until after finalization of factors used in the calculation of the imbalance energy settlement adjustment, and that any adjustments based on the imbalance energy settlement adjustment equations may occur as soon as reasonably practicable following finalizations of such factors.

5.2 Payment

(a) Generally. Subject to Section 5.1(b), all invoices under this Agreement shall be due and payable thirty (30) calendar days after receipt of the invoice. If such day is not a Business Day, then payment shall be due on the next Business Day.

(b) Late Payments and Interest Rate. Payments made after the due date shall be considered late and shall bear interest on the unpaid balance at an annual rate equal to the lesser of (i) two percent (2%) plus the Interest Rate and (ii) the maximum rate permitted by applicable law. Interest shall be computed on the basis of a 365-day year.

(c) Electronic Payments. Each Party shall make payments by electronic funds transfer as set forth in Exhibit 5, or by other mutually agreeable method(s), to the account designated by the other Party.

5.3 Netting of Payments

The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date through netting. All amounts owed by each Party to the other for the purchase and sale of the Output during the monthly billing period under this Agreement, including any related damages, interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

5.4 Allocation of Taxes

Seller shall pay or cause to be paid all Taxes on or with respect to the Output delivered hereunder arising at, or prior to, the Delivery Point. Buyer shall pay or cause to be paid all Taxes on or with respect to the Output received after the Delivery Point. In the event Seller is required by law or regulation to remit or pay Taxes which are Buyer's responsibility hereunder, Buyer shall promptly reimburse Seller for such Taxes. If Buyer is required by law or regulation to remit or pay Taxes which are Seller's responsibility hereunder, Buyer may deduct the amount of any such Taxes from the sums due to Seller under this Agreement. Nothing shall obligate or cause a Party to pay or be liable to pay any Taxes for which it is exempt under the law.

ARTICLE 6: SELLER'S ADDITIONAL OBLIGATIONS

6.1 Operation and Maintenance of the Generating Facility

(a) Generally. Seller shall operate and maintain the Generating Facility in accordance with this Agreement, all Requirements of Law, Contractual Obligations, Permits and Prudent Utility Practice.

(b) Compliance. Seller shall, in its own name and at its own expense, seek, obtain, maintain, comply with and, as necessary, renew and modify from time to time, all Permits and other authorizations that are required by any Requirements of Law or Governmental Authority as are necessary for Seller to engage in the activities and obligations required by this Agreement.

(c) Records. Seller shall keep complete and accurate operating and other records and all other data for the purposes of proper administration of this Agreement as reasonably required by Buyer, including such records as may be required by any Requirements of Law, Governmental Authority or Prudent Utility Practice.

(d) Disclosure. Seller shall provide to Buyer such information regarding the permitting, engineering, construction, maintenance, repair or operations of the Generating Facility as Buyer may from time to time reasonably request, subject to licensing or other restrictions of Seller or a third party with respect to confidentiality, disclosure or use.

6.2 Obligation to Schedule and Deliver

(a) Scheduling. Seller shall be responsible for designating a Scheduling Coordinator that shall, with respect to the Generating Facility, perform those functions assigned to a Scheduling Coordinator under the ISO Tariff. Seller's Scheduling Coordinator shall be identified in Exhibit 4. Seller may change its Scheduling Coordinator upon reasonable advance written notice to Buyer. Seller shall Schedule or cause to be Scheduled the forecast Output in accordance with, and shall at all times comply with, all applicable ISO Tariff requirements and the provisions of Exhibit 4. Pursuant to Section 3.1(c), Seller's Scheduling Coordinator shall Schedule an amount equal to the forecast Output to Buyer's Scheduling Coordinator using a Physical Trade Scheduled on a day-ahead basis in accordance with the ISO Tariff for each applicable ISO scheduling interval.

(b) Agreement with Transmission Provider. Seller shall, at its own cost and expense, cause to be maintained its Interconnection Agreement and such other agreements with the Transmission Provider as needed to enable Seller to maintain its Interconnection of the Generating Facility to transmit Capacity and Energy to the Delivery Point.

(c) Agreements with ISO. Seller shall, at its own cost and expense, cause to be maintained agreements with the ISO required by the ISO for the Generating Facility to deliver power into the ISO-controlled grid, including, but not limited to, a Meter Service Agreement for ISO Metered Entities and a Participating Generator Agreement.

(d) Start-ups and Shut-downs. Seller shall coordinate all Generating Facility start-ups and shut-downs, in whole or in part, with Buyer in accordance with ISO scheduling protocols and the reasonable protocols established by Buyer that are not inconsistent with the ISO Tariff and ISO procedures, as specified in Exhibit 4.

