

VALLEY CLEAN ENERGY ALLIANCE

RESOLUTION NO. 2020-012

RESOLUTION OF THE BOARD OF DIRECTORS OF THE VALLEY CLEAN ENERGY ALLIANCE (VCE) APPROVING A POWER PURCHASE AGREEMENT WITH YOLO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT AND AUTHORIZING INTERIM GENERAL MANAGER IN CONSULTATION WITH LEGAL COUNSEL TO FINALIZE AND EXECUTE THE POWER PURCHASE AGREEMENT

WHEREAS, the Valley Clean Energy Alliance (“VCE”) is a joint powers agency established under the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.) (“Act”), and pursuant to a Joint Exercise of Powers Agreement Relating to and Creating the Valley Clean Energy Alliance between the County of Yolo (“County”), the City of Davis (“Davis”), the City of Woodland and the City of Winters (“Cities”) (the “JPA Agreement”), to collectively study, promote, develop, conduct, operate, and manage energy programs;

WHEREAS, on June 1, 2018, Valley Clean Energy (VCE) began receiving energy from the Indian Valley Hydro Facility through a power purchase agreement (PPA) between Sacramento Municipal Unified District (SMUD) and Yolo County Flood Control and Water Conservation District (YCFCWCD), to terminate May 31, 2020;

WHEREAS, the Indian Valley Hydro Facility is a three (3) Megawatt (MW) local renewable small hydroelectric facility located at the Indian Valley Reservoir in Lake County, California;

WHEREAS, a PPA was renegotiated to be directly between VCE and YCFCWCD effective June 1, 2020 expiring May 31, 2025.

NOW, THEREFORE, the Board of Directors of the Valley Clean Energy Alliance resolves as follows:

1. The Power Purchase Agreement (PPA) between VCE and YCFCWCD for approximately 3 MW local renewable small hydroelectric facility (Indian Valley Hydro Facility) is hereby approved.
2. The Interim General Manager is authorized to execute the PPA substantially in the form attached hereto on behalf of VCE, and in consultation with legal counsel, is authorized to approve minor changes to the PPA so long as the term and price are not changed.

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PASSED, APPROVED, AND ADOPTED, at a regular meeting of the Valley Clean Energy Alliance, held on the 14th day of May 2020, by the following vote:

AYES: SAYLOR, CARSON, STALLARD, COWAN, SANDY, FRIEDRICH, BARRAJAS, LOREN
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE



Don Saylor, VCE Chair



Alisa M. Lembke, VCE Board Secretary

Attachment A: Power Purchase Agreement with YCFCWCD (Redacted)

Attachment A

**Power Purchase Agreement with
Yolo County Flood Control and Water Conservation District
(Redacted)**

INDIAN VALLEY HYDRO PROJECT
SHORT TERM RENEWABLE POWER PURCHASE AGREEMENT
BETWEEN
VALLEY CLEAN ENERGY ALLIANCE

AND
YOLO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

This SHORT TERM RENEWABLE POWER PURCHASE AGREEMENT (the “**Agreement**”) is made and entered into on May 22, 2020 (the “**Effective Date**”) by and between Valley Clean Energy Alliance (“**Buyer**”), a California Joint Powers Authority, and Yolo County Flood Control and Water Conservation District (“**Seller**”), a California Special District. Buyer and Seller are sometimes referred to in this Agreement individually as a “**Party**” and collectively as the “**Parties.**”

RECITALS

A. Seller is a flood control and irrigation district in the business of providing water for agricultural irrigation customers within the county of Yolo, California.

B. Buyer is a community choice aggregator in the business of purchasing wholesale electric power supply for the customers within its service area.

C. Seller owns a 2.9 MW (net) renewable small hydroelectric generation facility that is a CEC Certified Eligible Renewable Energy Resource located at the dam on the Indian Valley reservoir in Lake County, which is interconnected to the CAISO Balancing Authority Area (the “**Project**”), is associated with Seller’s water supply operations, and which has an annual average Energy production of 6,445 MWhs.

