TID BOARD OF DIRECTORS
Michael Frantz - Division 1
David Yonan, Vice-President - Division 2
Joe Alamo - Division 3
Rob Santos, Secretary - Division 4
Ron Macedo, President - Division 5

General Manager, Brad Koehn
Executive Secretary to the Board, Jennifer Land
333 E. Canal Drive, Turlock, CA 95380

AGENDA
Turlock Irrigation District
Board Room, Main Office Building
333 East Canal Drive
Turlock, California

LOEWS CORONADO BAY RESORT
4000 CORONADO BAY ROAD
CORONADO, CA 92118

Click here to view the livestream of the meeting

ALTERNATE FORMATS OF THIS AGENDA WILL BE MADE AVAILABLE UPON REQUEST TO QUALIFIED INDIVIDUALS WITH DISABILITIES. APPROPRIATE INTERPRETIVE SERVICES FOR THIS MEETING WILL BE PROVIDED IF FEASIBLE UPON ADVANCE REQUEST TO QUALIFIED INDIVIDUALS WITH DISABILITIES.

SPECIAL MEETING
TUESDAY, NOVEMBER 19, 2024
8:00 A.M.

A. CALL TO ORDER

B. PLEDGE OF ALLEGIANCE

C. PUBLIC COMMENT PERIOD ***(5-minutes per speaker)***
Interested persons in the audience are welcome to introduce any topic within the District's jurisdiction. Matters presented under this heading may be discussed, but no action will be taken by the Board at this meeting.

D. MOTION TO ADJOURN TO CLOSED SESSION

1. **Conference with Property Negotiator**
   California Government Code Section 54956.8
   Property: APN 03180600000200
   Location: 1060 Hoctor Rd., Goldendale, WA
   Agency Negotiator: Tim Payne
   Negotiating parties: Washington Wind LLC
   Under negotiation: Price and terms
   - Brian Biering, Legal Counsel
   - Jon Stickman, Legal Counsel

2. **Conference with Labor Negotiator**
   California Government Code Section 54957.6
   Agency Negotiator: Jorian Reed and Eddie Kreisberg
   Employee Organizations: International Brotherhood of Electrical Workers and Turlock Irrigation District Employees' Association
   Unrepresented Employees: Managerial, Supervisory, Professional & Confidential

E. RECONVENE - REPORT OF ANY ACTION TAKEN IN CLOSED SESSION

F. MOTION TO ADJOURN

TID BOARD OF DIRECTORS
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REGULAR MEETING
TUESDAY, NOVEMBER 19, 2024
9:00 A.M.

A. CALL TO ORDER

B. PLEDGE OF ALLEGIANCE

C. MOTION APPROVING CONSENT CALENDAR
All matters listed hereunder will be acted upon by a single vote of the Board. There will be no individual discussion of these items unless a member of the Board or the public so requests, in which event the matter shall be removed from the Consent Calendar and considered as a separate agenda item.

1. **Approval of minutes of the regular meeting of November 12, 2024.**
2. **Approval of warrants dated November 19, 2024.**

D. DISCUSSION OF ANY ACTION ITEM REMOVED FROM THE CONSENT CALENDAR

E. **PUBLIC COMMENT PERIOD *(5-minutes per speaker)***

Interested persons in the audience are welcome to introduce any topic within the District's jurisdiction. Matters presented under this heading may be discussed, but no action will be taken by the Board at this meeting.

F. **UPDATES**

1. **Irrigation Update**
   - Wes Miller, Supervising Engineering Technician

2. **Hydrology Update**
   - Matt Siemens, Utility Analyst I-Hydrology

G. **ACTION ITEMS**

1. **Motion to Approve Application from Loren Lopes for a new Micro Head Service from- and new Sidegate Installation on- the Turlock Main Canal**
   Consider a motion to approve an application from Loren Lopes for a new micro head service from the Turlock Main Canal and new sidegate installation on the Turlock Main Canal to furnish the new micro head service.
   - Mike Kavarian, Water Distribution Department Manager

2. **Resolution to Authorize the Turlock Irrigation District General Manager to execute all necessary agreements and documents related to the sale of the Tuolumne Wind Project and Power Purchase Agreements for the offtake of energy from Tuolumne Wind Project**
   Consider a resolution to authorize the Turlock Irrigation District General Manager or his designee to execute all necessary agreements and documents related to the sale of the Tuolumne Wind Project and Power Purchase Agreements for the offtake of energy from Tuolumne Wind Project, including but not limited to the agreements as outlined below:
   - Amended and Restated Senior Power Purchase Agreement
   - Subordinate Power Purchase Agreement
   - Financial Support Agreement
   - Purchase and Sale Agreement
   - Guaranty Agreement

   - Colin Selby, Resource Planning Department Manager

H. **MOTION TO ADJOURN TO A MEETING OF THE TUOLUMNE WIND PROJECT AUTHORITY**

I. **RECONVENE MEETING OF THE TID BOARD OF DIRECTORS**

J. **WORKSHOPS**

1. **Renewable Request for Proposals – Results Review**
   - Colin Selby, Resource Planning Department Manager

2. **Natural Gas/Renewable Energy Prepay – Workshop No. 2**
   - Brian Stubbert, CFO/AGM Financial Services
   - Michael Berwanger, Partner, PFM Financial Advisors
   - Joseph Natoli, Managing Director, Goldman Sachs
   - Gardner Smith, Vice President, Goldman Sachs

K. **GENERAL MANAGER'S UPDATE**

L. BUSINESS OF THE BOARD

1. **West Turlock Subbasin Groundwater Sustainability Agency Meeting Report**
   - Director Alamo

2. **Pension Investment Committee Meeting Report**
   - Directors Yonan and Alamo

M. MOTION TO ADJOURN

The next regular meeting will be held on Tuesday, November 26, 2024 at 9:00 a.m.

MINUTES OF THE REGULAR MEETING OF THE
BOARD OF DIRECTORS OF THE TURLOCK IRRIGATION DISTRICT

Turlock, California
12 November 2024

The meeting of the Board of Directors of the Turlock Irrigation District was called to order at 9:00 a.m. in regular session on the 12th day of November, 2024. Present were: Directors Ron Macedo (President), David Yonan (Vice President), Joe Alamo, and Michael Frantz (*via teleconference*), General Manager Brad Koehn, and Executive Secretary to the Board Jennifer Land. Absent was: Rob Santos (Secretary).

Board President Macedo announced that Director Santos is absent and Director Frantz is attending by audio (*zoom teleconference*).

SALUTE TO THE FLAG

MOTION APPROVING CONSENT CALENDAR

Moved by Director Yonan, seconded by Director Alamo, that the consent calendar consisting of the following be approved:

1. **Approval of minutes of the regular meeting of November 5, 2024.**
2. **Demands against the District represented by check number 438373 to 438582, in the amount of $12,074,011.83 (warrants dated November 12, 2024).**
3. **Report of revolving fund activity dated October 31, 2024.**

All voted in favor with none opposed (Director Santos was absent). The President declared the motion carried.

PUBLIC COMMENT PERIOD

There was none.

UPDATES

1. **Electrical Service Update**

Line Department Manager Ben Plaa presented information regarding the Electrical Service Update for the month of October 2024, including total unplanned outages (29 outages), average outage hours (3 hours), average customers affected (137), initial response time (53 minutes), and the unplanned outages for this period. Engineering Design received 65 customer requests with 54 requests sent to Line Construction. A bulk of the customer work was large subdivisions in Patterson, Turlock, and Hughson areas. Lead times for the month showed the Line Department at approximately two weeks, Engineering Department at three weeks, Meter Shop at two days, and Inspectors approximately one and a half weeks. There were two 6-person crews, two 5-person crews, and one 3-person crew to fulfill maintenance and customer work.

Director Yonan and staff discussed the minimal activity associated with the first rain.

ACTION ITEMS

MOTION APPROVING TREASURER'S REPORT ON TURLOCK IRRIGATION DISTRICT'S INVESTMENT PORTFOLIO AND SUMMARY OF INVESTMENT ACTIVITY

CFO/AGM Financial Services Brian Stubbert presented an overview of this item including key takeaways, fixed income index total returns, certificate of compliance, sector allocation and compliance, portfolio snapshot and performance, and accrual basis earnings.

Director Frantz spoke about the good report provided at the recent Investment Committee meeting, noting all things look good and that he has no comments. Hearing no further comments, the Board took the following action:

Moved by Director Yonan, seconded by Director Alamo, that the Investment Portfolio dated September 30, 2024 which was prepared by Public Financial Management, Inc. for the Turlock Irrigation District (District) and reviewed by the Board of Directors be hereby accepted, and that the Board of Directors hereby acknowledges the opinion of Treasurer Brian Stubbert, confirming the Investment Portfolio is in compliance with the District's Investment Policy and verifying the District has the ability to meet budgeted expenditures for the next six months.

All voted in favor with none opposed (Director Santos was absent). The President declared the motion carried.

RESOLUTION NO. 2024 - 47

RESOLUTION APPROVING A TRANSMISSION CAPACITY ACQUISITION AGREEMENT AMONG THE SAN JUAN WATER DISTRICT AND THE CARMICHAEL WATER DISTRICT AND THE TURLOCK IRRIGATION DISTRICT AND THE CITY OF ROSEVILLE

AGM Electrical Engineering Operations Manjot Gill presented an overview of Transmission Agency of Northern California (TANC), California-Oregon Transmission Project participant rights, transmission lease agreement, and TID entitlement and scheduling rights – original share and with layoffs. Resource Planning Department Manager Colin Selby presented information regarding the entitlement transfer and other value-add considerations including increased import and export capabilities and optimization. Mr. Gill concluded with information regarding next steps including legal counsel having prepared the acquisition agreements, notice will be given to all active interim participation agreement parties, entitlement transfer to be considered by the TANC Commission on November 20, and agreement execution between San Juan & Carmichael Water Districts and TID & City of Roseville on December 1.

Directors and staff discussed clarification that San Juan and Carmichael Water Districts are domestic water providers, the approximate time it will take TID to get their money back for the acquisition, San Juan and Carmichael's original costs, O&M costs going forward, SMUD's decision to not renew the lease agreement, and agreement effective dates. Hearing no further comments, the board took the following action:

Moved by Director Alamo, seconded by Director Yonan, that the foregoing resolution be adopted.

Upon roll call the following vote was had:

Ayes:	Directors Frantz, Alamo, Yonan, and Macedo
Noes:	None
Absent:	Director Santos

The President declared the resolution adopted.

GENERAL MANAGER'S UPDATE

General Manager Brad Koehn spoke about the grower meeting scheduled for tomorrow at 5:30 p.m. in the TID Board Room to talk about all things water including the Comprehensive Water Plan, project updates, and rates.

BUSINESS OF THE BOARD

Director Yonan spoke about the recent Investment Committee meeting, noting all is in compliance.

MOTION TO ADJOURN

Hearing no further business, moved by Director Yonan, seconded by Director Alamo, that the regular meeting of the Board of Directors be adjourned at 9:24 a.m.

All voted in favor with none opposed (Director Santos was absent). The President declared the motion carried.

____

Executive Secretary to the Board of
Directors of the Turlock Irrigation District

Turlock Irrigation District
Check Register
11/19/2024 - 11/19/2024

Check Number	Check Amount	Check Date	Vendor No.	Vendor Name	Product/Service
Reimbursement Checks					
438769	$20,210.19	11/19/2024	23430	TID WORKER'S COMPENSATION	PRIOR REIMBURSEMENT
Count: 1	$20,210.19				

Check Number	Check Amount	Check Date	Vendor No.	Vendor Name	Product/Service
Regular Checks					
438617	$9,793.88	11/19/2024	39944	CLIFTONLARSONALLEN LLP	ACCTG ERP SUPPORT
438595	$330.84	11/19/2024	36914	BG AGRI SALES AND SERVICE	AGRICULTURE SUPPLIES
438770	$714.49	11/19/2024	30759	TOTAL FILTRATION SERVICES	AIR FILTERS
438697	$3,377.94	11/19/2024	32184	MCCOY TRUCK TIRE SERVICE	ALIGNMENT/TIRE SRVCE
438711	$7.88	11/19/2024	30176	NORTHERN CALIFORNIA JOINT POLE	ANN'L MEMBERSHIP
438650	$6,946.64	11/19/2024	33115	GARDA CL WEST, INC.	ARMORED TRANSPORT
438708	$450.85	11/19/2024	36232	NEXT LEVEL PARTS, INC.	AUTO PARTS
438781	$975.04	11/19/2024	38407	VERIFIED FIRST	BACKGROUND CHECKS
438593	$7,331,031.00	11/19/2024	23299	B OF A WIRE-BANK OF NEW YORK	BONDS/INTEREST
438634	$1,157.35	11/19/2024	30763	DS WATERS OF AMERICA INC	BOTTLED WATER/EQUIP
438623	$17,869.48	11/19/2024	36452	CRIME GUARD INC	CAMERA MONITORING
438787	$5,465.28	11/19/2024	35408	WEX BANK	CARD LOCK CREDIT SVC
438610	$19,144.28	11/19/2024	32132	CHEMTREAT, INC.	CHEMICAL/WATER TRTMT
438777	$9,835.28	11/19/2024	32131	UNIVAR USA INC.	CHEMICALS/WEC&ALMOND
438604	$6,624.51	11/19/2024	32392	BRENNTAG PACIFIC, INC.	CHEMICALS/WEC,ALMOND
438761	$2,301.51	11/19/2024	36775	SUNBELT RENTALS	COMPRESSOR RENTAL
438586	$8,600.00	11/19/2024	37813	ALTERNATIVE STRUCTURAL TECHNOLOGIES, INC.	CONCRETE REPAIRS
438649	$2,408.75	11/19/2024	35739	DAVE L FUNK	CONSULTANT
438756	$1,641.50	11/19/2024	34025	STANTEC CONSULTING SERVICES INC.	CONSULTING
438689	$643.76	11/19/2024	38986	LABEL-AID SYSTEMS, INC	DECALS
438775	$21.80	11/19/2024	15185	UNITED PARCEL SERVICE	DELIVERY SERVICE
438785	$330,199.34	11/19/2024	37066	WEG TRANSFORMERS USA, INC.	DISTRIB. TRANSFMS

Turlock Irrigation District
Check Register
11/19/2024 - 11/19/2024

Check Number	Check Amount	Check Date	Vendor No.	Vendor Name	Product/Service
438740	$1,027.27	11/19/2024	34413	SAMBA HOLDINGS, INC.	DMV RECORDS MAINT
438672	$1,800.00	11/19/2024	21967	IDEAL ELECTRIC COMPANY	ELECT TESTING/INSPCT
438717	$4,695.79	11/19/2024	34071	PACIFIC GAS & ELECTRIC	ELECTRIC SERVICE
438637	$21,880.00	11/19/2024	39823	EETS, INC.	ELECTRICAL DESIGN
438636	$2,088.54	11/19/2024	36416	EDGES ELECTRICAL GROUP, LLC	ELECTRICAL SUPPLIES
438680	$2,216.00	11/19/2024	39660	KCB CONSULTANTS LTD.	ENG. SRV-BATTERIES
438752	$1,199.00	11/19/2024	38493	SPECTRUM	FIBER DATA SERVICE
438748	$5,895.08	11/19/2024	39227	SHINGLE & GIBB AUTOMATION, LLC	FIRE DETECTOR
438642	$1,207.35	11/19/2024	38992	B OF A WIRE-ENVERUS, INC	FORECAST SERVICE
438668	$4,856.54	11/19/2024	37981	HUNT & SONS, INC.	FUEL & LUBRICANTS
438632	$1,087.08	11/19/2024	37460	DON PEDRO SMI, LP	FUEL/PARTS/SUPPLIES
438702	$7,343.37	11/19/2024	13314	MOORE QUALITY GALVANIZING INC.	GALVANIZING/FBRCTION
438600	$28,177.73	11/19/2024	38856	STAN BOYETT & SON, INC.	GAS/DIESEL
438735	$19,256.00	11/19/2024	33482	RUBICON SYSTEMS AMERICA, INC	GATES
438778	$9,246.18	11/19/2024	34781	USA FLEET SOLUTIONS	GPS UNITS
438621	$928,561.49	11/19/2024	37522	CONVERGEONE, INC.	HARDWARE/SOFTWARE
438616	$4,841.11	11/19/2024	29189	CLEAN HARBORS ENV SERVICES	HAZ WASTE DISPOSAL
438707	$7,749.46	11/19/2024	37031	NETWORK ENVIRONMENTAL SYSTEMS, INC.	HAZWOPER TRAINING
438784	$1,650.13	11/19/2024	15376	THE WARDEN'S OFFICE, INC.	HISTORIC VALUT PROJ
438747	$3,795.00	11/19/2024	39764	SHAW LAW GROUP, PC	HR CONSULT SVCS
438622	$9,522.42	11/19/2024	31617	CRANE TECH, INC.	INSPECTIONS/MAINT
438673	$206.35	11/19/2024	39954	IMPERIAL DADE WEST COAST	JANITORIAL SUPPLIES
438633	$1,619.00	11/19/2024	11482	DOWNEY BRAND, LLP	LEGAL
438656	$10,281.59	11/19/2024	38549	GRIFFITH MASUDA & HOBBS	LEGAL
438618	$9,375.00	11/19/2024	36923	COLANTUONO HIGHSMITH & WHATLEY PC	LEGAL SERVICES
438688	$11,986.22	11/19/2024	39233	EDWARD LOUIS KREISBERG	LEGAL SERVICES

Turlock Irrigation District
Check Register
11/19/2024 - 11/19/2024

Check Number	Check Amount	Check Date	Vendor No.	Vendor Name	Product/Service
438786	$45,308.94	11/19/2024	37978	WESTECH INDUSTRIES, INC.	LINE DEPT CONTRACTOR
438670	$1,962.29	11/19/2024	23769	HYDROTEX	LUBRICANTS
438714	$130,306.03	11/19/2024	34167	B OF A WIRE-OPERATIONS MANAGEMENT INT'L, INC.	MAINT/ZLD SYSTEM-WEC
438663	$80.78	11/19/2024	16096	HILMAR LUMBER INC	MATERIALS/LUMBER
438685	$192.27	11/19/2024	29870	KEY SEAL PRODUCTS, INC	MATERIALS/SUPPLIES
438755	$480.00	11/19/2024	19869	STANISLAUS COUNTY SAFETY	MEMBERSHIP DUES
438768	$8,656.20	11/19/2024	29356	3E COMPANY ENVIRONMENTAL,ECOLOGICAL & ENG.	MSDS ANNUAL FEE
438743	$46,232.27	11/19/2024	32298	B OF A WIRE-SCPPA	NAT GAS FIELD EXP
438718	$536.92	11/19/2024	13675	PACIFIC GAS & ELECTRIC	NATURAL GAS SERVICES
438789	$43,942.51	11/19/2024	32269	B OF A WIRE-WILD GOOSE STORAGE	NATURAL GAS STORAGE
438676	$5,898.00	11/19/2024	38291	INTEGRITY INSPECTIONS, LLC.	NDE INSPECTIONS
438771	$1,973.10	11/19/2024	35387	TRANSDATA INC	OPTICAL PROBE
438716	$7,082.60	11/19/2024	21639	PACIFIC GAS & ELECTRIC	OWNERSHIP CHARGES
438701	$74.95	11/19/2024	27822	MODESTO WINDUSTRIAL	PARTS
438779	$1,145.74	11/19/2024	34458	UTILITY CRANE AND EQUIPMENT	PARTS
438746	$21.00	11/19/2024	14494	SHARPENING SHOP	PARTS & SERVICE
438686	$44.20	11/19/2024	39222	KEYES TRUCK CENTER	PARTS/EQUIPMENT
438738	$2,932.62	11/19/2024	14314	SAFE-T-LITE	PARTS/FLAGGING
438597	$1,032.77	11/19/2024	34587	BONANDER BUICK, GMC, INC.	PARTS/REPAIR
438598	$463.49	11/19/2024	34587	BONANDER BUICK, GMC, INC.	PARTS/REPAIR
438664	$1,068.91	11/19/2024	26387	HOLT OF CALIFORNIA	PARTS/REPAIR/EQUIP
438677	$1,372.64	11/19/2024	24473	INTERSTATE TRUCK CENTER, LLC	PARTS/SERVICE/EQUIP
438687	$787.38	11/19/2024	32827	KIMBALL MIDWEST	PARTS/SHOP
438703	$3,644.99	11/19/2024	24916	MOTOR PARTS DISTRIBUTORS	PARTS/SHOP
438583	$192.16	11/19/2024	23934	ACME RIGGING & SUPPLY CO INC	PARTS/SUPPLIES
438591	$3,320.24	11/19/2024	36440	ANIXTER INC.	PARTS/SUPPLIES

Turlock Irrigation District
Check Register
11/19/2024 - 11/19/2024

Check Number	Check Amount	Check Date	Vendor No.	Vendor Name	Product/Service
438645	$125.97	11/19/2024	24240	FASTENAL COMPANY	PARTS/SUPPLIES
438654	$3,060.29	11/19/2024	16333	W W GRAINGER, INC	PARTS/SUPPLIES
438657	$4,483.90	11/19/2024	24653	GUNITE SUPPLY & EQUIPMENT CO	PARTS/SUPPLIES
438698	$745.47	11/19/2024	13109	MC MASTER-CARR	PARTS/SUPPLIES
438790	$328.48	11/19/2024	15553	WILLE ELECTRIC SUPPLY CO	PARTS/SUPPLIES
438652	$58.81	11/19/2024	11886	GENERAL PLUMBING SUPPLY CO.	PARTS/SUPPLIES/DPRA
438585	$500.16	11/19/2024	10138	ALTEC INDUSTRIES, INC	PARTS/VEHICLES/SVC
438791	$67.85	11/19/2024	23664	C.H. WILLIAMS & SONS INC.	PARTS-SHOP
438647	$716.62	11/19/2024	37596	FIRST DATA GOVERNMENT SOLUTIONS	PAYPOINT SERVICES
438741	$98.00	11/19/2024	23466	SAN JOAQUIN VALLEY AIR	PERMIT/FEES
438615	$308.00	11/19/2024	25293	CLARK PEST CONTROL	PEST CONTROL SERVICE
438774	$199,950.00	11/19/2024	39927	B OF A WIRE-TWIN EAGLE HOLDINGS, LLC	PHYSICAL GAS
438780	$23,574.64	11/19/2024	26516	VALLEY IRON, INC.	PIPE
438638	$396.82	11/19/2024	34679	EL DORADO SEPTIC SERVICE, INC.	PORTABLE RESTROOMS
438776	$90.09	11/19/2024	38516	UNITED SITE SERVICES OF CALIFORNIA, INC.	PORTABLE RESTROOMS
438722	$1,599.16	11/19/2024	30896	PITNEY BOWES PURCHASE POWER	POSTAGE LINE OF CRED
438772	$7,000.00	11/19/2024	36378	TRINITY CONSULTANTS, INC.	PROFESSIONAL SERVCES
438606	$6,809.08	11/19/2024	32631	CABLE HUSTON LLP	PROFESSIONAL SERVICE
438751	$50,000.00	11/19/2024	39404	B OF A WIRE- SOLAR AQUAGRID LLC	PROFESSIONAL SERVICE
438783	$1,855.84	11/19/2024	32437	WARD PROMOTIONAL MARKETING	PROMO ITEMS
438592	$1,617,055.06	11/19/2024	36964	B OF A WIRE-AVANGRID RENEWABLES	PURCHASED POWER
438599	$5,750.00	11/19/2024	10422	B OF A WIRE-BONNEVILLE POWER	PURCHASED POWER
438614	$88,170.00	11/19/2024	25462	B OF A WIRE-CITY OF REDDING	PURCHASED POWER
438619	$758,700.00	11/19/2024	30739	B OF A WIRE-CONOCOPHILLIPS CO	PURCHASED POWER
438635	$24,955.00	11/19/2024	34711	B OF A WIRE-EDF TRADING	PURCHASED POWER
438641	$956,834.78	11/19/2024	39475	B OF A WIRE-ENERGY TRANSFER LP	PURCHASED POWER

Turlock Irrigation District
Check Register
11/19/2024 - 11/19/2024

Check Number	Check Amount	Check Date	Vendor No.	Vendor Name	Product/Service
438671	$375.00	11/19/2024	35973	B OF A WIRE-ICE TRADE VAULT LLC	PURCHASED POWER
438706	$109,850.00	11/19/2024	19353	B OF A WIRE-NCPA	PURCHASED POWER
438719	$139,702.00	11/19/2024	25026	B OF A WIRE-PACIFICORP	PURCHASED POWER
438723	$778,531.00	11/19/2024	19097	B OF A WIRE-PORTLAND GENERAL	PURCHASED POWER
438724	$20,485.00	11/19/2024	26155	B OF A WIRE-POWEREX CORP	PURCHASED POWER
438750	$697.45	11/19/2024	26438	B OF A WIRE-SMUD	PURCHASED POWER
438763	$26,812.00	11/19/2024	27951	B OF A WIRE-TACOMA POWER	PURCHASED POWER
438764	$657,280.23	11/19/2024	18396	B OF A WIRE-TANC	PURCHASED POWER
438766	$170,238.00	11/19/2024	39537	B OF A WIRE-TENASKA ENERGY, INC	PURCHASED POWER
438590	$288.00	11/19/2024	S7685	ANDY FLORES	REBATE
438602	$100.00	11/19/2024	S7686	BRANDON MCMILLAN	REBATE
438603	$35.00	11/19/2024	S7687	BRANDON MCMILLAN	REBATE
438626	$300.00	11/19/2024	S7683	DANIELL VECCHIONE	REBATE
438627	$35.00	11/19/2024	S7679	DEBRA TIGNER	REBATE
438628	$500.00	11/19/2024	S7681	DENNIS ANSON	REBATE
438630	$500.00	11/19/2024	S7677	DON HICKS	REBATE
438631	$50.00	11/19/2024	S7678	DON HICKS	REBATE
438669	$500.00	11/19/2024	S7693	HUYEN K CHUM	REBATE
438681	$500.00	11/19/2024	S7673	KEISHA MCQUEEN	REBATE
438682	$500.00	11/19/2024	S7674	KEISHA MCQUEEN	REBATE
438683	$300.00	11/19/2024	S7675	KEISHA MCQUEEN	REBATE
438699	$500.00	11/19/2024	S7672	MELANIE CASAS	REBATE
438728	$35.00	11/19/2024	S7682	RAYMOND PRUITT	REBATE
438730	$500.00	11/19/2024	S7690	RICK FORTADO	REBATE
438731	$500.00	11/19/2024	S7691	RICK FORTADO	REBATE
438732	$100.00	11/19/2024	S7692	RICK FORTADO	REBATE

Check Number	Check Amount	Check Date	Vendor No.	Vendor Name	Product/Service
438733	$500.00	11/19/2024	S7689	RITA ASHER	REBATE
438734	$35.00	11/19/2024	S7684	ROGER JACKSON	REBATE
438744	$50.00	11/19/2024	S7676	SELMANE NAITAMAR	REBATE
438753	$300.00	11/19/2024	S7680	STACEY SILVEIRA	REBATE
438767	$500.00	11/19/2024	S7688	TERRI L CRIVELLI	REBATE
438700	$60.00	11/19/2024	13166	MERCED COUNTY RECORDER	RECORDING FEES
438754	$60.00	11/19/2024	14751	STANISLAUS COUNTY RECORDER	RECORDING FEES
438653	$4,750.00	11/19/2024	39156	GLADWELL GOVERNMENTAL SERVICES, INC.	RECORDS RETENTION
438588	$1,178.43	11/19/2024	36711	KARY ALVERNAZ	REIMBURSABLE EXPENSE
438625	$241.23	11/19/2024	35721	ROBERT DAMAS	REIMBURSABLE EXPENSE
438629	$1,713.20	11/19/2024	27186	DAN DESOMMA	REIMBURSABLE EXPENSE
438640	$74.47	11/19/2024	40082	PANG EN	REIMBURSABLE EXPENSE
438658	$791.43	11/19/2024	39461	WILLIAM SPENSER HAGER	REIMBURSABLE EXPENSE
438659	$2,593.03	11/19/2024	56265	MONIQUE HAMPTON	REIMBURSABLE EXPENSE
438661	$915.08	11/19/2024	32614	YURI HERRERA	REIMBURSABLE EXPENSE
438662	$52.00	11/19/2024	56377	TRISTAN S HIGGINS	REIMBURSABLE EXPENSE
438666	$107.70	11/19/2024	39295	ADAM HOOTEN	REIMBURSABLE EXPENSE
438679	$20.00	11/19/2024	12629	MIKE KAVARIAN	REIMBURSABLE EXPENSE
438691	$924.06	11/19/2024	39926	PETER LORENZ	REIMBURSABLE EXPENSE
438693	$1,275.06	11/19/2024	38110	EVAN LUCAS	REIMBURSABLE EXPENSE
438695	$121.18	11/19/2024	39904	WILLIAM MALONE	REIMBURSABLE EXPENSE
438720	$145.98	11/19/2024	39541	EMANUEL PARTIDA	REIMBURSABLE EXPENSE
438739	$1,317.21	11/19/2024	37681	ERICA SALADO	REIMBURSABLE EXPENSE
438759	$119.47	11/19/2024	40083	GRACE STONE	REIMBURSABLE EXPENSE
438773	$2,158.26	11/19/2024	39334	JUSTIN TSCHANTZ	REIMBURSABLE EXPENSE
438605	$678.51	11/19/2024	22546	ALEX BUENROSTRO	REIMBURSEMENT

Turlock Irrigation District
Check Register
11/19/2024 - 11/19/2024

Check Number	Check Amount	Check Date	Vendor No.	Vendor Name	Product/Service
438749	$854.04	11/19/2024	38009	GURPIAR SINGH	REIMBURSEMENT
438742	$391.18	11/19/2024	38218	DAVE SCHULZ	REIMBURSEMENT-BOOTS
438782	$305.31	11/19/2024	96729	ADAM WALLACE	REIMBURSEMENT-BOOTS
438712	$1,330.10	11/19/2024	31883	OBERLIN FILTER COMPANY	REPAIR PARTS FOR WEC
438745	$3,202.58	11/19/2024	27653	SEW CREATIVE, INC.	REPAIR-PARTS/SERVICE
438639	$97,220.00	11/19/2024	30469	ELSTER SOLUTIONS, LLC	REPROGRAM METERS/LIC
438696	$39,261.09	11/19/2024	39821	MCBAIN ASSOCIATES	RESTORATION CONSULT
438710	$833,302.21	11/19/2024	39824	NJIRICH AND SONS, INC.	RIVER RESTORATION
438713	$12,103.73	11/19/2024	39632	ONESOURCE SUPPLY SOLUTIONS, LLC	ROEDING SUBSTATION
438644	$270.00	11/19/2024	11637	EYE PRO'S	SAFETY GLASSES
438694	$550.91	11/19/2024	34990	MALLORY SAFETY AND SUPPLY, LLC	SAFETY PRODUCTS
438624	$6,312.55	11/19/2024	38519	CRIMETEK SECURITY, INC.	SECURITY GUARD SVC
438727	$18,046.10	11/19/2024	34766	RANK INVESTIGATIONS AND PROTECTION, INC.	SECURITY SERVICES
438788	$150,000.00	11/19/2024	40028	BRYANT WHITTEN,LLP CLIENT TRUST ACCOUNT	SETTLEMENT
438762	$53,693.08	11/19/2024	37507	SYSTEM INNOVATORS	SFTWRE/HRDWRE SUPPRT
438757	$30.62	11/19/2024	38228	STERICYCLE, INC. DBA SHRED-IT	SHREDDING SERVICES
438715	$30,000.00	11/19/2024	39829	ORIGIN UTILITY, INC.	SOFTWARE
438607	$7,507.16	11/19/2024	38492	CARAHSOFT TECHNOLOGY CORP.	SOFTWARE DISTRIBUTOR
438587	$134,249.25	11/19/2024	36283	B OF A WIRE-ALTERYX, INC.	SOFTWARE LICENSES
438674	$405.00	11/19/2024	39955	INFRASTRUCTURE NETWORKS, INC	STARLINK TERMINAL
438589	$3,204.55	11/19/2024	26168	AMAZON CAPITAL SERVICES	SUPPLIES
438690	$3,124.10	11/19/2024	38999	LAWSON PRODUCTS, INC	SUPPLIES
438705	$17.37	11/19/2024	32876	NAPA AUTO AND TRUCK PARTS	SUPPLIES
438678	$84.70	11/19/2024	12588	JORGENSEN & SONS, INC.	SUPPLIES/FIRE EXT SV
438655	$5,909.40	11/19/2024	26829	GREEN RUBBER - KENNEDY AG	SUPPLIES/HOSE
438601	$534.95	11/19/2024	10999	BRADY INDUSTRIES	SUPPLIES/JANITORIAL

Turlock Irrigation District
Check Register
11/19/2024 - 11/19/2024

Check Number	Check Amount	Check Date	Vendor No.	Vendor Name	Product/Service
438665	$937.13	11/19/2024	22298	THE HOME DEPOT CREDIT SERVICES	SUPPLIES/MATERIALS
438692	$3,140.59	11/19/2024	29252	LOWE'S COMPANIES, INC.	SUPPLIES/MATERIALS
438667	$94.92	11/19/2024	25663	HUGHSON FARM SUPPLY	SUPPLIES/REPAIR
438646	$1,384.48	11/19/2024	24105	FERGUSON ENTERPRISES, LLC	SUPPLIES/TOOLS
438651	$6,025.43	11/19/2024	26890	GENERAL PACIFIC, INC.	SUPPLIES/WIRE
438729	$672.03	11/19/2024	37730	REXEL USA INC	SUPPLIES-ELECTRONICS
438660	$19,178.51	11/19/2024	37435	HEDY HOLMES STAFFING SERVICES	TEMP STAFFING SVCS
438737	$5,791.20	11/19/2024	39843	SABLE CAPITAL FWTX LLC	TEMPORARY STAFFING
438608	$180.00	11/19/2024	35784	CB TIRE SERVICES	TIRE SERVICE
438758	$687.27	11/19/2024	14814	STILES TRUCK BODY & EQUIPMENT	TOOL CABINETS
438675	$1,139.42	11/19/2024	39366	INLAND HARDWARE, INC	TOOLS
438648	$687.52	11/19/2024	26621	FRESNO OXYGEN	TOOLS/COMPRESSIO GAS
438684	$682.75	11/19/2024	23666	KELSO'S AUTO WRECKING & TOWING	TOWING SERVICES
438765	$200.66	11/19/2024	93079	10 MINUTE LUBE-N-OIL	TRANS. FLUSH/FLUID
438793	$68,546.00	11/19/2024	38252	WRIGHT TREE SERVICE OF THE WEST, INC.	TREE TRIMMING
438760	$4,345.00	11/19/2024	40081	STRAHL LLC	TROGLOTREK RENTAL
438709	$211.36	11/19/2024	29194	NIXON-EGLI EQUIPMENT COMPANY	TUBING
438609	$1,269.97	11/19/2024	34264	CENTURYLINK	TWPA-PHONE SERVICE
438596	$4,757.01	11/19/2024	38974	BKV BARNETT, LLC	TX GAS WELLS
438611	$1,122.16	11/19/2024	37432	CINTAS CORPORATION	UNIFORM SERVICES
438612	$72,446.22	11/19/2024	28816	CITY OF CERES	UTILITY USERS TAX
438613	$21,823.04	11/19/2024	28817	CITY OF MODESTO	UTILITY USERS TAX
438584	$10,547.12	11/19/2024	36241	ACTION BATTERY WHOLESALES/BAE BATTERIES USA	VDC BATTERY
438736	$4,877.52	11/19/2024	38196	RUSH TRUCK CENTERS	VEHICLES
438726	$5,014.52	11/19/2024	36622	PRICE FORD OF TURLOCK	VEHICLES & PARTS
438594	$188,639.86	11/19/2024	30451	BASLER ELECTRIC CO	VOLTAGE REGULATOR

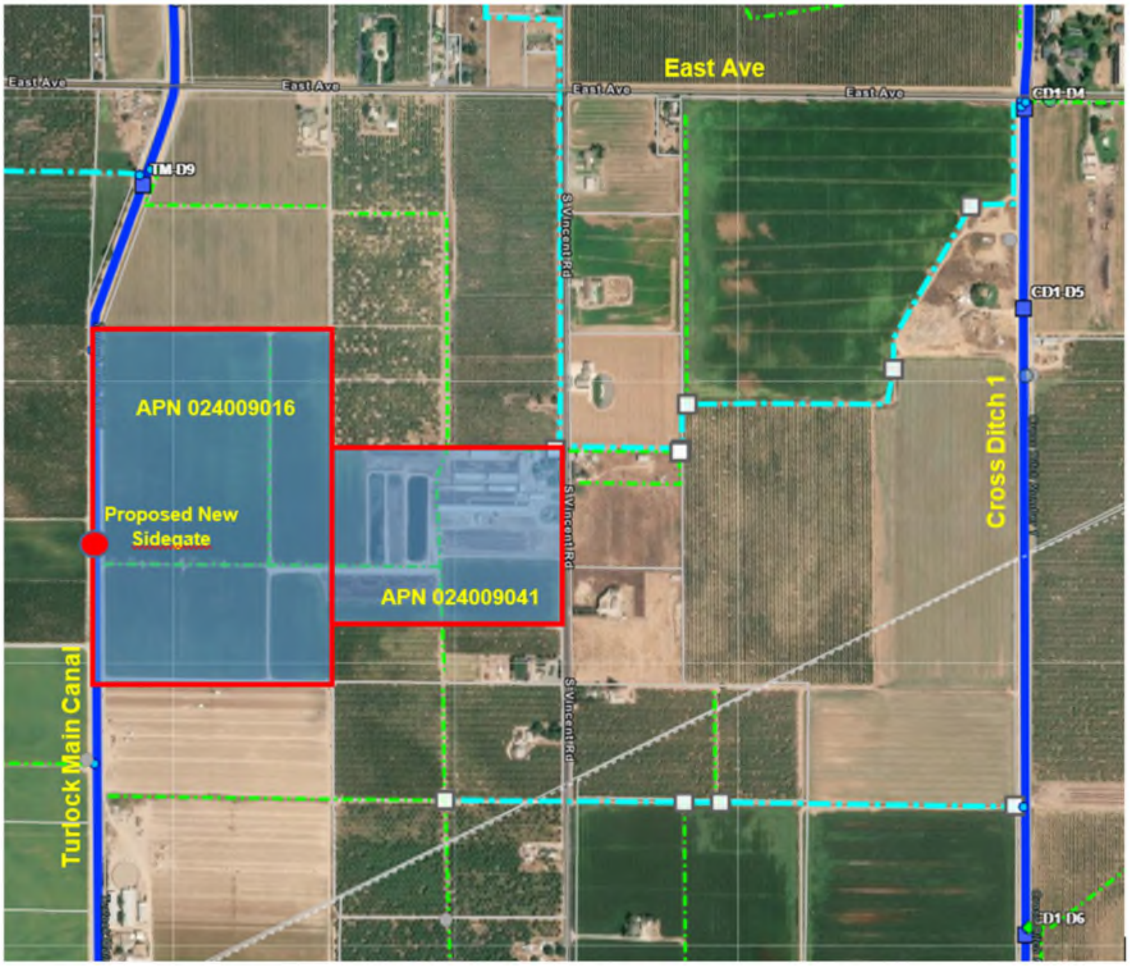
Turlock Irrigation District
Check Register
11/19/2024 - 11/19/2024

Check Number	Check Amount	Check Date	Vendor No.	Vendor Name	Product/Service
438643	$27,847.20	11/19/2024	39659	ENVIRO PROS USA LLC	WASTE DISPOSAL
438792	$105.04	11/19/2024	39641	WM CORPORATE SERVICES, INC.	WASTE HAULING
438725	$690.00	11/19/2024	39236	PRECISION ENVIRO-TECH	WATER ANALYTICS
438704	$2,191.08	11/19/2024	38295	NALCO COMPANY LLC	WATER TREATMENT CHEM
438620	$92,131.08	11/19/2024	39384	CONRAD WOOD PRESERVING CO., INC	WOOD POLES
438721	$143,720.65	11/19/2024	39138	B OF A WIRE PE TRANSFORMER	XFORMERS NEW/REFURB
Count: 210	$16,945,983.82				

Total Number of Checks: 211 Total Amount: $16,966,194.01

BOARD AGENDA REPORT

Board Meeting Date:	November 19, 2024
Subject:	Micro Head Service from the Turlock Main Canal and installation of a new sidegate on the Turlock Main Canal
Administration:	Water Resources Administration
Recommended Action:	Approve request by Loren Lopes for a new micro head service from the Turlock Main Canal that will supply a micro head service to APNs 024009016 and 024009041 and installation of a new sidegate on the Turlock Main Canal.
Background and Discussion:	Pursuant to the Turlock Irrigation District (TID) Irrigation Rules for the Distribution and Use of Water within TID, micro head service from private facilities and installation of new sidegates requires consideration and approval by the TID Board of Directors. Loren Lopes proposes to install a new micro head service from the Turlock Main Canal to irrigate two parcels totaling 88.34 acres on APNs 024009016 and 024009041. The specific irrigation demand is 900 gpm, at 4 days per week at 12 hours per day. The current operations of the Turlock Main Canal will not be impacted by this new micro head service request. Therefore, it is recommended that the Board of Directors approve this new micro head service from the Turlock Main Canal. Additionally, Mr. Lopes is requesting to install a new sidegate on the Turlock Main Canal to serve his new micro head service described above. The parcels identified above will retain their flood irrigation facilities from Cross Ditch 1, Sidegate 03-02. Water Distribution staff has investigated the new sidegate request and has found it to be compatible with the District's water delivery operations. Therefore, it is recommended that the Board of Directors approve Mr. Lopes' sidegate request.



Alternative(s) Pros and Cons:	Alternative: None Pros: N/A Cons: N/A
Additional Information:	The flow for this micro head service will be measured by District-approved devices only.
Fiscal Impact:	For new sidegates, all future maintenance costs after 1 year are taken over by TID.

Presenter Signature	Dept. Manager Signature	AGM Signature
Mike Kavarian	*Mike Kavarian*	
Name: Mike Kavarian	Name: Mike Kavarian	Name: Tou B. Her
Date Signed: 11/12/2024	Date Signed: 11/12/2024	Date Signed: 11/13/2024

GM Signature
Name: Brad Koehn
Date Signed: 11/13/2024

MOTION APPROVING APPLICATION FROM LOREN LOPES FOR A NEW MICRO HEAD SERVICE FROM THE TURLOCK MAIN CANAL TO SERVE ASSESSOR PARCEL NUMBERS 024009016 AND 024009041 AND INSTALLATION OF A NEW SIDEGATE ON THE TURLOCK MAIN CANAL TO FEED THE NEW MICRO HEAD SERVICE

Moved by Director , seconded by Director , that pursuant to the Turlock Irrigation District (TID) Irrigation Rules for the Distribution and Use of Water within TID, the application from Loren Lopes for a new micro head service in the TID Turlock Main Canal to serve Assessor Parcel Numbers 024009016 and 024009041 and installation of a new sidegate on the Turlock Main Canal to furnish water to the micro head service are hereby approved.

The President declared the motion _________.

I, Jennifer Land, Executive Secretary to the Board of Directors of the TURLOCK IRRIGATION DISTRICT, do hereby CERTIFY that the foregoing is a full, true and correct copy of a motion duly adopted at a regular meeting of said Board of Directors held the 19th day of November, 2024.

____
Executive Secretary to the Board of
Directors of the Turlock Irrigation District

BOARD AGENDA REPORT

Board Meeting Date:	November 19, 2024
Subject:	Execution of: (1) the "Amended and Restated Senior Power Purchase Agreement" between Turlock Irrigation District and Washington Wind LLC; (2) the "Subordinate Power Purchase Agreement" between Turlock Irrigation District and Washington Wind LLC, (3) the "Financial Support Agreement" between Turlock Irrigation District and Washington Wind LLC, (4) the "Purchase and Sale Agreement" between Tuolumne Wind Project Authority and Washington Wind LLC; and (5) the "Guaranty Agreement" between Clearway Energy Operating LLC, and Tuolumne Wind Project Authority.
Administration:	Power Supply
Recommended Action:	Adoption of resolution authorizing the Turlock Irrigation District General Manager or his designee to execute all necessary agreements and documents related to the sale of the Tuolumne Wind Project and Power Purchase Agreements for the offtake of energy from Tuolumne Wind Project, pending final legal and accounting review and General Manager approval.
Background and Discussion:	In March of 2022, Turlock Irrigation District ("TID") and Clearway Energy Group LLC ("Clearway") executed a Confidentiality Agreement, under which, they began sharing information and conducting discussions regarding Clearway's potential purchase of the Tuolumne Wind Project ("TWP"). In December of 2023, TID and Clearway executed a Letter of Intent that was largely non-binding, except for its exclusivity provisions, which afforded the parties a period within which they would conduct exclusive negotiations regarding the purchase. Over the course of 2024, TID and Clearway negotiated the terms and conditions of the "Purchase and Sale Agreement" that would govern Clearway's purchase of the assets that make up TWP ("TWP Assets"), as Clearway, a private entity, could not purchase the Tuolumne Wind Project Authority ("TWPA") because it is a Joint Powers Authority that can only be owned by governmental entities. TID and Clearway also negotiated a post-sale "Amended and Restated Senior Purchase Power Agreement" ("Senior PPA"), under which, TID would purchase the energy generated by the TWP Assets purchased by Clearway. TID and Clearway negotiated Subordinate Power Purchase Agreement ("Subordinate PPA") for the increase in generation from a Repowered TWP. Finally, TID and Clearway negotiated the associated Guaranty and Financial Support Agreements, which require Clearway to guaranty the Washington Wind LLC's obligations under these agreements and the require TID to guaranty TWPA's financial obligations under the "Purchase and Sale Agreement." Key issues for TID included, but were not limited to, TWPA's bond defeasement, retaining the PCC-0 status for renewable energy credits (RECs) produced by the Project Assets that TID would purchase from Clearway under the Senior PPA, the Senior PPA price, and the post-sale liabilities that TWP

would maintain for an agreed upon period after the sale. On August 18, 2023, the California Energy Commission's responded to District staff's inquiries and indicated that while the CEC cannot make prospective RPS verification determinations, offered guidance to District staff's on the requirements for count-in-full or "PCC-0" status. Throughout the negotiations with the prospective seller, District staff endeavored to align the contractual documents with the CEC's guidance to ensure the District retains the ability to provide count-in-full status for the Renewable Energy Credits generated by Seller after the transaction is executed. These protections will help minimize the long-term cost borne by the District's ratepayers.

Based on the evaluation of this deal as a package between both the Purchase and Sale Agreement, the Senior PPA, and the Subordinate PPA, it is expected that the benefits associated with execution of the above referenced agreements outweigh the benefits of continued ownership of TWP through Tuolumne Wind Project Authority ("TWPA").

Alternative(s) Pros and Cons:	Alternative: Do not approve the agreements and retain control of TWP. Pros: The debt associated with TWP will be defeased. TID will retain TWP generated energy without the burden of Operations and Maintenance ("O&M") and asset management. TID will not be required to renegotiate the land leases and other agreements that are set to expire in 2028. Cons: The Long-term power purchase agreement with an out of state resource contains risks.
Additional Information:	N/A
Fiscal Impact:	No more debt payments associated with TWP, no O&M service obligations, but an increase in PPA expense on a volumetric basis. The transaction is expected to save TID money relative to continued ownership.

Presenter Signature	Dept. Manager Signature	AGM Signature
Colin Selby	*Colin Selby*	*Tim Payne*
Name: Colin Selby	Name: Colin Selby	Name: Tim Payne
Date Signed: 11/12/2024	Date Signed: 11/12/2024	Date Signed: 11/12/2024

GM Signature
Name: Brad Koehn
Date Signed: 11/13/2024

RESOLUTION NO. 2024 –

RESOLUTION APPROVING THE TURLOCK IRRIGATION DISTRICT GENERAL MANAGER OR HIS DESIGNEE TO PERFORM THE EXECUTION OF THE "AMENDED AND RESTATED SENIOR POWER PURCHASE AGREEMENT" BETWEEN TURLOCK IRRIGATION DISTRICT AND WASHINGTON WIND LLC, THE "SUBORDINATE POWER PURCHASE AGREEMENT" BETWEEN TURLOCK IRRIGATION DISTRICT AND WASHINGTON WIND LLC, THE "FINANCIAL SUPPORT AGREEMENT" BETWEEN TURLOCK IRRIGATION DISTRICT AND WASHINGTON WIND LLC, THE "PURCHASE AND SALE AGREEMENT" BETWEEN TUOLUMNE WIND PROJECT AUTHORITY AND WASHINGTON WIND LLC AND THE "GUARANTY AGREEMENT" BETWEEN CLEARWAY OPERATING LLC AND TUOLUMNE WIND PROJECT AUTHORITY

WHEREAS, Tuolumne Wind Project Authority owns and operates an approximately 136.6 MW nameplate capacity wind farm comprised of 62 wind turbines located in Klickitat County, Washington; and

WHEREAS, Tuolumne Wind Project Authority desires to sell, transfer and assign to Washington Wind LLC, and Washington Wind LLC desires to purchase and receive from Tuolumne Wind Project Authority, all of Tuolumne Wind Project Authority's right, title and interest in and to the Purchased Assets (as defined in Section 1.1 of the Purchase and Sale Agreement) upon the terms and subject to the conditions set forth in the Purchase and Sale Agreement between Tuolumne Wind Project Authority and Washington Wind LLC; and

WHEREAS, Tuolumne Wind Project Authority and Turlock Irrigation District, an irrigation district organized under the laws of the State of California are parties to the Power Purchase Agreement, dated July 14, 2009; and

WHEREAS, in connection with such sale, Tuolumne Wind Project Authority desires to transfer and assign the Original PPA to Washington Wind LLC at the closing; and

WHEREAS, the District has determined that the services offered by Washington Wind, LLC are unique in nature and awarding a contract to Washington Wind, LLC is consistent with the District's procedures for contracting; and

WHEREAS immediately after giving effect to the assignment of the Original PPA, Tuolumne Wind Project Authority desires to cause Turlock Irrigation District to execute and deliver to Washington Wind LLC an Amended and Restated Power Purchase Agreement (attached) at the Closing, if and when it occurs, in part with the intent to ensure that the classification of the electricity products under the Amended and Restated Power Purchase Agreement shall "count in full toward RPS procurement targets" under California Public Utilities Code Section 399.16(d) and 20 Cal. Code Regs. Title 20 Section 3202(a) (also referred to as Portfolio Content Category Classification zero ("**PCC-0**")) and thereby maintain the same classification that these electricity products have under the Original PPA; and

WHEREAS, Buyer, Tuolumne Wind Project Authority, a joint powers authority and Affiliate of Buyer (the "**TWP Authority**"), and Tuolumne Wind Project, LLC, a Delaware limited liability company ("**TWP LLC**") were the original parties to that certain Power Purchase

Agreement dated as of July 14, 2009, pursuant to which TWP LLC committed to selling all energy and capacity from a 136.6 MW_{AC} wind energy project on a site located near Goldendale, Klickitat County to the District for a term of up to 25 years; and

WHEREAS, TID desires to continue to be the exclusive purchaser of these products from Washington Wind LLC and the acquisition of energy, RECs and capacity from the wind energy project will benefit the District's ratepayers; and

WHEREAS, TID intends to count in full the nameplate capacity and expected annual generation set forth in the Original PPA towards TID's RPS requirements, consistent with the RPS requirements in effect when the Original PPA was executed; and

WHEREAS, Buyer has consulted with the California Energy Commission and received a letter on August 13, 2023 providing the District with the guidance regarding requirements for Renewable Energy Credits and "count-in-full" status under California's RPS requirements; and

WHEREAS, the District finds the RECs generated under the Original PPA would not constitute an increase in the Nameplate Capacity Rating or expected annual generation; and

WHEREAS, the District's ongoing purchases under the Original PPA would not constitute a resale as that term is used in the RPS program since TID has and continues to be the exclusive Buyer under the Original PPA.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Turlock Irrigation District hereby:

1. Consents to sale of Tuolumne Wind Project to Washington Wind, LLC; and

2. Authorizes and directs the Turlock Irrigation District General Manager or his designee to execute all necessary agreements and documents related to the sale of the Tuolumne Wind Project and Power Purchase Agreements for the offtake of energy from Tuolumne Wind Project, pending final legal and accounting review/edits and General Manager approval.

Moved by Director , seconded by Director , that the foregoing resolution be adopted.

Upon roll call the following vote was had:

Ayes:
Noes:
Absent:

The President declared the resolution ____________.

I, Jennifer Land, Executive Secretary to the Board of Directors of the TURLOCK IRRIGATION DISTRICT, do hereby CERTIFY that the foregoing is a full, true and correct copy of a resolution duly adopted at a regular meeting of said Board of Directors held the 19th day of November, 2024.

____

Executive Secretary to the Board of
Directors of the Turlock Irrigation District

AMENDED AND RESTATED

SENIOR POWER PURCHASE AGREEMENT

(RENEWABLE ENERGY-WIND)

BETWEEN

[DEVELOPER]

AND

TURLOCK IRRIGATION DISTRICT

TUOLUMNE WIND PROJECT

TABLE OF CONTENTS

EXHIBITS

AMENDED AND RESTATED
SENIOR POWER PURCHASE AGREEMENT

(RENEWABLE ENERGY- WIND)

THIS [AMENDED AND RESTATED SENIOR] POWER PURCHASE AGREEMENT (RENEWABLE ENERGY - WIND) (**"Agreement"**), entered into this __ day of ___, 202_, is between [Washington Wind LLC] a Delaware limited liability company (**"Seller"**) and Turlock Irrigation District, an irrigation district duly organized and existing under and by virtue of the State of California (**"Buyer"**). Seller and Buyer are sometimes hereinafter referred to collectively as the **"Parties"** and individually as a **"Party."**

WHEREAS, Buyer, Tuolumne Wind Project Authority, a joint powers authority and Affiliate of Buyer (the "**TWP Authority**"), and Tuolumne Wind Project, LLC, a Delaware limited liability company ("**TWP LLC**") were the original parties to that certain Power Purchase Agreement dated as of July 14, 2009 (the "**Original PPA**"), pursuant to which TWP LLC (or, in the event of TWP LLC assigning its assets and liabilities to the TWP Authority thereunder, the TWP Authority) committed to selling all energy and capacity from a 136.6 MW_{AC} wind energy project on a site located near Goldendale, Klickitat County (the "**Existing Facility**") to the Buyer for a term of up to 25 years;

WHEREAS, in compliance with the terms of the Original PPA, TWP LLC assigned all of its assets and liabilities to the TWP Authority, including the Existing Facility and the TWP Authority became the "Seller" under the Original PPA;

WHEREAS, pursuant to that certain Purchase and Sale Agreement dated as of [______], 2024 ("**PSA**") Seller agreed to purchase from TWP Authority all of the TWP Authority's right, title, and interest in and to the Existing Facility (the "**Acquisition Transaction**");

WHEREAS, as of the date hereof, TWP Authority and Seller closed the Acquisition Transaction pursuant to the PSA and Seller now owns all rights, assets and interests in the Existing Facility;

WHEREAS, in connection with the closing of the Acquisition Transaction, (i) Seller took over the operation of the Existing Facility from TWP Authority and now desires to sell and deliver to Buyer the Net Output and associated RECs, Ancillary Services and Capacity Rights (as all such terms are hereinafter defined) to Buyer, and Buyer desires to buy the same from Seller in accordance with the terms and conditions hereof for a term of at least fifteen (15) years; (ii) Seller wishes to initiate development activities to Repower (as such term is hereinafter defined) the Existing Facility; and (iii) Seller wishes to continue to sell and deliver to Buyer the Net Output and associated RECs, Ancillary Services and Capacity Rights from the Repowered Facility (as such term is hereinafter defined) for an extended term and Buyer desires to continue to be the exclusive purchaser of these products from Seller;

WHEREAS, the Repowered Facility may cause an increase in Net Output and associated RECs, Ancillary Services and Capacity Rights for each Contract Year (as such term is hereinafter defined) thereafter;

WHEREAS, Buyer intends to count in full the nameplate capacity and expected annual generation set forth in the Original PPA towards Buyer's RPS requirements, consistent with the RPS requirements in effect when the Original PPA was executed;

WHEREAS, Seller and Buyer wish to amend and restate the Original PPA accordingly by (i) entering into this Agreement for the sale of the expected volumes of Net Output and associated RECs and Ancillary Services and Capacity Rights associated with the Facility (as defined below) at the Original Nameplate Capacity under the Original PPA and (ii) concurrently entering into a Subordinate Power Purchase Agreement ("**Subordinate PPA**") for the sale of the volumes in excess of the expected volumes of Net Output and associated RECs and Ancillary Services under the Original PPA;

WHEREAS, Buyer has consulted with the California Energy Commission and obtained guidance that all volumes of RECs associated with Net Output provided under the Subordinate Power Purchase Agreement must be classified by Buyer according to the Portfolio Content Categories of the RPS program;

WHEREAS, Buyer has consulted with the California Energy Commission and sought guidance that the volumes of RECs generated under the Original PPA would not constitute an increase in the Nameplate Capacity Rating or expected annual generation and would not constitute a resale as that term is used in the RPS program since Buyer has and continues to be the exclusive Buyer under the Original PPA;

NOW, THEREFORE, in consideration of the foregoing and the mutual promises set forth below and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby amend and fully restate the Original PPA and mutually agree as follows:

SECTION 1
DEFINITIONS; RULES OF INTERPRETATION

1.1 Defined Terms. Unless otherwise required by the context in which any term appears, initially capitalized terms used herein have the following meanings:

"AAA" is the American Arbitration Association.

"Abandonment" means the relinquishment of all possession and control of the Facility by Seller, other than pursuant to a transfer permitted under this Agreement (including as a result of the Lender's exercise of rights under Financing Documents).

"AC" means alternating current.

"Acquisition Transaction" is defined in the Recitals.

"Affiliate" means, with respect to any entity, each entity that directly or indirectly controls, is controlled by, or is under common control with, such designated entity, with "control" meaning the possession, directly or indirectly, of the power to direct management and policies, whether through the ownership of voting securities (if applicable) or by contract or otherwise.

Notwithstanding the foregoing, Buyer is not an Affiliate of any other person or entity and has no Affiliate(s), and with respect to Seller, Affiliate does not include Global Infrastructure Management, LLC, or TotalEnergies SE, or BlackRock, Inc., and no subsidiary of these three non-Affiliates shall be deemed on account of such subsidiary relationship to be "under common control" with Seller.

"Agreement" is defined in the Preamble.

"Ancillary Services" means any of the services identified by the Transmission Provider as "Ancillary Services".

"Annual Deficit" is defined in Section 5.1.2(b).

"Annual Output Cap" means in any Contract Year, an amount equal to the Historical Baseline Amount.

"Applicable Market" means the market (including the Energy Imbalance Market), independent system operator, or regional transmission organization in which the Facility is situated, or the Net Output liquidated, or its successor.

"Applicable Market Operator" means CAISO or any other entity performing the market operator function for the Applicable Market.

"Applicable Market Rules" means the Applicable Market Operator tariff, the documents adopted by the Applicable Market, including any exhibits or attachments referenced therein, that contain the scheduling, operating, planning, reliability and settlement policies, rules, guidelines, procedures, standards and criteria of the Applicable Market, in accordance with the Applicable Market tariff, and other binding documents of the Applicable Market in each case as amended or supplemented from time to time.

"As-Built Supplement" means the supplement to be added to **Exhibit 6.1** that describes the Facility as actually built, pursuant to Section 6.1 and includes an American Land Title Association survey of the Premises.

"Availability" means for any Availability Period, the ratio, expressed as a percentage, of (x) the aggregate sum of the turbine-minutes in which each of the Turbines that comprise the Original Nameplate Capacity Rating or Repowered Nameplate Capacity Rating, as applicable, was available to operate and produce Output during an Availability Period over (y) the product of (A) the number of Turbines that comprise the Original Nameplate Capacity Rating or Repowered Nameplate Capacity Rating, as applicable, multiplied by (B) the number of minutes in such Availability Period. A Turbine shall be deemed not available to operate during minutes in which the turbine (a) is in an emergency, stop, service mode or pause state or similar mode; (b) is in "run" status (or equivalent) and faulted; (c) is included in a Planned Outage, Maintenance Outage, or Forced Outage; or (d) is otherwise not capable of delivering energy to the Point of Delivery; provided, however, that notwithstanding the preceding sentence, for purposes of determining Availability, a Turbine shall be deemed to have been available to operate during minutes in which it is unavailable due solely to (i) an event of Force Majeure; (ii) a breach or default by Buyer hereunder; (iii) wind speeds above the operating limits of the Turbines, or (iv) a disconnection due to a weather conditions that trigger the Turbine's protective systems (including but not limited to the possible formation of ice, lightning or tornadoes) and during any automatic many waiting or restart period thereafter.

"Availability Guarantee" is defined in Section 6.11.1.

"Availability Period" means each two Contract Year blocks on a rolling basis during the Term, as may be prorated to accommodate the Repower Construction Period pursuant to Section 6.11.1.

"Balancing Authority" means the responsible entity for a Balancing Authority Area and has the meaning set forth in the NERC Glossary of Terms.

"Balancing Authority Area" is defined in the NERC Glossary of Terms. The Balancing Authority Area in which the Facility will participate initially will be the Balancing Authority Area administered by Avangrid Renewables, LLC, as set forth in the Existing BSA and the Second BSA. After the expiration or earlier termination of Second BSA and throughout the duration of the Term the Parties shall mutually agree to the Balancing Authority Area.

"Base Term" is defined in Section 2.1.

"BPA" means the Bonneville Power Administration.

"Business Day" means any day on which banks in New York, New York are not authorized or required by Requirements of Law to be closed, beginning at 6:00 a.m. and ending at 5:00 p.m. local time in New York, New York.

"Buyer" is defined in the Preamble.

"Buyer Indemnitees" is defined in Section 12.1.1.

"Buyer Voluntary Curtailment Order" means an instruction from Buyer to Seller to reduce generation from the Facility by an amount and for a period of time as set forth in such instruction, for reasons unrelated to a System Curtailment Order or a Force Majeure event.

"Buyer's Cost to Cover" [redacted]

"Buyer's Interest" means (a) (i) before the Repower Commercial Operation Date, 100% of the Net Output, Ancillary Services, RECs and Capacity Rights from the Facility and (ii) at and after the Repower Commercial Operation Date, the Net Output from the Facility at the Point of Delivery up to the Annual Output Cap for each Contract Year, and (b) all Ancillary Services, Capacity Rights and RECs associated with such Net Output or otherwise resulting from the generation of energy by the Facility. Seller acknowledges that Buyer will include Buyer's Interest in Buyer's resource planning.

"CAISO" means the California Independent System Operator.

"Calculation Period" means each measured interval integrated into an hour during the Term.

"California Renewables Portfolio Standard" or **"RPS"** means the renewable energy program and policies established by California State Senate Bills 1038 (2002), 1078 (2002), 107 (2008), X-1 2 (2011), 350 (2015) and 100 (2018) codified in, inter alia, California Public Utilities Code Sections 399.11 through 399.31 and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time.

"CAMD" means the Clean Air Markets Division of the Environmental Protection Agency or successor administrator, or any state or federal entity with jurisdiction over a program involving transferability of RECs.

"Capacity Rights" means any current or future defined characteristic, certificate, benefit, product, tag (but not RECs), credit, attribute, or accounting construct, including any of the same counted towards any current or future capacity, Resource Adequacy or reserve requirements, associated with the electric generation capability and capacity of the Facility or the Facility's capability and ability to produce Output or Ancillary Services. Capacity Rights do not include PTCs or any Tax Credits.

"CARB" means the California Air Resources Board.

"CEC" means the California Energy Commission.

"Certificate" means the certificate representing a REC created and accounted for by WREGIS, pursuant to the WREGIS Operating Procedures.

"CFIUS" means the Committee on Foreign Investment in the United States.

"Change of Controlling Interest" means any circumstances in which Ultimate Parent ceases to have a Controlling Interest in Seller; provided that in calculating ownership percentages for all purposes of the foregoing: (a) any ownership interest in Seller held by its Ultimate Parent indirectly through one or more intermediate entities shall not be counted towards the Ultimate Parent's ownership interest in Seller unless the Ultimate Parent directly or indirectly owns more than fifty percent (50%) of the outstanding equity interests in each such intermediate entity; and (b) ownership interests in Seller owned directly or indirectly by any Senior Lender (including any tax equity provider in connection with tax equity financing) shall be excluded from the total outstanding equity interests in Seller.

"**Commercial Operation Delay Damages**" [redacted]

"Compliance Expenditure Cap" has the meaning set forth in Section 4.8.

"Confidential Business Information" is defined in Section 22.1.

"Contract Interest Rate" means the lesser of (a) the highest rate permitted under Requirements of Law and (b) 200 basis points per annum plus the rate per annum equal to the publicly announced prime rate or reference rate for commercial loans to large businesses in effect from time to time quoted by Citibank, N.A. as its "prime rate". If a Citibank, N.A. prime rate is not available, the applicable prime rate shall be the announced prime rate or reference rate for commercial loans in effect from time to time quoted by a bank with $10 billion or more in assets in New York City, New York, selected by the Party to whom interest is being paid.

"Contract Price" means the applicable price, expressed in $/MWh, stated in Section 5.1.

"Contract Year" means a 12 month period commencing at 00:00 hours on January 1 and ending on 24:00 hours on December 31; *provided, however*, that the first Contract Year shall commence on the Effective Date and end on the next succeeding December 31, and the last Contract Year shall end on the last day of the Term.

"Controlling Interest" means with respect to an entity, 50% or more of outstanding ownership interest, or the power to vote such percentage of ownership interest, or the ability to direct the operations and management of such entity.

"Costs" means, with respect to the non-defaulting Party, brokerage fees, commissions and other similar third party transaction costs and expenses (including costs incurred in connection with transmission services that would otherwise not have been incurred hereunder) reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace this Agreement, and all reasonable attorneys' fees and expenses incurred by the non-defaulting Party in connection with this Agreement.

"Covered Facility" is defined in Section 11.9.

"Covered Facility Right to Purchase" is defined in Section 11.9.

"CPUC" means the California Public Utilities Commission.

"CPUC Approval" means a final and non-appealable order of the CPUC, without conditions or modifications unacceptable to the Parties, or either of them, which contains the following terms:

(a) approves this Agreement in its entirety, including payments to be made by a buyer, subject to CPUC review of a buyer's administration of the Agreement; and

(b) finds that any procurement pursuant to this Agreement is procurement of Renewable Energy Credits that 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, for purposes of determining Buyer's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.11 et seq.), Decision 03-06-071, or other applicable law.

CPUC Approval will be deemed to have occurred on the date that a CPUC decision containing such findings becomes final and non-appealable. **[STC-3]** Buyer's use of products conveyed under this Agreement for its own use is not subject to CPUC Approval or oversight.

"Credit Support" means (a) an irrevocable standby letter of credit in a form reasonably acceptable to Buyer, naming Buyer as the party entitled to demand payment and present draw requests thereunder that is issued by either (i) a U.S. commercial bank having total assets of at least $10 billion and a senior unsecured long term credit rating (unenhanced by third party support) equivalent to "A-" or better as determined by S&P and "A3" or better as determined by Moody's, or (ii) a U.S. branch of a Canadian or Asian commercial bank (other than Chinese banks), with U.S. branches, having total assets of at least $10 billion and a senior unsecured long term credit rating (unenhanced by third party support) equivalent to "A-" or better as determined by S&P and "A3" or better as determined by Moody's or (b) cash collateral denominated in United States Dollars under a mutually agreeable third party escrow or account control agreement.

"Deemed Delivered Net Output" means, during any hour when a Buyer Voluntary Curtailment Order is in effect, an amount of deemed Net Output (based on actual wind and availability data during such hour that the Buyer Voluntary Curtailment Order is in effect) equal to the difference between the amount of Net Output in such hour and the aggregate amount of Net Output that would have been produced in such hour, but for such Buyer Voluntary Curtailment Order.

"Deemed Delivered True-Up Payment" is defined in Section 5.1.2(b).

"Dollar" or **"$"** means a dollar of the United States of America.

"Effective Date" is defined in Section 2.1.

"Electric System Authority" means each of NERC, WECC, WREGIS, an Interconnection Provider, a Transmission Provider, a Balancing Authority, a regional or sub-regional reliability council or authority, the Western Resource Adequacy Program and any other similar council, corporation, organization or body of recognized standing with respect to the operations of the electric system in the geographic area in which the Facility is located.

"Emissions Reduction Credit" means any credit, allowance or instrument issued or issuable by a Governmental Authority under regulations of the Environmental Protection Agency under the Clean Air Act.

"End of a Compliance Period" means the months of July through December of the final year of Buyer's compliance period for reporting renewable portfolio standard compliance with the CEC, which as of the Effective Date includes calendar years 2027 and 2030 and is expected to include the calendar years of 2033 and 2036.

"Energy Imbalance Market" means the CAISO's Western Energy Imbalance Market.

"Energy Imbalance Market Charges" means all fees, settlements, offsets, allocations, charges, and revenues imposed or provided by the Energy Imbalance Market on or to the Facility at any point during the Term, including, for example, those associated with the current CAISO "Charge Code" numbers 4515 (GMC Bid Transaction Fee), 4564 (GMC EIM Transaction Charge), 491 (Greenhouse Gas Emission Cost Revenue), 64600 (FMM Instructed Imbalance Energy EIM Settlement), 64700 (Real Time Instructed Imbalance Energy EIM Settlement), 64750 (Real Time Uninstructed Imbalance Energy EIM Settlement), 66200 (RTM Bid Cost Recovery EIM Settlement), 7070 (Flexible Ramp Forecasted Movement Settlement), 7081 (Flexible Ramp Down Uncertainty Capacity Settlement), 6045 (Over and Under Scheduling EIM Settlement), 64770 (Real Time Imbalance Energy Offset EIM), 66780 (Real Time Bid Cost Recovery EIM Allocation), 67740 (Real Time Congestion Offset EIM), 69850 (Real Time Marginal Losses Offset EIM), 7076 (Flexible Ramp Forecast Movement Allocation), 7077 (Daily Flexible Ramp Up Uncertainty Award Allocation), 4575 (GMC Scheduling Coordinator ID Charge), 7078 (Monthly Flexible Ramp Up Uncertainty Award Allocation), 7087 (Daily Flexible Ramp Down Uncertainly Award Allocation), and 7088 (Monthly Flexible Ramp Down Uncertainty Award Allocation).

"Environmental Attribute Reporting Rights" means the exclusive right of a purchaser of Environmental Attributes to report ownership of Environmental Attributes in compliance with federal or state law, if applicable, and to federal or state agencies or other parties at such purchaser's discretion, and includes reporting under Section 1605(b) of the Energy Policy Act of 1992, or under any present or future domestic, international, or foreign emissions trading program or renewable portfolio standard.

"Environmental Attributes" means any and all claims, credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical, or other substance to the air, soil or water, which are deemed of value by Buyer. Environmental Attributes include all Green Attributes as well as: (a) all Emissions Reduction Credits; and (b) any cryptocurrency, blockchain, and similar or related matters, items commodities, tokens, or anything of actual, potential, or theoretical value related to, measured by, or associated with anything produced by Output. Environmental Attributes do not include (i) PTCs or other tax incentives existing now or in the future associated with the construction, ownership or operation of the Facility, (ii) matters designated by Buyer as sources of liability, or (iii) any adverse health, safety, wildlife or environmental impacts.

