

## ATTACHMENT 1

### ARTICLE 1. PURCHASE AND SALE OF PRODUCT

#### 1.02 Project.

- (a) Project. The “Project” consists of Seller’s electric generating facility as more particularly described in Exhibit B *[ and, with respect to the Shared Facilities, Seller’s interests in such Shared Facilities ]* (the “Generating Facility”), Prevention Equipment, and Protective Apparatus, together with all materials, equipment systems, structures, features and improvements necessary to produce electric energy at the facility, excluding the Site, land rights and interests in land. *{SCE Note: Bracketed language only applicable to projects that have Shared Facilities.}*
- (b) Name. *[Generating Facility Name]*.
- (c) Delivery Point. At the point of interconnection with the CAISO Controlled Grid, *[insert name or location]* as set forth in the single-line diagram of the CAISO Controlled Grid interconnection set forth in Exhibit B.  
*{SCE Note: Placeholder for identifying location on CAISO Controlled Grid.}*
- (d) Interconnection Point. *[insert name or location]*.
- (e) Interconnection Queue Position. *[Number(s) to be inserted]*
- (f) Location of Site. *[Generating Facility Address]*, as further described in Exhibit B.
- (g) Description. As set forth in Exhibit B.
- (h) ERR Type. *[Generation Technology – Community Solar Green Tariff projects must be solar technology]*.
- (i) Site Location and Control.
  - (i) This Agreement is specific to the Site set forth in Section 1.02(c) of this Attachment 1. Seller may change the location of the Site only upon SCE’s prior written consent, which consent is in SCE’s sole discretion.
  - (ii) Seller shall have Site Control from the Effective Date continuing throughout the Term.

- (iii) Seller shall provide SCE with prompt Notice of any change in the status of Seller’s Site Control.
- (j) Resource Type.
  - Full Capacity Deliverability Status
  - Energy Only

1.03 Contracted Amount.

The “Contracted Amount” consists of, collectively, the Contract Capacity and the Expected Annual Net Energy Production, as set forth below.

- (a) Contract Capacity: [Number] MW. *{SCE Note: This should equal the maximum expected output at the Delivery Point, not to exceed the interconnection capacity. Minimum of 500 kW applies to DAC-GT projects only.}* The Contract Capacity may be reduced as set forth in Section 2.04(q) of this Attachment 1.

AC Nameplate Capacity: [Number] MW. *{SCE Note: This should be the sum of all Inverter Block Unit Capacities within the Generating Facility}*

Installed DC Rating: [Number] kW<sub>PDC</sub>. *{SCE Note: This should be the amount of Direct Current electric energy generating capacity that Seller commits to install at the Site.}* The Installed DC Rating may be reduced as set forth in Section 2.04(q) of this Attachment 1. *{SCE Note: For Solar Photovoltaic.}*

- (b) Expected Annual Net Energy Production.

The Expected Annual Net Energy Production for each Term Year will be the value calculated in accordance with the following formula:

$$\text{Expected Annual Net Energy Production, in kWh} = A \times B \times C$$

Where:

[A] = As of the Effective Date and until SCE’s verification of Seller’s installation of the Generating Facility pursuant to Section 5.03 of this Attachment 1, the Installed DC Rating set forth in Section 1.03(a) of this Attachment 1. After the verification pursuant to Section 5.03 of this Attachment 1, the

Demonstrated Installed DC Rating.] *{SCE Note: Solar Photovoltaic}*

[A = Contract Capacity.] *{SCE Note: All technologies except Solar Photovoltaic}*

[B = Annual Energy Yield Factor: [Number] kWh AC per kW<sub>PDC</sub> per year. *{SCE Note: this should be the annual AC energy in kWh that is expected to be delivered to SCE per installed peak DC power in kW<sub>PDC</sub> of Photovoltaic Modules}*] *{SCE Note: Solar Photovoltaic}*

[B = [Number] % capacity factor x 8,760 hours per year.] *{SCE Note: All technologies except Solar Photovoltaic}*

[C = Annual degradation factor in each Term Year as follows:] *{SCE Note: Solar Photovoltaic}*

[C = Annual production factor in each Term Year as follows:] *{SCE Note: Only applicable to Baseload projects with predictable production variation over time due to technology type}*

<u>Term Year</u>	<u>Annual</u> <u>[Degradation]</u> <u>[Production] Factor</u>
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	

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12	
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(c) Expected Monthly Net Energy Production.

For each month in the Delivery Period, “Expected Monthly Net Energy Production” equals the applicable Expected Annual Net Energy Production divided by twelve (12).

1.04 Price.

Subject to Section 3.06 of this Attachment 1, the Product Price is *[Dollar amount text]* dollars (*[\$Number]*) per MWh.

1.05 Exclusive Rights.

SCE’s exclusive rights to the Product and all benefits derived therefrom shall be subject to the following conditions:

- (a) No action taken by SCE under Section 1.05 constitutes a transfer of, or a release of SCE of, its obligations under this Agreement.
- (b) Subject to Seller’s obligations under this Agreement, SCE shall be responsible for any costs arising from or directly related to SCE’s accounting for or otherwise claiming Green Attributes, Capacity Attributes and Resource Adequacy Benefits.
- (c) SCE shall retire, on an annual basis coinciding with the Calendar Year, the Renewable Energy Credits associated with Subscribed Delivered Energy, not to exceed the amount of Renewable Energy Credits actually generated by the Generating Facility in such Calendar Year.

- (d) SCE shall retire, on an annual basis coinciding with the Calendar Year, California-eligible greenhouse gas allowances associated with Subscribed Delivered Energy, not to exceed the amount of greenhouse gas allowances generated by the Generating Facility in such Calendar Year.

1.06 [Resource Adequacy Provisions.

*Seller's responsibilities pursuant to Section 1.06 shall also include:*

- (a) *Commencing on the date that is three (3) months from the Initial Delivery Date (such date, the "RA Guarantee Date") and continuing throughout the remainder of the Delivery Period, in each month, Seller shall pay to SCE an amount (the "RA Deficit Payment") equal to the product of (a) the difference, expressed in kW, of (i) the Qualifying Capacity of the Generating Facility for the applicable month, minus (ii) the Net Qualifying Capacity of the Generating Facility for the applicable month, multiplied by (b) the then-current CPM Capacity price as listed in Section 43.7.1 of the CAISO Tariff or its equivalent successor (the "Multiplier"), expressed in \$/kW-month. Should the CPM Capacity price cease to be published by the CAISO and no equivalent successor is published, the Multiplier shall be equal to the last CPM Capacity price listed in the CAISO Tariff and escalated by two percent (2%) every twelve (12) months thereafter. In any event, the Multiplier may not exceed \$120/kW-year.*
- (b) *Seller shall take the actions required in Section 1.06 necessary for the Product to be shown on SCE's Supply Plans and RA Compliance Showings and to be used to satisfy RA Compliance Obligations on or before fifteen (15) days prior to the initial deadline for SCE's Compliance Showing related to the month in which the RA Guarantee Date occurs. Seller shall pay the RA Deficit Payment in each month commencing on the RA Guarantee Date that SCE is unable to show the Product on Supply Plans and RA Compliance Showings and to use the Product to satisfy RA Compliance Obligations. For the purpose of calculating the RA Deficit Payment required in this Section 1.06(b), the Net Qualifying Capacity of the Generating Facility shall be deemed to be zero (0).] {SCE Note: Full Capacity Deliverability Status projects only. All other projects, insert "Intentionally Omitted."}*

1.07 Conveyance of Entire Output, Conveyance of Green Attributes, Capacity Attributes and Resource Adequacy Benefits.

- (a) Metered Amounts. Seller shall dedicate and convey the entire Metered Amounts throughout the Delivery Period to SCE. Seller shall convey title to and risk of loss of all Metered Amounts to SCE at the Delivery Point. "Metered Amounts" means the electric energy produced by the Generating

Facility, expressed in kWh, as recorded by the CAISO Approved Meter(s), or Check Meter(s), as applicable.

- (b) Green Attributes. Seller hereby provides and conveys all Green Attributes associated with all electricity generation from the Project to SCE as part of the Product being delivered. Seller represents and warrants that Seller holds the rights to all Green Attributes from the Project, and Seller agrees to convey and hereby conveys all such Green Attributes to SCE as included in the delivery of the Product from the Project.
- (c) Capacity Attributes and Resource Adequacy Benefits. Seller shall dedicate and convey any and all Capacity Attributes and Resource Adequacy Benefits generated by, associated with or attributable to the Generating Facility throughout the Delivery Period to SCE and SCE shall be given sole title to all such Capacity Attributes and Resource Adequacy Benefits in order for SCE to meet its resource adequacy obligations under any Resource Adequacy Rulings.
- (d) Further Action by Seller. Commencing at least six (6) months before the Initial Delivery Date and throughout the Delivery Period, Seller shall, at its own cost, take all actions and execute all documents or instruments necessary to effectuate the use of the Green Attributes, Capacity Attributes, and Resource Adequacy Benefits for SCE's sole benefit throughout the Delivery Period, which actions include:
  - (i) Cooperating with and encouraging the regional entity responsible for resource adequacy administration to certify or qualify the Contract Capacity for resource adequacy purposes, if applicable;
  - (ii) Testing the Generating Facility in order to certify the Generating Facility for resource adequacy purposes, if applicable;
  - (iii) Complying with all current and future CAISO Tariff provisions that address resource adequacy and are applicable to the Generating Facility, including provisions regarding performance obligations and penalties, if applicable;
  - (iv) Committing to SCE the entire Metered Amounts of the Generating Facility;
  - (v) Pursuing and obtaining any and all Capacity Attributes and Resource Adequacy Benefits to the extent that Applicable Laws, including as may be changed after the Effective Date, allow for any Capacity Attributes or Resource Adequacy Benefits to be obtained other than by the completion of Delivery Network Upgrades (as defined in the CAISO Tariff and as applicable to the Project); and

- (vi) Complying with Applicable Laws regarding the certification and transfer of Renewable Energy Credits, including participation in WREGIS or other process recognized under Applicable Laws for the registration, transfer or ownership of Green Attributes associated with the Generating Facility. SCE will take all actions to be the Account Holder and Qualified Reporting Entity, and the party responsible for registering the Generating Facility as a Registered Generating Unit. Seller shall provide SCE with all supporting documents requested for registration approval, as required by WREGIS.