6.3 Modifications to the Generating Facility

Seller shall obtain Buyer's written consent, which shall not be unreasonably withheld or delayed, prior to making any modifications to the Generating Facility that could adversely affect Seller's or Buyer's ability to perform their respective obligations under this Agreement or that could adversely affect Seller's ability to deliver the Expected Annual Contract Quantity; provided, however, the foregoing shall not be construed as requiring Buyer's written consent in order for Seller to modify the Generating Facility in compliance with any Requirements of Law. "Modifications" as used herein does not include water-related modifications, including, but not limited to, modifications to the

reservoir providing the water for the Generating Facility, or the operation of the dam which creates the reservoir (including sales or spilling of water such that the water does not flow through the turbines); provided, however, while Buyer's written consent shall not be required for water-related modifications Seller shall nevertheless provide reasonably prompt notice to Buyer of the occurrence or likely occurrence of such water-related modifications and what impact such modifications may have on Seller's ability to deliver the Output to Buyer.

ARTICLE 7: FORCE MAJEURE

7.1 Force Majeure Events

(a) Excuse. Subject to Section 7.2, and except as expressly set forth herein, neither Party shall be considered in default under this Agreement for any delay or failure in its performance under this Agreement (including any obligation to deliver or accept the Output) if such delay or failure is due to a Force Majeure Event, but only to the extent that:

- (i) such Force Majeure Event is not attributable to fault or negligence on the part of that Party;
- (ii) such Force Majeure Event is caused by factors beyond that Party's reasonable control; and
- (iii) despite taking all reasonable technical and commercial precautions and measures to prevent, avoid, mitigate or overcome such event and the consequences thereof, the Party affected has been unable to prevent, avoid, mitigate or overcome such event or consequences.

(b) Definition. "Force Majeure Event" may include, subject to Section 7.1(a) and (c):

- (i) acts of God such as storms, floods, lightning and earthquakes;
- (ii) sabotage or destruction by a third party of facilities and equipment relating to the performance by the affected Party of its obligations under this Agreement;
- (iii) Transmission System or generating equipment failure;
- (iv) war, riot, acts of a public enemy or other civil disturbance;
- (v) strike, walkout, lockout or other significant labor dispute; or
- (vi) curtailment by the ISO, or its successor, but only to the extent that the ISO declares a "System Emergency" or "Uncontrollable Force" under the ISO Tariff.

- (c) Exclusion. “Force Majeure Event” does not include the following:
- (i) economic hardship of either Party;
 - (ii) failure or delay in the granting of Permits;
 - (iii) failures or delays by the Transmission Provider or the ISO in entering into, or performing under, all agreements with Seller contemplated by this Agreement; or
 - (iv) curtailment or interruption of transmission services, other than by the ISO where the ISO declares a “System Emergency” or “Uncontrollable Force” under the ISO Tariff.

7.2 Conditions

In addition to the conditions set forth in Section 7.1(a), a Party may rely on a claim of a Force Majeure Event to excuse its performance only to the extent that such Party:

- (i) provides prompt notice of such Force Majeure Event to the other Party, giving an estimate of its expected duration and the probable impact on the performance of its obligations under this Agreement;
- (ii) exercises all reasonable efforts to continue to perform its obligations under this Agreement;
- (iii) expeditiously takes action to correct or cure the event or condition excusing performance so that the suspension of performance is no greater in scope and no longer in duration than is dictated by the problem; provided, however, that settlement of strikes or other labor disputes shall be completely within the sole discretion of the Party affected by such strike or labor dispute;
- (iv) exercises all reasonable efforts to mitigate or limit damages to the other Party; and
- (v) provides prompt notice to the other Party of the cessation of the event or condition giving rise to its excuse from performance.

7.3 Termination Due To Force Majeure Event

In addition to and without limiting any other provisions of this Agreement, if a Party is prevented from performing its material obligations under this Agreement by a Force Majeure Event for a period of either (i) three hundred and sixty five (365) consecutive days or more, or (ii) seven hundred and thirty (730) non-consecutive days or more (whether full or partial days), the unaffected Party may terminate this Agreement, without liability of either Party to the other, upon thirty (30) days written notice at any time after the expiration of such periods and during the Force Majeure Event.

ARTICLE 8: DEFAULT/REMEDIES/TERMINATION

8.1 Events of Default

An “Event of Default” shall mean, with respect to each Party, the occurrence of any of the following:

- (i) the failure to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within ten (10) Business Days after written notice;
- (ii) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated;
- (iii) the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default) if such failure is not remedied within thirty (30) calendar days after written notice (provided that if such failure is not capable of being remedied within such period, then for such longer period as is reasonably needed to effect the remedy, not to exceed one-hundred-eighty (180) calendar days, so long as the failing Party diligently pursues such remedy);
- (iv) the initiation of an involuntary proceeding against such Party under the bankruptcy or insolvency laws, which involuntary proceeding remains undismissed for sixty (60) calendar days, or in the event of the initiation by such Party of a voluntary proceeding under the bankruptcy or insolvency laws;
- (v) such Party either voluntarily or involuntarily consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other Party; or
- (vi) Seller sells or transfers Buyer’s share of the Output (or any individual component thereof) to any Person other than Buyer.

8.2 Remedies; Termination for Default

(a) Termination for Default. In the event the defaulting Party fails to cure the Event of Default within the period for curative action under Sections 8.1, as applicable, the non-

defaulting Party may terminate this Agreement by notifying the defaulting Party in writing of (i) the decision to terminate and (ii) the effective date of the termination.