"Environmental Contamination" means the introduction or presence of Hazardous Materials at such levels, quantities or location, or of such form or character, as to constitute a violation of federal, state or local laws or regulations, or to present a material risk that as a consequence of the application of federal, state or local laws and regulations that (a) the Premises will not be available or usable for the purposes contemplated by this Agreement or (b) the potential resulting liabilities could impair Seller's ability to meet its obligations hereunder.

"Estoppel Certificate" means an estoppel certificate of Buyer in favor of Seller's tax equity investors and an administrative agent representing Senior Lenders and in substantially the form of Exhibit 8.4-2.

“Event of Default” is defined in Section 11.1.

“EWG” means an “exempt wholesale generator,” as defined under PUHCA.

“Example” means an example of certain calculations to be made hereunder. Each Example is for purposes of illustration only and is not intended to constitute a representation, warranty or covenant concerning the matters assumed for purposes of each Example.

“Excess Net Output” means, after the Repower Commercial Operation Date, in any Contract Year, any Net Output in excess of the Annual Output Cap.

“Excess Net Output Priority Quantity” is defined in Section 2.3.4.

“Existing BSA” means that certain Balancing Services Agreement by and between Buyer and Avangrid Renewables, LLC dated as of September 24, 2019, and amended and restated on April 5, 2023, and as, if still in effect as of the date hereof, was assigned from Buyer to Seller pursuant to that certain Assignment and Assumption Agreement dated as of the date hereof.

“Existing Facility Availability Guarantee” is defined in Section 6.11.1(a).

“Expansion Facility” means the development of one or more future additional, unconstructed, electric generation facilities or energy storage facilities that are located on the Premises, [utilize any shared facilities with the Facility], or that use portions of the Interconnection Facilities.

“Expected Energy” means (i) before the Repower Commercial Operation Date, the annual expected generation, as set forth on **Exhibit A** and (ii) at and after the Repower Commercial Operation Date the Historical Baseline Amount.

“Expected Excess Energy” means the expected annual generation of Excess Net Output based on the Wind Resource Assessment.

“Facility” means (i) as of the Effective Date, the Existing Facility, as more fully described in attached **Exhibit 6.1**, and (ii) as of the Repower Commercial Operation Date, the Repowered Facility, and in each case includes the Turbines and all other equipment, devices, associated appurtenances owned, controlled, operated and managed by Seller in connection with, or to facilitate, the production, generation, transmission, delivery, or furnishing of electric energy by Seller to Buyer and required to interconnect with the System.

“Facility POI Capacity” means 136.6 MW.

“Facility Revenue Meter” means all metering equipment installed or to be installed at the Facility pursuant to the Generation Interconnection Agreements and meeting applicable electric industry standards as established by the Electric System Authority, each as applicable, at the metering points, including but not limited to instrument transformers, MWh-meters, data acquisition equipment, transducers, remote terminal unit, communications equipment, phone lines, and fiber optics.

"FASB" means the Financial Accounting Standards Board.

"FERC" means the Federal Energy Regulatory Commission.

"FIN 46R" means the FASB revised Interpretation No. 46(R), Consolidation of Variable Interest Entities.

"Financing Documents" means the Loan Agreement as defined in the Lender Consent together with all other financing documents between Seller and Lenders wherein Lenders have provided, or have agreed to provide, Seller financing related to the Facility or the Repower of the Facility.

"FIRRMA" means the Foreign Investment Risk Review Modernization Act of 2018.

"Force Majeure" is defined in Section 14.1.

"Forced Outage" means NERC Event Types U1, U2 and U3, as set forth in attached **Exhibit C**, and specifically excludes any Maintenance Outage or Planned Outage.

"Future BSA" is defined in Section 6.5.4.

"Gains" means, with respect to a non-defaulting Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of this Agreement, determined in a commercially reasonable manner. Gains shall be measured with respect to the Expected Energy over the remainder of the Term (ignoring any early termination of this Agreement).

"Generation Interconnection Agreements" means (a) the Generator Interconnection Agreement dated as of August 25, 2008, between TWP LLC and Klickitat PUD, and subsequently assigned by TWP LLC to the TWP Authority on September 17th, 2009 and (b) the Standard Large Generator Interconnection Agreement between TWP Authority and BPA, dated as of January 27, 2007, Contract No. 08TX-13625, each as assigned to Seller as of [_____].

"Generator Operator" means the entity that operates generating facility(ies) and performs the functions of supplying energy and interconnected operations services.

"Governmental Authority" means any supranational, federal or state authority or other political subdivision thereof, having jurisdiction over Seller, Buyer, the Facility, or this Agreement, including the CEC, the CPUC, any municipality, township or county, and any entity or body exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including any corporation or other entity owned or controlled by any of the foregoing.

"Green Attributes" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Project, and its avoided emission of pollutants. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emission of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO_2), methane (CH_4), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; (3) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Tag Reporting Rights are the right of a Green Tag Purchaser to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at the Green Tag Purchaser's discretion, and include without limitation those Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Green Tags are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of Energy. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Project, (ii) production tax credits associated with the construction or operation of the Project and other financial incentives in the form of credits, reductions, or allowances associated with the project that are applicable to a state or federal income taxation obligation, (iii) fuel-related subsidies or "tipping fees" that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered or used by the Project for compliance with local, state, or federal operating and/or air quality permits. If the Project is a biomass or biogas facility and Seller receives any tradable Green Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide Buyer with sufficient Green Attributes to ensure that there are zero net emissions associated with the production of electricity from the Project. **[STC-2]** For purposes of this definition of "Green Attributes", "Project" means the Facility.

"Guaranteed Repower Commercial Operation Date" means the date that is 180 days after the Scheduled Repower Commercial Operation Date, provided, however that the Guaranteed Repower Commercial Operation Date may be extended pursuant to Section 2.3.5.

"Hazardous Materials" means any substance, material, gas, or particulate matter that is regulated by any Governmental Authority, as an environmental pollutant or dangerous to public health, public welfare, or the natural environment including protection of non-human forms of life, land, water, groundwater, and air, including any material or substance that is (a) defined as "toxic," "polluting," "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," "solid waste" or "restricted hazardous waste" under any provision of local, state, or federal law; (b) petroleum, including any fraction, derivative or additive; (c) asbestos; (d) polychlorinated biphenyls; (e) radioactive material; (f) designated as a "hazardous substance" pursuant to the Clean Water Act, 33 U.S.C. §1251 *et seq.*; (g) defined as a "hazardous waste" pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.*; (h) defined as a "hazardous substance" pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 *et seq.*; (i) defined as a "chemical substance" under the Toxic Substances Control Act, 15 U.S.C. §2601 *et seq.*; or (j) defined as a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §136 *et seq.*

"Historical Baseline Amount" means an annual quantity of MWhs based on the average monthly generation from the 36-month period immediately preceding Repower Construction Start

Date or any generation decreases in anticipation of Repower construction, which as of the Effective Date is anticipated to be the Pre-Repower Estimated P50 Amount. If a major maintenance or economic event results in a reduction of more than 25 percent from the average monthly generation for one or more months during this period, the Parties will mutually agree to add generation month(s) to replace the month(s) with a significant decrease in generation.

"**Historical Baseline Differential**" is defined in Section 2.3.4.

"ICCP" means the Inter-Control Center Communications Protocol.

"Imbalance Settlement" means all penalties and credits imposed by Energy Imbalance Market with respect to the Facility for deviations in scheduled and actual generated energy, including the Energy Imbalance Market Charges, caused by Buyer's action or inaction (provided that such Buyer action or inaction is not caused by the acts or omissions of Seller or any of its Affiliates).

"Interconnection Delay" means the failure of Seller to achieve the Repower Commercial Operation by the Guaranteed Repower Commercial Operation Date solely as a result of Seller being unable to satisfy one or more of the requirements of Repower Commercial Operation solely because of the failure of Interconnection Provider to timely complete construction of any "Transmission Provider's Interconnection Facilities" or "Network Upgrades" in accordance with either of the Generation Interconnection Agreements and connected with the Repower; provided that such failure and inability is not caused by Seller or any of its Affiliates (including a breach by Seller of any of its obligations under the Generation Interconnection Agreements).

"Interconnection Facilities" means all the facilities installed, or to be installed, for the purpose of interconnecting the Facility to the System, including electrical transmission lines, line upgrades, transformers, capacitor banks, inductor banks, and associated equipment, substations, relay and switching equipment, and safety equipment.

"Interconnection Provider" means any party to either Generation Interconnection Agreement, other than Seller or TWP LLC.

"**Investment Grade Credit Rating**" means a long-term credit rating or corporate or long-term senior unsecured debt rating (not supported by third party credit enhancements) of "Baa3" or higher by Moody's, "BBB-" or higher by S&P, or "BBB-" or higher by Fitch Ratings Ltd. or its successor.

"Klickitat PUD" means Public Utility District No. 1 of Klickitat County, Washington, a public utility district organized and existing under the laws of the State of Washington.

"Lender" means any entity lending money or extending credit (including any financing lease, monetization of tax benefits, equity financing, transaction with a Tax Investor, back-leverage financing or credit derivative arrangement) to Seller (a) for the construction, term or permanent financing or refinancing of the Facility; (b) for working capital or other ordinary business requirements for the Facility (including for the maintenance, repair, replacement or improvement of the Facility); (c) for any development financing, bridge financing, credit support, credit enhancement or interest rate protection in connection with the Facility; or (d) for the purchase of the Facility and related rights from Seller.

"Lender Consent" means a consent to collateral assignment in favor of an agent representing Senior Lenders and in substantially the form of **Exhibit 8.4-1**.

"Liabilities" is defined in Section 12.1.1.

"Licensed Professional Engineer" means a person proposed by Seller and acceptable to Buyer in its reasonable judgment who (1) is licensed to practice engineering in the appropriate engineering discipline for the required certification being made, in the United States, and in all states for which the person is providing a certification, evaluation or opinion with respect to matters or Requirements of Law specific to such state, (2) has training and experience in the engineering disciplines relevant to the matters with respect to which such person is called upon to provide a certification, evaluation or opinion, (3) has no economic relationship, association, or nexus with Seller or its Affiliates, other than with the prior written consent of Buyer, services previously or currently being rendered to Seller or its Affiliates, and (4) is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or of a manufacturer or supplier of any equipment installed in the Facility. The engineers and engineering firms listed on **Exhibit E** are acceptable to Buyer as "Licensed Professional Engineers" if they meet the requirements above.

"Losses" means, with respect to a non-defaulting Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs and inclusive of Regulatory Compliance Costs), resulting from termination of this Agreement, determined in a commercially reasonable manner. Losses shall be measured with respect to the Expected Energy over the remainder of the Term (ignoring any early termination of this Agreement).

"Maintenance Outage" means NERC Event Type MO, as set forth in attached **Exhibit C**, and includes any outage involving at least 10% of the Facility's Nameplate Capacity Rating that is not a Forced Outage or a Planned Outage.

"Maximum Delivery Rate" means the maximum hourly rate of delivery of Net Output in MWh from the Facility to the Point of Delivery, calculated on the basis of the Net Output delivered in an hour accruing at an average rate equivalent to the Nameplate Capacity Rating as limited by the Facility POI Capacity.

"Mediation Location" means Turlock, California.

"Mediation Notice" is defined in Section 23.2(a).

"Mediation Procedures" is defined in Section 23.2.

"Mid-Columbia Day-Ahead Off-Peak Price" means the "ELECTRICITY-MID C-OFF-PEAK-ICE" price, as published by the Intercontinental Exchange for the applicable day of delivery.

"Mid-Columbia Day-Ahead Peak Price" means the "ELECTRICITY-MID CPEAK-ICE" price, as published by the Intercontinental Exchange for the applicable day of delivery.

“Mid-Columbia Flat Price” means the weighted average of the Mid-Columbia Day-Ahead Off-Peak Prices and Mid-Columbia Day-Ahead Peak Prices for the applicable month (or applicable Availability Period in the case of calculating Output Shortfall) of delivery, weighted by the on-peak and off-peak percentages based on the Wind Resource Assessment.

“Moody’s” means Moody’s Ratings, or its successor.

“MW” means megawatt.

“MWh” means megawatt hour.

“Nameplate Capacity Rating” means the maximum installed instantaneous generation capacity of the completed Facility, expressed in MW (AC), when operated in compliance with the Generation Interconnection Agreements and consistent with the recommended power factor and operating parameters provided by the manufacturer of the Turbines, which as of the Effective Date is the Original Nameplate Capacity Rating. As of the Repower Commercial Operation Date and continuing through the Term, the Nameplate Capacity Rating of the Facility shall not exceed the greater of the Original Nameplate Capacity Rating and the Repower Planned Nameplate Capacity Rating.

“NERC” means the North American Electric Reliability Corporation.

“Net Output” means all energy produced by the Facility, exclusive of Station Use, and delivered at the Point of Delivery.

“Net Output Surplus Quantity” is defined in Section 2.3.4.

“Offered Assets” is defined in Section 19.3.1.

“Original Nameplate Capacity Rating” means 136.6 MW (AC), the maximum instantaneous generation capacity of the Facility as of the Effective Date.

“Original PPA” is defined in the Recitals.

“Output” means all energy produced by the Facility.

“Output Shortfall” means, for any Availability Period, the product (expressed in MWh) of (i) the sum of (A) the Expected Energy for such Availability Period, plus, if during the Repower Term, (B) the Expected Excess Energy for such Availability Period, multiplied by (ii) the positive difference, if any, between the Availability Guarantee and the Availability for such Availability Period, as further described on **Exhibit 6.11**.

“Party” and **“Parties”** are defined in the Preamble.

“PCC0 RECs” means RECs that qualify under California Public Utilities Code Section 399.16(d) and 20 Cal. Code Reg. Sec. 3202(a)(2), as amended from time to time or supplemented by Requirements of Law, and are not subject to the Portfolio Content Category classifications.

"PCC1 RECs" means meeting the requirements of California Public Utilities Code Section 399.16(b)(1) and Portfolio Content Category One classifications set forth in California Code of Regulations, Title 20, Division 2, Chapter 13, Sections 3203(a) and 3204(d) as amended from time to time or as further defined or supplemented by Requirements of Law.

"Permits" means all of the permits, licenses, approvals, certificates, entitlements and other authorizations issued by Governmental Authorities required for the construction, ownership or operation of the Facility and occupancy of the Premises, and all amendments, modifications, supplements, general conditions and addenda thereto. Permit also includes any permissions, permits, consents, or approvals required for the Facility pursuant to any CFIUS process or otherwise under FIRRMA including, with respect to ownership, control, leasing, or presence upon property in the United States by foreign persons.

"Person" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

"Planned Outage" means NERC Event Type PO, as set forth in attached **Exhibit C**, and specifically excludes any Maintenance Outage or Forced Outage.

"Point of Delivery" means the point of interconnection between the Facility and the System, at Klickitat PUD's Willis Substation as specified in the Generation Interconnection Agreements and as further described in **Exhibit 9.2**.

"Portfolio Content Category" means the classifications of RECs set forth in California Public Utilities Code Section 399.16 and 20 Cal. Code Reg. Sec. 3203 as amended from time to time or as further defined or supplemented by Requirements of Law.

"Premises" means the real property on which the Facility is or will be located, as more fully described on **Exhibit 6.1**.

"Pre-Repower Estimated P50 Amount" means 374,000 MWhs.

"Prudent Electrical Practices" means any of the practices, methods and acts engaged in or approved by a significant portion of the independent electric power generation industry for wind facilities of similar size and characteristics or any of the practices, methods or acts, which, in the exercise of reasonable judgment in the light of the facts known or that should reasonably have been known at the time a decision is made, could have been expected to accomplish the desired result at the lowest reasonable cost consistent with law, regulation, permits, codes, standards, equipment manufacturer's recommendations, reliability, safety, environmental protection, economy, and expedition. Prudent Electrical Practices is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be a spectrum of possible practices, methods or acts.

"PSA" is defined in the Recitals.

"PTC Gross-Up Rate" [redacted]

[redacted]

"PTCs" means production Tax Credits under Section 45 of the Internal Revenue Code.

"PUHCA" means the Public Utility Holding Company Act of 2005.

"PURPA" means the Public Utility Regulatory Policies Act of 1978.

"Qualified Transferee" means (i) with respect to Seller, (1) an U.S. domestic business entity that itself and together with its Affiliates has a tangible net worth of at least $300,000,000 and (2) at least 3 years of experience operating a generating plant of similar technology and similar size to the Facility, or (ii) with respect to Buyer, (1) is a utility and load serving entity or a provider of wholesale electric power and services in an amount no less than Buyer provides to its cooperative members as of the Effective Date, and (2) has an Investment Grade Credit Rating.

"RA Compliance Action" has the meaning set forth in Section 4.8.

"REC" means (a) the Environmental Attributes associated with all Net Output, together with (b) the Environmental Attribute Reporting Rights associated with such energy and Environmental Attributes, however commercially transferred or traded under any of these or other product names, such as "Renewable Energy Credits," "Renewable Energy Certificates," Certificates, or otherwise. One (1) REC represents the Environmental Attributes made available by the generation of one (1) MWh of Net Output from the Facility.

"REC Price Component" means the average market price of PCC1 RECs with all the material characteristics of those sold hereunder, based on the average of 3 broker quotes from brokers designated by the requesting Party that are not Affiliates of either Party that are reasonably acceptable to the other Party and that have at least 3 years of experience acting as a broker in transactions for the purchase and sale of RECs with all the material characteristics of those sold hereunder.

"Regulatory Compliance Costs" means, with respect to Buyer, the actual amount of fines or penalties incurred by Buyer originating from CARB, CEC, or CPUC for RPS compliance shortfalls, and any brokerage fees, commissions, legal expenses and other similar third party transaction costs and expenses reasonably incurred by Buyer in entering into any arrangement or transaction to pay, cover or mitigate such fines, penalties, or RPS compliance shortfalls.

"Reporting Quarter" means each calendar quarter during the Term.

"Repower", "Repowering", or the past-tense **"Repowered",** means Seller's replacement or refurbishment and recommissioning of the existing Turbines or related equipment comprising the Existing Facility, for the purpose of extending the useful life of the Existing Facility. Neither (i) the usual and customary routine maintenance [and replacement] of Turbines or related equipment that would have occurred during the existing life of the Facility, nor (ii) the [replacement] refurbishment or recommissioning of existing Turbines [that would not increase the height or rotor diameter of a Turbine, or include replacement of the equipment constituting a Turbine with newer technology which increases the wake and/or transmission impact of such

Turbine, that are needed] to address Facility performance failures that would materially impair Seller's ability to meet its Net Output delivery and Availability Guarantee obligations hereunder shall be considered a "Repower".

"Repower Commercial Operation" means that not less than 90% of the Repower Planned Nameplate Capacity Rating is fully operational and reliable and the Repowered Facility is fully interconnected, integrated and synchronized with the System and, without limiting Seller's other obligations hereunder, which occurs when all of the following conditions (i) have occurred, and (ii) remain simultaneously true and accurate as of the date and moment on which Seller gives Buyer notice that Repower Commercial Operation has occurred:

(1) The Repowered Facility has been fully tested and commissioned and all related facilities and rights have been completed or obtained to allow for normal and continuous operation of the Repowered Facility at the Nameplate Capacity Rating;

(2) Seller shall have satisfied the requirements set forth in the Repower Commercial Operation Certificate in the form attached as **Exhibit F** with respect to the Repowered Facility;

(3) Seller shall have delivered the true, correct, and complete Repower Commercial Operation Certificate in the form attached as **Exhibit F** with respect to the Repowered Facility from Seller and the Licensed Professional Engineer;

(4) Seller has provided Buyer with (a) an attestation from an officer of Seller, authorized to bind Seller and who is familiar with the Facility, stating that (i) Seller has maintained in good standing all Required Facility Documents, and (ii) Seller has obtained or entered into all Required Facility Documents necessary for the Repower of the Facility and (b) copies of all Required Facility Documents; *provided, however*, that (i) Seller may redact confidential or commercial terms from non-public Required Facility Documents unless Buyer requires unredacted Required Facility Documents for submission to a Governmental Authority, and (ii) Seller has no obligation to provide Required Facility Documents to Buyer that are already in Buyer's possession;

(5) The Repowered Facility has demonstrated the reliability of its communications systems and communications with Buyer's control center to the reasonable satisfaction of Buyer or Buyer's designee; and

(6) Seller has provided the Credit Support required pursuant to Section 8.1.

"Repower Commercial Operation Date" means the date that Repower Commercial Operation is achieved for the Facility.

"Repower Construction Start Date" shall mean the date on which Seller has issued a full notice to proceed to the engineering, procurement and construction contractor selected by Seller to design, build, and construct the Project, directing such contractor to commence all or substantially all of the work comprising the Repowered Facility without condition or delay. Seller will provide notice to Buyer that the Repower Construction Start Date has been achieved within 10 Business Days.

"**Repower Construction Start Outside Date"** is defined in Section 2.2.1.

"Repower Construction Period" means the period between the Repower Construction Start Date and the Repower Commercial Operation Date.

"Repower Election Notice" is defined in Section 2.2.2.

"Repower Option" is defined in Section 2.2.1.

"Repower Planned Nameplate Capacity Rating" means the planned Nameplate Capacity Rating of the Repower Option chosen by Seller.

"Repowered Facility" means the Facility after completion of a Repower pursuant to this Agreement.

"Repowered Facility Availability Guarantee" is defined in Section 6.11.1(b).

"Repower Term" is defined in Section 2.1.

"Reputational Event" is defined in Section 3.3.2.

"Requestor" is defined in Section 22.3.

"Required Facility Documents" means all Permits, authorizations, rights and agreements now or hereafter necessary for construction, ownership, operation, maintenance, and Repower of the Facility, the lawful operation of the Facility, and to deliver Net Output to Buyer in accordance with this Agreement and Requirements of Law, including the Required Facility Documents necessary for the Repower of the Facility as set forth in full in **Exhibit 3.2.4** to be provided by Seller pursuant to Section 3.2.4 upon completion of the Repowered Facility.

"Requirements of Law" means any applicable federal, state and local law, statute, regulation, rule, action, order, code or ordinance enacted, adopted, issued or promulgated by any federal, state, local or other Governmental Authority or regulatory body (including those pertaining to electrical, building, zoning, environmental and occupational safety and health requirements).

"Resource Adequacy" means the resource adequacy requirements established for load serving entities by the CPUC, CAISO or by any other Governmental Authority.

"S&P" means S&P Global Ratings, a division of S&P Global Inc., or its successor.

"SCADA" means a remote supervisory control and data acquisition system included as part of the Facility and to be maintained by Seller, which includes all necessary components and contact points at the Facility.

"Scheduled Repower Commercial Operation Date" means the date provided by Seller to Buyer, by which Seller reasonably anticipates that the Repower shall achieve Repower Commercial Operation, as may be extended pursuant to Section 2.2.4. In no event shall the Scheduled Repower Commercial Operation Date be later than the earlier of (i) 2 years after the Scheduled Repower Construction Start Date, or (ii), subject to any extension pursuant to Section 2.2.4, 9 years after the Effective Date.

"Scheduled Repower Commercial Operation Outside Date" means the date that is 12 years after the Effective Date.

"Scheduled Repower Construction Start Date" means the date, provided by Seller to Buyer pursuant to Section 2.2.2, by which Seller intends to achieve the Repower Construction Start Date, as may be extended pursuant to Section 2.2.4. In no event shall the Scheduled Repower Construction Start Date be a date after the Repower Construction Start Outside Date.

"Scheduling Coordinator" means an entity approved and qualified by the Applicable Market Operator to participate in the Applicable Market.

"Scheduling Entity" means (i) with regard to an Applicable Market, a Scheduling Coordinator certified by the Applicable Market to submit schedules and bids on behalf of the Facility into the Applicable Market, and (ii) with regard to the Electric System Authorities, the entity that submits transmission and generation schedules on behalf of the Facility to the applicable Electric System Authority.

"Scope Reporting Rule" means (a) the SEC's Enhancement and Standardization of Climate-Related Disclosures for Investors, 17 Code of Federal Regulations § 229.1500, et seq., as amended from time to time, and, to the extent Buyer voluntarily elects in its sole discretion to comply therewith, as proposed, or, following the effectiveness thereof, in the final rule form thereof despite being stayed or vacated by appealable judicial action, and (b) California Health and Safety Code Sections 38532 and 38533, and the rules and regulations of the California Air Resources Board thereunder, both as amended from time to time, and, to the extent Buyer voluntarily elects in its sole discretion to comply therewith, as set forth in statute and in proposed or final rule form, despite being stayed or vacated by appealable judicial action.

"Second BSA" means that certain [Balancing Services Agreement] by and between Buyer and Avangrid Renewables, LLC dated as of [_____], as assigned from Buyer to Seller pursuant to that certain [Assignment and Assumption Agreement] dated as of the date hereof .

"Second BSA Effective Date" means [________].

"Seller" is defined in the Preamble.

"Seller Indemnitees" is defined in Section 12.1.2.

"Seller's Cost to Cover" [redacted]

"Senior Lenders" means any Lender that is not (i) an Affiliate of Seller; nor (ii) Global Infrastructure Management, LLC, TotalEnergies SE, or BlackRock, Inc.

"Station Use" means Output used to operate the Facility or provide electric energy for any other activities occurring on the Premises or prior to the low side of the substation of the Interconnection Facilities.

"Subordinate PPA" is defined in the Recitals.

"System" means the transmission facilities over which the Transmission Provider has operational control.

"System Curtailment Order" mean an instruction from an Electric System Authority having authority, now or in the future, over the transmission system to reduce generation from the Facility for (i) System Emergencies, (ii) outages (planned or unplanned) of any portion of the transmission system, (iii) abnormal system conditions, or (iv) or otherwise pursuant to Electric System Authority rules (including, without limitation, any curtailment, discretionary or otherwise, made pursuant to a balancing services agreement). Regardless of which entity issues the instruction resulting in curtailment, a System Curtailment Order shall not be based on Buyer's failure to procure and maintain transmission service in accordance with Section 6.5.1 from and after the Point of Delivery.

"System Emergencies" means an "Emergency Condition" as defined in the Transmission Provider's Open Access Transmission Tariff.

"Tax Credits" means any state, local or federal production tax credit, tax deduction, or investment tax credit specific to the production of renewable energy or investments in renewable energy facilities.

"Tax Investor" is defined in the Estoppel Certificate substantially in the form of **Exhibit 8.4-2**.

"Term" is defined in Section 2.1.

"Termination Payment" means, with respect to the non-defaulting Party, or Buyer in the case of a termination by either Party pursuant to Section 11.5, as applicable, either (i) the sum of Losses plus Costs or (ii) the difference between Costs minus Gains, as applicable, expressed in Dollars. If the Termination Payment calculation does not demonstrate that the non-defaulting Party suffered a net loss, the Termination Payment shall be $0. If the Termination Payment calculation does demonstrate that the non-defaulting Party suffered a net loss, a Termination Payment shall be due to the non-defaulting Party pursuant to Section 11.6.

"Transmission Charges" is defined in Section 5.2.2.

"Transmission Provider" means BPA or any successor entity.

"Turbine" means a single wind turbine generating system, including tower, pad, transformer and controller system, installed as part of the Facility.

"TWP Authority" is defined in the Recitals.

"TWP LLC" is defined in the Recitals.

"Ultimate Parent" means [Clearway Energy, Inc.] and, after any Change of Controlling Interest in Seller to a Qualified Transferee as permitted pursuant to Section 19.2.2, such Qualified Transferee.

"VERBs Fees" are defined in Section 5.2.3(a).

"Wind Resource Assessment" means the wind resource assessment report utilized by the Seller to determine the estimated annual generation of the Facility prepared by Seller, a complete and unredacted copy of which shall be provided to Buyer (i) no later than 60 days after the Effective Date, and (ii), as updated for any Repower, no later than 60 days before the Repower Commercial Operation Date.

"WECC" stands for the Western Electricity Coordinating Council and means the regional entity given authority by NERC and FERC to promote bulk power system reliability and security in the WECC footprint.

"WREGIS" means the Western Renewable Energy Generation Information System.

"WREGIS Operating Procedures" means the operating rules and requirements adopted by WREGIS.

1.2 Rules of Interpretation.

1.2.1. General. Terms used in this Agreement but not specifically defined in this Section 1 shall have meanings as commonly used in the English language, provided that words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used in accordance with such recognized meanings. Unless otherwise required by the context in which any term appears, (a) the singular includes the plural and vice versa; (b) references to "Articles," "Sections," "Schedules," "Annexes," "Appendices" or "Exhibits" are to articles, sections, schedules, annexes, appendices or exhibits hereof; (c) all references to a particular entity or an electricity market price index include a reference to such entity's or index's successors; (d) "herein," "hereof" and "hereunder" refer to this Agreement as a whole; (e) all accounting terms not specifically defined herein shall be construed in accordance with generally accepted accounting principles consistently applied; (f) the masculine includes the feminine and neuter and vice versa; (g) "including" means "including, without limitation" or "including, but not limited to"; (h) all references to a particular tariff, law or statute mean that tariff, law or statute as amended from time to time; (i) the word "or" is not necessarily exclusive; and (j) references to this Agreement or any agreement referenced herein shall include a reference to all appendices, annexes, schedules and exhibits hereto or thereto, as the same may be amended, modified, supplemented or replaced from time to time.

1.2.2. Terms Not to be Construed For or Against Either Party. Each term hereof shall be construed simply according to its fair meaning and not strictly for or against either Party. The Parties have jointly prepared this Agreement, and no term hereof shall be construed against a Party on the ground that the Party is the author of that provision.

1.2.3. Headings. The headings used for the sections and articles hereof are for convenience and reference purposes only and shall in no way affect the meaning or interpretation of the provisions hereof.

1.2.4. Examples. Example calculations and other examples set forth herein are for purposes of illustration only and are not intended to constitute a representation, warranty or covenant concerning the example itself or the matters assumed for purposes of such example. If there is a conflict between an example and the text hereof, the text shall control.

SECTION 2
TERM; REPOWER OF FACILITY

2.1 Term. The "**Term**" of this Agreement shall be the Base Term plus the Repower Term, if applicable, unless earlier terminated as provided herein. The combined Base Term and Repower Term shall (i) not be less than 15 years, unless this Agreement is terminated early as provided herein, and (ii) in no event exceed a Term of 25 years, in the event of a partial Repower option as indicated on **Exhibit B**, or 30 years, in the event of a full Repower as indicated on **Exhibit B**. The initial term (the "**Base Term**") shall commence on the date when this Agreement is executed and delivered by both Parties (the **"Effective Date"**) and shall continue until the date that is 15 Contract Years following the Effective Date. If the Seller (i) exercises the option to Repower the Facility as set forth in Section 2.2 and (ii) achieves Repower Commercial Operation of the Facility, the repower term (the "**Repower Term**") shall commence on the Repower Commercial Operation Date and shall continue for up to the amount of time set forth in **Exhibit B** as associated with the Repower Option selected, as limited by the maximum Term of 25 or 30 years, as applicable.

2.2 Option to Repower the Facility.

2.2.1. Subject to Section 2.2.4, Seller has the option to Repower the Facility pursuant to the parameters of the permissible repower options described in **Exhibit B** (as may be modified pursuant to Section 2.2.3) (each a "**Repower Option**") once during the Base Term, provided that the Scheduled Repower Construction Start Date for such Repower must be a date no later than 7 years after the Effective Date, as may be extended pursuant to Section 2.2.4 (the "**Repower Construction Start Outside Date**").

2.2.2. The Repower Options currently contemplated are described in **Exhibit B**. At least 120 days prior to the Scheduled Repower Construction Start Date (as to be provided by Seller upon delivery of the Repower Election Notice), Seller shall notify Buyer, by delivery of written notice of exercise to Buyer ("**Repower Election Notice**") of which Repower Option it intends to proceed with together with the Repowered Planned Nameplate Capacity. Included with its Repower Election Notice, Seller shall (i) notify Buyer in writing of the Scheduled Repower Construction Start Date and Scheduled Repower Commercial Operation Date, and (ii) provide Buyer with a populated **Exhibit 2.3**.

2.2.3. To the extent Seller wishes to modify such Repower Option from what was presented in **Exhibit B**, Seller shall seek Buyer's written consent, such not to be unreasonably withheld, conditioned or delayed; provided, that Buyer's consent shall not be required for any change to the Turbine equipment manufacturer. If Seller desires to modify the proposed Repowered Facility configuration from one of the Repower Options, Seller shall provide Buyer with the detail of such proposed modification in the Repower Election Notice, including all information and data as may be reasonably necessary for Buyer to evaluate such proposal, including with respect to any project characteristics, equipment suppliers and technology type that Seller proposes to use in construction of the Repowered Facility. If any such material modification is agreed, the Parties shall amend **Exhibit B** to reflect the final technology selection in the applicable Repower Option as so agreed. Notwithstanding anything to the contrary in this Section 2.2.3, Buyer may withhold consent in its reasonable discretion to any modification to the Repower Option that Buyer reasonably believes would result in the RECs that Buyer purchases under this Agreement no longer qualifying as PCC0 RECs, provided that prior to withholding such consent, Buyer has (i) provided Seller with a detailed description of the reason why Buyer believes such modification would result in PCC0 REC disqualification, (ii) attended at least one meeting with Seller to discuss in good faith potential pathways to mitigate such risk while still allowing Seller to proceed with its proposed modification in full or in part, and (iii) determined in good faith after completion of (i) and (ii) that there is no commercially reasonable work around to address such risk and consent to such modification.

2.2.4. Notwithstanding anything in this Agreement to the contrary, if, at any point prior to the date that is [45 days after Seller's delivery of its Repower Election Notice, in Buyer's reasonable determination, the CEC has, will, or is likely to determine that Seller's exercise of the Repower Option would disqualify or in any way prevent the Net Output and RECs purchased under this Agreement from maintaining their PCC0 REC classification: (i) Buyer shall promptly notify Seller of such determination and Seller shall immediately pause all Repower activities, (ii) Buyer shall provide Seller all applicable supporting documentation behind such determination; (iii) Buyer and Seller shall meet and confer to discuss potential options to address the underlying issues behind such CEC determination in a manner that would allow the Repower to proceed without jeopardizing such PCC0 REC classification, (iv) Buyer and Seller shall each take all commercially reasonable actions to work with the CEC to address concerns and offer potential solutions to the CEC to allow the Repower to continue without jeopardizing such PCC0 REC classification. Seller may commence the Repower once Buyer notifies Seller that Buyer is comfortable that the CEC has or will determine that Net Output and RECs purchased under this Agreement will be able to maintain their PCC0 REC classification after the Repower. In the event that Buyer initiates a pause on Repower activities pursuant to this Section 2.2.4, the Scheduled Repower Construction Start Date, the Repower Construction Start Outside Date, the Scheduled Repower Commercial Operation Date, and each of the other milestones listed on **Exhibit 2.3** shall be automatically extended on a day-for-day basis for the period of such pause until the Scheduled Repower Commercial Operation Date is equal to the Scheduled Repower Commercial Operation Outside Date, at which point, if the Repower continues to be paused, either Party may terminate the Repower, and Seller shall refrain from any further Repower activities that would impact the Facility during the Base Term. If the Repower is so terminated, Seller shall under no circumstances owe Commercial Operation Delay Damages or any other damages to Buyer for failure to achieve the Repower Commercial Operation Date. For the avoidance of doubt, the foregoing extensions shall be in addition to any other applicable permitted exceptions to such milestone dates and shall not be subject to any applicable limitations on the number of days available for such other extensions.

2.3 Repower Construction.

2.3.1. In pursuing any Repower Option, Seller shall be responsible for: (a) completing all environmental impact studies necessary for the construction, operation, and maintenance of the Repowered Facility; (b) performing all studies, paying all fees, and acquiring all necessary approvals (including from the Transmission Provider); and (c) securing and maintaining all Permits and other necessary approvals for the construction, operation, and maintenance of the Repowered Facility. During the 36-month period immediately preceding the Repower Construction Start Date, Seller will continue to make operational decisions related to the Facility, including maintenance and activities in anticipation of Repower construction, in the ordinary course of business and consistent with Prudent Electrical Practices, Requirements of Law and Seller's other obligations hereunder, and shall not intentionally make operational decisions to reduce Facility production that are unrelated to such obligations. Buyer shall reasonably cooperate with Seller and reasonably and promptly assist in Seller's efforts to complete the above responsibilities. Seller will cause the Repowered Facility to be designed, engineered, constructed, installed, operated, and maintained in accordance with Prudent Electrical Practices and all Requirements of Law.

2.3.2. As soon as reasonably practicable after providing Buyer with the Repower Election Notice, and in any event no later than 60 days prior to the Scheduled Repower Construction Start Date, Seller shall develop proposed written operating procedures for the Facility to be applicable during the Repower Construction Period in coordination with Buyer, and subject to Buyer's commercially reasonable final approval, which will include, but will not be limited to, procedures concerning the following: (i) the method of day-to-day communications and reporting; (ii) key personnel lists for Seller and Buyer; (iii) reasonable coordination regarding the timing of scheduling of Repower activities and Planned Outages; and (iv) ongoing reporting of projected capacity reductions due to Repower activities and any other curtailments reasonably foreseeable by Seller.

2.3.3. Once Seller has exercised the option to Repower the Facility pursuant to Section 2.2, time shall be of the essence and Seller's completion of the Repower Construction Start Date by the Scheduled Repower Construction Start Date is critically important. Therefore, Seller shall use commercially reasonable efforts to achieve the Repower Construction Start Date by the Scheduled Repower Construction Start Date. At any time after the delivery of the Repower Election Notice, so long as the Repower is not paused pursuant to Section 2.2.4, Seller may modify the Scheduled Repower Construction Start Date one time, provided that (a) Seller reasonably believes that the revised Scheduled Repower Construction Start Date will not impair Seller's ability to achieve the Repower Commercial Operation Date by the Guaranteed Repower Commercial Operation Date, and (b) the revised Scheduled Repower Construction Start Date must be a date no later than the earlier of (x) the date that is 9 months after the initially proposed Scheduled Repower Construction Start Date and (y) the Repower Construction Start Outside Date. If either the original Scheduled Repower Construction Start Date or the revised Scheduled Repower Construction Start Date occurs within the End of a Compliance Period, Seller must notify Buyer of such change at least 90 days before the start of such End of a Compliance Period, otherwise Seller must notify Buyer of the revised Scheduled Repower Construction Start Date 45 days before the then-applicable Scheduled Repower Construction Start Date.

2.3.4. Within 30 days after the Repower Construction Start Date, Seller shall provide Buyer with Seller's calculation of the Historical Baseline Amount along with reasonable supporting documentation. The final determination of the Historical Baseline Amount will be subject to Buyer's approval, such approval not to be unreasonably withheld, conditioned, or delayed. If the Historical Baseline Amount is different than the Pre-Repower Estimated P50 Amount, the difference resulting from the Historical Baseline Amount minus the Pre-Repower P50 Amount (the "**Historical Baseline Differential**") will be subject to a price true-up related to the Net Output or Excess Net Output, as applicable, as follows: [(i) if the Historical Baseline Differential is positive (i.e. the Historical Baseline Amount is greater than the Pre-Repower Estimated P50 Amount), the amount of Net Output produced by the Facility in any given year that exceeds the Pre-Repower Estimated P50 Amount will be the "**Net Output Surplus Quantity**" under this Agreement, and (ii) if the Historical Baseline Differential is negative (i.e. the Historical Baseline Amount is less than the Pre-Repower Estimated P50 Amount), such amount will be the "**Excess Net Output Priority Quantity**" under the Subordinate PPA.]

2.3.5. Once the Repower Construction Start Date has occurred, time shall be of the essence and Seller's completion of the Repower of the Facility by the Guaranteed Repower Commercial Operation Date is critically important. Therefore, Seller shall use commercially reasonable efforts to achieve the interim milestones set forth in **Exhibit 2.3** at the times indicated. If Seller is unable to Repower the Facility by the Guaranteed Repower Commercial Operation Date as a result of either Force Majeure or Interconnection Delay, then such date shall be extended on a day for day basis for any delay caused by such Force Majeure or Interconnection Delay, provided that such extensions may not exceed 180 days in the aggregate.

2.3.6. Once the Repower Construction Start Date has occurred, and the Repower Commercial Operation Date is not achieved on or before the Guaranteed Repower Commercial Operation Date (as such date may be extended pursuant to Section 2.3.5), then Seller will pay to Buyer Commercial Operation Delay Damages, provided that no such Commercial Operation Delay Damages shall be due if the Repower is terminated pursuant to Section 2.2.4. Commercial Operation Delay Damages will accrue for each day that Repower Commercial Operation has not been achieved, until the earlier of: (a) the Repower Commercial Operation Date or (b) 180 days after the Guaranteed Repower Commercial Operation Date.

2.3.7. Once the Repower Construction Start Date has occurred, and the Repower Commercial Operation Date is not achieved by the date that is 180 days after the Guaranteed Repower Commercial Operation Date (as such date may be extended pursuant to Section 2.3.5), Buyer may elect to terminate the Repower Option and, subject to the final termination right set out in the final sentence of this Section 2.3.7, (i) Seller shall immediately cease all Repower activities, (ii) Seller and Buyer shall continue to buy and sell Net Output and associated RECs, Ancillary

Services and Capacity Rights under this Agreement with respect to the Facility until the expiration of the Base Term, and (iii) if reasonably determined necessary by Buyer solely to protect from the loss of the PCC0 REC status of the for RECs delivered under this Agreement, Seller will reverse any changes made to the Facility as part of the Repower activities and (A) Buyer shall provide Seller all applicable supporting documentation behind such determination; and (B) Buyer shall be available to meet and confer with Seller to discuss potential options to address to allow for the non-reversal of the subject changes to the Facility without jeopardizing such PCC0 REC classification. In the event that Buyer or Seller reasonably determines at the time of Buyer's election to terminate the Repower Option that Seller will not feasibly be able to deliver Net Output, and associated RECs, Ancillary Services and Capacity Rights hereunder, from the Facility in the amount of the Expected Energy on a prospective basis, then Seller will be in default and Buyer or Seller may, pursuant to Section 11.5, terminate this Agreement and upon such termination, Seller shall pay to Buyer the Termination Payment.

2.4 Facility Operation During Repower Construction Period. At all times during the Repower Construction Period, Seller is to (i) abide by the operating procedures for the Facility applicable during the Repower Construction Period as agreed to by the Parties in Section 2.3.2, and (ii) operate the Facility and deliver Net Output to Buyer subject to limitations caused by the Repower activities.

2.5 Buyer's Right to Monitor Repower Activities. After Seller's election of the option to Repower the Facility, Seller shall permit Buyer and its advisors and consultants to:

2.5.1. Receive monthly status reports from Seller, on or before the 10th day of each calendar month describing the Seller's status during the preceding month with respect to the progress of the Repower, which shall include updates on (i) the design, engineering, construction and installation of equipment at the Facility, (ii) the negotiation and execution of contracts with respect to clause (i) of this Section 2.5.1 and (iii) Seller and Seller's contractors achievement of contract deliverables and schedules and all performance and other tests required to achieve Repower Commercial Operation or as contemplated by the warranty agreements between Seller and a manufacturer of the Facility's Turbines and any other material items of Facility equipment that require testing for warranty agreements to be effective. Seller shall invite Buyer to participate in monthly meetings to discuss the monthly status reports, answer questions, and assess the schedule. Seller shall make all of Seller's relevant contractors, advisors, and consultants available to Buyer in order to keep Buyer fully informed on the status of the Repower.

2.5.2. Witness initial performance tests and other material tests and review the results thereof. Seller will use commercially reasonable efforts to provide Buyer with at least 10 Business Days prior notice of each such test, with the understanding that if the performance of such test is dependent on the presence of sufficient wind or other variables beyond the control of Seller, the date of such test may be postponed if, on the date specified in the related notice, there is insufficient wind or other circumstances beyond the control of Seller that prevent the performance of such test on the scheduled date.

2.5.3. Perform such examinations, inspections, and quality surveillance as, in Buyer's reasonable judgment, are appropriate and advisable to determine that the Repower of the Facility has been properly commissioned and Repower Commercial Operation has been achieved.

2.5.4. Subject to Section 6.5.4, Seller does not herein grant Buyer the right to review, comment on or approve of the terms or conditions of any contract or negotiation between Seller and a third party, the terms and conditions of each such contract or negotiation being confidential and to be determined by Seller in its sole discretion. Conversely, nothing in this Agreement shall be construed to require Buyer to review, comment on, or approve of any contract between Seller and a third party.

2.5.5. With respect to Buyer's rights under this Section 2.5, (i) Buyer is under no obligation to exercise any of these monitoring rights, (ii) such monitoring shall occur subject to reasonable rules developed by Seller regarding Facility construction, access, health, safety, and environmental requirements, and (iii) Buyer shall have no liability to Seller for failing to advise it of any condition, damages, circumstances, infraction, fact, act, omission or disclosure discovered or not discovered by Buyer with respect to the Facility or any contractor. Any review or monitoring of the Repower of the Facility conducted by Buyer or its advisors or consultants hereunder shall be performed in a manner consistent with Seller's workplace health and safety requirements and in a manner that does not impede, hinder, postpone, or delay Seller or its contractors in their performance of the engineering, construction, design or testing of the Facility. Buyer shall maintain one or more designated representatives for purposes of the monitoring activities contemplated in this Section 2.5, which representatives shall have authority to act for Buyer in all technical matters under this Section 2.5 as authorized by Buyer, but not to amend or modify any provision hereof. Buyer's initial representatives and their contact information are listed in **Exhibit 2.5**. Buyer may, by written notice to Seller, change its representatives or their contact information.

2.6 Tax Credits. Seller shall be entitled to all Tax Credits relating in any way to the Facility. Buyer acknowledges that Seller has the right to sell or transfer any Tax Credits to which it is entitled pursuant to this Section 2.6 to any Person other than Buyer at any rate and upon any terms and conditions that Seller may determine in its sole discretion without liability to Buyer hereunder. Buyer shall have no claim, right or interest in such Tax Credits or in any amount that Seller realizes from the sale of such Tax Credits. Seller shall bear all risks, financial and otherwise throughout the Term, associated with Seller's or the Facility's eligibility to receive PTCs or other Tax Credits, or to or qualify for accelerated depreciation for Seller's accounting, reporting or tax purposes, on account of rules respecting the Facility owner minimum interest in the Facility's risks, the relationship between Facility owner and Seller or otherwise. The obligations of the Parties hereunder, including those obligations set forth herein regarding the purchase and price for and Seller's obligation to deliver Buyer's Interest, shall be effective regardless of whether the sale of Output or Net Output from the Facility is eligible for, or receives, PTCs or other Tax Credits during the Term.

2.7 Repower Commercial Operation.

2.7.1. Seller shall provide written notice to Buyer stating when Seller believes that the Facility has achieved Repower Commercial Operation, its Nameplate Capacity Rating, and the Expected Excess Energy in a form substantially similar to Exhibit A, accompanied by the certificates described in the definition of Repower Commercial Operation. Buyer shall have 10 days after receipt either to confirm to Seller that all of the conditions to Repower Commercial Operation have been satisfied or have occurred, or to deliver a notice stating with specificity what conditions Buyer reasonably believes have not been satisfied. If, within such 10-day period, Buyer does not respond or notifies Seller confirming that the Facility has achieved Repower Commercial Operation, the date of receipt of Seller's written notice shall be the Repower Commercial Operation Date.

2.7.2. If Buyer notifies Seller within such 10-day period that certain conditions have not been satisfied, the Seller shall promptly take steps to fulfill the conditions to the reasonable satisfaction of Buyer and thereafter provide an updated written notice to Buyer stating when Seller believes that the Facility has achieved Repower Commercial Operation. Buyer shall have 10 days after receipt of the updated written notice either to confirm to Seller that all of the conditions to Repower Commercial Operation have been satisfied or have occurred, or to deliver a notice stating with specificity what conditions Buyer reasonably believes still have not been satisfied. If, within such ten-day period, Buyer does not respond or notifies Seller confirming that the Facility has achieved Repower Commercial Operation, the date of receipt of Seller's updated written notice shall be the Repower Commercial Operation Date.

2.7.3. If Buyer notifies Seller within such 10-day period that Buyer believes the Facility still has not been satisfied, certain condition, the Parties must promptly select a Licensed Professional Engineer to promptly evaluate whether the Facility has achieved Repower Commercial Operation. Seller will be responsible for the cost of such Licensed Professional Engineer's evaluation equally, and the additional Licensed Professional Engineer's evaluation shall be conclusive. If the Licensed Professional Engineer concludes that the Facility has not achieved Repower Commercial Operation, Seller must address the issues identified by the Licensed Professional Engineer to the mutual satisfaction of both Parties and Repower Commercial Operation shall occur on the date of such satisfaction, as specified in a notice from Buyer to Seller. If the Licensed Professional Engineer concludes that the Facility has achieved Repower Commercial Operation, the Repower Commercial Operation Date shall be deemed to have occurred as of the date Buyer received written notice from Seller, stating Seller's belief that the Facility has achieved Repower Commercial Operation, pursuant to this Section 2.7.3.

2.7.4. Seller shall not be permitted to achieve the Repower Commercial Operation Date unless the Nameplate Capacity Rating equals or exceeds 90% of the Repower Planned Nameplate Capacity Rating. If the Repower Commercial Operation Date is achieved with less than one 100% of the Repower Planned Nameplate Capacity Rating, the Repower Term shall commence and Seller shall continue to construct the remainder of the planned Repower in good faith, but if, by six months after such commencement, the Nameplate Capacity Rating remains less than 100% of the Repower Planned Nameplate Capacity Rating for any reason other than a reason caused by the action or inaction of Buyer, Seller shall [redacted]

SECTION 3
REPRESENTATIONS AND WARRANTIES

3.1 Mutual Representations and Warranties. Each Party represents, covenants, and warrants to the other that:

3.1.1. Organization. It is duly organized and validly existing under the laws of its State of organization.

3.1.2. Authority. It has the requisite power and authority to enter hereinto and to perform according to the terms hereof.

3.1.3. Corporate Actions. It has taken all corporate actions required to be taken by it to authorize the execution, delivery and performance hereof and the consummation of the transactions contemplated hereby.

3.1.4. No Contravention. The execution, delivery, performance and observance by it of its obligations hereunder do not or will not when performed (a) contravene any provision of, or constitute a default under, (i) any indenture, mortgage, security instrument or undertaking, or other material agreement to which it is a party or by which it is bound, (ii) any valid order of any court, or any regulatory agency or other body having authority to which it is subject, or (iii) any material Requirements of Law presently in effect having applicability to it, or (b) require the consent or approval of, or material filing or registration with, any Governmental Authority or other person except as provided herein.

3.1.5. Valid and Enforceable Agreement. This Agreement is a valid and legally binding obligation of it, enforceable against it in accordance with its terms, except as the enforceability hereof may be limited by general principles of equity or bankruptcy, insolvency, bank moratorium or similar laws affecting creditors' righ
ts generally and laws restricting the availability of equitable remedies.

3.1.6. Eligible Contract Participant. It, and any guarantor of its obligations hereunder, is an "eligible contract participant" within the meaning of the Commodity Exchange Act.

3.2 Seller's Further Representations and Warranties. Seller further represents, covenants, and warrants to Buyer that:

3.2.1. Authority. Seller (i) has all required regulatory authority to make wholesale sales from the Facility; (ii) has the power and authority to own and operate its businesses and properties, to own or lease and be present upon the property it occupies and to conduct the business in which it currently engaged; and (iii) is duly qualified and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification.

3.2.2. Litigation. No litigation, arbitration, investigation or other proceeding is pending or, to the best of Seller's knowledge, threatened against Seller or any Affiliate with respect hereto and the transactions contemplated hereunder. No other investigation or proceeding is pending or threatened against Seller or any Affiliate of Seller that would reasonably be expected to have a material adverse effect on Seller's obligations to perform hereunder or Buyer's reputation.

3.2.3. Accuracy of Information. No exhibit, contract, report or document furnished by Seller to Buyer that contains factual information (excluding any projections) in connection with this Agreement, or the negotiation or execution hereof contains any material misstatement of fact or omits to state a material fact or any fact necessary to make the statements contained therein not misleading.

3.2.4. Required Facility Documents. Upon completion of construction of the Repower of the Facility, Seller shall provide Buyer a populated **Exhibit 3.2.4**, which shall thereafter be deemed effective. Pursuant to the Required Facility Documents, Seller holds as of the Effective Date, or will hold by the Repower Commercial Operation Date, as applicable, all rights and entitlements necessary to own and operate the Facility, to Repower, engineer, construct, own and operate the Repowered Facility, and to deliver Buyer's Interest to Buyer in accordance with this Agreement. No unusually burdensome conditions are expected by Seller to be placed upon, or created by, any of the Required Facility Documents and the anticipated use of the Facility complies with all applicable restrictive covenants affecting the Premises and all Requirements of Law. Seller shall notify Buyer of any material consent or approval that Seller determines is required for the purposes set forth in this Section 3.2.4.

3.2.5. Delivery of Energy. At all times during the Term, Seller shall hold rights sufficient to enable Seller to deliver Net Output at the Nameplate Capacity Rating from the Facility, on a firm basis, to the Point of Delivery pursuant to this Agreement throughout the Term.

3.2.6. Control of Premises. Seller has obtained those certain real property rights from TWP Authority, as set forth in the PSA, in order to enable the Project to continue to be located, operated and maintained at the Premises pursuant to the terms of this Agreement. During the Term, Seller shall maintain all such leases or other land grants as necessary for the operation and maintenance of the Facility, and the construction, operation and maintenance of the Repowered Facility. To the extent that Seller modifies any lease agreements required for such purposes at any point during the Term, Seller shall provide copies of the recorded memoranda of lease.

3.2.7. Green Guides. Throughout the Term, Seller will at all times be fully compliant with the requirements of the Federal Trade Commission's "Green Guides," 77 Fed. Reg. 62122, 16 C.F.R. Part 260, in any communication concerning Net Output, the Facility or the RECs.

3.3 Seller Reputational Covenants.

3.3.1. Seller covenants that Seller shall comply with all Requirements of Law, including all applicable anti-corruption, anti-bribery, anti-money laundering, anti-terrorism and economic sanction and anti-boycott laws.

3.3.2. Seller shall notify Buyer promptly, but in no event later than 10 Business Days, after Seller or its representatives have actual knowledge of any adverse legal action or lawsuit, investigation, or concerted media campaign against or involving the Facility or Seller that could reasonably be expected to negatively affect the reputation of the Facility, Seller or Buyer in connection thereto (each, a "**Reputational Event**"). At the request of Buyer, Seller shall communicate and cooperate with Buyer on its response(s) to such a Reputational Event. Seller shall consider in good faith any reasonable comments provided by Buyer in the course of developing documentation related to Seller's response to such Reputational Event.

3.4 No Other Representations or Warranties. Each Party acknowledges that it has entered hereinto in reliance upon only the representations and warranties set forth in this Agreement and the PSA, and that no other representations or warranties have been made by the other Party with respect to the subject matter hereof.

3.5 Continuing Nature of Representations and Warranties; Notice. The representations and warranties set forth in this Section 3 are made as of the Effective Date and deemed made continually throughout the Term. If at any time during the Term, any Party obtains actual knowledge of any event or information which causes any of the representations and warranties in this Section 3 to be materially untrue or misleading, such Party shall provide the other Party with written notice of the event or information, the representations and warranties affected, and the action, if any, which such Party intends to take to make the representations and warranties true and correct. The notice required pursuant to this Section 3 shall be given as soon as practicable after the occurrence of each such event.

SECTION 4
DELIVERIES OF NET OUTPUT, ANCILLARY SERVICES, CAPACITY RIGHTS AND RECS

4.1 Purchase and Sale. Seller shall sell and make available to Buyer, and Buyer shall purchase and receive, (a) (i) from the Effective Date and continuing until the Repower Commercial Operation Date, if applicable, the Net Output from the Facility at the Point of Delivery, and (ii) at and after the Repower Commercial Operation Date, the Net Output from the Facility at the Point of Delivery up to the Annual Output Cap for each Contract Year, and (b) all Ancillary Services, Capacity Rights and RECs associated with such Net Output or otherwise resulting from the generation of energy by the Facility (which shall come from the Facility and from no other source); *provided, however,* at any given time Buyer may at its sole option, but shall be under no obligation to, receive any Net Output above the Maximum Delivery Rate, or any Capacity Rights, Ancillary Services, or RECs associated with any Net Output above the Maximum Delivery Rate. In no event shall Buyer be obligated to purchase, receive or pay for Output (or RECs or Ancillary Services associated with Output) that is not delivered to the Point of Delivery.

4.2 No Sales to Third Parties. During the Term, Seller shall not sell any Net Output, RECs, Ancillary Services or Capacity Rights from the Facility to any party other than Buyer (either pursuant to this Agreement or the Subordinate PPA).

4.3 Title and Risk of Loss of Net Output. Seller shall deliver Net Output, Ancillary Services, Capacity Rights and associated RECs hereunder free and clear of all liens, claims and encumbrances. Title to and, subject to Section 4.5 with respect to Environmental Attributes, risk of loss of Net Output shall transfer from Seller to Buyer upon its delivery to Buyer at the Point of Delivery. Seller shall be deemed to be in exclusive control of, and responsible for, any damage or injury caused by all Output up to and at the Point of Delivery. Subject to Section 4.5 with respect to Environmental Attributes, Buyer shall be deemed to be in exclusive control of, and responsible for, any damages or injury caused by, Net Output from the Point of Delivery. Delivery of Net

Output to Buyer on any particular day shall be subject to the provisions of this Agreement.

4.4 Curtailment. The rights and obligations of the Parties with respect to curtailments of Net Output are as follows:

4.4.1. Seller shall curtail deliveries of Output as required pursuant to a Buyer Voluntary Curtailment Order, or System Curtailment Order.

4.4.2. In the event that any Electric System Authority takes any action or orders Buyer or Seller to take any action that affects Buyer's ability to take Net Output hereunder at the Point of Delivery or that affects Seller's ability to deliver Net Output hereunder to the Point of Delivery, then the Parties shall use commercially reasonable efforts (each at its own cost and expense, except to the extent such action or order arises from the other Party's failure to comply with Requirements of Law, Prudent Electrical Practices or this Agreement) to mitigate the adverse effects of such action or order, which will not in any circumstances include the sale of Output to third parties. The Parties acknowledge that upon such order to curtail transmission service it may be difficult or impossible for the Parties to mitigate the adverse effects of such action(s) or order(s).

4.4.3. Buyer shall not be obligated to purchase, receive or pay for Output (or associated RECs), including Deemed Delivered Net Output, (a) during times and to the extent that such Output and RECs are not delivered because the interconnection between the Facility and the System is disconnected, suspended or interrupted, in whole or in part, pursuant to the Generation Interconnection Agreements, (b) during times and to the extent that such Output and RECs are not delivered because of a System Curtailment Order, or (c) during times and to the extent that an event of Force Majeure prevents either Party from delivering or receiving such Output and RECs.

4.5 Transfer of Title to RECs; Renewable Portfolio Standard Certifications.

4.5.1. Title to the RECs shall pass from Seller to Buyer immediately upon the generation of the Output at the Facility that gives rise to such RECs. Promptly following the Effective Date, Seller shall, at Seller's expense and with Buyer's cooperation, take all actions and execute all documents or instruments necessary for RECs from the Facility to continue to be tracked in WREGIS as they were tracked prior to the Effective Date (which shall include any administrative steps needed to document the change in ownership of the Facility as a result of the Acquisition Transaction). Seller shall, at Seller's expense, and with Buyer's reasonable cooperation, take all actions and execute all documents or instruments necessary to ensure that all substantially similar RECs from the Repowered Facility are also tracked in WREGIS for purposes of satisfying requirements of the California Renewable Portfolio Standard for Buyer's sole benefit. Seller shall deliver and convey the applicable RECs associated with the Output within 10 Business Days after the end of each calendar quarter in which the Certificates for such RECs are created in WREGIS. Seller shall provide such additional documents and instruments as are reasonably requested by Buyer to effect or evidence transfer of the RECs to Buyer or its designees including, without limitation, a REC Attestation and Bill of Sale substantially in the form of **Exhibit 4.5.1**. Each Party shall promptly give to the other Party copies of all documents it submits to any Governmental Authority to effectuate or record any such transfers.

4.5.2. Seller shall promptly provide Buyer copies of all documentation it submits to WREGIS related to the Facility, the Net Output, and the RECs. In the event of the promulgation of a scheme involving Environmental Attributes administered by CAMD, the Parties shall promptly cooperate in taking all reasonable actions necessary so that such transfers can be recorded. Upon notification by CAMD that any transfers contemplated by this Agreement will not be recorded, Seller shall promptly provide Buyer copies thereof and promptly take all reasonable actions necessary so that such transfers may be recorded. Seller shall not claim in any public communication nor report under § 1605(b) of the Energy Policy Act of 1992 or under any applicable program that any of the RECs purchased by Buyer hereunder belong to any person other than Buyer. Seller represents that it has not claimed, and agrees that it will not hereafter claim, any Environmental Attributes, RECs, “renewable energy”, “clean energy”, “green energy” or similar attributes of the Facility or energy required to be purchased and sold hereunder as belonging or attributable to Seller, to the Facility, or the Facility’s generation equipment, and as of the Effective Date, represents that it is not actually aware of any such claims made by third parties. Seller shall promptly report to Buyer any such claims made by third parties of which Seller becomes aware. The Parties agree to work together in good faith to cause the correction of any confusing or misleading claim or public communications made by a Party or a third party concerning any relationship with each other or each other’s Affiliates, the Environmental Attributes, or the Facility. Seller covenants not to collect for its own benefit or allow any person other than Buyer to collect, or permit any electronic connection with the Facility or its metering that enables creation of, any cryptocurrency, blockchain-enabled, or similar types of commodities or tokens that are created using measurements of energy. Without limiting the generality of Buyer’s ownership of the RECs, Buyer may report under such program that such Environmental Attributes purchased hereunder belong to it. Each Party shall promptly give the other Party copies of all documents it submits to the CAMD to effectuate any transfers. Seller shall cause the Facility (i) to maintain its registration in good standing with the State of California throughout the Term and (ii) to qualify and register and maintain such qualification/registration with any equivalent programs created by any future legislation. Seller shall also cooperate in any registration of the Facility in the renewable portfolio standard or other equivalent program in all such further states and programs in which Buyer may request Seller to register or maintain registered the Facility, to the extent that such registrations and other requirements do not impose a material economic or administrative burden on Seller.

4.5.3. Seller hereby provides and conveys all Green Attributes associated with all electricity generation from the Project to Buyer 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 Buyer as included in the delivery of the Product from the Project. **[STC-2]** For purposes of this Section 4.5.3, “Project” means the Facility, and “Product” means Buyer’s Interest.

4.5.4. 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. **[STC-6]** For purposes of this Section 4.5.4, "Project" means the Facility, and "delivered to Buyer" means delivered to Buyer and transmitted to CAISO.

4.5.5. 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 20 Cal. Code Reg. Section 3200 et seq, 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. **[STC REC-1]**

4.5.6. Without limiting Sections 4.5.4 and 4.5.5, Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement, if the Net Output hereunder is delivered by Buyer from the Point of Delivery to CAISO or to another California Balancing Authority, the Renewable Energy Credits transferred to Buyer will conform to the definition and attributes required for compliance with PCC0 RECs or PCC1 RECs with respect to Net Output up to the Historical Baseline Amount, and for compliance with PCC1 RECs for Net Output above the Historical Baseline Amount, provided that Seller does not guarantee that the California Energy Commission will qualify or otherwise determine the status of RECs delivered hereunder as PCC0 RECs. Seller agrees that Seller shall not take any actions that it knows or reasonably should know will interfere with the Output and the RECs delivered hereunder from maintaining their PCC0 REC status.

4.5.7. 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. **[STC REC-2]**

4.6 Capacity Rights.

4.6.1. Purchase and Sale of Capacity Rights. For and in consideration of Buyer's agreement to purchase from Seller the Net Output and RECs on the terms and conditions set forth herein, Seller transfers to Buyer, and Buyer accepts from Seller, any right, title, and interest that Seller may have in and to Capacity Rights, if any, existing during the Term. Buyer's purchase of Capacity Rights in no way represents any purchase of equity or ownership rights of any kind in Seller or the Facility.

4.6.2. Representation Regarding Ownership of Capacity Rights. Seller represents that it has not sold, and covenants that during the Term it will not sell or attempt to sell to any person or entity, the Capacity Rights, if any. During the Term, Seller shall not report to any person or entity that the Capacity Rights, if any, belong to anyone other than Buyer. Buyer may at its own risk and expense report to any person or entity that the Capacity Rights exclusively belong to it.

4.6.3. Capacity Accreditation. Buyer has or may in the future have certain planning, operating and reporting requirements with the Electric System Authority. Without assuming responsibility therefor, Seller shall complete such certifications as are required by any Electric System Authority to document Buyer's ownership of the Capacity Rights, maintain capacity accreditation pursuant to the Generation Interconnection Agreements and shall otherwise reasonably cooperate with Buyer (at Buyer's expense for direct third party costs) to obtain such capacity accreditation in accordance with the rules of any other Electric System Authority; provided that nothing in this Section 4.6 shall obligate Seller to make any capital expenditures or install additional equipment or modify the Facility as it is exists as of the Effective Date. All required testing shall be conducted in accordance with the applicable Interconnection Provider or Electric System Authority rules.

4.6.4. Capacity. Resource Adequacy benefits associated with the Capacity Rights shall exclusively and solely accrue to and be owned by Buyer. All capacity asset bonus performance payments that may be earned by the Facility are for the benefit of Buyer and, to the extent received by Seller, shall be paid by Seller to Buyer. Seller shall reasonably cooperate with Buyer, and the Parties shall execute such documents and instruments as may be reasonably required to effect recognition and transfer of the Capacity Rights to Buyer. Buyer shall have the exclusive right to commit the Facility to any capacity market, in a manner consistent with applicable Electric System Authority rules.

4.7 Ancillary Services. As the applicable Electric System Authority allows or may allow in the future wind generation resources to bid into Ancillary Services markets operated by the Electric System Authority, Seller shall install such meters and power electronics, and conduct all Facility testing in accordance with the Applicable Market Rules and Electric System Authority rules so that Ancillary Services may be provided.

4.8 Compliance Expenditure Cap. If a change in law governing energy (including any change to any transmission tariff) occurring after the Effective Date has increased Seller's known or reasonably expected costs and expenses to comply with Seller's obligations under this Agreement solely with respect to obtaining, maintaining, conveying or effectuating Buyer's use of (as applicable) Ancillary Services or Capacity Rights (any action required to be taken by Seller to comply with such change in law, a "**RA Compliance Action**"), then the Parties agree that the maximum aggregate amount of incremental third party costs and expenses Seller shall be required to bear during the Term to comply with all such Compliance Actions shall [redacted] If Buyer agrees, however, to fund RA Compliance Actions in excess of the Compliance Expenditure Cap, Seller shall be required to take such actions.

SECTION 5
CONTRACT PRICE; COSTS

5.1 Contract Price; Includes Net Output, RECs, Ancillary Services and Capacity Rights. Buyer shall pay Seller the prices provided for in this Section 5.1 for all deliveries of Buyer's Interest received by Buyer. The Contract Price provided for in **Exhibit 5.1** and applied pursuant to Section 5.1.1 and Section 5.1.2, includes the consideration to be paid by Buyer to Seller for all Net Output, RECs, Ancillary Services and Capacity Rights, and Seller shall not be entitled to any compensation over and above the Contract Price, as the case may be, for the RECs, Ancillary Services or Capacity Rights associated therewith.

5.1.1. Seller shall sell and deliver to the Point of Delivery all Net Output. Buyer shall pay to Seller the Contract Price per MWh, as specified in **Exhibit 5.1,** for Net Output delivered to the Point of Delivery up to the Maximum Delivery Rate in any given moment and, upon the occurrence of the Repower Commercial Operation Date, up to the Annual Output Cap in any given Contract Year. After the Repower Commercial Operation Date, the delivery and purchase of Excess Net Output will be made pursuant to the terms of the Subordinate PPA.

5.1.2. In the event that during any hour Seller is required by a Buyer Voluntary Curtailment Order to curtail Output from the Facility, Buyer shall pay to Seller, as Seller's sole remedy:

(a) During the Base Term, (i) the applicable Contract Price for the relevant Contract Year, multiplied by (ii) the Deemed Delivered Net Output for such hour.

(b) During the Repower Term, (i) [redacted].

(c) Seller shall provide Buyer access to information reasonably necessary to verify Seller's determination of Deemed Delivered Net Output for any applicable period.

(d) By December 1 of each Contract Year, Seller shall notify Buyer of the PTC Gross-Up Rate which shall be applicable to the next Contract Year. Seller may also update the PTC Gross-Up Rate at any other time during a Contract Year with 30 days written notice. In the event that Seller fails to update the PTC Gross-Up Rate pursuant to this Section 5.1.2, the most recently Seller-provided PTC Gross-Up Rate shall remain effective.

5.2 Costs and Charges.

5.2.1. Station Service. Seller shall be responsible for arranging and obtaining, at its sole risk and expense, any station service required by the Facility.

5.2.2. Transmission Charges. Seller shall be responsible for paying or satisfying when due all costs or charges imposed in connection with the scheduling and delivery of Net Output delivered pursuant to this Agreement and the scheduling and delivery of Excess Net Output pursuant to the terms of the Subordinate PPA up to and at the Point of Delivery, including transmission costs, transmission line losses and any operation and maintenance charges imposed pursuant to the Generation Interconnection Agreements. Subject to Section **Error! Reference source not found.**, Buyer shall be responsible for all costs, liabilities, and charges imposed in connection with the delivery of Net Output delivered pursuant to this Agreement and delivery of Excess Net Output pursuant to the terms of the Subordinate PPA, if any, from the Point of Delivery, including (but not limited to) any charges for transmission of wheeling services, ancillary services, control area services, congestion charges, operating reserve charges, reliability coordinator charges, transaction charges inclusive of line losses and all other penalties caused by Buyer's action or inaction (provided that such Buyer action or inaction is not caused by the acts or omissions of Seller or any of its Affiliates) and line losses arising after the Point of Delivery ("**Transmission Charges**"). Without limiting the generality of the foregoing, Seller, in accordance with the Generation Interconnection Agreements, shall bear all costs associated with the construction of or modifications to any Interconnection Facilities or the System (including system upgrades), or any third party transmission system (including system upgrades) caused by or related to (a) the interconnection of the Facility with the System and (b) any modification of the Facility or increase in generating capacity of the Facility, including the Repower.

5.2.3. Balancing and Resource Integration Costs.

(a) For each Contract Year of the Term, [redacted].

(b) Throughout the Term, Buyer shall be responsible for all Imbalance Settlements received or incurred by Seller on behalf of the Facility (both with respect to all Net Output delivered pursuant to this Agreement and delivery of Excess Net Output pursuant to the terms of the Subordinate PPA, if any).

(c) Throughout the Term, to the extent any costs or charges are owing to a Balancing Authority and such costs or charges are caused by Buyer's action or inaction (provided that such Buyer action or inaction is not caused by the acts or omissions of Seller or any of its Affiliates) in connection with the delivery of Net Output and, if applicable, Excess Net Output purchased from Seller under the Subordinate PPA, from the Point of Delivery, such costs or charges are the sole responsibility of Buyer. Throughout the Term, to the extent any costs or charges are owing to a Balancing Authority and such costs or charges are caused by Seller's action or inaction related the Facility or in connection with the delivery of Output including, if applicable, Excess Net Output sold to Buyer under the Subordinate PPA, to the Point of Delivery (including any damages due to a Balancing Authority associated with Seller's exercise of Facility physical limitations under a BSA), such costs or charges are the sole responsibility of Seller.