If Seller has sold Product (or product that would be considered “Product” under this Agreement if it were attributable to the Delivery Period) to any party other than SCE with respect to a period that is prior to the Initial Delivery Date, Seller shall, or shall cause such party to: (A) take all actions necessary for SCE to be the Account Holder as of the Initial Delivery Date, and (B) take all actions necessary for SCE to be the Qualified Reporting Entity prior to the generation of any WREGIS Certificates associated with deliveries of Product on and after the Initial Delivery Date. SCE agrees to transfer all WREGIS Certificates associated with generation from the Generating Facility prior to the Initial Delivery Date to Seller or Seller’s designee.

- (vii) *[Taking all commercially reasonable actions, including any actions required in Seller’s interconnection agreement, to expeditiously obtain Full Capacity Deliverability Status.] {SCE Comment: Full Capacity Deliverability Status projects only.}*

(e) Restrictions on Sales Related to Unincluded Capacity.

- (i) Neither Party will have any liability for failure to purchase or deliver Product associated with or attributable to capacity in excess of the *[Demonstrated Installed DC Rating or the] {SCE Note: Solar Photovoltaic only}* Demonstrated Contract Capacity (“Unincluded Capacity”), subject to the remainder of this Section 1.07(e).
- (ii) Neither Seller nor Seller’s Affiliates may sell, or enter into an agreement to sell, electric energy, Green Attributes, Capacity Attributes or Resource Adequacy Benefits associated with or attributable to Unincluded Capacity from any generating facility installed at the Site to a party other than SCE for a period of two (2) years following a reduction of Contract Capacity pursuant to Section 2.04(q) of this Attachment 1.

(iii) With respect to Seller's Affiliates, the prohibition on contracting and sale as set forth in Section 1.07(e)(ii) of this Attachment 1 will not apply if, before entering into the contract or making a sale to a party other than SCE, any Seller's Affiliate wishing to enter into a contract or sale provides SCE with a written offer to sell the electric energy, Green Attributes, Capacity Attributes and Resource Adequacy Benefits related to Unincluded Capacity to SCE on terms and conditions materially similar to or no less favorable to SCE than the terms and conditions contained in this Agreement and SCE fails to accept such offer within forty-five (45) days after SCE's receipt thereof; provided, any Seller's Affiliate wishing to enter into a contract or sale must:

- (A) Build a new generating facility separate from the Generating Facility to produce such additional electric energy and associated attributes;
- (B) Establish an entity other than Seller to act as the seller for such additional electric energy and associated attributes;
- (C) Meter such additional generating capacity separately from the Generating Facility, to SCE's reasonable satisfaction; and
- (D) Separately interconnect such additional generating capacity to the T&D Provider's system, to SCE's reasonable satisfaction.

If the preceding conditions are met, Seller's Affiliates (but not Seller) will be free to sell such additional electric energy and associated attributes to third parties.

(f) *[Bioenergy Benefits.]*

*For all electric generation using biomethane as fuel, Seller shall transfer to SCE sufficient renewable and environmental attributes of biomethane production and capture to ensure that there are zero (0) net emissions associated with the production of electricity from the Generating Facility using the biomethane.*

*For all electric generation using biomethane as fuel, neither SCE nor Seller may make a marketing, regulatory, or retail claim that asserts that a procurement contract to which that entity was a party resulted, or will result, in greenhouse gas reductions related to the destruction of methane if the capture and destruction is required by law. If the capture and destruction of*



*the biomethane is not required by law, neither SCE nor Seller may make a marketing, regulatory, or retail claim that asserts that a procurement contract to which that entity was a party resulted, or will result, in greenhouse gas reductions related to the destruction of methane, unless the environmental attributes associated with the capture and destruction of the biomethane pursuant to that contract are transferred to SCE and retired on behalf of the retail customers consuming the electricity associated with the use of that biomethane, or unless Seller's procurement contract with the source of biomethane prohibits the source of biomethane from separately marketing the environmental attributes associated with the capture and destruction of the biomethane sold pursuant to that contract, and such attributes have been retired.] {SCE Note: Biomethane projects only.}*

## **ARTICLE 2. TERM AND DELIVERY PERIOD**

### **2.04 Initial Delivery Date.**

The conditions to the “Initial Delivery Date” shall also include:

- (a) Seller has completed the installation and testing of the Project for purposes of financing, Permits, the interconnection agreement, operating agreements, the EPC agreement and manufacturer's warranties;
- (b) Seller has received an Independent Engineer's certification that the Project has been completed in all material respects (except punch list items that do not materially and adversely affect the ability of the Project to operate as intended);
- (c) The Demonstrated Contract Capacity is equal to or greater than seventy-five percent (75%) of the Contract Capacity as of the Effective Date;
- (d) Seller has taken all steps necessary to allow SCE to be designated as the Account Holder in accordance with Section 1.07(d) of this Attachment 1;
- (e) Seller has obtained CEC Pre-Certification;
- (f) Seller has taken all steps necessary to ensure that SCE becomes authorized by the CAISO to Schedule the electric energy produced by the Project with the CAISO;
- (g) Seller has obtained certification (the “CAISO Certification”) for the Generating Facility that such Generating Facility meets the certification and testing requirements for a generating facility set forth in the CAISO Tariff, including certification and testing;

- (h) SCE has been authorized by the CAISO to Schedule the electric energy produced by the Project with the CAISO;
- (i) Seller has demonstrated to SCE's reasonable satisfaction that Seller has executed all necessary T&D Provider and CAISO agreements;
- (j) Seller has provided to SCE the number filed by the T&D Provider with FERC as a representation for all net electric energy losses or avoided losses, as filed by SCE at FERC, associated with the transmission of electric energy through the electric system from the high voltage side of the Project's substation bus bar to the interface with the CAISO Controlled Grid, also known as the distribution loss factor (the "DLF");
- (k) Seller has received:
  - (i) authority from FERC, pursuant to Section 205 of the Federal Power Act, 16 U.S.C. § 824d, for wholesale sales of electric energy, capacity and ancillary services at market-based rates, and
  - (ii) all other approvals and authorizations required for Seller to perform its obligations under this Agreement;
- (l) Seller has executed a "Participating Generator Agreement" (or has cooperated with SCE to aggregate the Project under an SCE Participating Generator Agreement, if applicable), a "Meter Service Agreement For CAISO Metered Entities," as those terms are defined in the CAISO Tariff, and any other forms or agreements required by the CAISO with respect to the Project, and delivered true and complete copies of all such forms and agreements to SCE;
- (m) Seller has entered into and complied in all material respects with all obligations under all interconnection agreements required to enable parallel operation of the Project with the T&D Provider's electric system and the CAISO Controlled Grid;
- (n) Seller is Forecasting to SCE in accordance with Section 6.04 of this Attachment 1;
- (o) Seller has registered with the NERC as the Project's Generator Owner and Generator Operator if Seller is required to be a registered entity pursuant to the NERC Reliability Standards; and
- (p) *[Seller has obtained and delivered to SCE a certification that the Project has achieved Full Capacity Deliverability Status, as determined by the CAISO, for the purposes of counting an amount equal to the Contract Capacity towards SCE's RA Compliance Obligations.] {SCE Comment: Full Capacity Deliverability Status projects only.}*

(q) Modification of Contract Capacity.

(i) If the Contract Capacity set forth in Section 1.03(a) is greater than the Demonstrated Contract Capacity and the Demonstrated Contract Capacity is equal to or greater than seventy-five percent (75%) of the Contract Capacity as of the Effective Date,

(A) The Contract Capacity will be reduced to an amount equal to the Demonstrated Contract Capacity;

(B) */*The Expected Annual Net Energy Production will be recalculated using such adjusted Contract Capacity; and

(C) Prior to the Initial Delivery Date (and as a condition to its occurrence), Seller shall pay SCE an amount equal to the product of *[Dollar amount text]* dollars (*#{Number}*){*SCE Comment: amount to be provided by SCE*} per kW and the difference (in kW) between the original Contract Capacity set forth in Section 1.03(a) and the Demonstrated Contract Capacity; provided that, with SCE's consent, Seller may elect to apply its Development Security toward this payment.]

*{SCE Comment: For all technologies except Solar Photovoltaic}*

(ii) */*If the Installed DC Rating set forth in Section 1.03(a) is greater than the Demonstrated Installed DC Rating

(A) The Installed DC Rating will be reduced to an amount equal to the Demonstrated Installed DC Rating;

(B) The Expected Annual Net Energy Production will be recalculated using such adjusted Installed DC Rating; and

(C) Prior to the Initial Delivery Date (and as a condition to its occurrence), Seller shall pay SCE an amount equal to the product of *[Dollar amount text]* dollars (*#{Number}*){*SCE Comment: amount to be provided by SCE*} per kW and the difference (in kW) between the original Installed DC Rating set forth in Section 1.03(a) and the Demonstrated Installed DC Rating; provided that, with SCE's consent, Seller may elect to apply its Development Security toward this payment.]

*{SCE Note: For Solar Photovoltaic}*

(r) Obligations Prior to Commencement of the Delivery Period.

(i) Seller's Interconnection Queue Position.

Seller must not (A) withdraw the Interconnection Queue Position identified in Section 1.02(e) of this Attachment 1, (B) assign or transfer that Interconnection Queue Position to any entity, or (C) utilize the Interconnection Queue Position for the benefit of any power purchase and sale agreement other than this Agreement, in each case, without SCE's prior written consent.

- (s) [Seller has received Notice from SCE that at least twenty-five percent (25%) of the Contract Capacity has been subscribed by Qualifying Customers taking electric service under SCE's Community Solar Green Tariff]. *{SCE Note: For Community Solar Green Tariff Projects Only}*

### ARTICLE 3. PAYMENTS

#### 3.01 Payment Mechanisms.

- (a) "Invoicing Party": SCE
- (b) "Paying Party": SCE for Product Payments; Seller for Product Replacement Damage Amounts; and SCE or Seller, as applicable, for other amounts payable under this Agreement from time to time
- (c) "Invoice Date": The last Business Day of the month following the Invoice Calculation Period for which payment obligations are calculated
- (d) "Payment Date": The last Business Day of the month following the Invoice Calculation Period for which payment obligations are calculated
- (e) "Invoice Calculation Period": a calendar month
- (f) Other Payment and Invoicing Requirements.