(b) Remedies. For all claims, causes of action and damages with respect to an Event of Default, in addition to the right to termination under Section 8.2(a), the non-defaulting Party shall be entitled to foreclose upon, or otherwise employ, any security provided by the defaulting Party, if any, and to recover actual damages allowed by law unless otherwise limited by this Agreement. Neither the enumeration of Events of Default in Sections 8.1, nor the termination of this Agreement by a non-defaulting Party pursuant to Section 8.2(a), shall limit the right of a non-defaulting Party to rights and remedies available at law, including claims for breach of contract or failure to perform by the other Party and for direct damages incurred by the non-defaulting Party as a result of the termination of this Agreement.

(c) Limitations. Except as otherwise specifically and expressly provided in this Agreement, neither Party shall be liable to the other under this Agreement for any indirect, special or consequential damages, including loss of use, loss of revenues, loss of profit, interest charges, cost of capital or claims of its customers or members to which service is made. Under no circumstances shall the non-defaulting Party be required to make a termination payment or other payment in respect of any damages to the defaulting Party (except for payments due under this Agreement for performance prior to termination).

(d) Survival of Obligations. The following rights, obligations or provisions shall survive termination or expiration of this Agreement:

- (i) obligations by one Party to the other for payment of any amounts, or for performance of any duties, that have accrued or arose prior to, or have directly resulted from, the expiration or termination of this Agreement;
- (ii) indemnity obligations contained in Section 8.3, which shall survive to the full extent of the statute of limitations period applicable to any third party claim;
- (iii) limitation of liability provisions contained in Section 10.18;
- (iv) the right to dispute an invoice pursuant to Section 5.1(b); provided, however, the right to dispute an invoice shall not extend beyond the time period specified in Section 5.1(b); or
- (v) the Confidentiality obligations under Section 10.5.

8.3 Defense and Indemnification

Seller and Buyer (each an “Indemnifying Party”) mutually agree to defend, indemnify, and hold each other, and their respective members, officers, directors, employees and agents, and the officers, directors, employees and agents of their members, (each an “Indemnified Party”) harmless from and against all claims, demands, losses, liabilities,

and expenses (including reasonable attorneys' fees) suffered by an Indemnified Party or claimed against an Indemnified Party (collectively, "Damages") arising from personal injury, bodily injury (including death) or property damage to the extent arising out of, resulting from, or caused by the Indemnifying Party's negligent or intentional conduct.

This defense and indemnification obligation shall apply notwithstanding any negligent or intentional acts by the Indemnified Party which also caused the Damages, but the Indemnifying Party's obligation to indemnify the Indemnified Party shall be reduced in proportion to the percentage by which the Indemnified Party's own negligent or intentional acts caused the Damages.

These defense and indemnity provisions shall not be construed to relieve any insurer of its obligation to pay claims consistent with the provisions of a valid insurance policy.

ARTICLE 9: GENERAL REPRESENTATIONS, WARRANTIES AND COVENANTS

9.1 Seller's Representations, Warranties and Covenants

In addition to Seller's representations and warranties in section 3.3(j), Seller represents, warrants and covenants to Buyer that:

- (i) Seller is duly organized and validly existing pursuant to Chapter 52 of the California Water Code Appendix. Seller has the lawful power to engage in the business it presently conducts and contemplates conducting in this Agreement and Seller is duly qualified in each jurisdiction wherein the nature of the business transacted by it makes such qualification necessary;
- (ii) Seller has the legal power and authority to make and carry out this Agreement and to perform its obligations hereunder; all such actions have been duly authorized by all necessary proceedings on its part;
- (iii) this Agreement has been duly and validly executed and delivered by Seller and, as of the Effective Date, constitutes a legal, valid and binding obligation of Seller, enforceable in accordance with its terms against Seller, except to the extent that its enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the rights of creditors generally or by general principles of equity;
- (iv) there are no actions, suits, proceedings or investigations pending or, to the knowledge of Seller, threatened in writing against Seller, at law or in equity before any court or Governmental Authority, which individually or in the aggregate are reasonably likely to have a materially adverse effect on the business, properties or assets or the condition, financial or otherwise, of Seller, or to result in any impairment of Seller's ability to perform its obligations under this Agreement; and

- (v) the execution, delivery and performance of this Agreement by Seller will not conflict with its governing documents, any applicable laws, or any covenant, agreement, understanding, decree or order to which Seller is a party or by which it is bound or affected.