(d) After the Effective Date, Seller shall be responsible for the BPA study costs required in connection with changing the Balancing Authority hereunder from Avangrid Renewables, LLC to another entity. Both Parties shall split any upgrade costs charged by such subsequent Balancing Authority.

5.3 Taxes. Seller shall pay or cause to be paid when due, or reimburse Buyer for, all existing and any new sales, use, excise, ad valorem, and any other similar taxes, imposed or levied by any Governmental Authority up to the Point of Delivery, on the generation of Net Output, Capacity Rights, Ancillary Services or RECs or on the sale of Output (both with respect to all Net Output delivered pursuant to this Agreement and delivery of Excess Net Output pursuant to the terms of the Subordinate PPA, if any), Capacity Rights, Ancillary Services, or RECs from Seller to Buyer hereunder, regardless of whether such taxes are imposed on Buyer or Seller under Requirements of Law. Buyer shall pay or cause to be paid when due, or reimburse Seller for, all such taxes levied at or beyond the Point of Delivery upon a purchaser (other than Buyer) of Output (both with respect to all Net Output delivered pursuant to this Agreement and delivery of Excess Net Output pursuant to the terms of the Subordinate PPA, if any), Capacity Rights, Ancillary Services or RECs, regardless of whether such taxes are imposed on Buyer or Seller under Requirements of Law. If taxes are imposed or levied by a Governmental Authority on a Party in error or incorrectly, or on the wrong Party, the Parties shall work in good faith to cause such Governmental Authority to correct such error and levy or impose such taxes correctly. The Contract Price shall not be adjusted on the basis of any action of any Governmental Authority with respect to changes to or revocations of sales and use tax benefits, rebates, exception or give back.

5.4 Costs of Ownership and Operation. Without limiting the generality of any other provision hereof, as between Buyer and Seller, Seller shall be solely responsible for paying when due (a) all costs of owning, maintaining, Repowering, and operating the Facility in compliance with existing and future Requirements of Law and the terms and conditions hereof, and (b) all taxes and charges (however characterized) hereinafter incurred and imposed on or with respect to the Facility, its operation, or on or with respect to emissions or other environmental impacts of the Facility, including any such tax or charge (however characterized) to the extent payable by a generator of such energy or environmental impacts.

5.5 Rates Not Subject to Review. The rates for service specified herein shall remain in effect until expiration of the Term, and shall not be subject to change for any reason, including regulatory review, absent agreement of the Parties. Neither Party shall petition FERC pursuant to the provisions of Sections 205 or 206 of the Federal Power Act (16 U.S.C. § 792 *et seq*.) to amend such prices or terms, or support a petition by any other person seeking to amend such prices or terms, absent the agreement in writing of the other Party. Further, absent the agreement in writing by both Parties, the standard of review for changes hereto proposed by a Party, a non-party or the FERC acting *sua sponte* shall be the "public interest" application of the "just and reasonable" standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Serv. Corp.*, 350 U.S. 332 (1956) and *Fed. Power Comm'n v. Sierra Pac. Power Co.*, 350 U.S. 348 (1956) and clarified by *Morgan Stanley Capital Group, Inc. v. Pub. Util. Dist. No. 1 of Snohomish*, 554 U.S. 527, 128 S. Ct. 2733 (2008) and *NRG Power Mktg., LLC v. Maine Pub. Util. Comm'n*, 130 S. Ct. 503 (2010).

SECTION 6;
OPERATION AND CONTROL

6.1 As-Built Supplement. Upon completion of construction of the Repower of the Facility, Seller shall provide Buyer the As-Built Supplement. The As-Built Supplement shall be deemed effective and shall be added to **Exhibit 6.1** when it has been provided by Seller.

6.2 Standard of Facility Operation.

6.2.1. General. Seller will act as the Generator Operator of the Facility. At Seller's sole cost and expense, Seller shall operate, maintain and repair the Facility and the Interconnection Facilities, including any Repower activities, in accordance with (i) the applicable and mandatory standards, criteria and formal guidelines of FERC, the applicable regional transmission organization, if any, and any other Electric System Authority and any successors to the functions thereof; (ii) the Permits and Required Facility Documents; (iii) the Generation Interconnection Agreements; (iv) all Requirements of Law; (v) the requirements hereof; and (vi) Prudent Electrical Practice. Seller acknowledges that it shall have no claims hereunder against Buyer with respect to any requirements imposed by or damages caused by (or allegedly caused by) the Interconnection Provider, the Transmission Provider, or any third party transmission system.

6.2.2. Qualified Operator. Seller shall itself operate the Facility or cause the Facility to be operated by (a) an entity that collectively with its Affiliates has at least 3 years of experience in operation of wind energy facilities of comparable size to the Facility and which collectively operates wind energy facilities with a nameplate capacity of not less than 500 MW in the aggregate, or (b) an entity that is otherwise reasonably acceptable to Buyer.

6.2.3. Fines and Penalties.

(a) Seller shall pay when due, and in no event later than 30 days of assessment, all fines, penalties, or legal costs incurred by Seller or for which Seller is legally responsible for noncompliance by Seller, its agents, employees, contractors or subcontractors, with respect to any provision hereof, any agreement, commitment, obligation or liability incurred in connection with this Agreement, the Facility or any Requirements of Law, except where such fines, penalties or legal costs are being contested in good faith by Seller, its agents, employees, contractors or subcontractors through appropriate proceedings and Seller has (i) set aside and funded adequate reserves to cover such fines, penalties or legal costs in the event of an adverse determination, or (ii) posted security to Buyer or Seller's Senior Lenders adequate to ensure Seller's ability to cover such fines, penalties or legal costs in the event of an adverse determination.

(b) If fines, penalties, or legal costs are assessed against or incurred by Buyer on account of any action by any Governmental Authority due to noncompliance by Seller with any Requirements of Law or the provisions hereof, or if the performance of Seller is delayed or stopped by order of any Governmental Authority due to Seller's noncompliance with any Requirements of Law, Seller shall indemnify and hold harmless Buyer against any and all losses, liabilities, damages, and claims suffered or incurred by Buyer as a result. Without limiting the generality of the foregoing, Seller shall reimburse Buyer for all fees, damages, or penalties, including Buyer's legal costs and attorney's fees, imposed on Buyer by any Governmental Authority or other person or to other utilities for violations of any Requirements of Law or to the extent caused by a default by Seller or a failure of performance by Seller hereunder.

6.3 Interconnection. Throughout the Term, Seller shall be responsible for presenting to and receiving the Interconnection Provider's direction with respect to and/or approval of the Facility interconnection requirements and Interconnection Facilities so that Seller can perform its energy deliveries hereunder in accordance with applicable Interconnection Provider requirements. Seller shall be responsible, at Seller's sole cost, for maintaining all required metering, telemetry, communication systems and other technical requirements under the Generation Interconnection Agreements or as may be reasonably required by Buyer, provided that such requirements of Buyer (i) as of the Effective Date shall not be in excess of such systems at the Facility immediately prior to the date hereof and (ii) after the Effective Date and continuing through the Term, shall be limited to reasonable modifications and upgrades that are consistent with Prudent Electrical Practices, Transmission Provider requirements, and are sufficient to meet the Seller's delivery obligations hereunder. Seller shall be responsible for the costs and expenses associated with maintaining and Repower of the interconnection of the Facility at its Nameplate Capacity Rating at the Point of Delivery including the costs of any third party transmission system upgrades, or System upgrades beyond the Point of Delivery necessary to interconnect the Facility with the System and to allow the delivery of all Net Output and Ancillary Services to the Point of Delivery. Seller shall have no claims against Buyer under this Agreement with respect to any requirements imposed by or damages caused by (or allegedly caused by) acts or omissions of the Transmission Provider or Interconnection Provider, in connection with the Generation Interconnection Agreements or otherwise. Seller shall be solely responsible for, and shall defend, indemnify and hold Buyer harmless against, any Liabilities arising out of Seller's performance or failure to perform under the Generation Interconnection Agreements; provided nothing in this sentence shall expand Seller's indemnification obligations with respect to an Interconnection Provider under the Generation Interconnection Agreements. Seller's failure to perform under, or breach of, the Generation Interconnection Agreements, or its other contracts and obligations to, Transmission Provider or an Interconnection Provider is not an event of Force Majeure.

6.4 Outages.

6.4.1. Seller Responsibility. Seller is responsible for securing any required Electric System Authority approvals for Facility outages (Planned Outages, Maintenance Outages, or Forced Outages, as applicable), including securing changes in its outage schedules when an Electric System Authority disapproves Seller's schedules or cancels previously approved outages.

6.4.2. Planned Outages. Commencing with the second Contract Year, Seller shall provide Buyer with an annual forecast of Planned Outages for each Contract Year at least 1 month, but no more than 3 months, before the first day of that Contract Year, and shall promptly update such schedule, and otherwise change it only, to the extent that Seller is reasonably required to change it in order to comply with Prudent Electrical Practices.

6.4.3. Maintenance Outages. If Seller reasonably determines that it is necessary to schedule a Maintenance Outage, Seller shall notify Buyer of the proposed Maintenance Outage as soon as practicable but in any event at least 5 days before the outage begins (or such shorter period to which Buyer may reasonably consent in light of then-existing weather conditions). Upon such notice, the Parties shall plan the Maintenance Outage to mutually accommodate the reasonable requirements of Seller and the service obligations of Buyer; *provided*, *however*, that Seller shall take all reasonable measures consistent with Prudent Electrical Practices to not schedule any Maintenance Outage during any portion of the months of November, December, January, February, June, July, August, and September. Notice of a proposed Maintenance Outage shall include the expected start date and time of the outage, the amount of generation capacity of the Facility that will not be available, and the expected completion date and time of the outage. Seller shall give Buyer notice of the Maintenance Outage as soon as practicable after Seller determines that the Maintenance Outage is necessary. Buyer shall promptly respond to such notice and may request reasonable modifications in the schedule for the outage. Seller shall use all reasonable efforts to comply with any request to modify the schedule for a Maintenance Outage provided that such change has no substantial impact on Seller. Seller shall notify Buyer of any subsequent changes in generation capacity available to Buyer as a result of such Maintenance Outage or any changes in the Maintenance Outage completion date and time. As soon as practicable, any notifications given orally shall be confirmed in writing. Seller shall take all reasonable measures and exercise its best efforts consistent with Prudent Electrical Practices to minimize the frequency and duration of Maintenance Outages.

6.4.4. <u>Forced Outages</u>. Seller shall promptly notify Buyer, via telephone to a number specified by Buyer or by e-mail or other form acceptable to Buyer through Seller's outage management system, of any Forced Outage of the Facility resulting in curtailment of more than 10% of the Nameplate Capacity Rating of the Facility, and shall provide, to the extent information is available, notification of the reason, timing, expected duration, and impact of the Forced Outage on the Output of the Facility. Seller shall take all reasonable measures and exercise its best efforts consistent with Prudent Electrical Practices to avoid Forced Outages and to minimize their duration.

6.4.5. <u>Notice of Deratings and Outages</u>. Without limiting the foregoing, Seller will inform Buyer, via telephone to a number specified by Buyer, of any major limitations, restrictions, deratings or outages known to Seller affecting the Facility for the following day and will promptly update Seller's notice to the extent of any material changes in this information, with "major" defined as affecting more than 10% of the Nameplate Capacity Rating of the Facility.

6.4.6. <u>Effect of Outages on Estimated Output</u>. Seller represents and warrants that the estimated monthly Net Output set forth on **Exhibit A** takes into account the Planned Outages, Maintenance Outages, and Forced Outages that Seller reasonably expects to encounter in the ordinary course of operating the Facility, and that such outages are not expected to substantially reduce the Facility's average estimated monthly Net Output as set forth in **Exhibit A**.

6.5 <u>Scheduling</u>.

6.5.1. <u>Scheduling Entity</u>. Buyer shall become the Scheduling Entity (or shall arrange at its sole cost and expense for the services of a Scheduling Entity) for purposes of scheduling the Net Output from the Point of Delivery with the applicable Electric System Authority and associated Applicable Market settlements other than any Applicable Market settlements addressed pursuant to <u>Section 6.5.4</u>.

6.5.2. Daily Scheduling. Buyer shall be responsible for the scheduling of all Output during the Term in compliance with the applicable standards and criteria of the Applicable Market Operator. Seller and Buyer shall each comply with all Electric System Authority and FERC market behavior rules and standards of conduct.

6.5.3. Transmission Services. Buyer shall be responsible for securing and maintaining all transmission service agreements necessary for the taking of Net Output from and after the Point of Delivery in an amount equal to the Facility POI Capacity. Buyer may appoint any agent for purposes of scheduling delivery of Net Output and transmission away from the Point of Delivery.

6.5.4. Balancing Service Transition. Seller shall be responsible for securing and maintaining all balancing services and balancing service agreements necessary for the Facility, including the Existing BSA and the Second BSA, as applicable. No later than 30 days after the Effective Date, Seller and Buyer shall each appoint 2 applicable representatives to meet regularly (at least quarterly) to discuss the process for transitioning to BPA as the Balancing Authority for the Facility and to coordinate as needed to prepare the Facility to take balancing services from BPA pursuant to BPA's tariff, such regular meetings stopping only upon the completion of such transition. A future balancing services arrangement with BPA as the Balancing Authority pursuant to this Section 6.5.4 shall be the "**Future BSA**"). If Seller has complied with this Section 6.5.4, Seller shall have final decision-making authority regarding the entrance into the Future BSA.

6.5.5. Energy Imbalance Market. Seller shall continue to cause the Facility to be designated as a participating resource (or its equivalent from time to time) in the Energy Imbalance Market, as the Facility was so designated prior to the date hereof. Seller grants to Buyer the exclusive right for all purposes to act as the Scheduling Entity for the Facility.

6.5.6. Cooperation and Standards. With respect to any and all scheduling requirements hereunder, (a) Seller shall cooperate with Buyer with respect to scheduling Net Output, and (b) each Party shall designate authorized representatives to communicate with regard to scheduling and related matters arising hereunder. Each Party shall comply with the applicable variable resource standards and criteria of any applicable Electric System Authority. Penalties or similar charges assessed by any applicable Electric System Authority and caused by a Party's noncompliance with the operational and scheduling obligations set forth in this Section 6 shall be the responsibility of the Party whose action or inaction caused the penalty.

6.5.7. Market Structure. The delivery obligations of Seller (to and at the Point of Delivery) and the scheduling, delivery and transmission obligations of Buyer (from and after the Point of Delivery) set forth in this Section 6 reflect the market structure under which the Facility will operate as of the Effective Date. If (i) there are material market structure changes during the Term that prevent Seller from meeting its obligation to deliver Net Output to and at the Point of Delivery, or that prevent Buyer from meeting its scheduling, delivery and transmission obligations from and after the Point of Delivery, or (ii) Transmission Provider joins a regional transmission organization or independent system operator structure, including the CAISO's extended day-ahead market or Southwest Power Pool's Markets+ service offering during the Term, then either Party, on written notice by the affected Party, may request the other Party to enter into negotiations to make changes to this Agreement as necessary or appropriate to account for such change in market structure, while attempting to preserve to the maximum extent possible the benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon receipt of such notice requesting negotiations, the Parties will promptly (but in any event no later than 15 days after such request) meet and negotiate in good faith such changes. The Parties shall use best efforts to amend this Agreement, such that the amended terms (a) comply with and are enforceable under Requirements of Law, (b) give effect to the intent of the Parties in entering hereinto, and (c) preserve the balance of the economics and equities contemplated by this Agreement in all material respects.

6.6 Forecasting. Except for any period in which forecasting services are otherwise addressed in the Existing BSA, the Second BSA, or Future BSA, each as applicable, Seller will be responsible for ensuring accurate forecasts for the Facility are timely provided to Buyer, as follows:

6.6.1. Long-Range Forecasts. Subject to Section 6.6.5, for Buyer's planning purposes, Seller shall, by December 1 of each year during the Term (except for the last year of the Term), provide an annual update to the expected long-term monthly/diurnal mean net energy estimates (12 X 24 profile). This forecast shall include an expected range of uncertainty based on historical operating experience. Seller shall update the forecast for each month by notice to Buyer at least 6 Business Days before the first Business Day of such month.

6.6.2. Real-time Forecasts. Subject to Section 6.6.5, every 5 minutes, Seller (or Seller's subcontractor) shall deliver electronically to Buyer a rolling set of 12 5-minute interval energy forecasts for the Facility in accordance with the Applicable Market Rules. The submission of such forecasts shall be provided by a mutually agreeable method and in accordance with Prudent Electrical Practices. Seller may update such forecasts in accordance with Applicable Market Rules.

6.6.3. Day-Ahead Forecasts and Updates. Subject to Section 6.6.5, by such time as mutually agreed to by the Parties, but in no case later than 1 hour prior to the offer deadline in the Applicable Market Rules, on the Business Day immediately preceding the day on which Net Output from the Facility is to be delivered, Seller shall provide Buyer with an hourly forecast of deliveries for each hour of the next 168 hours. Seller shall update a forecast any time information becomes available indicating a change in the forecast of generation of Net Output from the then-current forecast. The Parties shall cooperate to implement and use automatic forecast updates. Seller shall communicate forecasts under this Section 6.6.3 in an efficient manner, including electronic mail or other such media as determined by Buyer (which, at Buyer's discretion, may be in lieu of or in addition to notice to Buyer). Buyer may, with the advance written consent of Seller and at Seller's reasonable expense, add forecasting services for Seller's Facility to Buyer's existing contract with a qualified wind-energy-production forecasting vendor, which contract and vendor may change during the term of this Agreement. Seller shall simultaneously provide to Buyer copies of any wind forecasts that Seller provides to the Transmission Provider or Applicable Market Operator. Buyer may, at Seller's reasonable expense, add forecasting services, including any real-time forecasting services and provision of real-time meteorological data required for compliance with applicable Electric System Authority procedures, protocol, rules and testing, for the Facility to a Buyer contract with a qualified wind-energy-production forecasting vendor, which contract and vendor may change during the term of this Agreement. The Parties agree that the forecasting obligations of Seller under this Section 6.6 may be met by a wind forecast service provider engaged by Buyer. Upon request by Buyer, Seller shall provide a 24-hour telephone number that Buyer may contact to determine the then-current status of the Facility. Buyer may at Buyer's cost and without the prior consent of Seller add the Facility to Buyer's qualified wind-energy-production forecasting vendor contract.

6.6.4. [Basis of Forecasts. The forecasts called for by this Agreement shall be non-binding, good faith estimates only, but must meet the standards of the Transmission Provider and Applicable Market Operator, and, subject to Section 6.6.5, shall be substantially in the form of **Exhibit 6.6.4** attached hereto (as such form may be updated by Buyer from time to time upon notice to Seller). Seller shall prepare such forecasts and updates by utilizing a wind exposure model or service that is (a) commercially available or proprietary to Seller or an Affiliate of Seller, and (b) comparable in accuracy to models or services commonly used in the wind energy industry, so long as such model or service is available at a commercially reasonable cost and is satisfactory to Buyer in the exercise of its reasonable discretion. On or prior to May 1 during each calendar year in the Term, Seller shall determine in good faith which such model or service to utilize after consultation with Buyer. In the event such model or service is not available at a commercially reasonable cost, Seller shall internally develop a forecasting process and present such process to Buyer for acceptance, which shall not be unreasonably withheld.]

6.6.5. Buyer acknowledges that Seller's forecasts may be provided by vendors of Seller and such vendors may change from time to time throughout the Term. Buyer agrees to cooperate in good faith to modify or waive specific requirements of Sections 6.6.1-6.6.4 as commercially reasonable to accommodate differing forecast practices and capabilities of such vendors, provided that such practices adhere to Prudent Electrical Practices and do not materially alter Buyer's costs or materially alter Buyer's rights hereunder. Seller will notify Buyer at least 60 days prior to any change in forecast practice required by any forecasting vendor.

6.7 Limitations on Increase in Nameplate Capacity Rating; New Facility Expansion or Development. Without limiting Section 2 or any provisions herein on the Repower Planned Nameplate Capacity Rating, Seller shall construct the Repowered Facility with the necessary controls to ensure that Seller cannot deliver combined Net Output and Excess Net Output in quantities in excess of the Maximum Delivery Rate. [Seller may not (i) incorporate the use of energy storage technologies into the Facility or the Repowered Facility or (ii) send Output to any energy storage device before such Output is delivered to the Point of Delivery.] To the extent Seller wishes to install an Expansion Facility, Seller shall seek Buyer's written consent, such consent not to be unreasonably withheld, conditioned, or delayed. Any Expansion Facility will be separately metered from the Facility or the Repowered Facility, will have a separate WREGIS account from the Facility or the Repowered Facility, and may not impact the RPS certification of the Facility or the Repowered Facility. Seller's activity with regard to Expansion Facilities must at all times: (i) not require modifications to the Facility or its operation or the Repowered Facility or its operation, and (ii) not interfere with Seller's obligations under this Agreement, not reduce the amount of Net Output, and not reduce Ancillary Services, Capacity Rights and RECs associated with such Net Output or otherwise resulting from the generation of energy by the

Facility. Seller shall indemnify Buyer for any costs incurred by Buyer due to the Seller's installation and operation of any such Expansion Facility.

6.8 Electronic Communications.

6.8.1. Meteorological Data. Upon Buyer's request Seller will provide to Buyer copies of all meteorological data, if not otherwise provided herein, as and to the extent required to be submitted to the Transmission Provider or Applicable Market Operator, promptly after such data is submitted to the Transmission Provider or Applicable Market Operator.

6.8.2. Telemetering. Seller shall provide telemetering equipment and facilities capable of transmitting the following information concerning the Facility pursuant to the Generation Interconnection Agreements and to Buyer on a real-time basis, and will operate such equipment when requested by Buyer to indicate:

(a) instantaneous MW Output at the Point of Delivery;

(b) Net Output; and

(c) the Facility's total instantaneous generation capacity.

Seller shall also transmit to Buyer any other material data from the Facility that Seller receives on a real time basis, and that is not already accessible to Buyer without cost in its normal course of operations, including meteorological data, wind data and Output data. Seller shall provide such real time data to Buyer on the same basis on which Seller receives the data (*e.g.*, if Seller receives the data in 4-second intervals, Buyer shall also receive the data in 4-second intervals). Buyer shall have the right from time to time to require Seller, to provide additional telemetering equipment and facilities to the extent necessary and reasonable.

6.8.3. Transmission Provider Consent. Seller shall execute a consent, in the form reasonably required by Transmission Provider, to provide that Buyer can read the meter and receive any and all data from the Transmission Provider relating to transmission of Net Output or other matters relating to the Facility without the need for further consent from Seller.

6.8.4. Dedicated Communication Circuit. To the extent included in the Facility prior to the Acquisition Transaction, Seller shall maintain, including any upgrades required throughout the Term consistent with Prudent Electrical Practices, the dedicated direct communication circuit (which may be by common carrier telephone) between Buyer and the control center in the Facility's control room or such other communication equipment as the Parties may agree. Seller shall ensure that the Repowered Facility is at all times similarly equipped.

6.8.5. SCADA. Seller shall be responsible for maintaining any and all communications equipment at the Seller-designated location on the Premises that exists to support dispatch and SCADA real-time data electronic transfer, including (i) any upgrades required through the Term consistent with Prudent Electrical Practices and (ii) shall ensure that the Repowered Facility is at all times similarly equipped. Seller shall use commercially reasonable efforts to automatically control the real power Output of the Facility to attempt to achieve the dispatch level communicated to Seller by CAISO for each 5-minute interval security constrained economic dispatch (SCED) desired MW basepoint received through the SCADA system.

6.8.6. ICCP Communication. If, during the Term, Seller establishes ICCP communication, Seller will use commercially reasonable efforts to provide Buyer, at Seller's expense, real time electronic meter data via ICCP over the internet for the net MW flow from the Facility, updated every minute.

6.9 Reports and Records.

6.9.1. Quarterly Reports. Within 30 days after the end of each Reporting Quarter, Seller shall provide to Buyer a report in electronic format, which report shall include (a) summaries of the Facility's wind conditions and actual and predicted Output data for each month of the Reporting Quarter in intervals not to exceed 1 hour (or such shorter period as is reasonably possible with commercially available technology), including information from the Facility's computer monitoring system; (b) summaries of any other significant events related to the construction or operation of the Facility for the Reporting Quarter; and (c) any supporting information that Buyer may from time to time reasonably request (including historical wind exposure data for the Facility).

6.9.2. Electronic Fault Log. Seller shall maintain an electronic fault log of operations of the Facility during each hour of the Term. Seller shall provide Buyer with a copy of the electronic fault log within 30 days after the end of the calendar month to which the fault log applies.

6.9.3. Other Information to be Provided to Buyer. Seller shall provide to Buyer the following information concerning the Facility:

(a) Upon the request of Buyer, the manufacturers' guidelines and recommendations for maintenance of the Facility equipment;

(b) A report summarizing the results of maintenance performed during each Maintenance Outage, Planned Outage, and any Forced Outage, and upon request of Buyer any of the technical data obtained in connection with such maintenance;

(c) A quarterly report detailing the availability of the Facility;

(d) At any time from the Effective Date, at least 270 day's advance notice of the termination or expiration of any agreement, including leases, pursuant to which the Facility or any equipment relating thereto is upon the Premises; provided that the foregoing does not authorize any early termination of any land lease and provided, further, that in the event Seller has less than 270 days advance notice of such termination or expiration, Seller shall provide the notice contemplated by this Section 6.9.3 to Buyer within 15 Business Days of Seller obtaining knowledge of the termination or expiration; and

(e) Such other information respecting the condition or operations of Seller or the Facility as Buyer may, from time to time, reasonably request.

6.9.4. Information to Governmental Authorities. Seller shall, within 10 Business Days after receipt of a written request from Buyer, provide Buyer with all data collected by Seller related to the Facility reasonably required by Buyer or an Affiliate thereof for reports to, and information requests from, any Governmental Authority or Electric System Authority. Along with this information, Seller shall provide to Buyer copies of all submittals to Governmental Authorities or Electric System Authorities directed by Buyer and related to the operation of the Facility with a certificate that the contents of the submittals are true and accurate to the best of Seller's knowledge. Seller shall use commercially reasonable efforts to provide this information to Buyer with sufficient advance notice to enable Buyer to review such information and meet any submission deadlines imposed by the requesting organization or entity.

6.9.5. Data Request. Seller shall, within a 10 Business Days after receipt of a written request from Buyer, provide Buyer with data reasonably required for information requests from any Governmental Authorities, state or federal agency or any other intervenor in any Buyer proceeding or other proceeding before any Governmental Authority. Seller shall use commercially reasonable efforts to provide this information to Buyer sufficiently in advance to enable Buyer to review it and meet any submission deadlines.

6.9.6. Documents to Governmental Authorities. After sending or filing any statement, application, and report or any document with any Governmental Authority or Electric System Authority relating to operation and maintenance of the Facility, Seller shall promptly provide to Buyer a copy of the same.

6.9.7. Environmental Information. Seller shall, within 10 Business Days after receipt of a written request from Buyer, provide Buyer with all data reasonably requested by Buyer relating to environmental information under the Required Facility Documents. Seller shall further provide Buyer with all environmental impact mitigation measures it is taking in connection with the Facility's construction or operation, as well as copies of all agreements between Seller and federal, state or local environmental agencies to the extent not subject to confidentiality restrictions. Seller shall disclose to Buyer, as soon as it is known to Seller, any material violation of any environmental laws or regulations arising out of the construction or operation of the Facility, and the extent thereof, or the presence of Environmental Contamination at the Facility or on the Premises, alleged to exist by any Governmental Authority having jurisdiction over the Premises, or the existence of any past or present enforcement, legal, or regulatory action or proceeding relating to any actual or alleged violation or presence of Environmental Contamination.

6.9.8. Operational Reports. Seller shall provide Buyer quarterly operational reports in a form and substance acceptable to Buyer and Seller shall, promptly upon written request from Buyer, provide Buyer with all operational data requested by Buyer with respect to the performance of the Facility and delivery of Buyer's Interest therefrom.

6.9.9. Notice of Material Adverse Events. Seller shall, within 10 Business Days, notify Buyer of receipt of written notice or actual knowledge by Seller or its Affiliates of the occurrence of any event of default under any material agreement to which Seller is a party and of any other development, financial or otherwise, which would have a material adverse effect on

Seller, the Facility or Seller's ability to develop, construct, operate, maintain or own the Facility as provided herein.

6.9.10. Notice of Litigation. Following its receipt of written notice or actual knowledge of the commencement of any action, suit, and proceeding before any court or Governmental Authority which would, if adversely determined, materially and adversely affect Seller, the Premises or the Facility, Seller shall promptly give notice to Buyer of the same. In addition, following its receipt of written notice or actual knowledge of the commencement of any action, suit, and proceeding against Seller before any court or Governmental Authority, Seller shall promptly give notice to Buyer of the same.

6.9.11. Additional Information. Seller shall provide to Buyer such other information respecting the condition or operations of Seller or the Facility as Buyer may, from time to time, reasonably request.

6.9.12. Job Tracking. Seller shall provide to Buyer data on how many jobs have been, or are being, created by the construction or operation of the Facility, the nature of such jobs, and the types of skill sets needed to fill such jobs; *provided*, *however*, that Seller shall not be obligated to provide such information to Buyer more than once per calendar year.

6.9.13. Confidential Treatment. The reports and other information provided to Buyer under this Section 6.9 shall be treated as Confidential Business Information, subject to Buyer's rights to disclose such information pursuant to Sections 6.9.4, 6.9.5, 9.5, 23.3 and pursuant to any applicable Requirements of Law. Seller shall have the right to seek confidential treatment of any such information from the Governmental Authority entitled to receive such information.

6.10 Financial and Accounting Information. If Buyer or one of its Affiliates determines that, under FIN 46R, it may hold a variable interest in Seller, but it lacks the information necessary to make a definitive conclusion, Seller hereby agrees to provide sufficient financial and ownership information so that Buyer or its Affiliate may confirm whether a variable interest does exist under FIN 46R. If Buyer or its Affiliate determines that, under FIN 46R, it holds a variable interest in Seller, Seller hereby agrees to provide sufficient financial and other information to Buyer or its Affiliate so that Buyer may properly consolidate the entity in which it holds the variable interest or present the disclosures required by FIN 46R. Buyer shall reimburse Seller for Seller's reasonable costs and expenses, if any, incurred in connection with Buyer's requests for information under this Section 6.10.

6.11 Guaranteed Availability.

6.11.1. Availability Guarantee. During the Term Seller guarantees that the Availability of the Facility (the "**Availability Guarantee**") will be at least the Existing Facility Availability Guarantee or the Repowered Facility Availability Guarantee, as applicable and as each is defined in subparts (a)-(b) to this Section 6.11.1. For the avoidance of doubt, there shall be no Availability Guarantee during the Repower Construction Period.

(a) For purposes of this Agreement, "**Existing Facility Availability Guarantee**" for any Availability Period from the Effective Date until the start of the Repower

Construction Period, pro-rated as applicable to accommodate any partial year prior to the Repower Construction Period, means [redacted]

(b) For purposes of this Agreement, "**Repowered Facility Availability Guarantee**" for any Availability Period after the Repower Commercial Operation Date pro-rated as applicable to accommodate any partial year after the Repower Construction Period, means, (i) for the first such Availability Period if such Availability Period is 18 months or greater [redacted] or if the first such Availability Period is less than 18 months, [redacted] and (ii) for all other Availability Periods thereafter, [redacted]

6.11.2. Liquidated Damages for Output Shortfall. If an Output Shortfall occurs during any Availability Period, Seller shall pay Buyer liquidated damages equal to the product of (i) the Output Shortfall for that Availability Period, multiplied by (ii) Buyer's Cost to Cover for that Availability Period. An example of the liquidated damages for Output Shortfall calculation is attached as Exhibit 6.11. Each Party agrees and acknowledges that the damages that Buyer would incur due to the Facility's failure to achieve the Availability Guarantee would be difficult or impossible to predict with certainty and the liquidated damages contemplated by this provision are a fair and reasonable calculation of such damages.

6.11.3. Annual Invoicing. On or before February 15 of each Contract Year beginning after the first Availability Period, Seller shall deliver to Buyer an invoice showing Seller's computation of Output Shortfall, if any, for the prior Availability Period and any amount due Buyer for liquidated damages pursuant to Section **Error! Reference source not found.**. In preparing such invoice, Seller shall utilize the outage data for the Contract Years in question. Seller shall promptly provide Buyer with any other documentation reasonably requested by Buyer in order to verify the Facility's Availability and the Output Shortfall, if any. To the extent required, Seller shall true up any such invoice as promptly as practicable following its receipt of actual results for the relevant Contract Years. Seller shall pay to Buyer, by wire transfer of immediately available funds to an account specified in writing by Buyer or by any other means agreed to by the Parties in writing from time to time, the amount set forth as due in such invoice, and Buyer shall, within 30 days after receiving the invoice, raise any objections regarding any disputed portion of the invoice. All disputes regarding such invoices shall be subject to Section 10.4. Objections not made by Buyer within the 30 day period shall be deemed waived.

6.12 Access Rights. Upon reasonable prior notice and subject to the prudent safety requirements of Seller, and Requirements of Law relating to workplace health and safety, Seller shall provide Buyer and its authorized agents, employees and inspectors with reasonable access to the Facility: (a) for the purpose of reading or testing metering equipment, (b) as necessary to witness any acceptance tests, (c) in connection with the operation and maintenance of the Interconnection Facilities, (d) during normal business hours to provide tours of the Facility to customers and other guests of Buyer (not more than 4 times per site per year) and Seller will use commercially reasonable efforts to accommodate other reasonable requests of Buyer in connection with such tours, (e) for purposes of implementing Sections 2.5 or 10.6, and (f) for other reasonable purposes at the reasonable request of Buyer. Buyer shall indemnify and hold harmless Seller from and against any and all Liabilities resulting from actions or omissions by the Buyer Indemnitees and Buyer's customers and guests in connection with their access to the Premises, except to the extent that such damages are caused or exacerbated by the intentional or grossly negligent act or omission of any Seller Indemnitee.

6.13 Facility Images. Buyer shall be free to use any and all images from or of the Facility for promotional purposes. Seller may only use images of the Facility for promotional purposes if such use complies with Sections 3.2.7 and 4.5 hereof, and when the Facility is named in connection with the use of such image, states that Buyer is the purchaser of all Net Output and RECs.

6.14 Scope Reporting Rule. Seller shall provide Buyer all information related to Seller or the Facility that Buyer reasonably requests in connection with the Scope Reporting Rule. Seller shall comply with the Scope Reporting Rule to the extent it is binding on Seller. Seller shall further seek and provide Buyer such information as Buyer may reasonably request concerning Seller's direct emissions from owned or controlled sources, indirect emissions from the generation of Seller's purchased electricity, steam, heating and cooling consumed by Seller, and other indirect emissions that occur in Seller's value chain.

SECTION 7
EXEMPT WHOLESALE GENERATOR STATUS

7.1 EWG. Seller covenants that, during the Term and before delivering Net Output and associated RECs to Buyer hereunder, Seller shall, to the extent required to prevent Seller from being subject to, or not exempt from, regulation as an "electric utility" or "holding company" pursuant to PUHCA or otherwise (except to the extent that EWGs are subject to regulation pursuant to PUHCA), cause Seller to be an EWG. Seller shall provide Buyer with copies of Seller's applications to FERC for EWG status and for authority to sell Net Output hereunder within 10 days after filing such applications. During the Term, Seller shall maintain its EWG status (to the extent it is required by law to do so) and its authority to sell power hereunder.

SECTION 8
SECURITY AND CREDIT SUPPORT

8.1 Seller Credit Support. [redacted]

8.2 Financial Statements. If requested by Buyer from time to time, Seller shall, within 30 days provide Buyer with copies of its, and its guarantor's, if applicable, most recent annual and quarterly financial statements prepared in accordance with generally accepted accounting principles.

8.3 Security is Not a Limit on Seller's Liability. The security contemplated by this Section 8: (a) constitutes security for, but is not a limitation of, Seller's obligations hereunder, and (b) shall not be Buyer's exclusive remedy for Seller's failure to perform in accordance with this Agreement.

8.4 Senior Lender Protective Provisions. If Seller collaterally assigns this Agreement to Senior Lenders, Buyer, at Seller's sole cost and expense, if requested by Seller, shall enter into a Lender Consent with an agent representing Seller's Senior Lenders substantially in the form of **Exhibit 8.4-1** or in another form that is reasonably acceptable to Buyer. If Seller enters into a tax equity financing, Buyer, at Seller's sole cost and expense, if requested, shall provide an Estoppel Certificate to Seller's tax equity investors and an agent representing Seller's Senior Lenders substantially in the form of **Exhibit 8.4-2** or in another form that is reasonably acceptable to Buyer. Seller will within 5 Business Days of written demand reimburse Buyer all Buyer's reasonable, documented third party costs and expenses, including legal fees and costs of due diligence, incurred in connection with any action or exercise of rights or remedies by any of Seller's Lenders against Seller, including any proceeding or foreclosure against Seller or this Agreement.

8.5 Buyer Credit Support. As of the Effective Date, Buyer is not required to provide Credit Support hereunder. If Buyer at any time fails to maintain an Investment Grade Credit Rating, then, within 15 Business Days following Seller's written request, Buyer shall deliver Credit Support to Seller in the amount equal to the product of (i) the Expected Energy, up to the Annual Output Cap, multiplied by (ii) the applicable Contract Price to secure the performance of Buyer's obligations under this Agreement. Seller will have the right to draw on such Credit Support in the case of an uncured Event of Default by Buyer under this Agreement. Once Buyer's obligation to deliver the Credit Support hereunder has arisen, Buyer shall maintain the Credit Support in full force and effect until the earlier of: (A) the date when Buyer has obtained the Investment Grade Credit Rating, or (B) this Agreement has expired or terminated early, and all payment obligations of the Buyer arising under this Agreement have been paid in full (whether directly or indirectly such as through set-off or netting) and disputes hereunder have been resolved. Following the occurrence of the earlier of the foregoing events, Seller shall promptly (within 5 Business Days) return to Buyer the unused portion of the Credit Support. If the issuer of the Credit Support (i) fails to maintain the minimum credit rating set forth in the definition of Credit Support, (ii) indicates its intent not to renew such Credit Support and such Credit Support expires prior to the occurrence of either of the foregoing events, or (iii) fails to honor Seller's properly documented request to draw on such Credit Support, then Buyer shall have 15 Business Days following notice by Seller to either post cash or deliver a substitute Credit Support that meets the requirements set forth in the definition thereof. Buyer hereby grants to Seller, as the secured party, a first priority security interest in, and lien on (and right of setoff against), and assignment of, all security posted with Seller in the form of cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, Seller. Within 30 days of the delivery of cash collateral or cash equivalent collateral, Buyer agrees to take such action as Seller reasonably requires in order to perfect a first-priority security interest in, and lien on (and right of setoff against), such security and any and all proceeds resulting therefrom or from the liquidation thereof.

SECTION 9
METERING

9.1 Installation of Metering Equipment. As of the date hereof, the Facility's metering meets all requirement of the Generation Interconnection Agreements. Throughout the Term, Seller shall own, inspect, test, maintain and replace such metering equipment as provided in the terms of the Generation Interconnection Agreements. Seller will dedicate the Facility Revenue Meter solely to the Facility. Seller and Buyer agree that **Exhibit 9.2** accurately sets forth the configuration of the metering and interconnection of the Facility and related facilities, and that **Exhibit 9.2** has been reviewed and accepted as accurate by the Licensed Professional Engineer identified on **Exhibit 9.2**, as acknowledged by a letter from such Licensed Professional Engineer to Buyer and Seller. Throughout the Term, Seller will, within 10 days of modifying the metering configuration of the Facility (including in connection with a Repower) or otherwise becoming aware of any inaccuracy on **Exhibit 9.2** at any time, notify Seller and provide a revised **Exhibit 9.2** that has been reviewed and accepted as accurate by the Licensed Professional Engineer identified on the revised **Exhibit 9.2**, as acknowledged by a letter from such Licensed Professional Engineer to Buyer.

9.2 Metering. Metering shall be performed at the location and in the manner specified in **Exhibit 9.2**, the Generation Interconnection Agreements and as necessary to perform Section 4.5 and Seller's other obligations hereunder. All quantities of Net Output purchased hereunder shall reflect the net amount of energy flowing into the System at the Point of Delivery.

9.3 Inspection, Testing, Repair and Replacement of Meters.

9.3.1. Meter Errors. Buyer may periodically inspect test, repair and replace the metering equipment provided for in the Generation Interconnection Agreements without Buyer assuming any obligations thereunder. If any of the inspections or tests disclose an error exceeding 0.5%, either fast or slow, proper correction, based upon the inaccuracy found, shall be made of previous readings for the actual period during which the metering equipment rendered inaccurate measurements if that period can be ascertained. If the actual period cannot be ascertained, the proper correction shall be made to the measurements taken during the time the metering equipment was in service since last tested, but not exceeding 3 months, in the amount the metering equipment shall have been shown to be in error by such test. Any correction in billings or payments resulting from a correction in the meter records shall be made in the next monthly billing or payment rendered. Such correction, when made, shall constitute full adjustment of any claim between Seller and Buyer arising out of such inaccuracy of metering equipment. Nothing in this Agreement shall give rise to Buyer having any obligations to Seller, or any other person or entity, pursuant to or under the Generation Interconnection Agreements.

9.3.2. Back-Up Meters. Seller shall own and maintain the back-up metering equipment located at the Facility as of the Effective Date. Upon Buyer's reasonable request, Seller shall inspect and test the back-up meter(s). Buyer may have a representative present during any metering inspection or test.

9.4 Metering Costs. After the Effective Date and continuing through the Term, to the extent not otherwise provided in the Generation Interconnection Agreements, Seller shall bear all costs (including Buyer's costs) relating to all metering equipment installed at the Facility and Repowered Facility.

9.5 Meter Data. Upon written request by Buyer, Seller shall promptly request the Interconnection Provider or Transmission Provider in writing to provide any and all meter or other data associated with the Facility or Net Output directly to Buyer. Notwithstanding any other provision hereof, Buyer shall have the right to provide such data to any Electric System Authority.

9.6 WREGIS Metering. Seller, shall, at its own cost, take all actions necessary to maintain qualification of the RECs in WREGIS and to achieve WREGIS certification of the meters and Repowered Facility for the Repower Term. To the extent that WREGIS makes any determination with regard to the Repowered Facility that disrupts or negatively impacts the Facility's PCC0 REC eligibility (including, for example, if WREGIS makes a change to the certification because the Nameplate Capacity Rating of the Repowered Facility differs from the Original Nameplate Capacity Rating) the Parties will work together in good faith to, as applicable, (i) assist WREGIS in resolving any such issue, and (ii) amend this Agreement and the Subordinate PPA as necessary or appropriate to adjust the allocation of quantities of Net Output sold thereunder. Buyer shall have the right upon notice to Seller to designate the Qualified Reporting Entity (as defined by WREGIS) functions for the Facility to implement all necessary generation information communications in WREGIS, and report generation information to WREGIS pursuant to a WREGIS-approved meter that is dedicated to the Facility and only the Facility.

SECTION 10
BILLINGS, COMPUTATIONS AND PAYMENTS

10.1 Monthly Invoices. On or before the 15th day following the end of each calendar month, Seller shall deliver to Buyer a proper invoice showing Seller's computation of Net Output delivered to Buyer hereunder during such month and any other amounts owed by one Party to the other Party pursuant to this Agreement, including accruals of damages due to Buyer pursuant to Section 2.3.6 and 2.7.4. When calculating the invoice, Seller shall provide the hourly Net Output and reasonable documentation supporting the calculation for any other amounts owed by one Party to the other Party pursuant to this Agreement. Except as provided in Sections 10.2 and 10.4, the owing Party shall send payment to the other Party by the 20th day following Buyer's receipt of such invoice. Unless otherwise specified in this Agreement, each Party will pay the other Party for any other damages due under this Agreement within 30 days following receipt of the other Party's notice of such damages.

10.2 Offsets. Buyer may offset any payment due hereunder against amounts owing from Seller to Buyer pursuant hereto or any other agreement between the Parties, including the Subordinate PPA. Buyer's exercise of recoupment and set off rights shall not limit the other remedies available to Buyer hereunder, under such other agreements, or otherwise.

10.3 Interest on Late Payments. Any amounts that are not paid when due hereunder shall bear interest at the Contract Interest Rate from the date due until paid.

10.4 Disputed Amounts. If either Party, in good faith, disputes any amount due pursuant to an invoice rendered hereunder, such Party shall notify the other Party of the specific basis for the dispute and, if the invoice shows an amount due, shall pay that portion of the statement that is undisputed, on or before the due date. Except with respect to invoices provided under Section 6.11.2, any such notice shall be provided within 2 years of the date of the invoice in which the error first occurred. If any amount disputed by such Party is determined to be due or required to be refunded to the other Party, or if the Parties resolve the payment dispute, the amount due or to be refunded shall be paid within 5 days after such determination or resolution, along with interest at the Contract Interest Rate from the date due until the date paid.

10.5 Records. Each Party shall keep and maintain all records as may be necessary or useful in performing or verifying the accuracy of all relevant data, estimates or statements of charges submitted hereunder until the later of (i) a period of at least 24 months after the date an invoice was received by a Party, or (ii) if there is a dispute relating to an invoice, the date that is 24 months after the date on which such dispute is resolved.

10.6 Audit Rights. Each Party, through its authorized representatives, shall have the right, at its sole expense upon reasonable notice and during normal business hours, to examine and copy the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made hereunder or to verify the other Party's performance of its obligations hereunder. Upon request, each Party shall provide to the other Party statements evidencing the quantities of Net Output delivered at the Point of Delivery. If any statement is found to be inaccurate, a corrected statement shall be issued and any amount due thereunder will be promptly paid and shall bear interest at the Contract Interest Rate from the date of the overpayment or underpayment to the date of receipt of the reconciling payment.

SECTION 11
DEFAULTS AND REMEDIES

11.1 Defaults. The following events are defaults (each a "default" before the passing of applicable notice and cure periods, and an "**Event of Default**" thereafter) hereunder:

11.1.1. Defaults by Either Party.

(a) A Party fails to make a payment when due hereunder if the failure is not cured within 10 days after the non-defaulting Party gives the defaulting Party a notice of the default.

(b) A Party (i) makes an assignment for the benefit of its creditors; (ii) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy or similar law for the protection of creditors, or has such a petition filed against it and such petition is not withdrawn or dismissed within 60 days after such filing; (iii) becomes insolvent; or (iv) is unable to pay its debts when due.

(c) A Party breaches a representation or warranty made by it herein if the breach is not cured within 30 days after the non-defaulting Party gives the defaulting Party a notice of the default; and provided that, upon written notice from the defaulting Party, this 30 day period shall be extended by an additional 60 days if (i) the failure cannot reasonably be cured within the 30 day period despite diligent efforts, (ii) the default is capable of being cured within the additional 60 day period, and (iii) the defaulting Party provides the non-defaulting Party a remediation plan which the non-defaulting Party approves (such approval not to be unreasonably withheld), and the defaulting Party promptly commences and diligently commences the cure and pursues the remediation plan within the original 30 day period and is at all times thereafter diligently and continuously proceeding to cure the failure pursuant to the remediation plan.

(d) A Party otherwise fails to perform any obligation hereunder for which an exclusive remedy is not provided hereunder and which is not addressed in any other

Event of Default described in this Section 11.1, if the failure is not cured within 30 days after the non-defaulting Party gives the defaulting Party notice of the default, unless a shorter period is provided for such failure hereunder; and provided that, upon written notice from the defaulting Party, this 30 day period shall be extended by an additional 60 days if (i) the failure cannot reasonably be cured within the 30 day period despite diligent efforts, (ii) the default is capable of being cured within the additional 60 day period, and (iii) the defaulting Party provides the non-defaulting Party a remediation plan which the non-defaulting Party approves (such approval not to be unreasonably withheld), and the defaulting Party promptly commences and diligently commences the cure and pursues the remediation plan within the original 30 day period and is at all times thereafter diligently and continuously proceeding to cure the failure pursuant to the remediation plan.

11.1.2. Defaults by Seller.

(a) Seller fails to post, increase, maintain or replenish any security as required under this Agreement.

(b) Seller's Abandonment of the Facility.

(c) Seller sells Output, RECs, Ancillary Services or Capacity Rights from the Facility to a party other than Buyer in breach hereof, or Seller makes a public statement or otherwise takes an action that any Governmental Authority or the Center for Resource Solutions determine is a retirement, double counting, double sale, double use or double claim of RECs, if Seller does not permanently cease such sale and compensate Buyer for the damages arising from the breach, including all Regulatory Compliance Costs within 10 days after Buyer gives Seller a notice thereof.

(d) The Output Shortfall exceeds [redacted].

(e) There is an uncured Event of Default by Seller under the Subordinate PPA.

(f) Seller defaults under any material agreement with any third party relating to the ownership, interconnection, operation, transmission from, maintenance or repair of the Facility, and fails to cure such default within the time required under such agreement, after the expiration of applicable notice, cure and waiver periods, resulting in the termination of such material agreement without a replacement or substitute thereof obtained within the earlier of (i) 60 days following such termination and (ii) the needed timeliness to allow Seller to continue performance under and in compliance with this Agreement.

(g) Buyer receives notice of foreclosure of the Facility or any part thereof by a Lender, mechanic or materialman, or any other holder, of an unpaid lien or other charge or encumbrance, if the same has not been stayed, paid, or bonded around within 10 days.

(h) Seller fails to maintain any Required Facility Documents, Permits, land rights, interconnection rights or other material rights necessary to own or operate the Facility, and such Required Facility Documents, Permits, land rights, interconnection rights or other material rights necessary to own or operate the Facility have not been replaced within the earlier of (i) 60 days following such termination and (ii) the expiration of applicable notice, cure and waiver periods.

11.2 Remedies for Failure to Deliver/Receive Prior To Termination.

11.2.1. Remedy for Seller's Failure to Deliver. If Seller fails to deliver all or part of the Net Output and associated RECs required to be delivered under this Agreement, and such failure is not excused under the terms hereof or by Buyer's failure to perform, then Seller shall pay Buyer within 5 Business Days after invoice receipt, an amount [redacted] The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount, and Seller may request additional detail to further substantiate the calculation thereof.

11.2.2. Remedy for Buyer's Failure to Purchase. If Buyer fails to receive or purchase all or part of the Net Output required to be purchased under this Agreement, and such failure is not excused under the terms hereof or by Seller's failure to perform, then Buyer shall pay Seller, on the earlier of the date payment would otherwise be due in respect of the month in which the failure occurred or within 5 Business Days after invoice receipt, an amount equal to (i) Seller's Cost to Cover multiplied by the amount of deemed Net Output (based on actual wind and availability data during each such hour) equal to the difference between the amount of Net Output in such hour and the aggregate amount of Net Output that would have been produced in such hour, but for Buyer's failure to receive or purchase, and (ii) any additional reasonable and direct cost or expense incurred as a result of Buyer's failure to receive or purchase. Under no circumstances will Seller sell Net Output and RECs to a third party or entity other Buyer prior to the effective date of any termination of this Agreement and Buyer's payment to Seller pursuant to this Section 11.2.2 is Seller's sole compensation for all such Net Output not received or purchased by Buyer. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation thereof, and Buyer may request additional detail to further substantiate the calculation thereof.

11.2.3. Remedy for Seller's Failure to Sell and Deliver Ancillary Services or Capacity Rights. Seller shall be liable for Buyer's actual damages in the event Seller fails to sell or deliver all or any portion of the Ancillary Services or Capacity Rights to Buyer as required hereunder, or if Seller sells or delivers all or any portion of the Ancillary Services or Capacity Rights to a person other than Buyer.

11.3 Termination and Remedies. Upon the occurrence of, and during the continuation of, an Event of Default, the non-defaulting Party shall be entitled to all remedies available under this Agreement and at law or in equity, and may terminate this Agreement by notice to the other Party designating the date of termination and delivered to the defaulting Party no less than one (1)

Business Day before such termination date; *provided*, *however*, that as a precondition to Seller's exercise of this termination right, Seller must also provide copies of such notice to the notice addresses set forth in Section 21 for Buyer, such copies addressed to the "General Manager" and the "General Counsel" of Buyer. Such copies shall be sent by registered overnight delivery service or by certified or registered mail, return receipt requested and shall state prominently therein in type font no smaller than 14 point all-capital letters that "THIS IS A TERMINATION NOTICE UNDER A RENEWABLE PPA. YOU MUST CURE A DEFAULT, OR THE PPA WILL BE TERMINATED," and shall state therein any amount purported to be owed and wiring instructions, or the nature of any non-payment default alleged. Seller shall not have any right to terminate this Agreement if the default that gave rise to the termination right is cured within the 5 Business Days of Buyer's receipt of such notice. Further, during the continuation of default by the other Party, and until it has recovered all damages incurred on account of such default by the other Party, without exercising its termination right, a party may offset its damages against any payment due the other Party. The rights contemplated by this Section 11 are cumulative such that the exercise of one or more rights shall not constitute a waiver of any other rights. In the event of a termination hereof:

(a) Each Party shall pay to the other all amounts due the other hereunder for all periods prior to termination, subject to offset by the non-defaulting Party against damages incurred by such Party.

(b) The amounts due pursuant to Section 11.3(a) shall be calculated and paid within 30 days after the billing date for such charges and shall bear interest thereon at the Contract Interest Rate from the date of termination until the date paid. The foregoing does not extend the due date of, or provide an interest holiday for, any payments otherwise due hereunder.

(c) Except in circumstances in which a remedy provided for in this Agreement is described as a Party's sole or exclusive remedy before and after the effective date of termination, the non-defaulting Party may pursue any and all legal or equitable remedies provided by law, equity or this Agreement (including Section 23.5).

(d) Without limiting the generality of the foregoing, the provisions of Sections 4.5, 5.4, 5.5, 6.2, 10.2, 10.3, 10.4, 10.5, 11.4, 11.5, 11.7, 11.9, 11.10, 12, 19.3 and 22 shall survive the termination hereof.

11.4 Memorandum of Agreement. On or before the Effective Date, the Parties shall execute and Buyer shall record, in the appropriate real property records of the counties in which the Facility or Premises are situated, and of the U.S. Bureau of Land Management or other federal agency as applicable, a memorandum in the form of **Exhibit 11.4** to provide constructive notice to third parties of Seller's agreements under Section 19.3.

11.5 Termination for Failure to Achieve Commercial Operation. Subject to Seller exercising the option to Repower the Facility pursuant to Section 2.2, if Seller fails to cause the Facility to achieve Repower Commercial Operation on or before the Guaranteed Repower Commercial Operation Date and Buyer elects to terminate the Repower Option pursuant to Section 2.3.7, and at such time either Party reasonably determines that Seller cannot or will not feasibly be able to deliver the Net Output, RECs, Ancillary Services or Capacity Rights from the Facility to

Buyer equal to the Expected Energy on a prospective basis, then either Buyer or Seller may terminate this Agreement and Seller shall pay to Buyer a Termination Payment.

11.6 Termination Payment. If this Agreement is terminated as a result of an Event of Default by one of the Parties or by either Party pursuant to Section 11.5, termination damages shall be determined. Termination damages are in addition to all other amounts owed under this Agreement. The Termination Payment shall be calculated by the non-defaulting Party within a reasonable period after termination of the Agreement. In the case of a termination by either Party pursuant to Section 11.5, the non-defaulting Party is Buyer. The Termination Payment owed pursuant to this Section 11.6 shall be due within 10 Business Days after the non-defaulting Party gives the defaulting Party notice of the amount due. The non-defaulting Party shall under no circumstances be required to account for or otherwise credit or pay the defaulting Party for economic benefits accruing to the non-defaulting Party as a result of the defaulting Party's default. A Party's rights with respect to a default by the other Party under Sections 11.1.1, 11.1.2, and Section 11.5, as applicable, are cumulative, such that the exercise of one or more rights shall not constitute a waiver of any other rights, with the other Party remaining fully liable for any remaining deficiency.

11.7 Duty to Mitigate. Each Party agrees that it has a duty to mitigate damages and covenants that it will use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or non-performance hereof.

11.8 Security. Buyer may, in addition to pursuing any and all other remedies available at law or in equity, proceed against any security held by Buyer in whatever form to reduce any amounts that Seller owes Buyer arising from such default, including a termination pursuant to Section 11.5. In the event that Buyer has provided security pursuant to Section 8.5, Seller may, in addition to pursuing any and all other remedies available at law or in equity, proceed against any security held by Seller in whatever form to reduce any amounts that Buyer owes Seller arising from such default.

11.9 Right of First Offer for Facility Output. In the event of a termination of this Agreement by Buyer based on Seller's Event of Default, in addition to Buyer's rights under this Agreement, Buyer shall have a right to purchase (the "**Covered Facility Right to Purchase**") 100% of the electrical output and the associated Ancillary Services, Capacity Rights and RECs of any wind-powered generation facility (a "**Covered Facility**") that from time to time may be owned or constructed by Seller or any Affiliate of Seller on the Premises, or any successor to Seller with respect to the ownership of the Facility (for whom Seller acts herein as agent), up to (but not to exceed) an annual amount equal to the Expected Energy at the then current market rates. The Covered Facility Right to Purchase shall be exercisable by Buyer for any periods that would have been within the first ten years of the Base Term had this Agreement remained in effect. Seller shall provide Buyer with no less than 15 days' (but no more than 12 months') prior written notice of the anticipated commercial operation date for any Turbines constituting part of a Covered Facility and not previously subject to Buyer's Covered Facility Right to Purchase. Buyer shall notify Seller in writing within 60 days as to whether Buyer elects to purchase the output of such portions of the Covered Facility. Buyer shall not have a Covered Facility Right to Purchase (a) with respect to the output of any portion of the Covered Facility that has been offered to Buyer pursuant to this Section

11.9 on an earlier occasion and not been accepted by Buyer, or (b) with respect to any output that would cause the total annual output purchased by Buyer pursuant to its Covered Facility Right to Purchase to exceed the amount of the Expected Energy. The provisions of Section 11.9 shall survive the termination hereof, and are and shall be deemed to be covenants running with the land and shall be binding upon and inure to the benefit of Buyer and Seller and their respective successors and assigns, including without limitation any person acquiring or owning an interest in the Facility and real estate rights related thereto, and their respective heirs, executors, successors, assigns, administrators, devisees and representatives.

11.10 Cumulative Remedies. The rights and remedies provided to Buyer hereunder are cumulative and not exclusive of any rights or remedies of Buyer.

11.11 Post Term Transfer of Transmission Rights. In the event of a termination of this Agreement by Seller based on Buyer's Event of Default or this Agreement's natural expiration at the end of the Base Term or Repower Term, as applicable:

(a) Seller shall have the option to purchase the [redacted] (as further described in **Exhibit 11.11**) from Buyer at the fair market value of such transmission rights, provided that such option to buy shall not be applicable if at the time of such expiration of termination: (i) Transmission Provider has joined, or is acting in coordination with, a regional transmission organization or independent system operator that is responsible for the management and control of the transmission grid in the region, or (ii) the Project has access at the Point of Delivery to a market or system operated by a regional transmission organization or independent system operator. In the event that Seller wishes to exercise such option, Seller shall notify Buyer of such intent at least 60 days prior to the effectiveness of such expiration or within 30 days of such early termination date.

(b) Seller shall have the option to require Buyer to assign its rights to the 136 MW BPA point to point transmission rights from Busbar to Rock Creek that are owned by Buyer (as further described in **Exhibit 11.11**) to Seller without additional consideration to be provided by Seller to Buyer.

SECTION 12
INDEMNIFICATION AND LIABILITY

12.1 Indemnities.

12.1.1. Indemnity by Seller. To the extent permitted by Requirements of Law and subject to Section 12.1.8, Seller shall release, indemnify and hold harmless Buyer, its Affiliates, and each of its and their respective directors, officers, employees, agents, and representatives (collectively, the "**Buyer Indemnitees**") against and from any and all losses, fines, penalties, claims, demands, damages, liabilities, actions or suits of any nature whatsoever (including reasonable legal costs and attorney's fees, both at trial and on appeal, whether or not suit is brought) (collectively, "**Liabilities**") actually or allegedly resulting from, or arising out of, or in any way connected with, the performance by Seller of its obligations hereunder, or relating to the Facility, for or on account of (i) Environmental Contamination caused by any person or entity other than Buyer, or (ii) or injury, bodily or otherwise, to, or death of, or damage to, or destruction or economic loss of property of, any person or entity, excepting only to the extent such Liabilities as may be caused by the negligence or willful misconduct of any person or entity within the Buyer Indemnitees. Seller shall be solely responsible for (and shall defend and hold Buyer harmless against) any damage that may occur as a direct result of Seller's breach of the Generation Interconnection Agreements, provided that such breach occurred after the Effective Date. Nothing in this Section 12.1.1 will limit the indemnity obligations of Seller set forth in Section 6.2.3(b) or Section 6.3.

12.1.2. Indemnity by Buyer. To the extent permitted by Requirements of Law and subject to Section 12.1.8, Buyer shall release, indemnify and hold harmless Seller, its Affiliates, and each of its and their respective directors, officers, employees, agents, and representatives (collectively, the "**Seller Indemnitees**") against and from any and all Liabilities resulting from, or arising out of, or in any way connected with, the performance by Buyer of its obligations hereunder for or on account of (i) Environmental Contamination caused by Buyer, or (ii) injury, bodily or otherwise, to, or death of, or damage to, or destruction or economic loss of property of, any person or entity, excepting only to the extent such Liabilities as may be caused by the gross negligence or willful misconduct of any person or entity within the Seller Indemnitees.

12.1.3. Additional Cross Indemnity. Without limiting Sections 12.1.1 and 12.1.2, and subject to Section 12.1.8, Seller shall release, indemnify and hold harmless the Buyer Indemnitees from and against all Liabilities related to Net Output prior to its delivery by Seller at the Point of Delivery, and Buyer shall release, indemnify and hold harmless the Seller Indemnitees from and against all Liabilities related to Net Output once delivered to Buyer at the Point of Delivery as provided herein, except in each case to the extent such Liabilities are attributable to the gross negligence or willful misconduct or a breach of this Agreement by any member of the Buyer Indemnitees or the Seller Indemnitees, respectively, seeking indemnification hereunder.

12.1.4. Comparative Negligence. The indemnification provisions of this Section 12 shall apply notwithstanding the negligent acts or omissions of the indemnitee, but the indemnitor's liability to the indemnitee shall be reduced proportionately to the extent that a negligent act or omission of the indemnitee contributed to the loss, injury or property damage. Further, no indemnitee shall be indemnified hereunder for its loss, liability, injury and damage resulting from its gross negligence, fraud or willful misconduct.

12.1.5. Defense. Promptly after receipt by a Party of any claim or notice of the commencement of any action, administrative, or legal proceeding, or investigation as to which the indemnity provided for in this Section 12 may apply, the indemnified Party shall notify the indemnifying Party in writing of such fact. Each such notice shall describe the claim in reasonable detail. The failure of the indemnified Party to so notify the indemnifying Party shall not relieve the indemnifying Party of liability hereunder except (and then only) to the extent that the defense of such claim, suit, action or proceeding is prejudiced by the failure to give such notice. The indemnifying Party shall assume the defense thereof with counsel designated by such Party and satisfactory to the indemnified Party, provided, however, that if the defendants in any such action include both the indemnified Party and the indemnifying Party and the indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the indemnifying Party, the indemnified Party shall have the right to select and be represented by separate counsel, at the indemnifying Party's expense. Each indemnified Party shall make available to the indemnifying Party all information reasonably available to such indemnified Party relating to such action or claim, except as may be prohibited by Requirements of Law. In addition, the Parties shall render to each other such assistance as may reasonably be requested in order to ensure the proper and adequate defense of any such action or claim. The Party in charge of the defense shall keep the other Party fully apprised at all times as to the status of the defense or any settlement negotiations with respect thereto.

12.1.6. Failure to Defend. If the indemnifying Party fails to assume the defense of a claim meriting indemnification, the indemnified Party may at the sole expense of the indemnifying Party, contest, settle, or pay such claim; *provided however*, that settlement or full payment of any such claim may be made only following consent of the indemnifying Party or, absent such consent, written opinion of the indemnified Party's counsel that such claim is meritorious or warrants settlement.

12.1.7. No Dedication. Nothing herein shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party hereto. No undertaking by one Party to the other under any provision hereof shall constitute the dedication of Buyer's facilities or any portion thereof to Seller or to the public, nor affect the status of Buyer or Seller as an independent individual or entity.

12.1.8. Consequential Damages. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR SPECIAL, PUNITIVE, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES, WHETHER SUCH DAMAGES ARE ALLOWED OR PROVIDED BY CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, STATUTE OR OTHERWISE. THE PARTIES AGREE THAT ANY LIQUIDATED DAMAGES, BUYER AND SELLER COST TO COVER DAMAGES, SECTION 11.2.3 CAPACITY RIGHTS LOSS DAMAGES, INDEMNIFICATION FOR THIRD PARTY DAMAGES, OR OTHER SPECIFIED MEASURE OF DAMAGES EXPRESSLY PROVIDED FOR HEREIN, ARE NOT INTENDED BY THEM TO REPRESENT SPECIAL, PUNITIVE, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES.

SECTION 13
INSURANCE

13.1 Required Policies and Coverages. Without limiting any liabilities or any other obligations of Seller hereunder, Seller shall secure and continuously carry with an insurance company or companies rated not lower than "A-" by the A.M. Best Company the insurance coverage specified on **Exhibit 13** during the periods specified on **Exhibit 13**.

13.2 Certificates of Insurance. Seller shall provide Buyer with certificates of insurance, provisions and endorsements contemplated by **Exhibit 13** within 10 days after the date by which such policies are required to be obtained (as set forth in **Exhibit 13**). A certificate (a) shall be issued using the industry standard Acord 26 form, (b) the insurer shall have a firm obligation to provide Buyer with 30 days prior written notice of coverage cancellation, and (c) shall be endorsed by a person who has authority to bind the insurer. If any coverage is written on a "claims-made" basis, the certification accompanying the policy shall conspicuously state that the policy is "claims made."

SECTION 14
FORCE MAJEURE

14.1 Definition of Force Majeure. **"Force Majeure"** or "an event of Force Majeure" means an event that (a) is not reasonably anticipated as of the date hereof, (b) is not within the reasonable control of the Party affected by the event, (c) is not the result of such Party's negligence or failure to act, and (d) could not be overcome by the affected Party's use of reasonable due diligence in the circumstances. Force Majeure includes, but is not restricted to, events of the following types (but only to the extent that such an event, in consideration of the circumstances, satisfies the tests set forth in the preceding sentence): acts of God; fire; explosion; civil disturbance; sabotage; or action or restraint by court order or public or Governmental Authority (as long as the affected Party has not applied for or assisted in the application for, and has opposed to the extent reasonable, such court or government action). Notwithstanding the foregoing, none of the following constitute Force Majeure: [redacted]

14.2 Suspension of Performance. If either Party is rendered wholly or in part unable to perform its obligations hereunder because of an event of Force Majeure, both Parties shall be excused from the performance affected by the event of Force Majeure, provided that:

(a) the Party affected by the Force Majeure, shall, within 5 days after the occurrence of the event of Force Majeure, give the other Party written notice describing the particulars of the event;

(b) the suspension of performance shall be of no greater scope and of no longer duration than is required to remedy the effect of the Force Majeure;

(c) the affected Party shall use diligent efforts to remedy its inability to perform; and

(d) solely in the case of Seller during the Repower Construction Period, the suspension of performance shall be no longer than 180 consecutive days.

14.3 Force Majeure Does Not Affect Other Obligations. No obligations of either Party that arose before the Force Majeure causing the suspension of performance or that arise after the cessation of the Force Majeure, or with respect to payment obligations, shall be excused by the Force Majeure.

14.4 Strikes. Neither Party shall be required to settle any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to the Party's best interests.

14.5 Right to Terminate. If a Force Majeure event prevents a Party from substantially performing its obligations and such impacted party has claimed and received relief from performance of its obligations hereunder for a period exceeding 365 consecutive days, then the Party not affected by the Force Majeure event, with respect to its obligations hereunder, may terminate this Agreement by giving 10 days prior notice to the other Party. If the non-claiming Party has not terminated this Agreement pursuant to the foregoing sentence and the claiming Party has continued to claim and receive relief from performance of its obligations for a further consecutive 90-day period, at the end of such 90-day period the claiming party may terminate this Agreement upon written notice to the other Party. Upon such termination, neither Party will have any liability to the other with respect to the period following the effective date of such termination; provided, however, that this Agreement will remain in effect to the extent necessary to facilitate the settlement of all liabilities and obligations arising hereunder before the effective date of such termination.

SECTION 15
CHOICE OF LAW

Governing Law. This Agreement and the rights and duties of the parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law. To the extent enforceable at such time, each party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this agreement. **[STC-17]** WITHOUT LIMITING THE FOREGOING, EACH PARTY HEREBY WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER AGREEMENT EXECUTED OR CONTEMPLATED TO BE EXECUTED IN CONJUNCTION WITH THIS AGREEMENT, OR ANY MATTER ARISING HEREUNDER OR THEREUNDER, WITH ANY PROCEEDING IN WHICH A JURY TRIAL HAS NOT OR CANNOT BE WAIVED. The Parties intend that this Agreement is a "forward contract" between two "forward contract merchants", and a "master netting agreement" between two "master netting agreement participants", within the meanings given such terms in the United States Bankruptcy Code, as well as a "forward agreement" within the meaning of United States Bankruptcy Code §101(53B)(A)(i)(VII), and "spot … forward … or other commodity agreement" within the meaning of United States Bankruptcy Code §101(53B)(A)(i)(II); provided that neither Party shall be in breach of this Agreement if a court determines that is not the case.

SECTION 16
PARTIAL INVALIDITY

The Parties do not intend to violate any laws governing the subject matter hereof. If any of the terms hereof are finally held or determined to be invalid, illegal or void as being contrary to any Requirements of Law or public policy, all other terms hereof shall remain in effect. The Parties shall use best efforts to amend this Agreement to reform or replace any terms determined to be invalid, illegal or void, such that the amended terms (a) comply with and are enforceable under Requirements of Law, (b) give effect to the intent of the Parties in entering hereinto, and (c) preserve the balance of the economics and equities contemplated by this Agreement in all material respects.

SECTION 17
SEVERAL OBLIGATIONS; NON-WAIVER

17.1 Several Obligations. Nothing contained herein shall be construed to create an association, trust, partnership or joint venture or to impose a trust, partnership or fiduciary duty, obligation or liability on or between the Parties.

17.2 Non-Waiver. No waiver of any provision hereof shall be effective unless the waiver is set forth in a writing that (a) expressly identifies the provision being waived, and (b) is executed by the Party waiving the provision. A Party's waiver of one or more failures by the other Party in the performance of any of the provisions hereof shall not be construed as a waiver of any other failure, whether of a like kind or different nature.

SECTION 18
GOVERNMENTAL JURISDICTION AND AUTHORIZATIONS

This Agreement is subject to the jurisdiction of those Governmental Authorities having control over either Party or this Agreement. During the Term, Seller shall maintain all Permits required, as applicable, for the construction, operation, or ownership of the Facility.

SECTION 19
SUCCESSORS AND ASSIGNS

19.1 Restriction on Assignments. Except as expressly provided in this Section 19, neither Party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party, which such consent shall not be unreasonably withheld, delayed or conditioned. Notwithstanding anything in this Agreement to the contrary, any assignment of the Agreement by Seller may only be effective if Seller is contemporaneously assigning the Subordinate PPA to the same assignee. In connection with any permitted assignment pursuant to Section 19.2.2, (i) the assignee shall expressly assume all of the assignor's obligations under this Agreement (whether arising before or after such assignment) and (ii) the assignee shall agree in writing to be bound by the terms and conditions of this Agreement.