D. Buyer wishes to purchase and secure a reliable short-term source of renewable power (Energy, Capacity Attributes, and Green Attributes) to fulfill a portion of its renewable energy and Capacity needs.

E. Seller desires to sell, and Buyer desires to purchase all Product (as defined herein) that is produced from the Project during the Term (as defined herein), in accordance with the terms and conditions of this Agreement.

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

1. DEFINITIONS

In addition to definitions of other terms appearing elsewhere in this Agreement, the following terms, when used herein, whether in the singular or in the plural, shall have the meanings specified:

- 1.1 “**Agreement**” shall have the meaning given to it in the preamble of this Agreement.
- 1.2 “**Attestation and Bill of Sale**” means documentation acceptable to Buyer which identifies the transfer of RECs from Seller to Buyer.
- 1.3 “**Business Day**” means any Monday through Friday, inclusive, but excluding Days that are observed as business holidays by either Party or that are NERC Holidays.
- 1.4 “**CAISO**” means the California Independent System Operator Corporation or its successor.
- 1.5 “**CAISO Balancing Authority Area**” means the system of transmission lines and associated facilities that is operated by the CAISO and for which the CAISO has operational control and responsibility for system reliability.
- 1.6 “**CAISO Revenue Meter**” means that meter used by the CAISO to determine the amount of Energy produced by the Project for which the CAISO shall give credit toward the delivery of any generation Schedules from the Project or toward payment for positive Imbalance Energy.
- 1.7 “**California RPS**” or “**California Renewable Portfolio Standard**” means the renewable energy program and policies established by California State Senate Bills 1038 (2002), 1078 (2002), 107 (2008), X-1 2 (2011), and 350 (2015), 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.
- 1.8 “**Compliance Showings**” means Buyer’s compliance with the Resource Adequacy obligations of the CPUC for an applicable Showing Month.
- 1.9 “**CPUC**” means the California Public Utilities Commission or its successor.
- 1.10 “**Capacity**” means the ability of a generator at any given time to produce Energy at a specified rate (“Real Power”) as measured in megawatts (“MW”) or kilowatts (“kW”), and any reporting rights associated with such.
- 1.11 “**Capacity Attributes**” means any current or future defined characteristic, certificate, tag, credit, or ancillary service attribute, whether general in nature or specific as to the location or any other attribute of the Project, intended to value any aspect of the Capacity of the Project to produce energy or ancillary services, including, but not limited to, any accounting construct so that the full output of the Project may be counted toward a Resource Adequacy

Capacity requirement or any other measure by an entity invested with the authority under federal or state law, to require Load Serving Entities to procure, resource adequacy or other such products. Capitalized terms used in this definition that are not otherwise defined in this Agreement shall have the meaning ascribed to them in the relevant CAISO tariff, as modified or amended from time to time.

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

1.13 “**CEC Certification**” or “**CEC Certified**” means that the CEC has certified that the Project is an ERR for purposes of the California Renewable Portfolio Standard and that Energy produced by the Project qualifies as generation from an ERR consistent with CEC standards and protocols.

1.14 “**CIRA Tool**” means the CAISO Customer Interface for Resource Adequacy.

1.15 “**DA PNode LMP**” means the Day-ahead LMP applicable to the PNode at the Delivery Point for the relevant hour. The Project PNode is INDIANV_7_B1.

1.16 “**Day**” means a period of twenty-four (24) consecutive hours beginning at 00:00 hours Pacific Prevailing Time on any calendar day and ending at 24:00 hours Pacific Prevailing Time (PPT) on the same calendar day.

1.17 “**Day Ahead**” means the twenty-four (24) hour time period prior to the Delivery Day.

1.18 “**Day Ahead Schedules**” means schedules placed and accepted by the CAISO in its Day Ahead Scheduling process (also known as the IFM).