9.2 Buyer Representations and Warranties

Buyer represents and warrants to Seller that as of the date of execution of this Agreement:

- (i) Buyer is a joint powers agency established pursuant to the laws of the State of California, and has all requisite corporate power and authority to own, lease, and operate its properties and to carry on its business as is now being conducted;
- (ii) Buyer is duly qualified or licensed to do business as a joint powers agency and is in good standing in each jurisdiction in which the property owned, leased or operated by it or the nature of the business conducted by it makes such qualification necessary, except where the failure to be so duly qualified or licensed and in good standing would not have a material adverse effect;
- (iii) Buyer has the legal power and authority to make and carry out this Agreement and to perform its obligations hereunder and all such actions have been duly authorized by all necessary proceedings on its part;
- (iv) the execution, delivery and performance of this Agreement by Buyer will not conflict with its governing documents, any applicable laws or any covenant, agreement, understanding, decree or order to which Buyer is a party or by which it is bound or affected;
- (v) this Agreement has been duly and validly executed and delivered by Buyer and, as of the Effective Date, constitutes a legal, valid and binding obligation of Buyer, enforceable in accordance with its terms against Buyer, except to the extent that its enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the rights of creditors generally or by general principles of equity; and
- (vi) there are no actions, suits, proceedings or investigations pending or, to the knowledge of Buyer, threatened in writing against Buyer, at law or in equity before any court or Governmental Authority, which individually or in the aggregate are reasonably likely to have a materially adverse effect on the business, properties or assets or the condition, financial or otherwise, of Buyer, or to result in any impairment of Buyer's ability to perform its obligations under this Agreement.

ARTICLE 10: MISCELLANEOUS

10.1 Notices

All written notices, requests, statements or payments under this Agreement shall, unless otherwise specified herein, be deemed properly sent if delivered in person or sent by facsimile, reliable overnight courier, or sent by registered or certified mail, postage prepaid to the persons specified in Exhibit 6a or 6b. Notice by facsimile or hand delivery shall be effective at the close of business on the day actually received, if received during a Business Day, and otherwise shall be effective at the close of the next Business Day. Notice by overnight United States mail or courier shall be effective on the next Business Day after it was sent. A Party may change its addresses by providing notice of same in accordance with this section.

10.2 Dispute Resolution

(a) Arbitration or Mediation. All disputes arising from this Agreement shall be resolved by binding arbitration. Prior to initiating arbitration and subject to Section 5.1(b), any dispute under this Agreement between Seller and Buyer shall, at the request of any Party, be referred to a senior representative of each of the Parties for resolution on an informal basis as promptly as practicable. In the event the senior representatives are unable to resolve the dispute, the matter may, within thirty (30) days of the senior representatives' failure to reach agreement, be submitted by either Party to binding arbitration consistent with subsection (c).

(b) Remedies. Nothing in this Section 10.2 shall be construed to delay the exercise of remedies pursuant to Section 8.2 pending the resolution of any dispute.

(c) Arbitration. Disputes referred for resolution by binding arbitration shall be resolved pursuant to the California Arbitration Act (California Code of Civil Procedure section 1280 *et seq.*) subject to the following:

- (i) Each Party shall, within fourteen (14) calendar days of referral, appoint an expert for inclusion on the arbitration panel.
- (ii) Within fourteen (14) calendar days of the later of such appointments, the two Party-appointed experts shall agree upon and appoint a third expert. The third expert shall have at least five (5) years of experience in electricity generation and sales matters in California and shall not have been employed by either Party, including as a consultant, or have had any other financial relationship to either Party, in the prior five (5) years.
- (iii) In the event that a third expert cannot be agreed upon by the two Party-appointed experts within such fourteen (14) calendar day period, the Parties shall request the Presiding Judge of the Superior Court of Alameda County, California to appoint the third expert. The three experts shall be referred to as the "Arbitration Panel."

- (iv) Within fourteen (14) calendar days of the appointment of the third expert, each Party shall provide to the Arbitration Panel and the other Party such materials and written argument as it determines to be relevant to the dispute. The Arbitration Panel may, in its discretion, convene a hearing at which each Party may be subject to inquiry by the Arbitration Panel and/or the other Party; provided, however, such Party shall not be required to provide materials beyond those already provided.
- (v) The Arbitration Panel shall render a decision on the dispute by a simple majority vote within ninety (90) calendar days of the selection of the third expert, and shall produce a written explanation for its decision.

10.3 Regulatory Compliance

Each Party shall at all times comply with all Requirements of Law applicable to it. As applicable, each Party shall give all required notices, shall procure and maintain all Permits necessary for performance of this Agreement, and shall pay its respective charges and fees in connection therewith. In the event of any change to the ISO Tariff that materially impacts either Party's obligations or ability to perform under this Agreement, either Party may request that the Parties engage in good faith negotiations to amend this Agreement such that an equitable balance of benefits and burdens may be restored to the Parties. In the event that the Parties are unable to agree upon any amendments to this Agreement within sixty (60) calendar days of the request for negotiations, either Party may invoke the dispute resolution provisions of Section 10.2. Pending any resolution under Section 10.2, the Parties shall continue to comply with the provisions of this Agreement.

10.4 No Dedication of Facilities

Any undertaking by one Party to the other under any provision of this Agreement shall not constitute the dedication of the Generating Facility or any portion thereof to the public or to any portion thereof.

10.5 Confidentiality

For purposes of this Agreement, "Confidential Information" means information in respect of the business of either Party provided by one Party to the other in accordance with, or in furtherance of, this Agreement including this Agreement, the content of documents, ideas, business methods, finances, prices, business plans, financial development plans, manpower plans, customer lists or details, computer systems, software, know-how, trade secrets or other matters connected with such Party's obligations hereunder; provided, however, that Confidential Information shall not include information that (i) at the time of disclosure or thereafter is generally available to, or known by, the public other than as a result of a disclosure by the receiving Party or its representatives; (ii) was available to the receiving Party on a non-confidential basis from a source other than the disclosing Party; or (iii) was otherwise independently acquired or developed by the receiving Party without violating its obligations hereunder.