The invoice shall include documentation supporting any SCE penalties, Negative LMP Costs, CAISO Costs, CAISO Sanctions, *[RA Deficit Payments,]* or other applicable revenues, charges and offsets which affected the net amount in the invoice. *{SCE Note: For Full Capacity Deliverability Status projects only.}*

#### 3.02 Obligation to Pay and Invoice.

- (a) Throughout the Delivery Period, SCE shall purchase Product generated by the Generating Facility and delivered at the Delivery Point in accordance with this Agreement, CAISO Tariff and Applicable Law, provided, subject to Section 3.02(b) of this Attachment 1, SCE has no obligation to purchase from

Seller any Product that is not or cannot be delivered to the Delivery Point as a result of any circumstance, including:

- (i) An outage of the Generating Facility;
  - (ii) A Force Majeure under Article 8; or
  - (iii) A reduction or curtailment of deliveries in accordance with Section 6.01(f) of this Attachment 1, except as set forth in Section 3.02(b) of this Attachment 1.
- (b) Subject to Section 3.03(b)(ii) of this Attachment 1, SCE will be obligated to pay Seller for any Curtailed Product in each Term Year, in accordance with Article 3.

3.03 Cost Responsibility Upon Commercial Operation.

(a) SCE Cost Responsibility.

Upon the Initial Delivery Date and for the remainder of the Delivery Period,

- (i) Except under the circumstances set forth in Section 3.03(b)(ii) of this Attachment 1, SCE shall make monthly Product Payments to Seller for Product delivered to SCE calculated in the manner described in Section 2.03 of this Attachment 1;
- (ii) Except as set forth in Section 3.03(b) of this Attachment 1, SCE shall be responsible for all CAISO Costs and CAISO Sanctions and have the right to receive all CAISO Revenues/; and
- (iii) To the extent that SCE requires Seller to participate in the PIRP/EIRP program, SCE shall be responsible for PIRP/EIRP forecasting fees/.  
*{SCE Note: For Intermittent Only.}*

(b) Seller Cost Responsibility.

Upon the Initial Delivery Date and for the remainder of the Delivery Period:

- (i) /If in any hour of any month in the Delivery Period Seller fails to comply with its Forecasting requirements under Section 6.03 of this Attachment 1 with respect to Seller's Forecast of available capacity only, and the sum of Energy Deviations for each of the Settlement Intervals in that hour exceed the Performance Tolerance Band, then Seller is liable for an SCE penalty equal to one hundred fifty percent (150%) of the Product Price in Section 1.04 for each MWh of Energy

Deviation, or any portion thereof, in that hour.] *{SCE Note: Intermittent Only}*

*[Seller shall be responsible for all CAISO Costs for all Settlement Intervals where Energy Deviations exceed the Performance Tolerance Band.] {SCE Note: Baseload Only}*

“Energy Deviations” in kWh, means the absolute value of the difference, in kWh, in any Settlement Interval between (A) *[Forecast-Derived Energy] {SCE Note: Intermittent Only} [Expected Energy] {SCE Note: Baseload Only}*; and (B) Metered Amounts plus Lost Output.

The “Performance Tolerance Band,” shall be expressed in kWh, and is calculated as follows:

*[Performance Tolerance Band = 3% \* Contract Capacity \* one (1) hour] {SCE Note: Intermittent Only}*

*[Performance Tolerance Band = 3% \* Contract Capacity / The number of Settlement Intervals in the hour] {SCE Note: Baseload Only}*

- (ii) SCE will not be obligated to pay Seller for any Product that Seller delivers in violation of Section 6.01(f) of this Attachment 1, and Seller shall pay all CAISO Sanctions and CAISO Costs, and SCE shall retain all CAISO Revenues resulting from such violation of Section 6.01(f) of this Attachment 1.
- (iii) If during any Settlement Interval Seller delivers Metered Amounts, expressed in MWh, in excess of the product of *[Number] {SCE Note: bracketed number should equal the lesser of the Contract Capacity and the maximum expected output at the Delivery Point, not to exceed the interconnection capacity}*, expressed in MW, multiplied by the length of such Settlement Interval, expressed in hours, then all such excess MWh in such Settlement Interval shall not be included in Qualified Amounts, and if there is a Negative LMP during such Settlement Interval, Seller shall pay to SCE an amount equal to the absolute value of the Negative LMP times such excess MWh (“Negative LMP Costs”).
- (iv) If during any Term Year Seller delivers Metered Amounts, together with Curtailed Product, that are in the aggregate in excess of one hundred percent (100%) of the Expected Annual Net Energy Production, as set forth in Section 1.03(b) of this Attachment 1, for

such Term Year and such Metered Amounts are not (A) subject to Section 3.03(b)(iii) of this Attachment 1 or (B) delivered in violation of Section 6.01(f) of this Attachment 1, then Seller shall be responsible for and pay all CAISO Sanctions and CAISO Costs and Seller shall be entitled to all CAISO Revenues with respect to all such excess Metered Amounts in such Term Year.

- (v) Seller must reimburse SCE for all CAISO Sanctions incurred by SCE as a result of Seller's failure to adhere to its obligations under the CAISO Tariff or any CAISO directive, as such directive may be communicated to Seller by SCE, or as set forth in Sections 3.03(b)(ii), 3.03(b)(iii), and 6.01(f) of this Attachment 1. The CAISO Sanctions will be available for billing approximately one hundred twenty (120) days following the last day of the calendar month in which the event giving rise to the sanction occurs, or thirty (30) days after the CAISO final settlement data is available to SCE, whichever is sooner.
- (vi) *[Seller shall be responsible for RA Deficit Payments under the circumstances specified in Section 1.06.] {SCE Comment: Full Capacity Deliverability Status projects only.}.*
- (vii) SCE shall make monthly payments calculated in the manner described in Section 3.04 of this Attachment 1.

### 3.04 Product Payment Calculations After Initial Delivery Date.

Monthly payments for Product delivered to SCE as of the Initial Delivery Date in accordance with the terms of this Agreement ("Product Payments"), will equal the sum of (i) all Product Payments for all periods in the month and (ii) any payments for Paid Curtailed Product, in the month.

Each "Product Payment" will be calculated pursuant to the following formula: Product Payment =  $A \times (B - C - D) + E$

Where:

A = Product Price specified in Section 1.04 in \$/kWh (i.e., \$/MWh/1000).

B = The sum of Qualified Amounts in kWh.

C = Any electric energy produced by the Generating Facility for which SCE is not obligated to pay Seller as set forth in Section 3.03(b)(ii) of this Attachment 1.

*D* = Any electric energy produced by the Generating Facility with respect to which Seller is responsible for Negative LMP Costs as set forth in Section 3.03(b)(iii) of this Attachment 1.

*E* = CAISO Revenues with respect to electric energy produced by the Generating Facility for which Seller is responsible for Negative LMP Costs as set forth in Section 3.03(b)(iii) of this Attachment 1.

3.05 Seller's Energy Delivery Obligation.

On the commencement of the first Term Year and for every Term Year thereafter, Seller is subject to the electric energy delivery requirements and damages for failure to perform as set forth in this Section 3.05.

(a) Performance Requirements.

(i) Seller's Energy Delivery Obligation.

*[“Seller's Energy Delivery Obligation” for the twenty-four (24) month period immediately preceding the end of each Term Year commencing at the end of the second Term Year (“Deficiency Calculation Period”) is one hundred forty percent (140%) of the Expected Annual Net Energy Production.] {SCE Note: Wind only.}*

*[“Seller's Energy Delivery Obligation” for the twenty-four (24) month period immediately preceding the end of each Term Year commencing at the end of the second Term Year (“Deficiency Calculation Period”) is one hundred seventy percent (170%) of the average of the two (2) Expected Annual Net Energy Production amounts applicable to the Deficiency Calculation Period.] {SCE Note: All other intermittent technologies.}*

*[“Seller's Energy Delivery Obligation” for the twelve (12) month period immediately preceding the end of each Term Year commencing at the end of the first Term Year (“Deficiency Calculation Period”) is ninety percent (90%) of the Expected Annual Net Energy Production.] {SCE Note: Baseload technologies.}*

(ii) Event of Deficient Energy Deliveries.

*[At the end of each Term Year commencing with the end of the second Term Year, if the sum of Qualified Amounts plus any Lost Output (calculated in accordance with Exhibit K) in the applicable Deficiency Calculation Period does not equal or exceed Seller's Energy Delivery Obligation, then an “Event of Deficient Energy”*



Deliveries” will be deemed to have occurred and the shortfall amount (in kWh) will be the “Energy Shortfall Amount.”] *{SCE Note: Wind and solar only.}*

*[At the end of each Term Year if the sum of the Qualified Amounts plus any Lost Output (calculated in accordance with Exhibit K) during the Term Year does not equal or exceed Seller’s Energy Delivery Obligation, then an “Event of Deficient Energy Deliveries” will be deemed to have occurred and the shortfall amount (in kWh) will be the “Energy Shortfall Amount.”] {SCE Note: All other technologies.}*

(b) Product Replacement Damage Amount.

The Parties acknowledge that the damages sustained by SCE associated with an Event of Deficient Energy Deliveries would be difficult or impossible to determine, or that obtaining an adequate remedy would be unreasonably time consuming or expensive, and therefore agree that Seller shall pay SCE as liquidated damages an amount calculated under this Section 3.05(b) which is intended to compensate SCE for Seller’s failure to perform.

If an Event of Deficient Energy Deliveries occurs, Seller shall pay the “Product Replacement Damage Amount” calculated as follows:

Product Replacement Damage Amount = A \* B

Where:

A = the Energy Shortfall Amount for the applicable Deficiency Calculation Period

B = the largest Product Price for the applicable Deficiency Calculation Period, expressed in \$/kWh

- (i) Within ninety (90) days after the end of the applicable Deficiency Calculation Period, SCE shall calculate any Product Replacement Damage Amount, and shall provide Notice to Seller of any Product Replacement Damage Amount owing, including a detailed explanation of, and rationale for, its calculation methodology, annotated work papers and source data.
- (ii) Seller shall have thirty (30) days after receipt of SCE’s Notice to review SCE’s calculation and either pay the entire Product Replacement Damage Amount claimed by SCE or pay any undisputed portion and provide Notice to SCE of the portion Seller disputes along

with a detailed explanation of, and rationale for, Seller's calculation methodology, annotated work papers and source data.