1.19 “**Delivery-Day**” means any Day during which Energy is delivered or made available.

1.20 “**Delivery Point**” means the Project’s Pnode on the CAISO grid, INDIANV_7_B1.

1.21 “**Delivery Term**” has the meaning set forth in Section 2.1 of this Agreement.

1.22 “**Distribution Service**” means service provided by the Host Electric Utility that utilizes the Host Electric Utility’s Distribution System, either to deliver power to retail electric customers, or to transmit power from the Project to the Host Electric Utility’s high voltage Transmission System.

1.23 “**Distribution System**” means the relatively low voltage wires, transformers and related equipment generally used by an electric utility to deliver electric power to retail customers (as opposed to using it to move bulk quantities of power between different electric utilities or from large electric generators to a Distribution System).

1.24 “**Effective Date**” means the date set forth in the preamble of this Agreement.

1.25 “**Eligible Renewable Energy Resource**” or “**ERR**” has the meaning set forth in California Public Utilities Code Section 399.12 and California Public Resources Code Section 25471, as either code may be amended or supplemented from time to time.

1.26 “**Energy**” means the electrical energy generated by the Project and delivered to Buyer at the Delivery Point, with the voltage and quality required by the applicable transmission service provider and measured in megawatt hours (MWh) based on an integrated hour.

1.27 “**Energy Delivery**” means the Energy provided by Seller to Buyer, according to the scheduling protocols contained in Section 6 herein, quantified in MWhs.

1.28 “**FERC**” means the Federal Energy Regulatory Commission or any successor agency thereto.

1.29 “**Final Schedule(s)**” has the meaning set forth in Section 6.5 of this Agreement.

1.30 “**Forced Outage**” means any outage or reduction in the Capacity of the Project that is not due to a Planned Outage.

1.31 “**Force Majeure**” has the meaning set forth in Section 9.2.

1.32 “**Green Attributes**” means any and all credits, benefits, emissions reductions, environmental air quality credits, offsets, and allowances, howsoever entitled, directly attributable to the generation from the Project and its displacement of conventional energy generation, whether existing now or arising in the future. Green Attributes include but are not limited to: Renewable Energy Credits, as well as (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SO_x), nitrogen oxides (NO_x), 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 to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (3) the reporting rights to these avoided emissions such as Green Tag Reporting Rights and Renewable Energy Credits. Green Tags are accumulated on kWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of energy. Green Attributes do not include (i) any Energy, 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, grants, reductions, or non-GHG 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 Seller for the destruction of particular pre-existing pollutants or the promotion of local environmental or green benefits, or (iv) emission reduction credits encumbered, used or created by the Project for compliance with or sale under local, state, or federal operating and/or air quality permits or programs. If Seller receives any tradable Green Attributes or RECs based on the GHG reduction benefits attributed to its fuel usage for the Project, then it shall provide Buyer with at least enough Green Attributes to ensure that there are zero net emissions associated with the production of electricity from such facility, and further provide to Buyer any RECs or Green Attributes received in excess of zero net emissions. The term Green Attributes includes any other green credits or

benefits recognized in the future and attributable to Energy generated by the Project during the Term, unless otherwise excluded herein. Any Green Attributes provided under this Agreement shall be documented by Renewable Energy Credits, or any other needed future representation of the environmental benefits of the Project output, the monthly cumulative total of which shall be provided to Buyer by way of WREGIS, Seller's Renewable Energy Credit Attestation and Bill of Sale, or other required future attestations.

1.33 “**Green Tag Purchaser**” means Buyer or any entity to which Buyer sells the Green Tag Reporting Rights associated with this Agreement.

1.34 “**Green Tag Reporting Rights(s)**” means the right of a Green Tag Purchaser to report the ownership of accumulated Green Attributes 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.