19.2 Assignment.

19.2.1. Binding Nature. This Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of the Parties hereto.

19.2.2. Permitted Assignments. Notwithstanding Section 19.1, either Party may, without the need for consent from the other Party (but with notice to the other Party, including the names of the assignees), (a) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds therefrom in connection with any financing or other financial arrangements; (b) transfer or assign this Agreement to an Affiliate of such Party, provided that in the case of Seller such Affiliate must be a Qualified Transferee and in the case of Buyer such Affiliate must have an Investment Grade Credit Rating; or (c) transfer or assign this Agreement to any party succeeding to all or substantially all of the assets or generating assets of such Party (and, with respect to Seller, Seller shall be required to transfer or assign this Agreement to any party succeeding to all or substantially all of the assets of Seller); provided, however, that Seller shall not transfer, sell, encumber or assign this Agreement or any interest herein to any Affiliate of Buyer without the prior written consent of Buyer. Except with respect to collateral assignments for financing purposes as set forth in clause (a) above, and also except as otherwise provided above in the immediately preceding sentence, in every assignment hereof, (i) the assignee must agree in writing to be bound by the terms and conditions hereof and (ii) the assignor shall remain liable for its obligations hereunder. Any Change of Controlling Interest in Seller (whether through a single transaction or a series of transactions over time) will be deemed an assignment and shall require Buyer's prior written approval, not to be unreasonably withheld, of the transferee with respect to such Controlling Interest. Buyer may assign this Agreement in whole or in part without the consent of Seller to any person or entity with an Investment Grade Credit Rating in the event that Buyer ceases to be a load-serving entity, and upon such assignment Buyer shall be released from liability hereunder. The Party seeking to assign or transfer this Agreement shall be solely responsible for paying all costs of assignment.

19.3 Right to Purchase on Sale of the Facility.

19.3.1. Offered Assets. If Seller intends to sell the Facility or any part of the Facility or to sell (individually or in the aggregate) a Controlling Interest in Seller or the Facility (the "**Offered Assets**"), it shall first offer the Offered Assets to Buyer. Seller's offer shall set forth the terms and conditions of the offer in writing and in reasonable detail. Seller shall promptly answer any questions that Buyer may have concerning the offered terms and conditions and shall meet with Buyer to discuss the offer. The provisions of this Agreement will bind any successor or transferee of Seller as if such successor or transferee were the Seller.

19.3.2. Buyer's Rejection of Offer; Revival of Offer. If Buyer does not accept the offered terms and conditions within 90 days after receiving Seller's offer, Seller may enter into an agreement to sell the Offered Assets to a third party on terms and conditions no more favorable in the aggregate to the third party than those offered to Buyer. If Seller wishes to enter into an agreement with a third party on terms materially more favorable to the third party than those previously offered to Buyer under this Section 19.3.2, Seller shall first offer the revised terms and conditions to Buyer under this Section 19.3.2.

19.3.3. Buyer's Acceptance of Offer. If Buyer accepts an offer made by Seller under this Section 19.3.3, the Parties shall within a further 60 days enter into an acquisition agreement that incorporates the terms and conditions of Seller's offer.

SECTION 20
ENTIRE AGREEMENT

This Agreement together with the Subordinate PPA constitute the entire agreement of the Parties relating to the subject matter hereof and supersedes all prior agreements, proposals, representations, negotiations, discussions or letters, whether oral or in writing, regarding the subject matter hereof. No modification hereof shall be effective unless it is in writing and executed by both Parties.

SECTION 21
NOTICES

21.1 Addresses and Delivery Methods. All notices, requests, statements or payments shall be made to the addresses set out below. In addition, copies of a notice of termination of this Agreement under Section 11.3 shall contain the information required by Section 11.3 and shall be sent to the then-current General Manager and General Counsel of Buyer. Notices required to be in writing shall be delivered by letter, electronic mail, or facsimile; provided if notice is delivered by electronic mail or facsimile, the notifying Party shall also place in the mail a copy of such notice within 1 Business Day. Notice by electronic mail, facsimile or hand delivery shall be deemed to have been given when received or hand delivered; provided automatic replies shall not constitute notice for electronic mail and the burden of proving receipt of electronic mail by the receiving Party shall be on the notifying Party. Notice by overnight mail or courier shall be deemed to have been given on the date and time evidenced by the delivery receipt.

To Seller:	[to be provided]
To Buyer:	[Buyer contact] Email: Fax:

with a copy to: General Manager
Email:
Fax:

with a copy to:
General Counsel
Email:
Fax:

21.2 Changes of Address. The Parties may change any of the persons to whom notices are addressed, or their addresses, by providing written notice in accordance with this Section 22.

21.3 Notices to Senior Lenders. The requirements concerning notice by Buyer to Senior Lenders, if any, are set forth in the Lender Consent, if any.

SECTION 22
CONFIDENTIALITY

22.1 Confidential Business Information. The following constitutes **"Confidential Business Information,"** whether oral or written: (a) the Parties' proposals and negotiations concerning this Agreement, made or conducted prior to the Effective Date, (b) the proprietary terms hereof, (c) information provided under Section 6.9, (d) the actual charges billed to Buyer hereunder, (e) any information delivered by Buyer to Seller prior to the Effective Date relating to the market prices of energy or RECs and methodologies for their determination or estimation, (f) information provided by one Party to the other pursuant hereto, (g) all negotiations pursuant to Section 23.1 and (h) any of the foregoing delivered by an Affiliate of a Party or employee or agent thereof to the other Party or an Affiliate of that party or employee or agent thereof; provided, however, that "Confidential Business Information" shall not include information that (i) is publicly available as of the date hereof, or becomes publicly available during the Term through no fault of the recipient Party; (ii) can be documented was independently developed by the recipient Party; and/or (iii) is disclosed to the recipient Party from an ultimate source other than the protected Party, without breach of this Agreement by the recipient Party. Seller and Buyer each agree to hold such Confidential Business Information wholly confidential, except as provided herein. Such Confidential Business Information may only be used by the Parties for purposes related to the approval, administration or enforcement hereof and for no other purpose.

22.2 Duty to Maintain Confidentiality. Subject to Buyer's disclosure obligations as set forth in Section 22.3, each Party agrees not to disclose Confidential Business Information to any other person (other than its members, Affiliates, counsel, auditors, consultants, lenders, prospective lenders, purchasers, prospective purchasers, contractors constructing or providing services to the Facility, employees, officers and directors who agree to be bound by the provisions of this Section 23 and provided the receiving Party remains liable for any breach of such confidentiality restrictions by such persons), without the prior written consent of the other Party; *provided however,* that: (a) either Party may disclose Confidential Business Information, if and to the extent such disclosure is required: (i) by Requirements of Law, (ii) in order for Buyer to receive regulatory recovery of expenses related to this Agreement, (iii) to a Electric System Authority as required for scheduling, settlement and billing, (iv) pursuant to an order of a court or regulatory agency, or (v) in order to enforce this Agreement or to seek approval hereof, and (b) notwithstanding any other provision hereof, Buyer may in its sole discretion disclose or otherwise use for any purpose in its sole discretion the Confidential Business Information described in Section 22.1(d) or 22.1(e). If a Party is required by Requirements of Law to disclose Confidential Business Information, such Party shall to the extent possible notify the other Party at least 3 Business Days in advance of such disclosure.

22.3 Buyer Regulatory Compliance. Seller acknowledges that Buyer is a public agency subject to the requirements of the California Public Records Act (Cal. Gov. Code section 6250 et seq.). Buyer acknowledges that Seller may submit information to Buyer that Seller considers confidential, proprietary, or trade secret information pursuant the Uniform Trade Secrets Act (Cal. Civ. Code section 3426 et seq.), or otherwise protected from disclosure pursuant to an exemption to the California Public Records Act (Government Code sections 6254 and 6255). Seller acknowledges that Buyer may submit to Seller information that Buyer considers confidential or proprietary or protected from disclosure pursuant to exemptions to the California Public Records Act (Government Code sections 6254 and 6255). Upon request or demand of any third person or entity not a party to this Agreement ("**Requestor**") for production, inspection and/or copying of information designated by a disclosing Party's Confidential Business Information, the receiving Party as soon as practical (but in no event less than 7 days prior to disclosure) shall notify the disclosing Party that such request has been made, by telephone call, letter sent via facsimile and/or by US Mail to the address and facsimile number listed in Section 21.1. If the disclosing Party wishes to protect the information from disclosure to the Requestor, the disclosing Party shall be solely responsible for taking whatever legal steps are necessary to protect information deemed by it to be Confidential Business Information and to prevent release of information to the Requestor by the receiving Party. If the disclosing Party takes no such action, after receiving the foregoing notice from the receiving Party, the receiving Party shall be permitted to comply with the Requestor's demand and is not required to defend against it.

22.4 Irreparable Injury; Remedies. Each Party agrees that violation of the terms of this Section 22 constitutes irreparable harm to the other, and that the harmed Party may seek any and all remedies available to it at law or in equity, including injunctive relief.

22.5 News Releases and Publicity. Before Seller issues any news release or publicly distributed promotional material regarding the Facility, Seller shall first provide a copy thereof to Buyer for its review and approval. Any use of Buyer's name in such news release or promotional material requires Buyer's prior written consent.

SECTION 23
DISPUTE RESOLUTION

23.1 Negotiations. The Parties shall attempt in good faith to resolve all disputes arising out of, related to or in connection with this Agreement promptly by negotiation, as follows. Any Party may give the other Party written notice of any dispute not resolved in the normal course of business. Executives of both Parties at least one level above the personnel who have previously been involved in the dispute shall meet at a mutually acceptable time and place within 10 days after delivery of such notice, and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute. If the matter has not been resolved within 30 days after the referral of the dispute to such senior executives, or if no meeting of such senior executives has taken place within 15 days after such referral, either Party may initiate litigation as provided hereinafter if neither Party has requested that the dispute be mediated or both Parties do not agree to mediate the dispute in accordance with Section 23.2 below. All negotiations pursuant to this clause are confidential.

23.2 Mediation. If the dispute is not resolved within 30 days after the referral of the dispute to senior executives, or if no meeting of senior executives has taken place within 15 days after such referral, either Party may request that the matter be submitted to nonbinding mediation. If the other Party agrees to mediate the matter in writing, the Parties shall participate in mediation which will be conducted in accordance with the Construction Industry Arbitration Rules and Mediation Procedures (including Procedures for Large, Complex Construction Disputes) of the AAA, as amended and effective on March 1, 2024 (the "**Mediation Procedures**"), notwithstanding any Dollar amounts or Dollar limitations contained therein.

(a) Following the other Party's agreement to mediate, if applicable, the Party requesting the mediation, may commence the mediation process with AAA by notifying AAA and the other Party in writing ("**Mediation Notice**") of such Party's desire that the dispute be resolved through mediation, including therewith a copy of the dispute notice and the response thereto, if any, and a copy of the other Party's written agreement to such mediation.

(b) The mediation shall be conducted through, by and at the office of AAA located in the Mediation Location.

(c) The mediation shall be conducted by a single mediator. The Parties may select any mutually acceptable mediator. If the Parties cannot agree on a mediator within 5 days after the date of the Mediation Notice, then the AAA's arbitration administrator shall send a list and resumes of 3 available mediators to the Parties, each of whom shall strike one name, and the remaining person shall be appointed as the mediator. If more than one name remains, either because one or both Parties have failed to respond to the AAA's arbitration administrator within 5 days after receiving the list or because one or both Parties have failed to strike a name from the list or because both Parties strike the same name, the AAA's arbitration administrator will choose the mediator from the remaining names. If the designated mediator shall die, become incapable or, unwilling to, or unable to serve or proceed with the mediation, a substitute mediator shall be appointed in accordance with the selection procedure described above in this Section 23.2(c), and such substitute mediator shall have all such powers as if he or she has been originally appointed herein.

(d) The mediation shall consist of one or more informal, nonbinding meetings between the Parties and the mediator, jointly and in separate caucuses, out of which the mediator will seek to guide the Parties to a resolution of the dispute. The mediation process shall continue until the resolution of the dispute, or the termination of the mediation process pursuant to Section 23.2(f). The costs of the mediation shall be borne equally by the Parties, provided that the Parties shall each bear their own expenses and attorney fees.

(e) All verbal and written communications between the Parties and issued or prepared in connection with this Section 23.2 shall be deemed prepared and communicated in furtherance, and in the context, of dispute settlement, and shall be exempt from discovery and production, and shall not be admissible in evidence (whether as admission or otherwise) in any litigation or other proceedings for the resolution of the dispute.

(f) The initial mediation meeting between the Parties and the mediator shall be held within 20 days after the Mediation Notice. Either Party may terminate the mediation process upon or after the earlier to occur of (A) the failure of the initial mediation meeting to occur within 20 days after the date of the Mediation Notice, (B) the passage of 30 days after the date of the Mediation Notice without the dispute having been resolved, or (C) such time as the mediator makes a finding that there is no possibility of resolution through mediation.

(g) All deadlines specified in this Section 23.2 may be extended by mutual agreement.

23.3 Place of Contract Formation; Choice of Forum. Seller and Buyer acknowledge and agree that this Agreement has been made and entered into as of the date first set forth above in the Mediation Location. Each Party irrevocably consents and agrees that any legal action or proceeding arising out of this Agreement or the actions of the Parties leading up to the Agreement shall be brought exclusively in the state and federal courts in and for Stanislaus County, California except for matters within the exclusive jurisdiction of a Governmental Authority. Except for matters within the exclusive jurisdiction of a different Governmental Authority, by execution and delivery hereof, each Party (a) accepts the exclusive jurisdiction of such courts and waives any objection that it may now or hereafter have to the exercise of personal jurisdiction by such courts over each Party for the purpose of any proceeding related to this Agreement, (b) irrevocably agrees to be bound by any final judgment (after any and all appeals) of any such courts arising out of such documents or actions, (c) irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceedings arising out of such documents brought in such courts (including any claim that any such suit, action or proceeding has been brought in an inconvenient forum) in connection herewith, (d) agrees that service of process in any such action may be effected by mailing a copy thereof by registered or certified mail, postage prepaid, to such Party at its address as set forth herein and (e) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law.

23.4 Settlement Discussions. No statements of position or offers of settlement made in the course of the dispute resolution process described in this Section 23 may be offered into evidence for any purpose in any litigation between the Parties, nor will any such statements or offers of settlement be used in any manner against either Party in any such litigation. Further, no such statements or offers of settlement shall constitute an admission or waiver of rights by either Party in connection with any such litigation. At the request of either Party, any such statements and offers of settlement, and all copies thereof, shall be promptly returned to the Party providing the same.

23.5 Specific Performance. Buyer shall be entitled to seek and obtain a decree compelling specific performance or granting injunctive relief with respect to, and shall be entitled, to enjoin any actual or threatened breach of any material obligation of Seller. The Parties agree that specific performance (including temporary and preliminary relief) and injunctive relief are proper in the event of any actual or threatened breach of any material obligation, and that any liability limits contained herein shall not operate to limit the exercise of Buyer's remedies in equity to cause Seller to perform its obligations hereunder. Seller agrees that it will not assert as a defense to Buyer's action for specific performance of, or injunctive relief relating to, Seller's obligations hereunder that the amounts payable or paid by Seller in respect of liquidated damages constitute an adequate remedy for the breach of such obligation, and Seller hereby conclusively waives such defense. Seller shall at all times during the Term, own, lease, control, hold in its own name or be signatory to (as the case may be) all assets and Required Facility Documents relating to the Facility to the extent necessary to prevent a material adverse effect on Buyer's right to specific performance or injunctive relief.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in their respective names as of the date first above written.

[SELLER]

By:________________________________
Name:______________________________
Title:_______________________________

[BUYER]

By:________________________________
Name:______________________________
Title:_______________________________

EXHIBIT A

ESTIMATED MONTHLY NET OUTPUT

	Total
January	24,408 MWh
February	26,765 MWh
March	32,471 MWh
April	35,718 MWh
May	37,825 MWh
June	40,984 MWh
July	39,037 MWh
August	33,491 MWh
September	27,235 MWh
October	26,399 MWh
November	24,946 MWh
December	24,721 MWh
Total	374,000 MWh

Expected Energy = 374,000 MWh

EXHIBIT B

REPOWER OPTIONS

	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

EXHIBIT C

NERC EVENT TYPES

Event Type	**Description of Outages**
U1[1]	Unplanned (Forced) Outage—Immediate – An outage that requires immediate removal of a unit from service, another outage state or a Reserve Shutdown state. This type of outage results from immediate mechanical/electrical/hydraulic control systems trips and operator-initiated trips in response to unit alarms.
U2[1]	Unplanned (Forced) Outage—Delayed – An outage that does not require immediate removal of a unit from the in-service state but requires removal within six (6) hours. This type of outage can only occur while the unit is in service.
U3[1]	Unplanned (Forced) Outage—Postponed – An outage that can be postponed beyond six hours but requires that a unit be removed from the in-service state before the end of the next weekend. This type of outage can only occur while the unit is in service.
SF[1]	Startup Failure – An outage that results from the inability to synchronize a unit within a specified startup time period following an outage or Reserve Shutdown. A startup period begins with the command to start and ends when the unit is synchronized. An SF begins when the problem preventing the unit from synchronizing occurs. The SF ends when the unit is synchronized or another SF occurs.
MO	Maintenance Outage – An outage that can be deferred beyond the end of the next weekend, but requires that the unit be removed from service before the next planned outage. (Characteristically, a MO can occur any time during the year, has a flexible start date, may or may not have a predetermined duration and is usually much shorter than a PO.)
ME	Maintenance Outage Extension – An extension of a maintenance outage (MO) beyond its estimated completion date. This is typically used where the original scope of work requires more time to complete than originally scheduled. Do not use this where unexpected problems or delays render the unit out of service beyond the estimated end date of the MO.
PO	Planned Outage – An outage that is scheduled well in advance and is of a predetermined duration, lasts for several weeks and occurs only once or twice a year. (Boiler overhauls, turbine overhauls or inspections are typical planned outages.)
PE	Planned Outage Extension – An extension of a planned outage (PO) beyond its estimated completion date. This is typically used where the original scope of work requires more time to complete than originally scheduled. Do not use this where unexpected problems or delays render the unit out of service beyond the estimated end date of the PO.

[1] These event types are all contributors to the FOR & EFOR calculations in the reports section.

EXHIBIT D

EXAMPLE CALCULATION OF
BUYER'S COST TO COVER

[Buyer NTD: Approval of exhibit pending completion of negotiations on related matters]

Buyer's Cost to Cover for a given month is calculated as follows:

[redacted]

<u>Example 1</u>:

For a given Calculation Period, assume the following:

A. Mid-Columbia Flat Price: [redacted]
B. Contract Price then in effect: [redacted]
C. Buyer, after using commercially reasonable efforts to do so, was unable to replace the RECs and the REC Price Component equals [redacted]
D. There are no Regulatory Compliance Costs

<u>Buyer's Cost to Cover is therefore calculated as follows</u>:

[redacted]

<u>Example 2</u>:

For a given Calculation Period, assume the following:

A. Mid-Columbia Flat Price: [redacted]
B. Contract Price then in effect: [redacted]
C. Buyer, after using commercially reasonable efforts to do so, was unable to replace the RECs and the REC Price Component equals [redacted]
D. There are no Regulatory Compliance Costs

<u>Buyer's Cost to Cover is therefore calculated as follows</u>:

[redacted]

<u>Example 3</u>:

For a given Calculation Period, assume the following:

A. Mid-Columbia Flat Price: [redacted]
B. Contract Price then in effect: [redacted]
C. Buyer, after using commercially reasonable efforts to do so, was unable to replace the RECs and the REC Price Component equals [redacted]
D. The Regulatory Compliance Costs are [redacted]

Buyer's Cost to Cover is therefore calculated as follows:

[redacted]

EXHIBIT E

APPROVED LICENSED PROFESSIONAL ENGINEERS

[Note to Seller: A list of approved licensed professional engineers will be provided during the final negotiation process]

EXHIBIT F

FORM OF REPOWER COMMERCIAL OPERATION CERTIFICATE

The undersigned, [__________________] ("Seller") [and _______________ ("Licensed Professional Engineer")] make[s] the following certifications to Turlock Irrigation District ("Buyer"), dated as of ________________. All capitalized terms not otherwise defined herein shall have the meaning given to them in the Amended and Restated Senior Power Purchase Agreement dated ___________ between Seller and Buyer (the "Agreement").

Seller hereby certifies that:

1. The Nameplate Capacity Rating of the Repowered Facility is [___] MW_{AC}, which is at least 90% of the Repower Planned Nameplate Capacity Rating.

2. Except for punch list items that would not materially affect the performance, reliability, or safe operation of the Facility, the same has been erected and installed by the respective suppliers, has been completed in accordance with the material applicable specifications under the respective supply agreements, and is ready for continuous generation and delivery of Net Output to the Point of Delivery in compliance with all Requirements of Law, Permits, and Required Facility Documents.

3. Except for punch list items that would not materially affect the performance, reliability, or safe operation of the Facility, as required under the Agreement, all requirements necessary to achieve commercial operability thereof have been substantially completed.

4. Seller's Interconnection Facilities have been completed in accordance with applicable specifications, tariffs, Permits, Requirements of Law and Required Facility Documents to enable power generated by the Facility to be received at the Point of Delivery.

5. Seller has obtained all Permits, Requirements of Law, and Required Facility Documents necessary for the Facility to continuously generate and deliver Net Output to the Point of Delivery and the same is in compliance with all such Permits, Requirements of Law, and Required Facility Documents in all material respects.

6. All necessary arrangements for the prudent and proper operation and maintenance of the Facility have been put in place and are in full force and effect.

7. Seller has a valid leasehold or real property interest in the Premises for a term of at least 20 years from the Repower Commercial Operation Date.

Licensed Professional Engineer certifies that:

1. We have read the Agreement, the supply agreements, the engineering, procurement and construction contract, and we understand the requirements for the achievement of the Repower Commercial Operation Date under the Agreement, the specifications and performance testing requirements under the supply agreements, and the requirements for commercial operation and/or substantial completion under the engineering, procurement and construction and contract.

2. We have reviewed the material and data made available to us by the Seller, the suppliers, and the contractor for the Repowered Facility.

3. To the extent practical, we have reviewed the engineering, procurement, construction and performance testing for the Facility and in the course of this review we have not discovered any material errors or omissions in the work performed to date.

4. We have reviewed the certifications of Seller above, and find the representations provided to be correct in all material respects.

5. Based on our review of the aforementioned information and of information provided to us by others which we have not independently verified, we are of the opinion that, as of [________], the Repower Commercial Operation Date of the Facility has occurred as defined in the Agreement.

Executed this [__] day of [____], 20[__]

SELLER
[________________]
an [____] limited liability company
By:
Name:
Title:

LICENSED PROFESSIONAL ENGINEER
[***Name of Licensed Professional Engineer***]
a __________________

By: _________________________
Name:
Title:

ACCEPTED BY TURLOCK IRRIGATION DISTRICT

By:
Name:
Title:
Date

EXHIBIT 2.3
REPOWER CONSTRUCTION MILESTONES

1. Scheduled Repower Construction Start Date: ____________.

2. Pursuant to Section 2.3.5, Seller shall use commercially reasonable efforts to achieve the following interim milestones at the following times:

    a. On or before ____________, Seller shall have entered into one or more binding contracts for the purchase by Seller all of the equipment necessary for Repower of the Facility.

    b. On or before ____________, Seller shall have submitted applications for any required water supply and wastewater discharge permits.

    c. On or before ____________, Seller shall have achieved closing on financing for Repower of the Facility or provided Buyer with proof of financial capability to Repower the Facility.

    d. On or before ____________, Seller shall have provided Buyer with evidence of compliance with the insurance coverage requirements in accordance with Section 13.

    e. On or before ____________, start-up testing of the Facility shall have commenced.

3. Scheduled Repower Commercial Operation Date: ____________.

4. Guaranteed Repower Commercial Operation Date: [To be populated with date that is 180 days after the Scheduled Repower Commercial Operation Date]

5. Seller shall cause the Facility to achieve Repower Commercial Operation on or before the Guaranteed Repower Commercial Operation Date, as such date may be extended pursuant to Section 2.3.5.

EXHIBIT 2.5

BUYER'S INITIAL DESIGNATED REPRESENTATIVES

1. Authorized Representatives.

Buyer

EXHIBIT 3.2.4

REPOWER REQUIRED FACILITY DOCUMENTS

Permits:
Federal
Federal Aviation Administration (FAA) Determination of No Hazard
U.S. Army Corps of Engineers Section 404 Permit TBD
U.S. Fish and Wildlife Service (USFWS) Eagle Take Permit
State
Washington Department of Fish (WDFW) Hydraulic Project Approval TBD
Washington Department of Ecology Section 401 Water Quality Certification TBD
Local
Energy Overlay Zone Permit (KCCO Chapter 19.39)
State Environmental Policy Act (SEPA) Environmental Checklist and/or SEPA EIS

Land rights:
Lease amendments to define repower term and applicable rent
Crossing consents for repower layout

Interconnection rights:
LGIA Replacement Amendment

Other material rights necessary to own or operate the Repowered Facility:
[Settlement Agreement with Friends of the Gorge]

EXHIBIT 4.5.1

REC ATTESTATION AND BILL OF SALE

[____________] ("Seller") hereby sells, transfers and delivers to Buyer the RECs (including all Environmental Attributes and Environmental Attribute Reporting Rights) associated with the generation and delivery of energy to Buyer under the Amended and Restated Senior Power Purchase Agreement (Renewable Energy-Wind) between Seller and Buyer dated [_________] (the "PPA"), as described below, in the amount of one REC for each megawatt hour generated. Defined terms used in this REC Attestation and Bill of Sale (as indicated by initial capitalization) shall have the meaning set forth in the PPA.

Facility name and location: ________________________ Fuel Type: Wind

Output (MW AC): ______ Repower Commercial Operation Date: ________________

Energy Information Administration ID no.: ________

Dates	MWh generated
__________	________

Seller further attests, warrants and represents, under penalty of perjury, as follows:

i) to the best of its knowledge, the information provided herein is true and correct;

ii) its sale to Buyer is its one and only sale of all or any part of the RECs referenced herein;

iii) the Facility generated and delivered to the grid the energy in the amount indicated above pursuant to the PPA; and

iv) to the best of Seller's knowledge, each of the RECs associated with the generation of energy for delivery under the PPA have been generated and sold by the Facility.

This REC Attestation and Bill of Sale confirms, in accordance with the PPA, the transfer from Seller to Buyer all of Seller's right, title and interest in and to the REC associated with the generation of the energy from the Facility under the PPA as set forth above.

Seller's Contact Person: [________________________________]

WITNESS MY HAND,

[SELLER],

a [_______] [________]
By ______________________

Its ______________________

Date: ______________________

This Attestation may be disclosed by Seller and Buyer to others, including the Center for Resource Solutions, and the public utility commissions having jurisdiction over Buyer, to substantiate and verify the accuracy of Buyer's advertising and public communication claims, as well as in Buyer's advertising and other public communications.

EXHIBIT 5.1

CONTRACT PRICE

The Contract Price means:

During the Base Term, for each MWh of Net Output:

[redacted]	[redacted]
[redacted]	[redacted]

During the Repower Term:

- For each MWh of Net Output up to the Pre-Repower Estimated P50 Amount:

[redacted]	[redacted]
[redacted]	[redacted]

- For each MWh of Net Output Surplus Quantity: [redacted]

EXHIBIT 6.1

DESCRIPTION OF FACILITY AND PREMISES

The Facility is a 136.6 MW megawatt wind generation facility located near the Town of Goldendale in Klickitat County, Washington.

1. **Premises**

The Premises is comprised of the following real property: [*To be populated with the real property set out in the in the Asset Purchase and Sale Agreement.*]

2. **Equipment**

   a. **As of the Effective Date:**

The Facility has an installed nameplate capacity of 136.6 MW. The wind turbines installed in the Facility are a combination of twenty (20) REpower Systems AG MM 92 2.0 MW wind turbine generators, forty (40) Siemens SWT 2.3-93 wind turbine generators and two (2) Siemens SWT 2.3-101 wind turbine generators. Each turbine is a three bladed, upwind, horizontal-axis wind turbine with a rotor diameter of approximately 92 meters, 93 meters and 101 meters, respectively. The nacelle is located at the top of each tower and contains the electrical generating equipment. The turbine rotor and the nacelle are mounted on top of a tubular tower giving a rotor hub height of approximately 80 meters. The maximum height for the turbines is between 126 meters and 130.5 meters when a rotor blade is at the top of its rotation.

   b. **As of the Repower Commercial Operation Date**

Seller's Facility consists of ______ turbines rated at _____ watts AC manufactured by ________._____, ___-inverters manufactured by _____, and ______ tracking system (if applicable) manufactured by ______.   More specifically, the Facility includes:

Type (synchronous or inductive): Synchronous

i. **<u>Manufacturer's Nameplate Data:</u>**

Turbines

Manufacturer:
Model:
Power rating (Watts AC @ STC):_______
Number of Modules: _____
Number of Modules per string: ___
Warranty (year 10) (% of new):______
Warranty (year 25) (% of new):______

Inverters

Manufacturer: (______________
Model: _________
Inverter Rating (AC, kW): __________--
Number of Inverters: __
Inverter Efficiency at Full Power Rating(%): ________
Inverter Capacity for Site (AC, kW): ___________
Operation Voltage (Volts):______
Maximum System Design Voltage -________ (Volts)
Number of Phases: __

Transformation

Number of Step-up transformers: _______
Size of Step-up Transformers (kVA): _______
Low Side voltage of Step-up transformer (volts):_________
High Side voltage of Step up transformer (volts):_________

Power factor requirements:
Rated Power Factor (PF) or reactive load (kVAR): ___ Leading to ___ Lagging

Manufacturer's Power Curve for the ________.

ii. <u>Seller's Estimate of Facility Annual Output Under Ideal (Maximum) or Worst (Minimum) Conditions</u>

Maximum kW Output ("Maximum Facility Delivery Rate"): _____ kW AC
Maximum kVA Output: ______ kVA
Minimum kW Output: _____ kW Estimated kW Output: ____ kW AC
Maximum Generator Interconnection Agreement Delivery Rate: ________ [specify whether instantaneous or hour-averaged]

Nameplate Capacity Rating: ____ kW AC at _____° C
Station service requirements are described as follows: Estimated station service for tracking, lighting and other auxiliary energy requirements is estimated to be approximately _______kWH annually.

EXHIBIT 6.6.4

FORM OF FORECAST

Plant Output	Tuolumne	9/6/2024 18:00	9/6/2024 19:00	9/6/2024 20:00	9/6/2024 21:00	9/6/2024 22:00	9/6/2024 23:00	9/7/2024 0:00
% Hourly Cap	Low	16	16	15	15	16	16	16
% Hourly Cap	Mid	**30**	**27**	**27**	**26**	**26**	**25**	**23**
% Hourly Cap	High	65	61	62	60	59	58	57
% Max Cap	Avail	100	100	100	100	100	100	100
MW	Low	20	19	19	19	20	20	19
MW	Mid	**37**	**33**	**33**	**32**	**32**	**31**	**28**
MW	High	79	74	76	73	71	71	69
MW	Avail	122	122	122	122	122	122	122
Windspeed	m/s	7	7	6	6	6	6	6
Wind Direction	degrees	101	99	110	115	116	117	118
Temperature	C	24	25	24	23	22	21	21
Pressure	hPa	929	929	929	929	930	930	930
Current Max. available plant capacity is [ ] MW								
Time in PDT: Forecast for the Hour Ending								

EXHIBIT 6.11

EXAMPLE CALCULATION OF AVAILABILITY GUARANTEE

Assume the following:

[redacted]

[redacted]

[redacted]

[redacted]

EXHIBIT 8.4-1

FORM OF LENDER CONSENT

Consent and Agreement

This Consent and Agreement (this "Consent") is made and entered into as of ___ _, 20__, by and between Turlock Irrigation District, an irrigation district organized and existing under and by virtue of laws of the State of California ("Buyer"), and _______ ("Lender").

RECITALS

[Washington Wind LLC], a Delaware limited liability company ("Seller"), has entered into that certain Loan Agreement, dated as of ___ __, 20__ (as amended, restated, supplemented, or otherwise modified from time to time, the "Loan Agreement"), with Lender in order to finance development and construction of a 136.6 MWac wind electric energy generating project owned by Seller and located near Goldendale, Klickitat County, Washington (the "Facility").

Seller and Buyer have entered into that certain Amended and Restated Senior Power Purchase Agreement, dated as of ____ (as amended, restated, supplemented or otherwise modified from time to time, the "PPA"), relating to the output of the Facility. All capitalized terms used, but not defined in this Consent, shall have respective meanings set forth in the PPA.

As part of the transactions contemplated by the Loan Agreement, Lender has received a pledge of all the limited liability company interests in Seller (the "Pledged Equity"), and Seller has collaterally assigned all of its rights, title and interests in, to and under the PPA (the "Pledged PPA", collectively with the Pledged Equity, the "Assigned Interest") to Lender.

AGREEMENTS

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties hereby agree as follows:

1. Consent to Assignment. Buyer hereby consents to the collateral assignment by Seller to Lender of the Pledged PPA and the pledge to Lender of the Pledged Equity and acknowledges the right of Lender to exercise Lender's rights and remedies as a secured creditor with respect to the Assigned Interest upon the occurrence of a matured "Event of Default" under the Loan Agreement.

2. Pledged PPA Step-In. "Subsequent Seller Requirements" means an entity that (a) satisfies the requirements of a Qualified Transferee under sub-clause (i) thereof; (b) is not involved, and has no Affiliate involved, in any state or federal litigation or regulatory proceeding adverse to Buyer or any Affiliate of Buyer (provided that participants in foreclosure proceedings for the sale of Seller's Assigned Interest or of the Facility shall not be considered adverse to Buyer

for the purposes of this sub-clause (b)); (c) has agreed in writing to be bound by the PPA and to assume all of Seller's obligations under the PPA; and (d) is not subject to sanctions enforced by the U.S. Department of Treasury Office of Foreign Assets Control or by the U.S. Department of State. Buyer agrees that, if Lender has delivered a written notice to Buyer stating that (A) a matured "Event of Default" under the Loan Agreement has occurred and (B) Lender will concurrently provide a copy of such notice to Seller (such notice, the "Lender Default Notice"), then, if and only if (i) the hereinafter-defined Subsequent Seller meets all of the Subsequent Seller Requirements, (ii) Buyer is holding, and will be holding, as of and after the date of assignment, the Credit Support, and (iii) Buyer has not terminated the PPA pursuant to the terms thereof and the provisions of this Consent, then Lender or any assignee or designee of Lender, including Lender or any purchaser in a foreclosure sale or a transfer in lieu of foreclosure of the Pledged PPA (a "Subsequent Seller"), may be substituted for Seller under the PPA and Buyer shall recognize such Subsequent Seller as its counterparty under the PPA and, subject to all rights and remedies of Buyer under the PPA, continue to perform its obligations under the PPA in favor of such Subsequent Seller. Lender shall have no liability or obligation under the PPA as a result of this Consent except if Lender becomes a Subsequent Seller. Any Subsequent Seller shall succeed to all the rights, interests and obligations of Seller under the PPA. The transfer of the PPA from Seller to a Subsequent Seller does not relieve or discharge Seller of its obligations and liabilities to Buyer which accrued prior to the date of such transfer. Lender agrees and acknowledges hereby that it shall not issue any unilateral instructions to Buyer related to enforcement of its remedies against Seller under the Loan Agreement and related documentation prior to issuing the Lender Default Notice to Buyer hereunder.

3. Change of Control. Buyer hereby consents to both (i) the pledge of the Pledged Equity to Lender as part of the transactions contemplated by the Loan Agreement, and (ii) the transfer of such Pledged Equity, in connection with such an exercise of Lender's remedies against the Pledged Equity, to a Subsequent Seller that meets the Subsequent Seller Requirements, provided that Lender provides written notice to Buyer in advance of any such transfer.

4. Notice of Default. If Seller defaults in the performance of any of its obligations under the PPA, Lender may cure such default by the deadline provided therefor in the PPA. Buyer will not terminate the PPA before providing notice to Lender and giving Lender the opportunity to cure such default as follows: (a) with respect to payment defaults before the later of (i) 15 Business Days after Buyer's delivery of notice to Lender of such default or (ii) 10 Business Days plus the number of days in the applicable cure period provided Seller in the PPA, and (b) with respect to all other defaults of Seller under the PPA, within the greater of (i) 90 days or (ii) 60 days plus the number of days in the applicable cure period provided to Seller in the PPA with respect to such default, following delivery of such notice from Buyer to Lender; provided, however, that such cure period in clause (b) may be extended by a reasonable period of time, not to exceed an additional 90 days if Lender has commenced and is diligently pursuing appropriate action to cure such non-monetary default; provided, further, that (x) to the extent that such default permits Lender to foreclose on its security interests in the Assigned Interest and Lender needs to gain possession of the Facility in order to perform such cure, Buyer will allow an additional reasonable amount of time, not to exceed 120 days, to permit Lender to do so and (y) if Lender is prevented by automatic stay under Section 362 of the US Bankruptcy Code, as amended, from curing any non-monetary default of Seller under the PPA, the applicable cure period available to Lender under this Section

4 hereof shall be extended by the period during which such automatic stay remained in effect provided that Lender has filed a motion for relief from the automatic stay within thirty (30) days from the date of Seller's bankruptcy petition and is diligently pursuing such relief.

5. PPA Termination, Assignments. Buyer agrees that it shall not, without Lender's prior written consent, mutually agree with Seller to (a) a voluntary termination of the PPA; provided, however, that notwithstanding the foregoing, Buyer may terminate the PPA without Lender's consent due to an uncured Event of Default under the PPA after the expiration of Lender's rights to cure under Section 4 hereof, or (b) an assignment or transfer of the PPA by Seller.

6. No Setoff. Notwithstanding any provision to the contrary set forth in this Consent, Lender may not use the Consent or any other setoff or other right set forth in the PPA as a basis for any action under, or nonperformance of, its obligations under any letter of credit provided by Lender naming Buyer or any affiliate as beneficiary, with respect to which the terms of such letter of credit shall control.

7. Certifications of Buyer. Buyer hereby certifies to Lender, as of the date hereof, that (i) it is duly organized and validly existing under the laws of California, (ii) the execution, delivery and performance by Buyer of this Consent and the PPA have been duly authorized by all necessary corporate action on the part of Buyer, (iii) each of this Consent and the PPA is in full force and effect and constitutes the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally and general equitable principles, (iv) the PPA, the Subordinate PPA and the Acknowledgment of Consent and Agreement (attached hereto) with respect to this Consent are the only agreements between Seller and Buyer, (v) a true and correct copy of the PPA is attached hereto as Exhibit A to this Consent and the PPA has not been further amended or modified as of the date hereof, (vi) Buyer is not in default of any of its obligations under the PPA, (vii) solely to the best of the actual knowledge of Buyer's employees with responsibility for administering the PPA, Seller is not in default of any of its obligations under the PPA, (viii) solely to the best of the actual knowledge of Buyer's employees with responsibility for administering the PPA, there are no material disputes between Buyer and Seller under the PPA, (ix) Buyer has not assigned any interest it has in the PPA, and Buyer has no notice of, and has not consented to, any previous assignment or transfer by Seller of all or any part of its rights under the PPA, (x) there are no actions pending against Buyer as a debtor under any federal or state bankruptcy or insolvency laws, (xi) there are no proceedings pending or, to Buyer's knowledge, threatened against or affecting Buyer before any court, governmental authority, or arbitration board or tribunal which could reasonably be expected to have a material adverse effect on the ability of Buyer to perform its obligations under the PPA, (xii) solely to the best of the actual knowledge of Buyer's employees with responsibility for administering the PPA, no event of Force Majeure has occurred with respect to Buyer or Seller, (xiii) all representations of Buyer in the PPA are true and correct as of the date hereof (except for any representation or warranty that expressly relates to an earlier date), (xiv) subject to Seller's obligation to declare the Repower Commercial Operation Date on or before the Guaranteed Repower Commercial Operation Date, solely to the best of the actual knowledge of Buyer's employees with responsibility for administering the PPA, no event or condition exists that would either immediately or with the passage of any applicable grace period or giving of notice,

or both, enable either Buyer or Seller to terminate or suspend its obligations under the PPA, and (xv) solely to the best of the actual knowledge of Buyer's employees with responsibility for administering the PPA, no facts exist entitling Buyer to any claim, counterclaim or offset against Seller under the PPA.

8. Replacement Agreement. If the PPA is rejected or terminated by the Seller or its estate in possession as a result of any bankruptcy, insolvency, reorganization or similar proceeding affecting Seller, Buyer will, at the option of Lender exercised by providing written notice thereof to Buyer within 45 days after such rejection or termination, enter into a new agreement with Lender (or its designee or assignee) having identical terms as the PPA (subject to any conforming changes (none of which may include limitation of Buyer's remedies) necessitated by the substitution of the seller entity); provided that the following conditions shall apply: (i) the seller under the new agreement must meet the Subsequent Seller Requirements; (ii) the term under such new agreement shall be equal to the remaining balance of the term specified in the PPA; and (iii) Lender (or its designee or assignee) shall have cured any then-existing payment or performance defaults by Seller under the PPA (other than the bankruptcy of Seller or a transfer of the Facility to Lender, or of the Pledged Equity in Seller to Lender, that was in connection with Lender's foreclosure thereupon and in compliance with this Consent.

9. Notices. All notices given under this Consent shall be in writing and shall be deemed effectively given: (a) upon personal delivery to the party to be notified; (b) one (1) Business Day after deposit with a reputable overnight courier, prepaid for overnight delivery and addressed as set forth below, with a copy of the notice simultaneously emailed to each applicable recipient at the email address shown below; provided that the sending party receives a confirmation of delivery from the overnight courier service; or (c) 3 Business Days after deposit with the U.S. Post Office, postage prepaid, certified with return receipt requested and addressed to the party to be notified at the address indicated for such party below with a copy of the notice simultaneously emailed to each applicable recipient at the email address shown below. Copies of all notices given under this Consent to Buyer by Lender shall be simultaneously provided by Lender to Seller. The parties may designate alternative notice addresses upon 10 days' advance written notice to the other parties:

If to Seller:

With a copy to:

If to Buyer:
With copies to: [__________________________]
Attention:
Email:

With a copy to:

If to Lender:
With a copy to:

10. Successors and Assigns. This Consent shall be binding upon Buyer, Lender and Seller and their permitted successors and assigns.

11. Termination. Upon the satisfaction in full of Seller's obligations under the Loan Agreement (other than contingent indemnification and reimbursement obligations that survive repayment of the loans and advances, interest fees and other amounts owed under the Loan Agreement): (a) Lender shall promptly notify Buyer of such fact and (b) this Consent shall terminate without further action of the parties hereto. Additionally, upon Lender's consummation of all of its remedies available under this Consent, this Consent shall terminate without further action of the parties hereto.

12. Waiver of Right to Jury Trial. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS CONSENT. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.

13. Governing Law. This Consent will be governed by and construed in accordance with the laws of the State of New York, without giving effect to principles of conflicts of law.

14. Severability. If any provision of this Consent or the application thereof is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof, or the application of such provision to the parties hereto or circumstances other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party by the invalidity, unenforceability or nullification of the offensive provisions.

15. Amendment. This Consent may not be amended, modified, or changed in any respect except by an agreement in writing signed by Lender and Buyer. Nothing in this Consent amends or modifies the PPA.

16. Counterparts; Rules of Construction; Definitions. This Consent may be executed in one or more counterparts, each of which will be an original and all of which, when taken together, will constitute one and the same original agreement. All references made (a) in the neuter, masculine, or feminine gender are made in all such genders, and (b) in the singular or plural includes the plural or singular number as well.

17. Third Party Rights. Nothing in this Consent, expressed or implied, is intended or shall be construed to confer upon, or give to any person, other than Buyer and Lender, respectively, rights, remedies or claims, legal or equitable, under or by reason hereof, or any covenant or condition hereof; and this Consent and the covenants and agreements, here contained are and shall be held for the sole and exclusive benefit of Buyer and Lender.

18. Seller Acknowledgement of Consent and Agreement. Buyer's obligations under this Consent are conditioned upon the execution and delivery by Seller to Buyer of the Acknowledgment of Consent and Agreement attached hereto.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Consent to be duly executed and delivered by their duly authorized signatories as of the date first above written.

TURLOCK IRRIGATION DISTRICT, an irrigation
district organized and existing under, and by virtue of, laws of
the State of California

By: ______________________________________
Name:_________________________________
Title:__________________________________

[LENDER]

By _______________________
Its _______________________

Exhibit A

Amended and Restated Senior Power Purchase Agreement

ACKNOWLEDGEMENT OF CONSENT AND AGREEMENT

Reference is made to the Consent and Agreement, dated as of ______ (the "Consent and Agreement"), by and between Turlock Irrigation District, an irrigation district organized and existing under and by virtue of laws of the State of California (as "Buyer"), and ______ (as "Lender"). [Washington Wind LLC], a Delaware limited liability company, as "Seller" under the PPA (as defined in the Consent and Agreement, hereby directs Buyer to pay any amounts payable by Buyer under the PPA, as and when required under the PPA, pursuant to the payment instructions delivered and effective as of or proximate to the date hereof, from Seller to Buyer, or as may otherwise be specified from time to time by Lender and Seller to Buyer in writing or solely by Lender to Buyer in writing (after delivery of the Lender Default Notice, as defined in the Consent and Agreement to Buyer). Any payment made to Seller or pursuant to payment instructions delivered pursuant to the immediately preceding sentence shall discharge any obligation of Buyer to Seller with respect to the making of such payment. Seller, by its execution of this Acknowledgment of Consent and Agreement, acknowledges and agrees that, notwithstanding any term to the contrary in the PPA, Buyer and Lender may perform all acts or obligations as set forth in the Consent and Agreement, and Buyer may perform as set forth herein or as otherwise purportedly instructed by Lender (after delivery of the Lender Default Notice, as defined in the Consent and Agreement to Buyer), including, without limitation, the manner and place of any payments to be made by Buyer that would otherwise be required pursuant to the PPA, and further agrees and consents to the various agreements made by Buyer in the Consent and Agreement, issues or confirms the instructions contained in the Consent and Agreement or herein or as hereafter issued by Seller or Lender (after delivery of the Lender Default Notice, as defined in the Consent and Agreement to Buyer), agrees to indemnify Buyer for any damages or liabilities suffered in the performance of the Consent and Agreement or such instruction; and further agrees that none of the execution of the Consent and Agreement, the performance by Buyer or Lender of any of their respective obligations thereunder, the exercise of any of the rights of Buyer or Lender thereunder, or the acceptance by Buyer of performance of the PPA by any party acting at the direction of Seller, Lender, or a Subsequent Seller shall subject Buyer to liability to Seller or release Seller from any obligation of Seller under the PPA. Seller acknowledges that Buyer need not enter into any agreement in the nature of the Consent and Agreement with any of Seller's other lenders prior to the termination of the Consent and Agreement. Nothing in this Acknowledgment of Consent and Agreement or in the Consent and Agreement amends or modifies the PPA. Seller shall have no rights against Buyer, under the PPA or otherwise, arising out of or on account of the Consent and Agreement or Buyer's performance (or nonperformance) thereunder or of any instruction issued by Lender to Buyer after delivery of the Lender Default Notice to Buyer.

Agreed to and Accepted:

[WASHINGTON WIND LLC], a Delaware limited liability company

By:
Its:
Date:

EXHIBIT 8.4-2

FORM OF ESTOPPEL CERTIFICATE

Estoppel Certificate

This Estoppel Certificate ("Estoppel") is dated _____ __, 20__. Reference is made to that certain Amended and Restated Senior Power Purchase Agreement, dated as of _________ (the "PPA"), by and between Turlock Irrigation District, an irrigation district organized and existing under and by virtue of laws of the State of California ("Buyer"), and [Washington Wind LLC], a Delaware limited liability company ("Seller"), concerning output of a 136.6 MWac wind energy generating facility owned by Seller and located near Goldendale, Klickitat County, Washington. This certificate is delivered by Buyer to [__________] ("Tax Investor") and [_________] as Administrative Agent for the Lenders ("Administrative Agent") in connection with the PPA. Capitalized terms used, but not defined, herein are defined in the PPA.

Recognizing that Tax Investor and Administrative Agent will rely on this Estoppel, Buyer certifies, as of the date hereof, that (i) it is duly organized and validly existing under the laws of California, (ii) the execution, delivery and performance by Buyer of this Estoppel and the PPA have been duly authorized by all necessary action on the part of Buyer, (iii) the PPA and this Estoppel is in full force and effect and constitutes the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally and general equitable principles, (iv) the PPA, the Subordinate PPA and the Acknowledgment of Consent and Agreement dated [_____] are the only agreements between Seller and Buyer, (v) a true and correct copy of the PPA is attached hereto as Exhibit A to this Estoppel and the PPA has not been further amended or modified as of the date hereof, (vi) Buyer is not in default of any of its obligations under the PPA, (vii) solely to the best of the actual knowledge of Buyer's employees with responsibility for administering the PPA, Seller is not in default of any of its obligations under the PPA, (viii) solely to the best of the actual knowledge of Buyer's employees with responsibility for administering the PPA, there are no material disputes between Buyer and Seller under the PPA, (ix) Buyer has not assigned any interest it has in the PPA, and Buyer has no notice of, and has not consented to, any previous assignment or transfer by Seller of all or any part of its rights under the PPA, (x) there are no actions pending against Buyer as a debtor under any federal or state bankruptcy or any other similar laws, (xi) there are no proceedings pending or, to Buyer's knowledge, threatened against or affecting Buyer before any court, governmental authority, or arbitration board or tribunal which could reasonably be expected to have a material adverse effect on the ability of Buyer to perform its obligations under the PPA, (xii) solely to the best of the actual knowledge of Buyer's employees with responsibility for administering the PPA, no event of Force Majeure has occurred with respect to Buyer or Seller, (xiii) all representations of Buyer in the PPA are true and correct as of the date hereof (except for any representation or warranty that expressly relates to an earlier date), (xiv) [subject to Seller's obligation to declare the Repower Commercial Operation Date on or before the Guaranteed Repower Commercial Operation Date, solely to the best of the actual knowledge of Buyer's employees with responsibility for administering the PPA][omit if estoppel delivered after COD], no event or condition exists that would either immediately or with the passage of any applicable grace period or giving of notice, or both, enable either Buyer or Seller to terminate or suspend its obligations under the PPA, (xv) solely to the best of the actual knowledge of Buyer's employees with responsibility for administering the PPA, no facts exist entitling Buyer to any claim, counterclaim or offset against Seller under the PPA, [and (xvi) the Repower Commercial Operation Date has been achieved with respect to the Facility as of [___][To be included for an Estoppel delivered as of or after COD].

IN WITNESS WHEREOF, the undersigned has caused this Estoppel to be signed by its authorized signatory as of the date first set forth above.

TURLOCK IRRIGATION DISTRICT, an irrigation district organized and existing under, and by virtue of, laws of the State of California

By: ______________________________

Name:______________________________

Title:______________________________

Exhibit A

Amended and Restated Senior Power Purchase Agreement

EXHIBIT 9.2

POINT OF DELIVERY/INTERCONNECTION FACILITIES/METERING SCHEMATIC

[To be provided by Buyer]

EXHIBIT 11.4

[note amend to reflect subsequent revisions to final Agreement]

FORM OF MEMORANDUM OF POWER PURCHASE AGREEMENT

WHEN RECORDED, MAIL TO:

BUYER
[address]
Attn: _______

MEMORANDUM OF POWER PURCHASE AGREEMENT

THIS MEMORANDUM OF POWER PURCHASE AGREEMENT ("Memorandum"), dated as of _______________, 202_, is made by and between ______________________, a _________ limited liability company ("Seller"), and BUYER, a ___________ ("Buyer"). Seller and Buyer are sometimes hereinafter referred to collectively as the "Parties" and individually as a "Party".

RECITALS

A. Seller and Buyer have entered into that certain Amended and Restated Senior Power Purchase Agreement on the ___ day of _______, 202_ (the "Agreement"), pursuant to which Seller has agreed to construct, own, operate and maintain a wind-powered generation facility for the generation of electric energy to be located in _________ (as more particularly defined in the Agreement, the "Facility"), and upon completion of said Facility, to sell to Buyer the electric energy to be produced by the Facility as well as all associated "RECs" (as that term is defined in the Agreement), all on the terms and conditions set forth in the Agreement. The real property on which the Facility is to be constructed (the "Premises") is more particularly described in the attached Exhibit "A".

B. Seller and Buyer desire to provide record notice of certain terms and conditions of the Agreement pertaining to the Parties' respective rights and obligations under the Agreement in the event the Agreement is terminated due to a default by Seller.

NOW, THEREFORE, in consideration of the mutual covenants and obligations set forth in the Agreement and this Memorandum, Seller and Buyer agree as follows:

TERMS

1. The Premises. Seller acknowledges and agrees that the [leasehold interest in the] real property comprising the Premises, and all improvements and fixtures to be constructed thereon, including without limitation, the Facility, is and will be owned by Seller and shall hereafter be held, sold, conveyed, transferred, assigned, subdivided, leased, rented, encumbered,

occupied and used subject to and in accordance with the provisions of Sections 11.4, and 20.3 of the Agreement and this Memorandum.

2. Covenants Running with the Land. The provisions of Section 11.4, and 20.3 of the Agreement are and shall be deemed to be covenants running with the land and shall be binding upon and inure to the benefit of Seller and Buyer and their respective successors and assigns, including without limitation any person acquiring or owning an interest in the Premises or the Facility, and their respective heirs, executors, successors, assigns, administrators, devisees and representatives.

3. Notice.

a. [copy relevant provisions from final PPA]

b. Survival. The terms and provisions of Section 11.4 of the Agreement shall survive the termination of the Agreement.

5. Effect of Memorandum. This Memorandum, and the rights and obligations of the parties hereunder, are subject to all of the terms and conditions of the Agreement. The Agreement is hereby incorporated by reference as if fully set forth herein.

6. Counterparts. This Memorandum may be executed in any number of counterparts, each of which when executed and delivered shall be deemed an original, and all of which shall together constitute one and the same instrument.

7. Further Information. Further information regarding the specific terms and conditions of the Agreement may be requested from Buyer at [address], Attn: [addressee]. Disclosure of any such information shall be subject to the terms and conditions of a written confidentially agreement acceptable to Buyer in its sole and absolute discretion.

IN WITNESS WHEREOF, Seller and Buyer have executed and acknowledged this Memorandum as of the day and year first above written.

________________________________,	BUYER,
a _______ limited liability company	a ________
By ________________________________	By ________________________________
Name______________________________	Name______________________________
Title_______________________________	Title_______________________________

STATE OF ___________________)
: ss.
COUNTY OF _________________)

The foregoing instrument was acknowledged before me this ____ day of ___________, 202_ by ______________________, the ________________of ____________________________, a ______________ limited liability company.

____
NOTARY PUBLIC

STATE OF ___________________)
: ss.
COUNTY OF _________________)

The foregoing instrument was acknowledged before me this ____ day of __________, 202_, by ____, the __________________________ of BUYER, a__________.

____
NOTARY PUBLIC

Exhibit ”A”

Legal Description of the Premises

[EXHIBIT 11.11

POST-TERM TRANSMISSION RIGHTS]

EXHIBIT 13

REQUIRED INSURANCE

From and after the delivery of full notice to proceed to the balance of plant contractor for the Facility and during the remainder of the Term of this Agreement:

1. Commercial general liability insurance against claims for bodily injury (including death) and property damage with a limit of liability of [redacted] per occurrence and [redacted] general aggregate for combined bodily injury and property damage.

2. Excess/Umbrella liability insurance covering claims in excess of the underlying liability insurance described in paragraph 1, with a minimum [redacted] limit of liability per occurrence. The amounts of liability insurance described in paragraph 1 and this paragraph 2 may be satisfied by primary insurance or by any combination of primary and excess/umbrella insurance.

3. Workers' Compensation insurance to insure statutory liability for injury to Seller's employees in accordance with the Requirements of Law.

SUBORDINATE POWER PURCHASE AGREEMENT

(RENEWABLE ENERGY-WIND)

BETWEEN

WASHINGTON WIND LLC

AND

TURLOCK IRRIGATION DISTRICT

TUOLUMNE WIND PROJECT

TABLE OF CONTENTS

EXHIBITS

SUBORDINATE POWER PURCHASE AGREEMENT

(RENEWABLE ENERGY- WIND)

THIS SUBORDINATE POWER PURCHASE AGREEMENT (RENEWABLE ENERGY - WIND) (**"Agreement"**), entered into this __ day of ___, 202_ (the "**Execution Date**"), is between Washington Wind LLC a Delaware limited liability company (**"Seller"**) and Turlock Irrigation District, an irrigation district duly organized and existing under and by virtue of the State of California (**"Buyer"**). Seller and Buyer are sometimes hereinafter referred to collectively as the **"Parties"** and individually as a **"Party."**

WHEREAS, Buyer, Tuolumne Wind Project Authority, a joint powers authority an affiliate of Buyer (the "**TWP Authority**"), and Tuolumne Wind Project, LLC, a Delaware limited liability company ("**TWP LLC**") were the original parties to that certain Power Purchase Agreement dated as of July 14, 2009 (the "**Original PPA**"), pursuant to which TWP LLC (or, in the event of TWP LLC assigning its assets and liabilities to the TWP Authority thereunder, the TWP Authority) committed to selling all energy and capacity from a 136.6 MW_{AC} wind energy project on a site located near Goldendale, Klickitat County (the "**Facility**") to the Buyer for a term of up to 25 years;

WHEREAS, in compliance with the terms of the Original PPA, TWP LLC assigned all of its assets and liabilities to the TWP Authority, including the Facility and the TWP Authority became the "Seller" under the Original PPA;

WHEREAS, pursuant to that certain Purchase and Sale Agreement dated as of [______], 2024 ("**PSA**") Seller agreed to purchase from TWP Authority all of the TWP Authority's right, title, and interest in and to the Facility (the "**Acquisition Transaction**");

WHEREAS, as of the date hereof, TWP Authority and Seller closed the Acquisition Transaction pursuant to the PSA and Seller now owns all rights, assets and interests in the Facility;

WHEREAS, in connection with the closing of the Acquisition Transaction, (i) Seller took over the operation of the Facility from TWP Authority; (ii) Seller wishes to initiate development activities to Repower (as such term is hereinafter defined) the Facility; and (iii) Repowered Facility may cause an increase in Net Output and associated RECs, Ancillary Services and Capacity Rights for each Contract Year (as such term is hereinafter defined) thereafter;

WHEREAS, Seller and Buyer wish to amend and restate the Original PPA accordingly by (i) entering into an agreement for the sale of the expected volumes of Net Output and associated RECs and Ancillary Services, and the Capacity Rights of the Facility under the Original PPA ("**Senior PPA**") and (ii) concurrently entering into this Agreement for the sale of the volumes in excess of the expected volumes of Net Output and associated RECs and Ancillary Services under the Original PPA;

WHEREAS, Buyer intends to count in full the nameplate capacity and expected annual generation set forth in the under this Agreement towards Buyer's RPS requirements;

NOW, THEREFORE, in consideration of the foregoing and the mutual promises set forth below and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby amend and fully restate the Original PPA and mutually agree as follows:

SECTION 1
DEFINITIONS; RULES OF INTERPRETATION

1.1 Defined Terms. Unless otherwise required by the context in which any term appears, initially capitalized terms used herein have the following meanings:

"AAA" is the American Arbitration Association.

"Abandonment" means the relinquishment of all possession and control of the Facility by Seller, other than pursuant to a transfer permitted under this Agreement (including as a result of the Lender's exercise of rights under Financing Documents).

"AC" means alternating current.

"Acquisition Transaction" is defined in the Recitals.

"Affiliate" means, with respect to any entity, each entity that directly or indirectly controls, is controlled by, or is under common control with, such designated entity, with "control" meaning the possession, directly or indirectly, of the power to direct management and policies, whether through the ownership of voting securities (if applicable) or by contract or otherwise. Notwithstanding the foregoing, Buyer is not an Affiliate of any other Person or entity and has no Affiliate(s), and with respect to Seller, Affiliate does not include Global Infrastructure Management, LLC, or TotalEnergies SE, or BlackRock, Inc., and no subsidiary of these three non-Affiliates shall be deemed on account of such subsidiary relationship to be "under common control" with Seller.

"Agreement" is defined in the Preamble.

"Ancillary Services" means any of the services identified by the Transmission Provider as "Ancillary Services".

"Annual Output Cap" means in any Contract Year, an amount equal to the Historical Baseline Amount.

"Applicable Market" means the market (including the Energy Imbalance Market), independent system operator, or regional transmission organization in which the Facility is situated, or the Net Output liquidated, or its successor.

"Applicable Market Operator" means CAISO or any other entity performing the market operator function for the Applicable Market.

"Balancing Authority" means the responsible entity for a Balancing Authority Area and has the meaning set forth in the NERC Glossary of Terms.

"Balancing Authority Area" is defined in the NERC Glossary of Terms.

"Base Term" is defined in the Senior PPA and incorporated herein by reference.

"BPA" means the Bonneville Power Administration.

"BSA" means a Balancing Services Agreement by and between Buyer and a Balancing Authority to provide for the Facility to be contained within the Balancing Authority's Balancing Authority Area and the provision of related Balancing Authority Area balancing services.

"Business Day" means any day on which banks in New York, New York are not authorized or required by Requirements of Law to be closed, beginning at 6:00 a.m. and ending at 5:00 p.m. local time in New York, New York.

"Buyer" is defined in the Preamble.

"Buyer Indemnitees" is defined in Section 12.1.1.

"Buyer Voluntary Curtailment Order" means an instruction from Buyer to Seller to reduce generation from the Facility by an amount and for a period of time as set forth in such instruction, for reasons unrelated to a System Curtailment Order or a Force Majeure event.

"Buyer's Cost to Cover" [redacted]

"Buyer's Interest" means the Net Output from the Facility at the Point of Delivery and all Ancillary Services and RECs associated with such Net Output. Seller acknowledges that Buyer will include Buyer's Interest in Buyer's resource planning.

"CAISO" means the California Independent System Operator.

"California Renewables Portfolio Standard" or **"RPS"** means the renewable energy program and policies established by California State Senate Bills 1038 (2002), 1078 (2002), 107 (2008), X-1 2 (2011), 350 (2015) and 100 (2018) codified in, inter alia, California Public Utilities Code Sections 399.11 through 399.31 and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time.

"CAMD" means the Clean Air Markets Division of the Environmental Protection Agency or successor administrator, or any state or federal entity with jurisdiction over a program involving transferability of RECs.

"Capacity Rights" means any current or future defined characteristic, certificate, benefit, product, tag (but not RECs), credit, attribute, or accounting construct, including any of the same counted towards any current or future capacity, Resource Adequacy or reserve requirements, associated with the electric generation capability and capacity of the Facility or the Facility's capability and ability to produce Output or Ancillary Services. Capacity Rights do not include PTCs or any Tax Credits.

"CARB" means the California Air Resources Board.

"CEC" means the California Energy Commission.

"Certificate" means the certificate representing a REC created and accounted for by WREGIS, pursuant to the WREGIS Operating Procedures.

"CFIUS" means the Committee on Foreign Investment in the United States.

"Change of Controlling Interest" means any circumstances in which Ultimate Parent ceases to have a Controlling Interest in Seller; provided that in calculating ownership percentages for all purposes of the foregoing: (a) any ownership interest in Seller held by its Ultimate Parent indirectly through one or more intermediate entities shall not be counted towards the Ultimate Parent's ownership interest in Seller unless the Ultimate Parent directly or indirectly owns more than fifty percent (50%) of the outstanding equity interests in each such intermediate entity; and (b) ownership interests in Seller owned directly or indirectly by any Senior Lender (including any Tax Investor in connection with tax equity financing) shall be excluded from the total outstanding equity interests in Seller.

"Confidential Business Information" is defined in Section 22.1.

"Contract Interest Rate" means the lesser of (a) the highest rate permitted under Requirements of Law and (b) 200 basis points per annum plus the rate per annum equal to the publicly announced prime rate or reference rate for commercial loans to large businesses in effect from time to time quoted by Citibank, N.A. as its "prime rate". If a Citibank, N.A. prime rate is not available, the applicable prime rate shall be the announced prime rate or reference rate for commercial loans in effect from time to time quoted by a bank with $10 billion or more in assets in New York City, New York, selected by the Party to whom interest is being paid.

"Contract Price" means the applicable price, expressed in $/MWh, stated in Section 5.1.

"Contract Year" means a 12 month period commencing at 00:00 hours on January 1 and ending on 24:00 hours on December 31; *provided, however*, that the first Contract Year shall commence on the Effective Date and end on the next succeeding December 31, and the last Contract Year shall end on the last day of the Term.

"Controlling Interest" means with respect to an entity, 50% or more of outstanding ownership interest, or the power to vote such percentage of ownership interest, or the ability to direct the operations and management of such entity.

"Costs" means, with respect to the non-defaulting Party, brokerage fees, commissions and other similar third party transaction costs and expenses (including costs incurred in connection with transmission services that would otherwise not have been incurred hereunder) reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace this Agreement, and all reasonable attorneys' fees and expenses incurred by the non-defaulting Party in connection with this Agreement.

"CPUC" means the California Public Utilities Commission.

"CPUC Approval" means a final and non-appealable order of the CPUC, without conditions or modifications unacceptable to the Parties, or either of them, which contains the following terms:

(a) approves this Agreement in its entirety, including payments to be made by a buyer, subject to CPUC review of a buyer's administration of the Agreement; and

(b) finds that any procurement pursuant to this Agreement is procurement of Renewable Energy Credits that 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, for purposes of determining Buyer's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.11 et seq.), Decision 03-06-071, or other applicable law.

CPUC Approval will be deemed to have occurred on the date that a CPUC decision containing such findings becomes final and non-appealable. **[STC-3]** Buyer's use of products conveyed under this Agreement for its own use is not subject to CPUC Approval or oversight.

"Dollar" or **"$"** means a dollar of the United States of America.

"Effective Date" is defined in Section 2.1.

"Electric System Authority" means each of NERC, WECC, WREGIS, an Interconnection Provider, a Transmission Provider, a Balancing Authority, a regional or sub-regional reliability council or authority, the Western Resource Adequacy Program and any other similar council, corporation, organization or body of recognized standing with respect to the operations of the electric system in the geographic area in which the Facility is located.

"Emissions Reduction Credit" means any credit, allowance or instrument issued or issuable by a Governmental Authority under regulations of the Environmental Protection Agency under the Clean Air Act.

"Energy Imbalance Market" means the CAISO's Western Energy Imbalance Market.

"Environmental Attribute Reporting Rights" means the exclusive right of a purchaser of Environmental Attributes to report ownership of Environmental Attributes in compliance with federal or state law, if applicable, and to federal or state agencies or other parties at such purchaser's discretion, and includes reporting under Section 1605(b) of the Energy Policy Act of 1992, or under any present or future domestic, international, or foreign emissions trading program or renewable portfolio standard.

"Environmental Attributes" means any and all claims, credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical, or other substance to the air, soil or water, which are deemed of value by Buyer. Environmental Attributes include all Green Attributes as well as: (a) all Emissions Reduction Credits; and (b) any cryptocurrency, blockchain, and similar or related matters, items commodities, tokens, or anything of actual, potential, or theoretical value related to, measured by, or associated with anything produced by Output. Environmental Attributes do not include (i) PTCs or other tax incentives existing now or in the future associated with the construction, ownership or operation of the Facility, (ii) matters designated by Buyer as sources of liability, or (iii) any adverse health, safety, wildlife or environmental impacts.

"Environmental Contamination" means the introduction or presence of Hazardous Materials at such levels, quantities or location, or of such form or character, as to constitute a violation of federal, state or local laws or regulations, or to present a material risk that as a consequence of the application of federal, state or local laws and regulations that (a) the Premises will not be available or usable for the purposes contemplated by this Agreement or (b) the potential resulting liabilities could impair Seller's ability to meet its obligations hereunder.

"Event of Default" is defined in Section 11.1.

"EWG" means an "exempt wholesale generator," as defined under PUHCA.

"Example" means an example of certain calculations to be made hereunder. Each Example is for purposes of illustration only and is not intended to constitute a representation, warranty or covenant concerning the matters assumed for purposes of each Example.

"Excess Net Output" means, in any Contract Year, any Net Output in excess of the Annual Output Cap.

"Excess Net Output Priority Quantity" is an amount equal to the positive value of a negative Historical Baseline Differential (*i.e.* the Historical Baseline Amount is less than the Pre-Repower Estimated P50 Amount), if any, as determined pursuant to Section 2.3.4 of the Senior PPA and incorporated herein by reference. An illustrative example of the Historical Baseline Differential price true-up is provided in Exhibit 2.3.5 of the Senior PPA.

"Execution Date" is defined in the Preamble.

"Expected Excess Energy" means the annual generation of Excess Net Output predicted by the Wind Resource Assessment, as set forth on **Exhibit A**.

"Facility" is defined in the Recitals and is more fully described in attached Exhibit 6.1 of the Senior PPA, which is incorporated herein by reference, and includes the Turbines and all other equipment, devices, associated appurtenances owned, controlled, operated and managed by Seller in connection with, or to facilitate, the production, generation, transmission, delivery, or furnishing of electric energy by Seller to Buyer and required to interconnect with the System.

"FASB" means the Financial Accounting Standards Board.

"FERC" means the Federal Energy Regulatory Commission.

"FIN 46R" means the FASB revised Interpretation No. 46(R), Consolidation of Variable Interest Entities.

"Financing Documents" means the Loan Agreement as defined in the Lender Consent together with all other financing documents between Seller and Lenders wherein Lenders have provided, or have agreed to provide, Seller financing related to the Facility or the Repower of the Facility.

"FIRRMA" means the Foreign Investment Risk Review Modernization Act of 2018.

"Force Majeure" is defined in Section 14.1.

"Forced Outage" means NERC Event Types U1, U2 and U3, as set forth in Exhibit C to the Senior PPA and incorporated herein by reference, and specifically excludes any Maintenance Outage or Planned Outage.

"Gains" means, with respect to a non-defaulting Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of this Agreement, determined in a commercially reasonable manner. Gains shall be measured with respect to the Expected Excess Energy over the remainder of the Term (ignoring any early termination of this Agreement).

"Generation Interconnection Agreements" means (a) the Generator Interconnection Agreement dated as of August 25, 2008, between TWP LLC and Klickitat PUD, and subsequently assigned by TWP LLC to the TWP Authority on September 17th, 2009 and (b) the Standard Large Generator Interconnection Agreement between TWP Authority and BPA, dated as of January 27, 2007, Contract No. 08TX-13625, each as assigned to Seller as of [_____].

"Governmental Authority" means any supranational, federal or state authority or other political subdivision thereof, having jurisdiction over Seller, Buyer, the Facility, or this Agreement, including the CEC, the CPUC, any municipality, township or county, and any entity or body exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including any corporation or other entity owned or controlled by any of the foregoing.

"Green Attributes" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Project, and its avoided emission of pollutants. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emission of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere;[1] (3) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Tag Reporting Rights are the right of a Green Tag Purchaser to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at the Green Tag Purchaser's discretion, and include without limitation those Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Green Tags are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of Energy. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Project, (ii) production tax credits associated with the construction or operation of the Project and other financial incentives in the form of credits, reductions, or allowances associated with the project that are applicable to a state or federal income taxation obligation, (iii) fuel-related subsidies or "tipping fees" that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered or used by the Project for compliance with local, state, or federal operating and/or air quality permits. If the Project is a biomass or biogas facility and Seller receives any tradable Green Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide Buyer with sufficient Green Attributes to ensure that there are zero net emissions associated with the production of electricity from the Project. **[STC-2]** For purposes of this definition of "Green Attributes", "Project" means the Facility.