- (iii) The Parties shall negotiate in good faith to resolve any disputed portion of the Product Replacement Damage Amount and shall, as part of such good faith negotiations, promptly provide information or data relevant to the dispute as each Party may possess which is requested by the other Party.
- (iv) If the Parties are unable to resolve a dispute regarding any Product Replacement Damage Amount within thirty (30) days after the sending of a Notice of dispute by Seller, either Party may submit the dispute to mediation and arbitration as provided in Article 12.

(c) Continuing Obligations of Seller.

Notwithstanding any payment of a Product Replacement Damage Amount, all of Seller's obligations under Section 1.07 of this Attachment 1 shall continue to apply.

3.06 Allocation of Resource Adequacy Capacity Product Payments and Charges.

During the Delivery Period, if the Project is subject to the terms of

- (a) the Availability Standards, "Non-Availability Charges," and "Availability Incentive Payments," as those terms are defined by the CAISO Tariff, and as contemplated under the CAISO Tariff, or
- (b) any similar standards, charges or payments that may be implemented for resources providing flexible capacity resource adequacy attributes or other types of Resource Adequacy Benefits,

any Availability Incentive Payments and other resulting payments will be for the benefit of Seller and for Seller's account and any Non-Availability Charges and other resulting charges are the responsibility of Seller and for Seller's account.

**ARTICLE 4. DESIGN AND CONSTRUCTION OF PROJECT**

4.05 Provision of Information.

Items to be provided by Seller pursuant to Section 4.05 shall include:

- (a) All applications and approvals or disapprovals relating to CEC Pre-Certification, CEC Certification, CEC Verification, any Permit and PIRP/EIRP (if SCE requests Seller to apply to be in PIRP/EIRP);

- (b) All final and revised copies of material reports, studies and analyses furnished by the CAISO or any T&D Provider, and any correspondence related thereto, concerning the interconnection of the Generating Facility to the T&D Provider's electric system or the transmission of electric energy on the T&D Provider's electric system;
- (c) All notifications of adjustments in the DLF used by the T&D Provider in the administration of the transmission service agreement for the Generating Facility within thirty (30) days of receiving such notification from the T&D Provider;
- (d) All [reports prepared by an Independent Engineer concerning the electric energy producing potential of the Site or assessing the solar resource potential at the Site] [*Geothermal Reservoir Report*] [*Final Wind Report*] {*SCE Note: select appropriate technology or remove*}, and any revisions thereto, for the time period beginning on the Effective Date and ending on the last day of the first Term Year;
- (e) All Generating Facility and metering information as may be requested by SCE, including the following, at least thirty (30) days before the Initial Delivery Date:

For the Generating Facility:

- (A) Site plan drawings for the Generating Facility;
- (B) Electrical one-line diagrams;
- (C) Control and data-acquisition details and configuration documents;
- (D) Major electrical equipment specifications;
- (E) General arrangement drawings;
- (F) Longitude and latitude of [the centroid and each corner of the Site] {*SCE Note: Solar only.*} [*each generator*] {*SCE Note: All other technologies.*};
- (G) Artist renderings of the Site, if any;
- (H) Aerial photographs of the Site, if any;
- (I) Inverter specification;
- (J) [*Site plan drawing of the geothermal well field;*

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- (K) *Process flow diagrams;*
  - (L) *Piping and instrumentation diagrams;*
  - (M) *Production and injection well flow rates and volumes;*
  - (N) *Wellhead pressures;*
  - (O) *Geothermal fluid chemistry;*
  - (P) *Non-condensable gas composition;*
  - (Q) *Current Inverter specification;]*
  - (R) *[Photovoltaic module specification;*
  - (S) *Solar energy collection grid diagrams;]*
  - (T) *[Wind Turbine specification;*
  - (U) *Wind energy collection grid diagrams;*
  - (V) *Topographical maps showing the location of all Wind Turbines, and specifying the Wind Turbine model and Site-specific identification number; and]*
  - (W) *[Map showing the location of the Meteorological Equipment, including specifying the longitude and latitude of such.]*
  - (X) *[Copies of all Shared Facilities Agreements.]*  
*{SCE Note: Include subsections above when applicable to the Generating Facility.}*
  - (Y) Utility transmission/distribution one-line diagram;
  - (Z) Physical location, address or descriptive identification;
  - (AA) Telephone number of control room;
  - (BB) Telephone number for operational issues; and
  - (CC) Telephone number for administrative issues.
- (f) A complete set of as-built drawings of the Generating Facility including civil, structural, mechanical and electric drawings and final process instrumentation

diagrams, no later than ninety (90) days following the Initial Delivery Date;  
and

- (g) *[The names of the Interconnection Point and the Delivery Point within thirty (30) days after Seller's receipt of such information from the T&D Provider or CAISO, as applicable.] {SCE Note: Applicable if the official names of the Interconnection Point or Delivery Point are not known as of the Effective Date.}*

## **ARTICLE 5. INTERCONNECTION; METERING; TESTING**

### **5.01 Transmission and Interconnection.**

Additional interconnection requirements for the Project pursuant to Section 5.01 shall include:

- (a) *[Seller shall obtain and maintain throughout the Delivery Period any and all interconnection and transmission service rights and Permits required to effect delivery of the electric energy from the Generating Facility to the Delivery Point.*
- (b) Seller shall comply with the CAISO Tariff, including securing and maintaining in full force all required CAISO agreements, certifications and approvals.
- (c) Seller shall *[secure through the CAISO the Resource ID that is to be used solely for the Generating Facility] {SCE Note: For projects 500kW and above.}* *[cooperate with SCE to aggregate the Project under an SCE aggregated Resource ID] {SCE Note: For projects less than 500kW.}*
- (d) Seller shall comply with the requirements of Appendix CC of the CAISO Tariff, or its equivalent successor, if applicable.] *{SCE Note: Language applicable to projects that do not utilize Shared Facilities.}*
- (a) *[Seller shall obtain and maintain throughout the Delivery Period any and all interconnection and transmission service rights and Permits required to effect delivery of the electric energy from the Generating Facility to the Delivery Point. The interconnection agreement shall provide for interconnection capacity available or allocable to the Generating Facility that is no less than the Contract Capacity. The Parties acknowledge that ownership and use of the Shared Facilities (including the interconnection agreement itself) may be subject to a co-tenancy or similar sharing agreement (collectively, "Shared Facilities Agreement(s)"), under which Shared Facilities Agreements an Affiliate of Seller may act as a manager on behalf of Seller and the Other Seller(s) under the interconnection agreement ("Affiliate Manager"). Seller shall ensure that, from the Commercial Operation Date and throughout the Delivery Period, Seller shall have sufficient interconnection capacity and*

*rights under or through the interconnection agreement and the Shared Facilities Agreements, if any, to interconnect the Generating Facility with the CAISO Controlled Grid and fulfill its obligations under this Agreement. In connection with the interconnection agreement and the Shared Facilities Agreements, if any, the following shall apply:*

- (i) The Shared Facilities Agreements shall provide that:*
  - (A) the Other Seller(s), the Affiliate Manager and the Interconnection Affiliate (if different from Seller or Other Seller(s)) shall fully indemnify Seller for any liability arising out of its respective acts or omissions in regards to its respective performance obligations under the interconnection agreement and any Shared Facilities Agreement in which such party is a counterparty with Seller,*
  - (B) Seller shall have the right to correct, remedy, mitigate, or otherwise cure any omission, failure, breach or default by Other Seller, Affiliate Manager, or Interconnection Affiliate (if different from Seller or Other Seller(s)) that would negatively impact Seller's obligations under this Agreement, under the interconnection agreement, or under any Shared Facilities Agreement in which Seller is a counterparty, and*
  - (C) any instruction from the CAISO or Transmission Provider to curtail energy deliveries shall be allocated between the Generating Facility and the Other Generating Facility(ies) on a pro rata basis based upon installed capacity, except when such pro rata allocation would be in violation of the applicable curtailment instruction.*
- (ii) Seller shall, or shall cause the Interconnection Affiliate (if different from Seller), to apply for and expeditiously seek FERC's acceptance of any Shared Facilities Agreement(s), if required.*
- (iii) Seller shall not assign or transfer Seller's rights or obligations under the interconnection agreement or any Shared Facilities Agreement to any Person without the prior written consent of SCE, which consent shall not be unreasonably withheld.*
- (b) As between SCE and Seller under this Agreement, Seller shall be responsible for all costs and charges directly caused by, associated with, or allocated to Seller, the Interconnection Affiliate, the Affiliate Manager, or the Other Seller(s) under the interconnection agreement, the Shared Facilities Agreement, if any, and the CAISO Tariff, in connection with the*

*interconnection of the Generating Facility to the Transmission Provider's electric system and transmission of electric energy from the Generating Facility to the Transmission Provider's electric system.*

- (c) *Seller shall, or shall cause the Interconnection Affiliate, as applicable, to comply with the CAISO Tariff, including securing and maintaining in full force and effect all required CAISO agreements, certifications and approvals.*
- (d) *Seller shall, or shall cause the Interconnection Affiliate, as applicable, to secure through the CAISO the CAISO Resource ID that is to be used solely for this Generating Facility.*
- (e) *Seller shall, or shall cause the Interconnection Affiliate, as applicable, to comply with the requirements of Appendix CC of the CAISO Tariff, or its equivalent successor.]*

*{SCE Note: Language applicable to projects that utilize Shared Facilities.}*

#### 5.02 Metering, Communications, Dispatch and Telemetry.

(a) CAISO Approved Meter.

Seller shall, at its own cost, install, maintain and test all CAISO Approved Meters pursuant to the CAISO Tariff.

(b) Check Meter.

Seller will permit SCE to furnish and install one SCE revenue-quality meter section or meter, which will include those devices normally supplied by SCE or Seller under the applicable utility electric service requirements (a "Check Meter") on the high voltage side of the step-up transformer, substation, or any other location at SCE's sole discretion, associated with the Generating Facility in compliance with the applicable utility electric service requirements. Each Check Meter must be interconnected with SCE's communication network to permit:

- (i) Periodic, remote collection of revenue quality meter data; and
- (ii) Back-up real-time transmission of operating-quality meter data.

(c) SCE's Access to Meters.