All Confidential Information obtained by either Party from the other Party shall be used only in connection with such Party's exercise of its rights or performance of its obligations under this Agreement and shall not be disclosed to any third party, except as may be required by law (including the California Public Records Act, Cal. Government Code Section 6250, *et seq.*), applicable regulation or judicial process; provided, however, that if the receiving Party is required to disclose such Confidential Information by applicable law, regulation or legal process, the receiving Party shall promptly notify the disclosing Party of such pending disclosure prior to such disclosure to permit the other Party to seek such judicial protection from disclosure as it may deem appropriate. And further provided, however, that a Party may, at any time, disclose any information: (i) determined by its attorney to be required by law to be disclosed by a public entity, and (ii) Buyer may disclose any such information to those of its members that receive some or all of the Output, whether directly or indirectly, from Buyer. The provisions of this Section 10.5 shall survive for three (3) years after the expiration or earlier termination of this Agreement.

10.6 Assignment

(a) Buyer. Buyer may, without the consent of Seller (and without relieving itself from liability hereunder) assign this Agreement or assign or delegate its rights and obligations under this Agreement, if such assignment is made to: (i) one or more of its members; or (ii) where such assignment does not occur by operation of law, any successor to Buyer provided such successor is a public utility holding a certificate of public convenience and necessity granted by the California Public Utilities Commission, or is a municipal utility.

(b) Seller. Seller may, without the consent of Buyer (and without relieving itself from liability hereunder) pledge, encumber, or assign this Agreement or the account, revenues or proceeds hereof as collateral security in connection with any financing or other financial arrangements for the Generating Facility (and not for any other financing or financial arrangement purposes), provided that in connection with any such pledge, encumbrance, or assignment, the assignee agrees that upon any foreclosure or exercise of similar remedies upon the Generating Facility or material assets thereof, such assignee shall be bound by this Agreement.

(c) Written Consent Needed. Except as stated above, neither this Agreement nor any of the rights, interests, or obligations hereunder shall be assigned by either Party, without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Any assignment of this Agreement in violation of the foregoing shall be, at the option of the non-assigning Party, void.

(d) Binding on Parties. This Agreement and all of the provisions hereof are binding upon, and inure to the benefit of, the Parties and their respective successors and permitted assigns.

10.7 Waiver of Rights

Waivers of any rights hereunder must be in writing and shall not be implied from performance or usage of trade. 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.

10.8 Section Headings

All titles, subject headings, section titles and similar items are provided for the purpose of reference and convenience and are not intended to be inclusive, definitive or to affect the meaning of the contents or scope of the Agreement.

10.9 No Third Party Beneficiary

This Agreement shall not be construed to create rights in, or to grant remedies to, any third party (other than a permitted successor or assignee bound to this Agreement) as a beneficiary of this Agreement or any duty, obligation or undertaking established herein.

10.10 Forward Contract

The Parties acknowledge and agree that this Agreement and the transactions contemplated by this Agreement constitute a “forward contract” within the meaning of the United States Bankruptcy Code.

10.11 Applicable Law

This Agreement is made in the State of California and shall be interpreted and governed by the laws of the State of California and/or the laws of the United States, as applicable.

10.12 Venue

The Parties hereby submit to the exclusive jurisdiction of the state courts sitting in the County of Alameda, State of California.

10.13 Nature of Relationship

The duties, obligations and liabilities of the Parties are intended to be several and not joint or collective. The Agreement shall not be interpreted or construed to create an association, joint venture, fiduciary relationship or partnership between Seller and Buyer or to impose any partnership obligation or liability or any trust or agency obligation or relationship upon either Party. A Party shall not have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or act as or be an agent or representative of or otherwise bind the other Party.

10.14 Good Faith and Fair Dealing; Reasonableness

The Parties agree to act reasonably and in accordance with the principles of good faith and fair dealing in the performance of this Agreement. Unless expressly provided otherwise in this Agreement: (i) wherever the Agreement requires the consent, approval or similar action by a Party, such consent, approval or similar action shall not be unreasonably withheld or delayed; and (ii) wherever the Agreement gives a Party a right to determine, require, specify or take similar action with respect to matters, such determination, requirement, specification or similar action shall be reasonable.

10.15 Severability

Should any provision of this Agreement be or become void, illegal or unenforceable, the validity or enforceability of the other provisions of this Agreement shall not be affected and shall continue in full force and effect. The Parties will, however, use their best endeavors to agree on the replacement of the void, illegal, or unenforceable provision(s) with legally acceptable clauses that correspond as closely as possible to the sense and purpose of the affected provision.

10.16 Counterparts

This Agreement may be executed in two or more counterparts and by different Parties on separate counterparts, all of which shall be considered one and the same Agreement, and each of which shall be deemed an original.