"Hazardous Materials" means any substance, material, gas, or particulate matter that is regulated by any Governmental Authority, as an environmental pollutant or dangerous to public health, public welfare, or the natural environment including protection of non-human forms of life, land, water, groundwater, and air, including any material or substance that is (a) defined as "toxic," "polluting," "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," "solid waste" or "restricted hazardous waste" under any provision of local, state, or federal law; (b) petroleum, including any fraction, derivative or additive; (c) asbestos; (d) polychlorinated biphenyls; (e) radioactive material; (f) designated as a "hazardous substance" pursuant to the Clean Water Act, 33 U.S.C. §1251 *et seq.*; (g) defined as a "hazardous waste" pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.*; (h) defined as a "hazardous substance" pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 *et seq.*; (i) defined as a "chemical substance" under the Toxic Substances Control Act, 15 U.S.C. §2601 *et seq.*; or (j) defined as a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §136 *et seq.*

"**Historical Baseline**" is defined in the Senior PPA and quantified pursuant to Section 2.3.4 of the Senior PPA, and is incorporated herein by reference.

[1] Avoided emissions may or may not have any value for GHG compliance purposes. Although avoided emissions are included in the list of Green Attributes, this inclusion does not create any right to use those avoided emissions to comply with any GHG regulatory program.

"**Historical Baseline Differential**" is defined in the Senior PPA and quantified pursuant to Section 2.3.4 of the Senior PPA, and is incorporated herein by reference.

"ICCP" means the Inter-Control Center Communications Protocol.

"Imbalance Settlement" is defined in the Senior PPA and incorporated herein by reference.

"Interconnection Facilities" means all the facilities installed, or to be installed, for the purpose of interconnecting the Facility to the System, including electrical transmission lines, line upgrades, transformers, capacitor banks, inductor banks, and associated equipment, substations, relay and switching equipment, and safety equipment.

"Interconnection Provider" means any party to either Generation Interconnection Agreement, other than Seller or TWP LLC.

"**Investment Grade Credit Rating**" means a long-term credit rating or corporate or long-term senior unsecured debt rating (not supported by third party credit enhancements) of "Baa3" or higher by Moody's, "BBB-" or higher by S&P, or "BBB-" or higher by Fitch Ratings Ltd. or its successor.

"Klickitat PUD" means Public Utility District No. 1 of Klickitat County, Washington, a public utility district organized and existing under the laws of the State of Washington.

"Lender" means any entity lending money or extending credit (including any financing lease, monetization of tax benefits, equity financing, transaction with a Tax Investor, back-leverage financing or credit derivative arrangement) to Seller (a) for the construction, term or permanent financing or refinancing of the Facility; (b) for working capital or other ordinary business requirements for the Facility (including for the maintenance, repair, replacement or improvement of the Facility); (c) for any development financing, bridge financing, credit support, credit enhancement or interest rate protection in connection with the Facility; or (d) for the purchase of the Facility and related rights from Seller.

"Lender Consent" means a consent to collateral assignment in favor of an agent representing Senior Lenders and in substantially the form of **Exhibit 8.4-1**.

"Liabilities" is defined in Section 12.1.1.

"Losses" means, with respect to a non-defaulting Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs and inclusive of Regulatory Compliance Costs), resulting from termination of this Agreement, determined in a commercially reasonable manner. Losses shall be measured with respect to Expected Excess Energy over the remainder of the Term (ignoring any early termination of this Agreement).

"Maintenance Outage" means NERC Event Type MO, as set forth in Exhibit C to the Senior PPA and incorporated herein by reference, and includes any outage involving at least 10% of the Facility's Nameplate Capacity Rating that is not a Forced Outage or a Planned Outage.

"Maximum Delivery Rate" is defined in the Senior PPA and incorporated herein by reference.

"Mediation Location" means Turlock, California.

"Mediation Notice" is defined in Section 23.2(a).

"Mediation Procedures" is defined in Section 23.2.

"Mid-Columbia Day-Ahead Off-Peak Price" means the "ELECTRICITY-MID C-OFF-PEAK-ICE" price, as published by the Intercontinental Exchange for the applicable day of delivery.

"Mid-Columbia Day-Ahead Peak Price" means the "ELECTRICITY-MID CPEAK-ICE" price, as published by the Intercontinental Exchange for the applicable day of delivery.

"Mid-Columbia Flat Price" means the weighted average of the Mid-Columbia Day-Ahead Off-Peak Prices and Mid-Columbia Day-Ahead Peak Prices for the applicable month of delivery, weighted by the on-peak and off-peak percentages based on the Wind Resource Assessment.

"Moody's" means Moody's Ratings, or its successor.

"MW" means megawatt.

"MWh" means megawatt hour.

"NERC" means the North American Electric Reliability Corporation.

"Net Output" means all energy produced by the Facility, exclusive of Station Use, and delivered at the Point of Delivery. Net Output that is not in excess of the Annual Output Cap is sold by Seller to Buyer under the Senior PPA.

"Original PPA" is defined in the Recitals.

"Output" means all energy produced by the Facility.

"Party" and **"Parties"** are defined in the Preamble.

"PCC1 RECs" means meeting the requirements of California Public Utilities Code Section 399.16(b)(1) and Portfolio Content Category One classifications set forth in California Code of Regulations, Title 20, Division 2, Chapter 13, Sections 3203(a) and 3204(d) as amended from time to time or as further defined or supplemented by Requirements of Law.

"Permits" means all of the permits, licenses, approvals, certificates, entitlements and other authorizations issued by Governmental Authorities required for the construction, ownership or operation of the Facility and occupancy of the Premises, and all amendments, modifications, supplements, general conditions and addenda thereto. Permit also includes any permissions, permits, consents, or approvals required for the Facility pursuant to any CFIUS process or otherwise under FIRRMA including, with respect to ownership, control, leasing, or presence upon property in the United States by foreign Persons.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“Planned Outage” means NERC Event Type PO, as set forth in Exhibit C to the Senior PPA and incorporated herein by reference, and specifically excludes any Maintenance Outage or Forced Outage.

“Point of Delivery” means the point of interconnection between the Facility and the System, at Klickitat PUD’s Willis Substation as specified in the Generation Interconnection Agreements.

“Portfolio Content Category” means the classifications of RECs set forth in California Public Utilities Code Section 399.16 and 20 Cal. Code Reg. Sec. 3203 as amended from time to time or as further defined or supplemented by Requirements of Law.

“Premises” means the real property on which the Facility is or will be located, as more fully described on Exhibit 6.1 of the Senior PPA, which is incorporated herein by reference.

“Pre-Repower Estimated P50 Amount” means 374,000 MWhs.

“Prudent Electrical Practices” means any of the practices, methods and acts engaged in or approved by a significant portion of the independent electric power generation industry for wind facilities of similar size and characteristics or any of the practices, methods or acts, which, in the exercise of reasonable judgment in the light of the facts known or that should reasonably have been known at the time a decision is made, could have been expected to accomplish the desired result at the lowest reasonable cost consistent with law, regulation, permits, codes, standards, equipment manufacturer’s recommendations, reliability, safety, environmental protection, economy, and expedition. Prudent Electrical Practices is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be a spectrum of possible practices, methods or acts.

“PSA” is defined in the Recitals.

“PTC Gross-Up Rate” is defined in the Senior PPA and updated annually by Seller pursuant to Buyer in Section 5.1.2(d) of the Senior PPA, each incorporated herein by reference.

“PTC” means production Tax Credits under Section 45 of the Internal Revenue Code.

“PUHCA” means the Public Utility Holding Company Act of 2005.

“Qualified Transferee” means (i) with respect to Seller, (1) an U.S. domestic business entity that itself and together with its Affiliates has a tangible net worth of at least $300,000,000 and (2) at least 3 years of experience operating a generating plant of similar technology and similar size to the Facility, or (ii) with respect to Buyer, (1) is a utility and load serving entity or a provider of wholesale electric power and services in an amount no less than Buyer provides to its cooperative members as of the Effective Date, and (2) has an Investment Grade Credit Rating.

"REC" means (a) the Environmental Attributes associated with all Net Output, together with (b) the Environmental Attribute Reporting Rights associated with such energy and Environmental Attributes, however commercially transferred or traded under any of these or other product names, such as "Renewable Energy Credits," "Renewable Energy Certificates," Certificates, or otherwise. One (1) REC represents the Environmental Attributes made available by the generation of one (1) MWh of Net Output from the Facility.

"REC Price Component" means the average market price of PCC1 RECs with all the material characteristics of those sold hereunder, based on the average of 3 broker quotes from brokers designated by the requesting Party that are not Affiliates of either Party that are reasonably acceptable to the other Party and that have at least 3 years of experience acting as a broker in transactions for the purchase and sale of RECs with all the material characteristics of those sold hereunder.

"Regulatory Compliance Costs" means, with respect to Buyer, the actual amount of fines or penalties incurred by Buyer originating from CARB, CEC, or CPUC for RPS compliance shortfalls, and any brokerage fees, commissions, legal expenses and other similar third party transaction costs and expenses reasonably incurred by Buyer in entering into any arrangement or transaction to pay, cover or mitigate such fines, penalties, or RPS compliance shortfalls.

"Repower", "Repowering", or the past-tense **"Repowered",** is defined in the Senior PPA and incorporated herein by reference.

"Repower Commercial Operation Date" means the date that Repower Commercial Operation, as provided under the Senior PPA, is achieved for the Facility.

"Requestor" is defined in Section 22.3.

"Required Facility Documents" means all Permits, authorizations, rights and agreements now or hereafter necessary for ownership, operation, maintenance, and the lawful operation of the Facility, and to deliver Net Output to Buyer in accordance with this Agreement and Requirements of Law.

"Requirements of Law" means any applicable federal, state and local law, statute, regulation, rule, action, order, code or ordinance enacted, adopted, issued or promulgated by any federal, state, local or other Governmental Authority or regulatory body (including those pertaining to electrical, building, zoning, environmental and occupational safety and health requirements).

"Resource Adequacy" means the resource adequacy requirements established for load serving entities by the CPUC, CAISO or by any other Governmental Authority.

"S&P" means S&P Global Ratings, a division of S&P Global Inc., or its successor.

“SCADA” means a remote supervisory control and data acquisition system included as part of the Facility and to be maintained by Seller, which includes all necessary components and contact points at the Facility.

“Scope Reporting Rule” means (a) the SEC’s Enhancement and Standardization of Climate-Related Disclosures for Investors, 17 Code of Federal Regulations § 229.1500, et seq., as amended from time to time, and, to the extent Buyer voluntarily elects in its sole discretion to comply therewith, as proposed, or, following the effectiveness thereof, in the final rule form thereof despite being stayed or vacated by appealable judicial action, and (b) California Health and Safety Code Sections 38532 and 38533, and the rules and regulations of the California Air Resources Board thereunder, both as amended from time to time, and, to the extent Buyer voluntarily elects in its sole discretion to comply therewith, as set forth in statute and in proposed or final rule form, despite being stayed or vacated by appealable judicial action.

“Seller” is defined in the Preamble.

“Seller Indemnitees” is defined in Section 12.1.2.

“Seller’s Cost to Cover” [redacted]

“Senior Lenders” means any Lender that is not (i) an Affiliate of Seller; nor (ii) Global Infrastructure Management, LLC, TotalEnergies SE, or BlackRock, Inc.

“Senior PPA” is defined in the Recitals.

“Station Use” means Output used to operate the Facility or provide electric energy for any other activities occurring on the Premises or prior to the low side of the substation of the Interconnection Facilities.

“System” means the transmission facilities over which the Transmission Provider has operational control.

“System Curtailment Order” mean an instruction from an Electric System Authority having authority, now or in the future, over the transmission system to reduce generation from the Facility for (i) System Emergencies, (ii) outages (planned or unplanned) of any portion of the transmission system, (iii) abnormal system conditions, or (iv) or otherwise pursuant to Electric System Authority rules (including, without limitation, any curtailment, discretionary or otherwise, made pursuant to a balancing services agreement). Regardless of which entity issues the instruction resulting in curtailment, a System Curtailment Order shall not be based on Buyer’s failure to procure and maintain transmission service in accordance with Section 6.4.2 of the Senior PPA from and after the Point of Delivery.

“System Emergencies” means an “Emergency Condition” as defined in the Transmission Provider’s Open Access Transmission Tariff.

"Tax Credits" means any state, local or federal production tax credit, tax deduction, or investment tax credit specific to the production of renewable energy or investments in renewable energy facilities.

"Tax Investor" means an individual or entity that acquires an ownership interest in Seller or any parent Affiliate of Seller for the primary purpose of obtaining the benefits associated with the PTCs, accelerated depreciation, or other tax benefits associated with the Facility.

"Term" is defined in Section 2.2.

"Termination Payment" means, with respect to the non-defaulting Party, as applicable, either (i) the sum of Losses plus Costs or (ii) the difference between Costs minus Gains, as applicable, expressed in Dollars. If the Termination Payment calculation does not demonstrate that the non-defaulting Party suffered a net loss, the Termination Payment shall be $0. If the Termination Payment calculation does demonstrate that the non-defaulting Party suffered a net loss, a Termination Payment shall be due to the non-defaulting Party pursuant to Section 11.4.

"Transmission Charges" is defined in the Senior PPA and incorporated herein by reference.

"Transmission Provider" means BPA or any successor entity.

"Turbine" means a single wind turbine generating system, including tower, pad, transformer and controller system, installed as part of the Facility.

"TWP Authority" is defined in the Recitals.

"TWP LLC" is defined in the Recitals.

"Ultimate Parent" means Clearway Energy, Inc. and, after any Change of Controlling Interest in Seller to a Qualified Transferee as permitted pursuant to Section 19.2.2, such Qualified Transferee.

"Wind Resource Assessment" means the wind resource assessment report utilized by the Seller to determine the estimated annual generation of the Facility prepared by Seller pursuant to the Senior PPA, a complete and unredacted copy of which shall be provided to Buyer no later than 60 days before the Effective Date.

"WECC" stands for the Western Electricity Coordinating Council and means the regional entity given authority by NERC and FERC to promote bulk power system reliability and security in the WECC footprint.

"WREGIS" means the Western Renewable Energy Generation Information System.

"WREGIS Operating Procedures" means the operating rules and requirements adopted by WREGIS.

1.2 Rules of Interpretation.

1.2.1. General. Terms used in this Agreement but not specifically defined in this Section 1 shall have meanings as commonly used in the English language, provided that words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used in accordance with such recognized meanings. Unless otherwise required by the context in which any term appears, (a) the singular includes the plural and vice versa; (b) references to "Articles," "Sections," "Schedules," "Annexes," "Appendices" or "Exhibits" are to articles, sections, schedules, annexes, appendices or exhibits hereof; (c) all references to a particular entity or an electricity market price index include a reference to such entity's or index's successors; (d) "herein," "hereof" and "hereunder" refer to this Agreement as a whole; (e) all accounting terms not specifically defined herein shall be construed in accordance with generally accepted accounting principles consistently applied; (f) the masculine includes the feminine and neuter and vice versa; (g) "including" means "including, without limitation" or "including, but not limited to"; (h) all references to a particular tariff, law or statute mean that tariff, law or statute as amended from time to time; (i) the word "or" is not necessarily exclusive; and (j) references to this Agreement or any agreement referenced herein shall include a reference to all appendices, annexes, schedules and exhibits hereto or thereto, as the same may be amended, modified, supplemented or replaced from time to time.

1.2.2. Terms Not to be Construed For or Against Either Party. Each term hereof shall be construed simply according to its fair meaning and not strictly for or against either Party. The Parties have jointly prepared this Agreement, and no term hereof shall be construed against a Party on the ground that the Party is the author of that provision.

1.2.3. Headings. The headings used for the sections and articles hereof are for convenience and reference purposes only and shall in no way affect the meaning or interpretation of the provisions hereof.

1.2.4. Examples. Example calculations and other examples set forth herein are for purposes of illustration only and are not intended to constitute a representation, warranty or covenant concerning the example itself or the matters assumed for purposes of such example. If there is a conflict between an example and the text hereof, the text shall control.

SECTION 2
CONDITION PRECEDENT; TERM

2.1 Condition Precedent.

2.1.1. The is Agreement shall be effective on the Repower Commercial Operation Date (the "**Effective Date**") upon the satisfaction all the following conditions: Seller achieves Repower Commercial Operation for the Facility pursuant to the terms and conditions of the Senior PPA and the Repower Term has commenced under the Senior PPA.

2.1.2. If the Condition Precedent has not been fulfilled before the expiration of the Base Term under the Senior PPA, this Agreement will terminate and neither Party (i) will have any further rights or obligations under this Agreement, and (ii) will be liable to the other Party for damages, or otherwise owe to the other Party a termination payment of any kind.

2.2 Term. The "**Term**" of this Agreement shall commence on the Effective Date and continue through the number of Contract Years that are concurrent with the "Repower Term" under the Senior PPA.

SECTION 3
REPRESENTATIONS AND WARRANTIES

3.1 Mutual Representations and Warranties. Each Party represents, covenants, and warrants to the other that:

3.1.1. Organization. It is duly organized and validly existing under the laws of its State of organization.

3.1.2. Authority. It has the requisite power and authority to enter hereinto and to perform according to the terms hereof.

3.1.3. Corporate Actions. It has taken all corporate actions required to be taken by it to authorize the execution, delivery and performance hereof and the consummation of the transactions contemplated hereby.

3.1.4. No Contravention. The execution, delivery, performance and observance by it of its obligations hereunder do not or will not when performed (a) contravene any provision of, or constitute a default under, (i) any indenture, mortgage, security instrument or undertaking, or other material agreement to which it is a party or by which it is bound, (ii) any valid order of any court, or any regulatory agency or other body having authority to which it is subject, or (iii) any material Requirements of Law presently in effect having applicability to it, or (b) require the consent or approval of, or material filing or registration with, any Governmental Authority or other Person except as provided herein.

3.1.5. Valid and Enforceable Agreement. This Agreement is a valid and legally binding obligation of it, enforceable against it in accordance with its terms, except as the enforceability hereof may be limited by general principles of equity or bankruptcy, insolvency, bank moratorium or similar laws affecting creditors' rights generally and laws restricting the availability of equitable remedies.

3.1.6. Eligible Contract Participant. It, and any guarantor of its obligations hereunder, is an "eligible contract participant" within the meaning of the Commodity Exchange Act.

3.2 Seller's Further Representations and Warranties. Seller further represents, covenants, and warrants to Buyer that:

3.2.1. Authority. Seller (i) has all required regulatory authority to make wholesale sales from the Facility; (ii) has the power and authority to own and operate its businesses and properties, to own or lease and be present upon the property it occupies and to conduct the business in which it currently engaged; and (iii) is duly qualified and in good standing under the laws of each jurisdiction where its ownership, lease or operation of property or the conduct of its business requires such qualification.

3.2.2. Litigation. No litigation, arbitration, investigation or other proceeding is pending or, to the best of Seller's knowledge, threatened against Seller or any Affiliate with respect hereto and the transactions contemplated hereunder. No other investigation or proceeding is pending or threatened against Seller or any Affiliate of Seller that would reasonably be expected to have a material adverse effect on Seller's obligations to perform hereunder or Buyer's reputation.

3.2.3. Accuracy of Information. No exhibit, contract, report or document furnished by Seller to Buyer that contains factual information (excluding any projections) in connection with this Agreement, or the negotiation or execution hereof contains any material misstatement of fact or omits to state a material fact or any fact necessary to make the statements contained therein not misleading.

3.2.4. Green Guides. Throughout the Term, Seller will at all times be fully compliant with the requirements of the Federal Trade Commission's "Green Guides," 77 Fed. Reg. 62122, 16 C.F.R. Part 260, in any communication concerning Net Output, the Facility or the RECs.

3.3 Seller Covenants. Seller covenants that Seller shall comply with all Requirements of Law, including all applicable anti-corruption, anti-bribery, anti-money laundering, anti-terrorism and economic sanction and anti-boycott laws.

3.4 No Other Representations or Warranties. Each Party acknowledges that it has entered hereinto in reliance upon only the representations and warranties set forth in this Agreement and the PSA, and that no other representations or warranties have been made by the other Party with respect to the subject matter hereof.

3.5 Continuing Nature of Representations and Warranties; Notice. The representations and warranties set forth in this Section 3 are made as of the Execution Date, as of the Effective Date, and deemed made continually throughout the Term. If at any time during the Term, any Party obtains actual knowledge of any event or information which causes any of the representations and warranties in this Section 3 to be materially untrue or misleading, such Party shall provide the other Party with written notice of the event or information, the representations and warranties affected, and the action, if any, which such Party intends to take to make the representations and warranties true and correct. The notice required pursuant to this Section 3 shall be given as soon as practicable after the occurrence of each such event.

SECTION 4
DELIVERIES OF EXCESS NET OUTPUT, ANCILLARY SERVICES, AND RECS

4.1 Purchase and Sale. At and after the Effective Date, Seller shall sell and make available to Buyer, and Buyer shall purchase and receive the Net Excess Output from the Facility at the Point of Delivery and all Ancillary Services and RECs associated with such Excess Net Output (which shall come from the Facility and from no other source); *provided, however*, at any given time Buyer may at its sole option, but shall be under no obligation to, receive any Excess

Net Output above the Maximum Delivery Rate, or RECs associated with any Excess Net Output above the Maximum Delivery Rate. In no event shall Buyer be obligated to purchase, receive or pay for Output (or RECs or Ancillary Services associated with Output) that is not delivered to the Point of Delivery.

4.2 No Sales to Third Parties. During the Term, Seller shall not sell any Excess Net Output, RECs or Ancillary Services associated with such Excess Net Output, to any party other than Buyer (either pursuant to this Agreement or the Subordinate PPA).

4.3 Title and Risk of Loss of Excess Net Output. Seller shall deliver Excess Net Output, Ancillary Services, and associated RECs hereunder free and clear of all liens, claims and encumbrances. Title to and, subject to Section 4.5 with respect to Environmental Attributes, risk of loss of Excess Net Output shall transfer from Seller to Buyer upon its delivery to Buyer at the Point of Delivery. Seller shall be deemed to be in exclusive control of, and responsible for, any damage or injury caused by all Output up to and at the Point of Delivery. Subject to Section 4.5 with respect to Environmental Attributes, Buyer shall be deemed to be in exclusive control of, and responsible for, any damages or injury caused by, Excess Net Output from the Point of Delivery. Delivery of Excess Net Output to Buyer on any particular day shall be subject to the provisions of this Agreement.

4.4 Curtailment. The Partes agree and acknowledge that the obligations and responsibilities related to curtailment of the Facility and Output been allocated between the Parties pursuant to the Senior PPA, and such terms are incorporated in this Agreement as though fully stated herein. Buyer shall not be obligated to purchase, receive or pay for Excess Net Output (or associated RECs) (a) during times and to the extent that such Excess Net Output and RECs are not delivered because the interconnection between the Facility and the System is disconnected, suspended or interrupted, in whole or in part, pursuant to the Generation Interconnection Agreements, (b) during times and to the extent that such Output and RECs are not delivered because of a System Curtailment Order, or (c) during times and to the extent that an event of Force Majeure prevents either Party from delivering or receiving such Output and RECs.

4.5 Transfer of Title to RECs; Renewable Portfolio Standard Certifications.

4.5.1. Title to the RECs shall pass from Seller to Buyer immediately upon the generation of the Output at the Facility that gives rise to such RECs. Seller shall deliver and convey the applicable RECs associated with the Output within 10 Business Days after the end of each calendar quarter in which the Certificates for such RECs are created in WREGIS. Seller shall provide such additional documents and instruments as are reasonably requested by Buyer to effect or evidence transfer of the RECs to Buyer or its designees including, without limitation, a REC Attestation and Bill of Sale substantially in the form of **Exhibit 4.5.1**. Each Party shall promptly give to the other Party copies of all documents it submits to any Governmental Authority to effectuate or record any such transfers.

4.5.2. Seller shall promptly provide Buyer copies of all documentation it submits to WREGIS related to the Facility, the Net Output, and the RECs. In the event of the promulgation of a scheme involving Environmental Attributes administered by CAMD, the Parties shall promptly cooperate in taking all reasonable actions necessary so that such transfers can be recorded. Upon notification by CAMD that any transfers contemplated by this Agreement will not be recorded, Seller shall promptly provide Buyer copies thereof and promptly take all reasonable actions necessary so that such transfers may be recorded. Seller shall not claim in any public communication nor report under § 1605(b) of the Energy Policy Act of 1992 or under any applicable program that any of the RECs purchased by Buyer hereunder belong to any Person other than Buyer. Seller represents that it has not claimed, and agrees that it will not hereafter claim, any Environmental Attributes, RECs, "renewable energy", "clean energy", "green energy" or similar attributes of the Facility or energy required to be purchased and sold hereunder as belonging or attributable to Seller, to the Facility, or the Facility's generation equipment, and as of the Effective Date, represents that it is not actually aware of any such claims made by third parties. Seller shall promptly report to Buyer any such claims made by third parties of which Seller becomes aware. The Parties agree to work together in good faith to cause the correction of any confusing or misleading claim or public communications made by a Party or a third party concerning any relationship with each other or each other's Affiliates, the Environmental Attributes, or the Facility. Seller covenants not to collect for its own benefit or allow any Person other than Buyer to collect, or permit any electronic connection with the Facility or its metering that enables creation of, any cryptocurrency, blockchain-enabled, or similar types of commodities or tokens that are created using measurements of energy. Without limiting the generality of Buyer's ownership of the RECs, Buyer may report under such program that such Environmental Attributes purchased hereunder belong to it. Each Party shall promptly give the other Party copies of all documents it submits to the CAMD to effectuate any transfers. Seller shall cause the Facility (i) to maintain its registration in good standing with the State of California throughout the Term and (ii) to qualify and register and maintain such qualification/registration with any equivalent programs created by any future legislation. Seller shall also cooperate in any registration of the Facility in the renewable portfolio standard or other equivalent program in all such further states and programs in which Buyer may request Seller to register or maintain registered the Facility, to the extent that such registrations and other requirements do not impose a material economic or administrative burden on Seller.

4.5.3. Seller hereby provides and conveys all Green Attributes associated with all electricity generation from the Project to Buyer 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 Buyer as included in the delivery of the Product from the Project. **[STC-2]** For purposes of this Section 4.5.3, "Project" means the Facility, and "Product" means Buyer's Interest.

4.5.4. 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. **[STC-6]** For purposes of this Section 4.5.4, "Project" means the Facility, and "delivered to Buyer" means delivered to Buyer and transmitted to CAISO.

4.5.5. 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 20 Cal. Code Reg. Section 3200 et seq, 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. **[STC REC-1]**

4.5.6. Without limiting Sections 4.5.4 and Section 4.5.5, Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement, if the Excess Net Output hereunder is delivered by Buyer from the Point of Delivery to CAISO or to another California Balancing Authority, the Renewable Energy Credits transferred to Buyer will conform to the definition and attributes required for compliance with PCC1 RECs, provided that Seller does not guarantee that the California Energy Commission will qualify or otherwise determine the status of RECs delivered hereunder as PCC1 RECs. Seller agrees that Seller shall not take any actions that it knows or reasonably should know will interfere with the Output and the RECs delivered hereunder from maintaining their PCC1 REC status.

4.5.7. 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. **[STC REC-2]**

4.6 Capacity Rights. The Partes agree and acknowledge that any right, title, and interest that Seller may have in and to Capacity Rights, if any, existing during the Term have been transferred to Buyer pursuant to the terms and conditions under the Senior PPA, and such terms are incorporated in this Agreement as though fully stated herein.

4.7 Ancillary Services. The Partes agree and acknowledge that the obligations and responsibilities related to the Facility's participation as a resource that may bid into Ancillary Services markets operated by the Electric System Authority, have been allocated between the Parties pursuant to the Senior PPA, and such terms are incorporated in this Agreement as though fully stated herein.

4.1 Tax Credits. The Partes agree and acknowledge that Seller shall be entitled to all Tax Credits relating in any way to the Facility pursuant to the terms and conditions under the Senior PPA, and such terms are incorporated in this Agreement as though fully stated herein. The obligations of the Parties hereunder, including those obligations set forth herein regarding the purchase and price for and Seller's obligation to deliver Buyer's Interest, shall be effective regardless of whether the sale of Output or Net Output from the Facility is eligible for, or receives, PTCs or other Tax Credits during the Term.

SECTION 5
CONTRACT PRICE; COSTS

5.1 Contract Price; Includes Excess Net Output, RECs, and Ancillary Services. Seller shall sell and deliver to the Point of Delivery all Excess Net Output. Buyer shall pay to Seller the Contract Price per MWh, as specified in **Exhibit 5.1,** for Excess Net Output delivered to the Point of Delivery up to the Maximum Delivery Rate. The Contract Price provided for in **Exhibit 5.1**, includes the consideration to be paid by Buyer to Seller for all Excess Net Output, RECs, and Ancillary Services, and Seller shall not be entitled to any compensation over and above the Contract Price, as the case may be, for the RECs or Ancillary Services associated therewith.

5.2 Costs and Charges. The Partes agree and acknowledge that the following costs related to the Facility and the Net Output have been allocated between the Parties pursuant to the Senior PPA, and such terms are incorporated in this Agreement as though fully stated herein: (i) all costs, including taxes, of owning, maintaining, and operating the Facility, including with respect to emissions or other environmental impacts of the Facility, in compliance with existing and future Requirements of Law, (ii) any Station Use required by the Facility; (ii) all costs or charges imposed in connection with the Generation Interconnection Agreements; (iii) all balancing and resource integration costs, including all costs or charges imposed under any currently existing or future BSA, (iv) all costs or charges related to the scheduling and delivery of Net Output up to and at the Point of Delivery, including transmission costs, transmission line losses and any operation and maintenance charges imposed pursuant to the Generation Interconnection Agreements; and (v) all costs or charges imposed in connection with the scheduling and delivery of Net Output from the Point of Delivery including Transmission Charges and Imbalance Settlements.

5.3 Taxes. Seller shall pay or cause to be paid when due, or reimburse Buyer for, all existing and any new sales, use, excise, ad valorem, and any other similar taxes, imposed or levied by any Governmental Authority up to the Point of Delivery, on the generation of Net Output, Ancillary Services or RECs or on the sale of Net Output, Ancillary Services, or RECs from Seller to Buyer hereunder, regardless of whether such taxes are imposed on Buyer or Seller under Requirements of Law. Buyer shall pay or cause to be paid when due, or reimburse Seller for, all such taxes levied at or beyond the Point of Delivery upon a purchaser (other than Buyer) of Net Output, Ancillary Services or RECs, regardless of whether such taxes are imposed on Buyer or Seller under Requirements of Law. If taxes are imposed or levied by a Governmental Authority on a Party in error or incorrectly, or on the wrong Party, the Parties shall work in good faith to cause such Governmental Authority to correct such error and levy or impose such taxes correctly. The Contract Price shall not be adjusted on the basis of any action of any Governmental Authority with respect to changes to or revocations of sales and use tax benefits, rebates, exception or give back.

5.4 Rates Not Subject to Review. The rates for service specified herein shall remain in effect until expiration of the Term, and shall not be subject to change for any reason, including regulatory review, absent agreement of the Parties. Neither Party shall petition FERC pursuant to the provisions of Sections 205 or 206 of the Federal Power Act (16 U.S.C. § 792 *et seq*.) to amend such prices or terms, or support a petition by any other Person seeking to amend such prices or terms, absent the agreement in writing of the other Party. Further, absent the agreement in writing by both Parties, the standard of review for changes hereto proposed by a Party, a non-party or the

FERC acting *sua sponte* shall be the "public interest" application of the "just and reasonable" standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Serv. Corp.*, 350 U.S. 332 (1956) and *Fed. Power Comm'n v. Sierra Pac. Power Co.*, 350 U.S. 348 (1956) and clarified by *Morgan Stanley Capital Group, Inc. v. Pub. Util. Dist. No. 1 of Snohomish*, 554 U.S. 527, 128 S. Ct. 2733 (2008) and *NRG Power Mktg., LLC v. Maine Pub. Util. Comm'n,* 130 S. Ct. 503 (2010).

SECTION 6; OPERATION AND CONTROL

6.1 Estimated Excess Net Output. Within 30 days of the Effective Date, Seller shall provide Buyer with the estimated monthly Excess Net Output. The estimated monthly Excess Net Output shall be deemed effective and shall be added to **Exhibit A** when it has been provided by Seller. As of Seller's presentation to Buyer of **Exhibit A**, Seller represents and warrants that the estimated monthly Excess Net Output set forth on **Exhibit A** takes into account the Planned Outages, Maintenance Outages, and Forced Outages that Seller reasonably expects to encounter in the ordinary course of operating the Facility, and that such outages are not expected to substantially reduce the Facility's average estimated monthly Excess Net Output as set forth in **Exhibit A**.

6.2 Standard of Facility and Interconnection Facilities Operation. The Partes agree and acknowledge that the obligations and responsibilities related to the operation and maintenance of the Facility and the Interconnection Facilities, have been allocated between the Parties pursuant to the Senior PPA, and such terms are incorporated in this Agreement as though fully stated herein.

6.2.1. Fines and Penalties.

(a) Seller shall pay when due, and in no event later than 30 days of assessment, all fines, penalties, or legal costs incurred by Seller or for which Seller is legally responsible for noncompliance by Seller, its agents, employees, contractors or subcontractors, with respect to any provision hereof, any agreement, commitment, obligation or liability incurred in connection with this Agreement or any Requirements of Law, except where such fines, penalties or legal costs are being contested in good faith by Seller, its agents, employees, contractors or subcontractors through appropriate proceedings and Seller has (i) set aside and funded adequate reserves to cover such fines, penalties or legal costs in the event of an adverse determination, or (ii) posted security to Buyer or Seller's Senior Lenders adequate to ensure Seller's ability to cover such fines, penalties or legal costs in the event of an adverse determination.

(b) If fines, penalties, or legal costs are assessed against or incurred by Buyer on account of any action by any Governmental Authority due to noncompliance by Seller with any Requirements of Law or the provisions hereof, or if the performance of Seller is delayed or stopped by order of any Governmental Authority due to Seller's noncompliance with any Requirements of Law, Seller shall indemnify and hold harmless Buyer against any and all losses, liabilities, damages, and claims suffered or incurred by Buyer as a result. Without limiting the generality of the foregoing, Seller shall reimburse Buyer for all fees, damages, or penalties, including Buyer's legal costs and attorney's fees, imposed on Buyer by any Governmental Authority or other Person or to other utilities for violations of any Requirements of Law or to the extent caused by a default by Seller or a failure of performance by Seller hereunder.

6.3 Outages. The Partes agree and acknowledge that obligations and responsibilities related to Planned Outages, Maintenance Outages, Forced Outages, and notices related to deratings and outages for the Facility have been allocated between the Parties pursuant to the Senior PPA, and such terms are incorporated in this Agreement as though fully stated herein.

6.4 Scheduling.

6.4.1. Scheduling Entity and Scheduling Activities. The Partes agree and acknowledge that obligations and responsibilities related to scheduling services for the Facility for purposes of scheduling the Net Output from the Point of Delivery with the applicable Electric System Authority and associated Applicable Market settlements have been allocated between the Parties pursuant to the Senior PPA, and such terms are incorporated in this Agreement as though fully stated herein.

6.4.2. Transmission Services. The Partes agree and acknowledge that obligations and responsibilities related to securing transmission services for the Net Output have been allocated between the Parties pursuant to the Senior PPA, and such terms are incorporated in this Agreement as though fully stated herein.

6.4.3. Balancing Services. Seller shall be responsible for securing and maintaining all balancing services and balancing service agreements necessary for the Facility, pursuant to the terms and conditions of the Senior PPA, and such terms are incorporated in this Agreement as though fully stated herein.

6.4.4. Energy Imbalance Market. The Partes agree and acknowledge that obligations and responsibilities related to the Facility's participation in the Energy Imbalance Market have been set forth and allocated between the Parties pursuant to the Senior PPA, and such terms are incorporated in this Agreement as though fully stated herein.

6.4.5. Market Structure. The delivery obligations of Seller (to and at the Point of Delivery) and the scheduling, delivery and transmission obligations of Buyer (from and after the Point of Delivery) set forth in this Section 6 reflect the market structure in effect as of the Execution Date. Upon a request by either Party pursuant to Section 6.5.7 of the Senior PPA, the Parties shall use best efforts to amend this Agreement consistent with any amendment to the Senior PPA, such that the amended terms (a) comply with and are enforceable under Requirements of Law, (b) give effect to the intent of the Parties in entering hereinto, and (c) preserve the balance of the economics and equities contemplated by this Agreement together with the Senior PPA in all material respects.

6.5 Forecasting. The Partes agree and acknowledge that the obligations and responsibilities related to forecasting services for the Facility and the Net Output have been set forth and allocated between the Parties pursuant to the Senior PPA, and such terms are incorporated in this Agreement as though fully stated herein.

6.6 Limitations on Increase in Nameplate Capacity Rating; New Facility Expansion or Development. The Partes agree and acknowledge that obligations and responsibilities related to (i) limitations on the Net Output in quantities in excess of the Maximum Delivery Rate, (ii) the incorporation of any energy storage technologies related to the Facility, and (iii) the incorporation of any Expansion Project, as defined in the Senior PPA, to the Facility or Interconnection Facilities, have each been set forth and allocated between the Parties pursuant to the Senior PPA, and such terms are incorporated in this Agreement as though fully stated herein.

6.7 Electronic Communications. The Partes agree and acknowledge that the obligations and responsibilities related to (i) meteorological data, (ii) telemetering, (iii) Transmission Provider consent to sharing meter information with Buyer, (iv) communication equipment between the Facility and Buyer, (v) the SCADA system, and (vi) ICCP communication, have each been set forth and allocated between the Parties pursuant to the Senior PPA, and such terms are incorporated in this Agreement as though fully stated herein.

6.8 Reports and Records. The Partes agree and acknowledge that the obligations and responsibilities related to Seller providing reports and records to Buyer, including (i) monthly and quarterly reporting of the Facility's operation and performance, (ii) the electronic fault log for the Facility, (iii) information relating to each Maintenance Outage, Planned Outage, and Forced Outage, (iv) information requested from or required for any Governmental Authority, (iv) information relating to the environmental impacts and mitigation measures in connection with the Facility's construction or operation, including relating to any actual or alleged violation or presence of Environmental Contamination, and (v) information relating to any material adverse events or litigation impacting the Seller or the Facility, have each been set forth and allocated between the Parties pursuant to the Senior PPA, and such terms are incorporated in this Agreement as though fully stated herein.

6.9 Financial and Accounting Information. The Partes agree and acknowledge that the obligations and responsibilities related to financial and accounting information pertaining to the Facility, including confirming whether or not a variable interest exists under FIN 46R, have been set forth and allocated between the Parties pursuant to the Senior PPA, and such terms are incorporated in this Agreement as though fully stated herein.

6.10 Access Rights. The Partes agree and acknowledge that the obligations and responsibilities related to access rights to the Facility have been set forth and allocated between the Parties pursuant to the Senior PPA, and such terms are incorporated in this Agreement as though fully stated herein.

6.11 Facility Images. The Partes agree and acknowledge that the obligations and responsibilities related to images from or of the Facility have been set forth and allocated between the Parties pursuant to the Senior PPA, and such terms are incorporated in this Agreement as though fully stated herein.

6.12 Scope Reporting Rule. The Partes agree and acknowledge that the obligations and responsibilities related to the Scope Reporting Rule have been set forth and allocated between the Parties pursuant to the Senior PPA, and such terms are incorporated in this Agreement as though fully stated herein.

SECTION 7
EXEMPT WHOLESALE GENERATOR STATUS

7.1 EWG. During the Term, Seller shall maintain its EWG status (to the extent it is required by law to do so) and its authority to sell power hereunder.

SECTION 8
SENIOR LENDER PROTECTIVE PROVISIONS

8.1 Senior Lender Protective Provisions. If Seller collaterally assigns this Agreement to Senior Lenders, Buyer, at Seller's sole cost and expense, if requested by Seller, shall enter into a Lender Consent with an agent representing Seller's Senior Lenders substantially in the form of **Exhibit 8.4-1** or in another form that is reasonably acceptable to Buyer. If Seller enters into a tax equity financing, Buyer, at Seller's sole cost and expense, if requested, shall provide an Estoppel Certificate to Seller's Tax Investors and an agent representing Seller's Senior Lenders substantially in the form of **Exhibit 8.4-2** or in another form that is reasonably acceptable to Buyer. Seller will within 5 Business Days of written demand reimburse Buyer all Buyer's reasonable, documented third party costs and expenses, including legal fees and costs of due diligence, incurred in connection with any action or exercise of rights or remedies by any of Seller's Lenders against Seller, including any proceeding or foreclosure against Seller or this Agreement.

SECTION 9
METERING

9.1 Metering. The Partes agree and acknowledge that the obligations and responsibilities related to Seller providing reports and records to Buyer, including (i) the configuration and dedication of metering for the Facility, (ii) the ownership, inspection, testing, maintenance, and replacement of metering, (iii) meter errors, (iv) meter data, and (v) WREGIS metering, have each been set forth and allocated between the Parties pursuant to the Senior PPA, and such terms are incorporated in this Agreement as though fully stated herein.

SECTION 10
BILLINGS, COMPUTATIONS AND PAYMENTS

10.1 Monthly Invoices. On or before the 15th day following the end of each calendar month, Seller shall deliver to Buyer a proper invoice showing Seller's computation of Excess Net Output delivered to Buyer hereunder during such month and any other amounts owed by one Party to the other Party pursuant to this Agreement. When calculating the invoice, Seller shall provide the hourly Excess Net Output and reasonable documentation supporting the calculation for any other amounts owed by one Party to the other Party pursuant to this Agreement. Except as provided in Sections 10.2 and Section 10.4, the owing Party shall send payment to the other Party by the 20th day following receipt of such invoice. Unless otherwise specified in this Agreement, each Party will pay the other Party for any damages due under this Agreement within 30 days following receipt of the other Party's notice of such damages.

10.2 Offsets. Buyer may offset any payment due hereunder against amounts owing from Seller to Buyer pursuant hereto or any other agreement between the Parties, including the Senior

PPA. Buyer's exercise of recoupment and set off rights shall not limit the other remedies available to Buyer hereunder, under such other agreements, or otherwise.

10.3 Interest on Late Payments. Any amounts that are not paid when due hereunder shall bear interest at the Contract Interest Rate from the date due until paid.

10.4 Disputed Amounts. If either Party, in good faith, disputes any amount due pursuant to an invoice rendered hereunder, such Party shall notify the other Party of the specific basis for the dispute and, if the invoice shows an amount due, shall pay that portion of the statement that is undisputed, on or before the due date. Any such notice shall be provided within 2 years of the date of the invoice in which the error first occurred. If any amount disputed by such Party is determined to be due or required to be refunded to the other Party, or if the Parties resolve the payment dispute, the amount due or to be refunded shall be paid within 5 days after such determination or resolution, along with interest at the Contract Interest Rate from the date due until the date paid.

10.5 Records. Each Party shall keep and maintain all records as may be necessary or useful in performing or verifying the accuracy of all relevant data, estimates or statements of charges submitted hereunder until the later of (i) a period of at least 24 months after the date an invoice was received by a Party, or (ii) if there is a dispute relating to an invoice, the date that is 24 months after the date on which such dispute is resolved.

10.6 Audit Rights. Each Party, through its authorized representatives, shall have the right, at its sole expense upon reasonable notice and during normal business hours, to examine and copy the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made hereunder or to verify the other Party's performance of its obligations hereunder. Upon request, each Party shall provide to the other Party statements evidencing the quantities of Excess Net Output delivered at the Point of Delivery. If any statement is found to be inaccurate, a corrected statement shall be issued and any amount due thereunder will be promptly paid and shall bear interest at the Contract Interest Rate from the date of the overpayment or underpayment to the date of receipt of the reconciling payment.

SECTION 11
DEFAULTS AND REMEDIES

11.1 Defaults. The following events are defaults (each a "default" before the passing of applicable notice and cure periods, and an "**Event of Default**" thereafter) hereunder:

11.1.1. Defaults by Either Party.

(a) A Party fails to make a payment when due hereunder if the failure is not cured within 10 days after the non-defaulting Party gives the defaulting Party a notice of the default.

(b) A Party (i) makes an assignment for the benefit of its creditors; (ii) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy or similar law for the protection of creditors, or has such a petition filed against it and such petition is not withdrawn or dismissed within 60 days after such filing; (iii) becomes insolvent; or (iv) is unable to pay its debts when due.

(c) A Party breaches a representation or warranty made by it herein if the breach is not cured within 30 days after the non-defaulting Party gives the defaulting Party a notice of the default; and provided that, upon written notice from the defaulting Party, this 30 day period shall be extended by an additional 60 days if (i) the failure cannot reasonably be cured within the 30 day period despite diligent efforts, (ii) the default is capable of being cured within the additional 60 day period, and (iii) the defaulting Party provides the non-defaulting Party a remediation plan which the non-defaulting Party approves (such approval not to be unreasonably withheld), and the defaulting Party promptly commences and diligently commences the cure and pursues the remediation plan within the original 30 day period and is at all times thereafter diligently and continuously proceeding to cure the failure pursuant to the remediation plan.

(d) A Party otherwise fails to perform any obligation hereunder for which an exclusive remedy is not provided hereunder and which is not addressed in any other Event of Default described in this Section 11.1, if the failure is not cured within 30 days after the non-defaulting Party gives the defaulting Party notice of the default, unless a shorter period is provided for such failure hereunder; and provided that, upon written notice from the defaulting Party, this 30 day period shall be extended by an additional 60 days if (i) the failure cannot reasonably be cured within the 30 day period despite diligent efforts, (ii) the default is capable of being cured within the additional 60 day period, and (iii) the defaulting Party provides the non-defaulting Party a remediation plan which the non-defaulting Party approves (such approval not to be unreasonably withheld), and the defaulting Party promptly commences and diligently commences the cure and pursues the remediation plan within the original 30 day period and is at all times thereafter diligently and continuously proceeding to cure the failure pursuant to the remediation plan.

11.1.2. Defaults by Seller.

(a) Seller’s Abandonment of the Facility.

(b) Seller sells Excess Output, or RECs or Ancillary Services associated with the Excess Output, to a party other than Buyer in breach hereof, or Seller makes a public statement or otherwise takes an action that any Governmental Authority or the Center for Resource Solutions determine is a retirement, double counting, double sale, double use or double claim of RECs, if Seller does not permanently cease such sale and compensate Buyer for the damages arising from the breach, including all Regulatory Compliance Costs within 10 days after Buyer gives Seller a notice thereof.

(c) There is an uncured Event of Default by Seller under the Senior PPA.

(d) Seller defaults under any material agreement with any third party relating to the ownership, interconnection, operation, transmission from, maintenance or repair of the Facility, and fails to cure such default within the time required under such agreement, after the expiration of applicable notice, cure and waiver periods, resulting in the termination of such material agreement without a replacement or substitute thereof obtained within the earlier of (i) 60 days following such termination and (ii) the needed timeliness to allow Seller to continue performance under and in compliance with this Agreement.

(e) Buyer receives notice of foreclosure of the Facility or any part thereof by a Lender, mechanic or materialman, or any other holder, of an unpaid lien or other charge or encumbrance, if the same has not been stayed, paid, or bonded around within 10 days.

(f) Seller fails to maintain any Required Facility Documents, Permits, land rights, interconnection rights or other material rights necessary to own or operate the Facility, and such Required Facility Documents, Permits, land rights, interconnection rights or other material rights necessary to own or operate the Facility have not been replaced within the earlier of (i) 60 days following such termination and (ii) the expiration of applicable notice, cure and waiver periods.

11.2 Remedies for Failure to Deliver/Receive Prior To Termination.

11.2.1. Remedy for Seller's Failure to Deliver. If Seller fails to deliver all or part of the Excess Net Output and associated RECs required to be delivered under this Agreement, and such failure is not excused under the terms hereof or by Buyer's failure to perform, then Seller shall pay Buyer within 5 Business Days after invoice receipt, an amount equal to (i) Buyer's Cost to Cover multiplied by the Excess Net Output not delivered, (ii) additional Transmission Charges, if any, reasonably incurred by Buyer in moving replacement energy to the Point of Delivery or if not there, to such points in Buyer's control area as are determined by Buyer, and (iii) any additional reasonable and direct cost or expense incurred as a result of Seller's failure to deliver, as determined by Buyer (including Imbalance Settlement and Applicable Market Operator fines or penalties related to scheduling discrepancies caused by Seller's action or inaction). The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount, and Seller may request additional detail to further substantiate the calculation thereof.

11.2.2. Remedy for Buyer's Failure to Purchase. If Buyer fails to receive or purchase all or part of the Excess Net Output required to be purchased under this Agreement, and such failure is not excused under the terms hereof or by Seller's failure to perform, then Buyer shall pay Seller, on the earlier of the date payment would otherwise be due in respect of the month in which the failure occurred or within 5 Business Days after invoice receipt, an amount equal to (i) Seller's Cost to Cover multiplied by the amount of deemed Excess Net Output (based on actual wind and availability data during each such hour) equal to the difference between the amount of Excess Net Output in such hour and the aggregate amount of Excess Net Output that would have been produced in such hour, but for Buyer's failure to receive or purchase, and (ii) any additional reasonable and direct cost or expense incurred as a result of Buyer's failure to receive or purchase. Under no circumstances will Seller sell Excess Net Output and RECs to a third party or entity other Buyer prior to the effective date of any termination of this Agreement. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation thereof, and Buyer may request additional detail to further substantiate the calculation thereof.

11.2.3. Remedy for Seller's Failure to Sell and Deliver Ancillary Services or Capacity Rights. Seller shall be liable for Buyer's actual damages in the event Seller fails to sell or deliver all or any portion of the Ancillary Services to Buyer as required hereunder, or if Seller sells or delivers all or any portion of the Ancillary Services to a Person other than Buyer.

11.3 Termination and Remedies. Upon the occurrence of, and during the continuation of, an Event of Default, the non-defaulting Party shall be entitled to all remedies available under this Agreement and at law or in equity, and may terminate this Agreement by notice to the other Party designating the date of termination and delivered to the defaulting Party no less than one (1) Business Day before such termination date; *provided, however*, that as a precondition to Seller's exercise of this termination right, Seller must also provide copies of such notice to the notice addresses set forth in Section 21 for Buyer, such copies addressed to the "General Manager" and the "General Counsel" of Buyer. Such copies shall be sent by registered overnight delivery service or by certified or registered mail, return receipt requested and shall state prominently therein in type font no smaller than 14 point all-capital letters that "THIS IS A TERMINATION NOTICE UNDER A RENEWABLE PPA. YOU MUST CURE A DEFAULT, OR THE PPA WILL BE TERMINATED," and shall state therein any amount purported to be owed and wiring instructions, or the nature of any non-payment default alleged. Seller shall not have any right to terminate this Agreement if the default that gave rise to the termination right is cured within the 5 Business Days of Buyer's receipt of such notice. Further, during the continuation of default by the other Party, and until it has recovered all damages incurred on account of such default by the other Party, without exercising its termination right, a party may offset its damages against any payment due the other Party. The rights contemplated by this Section 11 are cumulative such that the exercise of one or more rights shall not constitute a waiver of any other rights. In the event of a termination hereof:

(a) Each Party shall pay to the other all amounts due the other hereunder for all periods prior to termination, subject to offset by the non-defaulting Party against damages incurred by such Party.

(b) The amounts due pursuant to Section 11.3(a) shall be calculated and paid within 30 days after the billing date for such charges and shall bear interest thereon at the Contract Interest Rate from the date of termination until the date paid. The foregoing does not extend the due date of, or provide an interest holiday for, any payments otherwise due hereunder.

(c) Except in circumstances in which a remedy provided for in this Agreement is described as a Party's sole or exclusive remedy before and after the effective date of termination, the non-defaulting Party may pursue any and all legal or equitable remedies provided by law, equity or this Agreement (including Section 23.5 (Specific Performance)).

(d) Without limiting the generality of the foregoing, the provisions of Sections 4.5 (Transfer of Title to RECs; Renewable Portfolio Standards Certification), 5.2 (Costs of Ownership and Operation), 5.4 (Rates Not Subject to Review), 6.2 (Standard of Facility Operation), 10.2 (Offsets), 10.3 (Interest on Late Payments), 10.4 (Disputed Amounts), 10.5 (Records), 11.4 (Termination Payment), 11.5 (Duty to Mitigate) 11.7 (Cumulative Remedies), 12 (Indemnification and Liabilities), and 22 (Confidentiality) shall survive the termination hereof.

11.4 Termination Payment. If this Agreement is terminated as a result of an Event of Default by one of the Parties, termination damages shall be determined. Termination damages are in addition to all other amounts owed under this Agreement. The Termination Payment shall be calculated by the non-defaulting Party within a reasonable period after termination of the Agreement. The Termination Payment owed pursuant to this Section 11.4 shall be due within 5 Business Days after the non-defaulting Party gives the defaulting Party notice of the amount due. The non-defaulting Party shall under no circumstances be required to account for or otherwise credit or pay the defaulting Party for economic benefits accruing to the non-defaulting Party as a result of the defaulting Party's default. A Party's rights with respect to a default by the other Party under Sections 11.1.1 and 11.1.2, as applicable, are cumulative, such that the exercise of one or more rights shall not constitute a waiver of any other rights, with the other Party remaining fully liable for any remaining deficiency.

11.5 Duty to Mitigate. Each Party agrees that it has a duty to mitigate damages and covenants that it will use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or non-performance hereof.

11.6 Security. Buyer may, in addition to pursuing any and all other remedies available at law or in equity, proceed against any security held by Buyer in whatever form to reduce any amounts that Seller owes Buyer arising from such default.

11.7 Cumulative Remedies. The rights and remedies provided to Buyer hereunder are cumulative and not exclusive of any rights or remedies of Buyer.

SECTION 12
INDEMNIFICATION AND LIABILITY

12.1 Indemnities.

12.1.1. Indemnity by Seller. To the extent permitted by Requirements of Law and subject to Section 12.1.8, Seller shall release, indemnify and hold harmless Buyer, its Affiliates, and each of its and their respective directors, officers, employees, agents, and representatives (collectively, the "**Buyer Indemnitees**") against and from any and all losses, fines, penalties, claims, demands, damages, liabilities, actions or suits of any nature whatsoever (including reasonable legal costs and attorney's fees, both at trial and on appeal, whether or not suit is brought) (collectively, "**Liabilities**") actually or allegedly resulting from, or arising out of, or in any way connected with, the performance by Seller of its obligations hereunder, or relating to the Facility, for or on account of (i) Environmental Contamination caused by any Person or entity other than Buyer, or (ii) or injury, bodily or otherwise, to, or death of, or damage to, or destruction or economic loss of property of, any Person or entity, excepting only to the extent such Liabilities as may be caused by the negligence or willful misconduct of any Person or entity within the Buyer Indemnitees. Seller shall be solely responsible for (and shall defend and hold Buyer harmless against) any damage that may occur as a direct result of Seller's breach of the Generation Interconnection Agreements, provided that such breach occurred after the Execution Date. Nothing in this Section 12.1.1 will limit the indemnity obligations of Seller set forth in Section 6.2.1(b) of this Agreement or Section 6.3 (Interconnection) of the Senior PPA.

12.1.2. Indemnity by Buyer. To the extent permitted by Requirements of Law and subject to Section 12.1.8, Buyer shall release, indemnify and hold harmless Seller, its Affiliates, and each of its and their respective directors, officers, employees, agents, and representatives (collectively, the "**Seller Indemnitees**") against and from any and all Liabilities resulting from, or arising out of, or in any way connected with, the performance by Buyer of its obligations hereunder for or on account of (i) Environmental Contamination caused by Buyer, or (ii) injury, bodily or otherwise, to, or death of, or damage to, or destruction or economic loss of property of, any Person or entity, excepting only to the extent such Liabilities as may be caused by the gross negligence or willful misconduct of any Person or entity within the Seller Indemnitees.

12.1.3. Additional Cross Indemnity. Without limiting Sections 12.1.1 and 12.1.2, and subject to Section 12.1.8, Seller shall release, indemnify and hold harmless the Buyer Indemnitees from and against all Liabilities related to Excess Net Output prior to its delivery by Seller at the Point of Delivery, and Buyer shall release, indemnify and hold harmless the Seller Indemnitees from and against all Liabilities related to Excess Net Output once delivered to Buyer at the Point of Delivery as provided herein, except in each case to the extent such Liabilities are attributable to the gross negligence or willful misconduct or a breach of this Agreement by any member of the Buyer Indemnitees or the Seller Indemnitees, respectively, seeking indemnification hereunder.

12.1.4. Comparative Negligence. The indemnification provisions of this Section 12 shall apply notwithstanding the negligent acts or omissions of the indemnitee, but the indemnitor's liability to the indemnitee shall be reduced proportionately to the extent that a negligent act or omission of the indemnitee contributed to the loss, injury or property damage. Further, no indemnitee shall be indemnified hereunder for its loss, liability, injury and damage resulting from its gross negligence, fraud or willful misconduct.

12.1.5. Defense. Promptly after receipt by a Party of any claim or notice of the commencement of any action, administrative, or legal proceeding, or investigation as to which the indemnity provided for in this Section 12 may apply, the indemnified Party shall notify the indemnifying Party in writing of such fact. Each such notice shall describe the claim in reasonable detail. The failure of the indemnified Party to so notify the indemnifying Party shall not relieve the indemnifying Party of liability hereunder except (and then only) to the extent that the defense of such claim, suit, action or proceeding is prejudiced by the failure to give such notice. The indemnifying Party shall assume the defense thereof with counsel designated by such Party and satisfactory to the indemnified Party, provided, however, that if the defendants in any such action include both the indemnified Party and the indemnifying Party and the indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the indemnifying Party, the indemnified Party shall have the right to select and be represented by separate counsel, at the indemnifying Party's expense. Each indemnified Party shall make available to the indemnifying Party all information reasonably available to such indemnified Party relating to such action or claim, except as may be prohibited by Requirements of Law. In addition, the Parties shall render to each other such assistance as may reasonably be requested in order to ensure the proper and adequate defense of any such action or claim. The Party in charge of the defense shall keep the other Party fully apprised at all times as to the status of the defense or any settlement negotiations with respect thereto.

12.1.6. Failure to Defend. If the indemnifying Party fails to assume the defense of a claim meriting indemnification, the indemnified Party may at the sole expense of the indemnifying Party, contest, settle, or pay such claim; *provided however,* that settlement or full payment of any such claim may be made only following consent of the indemnifying Party or, absent such consent, written opinion of the indemnified Party's counsel that such claim is meritorious or warrants settlement.

12.1.7. No Dedication. Nothing herein shall be construed to create any duty to, any standard of care with reference to, or any liability to any Person not a Party hereto. No undertaking by one Party to the other under any provision hereof shall constitute the dedication of Buyer's facilities or any portion thereof to Seller or to the public, nor affect the status of Buyer or Seller as an independent individual or entity.

12.1.8. Consequential Damages. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR SPECIAL, PUNITIVE, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES, WHETHER SUCH DAMAGES ARE ALLOWED OR PROVIDED BY CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, STATUTE OR OTHERWISE. THE PARTIES AGREE THAT ANY LIQUIDATED DAMAGES, BUYER AND SELLER COST TO COVER DAMAGES, SECTION 11.2.3 CAPACITY RIGHTS LOSS DAMAGES, INDEMNIFICATION FOR THIRD PARTY DAMAGES, OR OTHER SPECIFIED MEASURE OF DAMAGES EXPRESSLY PROVIDED FOR HEREIN, ARE NOT INTENDED BY THEM TO REPRESENT SPECIAL, PUNITIVE, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES.

SECTION 13
INSURANCE

13.1 Required Policies and Coverages. The Partes agree and acknowledge that the obligations and responsibilities related to Seller's required insurance coverage have each been set forth and allocated between the Parties pursuant to the Senior PPA, and such terms are incorporated in this Agreement as though fully stated herein.

SECTION 14
FORCE MAJEURE

14.1 Definition of Force Majeure. **"Force Majeure"** or "an event of Force Majeure" means an event that (a) is not reasonably anticipated as of the date hereof, (b) is not within the reasonable control of the Party affected by the event, (c) is not the result of such Party's negligence or failure to act, and (d) could not be overcome by the affected Party's use of reasonable due diligence in the circumstances. Force Majeure includes, but is not restricted to, events of the following types (but only to the extent that such an event, in consideration of the circumstances, satisfies the tests set forth in the preceding sentence): acts of God; fire; explosion; civil disturbance; sabotage; or action or restraint by court order or public or Governmental Authority (as long as the affected Party has not applied for or assisted in the application for, and has opposed to the extent reasonable, such court or government action). Notwithstanding the foregoing, none of the following constitute Force Majeure: (i) Seller's ability to sell, or Buyer's ability to purchase, Net Output, Ancillary Services, or RECs at a more advantageous price than is provided hereunder; (ii) the cost or availability or unavailability of fuel or motive force to operate the Facility; (iii) economic hardship, including lack of money; (iv) any breakdown or malfunction of Facility equipment (including any serial equipment defect) that is not directly caused by an independent event of Force Majeure; (v) the imposition upon a Party of costs or taxes allocated to such Party under Section 5; (vi) delay or failure of Seller to obtain or perform under any Required Facility Document; (vii) any delay, alleged breach of contract, or failure by the Transmission Provider or Interconnection Provider; (viii) curtailment or suspension of transmission or directive from the Transmission Provider or Interconnection Provider to curtail or suspend deliveries; (ix) a disconnection or interruption of interconnection service under the Generation Interconnection Agreements as a result of Seller's acts or omissions; (x) maintenance upgrade or repair of any facilities or right of way corridors constituting part of or involving Interconnection Facilities, performed by or for Seller (except for repairs made necessary as a direct result of an event of Force Majeure); (xi) Seller's failure to obtain, or perform under, the Generation Interconnection Agreements, or its other contracts and obligations to Transmission Provider or Interconnection Provider; (xii) any event attributable to the use of Interconnection Facilities for deliveries of Output to any party other than Buyer; or (xiii) failure of Seller to take any action, or refrain from taking any action, in accordance with all applicable Permits, including any required environmental mitigation measures. Notwithstanding anything to the contrary herein, in no event will the increased cost of electricity, transmission, Turbines, steel, labor, or transportation, or changes in taxes or tax laws, including the cessation or termination of any tax credits or tax rebates, constitute an event of Force Majeure.

14.2 Suspension of Performance. If either Party is rendered wholly or in part unable to perform its obligations hereunder because of an event of Force Majeure, both Parties shall be excused from the performance affected by the event of Force Majeure, provided that:

(a) the Party affected by the Force Majeure, shall, within 5 days after the occurrence of the event of Force Majeure, give the other Party written notice describing the particulars of the event;

(b) the suspension of performance shall be of no greater scope and of no longer duration than is required to remedy the effect of the Force Majeure; and

(c) the affected Party shall use diligent efforts to remedy its inability to perform.

14.3 Force Majeure Does Not Affect Other Obligations. No obligations of either Party that arose before the Force Majeure causing the suspension of performance or that arise after the cessation of the Force Majeure, or with respect to payment obligations, shall be excused by the Force Majeure.

14.4 Strikes. Neither Party shall be required to settle any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to the Party's best interests.

14.5 Right to Terminate. If a Force Majeure event prevents a Party from substantially performing its obligations and such impacted Party has claimed and received relief from performance of its obligations hereunder for a period exceeding 365 consecutive days, then the Party not affected by the Force Majeure event, with respect to its obligations hereunder, may terminate this Agreement by giving 10 days prior notice to the other Party. If the non-claiming Party has not terminated this Agreement pursuant to the foregoing sentence and the claiming Party has continued to claim and receive relief from performance of its obligations for a further consecutive 90-day period, at the end of such 90-day period the claiming party may terminate this Agreement upon written notice to the other Party. Upon such termination, neither Party will have any liability to the other with respect to the period following the effective date of such termination; provided, however, that this Agreement will remain in effect to the extent necessary to facilitate the settlement of all liabilities and obligations arising hereunder before the effective date of such termination.

SECTION 15
CHOICE OF LAW

Governing Law. This Agreement and the rights and duties of the parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law. To the extent enforceable at such time, each party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this agreement. **[STC-17]** WITHOUT LIMITING THE FOREGOING, EACH PARTY HEREBY WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER AGREEMENT EXECUTED OR CONTEMPLATED TO BE EXECUTED IN CONJUNCTION WITH THIS AGREEMENT, OR ANY MATTER ARISING HEREUNDER OR THEREUNDER, WITH ANY PROCEEDING IN WHICH A JURY TRIAL HAS NOT OR CANNOT BE WAIVED. The Parties intend that this Agreement is a “forward contract” between two “forward contract merchants”, and a “master netting agreement” between two “master netting agreement participants”, within the meanings given such terms in the United States Bankruptcy Code, as well as a “forward agreement” within the meaning of United States Bankruptcy Code §101(53B)(A)(i)(VII), and “spot … forward … or other commodity agreement” within the meaning of United States Bankruptcy Code §101(53B)(A)(i)(II); provided that neither Party shall be in breach of this Agreement if a court determines that is not the case.

SECTION 16
PARTIAL INVALIDITY

The Parties do not intend to violate any laws governing the subject matter hereof. If any of the terms hereof are finally held or determined to be invalid, illegal or void as being contrary to any Requirements of Law or public policy, all other terms hereof shall remain in effect. The Parties shall use best efforts to amend this Agreement to reform or replace any terms determined to be invalid, illegal or void, such that the amended terms (a) comply with and are enforceable under Requirements of Law, (b) give effect to the intent of the Parties in entering hereinto, and (c) preserve the balance of the economics and equities contemplated by this Agreement in all material respects.

SECTION 17
SEVERAL OBLIGATIONS; NON-WAIVER

17.1 Several Obligations. Nothing contained herein shall be construed to create an association, trust, partnership or joint venture or to impose a trust, partnership or fiduciary duty, obligation or liability on or between the Parties.

17.2 Non-Waiver. No waiver of any provision hereof shall be effective unless the waiver is set forth in a writing that (a) expressly identifies the provision being waived, and (b) is executed by the Party waiving the provision. A Party's waiver of one or more failures by the other Party in the performance of any of the provisions hereof shall not be construed as a waiver of any other failure, whether of a like kind or different nature.

SECTION 18
GOVERNMENTAL JURISDICTION AND AUTHORIZATIONS

This Agreement is subject to the jurisdiction of those Governmental Authorities having control over either Party or this Agreement. During the Term, Seller shall maintain all Permits required, as applicable, for the construction, operation, or ownership of the Facility.

SECTION 19
SUCCESSORS AND ASSIGNS

19.1 Restriction on Assignments. Except as expressly provided in this Section 19, neither Party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party, which such consent shall not be unreasonably withheld, delayed or conditioned. Notwithstanding anything in this Agreement to the contrary, any assignment of the Agreement by Seller may only be effective if Seller is contemporaneously assigning the Senior PPA to the same assignee. In connection with any permitted assignment pursuant to Section 19.2.2, (i) the assignee shall expressly assume all of the assignor's obligations under this Agreement (whether arising before or after such assignment) and (ii) the assignee shall agree in writing to be bound by the terms and conditions of this Agreement.

19.2 Assignment.

19.2.1. Binding Nature. This Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of the Parties hereto.

19.2.2. Permitted Assignments. Notwithstanding Section 19.1, either Party may, without the need for consent from the other Party (but with notice to the other Party, including the names of the assignees), (a) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds therefrom in connection with any financing or other financial arrangements; (b) transfer or assign this Agreement to an Affiliate of such Party, provided that in the case of Seller, such Affiliate must be a Qualified Transferee and in the case of Buyer such Affiliate must have an Investment Grade Credit Rating; or (c) transfer or assign this Agreement to any party succeeding to all or substantially all of the assets or generating assets of such Party (and, with respect to Seller, Seller shall be required to transfer or assign this Agreement to any party succeeding to all or substantially all of the assets of Seller); provided, however, that Seller shall not transfer, sell, encumber or assign this Agreement or any interest herein to any Affiliate of Buyer without the prior written consent of Buyer. Except with respect to collateral assignments for financing purposes as set forth in clause (a) above, and also except as otherwise provided above in the immediately preceding sentence, in every assignment hereof, (i) the assignee must agree in writing to be bound by the terms and conditions hereof and (ii) the assignor shall remain liable for its obligations hereunder. Any Change of Controlling Interest in Seller (whether through a single transaction or a series of transactions over time) will be deemed an assignment and shall require Buyer's prior written approval, not to be unreasonably withheld, of the transferee with respect to such Controlling Interest. Buyer may assign this Agreement in whole or in part without the consent of Seller to any Person or entity with an Investment Grade Credit Rating in the event that Buyer ceases to be a load-serving entity, and upon such assignment Buyer shall be released from liability hereunder. The Party seeking to assign or transfer this Agreement shall be solely responsible for paying all costs of assignment.

SECTION 20
ENTIRE AGREEMENT

This Agreement together with the Senior PPA constitute the entire agreement of the Parties relating to the subject matter hereof and supersedes all prior agreements, proposals, representations, negotiations, discussions or letters, whether oral or in writing, regarding the subject matter hereof. No modification hereof shall be effective unless it is in writing and executed by both Parties.

SECTION 21
NOTICES

21.1 Addresses and Delivery Methods. All notices, requests, statements or payments shall be made to the addresses set out below. In addition, copies of a notice of termination of this Agreement under Section 11.3 shall contain the information required by Section 11.3 and shall be sent to the then-current General Manager and General Counsel of Buyer. Notices required to be in writing shall be delivered by letter, electronic mail, or facsimile; provided if notice is delivered by electronic mail or facsimile, the notifying Party shall also place in the mail a copy of such notice within 1 Business Day. Notice by electronic mail, facsimile or hand delivery shall be deemed to have been given when received or hand delivered; provided automatic replies shall not constitute notice for electronic mail and the burden of proving receipt of electronic mail by the receiving Party shall be on the notifying Party. Notice by overnight mail or courier shall be deemed to have been given on the date and time evidenced by the delivery receipt.

To Seller: [to be provided]

To Buyer: [Buyer contact]
Email:
Fax:

with a copy to: General Manager
Email:
Fax:

with a copy to:
General Counsel
Email:
Fax:

21.2 Changes of Address. The Parties may change any of the persons to whom notices are addressed, or their addresses, by providing written notice in accordance with this Section 21.

21.3 Notices to Senior Lenders. The requirements concerning notice by Buyer to Senior Lenders, if any, are set forth in the Lender Consent, if any.

SECTION 22
CONFIDENTIALITY

22.1 Confidential Business Information. The following constitutes **"Confidential Business Information,"** whether oral or written: (a) the Parties' proposals and negotiations concerning this Agreement, made or conducted prior to the Execution Date, (b) the proprietary terms hereof, (c) information provided under Section 6.8, (d) the actual charges billed to Buyer hereunder, (e) any information delivered by Buyer to Seller prior to the Execution Date relating to the market prices of energy or RECs and methodologies for their determination or estimation, (f) information provided by one Party to the other pursuant hereto, (g) all negotiations pursuant to Section 23.1 and (h) any of the foregoing delivered by an Affiliate of a Party or employee or agent thereof to the other Party or an Affiliate of that party or employee or agent thereof; provided, however, that "Confidential Business Information" shall not include information that (i) is publicly available as of the date hereof, or becomes publicly available during the Term through no fault of the recipient Party; (ii) can be documented was independently developed by the recipient Party; and/or (iii) is disclosed to the recipient Party from an ultimate source other than the protected Party, without breach of this Agreement by the recipient Party. Seller and Buyer each agree to hold such Confidential Business Information wholly confidential, except as provided herein. Such Confidential Business Information may only be used by the Parties for purposes related to the approval, administration or enforcement hereof and for no other purpose.