- (i) Subject to Section 4.02, Seller hereby grants SCE reasonable access to all CAISO Approved Meters and Check Meters for meter readings and any purpose necessary to effectuate this Agreement.

- (ii) Seller shall promptly provide SCE access to all meter data and data acquisition services both in real-time, and at later times, as SCE may reasonably request.
  - (iii) Prior to the Initial Delivery Date, Seller shall provide instructions to the CAISO granting authorizations or other documentation sufficient to provide SCE with access to the CAISO Approved Meter(s) and to Seller's settlement data on the Operational Metering Analysis and Reporting System operated and maintained by the CAISO as the repository of settlement quality meter data or its successor.
- (d) CAISO Approved Meter Maintenance.
- (i) Seller shall test and calibrate the CAISO Approved Meter(s), as necessary, but in no event will the period between testing and calibration dates be greater than twelve (12) months.
  - (ii) Seller shall bear its own costs for any meter check or recertification of the CAISO Approved Meter(s).
  - (iii) Seller shall replace each CAISO Approved Meter battery at least once every thirty-six (36) months or such shorter period as may be recommended by the CAISO Approved Meter manufacturer.
  - (iv) Notwithstanding the foregoing, if a CAISO Approved Meter battery fails, Seller shall replace such battery within one (1) day after becoming aware of its failure.
  - (v) Seller shall use certified test and calibration technicians to perform any work associated with the CAISO Approved Meter(s).
  - (vi) Seller shall inform SCE of test and calibration dates, provide SCE with access to observe and witness such testing and calibration, and provide SCE certified results of tests and calibrations within thirty (30) days after completion.
- (e) SCADA and Telemetry System.

All communication, metering, telemetry, and associated operation equipment will be centralized into the Project's SCADA. Seller shall configure the SCADA so that SCE may access it via an automated system to remotely monitor, dispatch, and control the Project in real-time ("Generation Management System") from SCE's Generation Operations Center. Seller shall link the systems via an approved SCE communication network, utilizing existing industry standard network protocol, as approved by SCE. The



connection will be bidirectional in nature and used by the Parties to exchange all data points to and from the Generation Operations Center.

Seller shall be responsible for the costs of installing, configuring, maintaining and operating the SCADA and internal site links for the Project.

Seller shall be responsible for designing, furnishing, installing, operating, maintaining and testing a real-time Telemetry System capable of interconnecting to the GMS, the CAISO Approved Meter(s), if any, and the Project's control system with the CAISO infrastructure network (data highway) used by all CAISO participants to exchange data to and from resources and CAISO (the "Energy Communication Network").

The Telemetry System shall be designed in accordance with the CAISO monitoring and communication requirements and must be capable of:

- (i) Reporting data from each CAISO Approved Meter;
- (ii) Providing the status of key control points from the Project's control system;
- (iii) Routing resource unit set points to the Project's control system; and
- (iv) Communicating availability of the Project pursuant to Section 5.02(g) of this Attachment 1.

The Telemetry System must include a remote intelligent gateway, internet connection, interconnecting cabling and all service agreements required for accessing the Energy Communication Network.

The above-mentioned connections and data transfer must be fully functional before the Initial Delivery Date.

- (f) [Meteorological Station(s) and Reporting Requirements.] *{SCE Note: Intermittent Only} {SCE Note: replace with "Intentionally Omitted" for all other technologies}*

*[Seller, at its own expense, shall install and maintain one (1) or more stand-alone meteorological stations at the Generating Facility in accordance with Exhibit L to monitor and report weather data to both the CAISO and SCE.*

The station(s) must be installed at least sixty (60) days before Commercial Operation.

The station(s) must be equipped with the Meteorological Equipment, as may be modified by Seller at SCE's direction from time to time to reflect the CAISO's PIRP/EIRP protocol and the requirements of Exhibit K.

The station(s) must be designed to collect and record data in accordance with CAISO's PIRP/EIRP protocols and the requirements of Exhibit K.

Seller shall submit to SCE for review and approval, Seller's technical specifications for the meteorological station(s) along with a site plan showing the location of the station(s), the location of all [photovoltaic modules, inverters,] *[Wind Turbines, the wind rose for the Site,] [Solar Generating Units,]* and other prominent features, as applicable. *{SCE Comment: Intermittent only.}*

*[Seller shall calibrate all first and second class thermopile pyranometers to the same nationally recognized standard and apply temperature correction to the measurement. Seller's Telemetry System shall transmit the calibrated data to SCE. Such temperature correction shall be based upon a calibration of the actual instrument or to a generic temperature curve that is supported by data from a nationally recognized testing laboratory to be representative of the exact vintage and model of instruments to be used by Seller. Furthermore, Seller shall calibrate all thermopile pyranometers, regardless of type, every Term Year and upon SCE's reasonable request.] {SCE Note: Solar photovoltaic only.}*

- (g) Real-Time Communication of Availability.
- (i) Prior to the Initial Delivery Date, Seller shall install a telecommunication system and demonstrate to SCE's reasonable satisfaction that the system interfaces with the Web Client and the GMS to provide SCE with Seller's cumulative available capacity of the Project on a real-time basis.
  - (ii) Seller shall maintain the telecommunications path, the hardware, and software to provide quality data to SCE throughout the Delivery Period.
  - (iii) Upon Notice from SCE, Seller shall repair or have corrected as soon as possible, but no later than five (5) days after receipt of such Notice any:
    - (A) Inoperable telecommunications path;
    - (B) Inoperable software; or
    - (C) Faulty instrumentation.

(h) SCE's Check Meter.

(i) Providing Access to Seller.

Before Commercial Operation, SCE shall provide to Seller remote access to the Check Meter through a website as specified by SCE. SCE may change the website and protocols from time to time.

(ii) Testing of Check Meter.

SCE may test and recalibrate the Check Meter(s) at least once every Term Year. The Check Meter(s) will be locked or sealed, and the lock or seal will be broken, only by a SCE representative. Seller has the right to be present whenever such lock or seal is broken. SCE shall replace the battery of the Check Meter(s) at least once every 36 months; provided, if a Check Meter battery fails, SCE shall promptly replace such battery.

(iii) Use of Check Meter for Back-Up Purposes.

(A) SCE may routinely compare the Check Meter data to the CAISO Approved Meter data after adjusting the Check Meter for any compensation introduced by the CAISO into the CAISO Approved Meter.

(B) If the deviation between the CAISO Approved Meter data and the Check Meter data for any comparison is greater than 0.3%, SCE shall provide Notice to Seller of such deviation and the Parties will mutually arrange for a meter check or recertification of the Check Meter or CAISO Approved Meter, as applicable.

(C) SCE will bear its own costs for any meter check or recertification of the Check Meter.

(iv) Testing procedures and standards for the Check Meter(s) will be the same as for a comparable SCE-owned revenue-grade meter. Seller has the right to have representatives present during all such tests.

(i) Aggregation Costs.

Seller shall not bear any costs attributable to aggregation of the Project under an aggregated Resource ID, including the cost of obtaining an aggregated Resource ID, if any. Installation of the metering, communications, dispatch, and telemetry systems required in this Section 5.02 is not considered attributable to the aggregation of the Project, and costs for such systems shall

be borne by the Seller as provided in this Section 5.02.] *{SCE Note: For projects less than 500kW.}*

5.03 Testing.

(a) Demonstration of Contract Capacity.

Seller shall provide at least [thirty (30) days prior Notice to SCE of the date] *{SCE Note: Intermittent only.} [ten (10) Business Days prior Notice to SCE of the date and hour ("Demonstration Hour")]* *{SCE Note: Baseload only.}* during which Seller intends to demonstrate the Contract Capacity. Upon SCE's request, Seller shall make reasonable efforts to reschedule this demonstration.

*[SCE shall complete a site visit on this date to verify that the Generating Facility was developed in accordance with Exhibit B and to determine the Generating Facility's total rated electric Alternating Current energy generating capacity which will equal the sum of the [Inverter Block Unit Capacity of all Inverter Block Units in the Generating Facility] {SCE Note: Solar Photovoltaic Only} [manufacturer's nameplate ratings of all installed Wind Turbines, consistent with Prudent Electrical Practices and accepted industry standards, as indicated on the nameplates physically attached to the individual Wind Turbine generators,] {SCE Note: Wind Only} [Metered Amounts for the Demonstration Hour] {SCE Note: All other technologies} (the "Demonstrated Contract Capacity") [and the sum of the Photovoltaic Module DC Ratings for all photovoltaic modules of the Generating Facility actually installed at the Site (the "Demonstrated Installed DC Rating").] {SCE Note: Solar Photovoltaic Only}] {SCE Note: Intermittent Only}*

*[Unless SCE provides timely Notice to Seller that additional days are required to substantiate data, SCE shall, within thirty (30) days after Seller's Notice of the Demonstration Hour, retrieve interval data downloaded from the CAISO Approved Meter or Check Meter for the twelve (12) hour periods before and after the Demonstration Hour; and SCE may, at its sole discretion, complete a site visit within thirty (30) days after SCE's receipt of Seller's Notice of the Demonstration Hour to verify that the Generating Facility was developed in accordance with the Generating Facility and Site Description set forth in Exhibit B.] {SCE Note: Baseload Only}*

If the Demonstrated Contract Capacity is not equal to or greater than the Contract Capacity as of the Effective Date, then, subject to meeting the Initial Delivery Deadline, Seller may retest the Generating Facility by repeating the process set forth in this Section 5.03(a).

(b) *[RA Demonstration.*

*Seller shall schedule and complete any tests required by the CPUC, any other applicable Governmental Authority, or the CAISO and provide all information required by the CPUC, any other applicable Governmental Authority, or the CAISO, in order for the Generating Facility to obtain published results from CAISO regarding its NQC and EFC. Seller shall complete such activities in sufficient time to achieve the RA Guarantee Date, but in no event later than sixty days prior to the RA Guarantee Date.}[SCE Comment: For Full Capacity Deliverability Status Projects only.]*

5.04 Certification.

(a) Obtaining and Maintaining CEC Certification and CEC Verification.