10.17 Cooperation

The Parties agree to reasonably cooperate with each other in the implementation and performance of the Agreement. Such duty to cooperate shall not require either Party to act in a manner inconsistent with its rights under this Agreement.

10.18 Limitation of Liabilities

To the extent permitted by law, no Party's directors, members of its governing bodies, officers or employees, or in the case of Buyer any of its members or their governing bodies, officers or employees, shall be liable to any other party or parties for any loss or damage to property, loss of earnings or revenues, personal injury, or any other direct, indirect, or consequential damages or injury, or punitive damages, which may occur or result from the performance or non-performance of this Agreement, including any negligence arising hereunder. 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. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS 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, UNLESS THE PROVISION IN QUESTION PROVIDES THAT THE EXPRESS REMEDIES ARE IN ADDITION TO OTHER REMEDIES THAT MAY BE AVAILABLE. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. UNLESS EXPRESSLY HEREIN PROVIDED, AND SUBJECT TO THE PROVISIONS OF SECTION 8.3, 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. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

10.19 Further Assurances

The Parties hereto agree to execute and deliver promptly, at the expense of the Party requesting such action, any and all other and further instruments, documents and information that a Party may request, and that are reasonably necessary, or appropriate, to give full force and effect to the terms and intent of this Agreement.

10.20 Time is of the Essence

Time is of the essence to this Agreement and in the performance of all of the covenants, obligations and conditions hereof.

10.21 Construction

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.

10.22 Entire Agreement; Integration

This Agreement, together with all the recitals and the exhibits attached hereto, constitutes the entire agreement between the Parties and supersedes any and all prior oral or written understandings. No amendment, addition to or modification of any provision hereof shall be binding upon the Parties, and neither Party shall be deemed to have waived any provision or any remedy available to it, unless such amendment, addition, modification or waiver is in writing and signed by a duly authorized officer or representative of the Parties.

* * *

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the dates set forth below.

BUYER – NORTHERN CALIFORNIA POWER AGENCY

By: _____

Name: James H. Pope
Title: General Manager

Date: _____

Approved as to form:

Attest:

Michael F. Dean
General Counsel

Name:
Title:

SELLER - MONTEREY COUNTY WATER RESOURCES AGENCY

By: _____

Name: David E. Chardavoyne
Title: General Manager

Date: _____

Approved as to form:

Approved as to form:

Patrick McGreal
Deputy County Counsel

Name:
Auditor Controller

Name:
Risk Management

Name:
Principal Administrative Analyst

EXHIBITS

<u>Exhibit 1</u>	Description of Generating Facility
<u>Exhibit 2</u>	Contract Price
<u>Exhibit 3</u>	Expected Annual Contract Quantity
<u>Exhibit 4</u>	Operations Forecasts and Scheduling Protocols
<u>Exhibit 5</u>	Payment / Wire Instructions
<u>Exhibit 6a</u>	Contacts, Buyer
<u>Exhibit 6b</u>	Contacts, Seller

Exhibit 1

DESCRIPTION OF GENERATING FACILITY

Name:	Lake Nacimiento Hydroelectric Project
Owner:	Monterey County Water Resources Agency (MCWRA)
Location:	10690 Lake Nacimiento Dr., Bradley, CA 93426
Rated Output:	4.4 MW
Type of Facility:	Hydroelectric Project
Delivery Point:	CAISO PNode (OILFLDS_6_GN009)
Operator:	MCWRA
Resource ID:	OILFLD_7_QFUNTS
CEC Renewable ID:	CEC RPS-ID-60169A
WREGIS ID:	No. W631
Scheduling Coordinator:	Viasyn
SQMD Meter Location:	10630 Lake Nacimiento Dr., Bradley, CA 93426

Exhibit 2

CONTRACT PRICE

Pursuant to Section 3.1(a) and 3.1(c) Buyer shall pay Seller for the Output based on the Contract Price set forth below for the applicable delivery period, subject to adjustment based on the imbalance energy settlement adjustment equations set forth below to account for the differences between Scheduled forecasted Output and metered Output during each applicable ISO settlement interval.

CONTRACT YEAR	PRICE (\$/MWh)
2014	\$ 75.00
2015	\$ 76.13
2016	\$ 77.27
2017	\$ 78.43
2018	\$ 79.60
2019	\$ 80.80
2020	\$ 82.01
2021	\$ 83.24
2022	\$ 84.49
2023	\$ 85.75
2024	\$ 87.04
2025	\$ 88.35
2026	\$ 89.67
2027	\$ 91.02
2028	\$ 92.38
2029	\$ 93.77
2030	\$ 95.17
2031	\$ 96.60
2032	\$ 98.05
2033	\$ 99.52

1. Imbalance Energy Settlement Adjustment

a) If Generating Facility Output $MWh_{metered}$ is greater than Scheduled $MWh_{physical\ trade}$ then Seller shall pay to Buyer the following imbalance energy settlement adjustment for each applicable ISO settlement interval:

a. $\max(\$0, RTLMP_{node}) * \max(0, MWh_{metered} - MWh_{physical\ trade})$

i. Where:

1. $RTLMP_{node}$ is the real-time locational marginal price at the Delivery Point for the applicable ISO settlement interval;
2. $MWh_{metered}$ is the actual metered Output from the Generating Facility for the applicable ISO settlement interval; and
3. $MWh_{physical\ trade}$ is the Scheduled forecasted Output of the Generating Facility for the applicable ISO settlement interval provided from Seller's Scheduling Coordinator to Buyer's Scheduling Coordinator through the use of an Inter-SC Trade submitted in the day-ahead market time frame.

b) If Generating Facility Output $MWh_{metered}$ is less than Scheduled $MWh_{physical\ trade}$ then Buyer shall pay to Seller the following imbalance energy settlement adjustment for each applicable ISO settlement interval:

a. $DALMP_{node/APN} * \max(0, MWh_{physical\ trade} - MWh_{metered})$

i. Where:

1. $DALMP_{node/APN}$ is the day-ahead locational marginal price calculated by the ISO at the Delivery Point, the aggregated pricing node (e.g., NP15 EZ Gen Hub), or a combination of such price, based on the quantity and location of the $MWh_{physical\ trade}$ for the applicable ISO settlement interval;
2. $MWh_{metered}$ is the actual metered Output from the Generating Facility for the applicable ISO settlement interval; and
3. $MWh_{physical\ trade}$ is the Scheduled forecasted Output of the Generating Facility for the applicable ISO settlement interval provided from Seller's Scheduling Coordinator to Buyer's Scheduling Coordinator through the use of an Inter-SC Trade submitted in the day-ahead market time frame.

Exhibit 3

EXPECTED ANNUAL CONTRACT QUANTITY

The Expected Annual Contract Quantity for the Generating Facility is approximately 14,000 MWh per Contract Year. Seller and Buyer acknowledge the Expected Annual Contract Quantity is based on historic electrical output produced at the Generating Facility and thus provides a reasonable expectation of electrical output during a typical year. Seller and Buyer also acknowledge annual electrical output may vary significantly from 14,000 MWh and that during the years from 1998 through 2012 the electrical output produced at the Generating Facility has been as low as 6,578 MWh and as high as 19,854 MWh. Notwithstanding anything to the contrary herein, the establishment of the Expected Annual Contract Quantity shall not alter or modify the as-available, Unit Contingent basis for deliveries of the Output, as described in Section 3.1(b).

Exhibit 4

**OPERATIONS FORECASTS
and
SCHEDULING PROTOCOLS**

1. Annual Operations Forecast

- 1.1. No later than September 10th of each Contract Year, Seller will provide an annual operations forecast detailing hourly expected generation and all proposed planned outages for the next calendar year. The annual operations forecast for the first Contract Year shall be provided no later than thirty (30) calendar days prior to the Effective Date.
- 1.2. Buyer may request modifications to the annual operations forecast at any time, and Seller shall use good faith efforts to accommodate Buyer's requested modifications.
- 1.3. Seller shall not conduct planned outages at times other than as set forth in its annual operations forecast, unless approved in advance by the ISO.
- 1.4. Seller shall not conduct planned outages during the peak months (May through September).

2. Short Term Operations Forecasts

2.1. Quarterly Operations Forecast

- 2.1.1. Twenty (20) days prior to beginning of each quarter, Seller shall provide a quarterly operations forecast by hour of expected generation and all proposed planned outages.
- 2.1.2. Quarterly operations forecast will also include any requested additions or modifications to planned outages for the next twelve (12) months.
- 2.1.3. Buyer will approve or require modifications to the proposed quarterly operations forecast within ten (10) calendar days of receipt of the quarterly operations forecast.
- 2.1.4. If required by Buyer, Seller will provide a modified quarterly operations forecast to Buyer no later than seven (7) calendar days after receipt of required modifications from Buyer.

2.2. Weekly Update

- 2.2.1. No later than 14:00 hours each Wednesday prior to the following week (Sunday through Saturday), Seller shall provide an electronic update, in a format specified by Buyer, to the quarterly operations forecast for the next seven (7) calendar days.

2.2.2. The weekly update shall include hourly expected generation and all proposed planned Outages for that week.

3. Outage Detail for Annual and Short Term Operations Forecasts

3.1. Outage information provided by Seller shall include, at a minimum, start and stop time of Outage, capacity out of service (kWh), equipment out of service, and reason for the Outage and emergency return time, if applicable.

4. General Scheduling Protocols

4.1. Daily modifications to forecasts. Unless otherwise mutually agreed, Seller may make changes to the weekly forecasts by providing such changes to Buyer prior to 08:00 hours two (2) Business Days before the active scheduling day.

4.1.1. Active scheduling day as determined by the WECC scheduling calendar.

4.1.2. Example: For power that is scheduled for generation or delivery on Thursday, March 29, changes must be submitted to Buyer no later than 08:00 hours on Tuesday, March 27.

4.2. At Seller’s request, Buyer may modify generation and load schedules for unforeseen circumstances in accordance with the above scheduling timeline constraints and Buyer’s Scheduling Coordinator.