22.2 Duty to Maintain Confidentiality. Subject to Buyer's disclosure obligations as set forth in Section 22.3, each Party agrees not to disclose Confidential Business Information to any other Person (other than its members, Affiliates, counsel, auditors, consultants, lenders, prospective lenders, purchasers, prospective purchasers, contractors constructing or providing services to the Facility, employees, officers and directors who agree to be bound by the provisions of this Section 23 and provided the receiving Party remains liable for any breach of such confidentiality restrictions by such Persons), without the prior written consent of the other Party;

provided however, that: (a) either Party may disclose Confidential Business Information, if and to the extent such disclosure is required: (i) by Requirements of Law, (ii) in order for Buyer to receive regulatory recovery of expenses related to this Agreement, (iii) to a Electric System Authority as required for scheduling, settlement and billing, (iv) pursuant to an order of a court or regulatory agency, or (v) in order to enforce this Agreement or to seek approval hereof, and (b) notwithstanding any other provision hereof, Buyer may in its sole discretion disclose or otherwise use for any purpose in its sole discretion the Confidential Business Information described in Section 22.1(d) or Section 22.1(e). If a Party is required by Requirements of Law to disclose Confidential Business Information, such Party shall to the extent possible notify the other Party at least 3 Business Days in advance of such disclosure.

22.3 Buyer Regulatory Compliance. Seller acknowledges that Buyer is a public agency subject to the requirements of the California Public Records Act (Cal. Gov. Code section 6250 et seq.). Buyer acknowledges that Seller may submit information to Buyer that Seller considers confidential, proprietary, or trade secret information pursuant the Uniform Trade Secrets Act (Cal. Civ. Code section 3426 et seq.), or otherwise protected from disclosure pursuant to an exemption to the California Public Records Act (Government Code sections 6254 and 6255). Seller acknowledges that Buyer may submit to Seller information that Buyer considers confidential or proprietary or protected from disclosure pursuant to exemptions to the California Public Records Act (Government Code sections 6254 and 6255). Upon request or demand of any third Person or entity not a party to this Agreement ("**Requestor**") for production, inspection and/or copying of information designated by a disclosing Party's Confidential Business Information, the receiving Party as soon as practical (but in no event less than 7 days prior to disclosure) shall notify the disclosing Party that such request has been made, by telephone call, letter sent via facsimile and/or by US Mail to the address and facsimile number listed in Section 21.1. If the disclosing Party wishes to protect the information from disclosure to the Requestor, the disclosing Party shall be solely responsible for taking whatever legal steps are necessary to protect information deemed by it to be Confidential Business Information and to prevent release of information to the Requestor by the receiving Party. If the disclosing Party takes no such action, after receiving the foregoing notice from the receiving Party, the receiving Party shall be permitted to comply with the Requestor's demand and is not required to defend against it.

22.4 Irreparable Injury; Remedies. Each Party agrees that violation of the terms of this Section 23 constitutes irreparable harm to the other, and that the harmed Party may seek any and all remedies available to it at law or in equity, including injunctive relief.

22.5 News Releases and Publicity. Before Seller issues any news release or publicly distributed promotional material regarding the Facility, Seller shall first provide a copy thereof to Buyer for its review and approval. Any use of Buyer's name in such news release or promotional material requires Buyer's prior written consent.

SECTION 23
DISPUTE RESOLUTION

23.1 Negotiations. The Parties shall attempt in good faith to resolve all disputes arising out of, related to or in connection with this Agreement promptly by negotiation, as follows. Any Party may give the other Party written notice of any dispute not resolved in the normal course of business. Executives of both Parties at least one level above the personnel who have previously been involved in the dispute shall meet at a mutually acceptable time and place within 10 days after delivery of such notice, and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute. If the matter has not been resolved within 30 days after the referral of the dispute to such senior executives, or if no meeting of such senior executives has taken place within 15 days after such referral, either Party may initiate litigation as provided hereinafter if neither Party has requested that the dispute be mediated or both Parties do not agree to mediate the dispute in accordance with Section 23.2 below. All negotiations pursuant to this clause are confidential.

23.2 Mediation. If the dispute is not resolved within 30 days after the referral of the dispute to senior executives, or if no meeting of senior executives has taken place within 15 days after such referral, either Party may request that the matter be submitted to nonbinding mediation. If the other Party agrees to mediate the matter in writing, the Parties shall participate in mediation which will be conducted in accordance with the Construction Industry Arbitration Rules and Mediation Procedures (including Procedures for Large, Complex Construction Disputes) of the AAA, as amended and effective on March 1, 2024 (the "**Mediation Procedures**"), notwithstanding any Dollar amounts or Dollar limitations contained therein.

(a) Following the other Party's agreement to mediate, if applicable, the Party requesting the mediation, may commence the mediation process with AAA by notifying AAA and the other Party in writing ("**Mediation Notice**") of such Party's desire that the dispute be resolved through mediation, including therewith a copy of the dispute notice and the response thereto, if any, and a copy of the other Party's written agreement to such mediation.

(b) The mediation shall be conducted through, by and at the office of AAA located in the Mediation Location.

(c) The mediation shall be conducted by a single mediator. The Parties may select any mutually acceptable mediator. If the Parties cannot agree on a mediator within 5 days after the date of the Mediation Notice, then the AAA's arbitration administrator shall send a list and resumes of 3 available mediators to the Parties, each of whom shall strike one name, and the remaining person shall be appointed as the mediator. If more than one name remains, either because one or both Parties have failed to respond to the AAA's arbitration administrator within 5 days after receiving the list or because one or both Parties have failed to strike a name from the list or because both Parties strike the same name, the AAA's arbitration administrator will choose the mediator from the remaining names. If the designated mediator shall die, become incapable or, unwilling to, or unable to serve or proceed with the mediation, a substitute mediator shall be appointed in accordance with the selection procedure described above in this Section 23.2(c), and such substitute mediator shall have all such powers as if he or she has been originally appointed herein.

(d) The mediation shall consist of one or more informal, nonbinding meetings between the Parties and the mediator, jointly and in separate caucuses, out of which the mediator will seek to guide the Parties to a resolution of the dispute. The mediation process shall continue until the resolution of the dispute, or the termination of the mediation process pursuant to Section 23.2(f). The costs of the mediation shall be borne equally by the Parties, provided that the Parties shall each bear their own expenses and attorney fees.

(e) All verbal and written communications between the Parties and issued or prepared in connection with this Section 23.2 shall be deemed prepared and communicated in furtherance, and in the context, of dispute settlement, and shall be exempt from discovery and production, and shall not be admissible in evidence (whether as admission or otherwise) in any litigation or other proceedings for the resolution of the dispute.

(f) The initial mediation meeting between the Parties and the mediator shall be held within 20 days after the Mediation Notice. Either Party may terminate the mediation process upon or after the earlier to occur of (A) the failure of the initial mediation meeting to occur within 20 days after the date of the Mediation Notice, (B) the passage of 30 days after the date of the Mediation Notice without the dispute having been resolved, or (C) such time as the mediator makes a finding that there is no possibility of resolution through mediation.

(g) All deadlines specified in this Section 23.2 may be extended by mutual agreement.

23.3 Place of Contract Formation; Choice of Forum. Seller and Buyer acknowledge and agree that this Agreement has been made and entered into as of the date first set forth above in the Mediation Location. Each Party irrevocably consents and agrees that any legal action or proceeding arising out of this Agreement or the actions of the Parties leading up to the Agreement shall be brought exclusively in the state and federal courts in and for Stanislaus County, California except for matters within the exclusive jurisdiction of a Governmental Authority. Except for matters within the exclusive jurisdiction of a different Governmental Authority, by execution and delivery hereof, each Party (a) accepts the exclusive jurisdiction of such courts and waives any objection that it may now or hereafter have to the exercise of personal jurisdiction by such courts over each Party for the purpose of any proceeding related to this Agreement, (b) irrevocably agrees to be bound by any final judgment (after any and all appeals) of any such courts arising out of such documents or actions, (c) irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceedings arising out of such documents brought in such courts (including any claim that any such suit, action or proceeding has been brought in an inconvenient forum) in connection herewith, (d) agrees that service of process in any such action may be effected by mailing a copy thereof by registered or certified mail, postage prepaid, to such Party at its address as set forth herein and (e) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law.

23.4 Settlement Discussions. No statements of position or offers of settlement made in the course of the dispute resolution process described in this Section 23 may be offered into evidence for any purpose in any litigation between the Parties, nor will any such statements or offers of settlement be used in any manner against either Party in any such litigation. Further, no such statements or offers of settlement shall constitute an admission or waiver of rights by either Party in connection with any such litigation. At the request of either Party, any such statements and offers of settlement, and all copies thereof, shall be promptly returned to the Party providing the same.

23.5 Specific Performance. Buyer shall be entitled to seek and obtain a decree compelling specific performance or granting injunctive relief with respect to, and shall be entitled, to enjoin any actual or threatened breach of any material obligation of Seller. The Parties agree that specific performance (including temporary and preliminary relief) and injunctive relief are proper in the event of any actual or threatened breach of any material obligation, and that any liability limits contained herein shall not operate to limit the exercise of Buyer's remedies in equity to cause Seller to perform its obligations hereunder. Seller agrees that it will not assert as a defense to Buyer's action for specific performance of, or injunctive relief relating to, Seller's obligations hereunder that the amounts payable or paid by Seller in respect of liquidated damages constitute an adequate remedy for the breach of such obligation, and Seller hereby conclusively waives such defense. Seller shall at all times during the Term, own, lease, control, hold in its own name or be signatory to (as the case may be) all assets and Required Facility Documents relating to the Facility to the extent necessary to prevent a material adverse effect on Buyer's right to specific performance or injunctive relief.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in their respective names as of the date first above written.

WASHINGTON WIND LLC

By:___________________________________
Name:________________________________
Title:_________________________________

TURLOCK IRRIGATION DISTRICT

By:___________________________________
Name:________________________________
Title:_________________________________

EXHIBIT A

ESTIMATED MONTHLY EXCESS NET OUTPUT[2]

	Total
January	____MWh
February	____MWh
March	____MWh
April	____MWh
May	____MWh
June	____MWh
July	____MWh
August	____MWh
September	____MWh
October	____MWh
November	____MWh
December	____MWh
Total	____MWh

Insert 12X24 Profile

Expected Excess Energy = _________ MWh

[2] To be provided by Seller after the Effective Date pursuant to Section 6.1.

EXHIBIT B

EXAMPLE CALCULATION OF BUYER'S COST TO COVER

Buyer's Cost to Cover for a given month is calculated as follows:

[redacted]

The following examples are provided for illustrative purposes only.

Example 1:

For a given Calculation Period, assume the following:

A. Mid-Columbia Flat Price: [redacted]
B. Contract Price then in effect: [redacted]
C. Buyer, after using commercially reasonable efforts to do so, was unable to replace the RECs and the REC Price Component equals [redacted]
D. There are no Regulatory Compliance Costs

Buyer's Cost to Cover is therefore calculated as follows:

[redacted]

Example 2:

For a given Calculation Period, assume the following:

A. Mid-Columbia Flat Price: [redacted]
B. Contract Price then in effect: [redacted]
C. Buyer, after using commercially reasonable efforts to do so, was unable to replace the RECs and the REC Price Component equals [redacted]
D. There are no Regulatory Compliance Costs

Buyer's Cost to Cover is therefore calculated as follows:

[redacted]

Example 3:

For a given Calculation Period, assume the following:

A. Mid-Columbia Flat Price: [redacted]
B. Contract Price then in effect: [redacted]

C. Buyer, after using commercially reasonable efforts to do so, was unable to replace the RECs and the REC Price Component equals [redacted]
D. The Regulatory Compliance Costs are [redacted]

Buyer's Cost to Cover is therefore calculated as follows:

[redacted]

EXHIBIT 4.5.1

REC ATTESTATION AND BILL OF SALE

[____________] ("Seller") hereby sells, transfers and delivers to Buyer the RECs (including all Environmental Attributes and Environmental Attribute Reporting Rights) associated with the generation and delivery of energy to Buyer under the Subordinate Power Purchase Agreement (Renewable Energy-Wind) between Seller and Buyer dated [_________] (the "PPA"), as described below, in the amount of one REC for each megawatt hour generated. Defined terms used in this REC Attestation and Bill of Sale (as indicated by initial capitalization) shall have the meaning set forth in the PPA.

Facility name and location: ________________________ Fuel Type: Wind

Output (MW AC): ______ Repower Commercial Operation Date: ________________

Energy Information Administration ID no.: ________

Dates	MWh generated
__________	________

Seller further attests, warrants and represents, under penalty of perjury, as follows:

i) to the best of its knowledge, the information provided herein is true and correct;

ii) its sale to Buyer is its one and only sale of all or any part of the RECs referenced herein;

iii) the Facility generated and delivered to the grid the energy in the amount indicated above pursuant to the PPA; and

iv) to the best of Seller's knowledge, each of the RECs associated with the generation of energy for delivery under the PPA have been generated and sold by the Facility.

This REC Attestation and Bill of Sale confirms, in accordance with the PPA, the transfer from Seller to Buyer all of Seller's right, title and interest in and to the REC associated with the generation of the energy from the Facility under the PPA as set forth above.

Seller’s Contact Person: [________________________________]

WITNESS MY HAND,

[SELLER],

a [_______] [________]
By ______________________

Its ______________________

Date: ______________________

This Attestation may be disclosed by Seller and Buyer to others, including the Center for Resource Solutions, and the public utility commissions having jurisdiction over Buyer, to substantiate and verify the accuracy of Buyer’s advertising and public communication claims, as well as in Buyer’s advertising and other public communications.

EXHIBIT 5.1

CONTRACT PRICE

<u>If the Historical Baseline Amount is less than the Pre-Repower Estimated P50 Amount</u>:

- For each MWh up to the Excess Net Output Priority Quantity the Contract Price for Excess Net Output means:

[redacted]	[redacted]
[redacted]	[redacted]

- For each MWh after the Excess Net Output Priority Quantity the Contract Price for Excess Net Output means: [redacted]

<u>If the Historical Baseline Amount is greater than the Pre-Repower Estimated P50 Amount</u>:

- For each MWh the Contract Price for Excess Net Output means [redacted]

EXHIBIT 8.4-1

FORM OF LENDER CONSENT

[To populate with final version from Senior PPA**]**

EXHIBIT 8.4-2

FORM OF ESTOPPEL CERTIFICATE

[To populate with final version from Senior PPA**]**

Exhibit K- Purchase Price Example*

Total Cost of Bond Defeasance Assuming 1/14/25 Closing	$mm	Paid By	Note
2009 Principal Outstanding	[redacted]	Purchaser	
2016 Principal Outstanding		Purchaser	
Make-Whole Premium on 2009 bonds		Purchaser	
Premium on 2016 bonds		Purchaser	
2016 Principal from 1/1/25 to 1/14/25		Seller	Calculated on 30/360 basis
2009 Principal from 1/1/25 to 1/14/25		Seller	No Principal Accrual
2016 Interest from 1/1/25 to 1/14/25		Seller	Calculated on 30/360 basis
2009 Interest from 1/1/25 to 1/14/25		Seller	Calculated on 30/360 basis
Total Cost of Bond Defeasance Assuming 1/14/25 Closing			

Bond Payments Due 1/1/25			
2009 Interest Payment Due 1/1/25	[redacted]	Seller	
2016 Interest Payment Due 1/1/25		Seller	
2016 Principal Payment Due 1/1/25		Seller	
Total Bond Payments Due 1/1/25			

*Subject to final review by both Purchaser and Seller

PURCHASE AND SALE AGREEMENT

between

Tuolumne Wind Project Authority, a joint powers authority organized under the laws of the State of California,

as a Seller,

and

Washington Wind LLC,

a Delaware limited liability company,

as Purchaser

dated as of [______], 2024

TABLE OF CONTENTS

Page

TABLE OF CONTENTS
(continued)

Page

TABLE OF CONTENTS
(continued)

Page

TABLE OF CONTENTS
(continued)

Page

EXHIBITS:

DISCLOSURE SCHEDULES:

[to be listed]

PURCHASE AND SALE AGREEMENT

This PURCHASE AND SALE AGREEMENT (this "**Agreement**"), dated as of [________], 2024 (the "**Effective Date**"), is made and entered into by and between Tuolumne Wind Project Authority, a joint powers authority organized under the laws of the State of California ("**Seller**"), and Washington Wind LLC, a Delaware limited liability company ("**Purchaser**") (Seller and Purchaser are collectively referred to herein, as the "**Parties**" and each, individually, as a "**Party**"). Capitalized terms used, and not otherwise defined, herein shall have the meanings set forth in Section 1.1.

RECITALS

WHEREAS, Seller owns and operates an approximately 136.6 MW nameplate capacity wind farm comprised of 62 wind turbines located in Klickitat County, Washington, as more particularly described on Exhibit A to this Agreement (the "**Project**"); and

WHEREAS, Seller desires to sell, transfer and assign to Purchaser, and Purchaser desires to purchase and receive from Seller, all of Seller's right, title and interest in and to the Purchased Assets (as defined in Section 1.1 below) upon the terms and subject to the conditions set forth in this Agreement;

WHEREAS, Seller and Turlock Irrigation District, an irrigation district organized under the laws of the State of California ("**TID**") are parties to the Power Purchase Agreement, dated July 14, 2009 ("**Original PPA**");

WHEREAS, in connection with such sale of the Purchased Assets, Seller desires to transfer and assign the Original PPA to Purchaser at the Closing (as defined in Section 1.1), if and when it occurs; and

WHEREAS, immediately after giving effect to the assignment of the Original PPA, Seller desires to cause TID to execute and deliver to Purchaser the A&R PPA (as defined in Section 1.1 below) at the Closing, if and when it occurs, in part with the intent to ensure that the classification of the electricity products under the A&R PPA shall "count in full toward RPS procure targets" under California Public Utilities Code Section 399.16(d) and 20 Cal. Code Regs. Title 20 Section 3202(a) (also referred to as Portfolio Content Category Classification zero ("**PCC-0**")) and thereby maintain the same classification that these electricity products have under the Original PPA; and

WHEREAS, immediately after giving effect to the assignment of the Original PPA, Seller desires to cause TID to execute and deliver to Purchaser the SPPA (as defined in Section 1.1 below) at the Closing.

AGREEMENT

NOW, THEREFORE, in consideration of the Recitals which are incorporated herein, the mutual covenants and agreements set forth in this Agreement, the representations and warranties set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

ARTICLE I.

DEFINITIONS; INTERPRETATION

Section 1.1 Definitions. As used in this Agreement, the following defined terms have the meanings indicated below:

"**AAA**" has the meaning set forth in Section 12.13(a).

"**Accountant's Certificate**" has the meaning set forth in Section 2.2.

"**Acquisition Proposal**" has the meaning set forth in Section 6.10.

"**Action or Proceeding**" means any legal, administrative, arbitral, mediation or other alternative dispute resolution procedure or other action, proceeding, claim, suit, litigation, arbitration, assessment, audit, inquiry or similar investigation before any Governmental Authority or otherwise at law or in equity.

"**Affiliate**" means any other Person that directly or indirectly, through one or more intermediaries, Controls, is Controlled by or is under common Control with the Purchaser specified. The phrase "**Controlled Affiliate**" as used in this Agreement with respect to Purchaser means an Affiliate of Purchaser that is Controlled by Clearway Energy, Inc.

"**Aggregate Net Working Capital Amount**" means (without duplication) the current assets of the Business that are included in the Purchased Assets only for the line item categories of current assets specifically identified in Exhibit B, minus the current liabilities of the Business that are included in the Purchased Assets only for the line item categories of current liabilities specifically identified in Exhibit B, as determined in accordance with the methodology used in the preparation of Aggregate Net Working Capital Amount set forth on Exhibit B, and otherwise in accordance with GAAP as of 12:01 A.M. (Eastern time) on the Closing Date before taking into account the consummation of the transactions contemplated by this Agreement. In the event the Closing does not occur on the last day of a month, then each item included as a proration item on Exhibit B and included in the calculation of Aggregate Net Working Capital Amount shall be prorated to the extent applicable as of the Closing Date by multiplying the amount of each such item for the full calendar month by a fraction, the numerator of which is the number of days elapsed from and including the first day of the month in which the Closing Date occurs to but excluding the Closing Date, and the denominator of which is the total number of days in such month, provided that to the extent items may be determined on a daily basis, such amounts will be allocated on a daily basis. Notwithstanding anything to the contrary in this Agreement, in no event shall "**Aggregate Net Working Capital Amount**" include cash, cash equivalents, marketable securities, or any Tax assets.

"**Aggregate Net Working Capital Adjustment Amount**" means the Aggregate Net Working Capital Amount minus the Target Aggregate Net Working Capital Amount.

"**Agreement**" means this Purchase and Sale Agreement and the Exhibits, the Annexes and the Disclosure Schedules attached hereto.

"**Allocation**" has the meaning set forth in Section 8.10.

"**Allocation Principles**" has the meaning set forth in Section 8.10.

"**Apportioned Obligations**" has the meaning set forth in Section 9.4.

"**Arbitration**" has the meaning set forth in Section 12.13(a).

"**A&R PPA**" means the Amended and Restated Power Purchase Agreement, to be entered into and dated as of the Closing Date pursuant to Section 6.4, between TID and Purchaser.

"**Assignment of Original PPA**" means the Assignment of Original PPA, in substantially the form of Exhibit C attached hereto.

"**Assignment of Real Property Interests Agreement**" means the Assignment of Real Property Interests Agreement, in substantially the form of Exhibit D attached hereto.

"**Assumed Liabilities"** has the meaning set forth in Section 2.1(c)(i).

"**Auditor Certificate"** means the report of independent auditor referenced in Section 11.01 of the Project's Bond Indenture.

"Balancing Authority" means an entity that integrates resource plans ahead of time, maintains demand and resource balance within a Balancing Authority Area, and supports interconnection frequency in real time.

"Balancing Authority Area" means the collection of generation, transmission, and loads within the metered boundaries of the Balancing Authority. The Balancing Authority maintains load-resource balance within this area.

"**Benefit Plan**" means "employee benefit plan," as such term is defined in Section 3(3) of ERISA, or other pension, bonus, profit sharing, stock option or other agreement or arrangement providing for employee remuneration or benefits, including a "multiemployer plan," as that term is defined in Section 4001(a)(3) of ERISA.

"**Bill of Sale and Assignment and Assumption Agreement**" means the Bill of Sale and Assignment and Assumption Agreement, in substantially the form of Exhibit E attached hereto.

"**Books and Records**" means copies of the past three (3) years of the books and financial and operating records for the Project, in the Seller's possession, kept by the Seller in the ordinary course of business (including the documents referenced in the Schedules) and have been Made Available to the Purchaser.

"**Brown Act**" means the Ralph M. Brown Act, Cal. Govt. Code §§ 54950 *et. seq*.

"**Business**" means the business and operations of the Project.

"**Business Day**" means a day other than Saturday, Sunday or any day on which banks located in San Francisco, California are authorized or obligated to close.

"**California Energy Commission**" or "**CEC**" means the California State Energy Resources Conservation and Development Commission formed pursuant to California Public Resources Code Section 25000 et seq.

"**Cap**" has the meaning set forth in Section 10.4(a).

"**Claims**" has the meaning set forth in Section 6.7.

"**Closing**" has the meaning set forth in Section 2.3(a).

"**Closing Date**" is the date on which the Closing occurs.

"**Closing Date Title Policy**" has the meaning set forth in Section 7.10.

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Commercial Rules**" has the meaning set forth in Section 12.13(a).

"**Confidential Information**" has the meaning set forth in Section 6.16(b).

"**Confidentiality Agreement**" means that certain Non-Disclosure Agreement, dated as of March 17, 2022, and amended as of April 18, 2024, by and between Clearway Energy Group, LLC and TID.

"**Contract**" means any legally binding written or oral contract or agreement, including an agreement regarding indebtedness, lease, mortgage, licenses agreement, purchase order, commitment, letter of credit or any other legally binding obligation to which the party in question is a party or otherwise bound.

"**Control**" when used with respect to any particular Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise, and the terms "**Controlling**" and "**Controlled**" have meanings correlative to the foregoing.

"**CPRA**" means the California Public Records Act, Cal. Govt. Code §§7920, et seq.

"**Credit Support Documents**" has the meaning set forth in Section 4.11(a)(xx).

"**Data Room**" means all documents and materials posted to the folders named "**TID & Clearway**" in Seller's electronic data room hosted by Kiteworks and accessible by Purchaser.

"**Deductible**" has the meaning set forth in Section 10.4(a).

"**Default Rate**" means, with respect to any amount due and payable but unpaid under this Agreement, a rate per annum equal to (a) the prime rate published in the Wall Street Journal, Eastern Edition, in effect on the date such payment was due and payable plus (b) [redacted].

"**Disclosure Schedules**" means the disclosure Schedules attached to this Agreement.

[redacted]

"**Effective Date**" has the meaning set forth in the Preamble.

"**Environmental Attributes**" means any and all credits, benefits, emissions reductions, offsets, attributes and allowances of any kind (including all Renewable Energy Credits), howsoever entitled and whether arising before, on, or after the Closing, attributable to the Project or the electric energy, capacity or other generator-based products produced therefrom, including (i) any avoided emissions of pollutants to the air, soil or water, such as sulfur oxides, nitrogen oxides and carbon monoxide, and any rights related thereto, (ii) any avoided emissions of methane, carbon dioxide and other "greenhouse gases" that have been determined by the United Nations Intergovernmental Panel on Climate Change or any other governmental, quasi-governmental or non-governmental agency or body to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere, and any rights related thereto, (iii) any reporting rights relating to the reduction of "greenhouse gases" under Section 1605(b) of the National Energy Policy Act of 1992 or under any other federal, state, local or foreign law, rule or regulation related to the reduction of air pollutants or "greenhouse gases" or the trading of emissions or emissions credits, including so-called "green tags" or "green certificates," and (iv) any credits, certificates or similar instruments issued pursuant to a federal or state renewable portfolio standard or analogous program.

"**Environmental Claim**" means any suit, action, contest, demand, directive, claim, Lien, assessment, citation, fine, penalty, investigation, audit, written notice of noncompliance or violation, allegation of liability or potential liability, or proceeding made or brought by any Person with respect to the Project and/or any portion of the Project Site in each such case alleging any liability under or violation of or noncompliance with any applicable Environmental Law.

"**Environmental Law**" means all Laws (including rules, regulations, codes, plans, injunctions, judgments, orders, ordinances, decrees, rulings and charges thereunder) of Governmental Authorities (and all agencies thereof) concerning or relating to pollution or protection of human health, land conservation, wildlife, flora and fauna, natural resources, or the environment, including laws relating to emissions, discharges, Releases, or threatened Releases of Hazardous Materials into the air, surface water, ground water, lands or subsurface (including releases to ambient air, land and surface and subsurface strata), or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, release, disposal, transport, or handling of Hazardous Materials, including the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., and the Superfund Amendments and Reauthorization Act of 1986, the Emergency Planning and Community Right to Know Act, 42

U.S.C. §§ 11001 et seq., the Clean Air Act, 42 U.S.C. § 7401 et seq., the Clean Water Act, 33 U.S.C. § 1251 et seq., the Resource Conservation Recovery Act, 42 U.S.C. § 6901 et seq., .and the Hazardous and Solid Waste Amendments Act of 1984, the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., the Safe Drinking Water Act, 42 U.S.C. § 300f et seq., the Endangered Species Act (16 U.S.C. §§ 1531 et seq.), the Migratory Bird Treaty Act (16 U.S.C. §§ 703 et seq.), the Bald and Golden Eagle Protection Act (16 U.S.C. §§ 668 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. §§ 2701 et seq.), the Hazardous Substances Transportation Act (49 U.S.C. §§ 5101 et seq.) all , and any other federal, Washington state, or local laws, in each case in effect as of the Effective Date.

"**ERISA**" means the Employment Retirement Income Security Act of 1974.

"**Estimated Aggregate Net Working Capital Adjustment Amount**" means the Estimated Aggregate Net Working Capital Amount, minus the Target Aggregate Net Working Capital Amount.

"**Estimated Aggregate Net Working Capital Amount**" has the meaning set forth in Section 2.4(a).

"**Existing Title Policy**" means that certain ALTA Owner's Policy of Title Insurance dated as of August 28, 2008, issued by the Title Company, Policy No. 390481.

"**Excluded Assets**" has the meaning set forth in Section 2.1(b).

"**FAA**" means the Federal Aviation Administration.

"**Favorable Opinion of Bond Counsel**" has the meaning set forth in Section 2.3(b)(1).

"**FERC**" means the Federal Energy Regulatory Commission and any successor agency.

"**FERC 203 Approval**" means authorization from FERC pursuant to Section 203 of the FPA to consummate the transaction contemplated hereunder.

"**Final Aggregate Net Working Capital Amount**" has the meaning set forth in Section 2.4(b).

"**Financial Statements**" has the meaning set forth in Section 4.2(a).

"**FPA**" means the Federal Power Act.

"**Fundamental Representations**" means Seller Fundamental Representations and Purchaser Fundamental Representations, collectively.

"**GAAP**" means generally accepted accounting principles in the United States of America.

"**GIA**" means the Generation Interconnection Agreement, dated as of August 25, 2008, between KPUD and Seller.

"Good Utility Practice" means any of the practices, methods and acts engaged in or approved by a significant portion of the electric industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

"**Governmental Approval**" means any consent, filing, registration, notification, authorization or approval required by any Governmental Authority.

"**Governmental Authority**" means any federal, national, regional, state, multinational, tribal, local or municipal governmental body; any governmental, quasi-governmental, regulatory or administrative agency, commission, body or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power (including the California Public Utilities Commission, Washington Utilities and Transportation Commission and FERC); any regulatory entity, independent system operation or regional transmission operator (including the Bonneville Power Administration, California ISO, and the North American Electric Reliability Corporation, Western Electricity Coordinating Council, the Federal Aviation Administration); or any court or governmental tribunal.

"**Hazardous Substances**" means (i) any petroleum, petroleum constituents or petroleum products, per-and-polyfluoroalkyl substances, flammable, ignitable, corrosive or explosive substances or materials, radioactive materials, biohazardous materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation and transformers or other equipment that contain dielectric fluid containing levels of polychlorinated biphenyls, (ii) any chemicals or other materials or substances which are defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "pollutants," "contaminants" or words of similar import under any Environmental Law, and (iii) any other chemical or other material or substance, exposure to which is prohibited, limited or regulated by any Governmental Authority under any Environmental Law.

"**HSR Act**" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

"**Income Tax**" means any U.S. federal, state, local or non-U.S. Tax measured by or imposed on net income.

"**Income Tax Return**" means any Tax Return relating to Income Taxes.

"**Indebtedness**" means all obligations or indebtedness of a Person: (a) for borrowed money; (b) evidenced by notes, bonds, debentures or similar instruments; (c) for the deferred purchase price of goods, assets or services (other than trade payables or accruals incurred in the ordinary course of business and not past due); (d) under capital leases; (e) secured by a Lien on the assets of such Person, whether or not such obligation has been assumed by such Person; (f) with respect to reimbursement obligations for letters of credit and other similar instruments (whether or not drawn); (g) under any interest rate swap agreement, forward rate agreement, interest rate cap or collar agreement or other financial agreement or arrangement entered into for the purpose of limiting or managing interest rate risks; (h) in the nature of guaranties, endorsements and assumptions of the obligations described in clauses (a) through (g) above of any other Person or as to which such Person has an obligation substantially the economic equivalent of a guaranty; or (i) in respect of any other amount properly characterized as indebtedness in accordance with GAAP.

"**Indemnified Party**" means either any Seller Indemnified Party or any Purchaser Indemnified Party, as the context may require, claiming indemnification under any provision of Article X.

"**Indemnifying Party**" means any Person against whom a claim for indemnification is being asserted under any provision of Article X.

"**Independent Accounting Firm**" has the meaning set forth in Section 8.10.

"**Insurance Policies**" has the meaning set forth in Section 4.15.

"**Intercompany Arrangements**" has the meaning set forth in Section 4.13.

"**Intellectual Property**" means all patents and patent rights, trademarks and trademark rights, trade names, trade name rights, service marks and service mark rights, service names and service name rights, domain names, inventions, copyrights and copyright rights and all pending applications for and registrations of patents, trademarks, service marks and copyrights.

"**Inventories**" means all inventories of the Seller, including all finished goods, work in process, raw materials, spare parts and all other materials and supplies to be used or consumed by the Project.

"**Judicial Relief**" has the meaning set forth in Section 12.13(b).

"**Knowledge of Seller**" or "**Seller's Knowledge**" [redacted]

"**Knowledge of Purchaser**" or "**Purchaser's Knowledge**" [redacted]

"**KPUD**" means Public Utility District No. 1 of Klickitat County, Washington.

"**Laws**" means all applicable common law, constitutions, laws (including Environmental Law), statutes, treaties, rules, Orders, codes, ordinances, standards, regulations, restrictions, official guidelines, policies, directives, injunctions, interpretations, Permits or like action having the effect of law of any Governmental Authority.

"**LGIA**" means the Standard Large Generator Interconnection Agreement, executed as of January 21, 2010, between Seller and the Bonneville Power Administration.

"**Liabilities**" means any Indebtedness, claim, commitment, obligation, duty, Losses, payable or liability of any nature (including any unknown, undisclosed, unmatured, unaccrued, unasserted, contingent, indirect, conditional, implied, vicarious, derivative, joint, several or secondary liability and including Tax), regardless of whether such Indebtedness, claim, commitment, obligation, duty, Loss, payable or liability would be required to be disclosed on a balance sheet prepared in accordance with GAAP and regardless of whether such Indebtedness, claim, commitment, obligation, duty, Losses, payable or liability is immediately due and payable.

"**Lien**" means any mortgage, deed of trust, lien, pledge, charge, security interest, assessment, reservation, assignment, hypothecation, defect in title, encroachments and other burdens, restrictive covenant, Contract restricting the use of the Project Site, condition or restriction or easement or encumbrance of any kind, whether arising by Contract or under any Law and whether or not filed, recorded or otherwise perfected or effective under any Law, or any preference, priority or preferential arrangement of any kind or nature whatsoever including the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement.

"**Losses**" means any and all damages, losses, Liabilities, costs, fines, penalties, assessments, awards, charges, claims, demands, complaints, fees, injuries, levies, sanctions, settlements, stipulations, costs or expenses, including reasonable attorneys', accountants' and experts' fees and expenses (including such items incurred in investigating or defending a claim), Taxes, judgments and interest, in each case subject to Section 10.8.

"**Made Available**" means the documents and materials (and, in the case of Contracts, Project Permits and Reports, true, complete and correct copies of the same) that were posted to the Data Room as of three (3) Business Days prior to the Effective Date or the Closing Date, as applicable.

"**Material Adverse Effect**" [redacted]

[redacted]

"**MBR Authority**" has the meaning set forth in Section 4.16(a).

"**MW**" means megawatts of electric power.

"**NERC**" means the North American Electric Reliability Corporation and any successor corporation.

"**Neutral Auditor**" means KPMG ("**KPMG**") or, if KPMG is unable to serve, an impartial nationally recognized firm of independent certified public accountants other than Seller's accountants or Purchaser's accountants, mutually agreed to by Purchaser and Seller.

"**NSC Smelter Lease**" means that Wind Energy Lease and Agreement dated as of January 4, 2006 by and between NSC Smelter LLC, a Delaware limited liability company, and Windy Point Partners, LLC, a Delaware limited liability company, as evidenced by that certain Memorandum of Lease dated as of January 14, 2006, recorded on January 25, 2006 as Document No. 1064008 of the Official Records as amended by that certain First Amendment to Wind Energy Lease and Agreement dated as of April 28, 2008, as evidenced by that certain Memorandum of Lease dated as of April 28, 2008, recorded on May 6, 2008 as Document No. 1076935 of the Official Records, as further amended by that certain Second Amendment to Wind Energy Lease and Agreement dated as of August 13, 2008, as evidenced by that certain Memorandum of Lease dated August 13, 2008, recorded on August 21, 2008 as Document No. 1078941 of the Official Records, as assigned from Windy Point Partners, LLC, a Delaware limited liability company, to Tuolumne Wind Project LLC, a Delaware limited liability company, pursuant to that certain Assignment and Assumption of Leases dated August __, 2008, recorded on August 28, 2008 as Document No. 1079063 of the Official Records and on August 28, 2008 as Document No. 1079064 of the Official Records, as further amended by that certain unrecorded Third Amendment to Wind Energy Lease and Agreement dated as of September 9, 2009.

"**Order**" means any writ, judgment, injunction, ruling, decision, order, verdict, decree, writ, mandate, command or similar direction of any Governmental Authority or arbitrator that is binding on the applicable Person, whether preliminary or final.

"**Organizational Documents**" means, with respect to any Person, the articles or certificate of incorporation or organization, bylaws, joint exercise of powers agreement, limited partnership agreement, partnership agreement, limited liability company agreement, member control agreement, trust agreement, or other organizational documents of such Person, including any shareholder, voting trust or similar organizational documents or agreements of such Person in connection with any of the foregoing.

"**Original PPA**" has the meaning set forth in Recitals.

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

"**Permit**" means permits from any Governmental Authority.

"**Permitted Liens**" means, as to the Purchased Assets, any of the following: (a) inchoate mechanics' and materialmen's Liens for construction in progress and workmen's, repairmen's, warehousemen's and carriers' Liens, arising in the ordinary course of business that in each case are either (i) for amounts not due and payable or (ii) being contested in good faith through appropriate proceedings for which adequate reserves have been established in the applicable balance sheet in accordance with GAAP, (b) statutory Liens for current Taxes (i) that are not yet due or payable or (ii) that are set forth on Schedule PE attached hereto and that being contested diligently and in good faith through appropriate proceedings and for which adequate reserves have been established, and are being maintained, in the applicable balance sheet in accordance with GAAP, (c) Liens arising under original purchase price conditional sales contracts and equipment leases with third parties incurred in the ordinary course of business of the Project (but not as a result of, or otherwise reflecting, amounts that have not been paid, or obligations that have not been performed, when due), (d) zoning, entitlement, land use, environmental, building and other similar restrictions promulgated by a Governmental Authority arising in the ordinary course of business (including under Project Permits held by Seller in respect of the Project), in each case not arising from the breach or violation thereof or any default or unperformed or unpaid obligations thereunder, (e) any Lien that is listed as a Schedule B exception to the Closing Date Title Policy, when issued, (f) such other Liens set forth on Schedule 1.1(a), (g) solely prior to the Closing and the payoff contemplated by the Project Bonds Payment, Liens securing or purporting to secure the Project Bonds, and (h) any matter listed in the Existing Title Policy.

"**Person**" means any natural person, corporation, limited liability company, general partnership, limited partnership, proprietorship, other business, entity, organization, trust, union, association or Governmental Authority.

"**PFM Financial Advisor's Letter**" means a letter dated on or about the Effective Date of PFM Financial Advisor confirming the outstanding principal balance of the Project Bonds as of the Effective Date.

"**Post-Closing Aggregate Net Working Capital Adjustment Amount**" has the meaning set forth in Section 2.4(d).

"Post-Closing Tax Period" means any taxable period (or portion thereof) beginning after the Closing Date.

"**Proposed Aggregate Net Working Capital Amount**" has the meaning set forth in Section 2.4(b).

"**Pre-Closing Tax Period**" means any taxable period (or portion thereof) ending on or prior to the Closing Date.

"**Procurement Content Category 0**" or "**PCC-0**" has the meaning set forth in the Recitals.

"**Project**" has the meaning set forth in the Recitals.

"**Project Bonds**" means, collectively, the Seller's outstanding 2009 Series B revenue bonds in the original principal amount of [redacted] and the Seller's outstanding 2016 Series A refunding bonds in the original principal amount of [redacted]; each under the Project Bonds Indenture, and all related financing and security documents.

"**Project Bonds Indenture**" has the meaning set forth in Section 7.7.

"**Project Bonds Trustee**" means The Bank of New York Mellon Trust Company, N.A., in its capacity as "**Trustee**" under the Project Bonds.

"**Project Bonds Payment**" has the meaning set forth in Section 7.7.

"**Project Contracts**" has the meaning set forth in Section 4.11(a).

"**Project Easements**" means the easements set forth in Schedule 4.6(a)(i).

"**Project Ground Leases**" means the leases of real property set forth in Schedule 4.6(a)(i).

"**Project Permit**" has the meaning set forth in Section 4.12.

"**Project Site**" means any portion of real property subject to any Real Property Document.

"**Project Tangible Personal Property**" has the meaning set forth in Section 4.7.

"**Prudent Wind Industry Practices**" means the practices, methods and acts engaged in or approved or commonly used by members of the wind power industry in the United States in respect of the design, construction, maintenance, operation and repair of wind power energy generation facilities of comparable type and complexity to the Project that, at a particular time, in the exercise of reasonable judgment in light of the facts known and such other practices, methods or acts by those reasonably experienced in the wind power industry as would have reasonably been expected to accomplish the desired result in a manner consistent with applicable Laws, reliability, safety and expedition. "**Prudent Wind Industry Practices**" does not necessarily mean one particular practice, method, or standard of care, skill, safety and diligence in all cases, but is instead intended to encompass a broad range of acceptable practices, methods, specifications and standards.

"**PTCs**" means the renewable energy credit described in Section 45 of the Code.

"**PUHCA**" means the Public Utility Holding Company Act of 2005.

"**Purchased Assets**" has the meaning set forth in Section 2.1(a).

"**Purchase Price**" has the meaning set forth in Section 2.2.

"**Purchase Price Allocation Schedule**" has the meaning set forth in Section 8.10..

"**Purchaser**" has the meaning set forth in the preamble of this Agreement, and includes its successors and permitted assigns.

"**Purchaser Approvals**" has the meaning set forth in Section 5.5.

"**Purchaser Consents**" has the meaning set forth in Section 5.4.

"**Purchaser Consolidated Returns**" has the meaning set forth in Section 9.3.

"**Purchaser Fundamental Representations**" means the representations and warranties set forth in Section 5.1 (Existence), Section 5.2 (Authority), Section 5.3 (No Conflicts), and Section 5.7 (Brokers).

"**Purchaser Indemnified Parties**" means Purchaser, its successors and permitted assigns, Affiliates, directors, officers, managers, employees, shareholders, members, controlling Persons and agents.

"**Purchaser Parent Guarantor**" means Clearway Energy Operating LLC, a Delaware limited liability company.

"**Purchaser Parent Guaranty**" means the Guaranty issued by Purchaser Parent Guarantor in favor of Seller, entered into and effective as of the Effective Date, with respect to Purchaser's obligations under this Agreement and the other Transaction Documents, in the form attached hereto as Exhibit F.

"**Purchaser Taxes**" means (a) all Taxes of, arising from, or attributable to the Project, the Business, the Purchased Assets, or the Assumed Liabilities and imposed in respect of any Post-Closing Tax Period (as determined, with respect to a Straddle Period, in the same manner as the Apportioned Obligations are determined in accordance with Section 9.4) (including (x) the Purchaser Tax Amount, and (y) any penalty, fee, or addition to a personal property Tax that is charged by the applicable Governmental Authority subsequent to the Closing and that results from, or relates to, a failure to file timely a Tax Return that is due with respect to a taxable period, or portion thereof, that starts after to the Closing Date), (b) Transfer Taxes, and (c) any other Taxes that arise from or relate to the Post-Closing Tax Period, in each case, with the exception of the REET (which, for the avoidance of doubt, is a Seller Tax).

"**Purchaser Tax Amount**" has the meaning set forth in Section 9.4.

"**Qualified Termination**" has the meaning set forth in Section 11.3.

"REET" means the Tax that is the Washington State Real Estate Excise Tax set forth in RCW 82.45, or its successor.

"REET Affidavit" means the Washington State Real Estate Excise Tax Affidavit, Form 84001a, or its successor form, that is required by RCW 82.45.

"**Real Property Documents**" means, collectively, all Project Ground Leases and Project Easements attached hereto in Schedule 4.6(a)(i).

"**Recovery Costs**" has the meaning set forth in Section 11.3.

"**Release**" means any release, spill, emission, discharge, leaking, pumping, pouring, emptying, escaping, injection, deposit, disposal, dumping, discharge, dispersal, leaching, placing or migration to the environment or into or out of any property, including the movement of Hazardous Substances through or in the environment or property.

"**Releasees**" has the meaning set forth in Section 6.7.

"**Releasors**" has the meaning set forth in Section 6.7.

"**Renewable Energy Credits**" means any credit, certificate, renewable energy certificate, allowance or similar right that is related to the Environmental Attributes of the Project, whether arising pursuant to Applicable Law, certification, markets, trading, off-set, private transaction, renewable portfolio standards, voluntary programs or otherwise, including renewable energy credits certified by the Center for Resource Solutions.

"**Reports**" has the meaning set forth in Section 4.17.

"**Representatives**" means, as to any Person, its officers, managers, directors, employees, partners, members, stockholders, Affiliates, counsel, agents, accountants, advisers, engineers, consultants, representatives and agents.

"**Retained Liabilities**" has the meaning set forth in Section 2.1(c)(ii).

"**Revised Code of Washington**" or "**RCW**" is the compilation of all permanent Laws now in force in the State of Washington.

"**Rights**" means all claims, causes of action, rights of recovery and rights of set-off against any Person arising from or related to the Business, the Purchased Assets or the Assumed Liabilities, including: (i) all rights under any Project Contract, including all rights to receive payment for products sold and services rendered thereunder, to receive goods and services thereunder, to assert claims and to take other rightful actions in respect of breaches, defaults and other violations thereof; (ii) all of Seller's rights under Project Contracts to cash reserves, advance payments, escrows, security deposits, and other prepaid items provided by Seller in connection with the Project; and (iii) all rights under all guarantees, warranties (including warranties, to the extent transferable, against manufacturers or vendors of Project Tangible

Personal Property), indemnities and insurance policies arising from or related to the Business, the Purchased Assets or the Assumed Liabilities.

"**Seller**" has the meaning set forth in the preamble of this Agreement, and includes its respective successors and permitted assigns.

"**Seller Approvals**" has the meaning set forth in Section 3.5.

"**Seller Connected Entities**" means Seller, TID, Walnut Energy Center Authority, and any Person that is directly or indirectly, through one or more intermediaries, Controlled by any of Seller, TID, or Walnut Energy Center Authority, and in existence as of the Effective Date.

"**Seller Consents**" has the meaning set forth in Section 3.4.

"**Seller Financial Support Agreement**" means the Financial Support Agreement issued by TID in favor of Purchaser, entered into and effective as of the Effective Date, in the form attached hereto as Exhibit G.

"**Seller Fundamental Representations**" means the representations and warranties set forth in Section 3.1 (Existence; Corporate Power), Section 3.2 (Authority), Section 3.3 (No Conflicts), Section 3.7 (Brokers), Section 4.1 (Purchased Assets and the Business), Section 4.13 (Intercompany Arrangements), and Section 4.18 (Bankruptcy; Solvency).

"**Seller Indemnified Parties**" means Seller and its successors and permitted assigns, Affiliates, directors, officers, managers, employees, shareholders, members, controlling Persons and agents.

"**Seller Tax Amount**" has the meaning set forth in Section 9.4.

"**Seller Taxes**" means (a) all Taxes of, arising from, or attributable to the Project, the Business, the Purchased Assets, or the Assumed Liabilities and imposed in respect of any Pre-Closing Tax Period (as determined, with respect to a Straddle Period, in the same manner as the Apportioned Obligations are determined in accordance with Section 9.4) (including (x) the Seller Tax Amount, and (y) any penalty, fee, or addition to a personal property Tax that is charged by the applicable Governmental Authority subsequent to the Closing but that results from, or relates to, a failure to file timely a Tax Return that relates to a taxable period, or portion thereof, that ends on or prior to the Closing Date), (c) the REET; provided, however, that Seller Taxes shall not include (A) any Transfer Taxes or (B) any other Taxes (i) that are imposed on Purchaser with respect the Project, the Business, the Purchased Assets, or the Assumed Liabilities and (ii) that arise from or relate to the Post-Closing Tax Period, in each case, with the exception of the REET (which, for the avoidance of doubt, is a Seller Tax). Seller Taxes shall not include any Transfer Taxes.

"**SPPA**" means the Subordinate Power Purchase Agreement, to be entered into and dated as of the Closing Date pursuant to Section 6.4, between TID and Purchaser.

"**Straddle Period**" means any taxable period that includes, but does not end on, the Closing Date.

"**Target Aggregate Net Working Capital Amount**" means [_______] Dollars ($[_______]).

"**Tax**" or "**Taxes**" means (a) all federal, state, local, non-U.S. and other net income, gross income, gross receipts, sales, use, ad valorem, transfer, franchise, profits, registration, license, lease, leasehold interest, service, service use, withholding, payroll, employment, excise, environmental, fuel, conservation, production, severance, stamp, occupation, premium, property (whether real, personal, or otherwise), windfall profits, intangible, utility, communications, escheat, unclaimed property liabilities, customs, duties or other taxes, fees, assessments or charges of any kind whatsoever in the nature of a tax (including any amounts resulting from the failure to file any Tax Return), together with any interest and any penalties, additions to tax or additional amounts with respect thereto; (b) any Liability for payment of amounts described in clause (a) whether as a result of joint, several, transferee or successor liability, of being a member of an affiliated, consolidated, combined or unitary group for any period, pursuant to a Contract or otherwise through operation of law; (c) any Liability for the payment of amounts described in clauses (a) or (b) as a result of any tax sharing, tax indemnity or tax allocation agreement or any other express or implied agreement to indemnify any other Person; and (e) any Liability, expense, or loss incurred in connection with the determination, settlement, or litigation of any of the foregoing.

"**Tax Returns**" means any report, certificate, claim for refund, return, election, estimated Tax filing or declaration relating to, or filed or required to be filed with respect to, Taxes, including any amendments thereof or schedules or attachments thereto or modification thereto and any document with respect to, or accompanying a request for, an extension of time for which to file any such return, report, form, statement, or other information, in each case, required to be filed with or submitted to any Governmental Authority in connection with the determination, administration, assessment, collection, or payment of any Tax.

"**Termination Date**" has the meaning set forth in Section 11.1(b).

"**Termination Fee**" has the meaning set forth in Section 11.3.

"**Third Party Claim**" has the meaning set forth in Section 10.5(a).

"**TID**" has the meaning set forth in the Recitals, and includes its successors and assigns.

"**Title Company**" means First American Title Insurance Company.

"**Transaction Documents**" means, collectively, this Agreement, the Assignment of Original PPA, the Assignment and Assumption of Real Property Interests Agreement, the Bill of Sale and Assignment and Assumption Agreement, the Purchaser Parent Guaranty, the Seller Financial Support Agreement, the REET Affidavit, and any other agreements (other than the A&R PPA and SPPA), certificates, documents or instruments entered into at or prior to the Closing pursuant to this Agreement for the Closing.

"**Transfer Taxes**" means, with the exception of the REET, all transfer, bulk transfer, documentary, sales, use, stamp, stamp duty, registration, recording, mortgage, titling, lease, leasehold interest, filing, excise, conveyance Taxes and other such Taxes and fees (including any penalties and interest) incurred in connection with the transactions contemplated by this Agreement and the documents to be delivered hereunder (or under any Transaction Document).

"**Transmission Service Agreement**" means the Transmission Service Agreement, dated as of August 25, 2008, between KPUD and Seller.

"**Treasury Regulations**" means the regulations promulgated under the Code by the United States Department of Treasury, as such regulations may be amended from time to time.

"**WECC**" means the Western Electricity Coordinating Council.

"**Wind Data**" means all meteorological data actually generated for the Project by meteorological towers on the Project Site and all final third party reports and studies regarding such data that are relevant to the use of any of the Project's wind turbines, in each case as amended, supplemented or updated.

Section 1.2 Interpretation.

(a) Unless the context of this Agreement otherwise requires, (i) words of any gender include each other gender, (ii) words using the singular or plural number also include the plural or singular number, respectively, (iii) the terms "hereof," "herein," "hereby", "hereunder" and derivative or similar words refer to this entire Agreement, (iv) the terms "**Article**" or "**Section**" refer to the specified Article or Section of this Agreement and all references to Annexes, Exhibits and Schedules are intended to refer to Annexes, Exhibits and Schedules attached to this Agreement, each of which is made a part of this Agreement for all purposes, (v) the words "include" and "including" are not words of limitation and shall be deemed to be followed by the words "without limitation," (vi) the use of the word "or" to connect two or more phrases shall be construed as inclusive of all such phrases (e.g., "A or B" means "A or B, or both") unless used in conjunction with the word "either" in which case each such phrase shall be construed as exclusive; and (vii) references to Persons include their respective successors and permitted assigns and, in the case of Governmental Authorities, Persons succeeding to their respective functions and capacities.

(b) Whenever this Agreement refers to a number of days, such number shall refer to calendar days unless Business Days are specified.

(c) Any date specified for action that is not a Business Day shall mean the first Business Day after such date.

(d) All accounting terms used herein and not expressly defined herein shall have the meanings given to them under GAAP.

(e) [Intentionally deleted].

(f) [Intentionally deleted].

(g) The Article and Section headings have been used solely for convenience, and are not intended to describe, interpret, define or limit the scope of this Agreement.

(h) Conflicts or discrepancies, errors or omissions in this Agreement or the various documents delivered in connection with this Agreement will not be strictly construed against the drafter of the contract language, rather, they shall be resolved by applying the most reasonable interpretation under the circumstances, giving full consideration to the intentions of the Parties at the time of contracting.

(i) A reference to any Contract or document is to that Contract or document as amended, novated, supplemented or replaced from time to time, to the extent permitted by this Agreement.

(j) All references in this Agreement to "dollars" or "$" shall, in each case, be deemed to refer to United States currency unless otherwise specifically provided.

ARTICLE II.

SALE OF PURCHASED ASSETS AND CLOSING

Section 2.1 Purchase and Sale. Seller shall sell, transfer, assign, convey and deliver to Purchaser, and Purchaser shall purchase from Seller, all of Seller's right, title and interest in and to the Purchased Assets at the Closing upon the terms and subject to the conditions set forth in this Agreement, free and clear of all Liens suffered or incurred by Seller except Permitted Liens.

a. "**Purchased Assets**" means all of the assets comprising or related to the Project, including the following:

(ii) Real Property. All of Seller's interests in the Real Property Documents, including all of Seller's interest in the Project Site, and all improvements, buildings, structures, fixtures and appurtenances thereto, if any, now or hereafter owned by Seller;

(ii) Tangible Personal Property. All Project Tangible Personal Property;

(iii) Project Contracts. All Project Contracts;

(iv) Project Permits. All Project Permits;

(v) Books and Records. All Books and Records of Seller;

(vi) [Intentionally Deleted]

(vii) Incidental Assets. All of Seller's right, title and interest in and to any storage or warehouse receipts, bills of lading, certificates of title and documents, insofar as the same are used in, related primarily to or are necessary for the Business or the Project;

(viii) all Governmental Approvals (other than Project Permits) obtained by Seller for the benefit of the Project and all pending applications therefor or renewals thereof, in each case to the extent transferable to Purchaser;

(ix) the goodwill and going concern value and other intangible assets, if any, arising from or related to the Business or the Project.

(b) "**Excluded Assets**" means all assets and properties of Seller other than the Purchased Assets. Without limitation of the foregoing, "**Excluded Assets**" includes:

(i) all minute books, organizational documents, stock registers and such other books and records of Seller as they pertain to ownership, organization or existence of Seller,

(ii) all of Seller's cash, cash equivalents and marketable securities in any and all accounts of Seller or on hand of Seller and all rights and obligations of Seller with respect to such accounts;

(iii) all of Seller's rights and benefits under this Agreement and the other Transaction Documents to which it is a party;

(iv) all of Seller's insurance policies and rights thereunder, including such rights and proceeds in connection therewith arising from or relating to (A) the Purchased Assets prior to the Closing or (B) Retained Liabilities;

(v) all of Seller's claims for refund of Taxes and other government charges in respect of the Purchased Assets: (A) (i) that relate to, and arose with respect to, a taxable period (or portion thereof) ending on or prior to the Closing Date and (ii) in respect of such Seller economically bore the Tax to which such refund relates or (B) that relate to the REET;

(vi) all property and assets expressly designated in Schedule 2.1(b)(vii).

(c) Liabilities

(i) Assumed Liabilities. In connection with the sale, transfer, conveyance, assignment and delivery of the Purchased Assets pursuant to this Agreement, on the terms and subject to the conditions set forth in this Agreement, at the Closing, Purchaser shall assume the following Liabilities pertaining to the Purchased Assets, solely to the extent arising and relating to the period on and following the Closing (the "**Assumed Liabilities**"):

(A) Obligations in Respect of the Project Site and Tangible Personal Property. All Liabilities of Seller in respect of the Real Property Documents, the Project Site or in respect of the ownership or operation of the Tangible Personal Property, if any, solely to the extent arising, relating to the period and to be performed on and after the Closing Date, and expressly excluding any such Liabilities arising, relating to the period or to be performed on or prior to the Closing;

(B) Liabilities under Project Contracts and Project Permits. All Liabilities of Seller under the Real Property Documents, the Project Contracts and Project Permits arising and to be performed on and after the Closing, and excluding any such Liabilities arising or to be performed prior to the Closing; and

(C) Purchaser Taxes. All Liabilities for, arising from, or with respect to any Purchaser Taxes.

provided that, notwithstanding anything to the contrary stated elsewhere in this Agreement, and for the avoidance of doubt, Purchaser is not assuming, and shall not assume, (x) any Liability to pay or satisfy any Taxes of Seller or any other Seller Connected Entity or (y) any Liability that is a Retained Liability.

(ii) Retained Liabilities. The Parties agree that any Liabilities and obligations not described in Section 2.1(c)(i) and Liabilities, if any, under Intercompany Arrangements are not part of the Assumed Liabilities and Purchaser shall not assume by virtue of this Agreement or the transactions contemplated hereby, and shall have no liability with respect to, and Seller shall be responsible for timely paying, performing and discharging when due, any other Liabilities of Seller including all Liabilities relating to the Business or the Project (collectively, the "**Retained Liabilities**"). In particular, the Purchaser shall not have any liability or obligation with respect to any of the following:

(A) Pre-Closing Liabilities. Any Liabilities of Seller that arise or accrue prior to, the Closing (including any such Liabilities arising prior to, but to be performed after, the Closing), including on account of any breach by Seller of any term, covenant or provision of any Project Contract, including any Liabilities or other obligation to any contractor, vendor, laborer, or materialman under or in connection with any Project Contract and any Liabilities arising in connection with, or Liens on, the Project Site or Project Tangible Personal Property, in each case or prior to, or otherwise relating to the period prior to, the Closing;

(B) Excluded Asset Liabilities. Any Liabilities or other obligations resulting from, arising out of or relating to (1) the Excluded Assets or the ownership, possession, use or operation of any business conducted therewith or therefrom at any time; and (2) any Indebtedness of Seller (including Indebtedness existing or arising under the Project Bonds);

(C) Environmental Liabilities. All Liabilities under or related to Environmental Laws, whether such Liability is known or unknown, contingent or accrued, to the extent such Liabilities occurred in the period prior to the Closing Date, including but not limited to any Liabilities relating to (1) any violation or alleged violation of an Environmental Law relating to the Purchased Assets or the Project Site , to the extent such violation arises prior to the Closing;

(2) loss of life, injury to persons or property or damage to natural resources (to the extent such loss, injury or damage arose on or prior to the Closing), caused by the presence or Release of Hazardous Materials at, on, in, under, adjacent to or migrating from the Project Site , prior to the Closing, including, but not limited to, Hazardous Materials contained in building materials at the Project Site or in the air, soil, surface water, sediments, groundwater, landfill cells, or in other environmental media at or adjacent to the Project Site or off-site disposal locations; and (3) the investigation and/or remediation (whether or not such investigation or remediation commenced on or before the Closing Date or commences after the Closing Date) of Hazardous Materials that have been Released prior to the Closing, at, on, in, under, or migrating from the Project Site , including, but not limited to, Hazardous Materials contained in building materials at the Project Site or in the air, soil, surface water, sediments, groundwater, landfill cells, in other environmental media at the Project Site , or off-site disposal locations; except, in each case, for Liabilities arising on or after the Closing;

(D) Employees. All Liabilities or other obligations associated with, related to or arising with respect to any current or former employees of Seller, regardless of whether arising before or after the Closing Date, including Liabilities (1) arising under any collective bargaining agreement or any pension, benefit or welfare plan, (2) for wages, overtime, bonuses, employment taxes, severance pay, transition payments, vacation pay or workers' compensation benefits; or (3) for personal injury, death, discrimination, harassment, civil or human rights violations, wrongful discharge, grievances or unfair labor practices, except, in each case, for Liabilities of employees of Purchaser or its Affiliates, arising after the Closing (with respect to their employment with Purchaser or its Affiliates) who were formerly employees of Seller; and

(E) Seller Taxes. All Liabilities for, arising from, or with respect to any Seller Taxes.

provided that, notwithstanding anything to the contrary stated elsewhere in this Agreement, and for the avoidance of doubt, Seller is not retaining, and shall not retain, (x) any Liability to pay or satisfy any Taxes of Purchaser or any Affiliate of Purchaser (i) that are imposed on Purchaser (or its Affiliate) with respect the Project, the Business, the Purchased Assets, or the Assumed Liabilities and (ii) that arise from or relate to the Post-Closing Tax Period, in each case, with the exception of the REET (which, for the avoidance of doubt, is a Retained Liability), or (y) any Liability that is an Assumed Liability.

Section 2.2 Purchase Price. As of the Effective Date, Purchaser shall have received the draft PFM Financial Advisor's Letter and a draft Auditor Certificate. At least four (4) Business Days prior to the expected Closing Date, Seller shall cause to be delivered to Purchaser the final PFM Financial Advisor's Letter and a final Auditor Certificate. The Purchase Price is defined in and shall be computed in accordance with Exhibit K.).

Section 2.3 Closing.

(a) Closing. The closing of the transactions described in Section 2.1 (the "**Closing**") will take place via electronic exchange of signatures at 10:00 A.M. PT four (4) Business Days after the date that the conditions set forth in Article VII and Article VIII (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or, to the extent legally permissible, waiver of those conditions at the Closing) have been satisfied or, to the extent legally permissible, waived by the Party or Parties entitled to the benefit of such conditions, or any other date mutually agreed upon in writing by Purchaser and Seller. The effective time of Closing shall be at 12:01 A.M. (Pacific Prevailing Time) on the Closing Date.

(b) Seller's Closing Actions.

At the Closing, Seller shall take the following actions:

(i) Seller shall cause the Seller contribution amounts set forth in Exhibit K to be paid to the Project Trustee.

(ii) Seller shall execute and deliver to Purchaser (A) the Assignment of Original PPA, (B) the Assignment of Real Property Interests Agreement, (C) REET Affidavit; and (D) the Bill of Sale and Assignment and Assumption Agreement, and Seller shall cause TID to execute and deliver to Purchaser the A&R PPA and the SPPA pursuant to Section 6.4;

(iii) Seller shall deliver to Purchaser a certificate, dated as of the Closing Date and executed by an authorized officer or the board (or equivalent) of Seller, certifying that the conditions set forth in Section 7.1, Section 7.2 and Section 7.12 have been satisfied, subject to Section 10.4(b);

(iv) Seller shall deliver to Purchaser a certificate, dated as of the Closing Date, executed by the Secretary (or equivalent officer) of Seller as to the incumbency and specimen signatures of the officers of Seller executing this Agreement and the other Transaction Documents to which Seller is a party and certifying that attached thereto are true and complete copies of: (A) (1) resolutions adopted by the board, commission or similar governing body of Seller, and (2) the consent of TID and Walnut Energy Center Authority in their respective capacities as members in Seller, in each case authorizing the execution, delivery and performance of this Agreement, the Transaction Documents to which Seller is a party and the consummation of the transactions contemplated hereby and thereby, and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the transactions contemplated hereby; and (B) the Organizational Documents of Seller;

(v) Seller shall cause TID to deliver to Purchaser a certificate, dated as of the Closing Date, executed by the Secretary (or equivalent officer) of TID certifying that attached thereto are true and complete copies of: (A) resolutions adopted by the board, commission or similar governing body of Seller, authorizing the execution, delivery and performance of the Transaction Documents to which TID is a party and the A&R PPA, the SPPA, and the consummation of the transactions contemplated hereby and thereby, and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the transactions contemplated hereby;

(vi) Seller shall deliver to Purchaser a valid, properly completed, and duly executed Internal Revenue Service Form W-9 from in respect of Seller (or, if Seller is an entity disregarded as separate from its regarded owner for federal income tax purposes, in respect of the regarded owner of Seller),;

(vii) Seller shall deliver copies of all federal and state tax liens, if any, against Seller, the Project, or any of the Purchased Assets;

(viii) Seller shall deliver to Purchaser electronic or hard copies of the Books and Records; and

(ix) Seller shall permit Purchaser to access the Project Site, if requested, and shall deliver to Purchaser all keys and security access codes necessary to physically access the Project Site and all buildings thereon and to access and operate computer systems included in the Purchased Assets.

(c) Purchaser's Closing Actions. At the Closing, Purchaser shall take the following actions:

(i) Purchaser shall pay to or for the benefit of Seller an amount equal to the Purchase Price, calculated in accordance with Exhibit K, by wire transfer of immediately available funds (to the account of the Project Bonds Trustee designated in the Accountant's Certificate provided to the Purchaser at least four (4) business Days prior to the Closing Date) in exchange for all Purchased Assets;

(ii) Purchaser shall execute and deliver to Seller: (A) the Assignment of Original PPA, (B) the Assignment of Real Property Interests Agreement, (C) REET Affidavit; and (D) the Bill of Sale and Assignment and Assumption Agreement; and Purchaser shall execute and deliver to TID the A&R PPA and the SPPA pursuant to Section 6.4; and

(iii) Purchaser shall deliver to Seller a certificate, dated as of the Closing Date and executed by an authorized officer or the board (or equivalent) of Purchaser, certifying that the conditions set forth in Sections 8.1, Section 8.2, Section 8.7 and Section 8.8 have been satisfied.

Section 2.4 Aggregate Net Working Capital Adjustment Amount.

(a) At least five (5) Business Days prior to the scheduled Closing Date, Seller will prepare and deliver to Purchaser a worksheet setting forth Seller's good faith estimate of the Aggregate Net Working Capital Amount as of the Closing Date (the "**Estimated Aggregate Net Working Capital Amount**"), as well as a computation thereof (which computation shall be prepared in the same format and on the same basis as set forth on Exhibit B).

(b) Within [sixty (60)] days after the Closing Date, Purchaser will prepare (at Purchaser's expense) and deliver to Seller a worksheet setting forth Purchaser's good faith computation of the actual Aggregate Net Working Capital Amount as of the Closing Date (the "**Proposed Aggregate Net Working Capital Amount**"), which computation shall be prepared in the same format and on the same basis used to prepare the Estimated Aggregate Net Working Capital Amount, together with a reasonably detailed explanation of, and documentation reasonably sufficient to confirm the accuracy of the computation of, such Proposed Aggregate Net Working Capital Amount. If within thirty (30) days following delivery of such worksheet and supporting documentation, Seller does not object in writing thereto to Purchaser, then the Proposed Aggregate Net Working Capital Amount shall constitute the actual Aggregate Net Working Capital Amount as of the Closing Date for purposes of this Agreement (the "**Final Aggregate Net Working Capital Amount**"). If, within thirty (30) days following delivery of such worksheet and supporting documentation, Seller objects in writing thereto to Purchaser (describing in reasonable detail the specific line items and values that are in dispute and the reasons for such dispute, and proposing alternative values with respect to such specific line items) such Proposed Aggregate Net Working Capital Amount shall be subject to the objection and resolution provisions set forth in Section 2.4(c) below.

(c) If Seller timely objects to Purchaser's Proposed Aggregate Net Working Capital Amount pursuant to Section 2.4(b) then Purchaser and Seller shall negotiate in good faith and attempt to resolve the particular items and values that are identified in the applicable written notice of objection over a ten (10) day period commencing on delivery of written notice of objection pursuant to Section 2.4(b) be. Should such negotiations not result in an agreement as to the Final Aggregate Net Working Capital Amount within such ten (10) day period (or such longer period as Purchaser and Seller may mutually agree), then either Party may submit such disputed items and values to the Neutral Auditor. Each Party agrees to promptly execute a reasonable engagement letter, if requested to do so by the Neutral Auditor. Purchaser and Seller, and their respective Representatives, shall cooperate fully with the Neutral Auditor. The Neutral Auditor, acting as an expert and not an arbitrator, shall resolve such disputed items and determine the values to be ascribed thereto, and using those values (together with other items not in dispute) determine the Final Aggregate Net Working Capital Amount as of the Closing Date only (prepared on the same basis used to prepare the Estimated Aggregate Net Working Capital Amount). The Parties hereby agree that the Neutral Auditor shall only decide the specific disputed items, the values ascribed thereto and using those values (together with the other items included in the applicable Proposed Aggregate Net Working Capital Amount) determine the Final Aggregate Net Working Capital Amount, and the Neutral Auditor's decision with respect to such disputed items and values must be within the range of values assigned to each such item in the applicable Proposed Aggregate Net Working Capital Amount and the notice of objection, respectively. All fees and expenses relating to the work, if any, to be performed by the Neutral Auditor will be borne equally by Purchaser and Seller. The Neutral Auditor shall be directed to resolve the disputed items and amounts and deliver to Purchaser and Seller a written determination of the Final Aggregate Net Working Capital Amount (such determination to be made consistent with this Section 2.4(c), including a worksheet setting forth all material calculations used in arriving at such determination and to be based solely on information provided to the Neutral Auditor by Purchaser and Seller) within thirty (30) days after being retained, which determination will be final, binding and conclusive on the Parties and their respective Affiliates and representatives, successors and assigns. Notwithstanding anything herein to the contrary, the dispute resolution mechanism contained in this Section 2.4(c) shall be the exclusive mechanism for resolving disputes, if any, regarding the Aggregate Net Working Capital, if any, and neither Seller nor Purchaser shall be entitled to indemnification pursuant to Article X for Losses resulting or arising from the amount of the Aggregate Net Working Capital Amount or the determination of Aggregate Net Working Capital.

(d) The "**Post-Closing Aggregate Net Working Capital Adjustment Amount**" shall be the amount equal to (i) the Final Aggregate Net Working Capital Amount minus (ii) the Target Aggregate Net Working Capital Amount. If the Post-Closing Aggregate Net Working Capital Adjustment Amount is greater than the Estimated Aggregate Net Working Capital Adjustment Amount, then Purchaser shall pay in cash to Seller the amount of such difference. If the Post-Closing Aggregate Net Working Capital Adjustment Amount is less than the Estimated Aggregate Net Working Capital Adjustment Amount, then Seller shall pay in cash to Purchaser the amount equal to the absolute value of such difference. Any payment in respect of the Final Aggregate Net Working Capital Amount pursuant to this Section 2.4(d) will be due and payable within ten (10) days after the Final Aggregate Net Working Capital Amount is finally determined as provided in this Section 2.4 and will be payable by wire transfer of immediately available funds to such account or accounts as shall be specified by Purchaser or Seller, as applicable. Any payments made pursuant to this Section 2.4(d) shall be treated as an adjustment to the Purchase Price by the Parties, including for Tax purposes, unless otherwise required by applicable Law.