- (i) Within one hundred eighty (180) days after the Effective Date, Seller shall file an application or other appropriate request for provisional certification of the proposed Generating Facility as an ERR by the CEC upon submission by a facility of a complete application and required supplemental information (“CEC Pre-Certification”).
- (ii) Within ninety (90) days after the Initial Delivery Date, Seller shall file an application or other appropriate request with the CEC for certification by the CEC that the Generating Facility is an ERR for purposes of the California Renewables Portfolio Standard and that all electric energy produced by the Generating Facility qualifies as generation from an ERR for purposes of the California Renewables Portfolio Standard (“CEC Certification”).
- (iii) Seller shall take all necessary steps, including making or supporting timely filings with the CEC, to obtain and to maintain throughout the Delivery Period (i) CEC Certification and (ii) verification by the CEC based on ongoing reporting by Seller that the Generating Facility is an ERR for purposes of the California Renewables Portfolio Standard and that all electric energy produced by the Generating Facility qualifies as generation from an ERR for purposes of the California Renewables Portfolio Standard (“CEC Verification”).
- (iv) Upon request by SCE, Seller shall provide copies of all correspondence and documentation exchanged between the CEC and Seller.

(b) CAISO Certification.

Seller shall provide all CAISO Certification test results for each initial or subsequent test of the Project within three (3) Business Days after Seller’s

receipt. Nothing in this Agreement, including the Exhibits, shall be amended to reflect the outcome of any CAISO Certification.

**5.05** *Shared Facilities and Portfolio Financing Acknowledgements, Etc.*

- (a) *SCE acknowledges and agrees that, subject to the terms and conditions set forth in this Agreement, (i) Seller has represented to SCE that the Shared Facilities are, or will or may be, subject to sharing and common ownership, use and financing arrangements between Seller and the Other Seller(s), and (ii) all such arrangements, including any and all related rights, liabilities, obligations and financings (including any pledge or collateral assignments in connection with such arrangements) shall be permitted by, and are not in conflict with, and do not give rise to any default under, this Agreement.*
- (b) *SCE acknowledges and agrees that, subject to the terms and conditions set forth in this Agreement, (i) Seller has represented to SCE that Seller may elect to finance all or any portion of the Generating Facility, along with the Other Seller(s) (or the Other Generating Facility(ies) or the Shared Facilities, on a Portfolio or other aggregated basis, which may include cross-collateralization or similar arrangements requested by Lenders to enable such financing, and (ii) all such arrangements are not in conflict with, and do not give rise to any default under, this Agreement.*
- (c) *The Parties shall cooperate with one another as may be reasonably requested by the other Party to provide such further approvals or acknowledgements in connection with Sections 14.13(a) and (b). {SCE Note: Language applicable to projects that utilize Shared Facilities.}*

**ARTICLE 6. SELLER'S OPERATION, MAINTENANCE AND REPAIR OBLIGATIONS**

**6.01** Seller's Operation and Record Keeping Obligations.

In addition to the obligations set forth in Section 6.01, Seller shall:

- (a) Comply with operating orders, CAISO Tariff provisions, and Applicable Laws relating to the Product. SCE shall have no liability for the failure of Seller to comply with such operating orders, CAISO Tariff provisions, or Applicable Laws, including any penalties, charges or fines imposed on Seller for such noncompliance.
- (b) Keep a daily operations log for the Generating Facility that shall include the following information:

- (i) Availability of the *[Inverter Block Units and associated inverters]* *{SCE Note: Solar Photovoltaic only.}* *[Generating Facility]* *{SCE Note: All other technologies.}*;
  - (ii) Circuit breaker trip operations;
  - (iii) Any significant events related to the Operation of the Generating Facility;
  - (iv) Real and reactive power and energy production;
  - (v) Changes in Operating status;
  - (vi) Protective apparatus operations;
  - (vii) Any unusual conditions found during inspections;
  - (viii) Electric energy production, fuel consumption and efficiency (if applicable); and
  - (ix) Status and settings of generator controls including automatic voltage regulator and power system stabilizer.
- (c) *[Maintain complete records of the Generating Facility’s plane of array insolation, other pertinent meteorological conditions and operational status of each Inverter Block Unit.] {SCE Note: Solar Photovoltaic only.}*
- [Log changes in the generator output setting if it is “block-loaded” to a specific kW capacity.]*  
*{SCE Note: Baseload only.}*
- [Maintain complete records of the Generating Facility’s wind speeds and other pertinent meteorological conditions and operational status of each Wind Turbine.]*  
*{SCE Note: Wind only.}*
- [Maintain complete records of the Generating Facility’s direct normal insolation, other pertinent meteorological conditions and operational status of each Solar Generating Unit.]*  
*{SCE Note: Solar Thermal only.}*
- [Maintain complete records of the Generating Facility’s fuel consumption if a biomass or landfill generating facility, or geothermal fluid consumption if a geothermal generating facility.]*  
*{SCE Note: Biomass and Geothermal only.}*

- (d) Keep a maintenance log for the Generating Facility that shall include information on maintenance (both breakdown and preventative) performed, outages, inspections, manufacturer recommended services and replacement, electrical characteristics of the generators, control settings or adjustments of equipment and protective devices.
- (e) Maintain documentation of all procedures applicable to the testing and maintenance of the Generating Facility protective devices as necessary to comply with NERC Reliability Standards applicable to protection systems for large electric generators, if Seller is required to be a registered entity pursuant to the NERC Reliability Standards.
- (f) Promptly curtail the production of the Generating Facility:
  - (i) Upon notice from SCE that Seller has been instructed by the CAISO or T&D Provider to curtail energy deliveries; provided, solely the action of the CAISO issuing a Schedule shall not by itself, without other factors, constitute an instruction by the CAISO to curtail energy deliveries pursuant to this Section 6.01(f)(i);
  - (ii) Upon notice that Seller has been given a curtailment instruction or similar instruction in order to respond to an Emergency; or
  - (iii) If SCE issues a Curtailment Order.

Notices of curtailment may be oral or written and must be made in accordance with accepted industry practices for such notices.
- (g) At least thirty (30) days prior to the start of the Delivery Period, and whenever such information changes during the Delivery Period, within ten (10) days after such change, provide accurate and complete operating characteristics of the Generating Facility in compliance with the CAISO Tariff.

6.03 Scheduling Coordinator Services.

Seller shall comply with all applicable CAISO Tariff procedures, protocol, rules and testing as necessary for SCE to submit Bids for the electric energy produced by the Generating Facility.

- (a) Designating SCE as Scheduling Coordinator.
  - (i) At least thirty (30) days before the Initial Delivery Date, Seller shall take all actions and execute and deliver to SCE all documents necessary to authorize or designate SCE as the Scheduling Coordinator throughout the Delivery Period.



- (ii) Throughout the Delivery Period, Seller shall not authorize or designate any other party to act as Scheduling Coordinator, nor shall Seller perform, for its own benefit, the duties of Scheduling Coordinator.
- (iii) Seller is responsible for and shall pay SCE an amount equal to the costs (including the costs of SCE employees or agents) SCE incurs, as determined in SCE's sole discretion, as a result of SCE being designated as the Generating Facility's Scheduling Coordinator including the costs associated with the registration of the Generating Facility with the CAISO, and the installation, configuration, and testing of all equipment and software necessary for SCE to act as Scheduling Coordinator or to Schedule the Generating Facility ("SC Set-Up Fee"); provided, the SC Set-up Fee shall not exceed twenty thousand dollars (\$20,000).

(b) Replacement of SCE as Scheduling Coordinator.

At least forty-five (45) days before the end of the Delivery Period, or as soon as practicable before the date of any termination of this Agreement before the end of the Delivery Period, Seller shall take all actions necessary to terminate the designation of SCE as Seller's Scheduling Coordinator as of hour ending 24:00 on the last day of the Delivery Period. These actions include the following:

- (i) Seller shall submit to the CAISO a designation of a new Scheduling Coordinator for Seller to replace SCE;
- (ii) Seller shall cause the newly designated Scheduling Coordinator to submit a letter to the CAISO accepting the designation; and
- (iii) Seller shall inform SCE of the last date on which SCE will be Seller's Scheduling Coordinator. SCE must consent to any date other than the last day of the Delivery Period, such consent not to be unreasonably withheld.

(c) Scheduling Coordinator.

Commencing on the Initial Delivery Date, SCE shall act as Seller's Scheduling Coordinator and carry out all duties as Scheduling Coordinator in accordance with CAISO Tariff protocols.

(d) Termination of Scheduling Coordinator.

SCE shall submit a letter to the CAISO identifying the date on which SCE resigns as Seller's Scheduling Coordinator on the first to occur of the following:

- (i) Thirty (30) days before the end of the Delivery Period;
- (ii) The date of any Notice from Seller of suspension of its performance pursuant to Section 10.02; or
- (iii) The date of any early termination of this Agreement.

6.04 Forecasting.

- (a) The Parties shall abide by the Forecasting and Scheduling requirements and procedures described below and shall agree upon reasonable changes to these requirements and procedures from time to time, as necessary to: (i) accommodate changes to their respective generation technology and organizational structure; (ii) address changes in the operating and Scheduling procedures of both SCE and the CAISO, including automated forecast and outage submissions; and (iii) comply with the CAISO Tariff.
- (b) Seller shall use commercially reasonable efforts to operate the Generating Facility so that the available capacity or electric energy from the Generating Facility conforms with its Forecasts.
- (c) No later than thirty (30) days before any day designated for Commercial Operation, Seller shall provide SCE, via the Web Client, with a 30-day, hourly Forecast of either or both:
  - (i) Capacity, in MW; or
  - (ii) Electric energy, in MWhas directed by SCE, for the thirty (30) day period commencing on the Initial Delivery Date.
- (d) If, after submitting the Forecast pursuant to Section 6.03(c) of this Attachment 1, Seller learns that Commercial Operation will occur on a date and time other than that reflected on the Forecast, Seller shall provide an updated Forecast reflecting the new Initial Delivery Date at the earliest practicable time but no later than 5:00 p.m. on the Wednesday before the revised Initial Delivery Date, if Seller has learned of the new Initial Delivery Date by that time, but in no event less than three (3) Business Days before the actual Initial Delivery Date.