4.3. In the absence of forecasts and schedules as required by this Agreement or this Exhibit, Buyer shall utilize the most current information provided by Seller in the development and submission of Schedules.

5. Notices

5.1. All Scheduling notices and Schedules shall be submitted to Buyer by phone, fax or email to the following persons:

5.1.1. For Day Ahead Schedule changes, inform the Buyer’s Pre-Scheduling Contact listed in Exhibit 6a.

6. Example Form for Day-Ahead Schedule of Physical Trade

June [___], 20__

Hour Ending	Expected Capability
1	3.10
2	3.10
3	3.10
4	3.10

5	3.09
6	3.08
7	3.10
8	3.10
9	3.10
10	3.11
11	3.10
12	3.10
13	3.12
14	3.13
15	3.13
16	3.12
17	3.05
18	3.04
19	3.06
20	3.10
21	3.10
22	3.10
23	3.10
24	3.10

Expected Daily Temperatures (in Fahrenheit):

_____ Low
 _____ High

Contact Information:

Scheduling Coordinator: VIASYN, Inc. [SCID: VSYN]
 Facility / City: 2400 Camino Ramon, Suite 299
 San Ramon, CA 94583
 24X7 Operations: 925-904-1904
scheduling@viasyn.com
 Facsimail: 925-904-1916
 Business Contact: 925-904-1900

Exhibit 5

PAYMENT / WIRE INSTRUCTIONS

**NORTHERN CALIFORNIA POWER AGENCY (Buyer)
WIRE INSTRUCTIONS**

The following information is to be used when wiring funds for deposit to Buyer:

U.S. Bank
ABA# 121122676
For Deposit to:
Northern California Power Agency
Acct. No. 1-534-0216-2744

For information purposes, please fax a copy of the wire instructions to Buyer at (916) 781-4255, Attention Treasurer-Controller.

**MONTEREY COUNTY WATER RESOURCES AGENCY (Seller)
WIRE INSTRUCTIONS**

The following information is to be used when wiring funds for deposit to Seller:

To be provided by Seller to Buyer

For information purposes, please fax a copy of the wire instructions to [*Seller's Name*] at [*Seller's phone number*], Attention [*Seller's relevant contact person*].

Exhibit 6a

NCPA (BUYER) CONTACTS

1. Contract Management

Name	Phone	Email
Tony Zimmer	916-781-4229	tony.zimmer@ncpa.com

2. Billing/Invoice Issues

Name	Phone	Email
Bob Caracristi	916-781-4224	bob.caracristi@ncpa.com
Mike Whitney	916-781-4205	mike.whitney@ncpa.com

3. NCPA Pre-Scheduling

Monthly, weekly and daily generation schedules are to be provided to NCPA Pre-Scheduling contacts.

Name	Phone	Email
Kevin McMahan	916-786-0123 916-781-4227	kevin.mcmahan@ncpa.com
Phil Mensonides	916-786-0124	phil.mensonides@ncpa.com
Don Imamura	916-781-4240	don.imamura@ncpa.com
Ken Goeke	916-781-4290	ken.goeke@ncpa.com
Pre-Scheduling (FAX)	916-781-4239	

4. NCPA Schedule Coordination

All Hour Ahead or Real-Time Schedule changes are to be provided to NCPA Scheduling Coordinator Contacts.

Name	Phone	Email
NCPA Scheduling Coordinator	916-781-4237 (FAX) 916-781-4226	SC2@ncpa.com

5. NCPA Dispatch/Outage Coordination

All Planned and/or Forced Outages of Generating Facilities are to be provided to NCPA Dispatch/Outage Coordination.

Name	Phone	Email
Tracy Bibb (<i>Supervisor of Dispatch Operations</i>)	916-781-4225	tracy.bibb@ncpa.com
NCPA Dispatch NCPA Scheduling Coordinator NCPA Dispatch	916-786-3518 916-781-4237 (FAX) 916-781-4226	Dispatch@ncpa.com SC2@ncpa.com

Exhibit 6b

MONTEREY COUNTY WATER RESOURCES AGENCY (SELLER) CONTACTS

1. Contract Management

Name	Phone	Email
Brent Buche	831-755-4860	bucheb@co.monterey.ca.us

2. Billing/Invoice Issues

Name	Phone	Email
Cathy Paladini	831-755-4860	PaladiniCA@co.monterey.ca.us

3. Pre-Scheduling and Dispatch/Outage Coordination

Annual, Quarterly, Weekly and Daily generation schedules:

Name	Phone	Email
MCWRA SC VIASYN, Inc.	925-904-1904	scheduling@viasyn.com
Pre-Scheduling (FAX)	925-904-1916	
Chris Moss (MCWRA)	831-755-4860	mosscc@co.monterey.ca.us
MCWRA (FAX)	831-424-7935	

4. Operator and Real Time Issues

All Planned and/or Forced Outages of generation facilities are to be provided to NCPA Dispatch/Outage Coordination.

Name	Phone	Email
Russel Kelso	805-239-3785	kelsor@co.monterey.ca.us
Chris Moss	831-755-4860	mosscc@co.monterey.ca.us

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