(e) Following the Closing, Seller and Purchaser shall cooperate and provide each other and, if applicable the Neutral Auditor, and their respective representatives, reasonable assistance and access to such books, records and employees as are reasonably requested in connection with the matters addressed in this Section 2.4. Consistent with the foregoing, Purchaser shall, at its expense, provide or provide reasonable access (in a manner not unreasonably disruptive to its business) to Seller or the Neutral Auditor to review the books and records, documents and work papers related to the preparation of the worksheet and computation of the Final Aggregate Net Working Capital Amount Seller and the Neutral Auditor shall be entitled to make reasonable inquiries and information requests of Purchaser regarding the worksheet setting forth the computation of the Final Aggregate Net Working Capital Amount and the calculations set forth therein.

ARTICLE III.

REPRESENTATIONS AND WARRANTIES AS TO SELLER

Except as set forth in the Disclosure Schedules, Seller represents and warrants to Purchaser, as of the Effective Date and as of the Closing Date, that:

Section 3.1 Existence; Corporate Power. Seller is a joint powers authority duly formed and validly existing under the laws of the State of California and has the requisite organizational power and authority to execute and deliver this Agreement and each other agreement to be executed and delivered by it hereunder, to perform its obligations hereunder and thereunder, to consummate the transactions contemplated hereby and thereby, and to directly or indirectly own, hold, operate, sell, assign, convey and transfer the Purchased Assets, and to carry on the Business as it is now being conducted.

Section 3.2 Authority. All organizational actions or proceedings necessary to authorize the execution and delivery by Seller of this Agreement and any other Transaction Documents to which Seller is a party and the performance by either of them of its obligations hereunder and thereunder, have been duly and validly taken. This Agreement and the other Transaction Documents to which Seller is a party have, and the Seller Financial Support Agreement has, been duly and validly executed and delivered by Seller and constitute the valid and binding obligation of Seller, enforceable against it, in accordance with their respective terms, except as such terms may be limited by (a) applicable bankruptcy, insolvency, moratorium, reorganization or similar Laws affecting the enforcement of creditors' rights generally and (b) general principles of equity, whether considered in a proceeding in equity or at law.

Section 3.3 No Conflicts. Assuming the Seller Consents and the Seller Approvals are obtained, the execution, delivery and performance by Seller of this Agreement and any other Transaction Documents to which Seller is a party, and the consummation of the transactions contemplated hereby and thereby, do not and will not, except as set forth in Schedule 3.3, (a) conflict with, result in a breach of, or constitute a default under any of the Organizational Documents of Seller; (b) conflict with or result in a violation or breach of any provision of any Law applicable to it with respect to the Project; (c) result in the creation of any material Lien upon the Purchased Assets; (d) violate, result in a breach of, constitute (with or without due notice or lapse of time or both) a default or cause any obligation, penalty, premium or right of termination to arise or accrue under, any Project Contract or Project Permit; or (e) accelerate, cancel, terminate or modify, or give any party the right to accelerate, cancel, terminate or modify any Project Contracts or Project Permits.

Section 3.4 No Consent. Except as set forth on Schedule 3.4 (the "**Seller Consents**"), and except with respect to Governmental Approvals, which are governed exclusively by Section 3.5, the execution, delivery and performance by Seller of this Agreement and the consummation of the transactions contemplated hereunder, including the assignment, sale or other transfer by Seller to Purchaser of all of the Purchased Assets, do not require it to obtain any consent, approval or action of any Person as a result or under any terms, conditions or provisions of any Contract to which it is a party.

Section 3.5 Regulatory Matters and Governmental Approvals. Except as set forth on Schedule 3.5 (the "**Seller Approvals**"), no Governmental Approval on the part of Seller is required in connection with the execution, delivery and performance of the Transaction Documents to be executed and delivered by Seller hereunder or the consummation of the transactions contemplated hereby and thereby, including the assignment, sale or other transfer by Seller to Purchaser of all of the Purchased Assets. Prior to the Effective Date, Seller presented a draft of this Agreement to the CEC for its review.

Section 3.6 Legal Proceedings. Except with respect to any Actions or Proceedings arising under Environmental Law that are governed exclusively by Section 4.14, there is no Action or Proceeding pending or, to the Knowledge of Seller, threatened against any of Seller with respect to the Purchased Assets or the Project in law or in equity or before any

Governmental Authority. Except as set forth on Schedule 3.6, there are no outstanding injunctions, judgments, Orders, decrees, rulings, or charges to which Seller is a party or by which Seller is bound and that would have a material and adverse effect on the ability of such Seller to timely perform its obligations under the Transaction Documents to which it is a party or to timely consummate the transactions contemplated thereby.

Section 3.7 Brokers. None of Seller or any other Seller Connected Entity has entered into any agreement or arrangement entitling any Person to a claim against it for a finder's fee, brokerage commission or similar payment directly or indirectly in connection with the transactions contemplated by this Agreement, which claim could result in any Assumed Liability.

ARTICLE IV.

REPRESENTATIONS AND WARRANTIES AS TO THE PROJECT

Except as set forth in the Disclosure Schedules, Seller hereby represents and warrants to Purchaser, as of the Effective Date and as of the Closing Date, that:

Section 4.1 Purchased Assets and the Business.

(a) Seller has title to or a valid leasehold interest in all of the Purchased Assets, free and clear of all Liens incurred or suffered by Seller, other than Permitted Liens. Except as set forth in the Project Contracts and the Real Property Documents, the Seller has not granted any right, option or interest of any Person (other than Purchaser) to acquire any right, title or interest in or to any of the Purchased Assets.

(b) Seller has not conducted any business other than in connection with the ownership and operation of the Project. Seller has no assets or liabilities that do not arise from or otherwise relate to the development, construction, ownership or operation of the Project. Seller does not own any equity interests in any Person.

(c) To the Seller's Knowledge, the transfer to Purchaser of the Purchased Assets pursuant to this Agreement, together with Purchaser's rights under this Agreement and the Transaction Documents, comprise the assets required to operate the Business by the Seller in substantially the same manner as such operations have heretofore been conducted by the Seller in all material respects.

(d) Exhibit A sets forth an accurate description of the Project and the layout of the Project Site.

Section 4.2 Financial Statements; Indebtedness.

(a) True and complete copies of (i) the audited consolidated balance sheet of the Business as at [●] (the "**Balance Sheet**"), and the related statements of income and cash flows of the Business, together with all related notes and schedules thereto (collectively referred to as the “**Financial Statements**”) and (ii) the unaudited consolidated balance sheet of the Business as at [●] (the “**Interim Balance Sheet**”), and the related unaudited consolidated statements of income and cash flows of the Business, together with all related notes and schedules thereto (collectively referred to as the “**Interim Financial Statements**”), are attached hereto as Schedule 4.2. Each of the Financial Statements and the Interim Financial Statements fairly present, in all material respects, the consolidated financial position and results of operations and cash flows of the Business as at the respective dates thereof and for the respective periods indicated therein, and have been prepared in accordance with GAAP applied on a consistent basis in all material respects throughout the periods covered thereby, except as otherwise noted therein and subject, in the case of the Interim Financial Statements, to normal and recurring year-end adjustments that will be consistent with past practice and will not, individually or in the aggregate, be material.

(b) Except as and to the extent adequately accrued or reserved against in the Balance Sheet, Seller does not have any liability or obligation of any nature arising out of, relating to or affecting the Business or the Purchased Assets, whether accrued, absolute, contingent or otherwise, whether known or unknown and whether or not required by GAAP to be reflected in a consolidated balance sheet of the Business or disclosed in the notes thereto, except for liabilities and obligations, incurred in the ordinary course of business consistent with past practice since the date of the Balance Sheet, that are not, individually or in the aggregate, material to the Business.

(c) To the Knowledge of Seller, the books of account and financial records of Seller pertaining to the Business are true and correct and have been prepared and are maintained in accordance with sound accounting practice.

(d) Seller has no Indebtedness other than, prior to the Closing, under the Project Bonds; and, as of the Closing after giving effect to the payment, prepayment or defeasance in accordance with the Project Bonds Indenture, Seller has no Indebtedness. No default, event of default, or acceleration (however so defined under the Project Bonds) has occurred under the Project Bonds. Seller will provide the Purchaser the maturity schedule.

Section 4.3 Absence of Certain Changes or Events. Since the date of the Interim Balance Sheet, (i) the Business has been conducted in the ordinary course of business in all material respects, and (ii) there has not occurred any Material Adverse Effect.

Section 4.4 Regulatory Matters and Governmental Approvals. Except for the Seller Approvals, no Governmental Approval is required in connection with the execution, delivery and performance of the Transaction Documents to be executed and delivered by Seller hereunder or the consummation of the transactions contemplated hereby and thereby.

Section 4.5 Compliance with Laws. Except with respect to compliance with Environmental Law, which matters are governed exclusively by Section 4.14 and set forth on Schedule 4.14, and except as set forth on Schedule 4.5, or where such matters have been cured, to the Knowledge of Seller, Seller is, and for the past three (3) years has been, in compliance in all material respects with all applicable Laws material to Seller’s Purchased Assets. Seller has not received written notice of any actual or potential violation of any Law that has not been cured.

Section 4.6 Real Property.

(a) Schedule 4.6(a)(i) sets forth a true, correct and complete list of all Real Property Documents, and Seller has Made Available to Purchaser all such Real Property Documents, including any amendments, modifications or supplements and recorded memoranda thereto. The documents listed on Schedule 4.6(a)(i) are the entire agreements between the respective parties thereto with respect to the matters set forth therein except as specified in Schedule 4.6(a)(i), and the documents listed in Schedule 4.6(a)(i) include all of the agreements executed by Seller with respect to the matters set forth therein. Seller holds a leasehold interest in the real property described in each Project Ground Lease and holds an easement interest in the real property described in each Project Easement, and has undisturbed nonexclusive possession of the Project Site thereunder, in each case subject only to the terms and conditions of the Project Ground Leases, the Project Easements, and the Permitted Liens. The Real Property Documents do not include and are separate and distinct from the Project Contracts described in Section 4.11(a).

(b) [Reserved].

(c) Except as set forth in Schedule 4.6(c), Seller has not assigned, transferred, conveyed, encumbered or granted any interest in or to any of the Project Site (whether as a lessor, sublessor, grantor, subgrantor, licensor or otherwise), and, to Seller's Knowledge, except for the Permitted Liens, there are no third party rights (including any option, purchase right, or right of first refusal) granted by Seller with respect to the Project Site.

(d) With respect to the Project, the Real Property Documents provide rights in the Project Site sufficient to enable the Project to be located, operated, and maintained on the Project Site by Seller, and provide adequate ingress and egress to Seller in connection with the operation and maintenance of the Project. All rents, royalties and other payments owed under the Real Property Documents have been paid in full to the extent due or payable as of the Effective Date and the Closing Date. Seller has not received any actual notice of violation (or claimed violation) of any covenants, conditions, or other restrictions recorded against the Project Site that has not been cured as of the Effective Date. Notwithstanding the foregoing, Seller does not warrant or represent that Purchaser will have sufficient rights under the Real Property Documents to conduct any post-Closing repowering of the Project.

(e) Each of the Real Property Documents constitutes a valid and binding obligation of Seller and, to the Knowledge of Seller, any other party thereto and is enforceable against Seller and, to the Knowledge of Seller, any other party thereto in accordance with its terms. Except as set forth on Schedule 4.6(e), (i) Seller is not in breach or default under any Real Property Document for a default that remains uncured, (ii) to the Knowledge of Seller, no other Person that is a party to any Real Property Document is in breach or default under any Real Property Document that remains uncured, and Seller has not sent a written notice of a default to any other Person that is a party to any Real Property Document for a default that remains uncured, (iii) to the Knowledge of Seller, there is no event, fact, or circumstance, that, with the passage of time or the giving of notice, or both, would reasonably be likely to result in a breach or default under a Real Property Document by Seller or any other Person that is a party to any Real Property Document, and (iv) to the Knowledge of Seller, no action is being taken by any Person to terminate or suspend any Real Property Document.

(f) The Existing Title Policy is the only title policy for the Project in Seller's possession. The Existing Title Policy has been Made Available to Purchaser.

(g) Seller has not received written notice of any existing, pending or threatened zoning, building code or other moratorium proceedings, or similar matters related to any portion of the Project Site. Seller has not received written notice of any condemnation or eminent domain proceeding or similar proceedings for assessment of impact fees or special assessments and, to the Knowledge of Seller, the foregoing has not been threatened, with respect to any portion of the Project Site. Except as set forth in Schedules 4.6(e), 4.8, 4.9 and 4.14,[in the three (3) years preceding the Effective Date of this Agreement,] Seller has not had in effect any outstanding notice of, and has not received any written notice of, any injunction, decree, order, writ, or judgment outstanding, or any claims, litigation, administrative actions, or similar proceedings pending or, to the Knowledge of Seller, threatened, relating to any portion of the Project Site, including, that would materially impair the activities thereon or use thereof by Seller, in each case that has not been cured.

(h) Except as expressly set forth in Schedules 4.6(e), 4.8, to the Knowledge of Seller, in the past three (3) years,] Seller has not had in effect any outstanding notice that, and has not received any written notice that, its use of the Project Site is not in compliance in all material respects with all Laws (including, but not limited to, those relating to building, land use, subdivision, health and safety), in each case that has not been cured..

Section 4.7 Personal Property. Subject only to the Permitted Liens, Seller has good and valid title to, or a valid leasehold in, (a) all Inventories, machinery, equipment, spare parts, furniture, furnishings, rolling stock, tools, office supplies, vehicles, computer hardware and other tangible personal property incorporated in the Project or used or held by Seller for use in connection with the Business (collectively, "**Project Tangible Personal Property**"). Upon consummation of the transactions contemplated by this Agreement, Purchaser will own or have the right to use all of the assets, properties and rights sufficient for the operation and maintenance of the Project and the Business as conducted prior to the Effective Date. Neither Seller nor any other officers, managers, directors or independent contractors of Seller, nor any other Seller Connected Entity, owns any rights in any assets, tangible or intangible, which are used by Seller in the conduct of the Business. Schedule 4.7(a) set forth a true and complete list of (i) each item of Project Tangible Personal Property (including Inventories) owned by Seller and (ii) each lease or other Contract under which Seller is the lessee of, or holds or operates, any Project Tangible Personal Property owned by a third Person, including, in each case, the expiration date thereof and a brief description of the property covered. For the avoidance of doubt, none of the items of tangible property and assets expressly identified on Schedule 2.1(b)(vii) as Excluded Assets are located at the Project Site or are included in Purchased Assets or in Project Tangible Personal Property that are subject to the representations and warranties in this Section 4.7 *provided, however,* that any Tangible Personal Property at the Project Site that belongs to EDF or SGRE shall be excluded.

Section 4.8 Legal Proceedings. Except (a) as set forth on Schedule 4.8 and (b) with respect to any Actions or Proceedings arising under Environmental Law that are governed by Section 4.14 and set forth on Schedule 4.14, there is no, and for the past three (3) years have not been any, Action or Proceeding pending or, to the Knowledge of Seller, threatened by or against Seller in law or in equity or before any Governmental Authority, including any such Action or Proceeding affecting Seller's properties or assets (or by or against Seller or relating to Seller). Except as set forth on Schedule 4.8, to Seller's Knowledge, there exists no basis on which any such Action or Proceeding may reasonably be expected to be brought or threatened against Seller. Except as set forth on Schedule 4.8, there are no outstanding Orders (or unsatisfied judgments, penalties or awards) to which Seller is a party, by which it is bound, or by which Seller or any of its properties or assets is affected by. Except as set forth on Schedule 4.8, to Seller's Knowledge, there exists no basis on which any such Order may reasonably be expected to be brought or threatened against Seller.

Section 4.9 Taxes. Except as disclosed on the corresponding subsection of Schedule 4.9:

(a) To Seller's Knowledge, there are no Taxes of Seller arising from any Pre-Closing Tax Period for which Purchaser (or any of its Affiliates) could become liable as a result of the transactions contemplated by this Agreement or any of the Transaction Documents. Seller is not, and never has been, subject to U.S. federal income tax. Seller has timely and properly filed all income and other material Tax Returns that it is required to file to the appropriate Governmental Authority.

(b) Other than Permitted Liens, there are no Liens for Taxes upon the Project or any of the Purchased Assets. In the past three (3) years, Seller has not received any written notice that any Governmental Authority is in the process of imposing any Lien for Taxes on the Project or any of the Purchased Assets (other than for current Taxes that are not yet due or payable), that has not been cured.

(c) Except as set forth in the Permitted Liens, Project Ground Leases and Project Easements, for Tax purposes, Seller is aware of no other Person that has an ownership interest in the Project or the Project Site. No Purchased Asset is subject to any tax partnership agreement or provision requiring a partnership income Tax Return to be filed under Subchapter K of Chapter 1 of Subtitle A of the Code or any similar state statute.

(d) No Governmental Authority in a jurisdiction where Seller does not file a Tax Return has made a claim or assertion in writing, or threatened in writing, that Seller, is or may be subject to Tax by such jurisdiction in respect of the Project or any of the Purchased Assets.

(e) Since obtaining ownership of the Project, no private letter ruling or other ruling has been requested or received by Seller from any Governmental Authority with respect to the Project, any Purchased Asset, or the Assumed Liabilities that could be binding on Purchaser (or any of its Affiliates), the Project, any Purchased Asset, or the Assumed Liabilities (or any tax reporting position taken with respect to any of the foregoing) after the Closing Date.

(f) Since obtaining ownership of the Project, no grant ever has been provided to Seller by the United States, a state, a political subdivision of a state, or any other Governmental Authority (i) for use in connection with the Project or (ii) with respect to which Seller or the Project is, or ever has been, a beneficiary (in each case with respect to the Project).

(g) Seller has not taken either the investment tax credit or the production tax credit under Section 48 and 45 of the Internal Revenue Code of 1986, as amended.

(h) Seller has not received any written notice that the Project or the Purchased Assets are improperly listed or described on the real property Tax rolls.

(i) To Seller's Knowledge, there is no fact or circumstance that reasonably would be expected to give rise to an obligation or requirement under applicable Law for Purchaser to withhold or deduct any amount in respect of a Tax from any amount that otherwise would be due or payable pursuant to this Agreement, for the Pre-Closing Tax Period.

Section 4.10 Employee and Labor Matters. Seller does not have and has never had any employees.

Section 4.11 Project Contracts.

(a) Exclusive of the Real Property Documents set forth in Schedule 4.6(a)(i), Schedule 4.11(a) contains a true and correct list of all of the following Contracts (collectively, the "**Project Contracts**") to which Seller is a party including, without duplication:

(i) all Contracts to sell or effect a physical or financial sale of any output or attributes related to the output of the Project, including any electricity, Environmental Attributes (including RECs), capacity, resource adequacy or similar products, including under any hedge, call, revenue put, swap or similar agreement, including the Original PPA;

(ii) all Contracts related to the interconnection of and transmission services for the Project;

(iii) all Contracts for the supply of equipment, for construction services, and for the operation, maintenance or management of the Project;

(iv) all Contracts providing for the extension of credit by Seller;

(v) all agreements relating to Indebtedness (including, without limitation, guarantees, pledge agreements, mortgages, debentures, letters of credit, and security agreements);

(vi) [Intentionally Deleted];

(vii) all Contracts to sell or effect a sale of the Project or Seller assets, other than Contracts in the ordinary course of business for the sale of unusable or immaterial assets not necessary for the operation or maintenance of the Project and for consideration not in excess of [redacted];

(viii) all Contracts for capital expenditures under which Seller has remaining obligations in excess of [redacted] and that is not reflected on the capital expenditure budget of Seller furnished to Purchaser prior to the date hereof;

(ix) all Contracts that, upon consummation of the transactions contemplated hereby, would limit the ability of Seller to compete in any line of business or with any Person or in any geographic area or during any period of time (other than limitations that in the aggregate are immaterial);

(x) all Contracts that restrict the right of Seller to engage in any line of business or compete with any Person or otherwise to freely engage in operations anywhere in the world (including any Contract providing for non-solicitation of employees or other business relations, providing for exclusivity or requirements supply terms of for "most favored nation" pricing or other terms);

(xi) all Contracts requiring indemnification of another Person;

(xii) all Contracts regarding confidentiality or nondisclosure entered into by Seller;

(xiii) all Contracts providing a power of attorney granted by Seller;

(xiv) all Contracts with any labor union;

(xv) all Contracts with Seller and any officer, manager, employee, consultant, independent contractor or other Person for work relating to the Project;

(xvi) all partnership, joint venture and joint ownership Contracts, and all similar Contracts (however named) relating to the Business involving a sharing of assets, profits, losses, costs or liabilities with a third party (including any Contract with Seller);

(xvii) all Contracts relating to an Intercompany Arrangement;

(xviii) all Contracts with any Governmental Authority;

(xix) all Contracts related to Intellectual Property (other than licenses of generally available, non-customized computer software granted to Seller with a total replacement cost of less than [redacted];

(xx) all Contracts which involve an annual payment, either to or from Seller, in excess of [redacted]) with respect to a single Contract and are not terminable by Seller without Liability, but in each case, only to the extent that such Contract is in effect or imposes any actual or potential Liability following the Closing;

(xxi) all Contracts comprised of guarantees, letters of credit, bonds, indemnities and other credit assurances of a comparable nature (including account control or escrow agreements for cash posted as credit support) either (A) entered into, made or issued by or on behalf of Seller to any third Person to secure Seller's obligations under any other Project Contract or otherwise in connection with the Project or (B) entered into, made or issued by or on behalf of any third Person to or for the benefit of Seller to secure such third Person's obligations under any Project Contract to which it is a party or otherwise in connection with the Project (such Contracts and related documents, collectively, "**Credit Support Documents**"); and

(xxii) any other Contract that is material to the Seller's operation of the Project or the Business.

(b) Seller has Made Available all of the Project Contracts. Except as set forth in Schedule 4.11(b), each Project Contract is in full force and effect and constitutes the legal, valid, binding and enforceable obligation of Seller, and, to the Knowledge of Seller, each other party thereto, in accordance with its terms, except as such terms may be limited by (i) applicable bankruptcy, insolvency, moratorium, reorganization or similar laws affecting the enforcement of creditors' rights generally and (ii) general principles of equity, whether considered in a proceeding in equity or at law. Except as set forth in the Estoppels, to the Seller's Knowledge, Seller is not, and to the Knowledge of Seller, no other party thereto (x) is in breach of or default in any material respect under a Project Contract, or (y) has given or received any written notice of termination or suspension of any Project Contract. To the Knowledge of Seller, (a) no action is being taken by any Person to terminate or suspend any Project Contract, and (b) no event has occurred and is continuing that, with notice or the lapse of time or both, would reasonably be expected to result in any such termination or suspension.

(c) Set forth on Schedule 4.11(c) is an itemized list of the particulars of cash reserves, advance cash payments, cash escrows, cash security deposits or other prepaid cash items in connection with the Project that are held by any counterparty to, and under, any Project Contract (including under any Credit Support Document).

Section 4.12 Permits. Schedule 4.12 sets forth all Permits, and to the extent reflected in the Permits, their expiration dates (if applicable), which are relied upon by the Seller to operate the Project (collectively, the "**Project Permits**"). To the Knowledge of Seller, all such Project Permits are in full force and effect, and no appeal or other proceeding is pending or, to the Knowledge of Seller, threatened to revoke any such Project Permits. Seller has not received written notice that it is in material default or material violation of any Project Permit, except as has been fully cured or otherwise fully resolved as of the Effective Date. To the Knowledge of Seller, no event has occurred and is continuing that, with notice or the lapse of time or both, would constitute a material default or material violation of the terms, conditions or provisions of any Project Permit. To the Knowledge of Seller, the Project is in full compliance with all Project Permits. Seller has not received and, to Seller's Knowledge, no other Seller Connected Entity has received, written notice from any Person of a violation of any Project Permit, except as has been fully cured or otherwise fully resolved as of the Effective Date. Seller has Made Available each Project Permit and any amendments, modifications or supplements thereto it has obtained. The Seller has not received any written notice of any Actions or Proceedings pending or threatened relating to the suspension, revocation, termination or modification of any such Project Permit.

Section 4.13 Intercompany Arrangements. There are no existing or pending transactions, Contracts or Liabilities, including any that are required for the operation of the Project, between or among (a) Seller on the one hand, and (b) any other Seller Connected Entity or any of Seller's or any other Seller Connected Entity's respective officers, directors, stockholders or members, on the other hand (collectively, the "**Intercompany Arrangements**"). Notwithstanding the foregoing, the Seller has existing and ongoing relationships with the Seller Connected Entities that involve Contractual or quasi-Contractual relationships, which include but are not limited to governance related issues but that will not result in any liability to the Purchaser Post-Closing.

Section 4.14 Environmental Matters. Except as set forth on Schedule 4.14:

(a)

(i) to the Knowledge of Seller, Seller is, and has for the past three (3) years been, in compliance with all material respects of all Environmental Laws;

(ii) to the Knowledge of Seller, there are no locations or premises within the Project Site (or any structure thereon) where there has been a Release that (i) Seller is obligated to investigate, remove, remediate or otherwise respond to pursuant to any Environmental Law or any Contract entered into with any other Person or (ii) has resulted in or would result in a material Environmental Claim against or material Liability of Seller under any Environmental Law that has not been fully and finally resolved;

(iii) Seller has not received, and to Seller's Knowledge no other Seller Connected Entity has received, written notice from any Person, including any Governmental Authority or third party, identifying or alleging (i) any material Environmental Claim on or affecting the Project Site, (ii) material violations of Environmental Laws by Seller or relating to the Project or the Project Site, or (iii) any notice of any investigation, or any request for information relating to the Project or the Project Site, in each case under, any Environmental Law, and to the Knowledge of Seller, no such notice has been threatened.

(iv) to the Knowledge of Seller, Seller has not, and to Seller's Knowledge no other Person has, generated, manufactured, sold, handled, treated, recycled, stored, transported, disposed of, arranged for the disposal of, or Released any Hazardous Materials on or from the Project Site or associated with the Project, in each case in a manner which would give rise to material liabilities to Seller under Environmental Laws;

(v) Seller has not agreed in any binding manner to assume any actual or potential liability arising under any Environmental Laws of any other Person;

(vi) Except as Set forth in Schedule 4.6(i) and 4.14, to the Knowledge of Seller, (a) no portion of the Project Site is listed or is proposed for listing on the National Priorities List pursuant to CERCLA, the Comprehensive Environmental Response, Compensation and Liability Information System List ("**CERCLIS**"), any registry of contaminated land sites or on any similar state list of sites requiring investigation or cleanup, and (b) no Lien (other than a Permitted Lien) has been filed against any portion of the Project Site or personal property of any of them under any Environmental Law.

(b) There are no proceedings under any Environmental Law pending, or to the Knowledge of Seller, threatened to which Seller is (or reasonably could be made) a party and which (i) could reasonably give rise to any legal restraint on or prohibition against the transactions contemplated by this Agreement or the Project or (ii) could reasonably, individually or in the aggregate, be material to Seller or the Project.

(c) There is no Order of any arbitrator or Governmental Authority relating to any Environmental Law outstanding against Seller and/or any of the Project Site that reasonably could, individually or in the aggregate, be material to Seller and/or the Project.

Section 4.15 Insurance. Schedule 4.15 lists all of the insurance policies maintained by or on behalf of Seller or with respect to which Seller is an insured and covering the Project or any of the Purchased Assets (the "**Insurance Policies**"). All Insurance Policies are in full force and effect. To the Seller's Knowledge, there are no unpaid claims or pending claims under any Insurance Policies.

Section 4.16 Regulatory.

(a) Seller is not aware of any circumstances with respect to Seller that would prevent Purchaser from obtaining its MBR Authority to sell wholesale energy at market-based rates as a result of the transactions contemplated hereby. For purposes of this Agreement, "**MBR Authority**" means an order from FERC issued pursuant to Section 205 of the FPA (i) authorizing a generation company to sell energy, capacity and certain ancillary services at market-based rates, (ii) granting a generation company blanket authorization under Section 204 of the FPA to issue securities and assume liabilities, and (iii) granting a generation company the other blanket authorizations and waivers customarily granted by FERC to an entity that sells wholesale energy and capacity at market-based rates. Neither Seller nor the Project is subject to FERC jurisdiction.

(b) Neither Seller nor the Project has either "**Exempt Wholesale Generator**" status (within the meaning of PUHCA) or MBR Authority.

(c) Seller is not a "public utility" under Section 201(e) of the FPA.

(d) Seller is not a party to a shared facilities agreement.

(e) None of the Seller or any other Seller Connected Entity has received any written notice, claim, complaint, protest, or assertion either from, or directed to, any Governmental Authority stating or finding that the Seller is in violation of or has failed to comply with, any requirement under the FPA or PUHCA and the regulations thereunder nor under the applicable tariffs and market rules of the Bonneville Power Administration.

(f) In the past three (3) years, Seller there has been no written notice in effect that it is not and during such period Seller has not received any written notice that it is not, in material compliance with all, and is not in violation of any, Laws, judgments, decrees, consents, requirements, orders, protocols, reliability standards, and rules and regulations applicable to Seller of the Bonneville Power Administration, FERC, NERC, WECC, Federal Aviation Administration, and the Washington Utilities and Transportation Commission, except in each case for any such violation that has been fully cured.

Section 4.17 Reports. Schedule 4.17 sets forth the third party reports in the Seller's possession that have been performed in the past three (3) years, related to the Project (collectively, the "**Reports**"). Seller has Made Available to Purchaser the Reports. Seller makes no warranties expressed or implied regarding the accuracy of, or the statements in, any Reports performed, prepared and/or issued by any third parties.

Section 4.18 Bankruptcy; Solvency.

(a) No bankruptcy event has occurred and is continuing with respect to Seller. Neither the signing of this Agreement nor the closing of the transactions contemplated by this Agreement requires the approval of any trustee in bankruptcy or bankruptcy court with jurisdiction over any reorganization or any bankruptcy Action or Proceeding affecting Seller or TID.

(b) Seller is not now insolvent and Seller will not be rendered insolvent by the sale of the Purchased Assets under this Agreement. As used in this Section 4.18(b), "insolvent" means that the sum of the debts and other probable Liabilities of Seller exceeds the present fair saleable value of Seller's assets. Immediately after giving effect to the consummation of the Closing: (i) Seller will be able to pay its Liabilities as they become due in the usual course of its business; (ii) Seller will not have unreasonably small capital with which to conduct their present or proposed business, (iii) Seller will have assets (calculated at fair market value) that exceed its Liabilities and (iv) taking into account all pending and threatened litigation, final judgments against Seller in actions for money damages are not reasonably anticipated to be rendered at a time when, or in amounts such that, Seller will be able to satisfy any such judgments promptly in accordance with their terms (taking into account the maximum probable amount of such judgments in any such actions and the earliest reasonable time at which such judgments might be rendered) as well as all other obligations of Seller.

Section 4.19 Bank Accounts. [Intentionally deleted].

Section 4.20 Intellectual Property. Except as set forth on Schedule 4.20, Seller does not own any patent, trademark registration, service mark registration, copyright registration or domain name registration, or any applications for any of the foregoing. To the Knowledge of the Seller, Seller has not, in the conduct of its business and use of its intellectual property, infringed and is not infringing on any rights of a third party in any material respect. No claim is pending or to the Knowledge of Seller has been threatened in writing against Seller alleging infringement, dilution, misappropriation or other violation of any Intellectual Property of any Person (including without limitation any claim of ownership by any officer, director, employee, consultant, or third party of any Intellectual Property).

Section 4.21 Certain Disclaimers.

(a) Except as expressly set forth in Article III and in this Article IV, the Seller or its Representatives, or officers has not made or is not making any other representations or warranties whatsoever, express or implied, written or oral, and expressly disclaims any other representations or warranties of any kind or nature, express or implied, as to the Project or Purchased Assets.

(b) [redacted]

ARTICLE V.

REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser hereby represents and warrants to Seller, as of the Effective Date and as of the Closing Date, that:

Section 5.1 Existence. Purchaser (i) is a limited liability company duly formed, validly existing and in good standing under the Laws of the State of Delaware and (ii) has all requisite power and authority to execute and deliver this Agreement and each other agreement required to be executed and delivered by Purchaser hereunder, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby and to own or lease its assets and to carry on its business as currently conducted, in each case, except where a failure to be so qualified would not have a material adverse effect on Purchaser's ability to consummate the transactions contemplated hereby or thereby.

Section 5.2 Authority. All limited liability company actions and proceedings necessary to authorize the execution and delivery by Purchaser of this Agreement, the Purchaser Parent Guaranty and all other Transaction Documents to which Purchaser is a party, and the performance by Purchaser of its obligations hereunder and thereunder, have been duly and validly taken. This Agreement and all other Transaction Documents to which Purchaser is a party have been duly and validly executed and delivered by Purchaser and (assuming the due authorization, execution and delivery by Seller) constitute legal, valid and binding obligations of Purchaser enforceable against Purchaser in accordance with their respective terms, except as such terms may be limited by (a) applicable bankruptcy, insolvency, moratorium, reorganization or similar laws affecting the enforcement of creditor's rights generally, and (b) general principles of equity, whether considered in a proceeding in equity or at law.

Section 5.3 No Conflicts. Assuming the Purchaser Consents and the Purchaser Approvals are obtained, the execution, delivery and performance by Purchaser of this Agreement, any other agreements to be executed and delivered by Purchaser hereunder and any other Transaction Documents to which Purchaser is a party do not and will not (a) conflict with, result in a breach of, or constitute a default under, Purchaser's Organizational Documents; (b) to the Knowledge of Purchaser, conflict with, result in a breach of, or constitute a default under any Contract to which Purchaser is a party; (c) conflict with or result in a violation or breach of any provision of any Law applicable to Purchaser; or (d) result in the creation of any material Lien upon Purchaser or any of its assets, except in the cases of clauses (b) through (d), where the violation, breach, conflict or default, would not have a material adverse effect on Purchaser's ability to consummate the transactions contemplated hereby or thereby.

Section 5.4 No Consent. Except as set forth in Schedule 5.4 (the "**Purchaser Consents**") and except with respect to Governmental Approvals, which are governed exclusively by Section 5.5, the execution, delivery and performance by Purchaser of this Agreement, any other agreements to be executed and delivered by Purchaser hereunder or any other Transaction Documents to which Purchaser is a party, and the consummation of the transactions contemplated hereunder do not require Purchaser to obtain any consent, approval or action of or give any notice to any Person as a result or under any terms, conditions or provisions of any Contract by which it is bound, except for such consents, approvals or notices which would not have a material adverse effect on Purchaser's ability to consummate the transactions contemplated hereby or thereby.

Section 5.5 Governmental Approvals. Except as set forth in Schedule 5.5 ("**Purchaser Approvals**"), no Governmental Approval is required to be obtained by Purchaser in connection with the execution, delivery and performance of this Agreement, any other agreements to be executed and delivered by Purchaser hereunder or any other Transaction Documents to which Purchaser is a party or the consummation of the transactions contemplated hereby or thereby, except for such Governmental Approvals which would not have a material adverse effect on Purchaser's ability to consummate the transactions contemplated hereby or thereby.

Section 5.6 Legal Proceedings. There are no Actions or Proceedings pending or, to the Knowledge of Purchaser, threatened against Purchaser or any of its assets in law or equity or before any Governmental Authority that would result in the issuance of an Order restraining, enjoining or otherwise prohibiting or making illegal the consummation of any of the transactions contemplated by this Agreement.

Section 5.7 Brokers. Neither Purchaser nor any of its Affiliates have entered into any agreement or arrangement entitling any Person to a claim against Purchaser for a finder's fee, brokerage commission or similar payment, directly or indirectly, in connection with the transactions contemplated by this Agreement, which claim could result in any Seller Liability.

Section 5.8 Experienced Purchaser. Purchaser has substantial experience purchasing, owning, operating, and maintaining projects similar to the Project.

ARTICLE VI.

COVENANTS

Section 6.1 Regulatory Approvals.

(a) Prior to Closing, each of Seller and Purchaser shall, and shall cause its respective applicable Affiliates to, as promptly as practicable, make all filings with all Governmental Authorities and other Persons required by Seller, Purchaser or their respective Affiliates (as applicable) to consummate the transactions contemplated hereby and shall, and shall cause its respective Affiliates to, use reasonable best efforts to obtain as promptly as practicable all Project Permits and all consents, approvals or Actions or Proceedings of all Governmental Authorities and other Persons as required by this Agreement necessary to consummate the transactions contemplated hereby, including FERC 203 Approval (*provided that* the preparation of the application and filing to FERC for FERC 203 Approval shall be coordinated by Purchaser and, to the extent necessary and if requested by Purchaser, may be a joint filing by Seller and Purchaser), the Seller Approvals, the Seller Consents, the Purchaser Approvals, the Purchaser Consents, and such filings as may be required under the HSR Act. Prior to Closing, each Party shall promptly provide the other Party with a copy of any filing, Order or other document proposed to be delivered to or received from any Governmental Authority or other Person relating to the obtaining of any such Project Permits, consents, approvals or Actions or Proceedings of Governmental Authorities and other Persons. Prior to Closing, Seller shall provide a status report about such filings to Purchaser upon the reasonable request of Purchaser. If required by the HSR Act and if the appropriate filing pursuant to the HSR Act has not been filed prior to the date hereof, each Party agrees to make an appropriate filing pursuant to the HSR Act with respect to the transactions contemplated by this Agreement within fifteen (15) Business Days after the date hereof, to supply as promptly as practicable to the appropriate Governmental Authority any additional information and documentary material that may be requested pursuant to the HSR Act, and shall request early termination of the HSR waiting period. Each Party shall bear its own costs and legal fees contemplated by this Section 6.1(a) and the Parties agree to evenly split the HSR filing fee.

(b) Each Party will, and will cause its respective applicable Affiliates to, consult and cooperate with the other Party as to the appropriate time of any filings and notifications with Governmental Authorities, furnish to the other Party such necessary information and reasonable assistance in connection with the preparation of such filings, and respond promptly to any requests for additional information made in connection therewith by any Governmental Authority. To the extent permitted under applicable Law, each Party will have the right to review in advance all characterizations of the information relating to it or to the transactions contemplated by this Agreement which appear in any filing made by the other Party or any of its Affiliates in connection with the transactions contemplated hereby.

(c) Notwithstanding anything in Section 6.1(a) to the contrary, under no circumstance shall Purchaser or its Affiliates be required to divest any asset or take any action with regard to any other power generation assets or other assets that any such Person owns or in which it has any interest in order to obtain any Governmental Approval, including the FERC 203 Approval. For the purposes of clarity, the Parties shall coordinate and provide one another with information reasonably necessary to complete such filings.

(d) Prior to and for a period of one hundred twenty (120) days after the Closing Date, Seller agrees to use commercially reasonable efforts to provide to Purchaser, at Purchasers sole expense, such information about the Project and assistance as Purchaser may from time to time reasonably request in connection with Purchaser's preparation and submission of documentation to NERC for the termination of the Project's existing NERC registration and establishment of the Purchaser's new NERC registration in respect of the Project, with the intent that such termination and new registration be effective as of the Closing Date. Seller shall invoice Purchaser monthly for all reasonable and documented costs incurred to provide assistance as may be requested by the Purchaser pursuant to this Section 6.20(a), including but not limited to such costs for all staff, consultant, and legal assistance.

(e) Seller may file this Agreement with the CEC subject to the requirements of Section 6.19 (Confidentiality).

Section 6.2 Access to Information; Records.

(a) Prior to Closing, Seller shall keep in their possession and control all information and records with respect to the Project and the Business, consistent with the current policies of Seller.

(b) From the date hereof until the Closing (but not thereafter), Seller shall: (a) at all reasonable times and upon reasonable prior notice during regular business hours make appropriate members of its management teams available for questions related to the properties, assets, books and records pertaining to the Project, the Purchased Assets, or the Business, which information and records shall be provided to Purchaser or Made reasonably available for examination and review by Purchaser and its Representatives; and (b) deliver to Purchaser copies of the unaudited financial statements of Seller as of the end of each month as promptly as practicable as they become available.

Section 6.3 Conduct of Business Prior to Closing.

(a) During the period between the Effective Date and the Closing, Seller shall operate and carry on the Business and the Project in the ordinary course, consistent with past practice in all material respects and Prudent Wind Industry Practices. Without limiting the foregoing, Seller shall: (a) use commercially reasonable efforts consistent with Prudent Wind Industry Practices and past practice to preserve and maintain the current organization and business of Seller and to preserve the rights, goodwill, availability of services and the material relationships with all suppliers, contractors, Governmental Authorities, licensors, customers, distributors and others having business relations with Seller with respect to the Project; (b) keep its physical assets in good working condition, ordinary wear and tear excepted; (c) continue the payment of its accounts payable in the ordinary course consistent with past practice; and (d) operate the Business in material compliance with applicable Laws.

(b) Except as required by this Agreement or for the transactions to be consummated as contemplated in this Agreement, or as set forth on Schedule 6.3(b) or except with the prior express written approval of Purchaser or in respect of Excluded Assets, Seller shall not:

(i) transfer or sell, directly or indirectly, any of the Purchased Assets to any Person or create any Lien (other than Permitted Liens) upon the Purchased Assets;

(ii) make any material change in the Business or operations or practices of the Project;

(iii) make any material capital expenditures (or enter into any Contracts in respect of material capital expenditures) other than as contemplated by the Project Contracts or the Project's budget Made Available to Purchaser prior to the date hereof;

(iv) enter into any Contract for any acquisitions (by merger, consolidation, or acquisition of stock or assets or any other business combination) of any Person or business or any division thereof;

(v) sell, assign, dispose, lease or otherwise transfer any material asset, tangible or intangible, other than (i) sales of electric power as set forth in the Project Contracts, (ii) the transfer of any related Environmental Attributes under any Project Contracts, and (iii) in the ordinary course consistent with past practice and Prudent Wind Industry Practice, the transfer of an asset that is worn out, obsolete, damaged or no longer necessary or useful for the operation of the Project;

(vi) create, incur, assume or guarantee, or agree to create, incur, assume or guarantee any Indebtedness for borrowed money or enter into any "keep well" or other agreement to maintain the financial condition of another Person, or enter into any arrangement having the economic effect of any of the foregoing;

(vii) mortgage, pledge, or subject to any Lien (other than Permitted Liens), any portion of its properties or assets, tangible or intangible;

(viii) enter into, amend, modify, accelerate, grant a waiver in respect of, become in default of, cancel or terminate or consent to the termination or assignment of any Contract, other than, with respect to the Project Contracts, any amendment, modification or waiver which is not material and is in the ordinary course of business consistent with Prudent Wind Industry Practices;

(ix) enter into or amend, modify or waive any rights under, in each case, in any material respect, any Contract (or series of related Contracts) with Seller other than the entry into or amendment, modification, or waiver of any such Contracts as may be expressly contemplated as part of the transactions under this Agreement;

(x) (A) make any change or amendment in its Organizational Documents or (B) cause, permit or acquiesce in any (1) sale or transfer of or creation of any Lien any equity interest in Seller or (2) issuance of equity interests in Seller or granting of any other rights or options with respect to the equity interest in Seller;

(xi) settle or agree to settle any material dispute with any third party, including any Governmental Authority or otherwise cancel, compromise, waive, or release of any right or claim (or series of related rights and claims), in each case outside the ordinary course of business consistent with past practice;

(xii) (A) with the exception of (i) the Drip Loop Cables, a portion of which are being provided to the Purchaser, pursuant to Section 6.22 of this Agreement, and (ii) four (4) gearboxes that will be replaced after the Closing, delay or postpone any material repair that arises from event that occurs on or after the Effective Date or material maintenance scheduled in the ordinary course of business on or after the Effective Date that is required to meet Prudent Wind Industry Practices; provided that Seller shall not be responsible for supply chain delays for the procurement of spare parts, equipment or materials beyond Seller's reasonable control and Seller shall be excused from performing such maintenance or repair to the extent and for so long as it is prevented or hindered from doing so due to winter weather conditions or due to the aforementioned supply chain delays, or (B) delay or postpone the payment of accounts payable, accrued liabilities and liabilities, other than in the ordinary course of business consistent with past practice;

(xiii) adopt any plan to be acquired, or of liquidation, dissolution, reorganization or file a petition in bankruptcy under any provisions of federal or state bankruptcy Law or consent to the filing of any bankruptcy petition against it under any similar Law;

(xiv) (A) change any method of Tax accounting, (B) enter into any agreement with any Governmental Authority (including a "closing agreement" under Code Section 7121) with respect to any Tax or Tax Return, (C) surrender a right to a Tax refund, (D) file an amended Tax Return, (E) make, change or revoke any election with respect to Taxes, (F) file any Tax Return that is inconsistent with past practice, (G) consent to any extension or waiver of the limitations period applicable to any Tax claim or assessment (other than in the ordinary course of business consistent with past practices), (H) commence any proceeding with respect to Taxes or a Tax matter, or (I) settle or compromise any Tax liability, in each case, if any such action reasonably would be expected to have a more than de minimis adverse effect on Purchaser or any Affiliate of Purchaser;

(xv) hire any employee, adopt any Benefit Plan or provide any employee with a compensation increase outside of the ordinary course of business consistent with past practice;

(xvi) agree to enter into any Contract or otherwise make any commitment to do any of the foregoing in this Section 6.3(b); or

(xvii) take any actions that would cause the electricity products purchased under the A&R PPA to lose their PCC-0 classification and be inconsistent with the classification of these electricity products that existed under the Original PPA;

Section 6.4 Power Purchase Agreements.

(a) A&R PPA. Seller confirms that the Original PPA is a Project Contract included in the Purchased Assets. The Parties acknowledge that, if and when the Assignment of Original PPA is executed at Closing pursuant to Section 2.3(b)(ii) and Section 2.3(c)(ii), the Original PPA will be assigned by Seller to Purchaser under and in accordance therewith and this Agreement. At Closing immediately after giving effect to such assignment, Purchaser shall execute and deliver, and Seller shall cause TID to execute and deliver, the A&R PPA in substantially the form attached hereto as Exhibit H. The Parties further acknowledge that the A&R PPA (i) reflects the intent of the parties thereto to ensure (x) the assignment of the Original PPA does not constitute a "resale" of "any electricity products" under 20 Cal. Code Regs. Title 20 Section 3202(b), and (y) that the classification of the electricity products under the A&R PPA remain the same as the PCC-0 classification of these electricity products under the Original PPA, and (ii) contain, among other provisions, terms requiring Purchaser (in its capacity as "Seller" thereunder) to use commercially reasonable efforts to assist TID in keeping the classification of the electricity products under the A&R PPA consistent with the PCC-0 classification as existed under the Original PPA, including by working with CEC to address any concerns about repowering the Project pursuant to the A&R PPA in order to maintain such a classification after such a repower..

(b) SPPA. At Closing Purchaser shall execute and deliver, and Seller shall cause TID to execute and deliver, the SPPA in substantially the form attached hereto as Exhibit I.

Section 6.5 Satisfaction of Conditions. Prior to Closing, each of Seller and Purchaser shall, and shall cause their respective applicable Controlled Affiliates to, use their respective commercially reasonable efforts to promptly satisfy each condition to their respective obligations set forth in Article VII and Article VIII. Each of Seller and Purchaser shall use their respective commercially reasonable efforts to cooperate with one another to obtain any consents required to be obtained by it from third parties in connection with the consummation of the transactions contemplated by this Agreement at or prior to Closing. Except as may be specifically required by this Agreement, neither Seller nor Purchaser, nor any of their respective Affiliates, shall have any obligation to make any payments or incur any material out-of-pocket Liability to obtain any consents of third parties.

Section 6.6 Intercompany Accounts and Arrangements. [Intentionally deleted.]

Section 6.7 Release.

(a) In consideration of the covenants, agreements and undertakings of the Parties under this Agreement, each Party, on behalf of itself and its respective present and former parents, subsidiaries, Affiliates, officers, directors, shareholders, members, successors and assigns (collectively, "**Releasors**") hereby releases, waives and forever discharges the other Party and its respective present and former, direct and indirect, parents, subsidiaries, Affiliates, employees, officers, directors, shareholders, members, agents, representatives, permitted successors and permitted assigns (collectively, "**Releasees**") of and from any and all actions, causes of action, suits, losses, liabilities, rights, debts, dues, sums of money, accounts, reckonings, obligations, costs, expenses, liens, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands, of every kind and nature whatsoever, whether now known or unknown, foreseen or unforeseen, matured or unmatured, suspected or unsuspected, in law, admiralty or equity (collectively, "**Claims**"), which any of such Releasors ever had, now have, or hereafter can, shall, or may have against any of such Releasees for, upon, or by reason of any matter, cause, or thing whatsoever from the beginning of time through the Closing Date arising out of or relating to the Project, except in all cases for any Claims relating to rights and obligations expressly preserved by, created by or otherwise arising (prior to, on, or after the Closing) out of: (i) this Agreement, including any obligation to indemnify, defend or hold harmless for any Losses pursuant to Article X, and (ii) any other Transaction Document.

(b) **Section 1542 Waiver.** In giving the release set forth in Section 6.7(a) of this Agreement, which includes claims that may be unknown to the Parties at present, each Party acknowledges that it has read and understands Section 1542 of the California Civil Code, which reads as follows: "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if know by him or her must have material affected hir or her settlement with the debtor." Each Party hereby expressly waives and relinquishes all rights and benefits under Section 1542 and any law or principle of similar effect in any jurisdiction with respect to the releases granted herein, including but not limited to the release of unknow and unsuspected claims granted in this Agreement.

Section 6.8 Insurance.

(a) From the date of this Agreement up to and including the Closing Date, Seller shall ensure that all of the Insurance Policies are kept in force and effect. If Seller is aware of any event or circumstance occurring prior to Closing in respect of which a claim may be made under the Insurance Policies, Seller shall, promptly upon becoming so aware but in any case prior to the Closing, notify Purchaser of such event or circumstance.

(b) Purchaser acknowledges and agrees that (i) no insurance policies arranged for the benefit of or provided to Seller in respect of the Project, including the Insurance Policies (but excluding the Existing Title Policy), shall continue after the Closing Date and (ii) Purchaser shall not, and shall procure that no Affiliate of Purchaser shall, make any claims under any such insurance policies or insurance coverage. Purchaser further hereby acknowledges and agrees that no historic insurance coverage provided by or to Seller in respect of the Project, including the Insurance Policies, shall be available to Purchaser after the Closing Date. Purchaser further acknowledges and agrees that it has no right, title or interest in any unearned premiums on any policies maintained by or for the benefit of Seller or any insurance proceeds.

Section 6.9 Notification of Certain Matters and Update to Disclosure Schedules.

(a) Each Party shall give prompt written notice to the other Party of (i) the occurrence or non-occurrence of any change, condition or event, the occurrence or non-occurrence of which would render any representation or warranty of such Party contained in this Agreement, if made on or immediately following the date of such event, untrue or inaccurate, (ii) the occurrence of any change, condition or event that has had or is reasonably likely to have a Material Adverse Effect applicable to it, (iii) any failure of such Party or any Affiliate of such Party to comply with or satisfy any covenant or agreement to be complied with or satisfied by it hereunder or any event or condition that would otherwise result in the nonfulfillment of any of the conditions to the other Party's obligations hereunder, (iv) any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the consummation of the transactions contemplated by this Agreement, or (v) any Action pending or, to such Party's knowledge, threatened against such Party relating to the transactions contemplated by this Agreement.

(b) Each Party shall supplement the information set forth on the Disclosure Schedules with respect to any matter now existing or hereafter arising that, if existing or occurring at or prior to the date of this Agreement, would have been required by it to be set forth or described in the Disclosure Schedules or that is necessary to correct any information in the Disclosure Schedules or in any representation or warranty of the Party which has been rendered inaccurate thereby promptly following discovery thereof. No such supplement, nor any information a Party may otherwise obtain from their counter Party or any other Person, shall be deemed to cure any breach of any representation or warranty made in this Agreement or any other Transaction Document or have any effect for purposes of determining the satisfaction of the applicable conditions set forth in Article VII and Article VIII, the compliance by a Party with any covenant set forth herein or Each Party's rights to indemnification pursuant to Section 10.1 and Section 10.2 of this Agreement.

(c) Prior to the Closing, Purchaser shall notify Seller promptly upon having any Purchaser's Knowledge of any fact or circumstance that on its face would render any material representation or warranty of Seller in this Agreement materially untrue.

Section 6.10 Exclusivity. From the date hereof until the Closing Date or earlier termination of this Agreement, Seller agrees (on behalf of itself and each other Seller Connected Entity) that it shall not, and shall not authorize, and shall use its best efforts to cause its directors, managers, officers, employees and representatives, and each other Seller Connected Entity, not to, directly or indirectly, (a) solicit, initiate, seek, entertain, encourage, facilitate, support or induce the making, submission or announcement by any Person of any inquiry, indication or expression of interest, proposal or offer that constitutes or would reasonably be expected to lead to an Acquisition Proposal, (b) enter into, participate in, maintain or continue any communications (except to provide written notice as to the existence of these exclusivity provisions without disclosing their terms) or negotiations regarding, or deliver or make available to any Person any information with respect to, or take any other action regarding, any inquiry, indication or expression of interest, proposal or offer that constitutes, or would reasonably be expected to lead to, an Acquisition Proposal, (c) agree to, accept, approve, endorse or recommend any Acquisition Proposal, or (d) enter into any letter of intent or any other Contract contemplating or otherwise relating to any Acquisition Proposal. Seller shall immediately cease, and shall cause its directors, managers, officers, employees and representatives, and each other Seller Connected Entity, to immediately cease, all existing discussions or negotiations with any Persons conducted heretofore with respect to, or that could lead to, an Acquisition Proposal. For purposes hereof, "**Acquisition Proposal**" means any agreement, offer, proposal or indication or expression of interest (other than this Agreement), or any public announcement of the intention to enter into any such agreement or of any offer, proposal or indication of interest, relating to, or involving, directly or indirectly: (i) any direct or indirect acquisition, sale or issuance of any equity interests in Seller; (ii) any merger, consolidation, equity exchange, business combination or similar transaction involving Seller; (iii) any sale, lease, mortgage, pledge, exchange, transfer, license, acquisition, or disposition of all or any of the Purchased Assets, the Business or the Project (other than in the ordinary course of business as expressly permitted under this Agreement); (iv) any liquidation or dissolution of Seller or the Business; or (v) any transaction which is similar in form, substance or purpose to any of the foregoing transactions.

Section 6.11 [Intentionally Deleted]

Section 6.12 Post-Closing Business Conduct. The Parties agree that, from and after the Closing, Purchaser and its Affiliates shall have the sole and absolute discretion to conduct the course of operations of the Business and any development, maintenance, management, repowering, decommissioning, reconstruction or construction, or other handling of the Purchased Assets or in connection with the Project. From and after the Closing, for a period of three (3) years, Seller agrees not to, and to cause TID not to, take any action that may adversely affect, or otherwise interfere with or diminish, the Project's interconnection and transmission rights (as existed at Closing) unless TID is required to reduce the transfer capability on any interconnection or transmission facilities interconnected with, or used by the Project to comply with: (a) applicable Laws; (b) the directives of NERC, FERC, the Reliability Coordinator, the Balancing Authority for the applicable interconnection and/or transmission facilities, or any other Governmental Authority (other than TID), or (c) Good Utility Practice.

Section 6.13 Transfer of Project Permits At Closing and at Purchaser's sole cost, Seller will assign to Purchaser all Project Permits that Seller is legally able to assign to Purchaser. Seller shall *not* be responsible in any way for any Seller Project Permits that Seller cannot legally assign to Purchaser other than to cooperate with Purchaser in respect thereof pursuant to Section 6.18 (Further Assurances).

Section 6.14 Payment of Liabilities. Seller shall pay or otherwise satisfy in the ordinary course of business, prior to or on the Closing, all of the liabilities and obligations incurred during the pre-Closing period in connection with the Business and, after the Closing, arising from the Retained Liabilities.

Section 6.15 Refunds and Remittances. After the Closing: (a) if Seller receives any refund or other amount that is for a Purchased Asset or is otherwise properly due and owing to Purchaser in accordance with the terms of this Agreement, Seller promptly shall remit, or shall cause to be remitted, such amount to Purchaser and (b) if Purchaser or any of its Affiliates receive any refund or other amount that is an Excluded Asset or is otherwise properly due and owing to Seller in accordance with the terms of this Agreement, Purchaser promptly shall remit, or shall cause to be remitted, such amount to Seller.

Section 6.16 Bulk Transfer Laws. Prior to the Closing, Seller shall comply with the requirements of all applicable bulk sale, bulk transfer or similar laws in Washington State.

Section 6.17 Replacement of LOC. On or about the Closing Date (but no later than ten (10) Business Days after the Closing Date), Purchaser shall cause to be issued and delivered to KPUD a letter of credit in the amount of [redacted] to secure the Purchaser's obligations under the LGIA, as required under Section 11.5 thereof, and Purchaser shall require that KPUD release and return to Seller the letter of credit (#____, dated ____) issued by [name of bank] on behalf of Seller to the Bonneville Power Administration under the LGIA. The Parties shall reasonably cooperate and coordinate with each other with respect to (a) the presentation prior to the Closing Date of a draft form of such replacement letter of credit to be issued on behalf of Purchaser for approval by KPUD and (b) the replacement of the letter of credit issued on behalf of Seller with such letter of credit to be issued on behalf of Purchaser pursuant to the foregoing.

Section 6.18 Further Assurances. Prior to and after Closing, each of Seller and Purchaser shall, and Seller shall cause each other Seller Connected Entity to (in each case at Seller's sole cost and expense), and Purchaser shall and shall cause its Controlled Affiliates to (in each case at Purchaser's sole cost and expense), use their respective commercially reasonable efforts to, and to reasonably cooperate with the other Party to do the following ministerial actions, if necessary to consummate the closing, (i) negotiate, execute and deliver, or cause to be executed and delivered, such documents and instruments, (ii) take, or cause to be taken, such further actions as may be reasonably necessary and are within their control to consummate and make effective as promptly as practicable the transactions contemplated by this Agreement and the other Transaction Documents to which it is a party and (iii) execute, acknowledge and deliver all such further conveyances, notices, assumptions and releases and such other instruments, and shall take such further reasonable actions, as may be necessary or appropriate to assure fully to Purchaser all of the properties, rights, titles, interests, estates, remedies, powers and privileges intended to be included in Purchased Assets and conveyed to Purchaser under this Agreement and the other Transaction Documents. Notwithstanding the foregoing, the obligations set forth in this Section 6.18 shall not require either Party to assume any material costs or assume any liability beyond that set forth in the other Sections of this Agreement.

Section 6.19 Confidentiality; Public Announcements.

(a) The Confidentiality Agreement shall remain in full force and effect following the execution of this Agreement and shall apply to all documents and information furnished to either Party by or on behalf of the other Party in connection with the transactions contemplated by this Agreement. The Confidentiality Agreement shall continue in full force and effect until the Closing Date, at which time such Confidentiality Agreement and the obligations of the Parties under this Section 6.19(a) shall terminate. If for any reason this Agreement is terminated prior to the Closing Date, the Confidentiality Agreement shall nonetheless continue in full force and effect in accordance with its terms. For a period of two years following the Closing Date, Seller shall not, and Seller shall cause the respective Representatives of Seller not to, use for its or their own benefit or divulge or convey to any third party, any Confidential Information (as defined below) except as may be reasonably required in connection with Seller's operation; provided, however, that Seller may furnish such portion (and only such portion) of the Confidential Information as Seller reasonably determines it is obligated under applicable Law to disclose if: (i) it receives a request to disclose all or any part of the Confidential Information under the terms of a subpoena, civil investigative demand or order issued by a Governmental Authority; (ii) to the extent not inconsistent with such request, it notifies Purchaser of the existence, terms and circumstances surrounding such request and consults with Purchaser on the advisability of taking steps available under applicable Law to resist or narrow such request; (iii) it exercises its commercially reasonable efforts to obtain an order or other reliable assurance that confidential treatment will be accorded to the disclosed Confidential Information; and (iv) disclosure of such Confidential Information is required to prevent Seller from being held in contempt or becoming subject to any other penalty under applicable Law. For purposes of this Agreement, "**Confidential Information**" consists of all nonpublic information and data relating to the Business (including Intellectual Property, customer and supplier lists, pricing information, marketing plans, market studies, client development plans, business acquisition plans and all other information or data), the Purchased Assets or the transactions contemplated hereby, except for data or information that is or becomes available to the public other than as a result of a breach of this Section 6.19.

(b) Notwithstanding anything to the contrary in this Section 6.19 or any other Section of this Agreement, if a third party requests Confidential information from the Seller under California Public Records Act, Cal. Govt. Code §§7920, et seq. ("**CPRA**"), or if NERC or WECC request Confidential Information from the Seller, the Seller will notify the Purchaser of the existence, terms and circumstances surrounding the request and will discuss with Purchaser the advisability of taking steps available under applicable Law to resist or narrow such request; provided, however, that after discussing the foregoing with the Purchaser, the Seller may, in its sole discretion, determine what Confidential Information should be produced in response to any such requests and the Seller's production of this Confidential Information shall not constitute a violation of the confidentiality and nondisclosure requirements in this Section 6.19 or any other similar obligations set forth herein.

(c) Notwithstanding anything to the contrary in this Section 6.19 or any other Section of this Agreement, if Seller determines, in its sole discretion, that it must produce Confidential Information pursuant to the Brown Act, the Seller will notify the Purchaser of the existence, terms and circumstances surrounding the production of this Confidential Information before Seller produces the Confidential Information. Seller's production of Confidential Information under the Brown Act shall not constitute a violation of the confidentiality and nondisclosure requirements in this Section 6.19 or any other similar obligations set forth herein

(d) On and after the date hereof and through the Closing Date, the Parties shall consult with each other before issuing any press release or otherwise making any public statements with respect to this Agreement or the transactions contemplated hereby, and neither party shall issue any press release or make any public statement prior to obtaining the other party's written approval, which approval shall not be unreasonably withheld, except that no such approval shall be necessary to the extent disclosure may be required by applicable Law or any listing agreement of any party hereto.

Section 6.20 Transition Services.

(a) For a period of one hundred twenty (120) days after Closing, Seller shall, at Purchaser's sole expense with respect to the costs described below, provide assistance reasonably requested by Purchaser (and its consultants and advisors) for the operation of (consistent with ordinary course operations as of the Closing), and the transitioning to Purchaser of, the Project's information technology systems and administrative functions, including, but not limited to, its communications, SCADA, network operations, accounting, treasury services, maintenance of project bank accounts, equipment manufacturer interfaces, supply chain and workflow management modules, interconnection and transmission systems, registrations, and OASIS accounts (in each case existing as of the Closing); which assistance shall include providing Purchaser-designated personnel full access to all of such systems and to the Project's databases and documents consistent with Seller's access as of the Closing as required for Purchaser to continue to perform the business and administrative functions enabled by such systems, databases and documents. Seller shall invoice Purchaser monthly for all reasonable and documented costs incurred to provide assistance pursuant to this Section 6.20(a), including but not limited to such costs for all staff, consultant, and legal assistance but excluding overhead costs and expenses not allocated to employee salaries.

(b) For a period of one hundred and twenty (120) days after the Closing, Seller shall, at Purchaser's sole expense, provide assistance reasonably requested by Purchaser (and its consultants and advisors) (i) with respect to engagement, managing relationships, registrations, [filings] and discussions with Governmental Authorities with respect to interconnection, transmission, NERC, and other operational matters of the Project (and their continuation consistent with past practices and requirements), including with the Bonneville Power Administration, FERC, FAA, WECC, CEC, EIA, and the Washington Utilities and Transportation Commission; and (ii) with respect to compliance-related activities, including providing background information, support regarding NERC registration and transfer of ownership of any accounts or registrations as applicable, and the provision of evidence and records for NERC, WECC, CEC, EIA, and other regulatory compliance requirements for the period prior to Closing; provided that following the Closing Seller shall not (a) engage with any Governmental Authority with respect to the Project except in conjunction with Purchaser and (b) have any authority to bind Purchaser or the Project and (iii) to take any appropriate and reasonable action necessary to maintain the Project's interconnection and transmission rights (as existed at the Closing). Seller shall invoice Purchaser monthly for all reasonable and documented costs incurred to provide assistance pursuant to this Section 6.20(b), including but not limited such costs for all staff, consultant, and legal assistance.

Section 6.21 Financial Support Agreement and Parental Support

(a) Seller shall at all times cause the Seller Financial Support Agreement to remain in full force and effect in accordance with its terms.

(b) Purchaser shall at all times cause the Purchaser Parent Guaranty to remain in full force and effect in accordance with its terms. In the event that the Purchaser Parent Guaranty is for any reason rescinded, revoked or breached by Purchaser Parent Guarantor or is otherwise not enforceable against Purchaser Parent Guarantor, Purchaser shall promptly cause a Replacement Guaranty or Replacement Letter of Credit (as such terms are defined in, and under, Section 9 of the Purchaser Parent Guaranty) to be executed and delivered or issued, as applicable, to Seller.

[redacted]

ARTICLE VII.

CONDITIONS TO OBLIGATIONS OF PURCHASER

The obligations of Purchaser hereunder to purchase the Purchased Assets and to consummate the Closing are subject to the satisfaction, at or before the Closing, of each of the following conditions (all or any of which may be waived in writing in whole or in part by Purchaser in its sole discretion):

Section 7.1 Bring-Down of Seller's Representations and Warranties. The representations and warranties of Seller contained in this Agreement (other than Seller Fundamental Representations) (i) that are qualified by materiality or Material Adverse Effect qualifiers shall be true and correct as so qualified on and as of the Closing Date (except for representations and warranties that by their express provisions are made as of an earlier date, in which case, as of such earlier date) with the same force and effect as though such representations and warranties had been made on the Closing Date and (ii) that are not qualified by materiality or Material Adverse Effect qualifiers shall be true and correct in all material respects on and as of the Closing Date (except for representations and warranties that by their express provisions are made as of an earlier date, in which case, as of such earlier date) with the same force and effect as though such representations and warranties had been made on the Closing Date. The Seller Fundamental Representations (read without regard to any materiality or Material Adverse Effect qualifiers) shall be true and correct in all but de minimis respects on and as of the Closing Date (except for representations and warranties that by their express provisions are made as of an earlier date, in which case, as of such earlier date) with the same force and effect as though such representations and warranties had been made on the Closing Date.

Section 7.2 Performance Prior to and at Closing. Seller shall have performed and complied in all material respects its respective obligations and covenants under this Agreement to be so performed by Seller at or prior to Closing.

Section 7.3 No Order, Litigation or Violation. No Order shall have been entered and no Action or Proceeding shall have been instituted that restrains, enjoins or otherwise prohibits or makes illegal the consummation of any of the transactions contemplated by this Agreement. The consummation of the transactions contemplated at the Closing shall not violate any applicable Law, except for violations that would not reasonably be expected to be material.

Section 7.4 Governmental Approvals. (a) FERC 203 Approval shall have been obtained by Purchaser and shall be in full force and effect or, as applicable, any waiting period and any extension thereof shall have expired or been terminated, (b) the filings of Purchaser and Seller pursuant to the HSR Act, if any, shall have been made and the applicable waiting period and any extensions thereof shall have expired or been terminated, (c) MBR Authority shall have been obtained by Purchaser with respect to the rates Purchaser (in its capacity as "Seller" under the A&R PPA and the SPPA) expects to charge TID under and in accordance with the A&R PPA and the SPPA, and (d) Purchaser's new NERC registration in respect of the Project (applied for pursuant to Section 6.1(d)) shall have become effective.

Section 7.5 Consents and Approvals. Without duplication of those obtained or satisfied under Section 7.4, Seller shall have obtained and delivered to Purchaser true and correct copies of all Seller Consents and all Seller Approvals.

Section 7.6 No Material Adverse Effect. No Material Adverse Effect shall have occurred and be continuing.

Section 7.7 No Casualty Event. The Purchased Assets have not suffered any material loss, damage, destruction or other material casualty, whether or not covered by insurance.

Section 7.8 Seller's Closing Actions. Seller shall have provided the Closing deliverables to Purchaser and undertaken the Closing actions set forth in Section 2.3(b).

Section 7.9 Project Permits. All Project Permits that are assignable by Seller to Purchaser have been assigned to Purchaser and all Project Permits that are not assignable by Seller have otherwise been obtained by Purchaser.

Section 7.10 Title Insurance Policies. Purchaser shall have received at its sole expense, an irrevocable commitment of the Title Company to issue an ALTA Owner's Title Insurance Policy, insuring Purchaser's indefeasible leasehold and easement interests in the Project Site, dated as of the Closing Date, and which includes coverage in an amount of the Purchase Price and is in form and substance reasonably acceptable to Purchaser (the "**Closing Date Title Policy**"). The Purchaser shall pay the premium for any Title Insurance Policy and for all endorsements thereto. Seller agrees to provide to the Title Company a title affidavit confirming, to Seller's Knowledge, the parties in possession of the Project Site and confirming that Seller has had no work done on the Project Site which has not been paid for.

Section 7.11 Survey. Purchaser shall have received, at its sole expense, an ALTA/NSPS Land Title Survey (i) showing each tract of land referenced in Schedule A of the Closing Date Title Policy and the locations of all exceptions to title shown on the Closing Date Title Policy that are capable of being plotted, and (ii) which is in form and substance reasonably acceptable to the Title Company and Purchaser.

Section 7.12 Power Purchase Agreement. (a) Seller shall have executed and delivered, and shall have caused TID to execute and deliver, to Purchaser the A&R PPA and the SPPA and (b) the "Effective Date" as defined under the A&R PPA shall have occurred and the "Term" as defined under the A&R PPA shall have commenced.

Section 7.13 Seller Financial Support Agreement. The Seller Financial Support Agreement has not been rescinded, revoked or breached by TID, and is in full force and effect against TID as of and from and after the Effective Date in accordance with terms.

Section 7.14 Estoppels. Purchaser shall have received an executed estoppel certificate [that is in the form required by the Project Ground Leases and Project Easements, or, if no form is required,] substantially in the form attached hereto as Exhibit I and executed no more than thirty (30) days prior to the Closing Date, from each landowner party to a Real Property Document.

Section 7.15 NSC Smelter Lease Amendment. Purchaser shall have received an amendment to the NSC Smelter Lease duly executed by the counterparties to the NSC Smelter Lease, and which is substantially in the form attached hereto as Exhibit J, and otherwise in form and substance reasonably acceptable to Purchaser; *provided, however,* that Purchaser shall make clear in its discussions with NSC Smelter and in any NSC Smelter Lease Amendment that the amendment is not binding on Seller and is conditioned on the Closing.

Section 7.16 Withholding Matters. Purchaser shall have made a determination in good faith that Purchaser is under no obligation or requirement under applicable Law to deduct or withholding any amount in respect of a Tax from any amount that otherwise would be due or payable pursuant to this Agreement if Closing were to occur; *provided that*, if Purchaser makes a determination that, as a result of Closing, Purchaser would be under an obligation or requirement under applicable Law to deduct or withholding any amount in respect of a Tax from any amount that otherwise would be due or payable pursuant to this Agreement, then Purchaser shall use commercially reasonable efforts to cooperate with Seller to reduce, mitigate, and otherwise eliminate such expected deduction or withholding, such that no such deduction or withholding is expected as a result of Closing. For the avoidance of doubt, as of the Effective Date, Purchaser is aware of no obligation or requirement under applicable Law (or any fact or circumstance that reasonably would be expected to give rise to an obligation) to deduct or withholding any amount in respect of a Tax from any amount that otherwise would be due or payable pursuant to this Agreement if Closing were to occur.

Section 7.17 Balancing Services Agreement. Seller shall have entered into a balancing services agreement in connection with the Project with Avangrid in form and substance reasonably satisfactory to Purchaser, *provided, however,* that if Purchaser consents in writing to Seller's execution of the balancing services agreement with Avangrid prior to Closing, and Seller executes that agreement, this condition shall be satisfied.