- (e) If the Web Client becomes unavailable, Seller shall provide SCE with the Forecast by (in order of preference unless the Parties agree to a different order) electronic mail, facsimile transmission or, as a last resort, telephonically to Real-Time Scheduling, as set forth in Exhibit E.
- (f) The Forecast, and any updated Forecasts, must:
  - (i) Not include any anticipated or expected electric energy losses after the CAISO Approved Meter or Check Meter; and
  - (ii) Limit hour-to-hour Forecast changes to no less than two hundred fifty (250) kWh, or 0.25 MW, as applicable, during any period when the Web Client is unavailable. Seller shall have no restriction on hour-to-hour Forecast changes when the Web Client is available.
- (g) Commencing on or before 5:00 p.m. of the Wednesday before the first week covered by the Forecast provided pursuant to Section 6.03(c) of this Attachment 1 above and on or before 5:00 p.m. every Wednesday thereafter until the end of the Delivery Period, Seller shall update the Forecast for the thirty (30) day period commencing on the Sunday following the weekly Wednesday Forecast update submission. Seller shall use the Web Client, if available, to supply this weekly update or, if the Web Client is not available, Seller shall provide SCE with the weekly Forecast update by e-mailing SCE.
- (h) Forecasting Electric Energy.

If Seller is Forecasting electric energy, in accordance with SCE's instructions, and Seller learns of any change in the total electrical energy output of the Generating Facility for a period covered by the most recent Forecast update resulting from any cause, including an unplanned outage, before the time that the next weekly update of the Forecast is due which results in variance in expected energy in any hour of plus (+) or minus (-) three percent (3%) from the energy reported in the most recent Forecast update, Seller shall provide an updated Forecast to SCE. This updated Forecast must be submitted to SCE by no later than:

- (i) 5:00 a.m. on the day before any day impacted by the change, if the change is known to Seller at that time. If the Web Client is not available, Seller shall e-mail these changes to [presched@sce.com](mailto:presched@sce.com) and immediately follow up with a phone call to SCE's Day-Ahead Scheduling Desk in accordance with Exhibit E;
- (ii) Thirty (30) minutes before the commencement of any hour impacted by the change, if the change is known to Seller at that time; or

- (iii) If the change is not known to Seller by the timeframes indicated in (i) or (ii) above, within twenty (20) minutes after Seller became aware or, using best efforts, should have become aware of the commencement of the event which caused the energy forecast change, e-mail changes to realtime@sce.com and immediately telephone SCE's Real-Time Scheduling in accordance with Exhibit E.

(i) Forecasting Available Capacity.

- (i) Seller shall provide an updated Forecast to SCE if (x) Seller learns of any change in the total available capacity of the Generating Facility for a period covered by the most recent Forecast update resulting from any cause, including an unplanned outage before the time that the next weekly update of the Forecast is due which Seller is required to report under the provisions of the CAISO Tariff related to PIRP/EIRP and under other applicable provisions of the CAISO Tariff related to availability and outage reporting and (y) one of the following conditions is met:

- (A) Seller is Forecasting available capacity, in accordance with SCE's instructions;
- (B) Seller does not provide real-time communication of availability as provided in Section 5.02(g) of this Attachment 1;
- (C) The telecommunications path to obtain real-time data is inoperable; or
- (D) Instrumentation is providing faulty or incorrect data.

- (ii) This updated Forecast must be submitted to SCE via the Web Client by no later than:

- (A) 5:00 a.m. on the day before any day impacted by the change, if the change is known to Seller at that time. If the Web Client is not available, Seller shall e-mail these changes to presched@sce.com and immediately telephone SCE's Day-Ahead Scheduling Desk in accordance with Exhibit E;
- (B) Thirty (30) minutes before the commencement of any hour impacted by the change, if the change is known to Seller at that time; or
- (C) If the change is not known to Seller by the timeframes indicated in (A) or (B) above, within twenty (20) minutes

after Seller becomes aware or, using best efforts, should have become aware of the event which caused the availability change, e-mail changes to realtime@sce.com and immediately telephone SCE's Real-Time Scheduling in accordance with Exhibit E.

- (iii) Seller's updated Forecast must reflect the following information:
  - (A) The beginning date and time of the change;
  - (B) The expected ending date and time of the event;
  - (C) The expected availability, in MW (if so instructed by SCE);
  - (D) The expected energy, in MWh (if so instructed by SCE); and
  - (E) Any other information required by the CAISO as communicated to Seller by SCE.

6.05 Scheduled Outages.

- (a) Commencing at least sixty (60) days before the Initial Delivery Date and throughout the Delivery Period, Seller shall, no later than January 1, April 1, July 1 and October 1 of each year, submit to SCE, using the Web Client, Seller's schedule of proposed planned outages ("Outage Schedule") for the following twenty-four month period.
- (b) Unless agreed to in writing and coordinated in advance by the Parties, no outages shall be scheduled or planned from each *[May 1 through September 30 or TBD]* during the Delivery Period. If Seller has a previously scheduled outage that becomes coincident with a CAISO-declared system emergency, Seller shall make all reasonable efforts to reschedule such scheduled outage.
- (c) Seller shall provide the following information for each proposed planned outage:
  - (i) Description of the work to be performed during the planned outage;
  - (ii) Start date and time;
  - (iii) End date and time; and
  - (iv) Capacity online, in MW, during the planned outage.
- (d) SCE shall notify Seller in writing of any request for changes to the Outage Schedule, and Seller shall, consistent with Prudent Electrical Practices,

accommodate SCE's requests regarding the timing of any planned outage; provided that the CAISO agrees to such changed timing.

- (e) Seller must provide Notice to SCE at least sixty (60) days prior to the start of any planned outage.
- (f) Seller shall cooperate with SCE to arrange and coordinate all Outage Schedules with the CAISO in compliance with the CAISO Tariff.
- (g) If a condition occurs at the Generating Facility which causes Seller to revise its planned outages, Seller shall promptly provide Notice to SCE, using the Web Client (with a second Notice to SCE's Outage Desk if the planned outage is more than three months in the future), of such change (including an estimate of the length of such planned outage) as required in the CAISO Tariff after the condition causing the change becomes known to Seller.
- (h) Seller shall promptly prepare and provide to SCE upon request, using the Web Client, all reports of actual or forecasted outages that SCE may reasonably require for the purpose of enabling SCE to comply with Section 761.3 of the California Public Utilities Code, the CAISO Tariff, or any Applicable Law mandating the reporting by investor owned utilities of expected or experienced outages by electric energy generating facilities under contract to supply electric energy.

#### 6.06 Lost Output Report.

(a) Monthly Report; SCE Review.

Commencing on the Initial Delivery Date and continuing throughout the Delivery Period, Seller shall calculate Lost Output and prepare and provide to SCE a Lost Output Report by the tenth (10th) Business Day of each month in accordance with Exhibit K.

SCE will have thirty (30) days after receipt of Seller's monthly Lost Output Report or Supplemental Lost Output Report to review such report.

Upon SCE's request, Seller shall promptly provide to SCE any additional data and supporting documentation necessary for SCE to audit and verify any matters in the Lost Output Report.

(b) Disputes of Lost Output.

If SCE disputes Seller's Lost Output calculation, SCE shall provide Notice to Seller within thirty (30) days after receipt of Seller's Lost Output Report and include SCE's calculations and other data supporting its position.

The Parties shall negotiate in good faith to resolve any Disputes regarding the Lost Output calculation. If the Parties are unable to resolve a dispute through negotiation within thirty (30) days after SCE's giving the dispute Notice, either Party may submit the dispute to mediation and arbitration as provided in Article 12 (Disputes).

Seller will have no right to claim any Lost Output for any month that was not identified in the original Lost Output Report for that month; provided, Seller may supplement the amount of Lost Output claimed ("Supplemental Lost Output") for the month with a supplemental Lost Output Report ("Supplemental Lost Output Report") if Seller can demonstrate that Seller neither knew nor could have known through the exercise of reasonable diligence about the Supplemental Lost Output within the foregoing thirty (30) day period and Seller provides the Supplemental Lost Output Report within ten (10) Business Days after learning the facts which provide the basis for the Supplemental Lost Output claim; provided further, in no event will SCE be obligated to accept a Supplemental Lost Output Report after thirty (30) days following the end of the applicable Term Year.

#### 6.07 Operational Notices.

##### (a) Actual Availability Report.

- (i) Throughout the Delivery Period, Seller shall prepare and provide to SCE a report with the sum of the capacity, in MWs, of all [inverters] *{SCE Note: Solar Photovoltaic Only}* [generating units] *{SCE Note: all other technologies}* of the Generating Facility that were available at the end of the Settlement Interval, as measured by Seller's SCADA equipment, (an "Actual Availability Report") for each month. The data presented in the Actual Availability Report must not reflect any electric energy losses between the CAISO Approved Meter or Check Meter and the Delivery Point.

This report must be created on a single, dedicated worksheet in a form provided by SCE and set forth in Exhibit H and must be delivered electronically to SCE no later than the seventh (7th) Business Day following the end of the month which is the subject of the Actual Availability Report.

- (ii) Upon SCE's request, Seller shall promptly provide to SCE any additional data and supporting documentation necessary for SCE to audit and verify any matters set forth in the Actual Availability Report.

(b) [Seller's Provision of Historic Data.] *{SCE Note: Solar or Wind}* *{SCE Note: Replace with "Intentionally Omitted" for all other technologies}*

(i) *[Seller shall provide to SCE a minimum of one (1) year of recorded meteorological data from the Site not later than ninety (90) days before Initial Delivery Date.*

Seller shall provide data from additional years if any such data is available.

(ii) Data Parameters.

For each equipment station that is installed, Seller shall provide the following data to the extent such data has been recorded:

(A) *[Total global irradiance;] {SCE Note: Solar only}*

(B) Wind direction;

(C) Wind speed;

(D) Air temperature;

(E) Barometric pressure;

(F) Relative humidity;

(G) Elevation of the station; and

(H) Latitude and longitude of the station.

(iii) Format of Data.

Seller shall provide the data:

(A) In the format to be specified by SCE; and

(B) *In the interval in which such data was recorded.] {SCE Note: Solar and Wind only. For wind, SCE will require such information from Seller if the Site is in an area for which SCE has no historic information.}*

(c) Notice of Cessation or Termination of Service Agreements.

Seller shall provide Notice to SCE within one (1) Business Day after termination of, or cessation of service under, any agreement necessary to deliver Product to SCE at the Delivery Point or to meter the Metered Amounts.



(d) Communication Protocols.

The communication protocols in this Section 6.06(d) shall be modified, at SCE's reasonable discretion, as market conditions and rules evolve.

(i) Intra-day Communication.

All communications and notices between the Parties that occur intra-day and intra-hour for the applicable day shall be provided electronically or telephonically as SCE directs to the applicable Party.