ARTICLE VIII.

CONDITIONS TO OBLIGATIONS OF SELLER

The obligations of Seller hereunder to sell the Purchased Assets and to consummate the Closing are subject to the satisfaction, at or before the Closing, of each of the following conditions (all or any of which may be waived in whole or in part by Seller in its sole discretion):

Section 8.1 Bring-Down of Purchaser's Representations and Warranties. The representations and warranties made by Purchaser in this Agreement (other than Purchaser Fundamental Representations) (i) that are qualified by materiality qualifiers shall be true and correct as so qualified on and as of the Closing Date (except for representations and warranties that by their express provisions are made as of an earlier date, in which case, as of such earlier date) with the same force and effect as though such representations and warranties had been made on the Closing Date and (ii) that are not qualified by materiality qualifiers shall be true and correct in all material respects on and as of the Closing Date (except for representations and warranties that by their express provisions are made as of an earlier date, in which case, as of such earlier date) with the same force and effect as though such representations and warranties had been made on the Closing Date. The Purchase Fundamental Representations (read without regard to any materiality qualifiers) shall be true and correct in all but de minimis respects on and as of the Closing Date (except for representations and warranties that by their express provisions are made as of an earlier date, in which case, as of such earlier date) with the same force and effect as though such representations and warranties had been made on the Closing Date.

Section 8.2 Performance Prior to and at Closing. Purchaser shall have performed and complied in all material respects the obligations and covenants required under this Agreement to be so performed by Purchaser at or prior to Closing.

Section 8.3 Governmental Approvals. (a) FERC 203 Approval shall have been obtained pursuant to Section 6.1 and Section 7.4 and shall be in full force and effect, and (b) the filings of Purchaser and Seller pursuant to the HSR Act, if any, shall have been made and the applicable waiting period and any extensions thereof shall have expired or been terminated.

Section 8.4 Consents and Approvals. Without duplication of those obtained or satisfied under Section 8.3, Purchaser shall have obtained and delivered to Purchaser true and correct copies of all Purchaser Consents and all Purchaser Approvals. Notwithstanding anything to the contrary in this Agreement, the Parties agree that this Agreement shall only be binding on the Seller if approved by Sellers Board of Directors, which approval shall be evidenced by Seller's execution and delivery of this Agreement as of the Effective Date.

Section 8.5 No Order, Litigation or Violation. No Order shall have been entered and no Action or Proceeding shall have been instituted that restrains, enjoins or otherwise prohibits or makes illegal the consummation of any of the transactions contemplated by this Agreement. The consummation of the transactions contemplated at the Closing shall not violate any applicable Law, except for violations that would not reasonably be expected to be material.

Section 8.6 Purchaser's Closing Actions. Purchaser shall have provided the Closing deliverables to Seller and undertaken the Closing actions set forth in Section 2.3(c).

Section 8.7 Power Purchase Agreement. Purchaser shall have executed and delivered to TID the A&R PPA and the SPPA.

Section 8.8 Rate Approvals for the A&R PPA and the SPPA. Purchaser shall have delivered to Seller and TID evidence of MBR Authority with respect to the rates Purchaser (in its capacity as "Seller" under the A&R PPA and the SPPA) expects to charge TID under and in accordance with the A&R PPA and the SPPA.

Section 8.9 Purchaser Parent Guaranty. The Purchaser Parent Guaranty has not been rescinded, revoked or breached by Clearway Energy Operating LLC, and is in full force and effect against Clearway Energy Operating LLC, as of and from and after the Effective Date in accordance with terms.

Section 8.10 Purchase Price Allocation.

(a) Seller Allocation. No later than ninety (90) days subsequent to the date on which all adjustments to the Purchase Price have been made pursuant to Section 2.4, Purchaser shall prepare and deliver to Seller a statement which shall provide for the allocation of the Purchase Price among the assets purchased pro rata based upon fair market value subject to any necessary adjustment pursuant to Section 2.4 (plus the Assumed Liabilities, to the extent properly taken into account pursuant to the provisions of Code Section 1060, plus any other items constituting consideration for applicable income tax purposes pursuant to the provisions of Code Section 1060) among the Purchased Assets (the "**Allocation**") in a manner consistent with the principles of Code Section 1060 and the Treasury Regulations promulgated thereunder (the "**Allocation Principles**") Within fifteen (15) days after receipt of such Allocation, Seller shall propose to Purchaser in writing any reasonable changes to such Allocation together with documentation supporting such changes (and in the event that no such changes are proposed in writing to Purchaser within such time period, Seller shall be deemed to have agreed to, and accepted, the Allocation). Purchaser and Seller shall attempt in good faith to resolve those differences, if any, with respect to the Allocation within fifteen (15) days after Purchaser's receipt of a timely written notice of comments from Seller. If Purchaser and Seller are unable to resolve such differences within such time period, then any remaining disputed matters shall be submitted to a nationally recognized independent public accounting firm mutually agreed to in writing by Purchaser and Seller (the "**Independent Accounting Firm**") for resolution in accordance with this Agreement and the Allocation Principles. Promptly, but not later than fifteen (15) days after such matters are submitted to it for resolution hereunder, the Independent Accounting Firm will determine those matters in dispute and will render a written report as to the disputed matters and the resulting allocation, which report shall, absent manifest error, be conclusive and binding upon Purchaser, Seller, and their respective Affiliates. The fees, costs and expenses of the Independent Accounting Firm shall be borne in inverse proportion as the parties may prevail on matters resolved by the Independent Accounting Firm, which proportionate allocations shall be determined by the Independent Accounting Firm at the time its determination is rendered on the merits of the matters submitted to it; *provided that*, the Independent Accounting Firm may increase the allocation of the costs of such determination to any party making, or that has made, unnecessary information requests. Neither Seller nor Purchaser nor any of their respective Controlled Affiliates shall take a position on any Tax Return, or in any Tax audit or other Tax proceeding that is in any manner inconsistent with the Allocation, except as required by a "determination" (as defined in Section 1313(a) of the Code). Each Party shall use its commercially reasonable efforts to notify promptly each other Party following receipt of notice of any pending or threatened Tax audit or Tax proceeding or assessment challenging the Allocation. Notwithstanding anything to the contrary herein, any amounts included within Assumed Liabilities (including, for the avoidance of doubt, deferred revenue) shall be reported by the Parties (and their respective Controlled Affiliates) for all applicable tax purposes in a manner that does not result in Purchaser's recognition of any income in respect of a deemed payment from Seller to Purchaser in respect of such amounts (including deferred revenue).

(b) Notwithstanding any provision of Section 9.10(a), prior to Closing, Seller shall prepare and deliver to Purchaser a statement which shall provide for the allocation of the Purchase Price for the REET based upon fair market value real property portion of the Purchased Assets and allocating values for purposes of determining the REET liability (the "**REET Allocation**") in a manner consistent with the relevant allocation principles (the "**REET Allocation Principles**") together with an appraisal from a nationally recognized and independent appraisal firm, consistent with such allocation, which identifies the amount allocable to the assets purchased, including any Contract Real Property subject to tax under RCW 82.45. If requested by Purchaser, Seller shall provide the REET Allocation Principles relied upon by the Seller to make the REET Allocation and any supporting documentation based upon REET Allocation Principles. Seller will notify Purchaser when it pays the REET and shall provide documentation of payment.

Section 8.11 No Material Adverse Effect. No Material Adverse Effect shall have occurred and be continuing, unless the occurrence of which has been waived in writing by Purchaser pursuant to Section 7.6.

Section 8.12 No Casualty Event. The Purchased Assets have not suffered any material loss, damage, destruction or other material casualty, whether or not covered by insurance, unless the occurrence of which has been waived in writing by Purchaser pursuant to Section 7.7.

ARTICLE IX.

TAX MATTERS

Section 9.1 Transfer and Similar Taxes. [redacted]

[redacted]

Section 9.2 Tax Returns. Seller will timely and properly prepare and file (or cause to be timely prepared and filed) all Tax Returns of the Seller required by applicable Law covering the Project, the Business, the Purchased Assets, or the Assumed Liabilities for any taxable period ending at or prior to the Closing that are required to be filed, regardless of when due (and will timely pay all Seller Taxes shown as due on such Tax Returns). Purchaser will be required to prepare and file (or cause to be prepared and filed) all Tax Returns of the Purchaser required by applicable Law covering the Business, the Purchased Assets and the Assumed Liabilities for the Post-Closing Tax Period, including any Straddle Period (and, without limitation to Purchaser's right to indemnification in respect of Seller Taxes, will timely pay all Taxes shown as due on such Tax Returns); Notwithstanding anything to the contrary in this Agreement, Seller shall prepare and file any Tax Returns relating to the Project Bonds.

Section 9.3 Cooperation. Seller and Purchaser shall cooperate with one another in connection with (a) the preparation and filing of any Tax Return with respect to the Project, the Purchased Assets, or the Assumed Liabilities; (b) any Tax claim or other Third Party Claim involving Taxes with respect to the Business, the Purchased Assets, or the Assumed Liabilities; and (c) any other matter under this Agreement relating to Taxes. Such cooperation shall include the retention and the provision of records and information that are reasonably relevant to any such Tax matter and access to representatives on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. Without limitation to the foregoing, Seller and Purchaser agree to retain all books and records with respect to Tax matters pertinent to the Project, the Purchased Assets, and the Assumed Liabilities relating to any taxable period beginning prior to the Closing Date until the expiration of the statute of limitations applicable to such Tax or Tax matter. Notwithstanding anything to the contrary in this Agreement, but except to the extent required by appliable Law or except as required pursuant to a "determination" (within the meaning of Section 1313(a) of the Code) (or a similar or corresponding determination under applicable state or local Law), Purchaser shall not take any position on any Tax Return inconsistent with the allocation of the Purchaser Price and payment of the REET established under Section 8.10 of this Agreement. Purchaser shall not be required to provide Seller with (i) copies of any consolidated, combined or unitary income Tax Return that includes Purchaser or its direct or indirect owners (collectively, "**Purchaser Consolidated Returns**"), (ii) workpapers prepared with respect to a Purchaser Consolidated

Return, or (iii) notices or correspondence in connection with an audit or other proceeding or other discussions with any Governmental Authority with respect to a Purchaser Consolidated Return.

Section 9.4 Tax Proration. Without limitation of any obligations with respect to Seller's liability for any Seller Tax, with respect to a Straddle Period, (i) all real property Taxes, personal property Taxes, and similar ad valorem obligations levied or imposed with respect to the Project, the Purchased Assets and the Assumed Liabilities (individually or in the aggregate) in respect of that Straddle Period shall be apportioned between Seller and Purchaser based on the number of days of such Straddle Period included in the period ending on (and including) the Closing Date and the number of days of such taxable period included in the period subsequent to the Closing Date and (ii) Taxes other than Taxes described in clause (i) of this sentence levied or imposed with respect to the Project, the Purchased Assets, and the Assumed Liabilities (individually or in the aggregate) in respect of such Straddle Period shall be allocated using a "closing of the books" methodology as of the end of the Closing Date (the liability for Taxes as allocated between Purchaser and Seller pursuant to clause (i) and clause (ii) of this sentence, the "**Apportioned Obligations**"); *provided that*, (x) exemptions, allowances, or deductions that are calculated on an annual basis shall be allocated between the period ending on the Closing Date and the period beginning subsequent to the Closing Date in proportion to the number of calendar days in each period and (y) the taxable period in respect of a particular real property Tax, personal property Tax, or any other similar ad valorem obligation shall begin on the date on which ownership of the applicable asset gives rise to the liability for the particular Tax and shall end on the day immediately prior to the next such applicable date. Seller shall be liable for that amount of the Apportioned Obligations that is attributable to a pre-Closing portion of any Straddle Period (the "**Seller Tax Amount**"). Purchaser shall be liable for that amount of the Apportioned Obligations that is attributable to a post-Closing portion of any Straddle Period (the "**Purchaser Tax Amount**").

Section 9.5 Indemnification. [redacted]

Section 9.6 No Withholding. Notwithstanding anything to the contrary in this Agreement, neither Party shall withhold any payment due and owing to their counter Party based on any third party claims.

Section 9.7 Tax Treatment. Although Seller does not pay federal income tax, for purposes of Purchaser's future, potential federal income tax liability, the sale of the Purchased Assets by Seller, and *the* purchase of the Purchased Assets by Purchaser, is intended to be treated as a taxable acquisition of assets by Purchaser from Seller (the "**Intended Tax Treatment**"). No party hereto shall, or shall permit any of its Controlled Affiliates to, take any position on any federal Tax Return, or make any filing, inconsistent with the Intended Tax Treatment unless otherwise required pursuant to a "determination" (as defined in Section 1313(a) of the Code).

Section 9.8 Conflict. Notwithstanding anything to the contrary contained in this Agreement, to the extent there is any conflict between this Article IX and any other provision of this Agreement (including Article X), the provisions of this Article IX shall govern matters relating to Taxes and Tax matters.

ARTICLE X.

INDEMNIFICATION

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

Section 10.4 Limitations on Claims.

(a) Except for any obligation to make a payment when due hereunder, any breach of any Fundamental Representation, and any breach of any representation or warranty involving fraud, (i) Seller shall not have any obligation to indemnify Purchaser pursuant to Section 10.1(a) until the aggregate amount of all such Losses for which Seller is responsible exceeds an amount equal to one-half of one percent (0.5%) of the Purchase Price, and (ii) Purchaser shall not have any obligation to indemnify Seller pursuant to Section 10.2 until the aggregate amount of all such Losses for which Purchaser is responsible exceeds an amount equal to one-half of one percent (0.5%) of the Purchase Price (in the case of either (i) or (ii), the "**Deductible**"), at which time the Indemnifying Party shall be required to indemnify the Indemnified Party for the amount of all of such Losses (including the amount of the Deductible). The aggregate liability of (x) Seller pursuant to Section 10.1(a) for breaches of Fundamental Representations and any breach of any representation or warranty where Seller has been found to have committed fraud (in an unappealable ruling) shall collectively be limited to an amount equal to one hundred percent (100%) of the Purchase Price and any other claim in connection with this Agreement shall be limited to an amount equal to twelve and one-half percent (12.5%) of the Purchase Price, and (y) Purchaser pursuant to Section 10.2 shall be limited to an amount equal to twelve and one-half percent (12.5%) of the Purchase Price (in the case of either (x) or (y), the "**Cap**"). For the avoidance of doubt, this Section 10.4(a) shall not apply to any amount indemnifiable or subject to indemnification pursuant to Section 9.5. Notwithstanding anything to the contrary in this Agreement, any claims under this Agreement relating to the Seller's Contract

Real Property rights that are covered by the Closing Date Title Policy shall first be brought against the Title Company.

(b) Notwithstanding the provisions of Section 12.13 (Consent to Jurisdiction), each Indemnifying Party hereby consents to the nonexclusive jurisdiction of any court in which an Action or Proceeding in respect of a Third Party Claim is brought against any Indemnified Party for purposes of any claim that an Indemnified Party may have under this Agreement with respect to such Action or the matters alleged therein and agrees that process may be served on each Indemnifying Party with respect to such claim anywhere.

(c) An insurer or other third party who would otherwise be obligated to pay any claim shall not be relieved of the responsibility with respect thereto or, solely by virtue of the indemnification provisions hereof, have any subrogation rights with respect thereto, it being expressly understood and agreed that no insurer or any other third party shall be entitled to any benefit they would not be entitled to receive in the absence of the indemnification provisions by virtue of the indemnification provisions hereof.

Section 10.5 Procedures.

(a) Notice. If any Indemnified Party has determined that a matter has occurred which has given or could give rise to a right of indemnification under this Article X, it may give prompt notice of Claim to the Indemnifying Party stating the amount of Loss, if known, and the method of computation thereof, containing a reference to the provisions of this Agreement in respect of which such right of indemnification is claimed or arises. If any Indemnified Party receives written notice of the assertion or commencement of an Action or Proceeding made or brought by any Person who is not a party to this Agreement or an Affiliate of a party to this Agreement (a "**Third Party Claim**") against such Indemnified Party with respect to which the Indemnifying Party is obligated to provide indemnification under this Article X, the Indemnified Party shall promptly, and in any event within ten (10) Business Days after receiving written notice of the Third-Party Claim, notify the Indemnifying Party of and assert the claim, provide copies of all material written evidence thereof received by the third party and, if known, specify the amount or an estimate of the amount of the liability arising therefrom. The failure to give any such prompt written notice under this Section 10.5(a) shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that such failure shall have materially prejudiced the Indemnifying Party or to the extent that the survival period, if applicable, expires prior to the giving of such notice. Notwithstanding the foregoing, Purchaser shall be entitled to control any Third Party Claim with respect to Taxes and Tax matters that pertain to the Project, the Business, any Purchased Asset, or any Assumed Liability to the extent such Third Party Claim reasonably would be expected to result in any liability to Purchaser or any of its Affiliates; *provided that*, (i) if the settlement, resolution, or other disposition of such Third Party Claim reasonable would be expected to result in Seller incurring a material Liability under this Purchase Agreement, then Purchaser shall not settle, resolve, or otherwise dispute of such Third Party Claim without the prior consent of Seller (such consent not to be unreasonably withheld, conditioned, or delayed); and (ii) if the Third Party Claim relates to (A) REET, (B) the Seller's bonds or bond related matters, or (C) Washington State or local Taxes in respect of a Pre-Closing Tax Period (and, solely in respect of a Straddle Period, only with respect to, and to the extent of, that portion of the Straddle Period that pertains to the period of time that includes, but ends on, the Closing Date), then Seller, and not Purchaser, shall be entitled to control such Third Party Claim (provided that, if the settlement, resolution, or other disposition of such Third Party Claim reasonably would be expected to result in Purchaser (or any of its Affiliates) incurring a material Liability for Taxes that Purchaser (or its applicable Affiliate) would not otherwise have incurred, then Seller shall not settle, resolve, or otherwise dispute of such Third Party Claim without the prior consent of Purchaser (such consent not to be unreasonably withheld, conditioned, or delayed)). Purchaser shall be solely liable for all interest and penalties that accrue due to any failure of the Purchaser to pay any Taxes for which Purchaser is liable under this Section 10.5 and under applicable Law.

(b) Settlement of Losses by Indemnified Party. The Indemnified Party shall not settle, consent to the entry of a judgment of or compromise any claim by a third party for which it is entitled to indemnification hereunder without the prior written consent (which consent shall not be unreasonably withheld or delayed) of the Indemnifying Party.

Section 10.6 Rights of Indemnifying Party.

(a) Right to Assume the Defense. In connection with any claim that may give rise to indemnity hereunder resulting from or arising out of any Third Party Claim, the Indemnifying Party, may, upon written notice to the Indemnified Party within ten (10) Business Days after the Indemnified Party has given notice of the Third Party Claim to the Indemnifying Party (or by such earlier date as may be necessary under applicable procedural rules in order to file a timely appearance and response), assume the defense, at its own cost and expense, of any such claim or legal proceeding, which defense shall be prosecuted by the Indemnifying Party to a final conclusion or settlement in accordance with the terms hereof; provided, however, the Indemnifying Party may not assume such defense: (i) if it would be a material conflict of interest or materially adverse to the interests of the Indemnified Party, (ii) unless the Indemnifying Party has affirmatively acknowledged in its written notice its duty and obligation (with no reservation of any rights other than the right to be subrogated to the rights of the Indemnified Party) to indemnify any Losses arising in such claim or legal proceeding, (iii) unless the reasonably anticipated Losses in respect of such claim or legal proceeding are less than the balance of any liability limitations remaining in favor of the Indemnified Party from the Indemnifying Party or (iv) unless the Third Party Claim (A) does not involve injunctive relief, specific performance or other similar equitable relief, any claim in respect of Taxes, any Governmental Authority, any criminal allegations, or any potential damage to the goodwill, reputation or overriding commercial interests of Seller, or the Business (including material commercial relations), (B) is not one in which the Indemnifying Party is also a party and joint representation would be inappropriate or there may be legal defenses available to the Indemnified Party which are different from or additional to those available to the Indemnifying Party, or (C) does not involve a claim which, upon petition by the Indemnified Party, the appropriate court rules that the Indemnifying Party failed or is failing to vigorously prosecute or defend.

(b) Procedure. If the Indemnifying Party assumes the defense of any Third Party Claim, the Indemnifying Party shall (i) select counsel reasonably acceptable to the Indemnified Party to conduct the defense of such claims or legal proceedings, and (ii) take all steps necessary in the defense or settlement thereof, at its sole cost and expense. If the

Indemnifying Party assumes the defense of any such claim or legal proceeding, the Indemnified Party shall provide any information or authorization as may be reasonably necessary to allow the Indemnifying Party to defend such claim or legal proceeding. The Indemnified Party shall be entitled to participate in (but not control) the defense of any such action, with its own counsel and at its sole cost and expense (except that the Indemnifying Party will be responsible for the fees and expenses of the separate counsel to the extent the Indemnified Party reasonably concludes that the counsel the Indemnifying Party has selected has an actual or potential conflict of interest). Irrespective of which Party controls the defense of any Third-Party Claim, the other Parties to this Agreement will, and will cause any applicable non-party Affiliate to, reasonably cooperate with the controlling Party in such defense and use commercially reasonable efforts to make available to the controlling Party (at the controlling Party's cost and expense) such witnesses, pertinent records, materials and information in such non-controlling Party's possession or under its control relating thereto as is reasonably required by the controlling Party. The Parties agree that all communications between any Party and counsel responsible for or participating in the defense of any Third-Party Claim shall, to the extent possible, be made so as to preserve any applicable attorney-client or work-product privilege.

(c) Settlement of Losses by Indemnifying Party. The Indemnifying Party shall not consent to a settlement of, or the entry of any judgment arising from, any Third Party Claim, without the prior written consent of the Indemnified Party (which consent shall not be unreasonably withheld or delayed), unless such settlement or judgment does not result in any Losses incurred by any Purchaser Indemnified Party; provided, however, that the Indemnifying Party shall not consent to a settlement of, or the entry of any judgment arising from, any Third Party Claim which either imposes an injunction or other equitable relief upon the Indemnified Party or does not include a provision whereby the plaintiff or claimant in the matter releases the Indemnified Party from all Liability with respect thereto without the prior written consent of the Indemnified Party.

(d) Decline to Assume the Defense. If the Indemnifying Party does not assume the defense of any Third Party Claim pursuant to Section 10.6(a): (i) the Indemnified Party may defend against such claim or litigation, at the sole cost and expense (which cost and expense shall be reasonable) of the Indemnifying Party, in such manner as it may deem reasonably appropriate, including settling such claim or litigation, subject to the prior written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed), and (ii) the Indemnifying Party shall be entitled to participate in (but not control) the defense of such action, with its counsel and at its sole cost and expense.

Section 10.7 Limitation on Certain Damages. NO PARTY SHALL BE LIABLE FOR ANY PUNITIVE DAMAGES, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES (WHETHER OR NOT THE CLAIM THEREFOR IS BASED ON CONTRACT, TORT, DUTY IMPOSED BY LAW OR OTHERWISE), IN CONNECTION WITH, ARISING OUT OF OR RELATED TO THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY OR ANY ACT OR OMISSION OR EVENT OCCURRING IN CONNECTION THEREWITH; AND EACH PARTY HEREBY WAIVES AND RELEASES ANY SUCH CLAIM FOR ANY SUCH PUNITIVE DAMAGES, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES; PROVIDED, HOWEVER, THAT ANY PUNITIVE, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES RECOVERED BY A THIRD

PARTY (INCLUDING GOVERNMENTAL AUTHORITIES) AGAINST AN INDEMNIFIED PARTY HEREUNDER SHALL BE INCLUDED IN THE LOSSES RECOVERABLE HEREUNDER.

Section 10.8 Exclusive Remedy. Notwithstanding anything to the contrary that may be contained herein, the indemnities set forth in this Article X shall become effective as of the Closing Date. Except as provided in Article IX and Section 12.3, after the Closing the indemnities set forth in this Article X shall be the exclusive remedies of Purchaser and Seller due to breach of a representation, warranty or covenant contained in this Agreement, and the Parties shall not be entitled to any further indemnification rights or claims of any nature whatsoever in respect thereof, all of which the Parties hereby waive.

Section 10.9 Tax Treatment of Indemnification Payments. Any amount of indemnification payable pursuant to the provisions of this Article X or the indemnification provisions in Article IX shall be treated as an adjustment to the Purchase Price for Tax and all other applicable purposes, unless otherwise required by Law.

ARTICLE XI.

TERMINATION

Section 11.1 Termination. This Agreement may be terminated, and the transactions contemplated hereby may be abandoned, at any time prior to Closing as follows:

(a) by mutual written consent of Purchaser and Seller;

(b) by Seller, on the one hand, or by Purchaser, on the other hand:

(i) if the Closing has not occurred on or before the date which is one hundred eighty (180) days from the Effective Date (or, if such date is not a Business Day, the next day which is a Business Day) (the "**Termination Date**"); provided, that if the Closing has not occurred on or before the Termination Date solely due to the failure of a condition set forth in Section 7.4 or Section 8.3 not being met with respect to obtaining a Governmental Approval, and the satisfaction of such condition is being diligently pursued by the appropriate Party, then the Termination Date shall be extended by an additional sixty (60) days; provided, further, that the right to terminate this Agreement shall not be available to a Party if the failure to consummate the transactions contemplated by this Agreement is caused by a breach of this Agreement by such Party; or

(ii) if any Governmental Authority shall have issued an Order or taken any other action which would either (A) permanently enjoin, restrain or otherwise prohibit the transactions contemplated by this Agreement or (B) result in a failure of a condition set forth in Article VII or Article VIII, and such Order or other action shall have become final and non-appealable.

(c) by Purchaser if (i) there has been a breach by Seller of any representation, warranty or covenant contained in this Agreement which would result in a failure of a condition set forth in Article VII; provided, that Purchaser (A) if such breach is curable, has given Seller at least thirty (30) days' prior notice of the violation or breach and Seller has not cured such violation or breach within thirty (30) days after receipt of notice of such breach, which cure period will be extended for so long as Seller is diligently pursuing a cure for such violation or breach prior to Closing, and (B) has not waived such condition in writing; or (ii) Seller fails to consummate the Closing within five (5) days after the date that the conditions set forth in Article VII and Article VIII (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or, to the extent legally permissible, waiver of those conditions at the Closing) have been satisfied or, to the extent legally permissible, waived by the Party or Parties entitled to the benefit of such conditions.

(d) by Seller if (i) there has been a breach by Purchaser of any representation, warranty or covenant contained in this Agreement which would result in a failure of a condition set forth in Article VIII; provided, that Seller (A) if such breach is curable, have given Purchaser at least thirty (30) days' prior notice of the violation or breach and Purchaser has not cured such violation or breach within thirty (30) days after receipt of notice of such breach, which cure period will be extended for so long as Purchaser is diligently pursuing a cure for such violation or breach prior to Closing, and (B) has not waived such condition in writing; or (ii) Purchaser fails to consummate the Closing within five (5) days after the date that the conditions set forth in Article VII and Article VIII (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or, to the extent legally permissible, waiver of those conditions at the Closing) have been satisfied or, to the extent legally permissible, waived by the Party or Parties entitled to the benefit of such conditions.

Section 11.2 Effect of Termination. If this Agreement is validly terminated pursuant to Section 11.1, this Agreement will forthwith become null and void, and there will be no liability or obligation on the part of the Parties (or any of their respective Representatives or Affiliates) in respect of this Agreement, except that the applicable portions of Article I, this Section 11.2, Section 11.3 and the entirety of Article XII will continue to apply following any termination and except as provided in the Confidentiality Agreement. .

Section 11.3 Termination Fee.

(a) [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

ARTICLE XII.

MISCELLANEOUS

Section 12.1 Notices. All notices, requests and other communications hereunder must be in writing and will be deemed to have been duly given only if delivered personally, by reputable national overnight courier service or by e-mail transmission (in the case of delivery by e-mail, solely if receipt is confirmed), in each case to the Parties at the following addresses or email addresses, as applicable:

If to Purchaser, to:	[redacted]
With a copy to:	[____]
If to Seller, to:	Tuolumne Wind Project Authority Attn: Email:
With a copy to:	[_____] Attn: Email:

Notices, requests and other communications will be deemed given upon the first to occur of such item having been (a) delivered personally to the address provided in this Section 12.1, (b) delivered by confirmed e-mail transmission to the e-mail address provided in this Section 12.1, or (c) delivered by reputable national overnight courier service to the address provided in this Section 12.1. Any Party from time to time may change its address, e-mail address or other information for the purpose of notices to that Party by giving notice specifying such change to the other Party.

Section 12.2 Entire Agreement. This Agreement, the Confidentiality Agreement, and the Transaction Documents, shall supersede all previous oral and written and all contemporaneous oral negotiations, commitments and understandings and all other letters, memoranda or other documents or communications, whether oral, written or electronic, in connection with the negotiation and execution of this Agreement and with respect to the subject matter hereof.

Section 12.3 Specific Performance. The Parties agree that if any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached, irreparable damage would occur and money damages may not be a sufficient remedy. In addition to any other remedy at law or in equity, each of Purchaser and Seller shall be entitled to specific performance by the other Parties of their respective obligations under this Agreement and immediate injunctive relief to prevent breaches or threatened breaches of this Agreement without the necessity of proving the inadequacy of money damages as a remedy and shall not be required to provide any bond or other security in connection with such order or injunction.

Section 12.4 Expenses. Except as otherwise expressly provided in this Agreement, whether or not the transactions contemplated hereby are consummated, each Party will pay its own costs and expenses, including costs and expenses incurred prior to Closing, in each case incurred in connection with the negotiation, execution and the Closing of this Agreement and the other Transaction Documents, and such Party's performance of obligations and covenants contemplated hereby and thereby. Notwithstanding anything to the contrary in this Agreement, if any action, suit or other proceeding is instituted concerning or arising out of this Agreement or any transactions contemplated hereunder, each Party shall bear its own costs, expenses and attorneys' fees.

Section 12.5 Waiver. Any term or condition of this Agreement may be waived at any time by the Party that is entitled to the benefit thereof, but no such waiver shall be effective unless set forth in a written instrument duly executed by or on behalf of the Party waiving such term or condition and delivered pursuant to Section 12.1. No waiver by any Party of any term or condition of this Agreement, in any one or more instances, shall be deemed to be or construed as a waiver of the same or any other term or condition of this Agreement on any future occasion. All remedies, either under this Agreement or by Law or otherwise afforded, will be cumulative and not alternative.

Section 12.6 Amendment. This Agreement may be amended, supplemented or modified only by a written instrument duly executed by or on behalf of each Party.

Section 12.7 No Third Party Beneficiary. The terms and provisions of this Agreement are intended solely for the benefit of each Party and their respective successors or permitted assigns, and it is not the intention of the Parties to confer third party beneficiary rights upon any other Person other than any Person entitled to indemnification under Article X.

Section 12.8 Assignment. The obligations of each Party under this Agreement are not assignable without the prior written consent of the other Party, which other Party may withhold in its discretion; *provided that* any assignment by Purchaser to any of its Affiliates following the Closing shall not require the consent of Seller if Purchaser Parent Guaranty remains in effect with respect to the obligations of such assignee Affiliate of Purchaser under this Agreement or such assignee Affiliate of Purchaser provides a guaranty to Seller in substantially the form attached hereto as Exhibit F in replacement of the Purchaser Parent Guaranty. Notwithstanding the foregoing, the Purchaser shall not assign this Agreement to any Affiliate or third party if such assignment would cause the electricity products purchased under the A&R PPA to lose their PCC-0 classification and be inconsistent with the classification of these electricity products that existed under the Original PPA. Without limiting the generality of the foregoing with respect to any assignment prior to Closing (a) such assignment will be subject to obtaining prior to Closing all required Governmental Approvals and third party consents with respect thereto to the extent necessary to avoid a breach of any applicable Project Document or Project Permit that may arise in connection with such assignment or the Closing, and (b) the other Party may withhold its consent to such pre-Closing assignment if any of the matters described in Section 6.4(a)-(b) are not complied with to Seller's reasonable satisfaction to the extent implicated by such assignment. Except as agreed in writing by the non-assigning Party, no assignment of this Agreement shall relieve the assignor Party from its obligations hereunder and, upon such assignment, the assignee party shall agree in writing to be bound by this Agreement.

Section 12.9 Severability. Any provision of this Agreement that is invalid, illegal or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such invalidity, illegality, or unenforceability without affecting in any way the remaining provisions hereof in such jurisdiction or rendering that or any other provision of this Agreement invalid, illegal or unenforceable in any other jurisdiction. If any provision of this Agreement is or become invalid or unenforceable as a whole or in part, this Agreement will be reformed to come closest to the original intent and purpose of the Parties.

Section 12.10 Non-Recourse. Notwithstanding anything to the contrary contained herein, each Party agrees, for itself and its respective Affiliates and Representatives, that this Agreement may only be enforced against, and any claims or causes of action that may be based upon, arise out of or relate to this Agreement (including claims for breach, indemnification, or monetary damage), or the negotiation, execution or performance of this Agreement or the transactions contemplated hereby, may only be made against, the Persons that are expressly identified as Parties in their capacities as Parties to this Agreement, and no other Person shall have any liability for any obligations or Liabilities of the Parties or for any claim (whether in tort, contract or otherwise) based on, in respect of, or by reason of, the transactions contemplated by this Agreement or in respect of any representations, warranties, statements or covenants made or alleged to be made in connection herewith; except, in all cases, for recourse, claims, and enforcement against Purchaser Parent Guarantor under the Purchaser Parent Guaranty. The Parties acknowledge that TID's obligations to the Purchaser are exclusively set forth in, and are limited by, the Seller Financial Support Agreement. The Parties acknowledge that TID does not have any obligations under this agreement. The only obligations that TID has are set forth in the Financial Support Agreement.

Section 12.11 Late Payments. With respect to any amount due from either Party to other Party or to an Indemnified Party which is not paid in full when due and payable under this Agreement, the unpaid amount shall accrue interest at the Default Rate until such unpaid amount plus the interest accrued thereon is paid in full.

Section 12.12 Governing Law. THIS AGREEMENT SHALL BE GOVERNED IN ALL RESPECTS BY THE LAWS OF THE STATE OF CALIFORNIA WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES.

Section 12.13 Arbitration

(a) With respect to any dispute relating to or arising out of the validity, interpretation or breach of any provision of this Agreement, including any dispute concerning the scope of this arbitration provision, such dispute may, upon mutual written agreement of the Parties, following the written notice of a dispute by one of the Parties, be settled by submission to final, binding and non-appealable arbitration ("***Arbitration***") under this Section 12.13(a), provided that determinations expressly required to be made under the procedures set forth in Section 2.4(c) and Section 8.10, as applicable, shall be made in accordance therewith. Any Party may commence an arbitration by filing a notice with the San Francisco office of the American Arbitration Association ("***AAA***"), with a copy to the other Party at the address provided in Section 12.1. The Arbitration and all pre-hearing, hearing and post-hearing Arbitration procedures will be conducted in accordance with the Commercial Arbitration Rules of the

American Arbitration Association (the "***Commercial Rules***"), except to the extent the Commercial Rules conflict with provisions of this Agreement, in which case the provisions set forth in this Agreement regarding arbitration shall govern. The seat of the Arbitration shall be San Francisco, California and the language of the Arbitration shall be English. The Arbitration tribunal shall consist of one arbitrator mutually agreed by the Parties, provided that if the Parties cannot agree on such arbitrator within ten (10) days of the filing of such notice of Arbitration or another period agreed in writing between the Parties, any Party may request, in a written notice to the AAA (with a copy to the other Party at the address provided in Section 12.1), that the AAA select the arbitrator on behalf of both Parties. The arbitrator shall set a limited time period and establish procedures designed to reduce the cost and time for discovery while allowing each Party an opportunity, adequate in the sole judgment of the arbitrator, to discover relevant information from the other Party about the subject matter of the dispute. The arbitrator shall rule upon motions to compel or limit discovery and shall have the authority to impose sanctions, including attorneys' fees and costs, to the same extent as a court of competent law or equity, should the arbitrator determine that discovery was sought without substantial justification or that discovery was refused or objected to without substantial justification. The Arbitration award shall be rendered by the arbitrator no later than thirty (30) days after the close of the Arbitration hearing, shall be written, shall be in accordance with applicable Law and with this Agreement, and shall be supported by written findings of fact and conclusions of law which shall set forth the reasoned basis for the decision of the arbitrator.

(b) Notwithstanding the foregoing, the Parties specifically reserve the right to seek a temporary judicial restraining order, preliminary injunction, or other similar short term equitable relief in aid of arbitration (collectively, "***Judicial Relief***") from a court of law having competent jurisdiction, and grant the Arbitration tribunal the right to make a final determination of the Parties' rights, including whether to make permanent or dissolve such court order. Judgment upon the Arbitration award may also be entered in any court of competent jurisdiction. With respect to any action for Judicial Relief or concerning judgment upon any Arbitration award, the Parties hereby irrevocably consent to the non-exclusive jurisdiction of the state and federal courts located in San Francisco, California, and any appellate court with jurisdiction thereover, waive any objection to venue or personal jurisdiction in such court, and waive personal service of process; and the Parties agree that all such service of process may be made by delivery of registered mail directed to such Party at the address provided in Section 12.1 or by any other manner permitted by applicable Law. The Parties shall be entitled to seek judicial relief as to any disputes relating to this Agreement unless the Parties have mutually agreed to Arbitration, in which case court action shall be permitted only in case of Judicial Relief or concerning judgment upon an Arbitration award.

(c) Each party to any Arbitration proceeding subject to this Section 12.13, and the arbitrator, shall keep the existence and subject matter of the Dispute and any such proceedings confidential. Each Party shall bear its own expenses in the Arbitration and shall share equally the costs of the Arbitration.

Section 12.14 Consent to Jurisdiction. UNLESS THE PARTIES AGREE TO ARBITRATION UNDER SECTION 12.13 OF THIS AGREEMENT, WITH RESPECT TO ANY AND ALL ACTIONS OR PROCEEDINGS ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ANY OTHER TRANSACTION DOCUMENT, EACH PARTY HEREBY

IRREVOCABLY CONSENTS TO THE EXCLUSIVE JURISDICTION OF THE STATE AND FEDERAL COURTS LOCATED IN SAN FRANCISCO, CALIFORNIA AND ANY APPELLATE COURT WITH JURISDICTION THEREOVER, AND FURTHER WAIVES ANY OBJECTION TO VENUE OR PERSONAL JURISDICTION IN SUCH COURT. THE AFOREMENTIONED CHOICE OF VENUE IS INTENDED BY THE PARTIES TO BE MANDATORY AND NOT PERMISSIVE IN NATURE, THEREBY PRECLUDING THE POSSIBILITY OF LITIGATION BETWEEN THE PARTIES WITH RESPECT TO OR ARISING OUT OF THIS AGREEMENT OR ANY OTHER TRANSACTION DOCUMENT IN ANY JURISDICTION OTHER THAN THAT SPECIFIED IN THIS SECTION 12.14. EACH PARTY WAIVES ANY RIGHT TO ASSERT THE DEFENSE OF FORUM NON CONVENIENS OR SIMILAR DOCTRINE. EACH PARTY FURTHER WAIVES PERSONAL SERVICE OF PROCESS IN ANY PROCEEDING BROUGHT IN ACCORDANCE WITH THIS SECTION 12.14 AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL, RETURN RECEIPT REQUESTED, POSTAGE PREPAID, DIRECTED TO SUCH PARTY AT ITS ADDRESS FOR THE GIVING OF NOTICES AS SET FORTH IN SECTION 12.1. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY PARTY TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW.

Section 12.15 Section Headings. The Section headings are for the convenience of the Parties and in no way alter, modify, amend, limit or restrict the contractual obligations of the Parties.

Section 12.16 No Strict Construction. Each of the Transaction Documents are the result of negotiations among, and have been reviewed by, the Parties and their respective counsel. Accordingly, the Transaction Documents shall be deemed to be the product of the Parties, and no ambiguity shall be construed in favor of or against any Party.

Section 12.17 PDF Signature; Counterparts. This Agreement may be executed in any number of counterparts and by separate Parties on separate counterparts, each of which when executed shall be deemed an original, but all such counterparts taken together shall constitute one and the same instrument. Delivery of an executed counterpart of this Agreement by facsimile or transmitted electronically in Portable Document Format (PDF) shall be equally effective as delivery of a manually-executed counterpart hereof.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized representative of each Party as of the date first above written.

Purchaser

Washington Wind LLC, a Delaware limited liability company

By: ________________________________
Name: ______________________________
Title: _______________________________

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized representative of each Party as of the date first above written.

<u>Seller</u>

Tuolumne Wind Project Authority, a joint powers authority organized under the laws of the State of California

By: ______________________________
Name: ____________________________
Title: _____________________________

Exhibit F

Form of Purchaser Parent Guaranty

(attached)

GUARANTY AGREEMENT

Granted by:	**Clearway Energy Operating LLC**, a Delaware limited liability company (the "*Guarantor*") on behalf of Washington Wind LLC, a Delaware limited liability company (the "*Company*")
Granted to:	Tuolumne Wind Project Authority, a joint powers authority organized under the laws of the State of California (together with its successors and permitted assigns, the "*Counterparty*")
Regarding:	Purchase and Sale Agreement, dated as of the date hereof, between the Company and Counterparty (as amended, restated or other modified from time to time, the "*Contract*")
Effective Date:	[______]
Maximum Amount:	All "Obligations" as defined below.
Subject to the following terms and conditions:	

1. **Parties**. This Guaranty Agreement ("*Guaranty*"), effective as of [_______] (the "*Effective Date*"), is made and entered into by Guarantor, on behalf of the Company, in favor of Counterparty (each, a "*Party*" and collectively, the "*Parties*").

2. **Contract Guaranteed**. This Guaranty is given in consideration of Counterparty having entered into that certain the Contract as of the Effective Date.

3. **Guaranty**. Subject to the provisions hereof, Guarantor hereby irrevocably and unconditionally guarantees to Counterparty the prompt payment when due and payable of all amounts payable by Company to Counterparty under the Contract (such guaranteed obligations, the "*Obligations*"). Notwithstanding any other provisions of this Guaranty to the contrary, this Guaranty is not intended, nor shall it be construed or deemed, to expand, limit or modify in any respect the Obligations under the Contract, it being understood and agreed that such Obligations are governed and defined solely by those certain terms and conditions expressly set forth in the Contract. Guarantor shall pay the Obligations within twenty (20) Business Days after Guarantor's receipt of written demand therefor from Counterparty. (The term "*Business Day*" as used herein shall mean any day except a Saturday, Sunday, or a Federal Reserve Bank holiday.) This Guaranty shall constitute a continuing guarantee of payment and not of collection. The liability of Guarantor under this Guaranty shall be absolute, unconditional and irrevocable (except to the extent that Company's payment of the Obligations would be excused by Counterparty's failure to fulfill its obligations thereunder, in each case, pursuant to the terms and subject to the conditions of the Contract), irrespective of: (i) any change in time, manner or place of performance of, or in any other term of, all or any of the Obligations or any other amendment to, modification of (including, without limitation, change orders), waiver of, or any consent to departure from, any provision of the Contract; (ii) any change in ownership of Guarantor or Company; (iii) any bankruptcy, insolvency, dissolution or liquidation of, or other similar proceedings involving, Company; or (iv) subject to Section 3.02, any other circumstances that might otherwise constitute legal or equitable discharge of a surety or guarantor. Guarantor's obligation hereunder is several from, and not joint

with, Company or any other person. The liability of Guarantor under this Guaranty is subject to the following:

3.01 In no event shall Guarantor be liable for consequential, exemplary, special, equitable, lost profits, punitive, tort, indirect, incidental or any other similar damages, unless such damages are recoverable Obligations under the Contract.

3.02 Notwithstanding anything to the contrary, the liability of Guarantor under this Guaranty, and Counterparty's right of recovery under this Guaranty, is limited to an aggregate amount equal to all of the Obligations (the "*Guaranty Cap*"). The Guaranty Cap includes reasonable out-of-pocket expenses (including reasonable attorney's fees) to enforce this Guaranty, but only to the extent (i) a demand is made and not honored within twenty five (25) Business Days thereafter and (ii) payment under this Guaranty is otherwise due. Such reasonable out-of-pocket expenses shall be payable only if Counterparty prevails in its claim against Guarantor.

3.03 Without limiting Guarantor's own defenses and rights hereunder, Guarantor reserves to itself all rights, setoffs, counterclaims and other defenses to which the Company is or may be entitled to arising from or in connection with the Contract, Obligations, the nature of Counterparty's claim or otherwise, except for defenses arising out of the bankruptcy, insolvency, dissolution or liquidation of the Company.

3.04 Notwithstanding anything in this Guaranty to the contrary (other than with respect to the Guaranty Cap as set forth in Section 3.02), this Guaranty shall continue to be effective or shall be reinstated, as the case may be, if at any time, either before or after the termination pursuant to Section 9 hereof, payment of the Obligations guaranteed pursuant to this Guaranty, or any part thereof is rescinded or must otherwise be returned by Counterparty for any reason, including without limitation upon the bankruptcy, insolvency, dissolution or liquidation of the Company, all as though such payment had not been made.

4. **Demands and Notices.** Counterparty shall make a demand for payment in writing, stating specifically that Counterparty is calling upon Guarantor to pay under this Guaranty and stating briefly the type and amount of the Obligation that Company has failed to pay. A demand satisfying the foregoing requirements shall be required with respect to any outstanding Obligations before Guarantor is required to pay and shall be deemed sufficient notice to Guarantor.

5. **Consents and Waivers**.

5.01 Guarantor hereby waives notice of acceptance of this Guaranty, other than Counterparty's signature on this Guaranty, and presentment and demand concerning the liabilities of Guarantor, and any other notice with respect to any of the Obligations and this Guaranty, except as required in Section 4.

5.02 Guarantor hereby waives any right to require that any action or proceeding be brought against Company, or any other obligor principally or secondarily liable, or any other collateral provided as security for all or any of the Obligations, prior to any action against Guarantor.

5.03 Except as to applicable statutes of limitation, Guarantor hereby agrees that no delay of Counterparty in the exercise of, or failure to exercise, any rights hereunder shall operate as a waiver of such rights, a waiver of any other rights or a release of Guarantor from any obligations hereunder.

5.05 Guarantor consents to the renewal, compromise, extension, acceleration or other changes in the time of payment or terms of the Obligations, or changes or modifications to the terms of the Contract as agreed to by Company, provided that in no event shall Guarantor's liability under this Guaranty be increased above the Guaranty Cap as a result of such changes.

6. **Continuing Guaranty.** Subject to the provisions of Section 9, this Guaranty is a continuing Guaranty and shall remain in full force and effect until all the Obligations have been satisfied in full.

7. **Subrogation.** Guarantor shall be subrogated to the corresponding rights of Counterparty and Counterparty shall take, at Guarantor's expense, all such steps as the Guarantor may reasonably request to implement such subrogation; *provided*, *however*, that Guarantor waives any rights it may acquire by way of subrogation under this Guaranty, by any payment made hereunder or otherwise, by any reimbursement, exoneration, contribution, indemnification, or any right to participate in any claim or remedy of Counterparty against Company, until all of the Obligations shall have been paid in full.

8. **Successors and Assigns; Assignment.** This Guaranty shall be binding upon Guarantor and its successors and permitted assigns and inure to the benefit of and be enforceable by Counterparty and its successors and permitted assigns. Neither Counterparty nor Guarantor may assign this Guaranty without the prior written consent of the other, which consent shall not be unreasonably withheld.

9. **Termination**. This Guaranty shall automatically terminate, subject to reinstatement pursuant to Section 3.04, with no further action required by Guarantor, Counterparty, Company or any other person, upon the earliest to occur of:

(i) termination or expiration of the Contract;
(ii) the date on which all of the Obligations have been satisfied in full;
(iii) delivery to the Counterparty of a Replacement Guaranty (as defined below) or Replacement Letter of Credit (as defined below); and
(iv) the date that all of the Obligations have been indefeasibly paid in full..

Upon such termination of this Guaranty, Guarantor shall have no further liability hereunder; *provided*, *however*, that, notwithstanding anything to the contrary in this Section 9, this Guaranty shall remain in full force and effect with respect to (a) Obligations arising prior to the effective date of termination hereof; and (b) Guarantor's liability pursuant to Section 3 for any payment to a Counterparty in respect of any Obligations that is rescinded or must otherwise be returned for any reason whatsoever.

For purposes of this Section 9: (1) "*Replacement Guaranty*" means a guaranty in substantially the same form and substance as this Guaranty, or otherwise in form and substance reasonably acceptable to the Counterparty, issued by a guarantor that, in the reasonable determination of the Counterparty, is at least as creditworthy on the date such guaranty is issued as Guarantor is on the Effective Date hereof; and (2) "*Replacement Letter of Credit*" means an irrevocable standby letter of credit in favor of the Counterparty and meeting the following criteria: (A) the letter of credit is in an amount equal to the Guaranty Cap as of the date such Replacement Letter of Credit is issued, (B) the issuing bank is rated at least A- by S&P or A3 by Moody's, and (C) the letter of credit can be drawn on demand by Counterparty (x) upon the same events that would trigger a payment under this Guaranty or (y) within 30 days prior to the letter of credit's expiration date if the letter of credit is not renewed or replaced.

10. **Notice**. Any demand, notice, request, instruction, correspondence, or other document to be given by any party to another hereunder shall be in writing and delivered personally or mailed by certified mail, postage prepaid and return receipt requested, by overnight mail or facsimile, email, or other electronic transmission as follows:

To Guarantor:	**To Counterparty:**
[redacted]	[_______]
With a copy, which shall not constitute notice, to:	*With a copy, which shall not constitute notice, to:*
[______] [_______] [_______] [_______]	[______] [_______] [_______] [_______]

Notice given by personal delivery or mail shall be effective upon actual receipt. Notice given by facsimile or email shall be effective upon actual receipt if received during the recipient's normal business hours, or at the beginning of the recipient's next Business Day after receipt if not received during the recipient's normal business hours. Any party may change its address for notices by written notice to the other party.

11. **Representations and Warranties**. Guarantor represents and warrants that:

(i) it is a limited liability company duly organized and validly existing under the laws of the State of Delaware and has the limited liability company power and authority to execute, deliver and carry out the terms and provisions of the Guaranty;

(ii) no authorization, approval, consent, or order of, or registration or filing with, any court or other governmental body having jurisdiction over Guarantor is required on the part of Guarantor for the execution and delivery of this Guaranty; and

(iii) this Guaranty has been duly executed and delivered by Guarantor and constitutes a valid and legally binding agreement of Guarantor, except as the enforceability of this Guaranty may be limited by the effect of any laws affecting creditors' rights generally and by general principles of equity.

12. **Severability.** If one or more provisions of this Guaranty shall for any reason or to any extent be determined invalid or unenforceable, all other provisions shall nevertheless remain in full force and effect.

13. **Governing Law; Dispute Resolution**. This Guaranty shall in all respects be governed by, and construed in accordance with, the law of the State of California.

(a) **Arbitration**. With respect to any dispute relating to or arising out of the validity, interpretation or breach of any provision of this Guaranty, including any dispute concerning the scope of this arbitration provision, such dispute may, if mutually agreed in writing by the Parties, be settled by submission to final, binding and non-appealable arbitration ("***Arbitration***"). Any Party may commence an arbitration by filing a notice with the San Francisco office of the American Arbitration Association ("***AAA***"), with a copy to the other Party at the address provided in Section 10. The Arbitration and all pre-hearing, hearing and post-hearing Arbitration procedures will be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association (the "***Commercial Rules***"), except to the extent the Commercial Rules conflict with provisions of this Guaranty, in which case the provisions set forth in this Guaranty regarding arbitration shall govern. The seat of the Arbitration shall be San Francisco, California and the language of the Arbitration shall be English. The Arbitration tribunal shall consist of one arbitrator mutually agreed by the Parties, provided that if the Parties cannot agree on such arbitrator within ten (10) days of the filing of such notice of Arbitration or another period agreed in writing between the Parties, any Party may request, in a written notice to the AAA (with a copy to the other Party at the address provided in Section 10), that the AAA select the arbitrator on behalf of both Parties. The arbitrator shall set a limited time period and establish procedures designed to reduce the cost and time for discovery while allowing each Party an opportunity, adequate in the sole judgment of the arbitrator, to discover relevant information from the other Party about the subject matter of the dispute. The arbitrator shall rule upon motions to compel or limit discovery and shall have the authority to impose sanctions, including attorneys' fees and costs, to the same extent as a court of competent law or equity, should the arbitrator determine that discovery was sought without substantial justification or that discovery was refused or objected to without substantial justification. The Arbitration award shall be rendered by the arbitrator no later than thirty (30) days after the close of the Arbitration hearing, shall be written, shall be in accordance with applicable Law and with this Guaranty, and shall be supported by written findings of fact and conclusions of law which shall set forth the reasoned basis for the decision of the arbitrator.

(b) Notwithstanding the foregoing, the Parties specifically reserve the right to seek a temporary judicial restraining order, preliminary injunction, or other similar short term equitable relief in aid of arbitration (collectively, "***Judicial Relief***") from a court of law having competent jurisdiction, and grant the Arbitration tribunal the right to make a final determination of the Parties' rights, including whether to make permanent or dissolve such court order. Judgment upon the Arbitration award may also be entered in any court of competent jurisdiction. With respect to any action for Judicial Relief or concerning judgment upon any Arbitration award, the Parties hereby irrevocably consent to the non-exclusive jurisdiction of the state and federal courts located in San Francisco, California, and any appellate court with jurisdiction thereover, waive any objection to venue or personal jurisdiction in such court, and waive personal service of process; and the Parties agree that all such service of process may be made by delivery of registered mail directed to such Party at the address provided in Section 10 or by any other manner permitted by applicable Law. The Parties shall be entitled to seek judicial relief as to any disputes relating to this Agreement unless the Parties have mutually agreed to Arbitration, in which case court action shall be permitted only in case of Judicial Relief or concerning judgment upon an Arbitration award.

(c) Each party to any Arbitration proceeding subject to this Section 13, and the arbitrator, shall keep the existence and subject matter of the Dispute and any such proceedings confidential. Each Party shall bear its own expenses in the Arbitration and shall share equally the costs of the Arbitration; provided, however, that the arbitral tribunal in its Arbitration decision shall award reasonable costs and fees to the prevailing party.

14. **Amendments or Waivers.** No amendment, waiver or supplement or other modification of any provision of this Guaranty shall be effective unless the same shall be in writing and signed by Guarantor and Counterparty, and then such amendment, waiver, supplement or other modification shall only be effective in the specific instance and for the specific purpose for which given.

15. **Counterparts**. This Guaranty may be executed electronically in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[*Signature Page Follows*]

IN WITNESS WHEREOF, Guarantor has executed this Guaranty on the Effective Date.

Clearway Energy Operating LLC

By __________________________________
Name ________________________________
Title _________________________________

ACCEPTED BY: the Counterparty acknowledges and accepts the above Guaranty.

Tuolumne Wind Project Authority

By ____________________________
Name __________________________
Title ___________________________

Exhibit G

Form of Seller Financial Support Agreement

(attached)

FINANCIAL SUPPORT AGREEMENT

between

Turlock Irrigation District, an irrigation district organized under the laws of the State of California,

and

Washington Wind LLC,

a Delaware limited liability company,

dated as of [______], 2024

FINANCIAL SUPPORT AGREEMENT

This FINANCIAL SUPPORT AGREEMENT (this "**Agreement**"), dated as of [________], 2024 (the "**Effective Date**"), entered into by Turlock Irrigation District, an irrigation district organized under the laws of the State of California ("**TID**"), on behalf of the Tuolumne Wind Project Authority, a joint powers authority organized under the laws of the State of California ("**TWPA**"), of which TID is a member, and Washington Wind LLC, a Delaware limited liability company ("**Washington Wind**") (TID and Washington Wind are collectively referred to herein, as the "**Parties**" and each, individually, as a "**Party**"). Capitalized terms used, and not otherwise defined, herein shall have the meanings set forth in the PSA (defined below).

RECITALS

WHEREAS, Tuolumne Wind Project Authority, a joint powers authority organized under the laws of the State of California ("**TWPA**"), and Washington Wind entered into a Purchase and Sale Agreement ("**PSA**"), dated as of [________], 2024, under which TWPA agreed, among other matters, to sell to Washington Wind an approximately 136.6 MW nameplate capacity wind farm comprised of 62 wind turbines located in Klickitat County, Washington, (the "**Project**");

WHEREAS, TWPA and TID are parties to the Power Purchase Agreement, dated July 14, 2009 ("**Original PPA**"), under which TWPA sells TID the energy and Renewable Energy Credits generated by the Project;

WHEREAS, TWPA uses the payments it receives from TID under the Original PPA, to pay the bond financing costs for TWPA's purchase of the Project;

WHEREAS, in connection with TWPA's sale of the Project to Washington Wind under the PSA, TWPA desires to transfer and assign the Original PPA to Washington Wind at the Closing of the PSA transaction;

WHEREAS, immediately after giving effect to the assignment of the Original PPA, TWPA will cause TID to execute and deliver to Purchaser the Amended Restated Power Purchase Agreement ("A&R PPA") at the Closing under which TID will continue to purchase the energy and Renewable Energy Credits generated by the Project;

WHEREAS, TID is entering into the A&R PPA with Washington Wind on financial and other terms and conditions satisfactory to TID;

WHEREAS, TID acknowledges that TWPA's sale of the Project to Washington Wind will ensure the long-term viability of the Project and TID's ability to purchase the energy and Renewable Energy Credits generated by the Project; and

WHEREAS, because TID will benefit from TWPA meeting its obligations under the PSA, TID desires to fund specific TWPA obligations under the PSA in order to ensure TID's continued ability to purchase the energy and Renewable Energy Credits generated by the Project.

NOW, THEREFORE, in consideration of the premises and mutual promises herein contained, the Parties hereto agree as follows:

ARTICLE I.

TID'S FUNDING OBLIGATIONS

Section 1.1 TID's Funding Obligations. In consideration of Washington Wind executing the A&R PPA with TID, TID agrees that it will pay any amounts due to Washington Wind under the following Articles of the PSA, subject to any PSA imposed temporal limitations on the bringing of claims or damage limitations, if TID determines that the obligations have arisen under express terms of the PSA or if an applicable arbitral tribunal or court of competent jurisdiction rules that TWPA breached one of these Articles of the PSA: Articles II, III, IV, VI, VII, IX, X, XI, and XII (collectively, the "**Financial Support Obligations**"). If one of the limitations on the amount of damages that are recoverable under PSA in Article X, or any other Article of the PSA, applies to a claim against TWPA, TID will only fund Financial Support Obligations up to that limitation. If the limitation on the period for bringing a claim under PSA Section 10.3(a) or any other Section of the PSA applies to a claim against TWPA, the period for bringing such claims would be governed by those section(s) of PSA, even if the Term of this Agreement exceeds the period for bringing claims under the PSA. The amount TID agrees to pay under this Agreement shall be subject to the Limitations on Claims in Section 10.4 of the PSA. In no event shall TID be liable for consequential, exemplary, special, equitable, lost profits, punitive, tort, indirect, incidental or any other similar damages, under this Agreement.

Section 1.2 Other Terms. TID agrees that (a) any renewal, extension or other modification of TWPA's obligations under the PSA, (b) any sale, lease, transfer or other disposition of any or all of the assets of TID or of TWPA, and (c) any bankruptcy, insolvency, dissolution or liquidation of, or other similar proceedings involving, TWPA, shall not, in any way affect, release or discharge TID with respect to its Financial Support Obligations. .

ARTICLE II.

TERM OF AGREEMENT

Section 2.1 Term of Agreement. This Agreement shall terminate on the fourth anniversary of the Effective Date; provided, however, that if a temporal limitation under the PSA terminates a Party's ability to bring a claim prior to the conclusion of this four-year term, that temporal limitation in the PSA shall govern that claim.

ARTICLE III.

NOT A GUARANTY

Section 3.1 Not a Guaranty. This Agreement is a direct, payment obligation of TID and is not, and nothing herein contained and nothing done pursuant hereto by TID shall constitute or be construed or deemed to constitute, an evidence of indebtedness or an obligation or liability of TID as a guarantor, endorser, surety, or otherwise in respect of any obligation, indebtedness, or liability, of any kind or character whatsoever, of TWPA and this Agreement does not provide, and is not intended to be construed or deemed to provide, any creditor of TWPA with recourse to or against any of the assets of TID. Because this Agreement is not an obligation of suretyship or guaranty, no provision of California Civil Code Part 4, Title 13, including without limitation the provisions of Article 6 thereof, regarding the exoneration of sureties, is applicable hereto.

ARTICLE IV.

COMMUNICATIONS

Section 4.1 Communications. All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given: (a) on the date of service if served personally on the party to which such notice is to be given; (b) on the date of e-mail transmission (in the case of delivery by e-mail, solely if receipt is confirmed); (c) on the day after delivery to Federal Express or similar overnight carrier or the Express Mail Service maintained by the United States Postal Service; or (d) on the fifth day after mailing, if mailed to the party to which such notice is to be given, by first class mail, registered or certified, postage prepaid and properly addressed, to the party as follows:

If to Washington Wind, to:	[redacted]
With a copy to:	[____]
If to TID, to:	Turlock Irrigation District Attn: Email:
With a copy to:	[_____] Attn: Email:

ARTICLE V.

MISCELLANEOUS

Section 5.1 Applicable Law and Forum. This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to conflicts of laws principles.

(a) Optional Arbitration. With respect to any dispute relating to or arising out of the validity, interpretation or breach of any provision of this Agreement, including any dispute concerning the scope of this arbitration provision, such dispute may, upon mutual written separate agreement of the Parties, following the written notice of a dispute by one of the Parties, be settled by submission to final, binding and non-appealable arbitration ("***Arbitration***") under this Section 5.1(a). Any Party may commence an arbitration by filing a notice with the San Francisco office of the American Arbitration Association ("***AAA***"), with a copy to the other Party at the address provided in Section 4.1. The Arbitration and all pre-hearing, hearing and post-hearing Arbitration procedures will be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association (the "***Commercial Rules***"), except to the extent the Commercial Rules conflict with provisions of this Agreement, in which case the provisions set forth in this Agreement regarding arbitration shall govern. The seat of the Arbitration shall be San Francisco, California and the language of the Arbitration shall be English. The Arbitration tribunal shall consist of one arbitrator mutually agreed by the Parties, provided that if the Parties cannot agree on such arbitrator within ten (10) days of the filing of such notice of Arbitration or another period agreed in writing between the Parties, any Party may request, in a written notice to the AAA (with a copy to the other Party at the address provided in Section 4.1), that the AAA select the arbitrator on behalf of both Parties. The arbitrator shall set a limited time period and establish procedures designed to reduce the cost and time for discovery while allowing each Party an opportunity, adequate in the sole judgment of the arbitrator, to discover relevant information from the other Party about the subject matter of the dispute. The arbitrator shall rule upon motions to compel or limit discovery and shall have the authority to impose sanctions, including attorneys' fees and costs, to the same extent as a court of competent law or equity, should the arbitrator determine that discovery was sought without substantial justification or that discovery was refused or objected to without substantial justification. The Arbitration award shall be rendered by the arbitrator no later than thirty (30) days after the close of the Arbitration hearing, shall be written, shall be in accordance with applicable Law and with this Agreement, and shall be supported by written findings of fact and conclusions of law which shall set forth the reasoned basis for the decision of the arbitrator. Notwithstanding the foregoing, the Parties specifically reserve the right to seek a temporary judicial restraining order, preliminary injunction, or other similar short term equitable relief in aid of arbitration (collectively, "***Judicial Relief***") from a court of law having competent jurisdiction, and grant the Arbitration tribunal the right to make a final determination of the Parties' rights, including whether to make permanent or dissolve such court order. Judgment upon the Arbitration award may also be entered in any court of competent jurisdiction. With respect to any action for Judicial Relief or concerning judgment upon any Arbitration award, the Parties hereby irrevocably consent to the non-exclusive jurisdiction of the state and federal courts located in San Francisco, California, and any appellate court with jurisdiction thereover, waive any objection to venue or personal jurisdiction in such court, and waive personal service of process; and the Parties agree that all such service of process may be made by delivery of registered mail directed to such Party at the address provided in Section 4.1 or by any other manner permitted by applicable Law. The Parties shall be entitled to seek judicial relief as to any disputes relating to this Agreement unless the Parties have mutually agreed to Arbitration, in which case court action shall be permitted only in case of Judicial Relief or concerning judgment upon an Arbitration award. .

Each party to any Arbitration proceeding subject to this Section 5.1, and the arbitrator, shall keep the existence and subject matter of the Dispute and any such proceedings confidential. Each Party shall bear its own expenses in the Arbitration and shall share equally the costs of the Arbitration.

(b) Consent to Jurisdiction.

UNLESS THE PARTIES AGREE TO ARBITRATION UNDER SECTION 5.1(a), WITH RESPECT TO ANY AND ALL ACTIONS OR PROCEEDINGS ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ANY OTHER TRANSACTION DOCUMENT, EACH PARTY HEREBY IRREVOCABLY CONSENTS TO THE EXCLUSIVE JURISDICTION OF THE STATE AND FEDERAL COURTS LOCATED IN SAN FRANCISCO, CALIFORNIA AND ANY APPELLATE COURT WITH JURISDICTION THEREOVER, AND FURTHER WAIVES ANY OBJECTION TO VENUE OR PERSONAL JURISDICTION IN SUCH COURT. THE AFOREMENTIONED CHOICE OF VENUE IS INTENDED BY THE PARTIES TO BE MANDATORY AND NOT PERMISSIVE IN NATURE, THEREBY PRECLUDING THE POSSIBILITY OF LITIGATION BETWEEN THE PARTIES WITH RESPECT TO OR ARISING OUT OF THIS AGREEMENT OR ANY OTHER TRANSACTION DOCUMENT IN ANY JURISDICTION OTHER THAN THAT SPECIFIED IN THIS SECTION 5.1. EACH PARTY WAIVES ANY RIGHT TO ASSERT THE DEFENSE OF FORUM NON CONVENIENS OR SIMILAR DOCTRINE. EACH PARTY FURTHER WAIVES PERSONAL SERVICE OF PROCESS IN ANY PROCEEDING BROUGHT IN ACCORDANCE WITH THIS SECTION 5.1 AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL, RETURN RECEIPT REQUESTED, POSTAGE PREPAID, DIRECTED TO SUCH PARTY AT ITS ADDRESS FOR THE GIVING OF NOTICES AS SET FORTH IN SECTION 5.1. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY PARTY TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW.

Section 5.2 Representations and Warranties. TID represents and warrants that:

(a) it is an irrigation district duly organized and validly existing under the laws of the State of California and has the power and authority to execute, deliver and carry out the terms and provisions of this Agreement;

(b) no authorization, approval, consent, or order of, or registration or filing with, any court or other governmental body having jurisdiction over TID is required on the part of TID for the execution and delivery of this Agreement; and

(c) this Agreement has been duly executed and delivered by TID and constitutes a valid and legally binding agreement of TID, provided, however, that the enforceability of this Agreement against TID are limited to the extent that the rights and obligations under the Indenture, the 2024 Bonds and the Power Purchase Agreement are subject to bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and similar laws affecting creditors' rights, to the application of equitable principles if equitable remedies are sought, to the exercise of judicial discretion in appropriate cases and to limitations on legal remedies against public agencies in the State of California.

Section 5.3 Entire Agreement. This Agreement shall supersede all previous oral and written and all contemporaneous oral negotiations, commitments and understandings and all other letters, memoranda or other documents or communications, whether oral, written or electronic, between the Parties hereto in connection with the negotiation and execution of this Agreement and with respect to the subject matter hereof.

Section 5.4 Expenses. Except as otherwise expressly provided in this Agreement, whether or not the transactions contemplated in the PSA are consummated, each Party will pay its own costs and expenses, in each case incurred in connection with the negotiation, and execution of this Agreement, and the performance of obligations and covenants contemplated hereby and thereby. In the event that any action, suit or other proceeding is instituted concerning or arising out of this Agreement or any transaction contemplated hereunder, each Party shall bear its own costs, expenses and attorneys' fees.

Section 5.5 Waiver. Any term or condition of this Agreement may be waived at any time by the Party that is entitled to the benefit thereof, but no such waiver shall be effective unless set forth in a written instrument duly executed by or on behalf of the Party waiving such term or condition and delivered pursuant to Section 4.1 of this Agreement. No waiver by any Party of any term or condition of this Agreement, in any one or more instances, shall be deemed to be or construed as a waiver of the same or any other term or condition of this Agreement on any future occasion. All remedies, either under this Agreement or by Law or otherwise afforded, will be cumulative and not alternative.

Section 5.6 Amendment; Assignment. This Agreement may be amended, supplemented or modified only by a written instrument duly executed by or on behalf of each Party. Neither Party may assign its rights or delegate its obligations under this Agreement in whole or part, without the prior written consent of the other Party, and any purported assignment or delegation absent such consent is void.

Section 5.7 Publicity. No party hereto may, directly or indirectly, disclose this Agreement or the terms hereof, other than to or as required by any regulatory agency, rating agency, or other Governmental Authority except with the permission of the other party hereto and then only as permitted by law. Notwithstanding the foregoing, **Washington Wind** acknowledges that TID is subject to certain disclosure obligations under the **CPRA** and the Ralph M. Brown Act, Cal. Govt. Code §§ 54950 *et. seq*. ("**Brown Act**"), as well as certain data sharing requirements imposed by NERC and WECC, therefore:

(a) If a third party requests Confidential information from TID under the CPRA , or if NERC or WECC request Confidential Information from TID, TID will notify Washington Wind of the existence, terms and circumstances surrounding the request and will discuss with Washington Wind the advisability of taking steps available under applicable Law to resist or narrow such request; provided, however, that after discussing the foregoing with Washington Wind, the TID may, in its sole discretion, determine what Confidential Information should be produced in response to any such requests and TID's production of this Confidential Information shall not constitute a violation of the confidentiality and nondisclosure requirements in this Section 5.7 or any other similar obligations set forth herein.

(b) If TID determines, in its sole discretion, that it must produce Confidential Information pursuant to the Brown Act, TID will notify Washington Wind of the existence, terms and circumstances surrounding the production of this Confidential Information before TID produces the Confidential Information. TID's production of Confidential Information under the Brown Act shall not constitute a violation of the confidentiality and nondisclosure requirements in this Section 5.7 or any other similar obligations set forth herein.

Section 5.8 Severability. Any provision of this Agreement that is invalid, illegal or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such invalidity, illegality, or unenforceability without affecting in any way the remaining provisions hereof in such jurisdiction or rendering that or any other provision of this Agreement invalid, illegal or unenforceable in any other jurisdiction. If any provision of this Agreement is or become invalid or unenforceable as a whole or in part, this Agreement will be reformed to come closest to the original intent and purpose of the Parties.

Section 5.9 No Strict Construction. Each of the Transaction Documents are the result of negotiations among, and have been reviewed by, the Parties and their respective counsel. Accordingly, the Transaction Documents shall be deemed to be the product of the Parties, and no ambiguity shall be construed in favor of or against any Party.

Section 5.10 Section Headings. The Section headings are for the convenience of the Parties and in no way alter, modify, amend, limit or restrict the contractual obligations of the Parties.

IN WITNESS WHEREOF, the Parties caused this Agreement to be executed by their respective duly authorized representatives as of the day and year above written.

TURLOCK IRRIGATION DISTRICT

By: ___________________________________ Date: ___________________________
Title

WASHINGTON WIND, LLC

By: ___________________________________ Date: ___________________________
Title