If to Seller, such notices and communications shall be provided to the following contact, in order of priority, (1) [\_\_\_\_], (2) [\_\_\_\_], (3) [\_\_\_\_]. If to SCE, such notices and communications shall be provided to Real-Time Scheduling, as set forth in Exhibit E. Each Party shall confirm all intra-day communication either electronically or via telephone as soon as practicable.

(ii) Communication Failure.

In the event of a failure of the primary communication link between Seller and SCE, both Parties will try all available means to communicate, including cell phones or additional communication devices.

(iii) System Emergency.

SCE and Seller shall communicate as soon as possible all changes to the schedule requested by the CAISO as a result of a system emergency.

(iv) Staffing.

The Parties will have available 24 hours a day, seven days a week, personnel available to communicate regarding the implementation of this Section 6.07(d).

6.08 *Interconnection Affiliate and Affiliate Manager Action.*

*Any obligation or action required of Seller under this Agreement shall, as applicable, also include an obligation that Seller cause the Interconnection Affiliate and/or the Affiliate Manager to fulfill such obligation or take such required action.]*  
*{SCE Note: Language applicable to projects that utilize Shared Facilities.}*

## ARTICLE 9. REPRESENTATIONS, WARRANTIES, AND COVENANTS

### 9.02 Additional Seller Representations and Warranties.

Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement:

- (a) Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in the Western Renewable Energy Generation Information System will be taken prior to the first delivery under the contract.
- (b) Seller has no knowledge of any plans by SCE or another T&D Provider to seek to construct a transmission or distribution line through or on the Site.
- (c) Seller has not used, granted, pledged, assigned or otherwise committed any portion of the generating capacity of the Generating Facility to meet the Resource Adequacy Requirements of, or to confer Resource Adequacy Benefits on, any entity other than SCE during the Delivery Period.

### 9.04 Seller Covenants.

Seller's covenants pursuant to Section 9.04 include:

- (a) Seller shall take all actions necessary for the Project to qualify and be certified by the CEC as an ERR and to qualify under the requirements of the California Renewables Portfolio Standard.
- (b) Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement that:
  - (i) The Project qualifies and is certified by the CEC as an Eligible Renewable Energy Resource ("ERR") as such term is defined in Public Utilities Code Section 399.12 or Section 399.16; and
  - (ii) The Project's output delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard.

To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law.

- (c) Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement the Renewable Energy Credits transferred to Buyer conform to the definition and attributes required for

compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law.

- (d) Throughout the Delivery Period, Seller will not use, grant, pledge, assign or otherwise commit any portion of the generating capacity of the Generating Facility to meet the Resource Adequacy Requirements of, or to confer Resource Adequacy Benefits on, any entity other than SCE.
- (e) *[The term “change in law” as used in Sections 9.04(b) and 9.04(c) of this Attachment 1 does not include an invalidation, rescission or change in terms of the CAISO Exemption nor any disapproval, disallowance, or other change in policy by WREGIS, the CEC or the CPUC with regards to the RECs as a result of the Shared Facilities’ metering scheme.] {SCE Note: Bracketed language only applies to projects that utilize Shared Facilities.}*
- (f) Throughout the Delivery Period, Seller shall
  - (i) Comply with the Green-e® Energy eligibility criteria, requirements and best practices as updated from time to time by Green-e® Energy;
  - (ii) Provide all forms, disclosures and other documentation required by SCE and its auditors in connection with the annual Green-e® Energy verification and audit;
  - (iii) Provide SCE with a completed ‘Green-e® Energy Attestation From Generator Participating In A Tracking System’ form (or other successor form available on Green-e® Energy’s website) promptly and when requested by SCE; and
  - (iv) Provide SCE with Green-e® Energy host attestations as they are requested.
- (g) Throughout the Delivery Period, Seller shall ensure that the Project complies with the requirements of the California Air Resources Board’s Voluntary Renewable Electricity Program and Seller shall provide SCE with all documents necessary to enable SCE to retire greenhouse gas allowances on behalf of Customers taking electric service under SCE’s Disadvantaged Community Green Energy Program Tariffs in compliance with the California Air Resources Board’s Voluntary Renewable Electricity Program.

- (h) *[Seller shall maintain the Project's Full Capacity Deliverability Status for the purposes of counting the Product towards RA Compliance Obligations.] {SCE Comment: For Full Capacity Deliverability Status Projects only.}*

## ARTICLE 10. EVENTS OF DEFAULT

### 10.01 Events of Default.

In addition to those Events of Default listed in Section 10.01(b), with respect to Seller, the occurrence of any of the following shall be considered an Event of Default:

- (a) Seller removes from the Site equipment upon which the Contract Capacity has been based, except for the purposes of replacement, refurbishment, repair or maintenance, and the equipment is not returned within five (5) Business Days after Notice from SCE;
- (b) Seller fails to take any actions necessary to dedicate, convey or effectuate the use of any and all Green Attributes for SCE's sole benefit as specified in Sections 1.01(b) and 1.07 of this Attachment 1; or
- (c) Seller does not have Site Control in accordance with Section 1.02(h) of this Attachment 1;
- (d) Seller transfers or assigns the Interconnection Queue Position or the interconnection agreement;
- (e) The occurrence of an Event of Deficient Energy Deliveries during two (2) Term Years, whether consecutive or non-consecutive.
- (f) Seller fails to comply with Green-e® Energy eligibility requirements and the requirements of the California Air Resources Board's Voluntary Renewable Electricity Program;
- (g) Seller fails to provide all of the Capacity Attributes associated with the Project;
- (h) *[Seller installs generating capacity in excess of the Contract Capacity and such excess generating capacity is not removed within five (5) Business Days after Notice from SCE.] {SCE Note: Intermittent Only}*

*[The Metered Amounts in any one hour interval, in kWh, exceed one hundred fifteen percent (115%) of the Contract Capacity, in kW, to this Agreement, (an "Event of Excess Deliveries"), and within ten (10) Business Days after Notice from SCE, Seller fails to demonstrate to SCE's satisfaction that Seller has identified the reason that the Event of Excess Deliveries occurred and that Seller has employed or is employing best efforts to ensure that no additional*

*Events of Excess Deliveries will occur throughout the Delivery Period.]*  
*{SCE Note: Baseload only.}*

- (i) *[Seller installs Direct Current electric energy generating capacity in excess of the Installed DC Rating and such excess Direct Current energy generating capacity is not removed within five (5) Business Days after Notice from SCE.]*  
*{SCE Note: Solar Photovoltaic only}*
- (j) The Generating Facility consists of an ERR type(s) different than that specified in Section 1.02(h) of this Attachment 1.
- (k) Except where there has been a change in Applicable Laws that would affect Seller's status as an ERR, and Seller has made commercially reasonable efforts in accordance with Section 9.04(b) of this Attachment 1 to comply with the change in law, the Generating Facility fails to qualify as an ERR.
- (l) Except where there has been a change in Applicable Law that would affect the eligibility of electric energy to qualify as renewable energy for the purposes of the California Renewables Portfolio Standard and Seller has made commercially reasonable efforts in accordance with Section 9.04(c) of this Attachment 1 to comply with the change in law, any electric energy from the Generating Facility and sold or to be sold to SCE hereunder fails to qualify as eligible renewable energy for purposes of the California Renewables Portfolio Standard.
- (m) *[Seller fails to take all commercially reasonable actions, including any actions required in Seller's interconnection agreement, to expeditiously obtain Full Capacity Deliverability Status.]* *{SCE Note: Full Capacity Deliverability Projects only}*
- (n) *[Seller fails to provide to SCE a copy of the certification identified in Public Utilities Code Sections 2821(d)(1) and (e)(1) as evidence of Seller's compliance with Public Utilities Code Section 2821(c) within thirty (30) days of Seller's receipt of such documentation from the State Water Resources Control Board or in no event later than sixty (60) days after the Initial Delivery Date.]* *{SCE Note: Hydro only.}*
- (o) *[The CAISO Exemption is no longer in effect or Seller's continuing failure to comply with the CAISO Tariff due, in part, to the Shared Facilities.*
- (p) *Except as provided in Section 2.04(d)(i), 5.01(a), or 14.13, Seller assigns or transfers its rights, obligations, interests, property or title under or in the interconnection agreement, in any Shared Facilities or in any Shared Facilities Agreement, without the consent of SCE.*

- (q) *Except as provided in Section 2.04(d)(i), 5.01(a) or Section 10.18, Seller's rights or obligations under the interconnection agreement or any Shared Facilities Agreement are amended or otherwise revised in a manner that would have an adverse effect on Seller's ability to perform hereunder, without the consent of SCE.*
- (r) *Seller fails to maintain the required interconnection capacity pursuant to Section 5.01(a).]  
{SCE Note: Language applicable to projects that utilize Shared Facilities.}*

## **ARTICLE 13. INDEMNIFICATION**

### **13.01 SCE's Indemnification Obligations.**

SCE's indemnification obligations pursuant to Section 13.01 shall also extend to any NERC Standards Non-Compliance Penalties which are solely due to SCE's negligence in performing its role as Seller's Scheduling Coordinator throughout the Delivery Period, so long as Seller has fully complied with the obligations of a Generator Operator and Generator Owner as set forth in all applicable NERC Reliability Standards.

### **13.02 Seller's Indemnification Obligations.**

Seller's indemnification obligations pursuant to Section 13.02 shall also extend to:

- (a) Seller's failure to fulfill its obligations regarding Resource Adequacy Benefits as set forth in Sections 1.01(b), 1.06, and 1.07 of this Attachment 1;
- (b) NERC Standards Non-Compliance Penalties or an attempt by any Governmental Authority, person or entity to assess such NERC Standards Non-Compliance Penalties against SCE, except to the extent solely due to SCE's negligence in performing its role as Seller's Scheduling Coordinator during any Delivery Period as set forth in Section 6.03 of this Attachment 1;
- (c) SCE's transfer to Seller or Seller's designee of WREGIS Certificates generated by the Generating Facility prior to the Initial Delivery Date pursuant to Section 1.07(d) of this Attachment 1; and
- (d) the disqualification by WREGIS or any Governmental Authority of any Renewable Energy Credits transferred to SCE, or the failure to transfer any Renewable Energy Credits to SCE within four (4) months after the generation of the associated Metered Amounts.