1.35 “**Host Electric Utility**” means an electric utility that provides, at the general location of the Project, any of the following: electric transmission service, distribution service and/or retail electricity sales.

1.36 “**Hour Ahead**” means the period in any given day in advance of when Hour Ahead Schedules can be placed with the CAISO for any given trading hour.

1.37 “**Hour Ahead Schedule(s)**” means schedules placed with the CAISO in its Hour-Ahead Scheduling Process (HASP), the process conducted by the CAISO beginning at seventy-five (75) minutes prior to the trading hour.

1.38 “**IFM**” means the Integrated Forward Market as defined by the CAISO. This term is synonymous with “Day Ahead Market”. Prices from the IFM are called “Day Ahead” prices.

1.39 “**Imbalance Energy**” has the meaning given in the CAISO Tariff, but with regard to the Project, is the difference in the Final Schedule and the sum of the Day Ahead Schedule and Hour Ahead Schedule for the Project and which can be either positive (generation greater than Scheduled) or negative (generation less than Scheduled).

1.40 “**Interconnection Agreements**” means all (a) Small Generator Interconnection Agreements, (b) Distribution Service Agreements, (c) Transmission Service Agreements, (d) Participating Generator Agreements, and (e) Metering Service Agreements (as each are defined in the CAISO Tariff) necessary for Seller to operate the Project and Energy to the Delivery Point in compliance with this Agreement.

1.41 “**Interconnection Facilities**” means all facilities and equipment between the Project and the Delivery Point, including any modifications, additions or upgrades that are necessary to physically interconnect the Project to the Delivery Point.

1.42 “**Interest Rate**” means the daily federal funds rate as published by the Federal Reserve Bank of the United States of America.

1.43 “**Inter SC Transaction**” means a transaction between Scheduling Coordinators of Energy, Ancillary Services, or IFM Load Uplift Obligation in accordance with the CAISO Tariff.

1.44 “**Locational Marginal Price**” or “**LMP**” has the meaning given to it by the CAISO.

1.45 “**Monthly Energy Charge**” means the monthly payment obligation from Buyer to Seller to compensate Seller for all Energy, Capacity Attributes, and Green Attributes delivered by Seller pursuant to this Agreement.

1.46 “**MW**” means a unit of electricity measurement equal to 1,000 kilowatts.

1.47 “**NERC**” mean the North American Electric Reliability Corporation or any successor organization.

1.48 “**NERC Holiday**” means New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, and other holidays observed by NERC.

1.49 “**Net Qualifying Capacity**” or “**NQC**” has the meaning set forth in the Tariff.

1.50 “**Operating Reserves**” has the meaning given to it by the WECC.

1.51 “**Pacific Prevailing Time**” or “**PPT**” means the prevailing time of the Day in question in the pacific time zone (i.e., pacific standard time or pacific daylight time, as applicable).

1.52 “**Planned Outage**” means any outage causing reduction in Project Capacity that Seller plans for substantially in advance of when the outage is taken, such as periodic outages for regularly scheduled maintenance, major overhauls, and planned equipment replacement.

1.53 “**PNode**” means the Pricing Node (as defined in the CAISO Tariff).

1.54 “**Preschedule**” means an hourly Energy Schedule submitted during the applicable Prescheduling Day.

1.55 “**Prescheduling**” means the act of producing, or relating to the production of, a Preschedule.

1.56 “**Prescheduling Day**” means the Day accepted and established as the Prescheduling Day for delivering power in a particular subsequent Day in the WECC according to the most current WECC scheduling timelines.

1.57 “**Product**” means all of the Energy, Capacity Attributes, and Green Attributes and ancillary services produced by the Project during the Delivery Term and/or any reporting rights associated with any of the foregoing.

1.58 “**Project**” means the Indian Valley Hydro Project, FERC Project No. 4066, located on the Indian Valley Reservoir in Lake County, California at 4237 Access Road, Clearlake Oaks, CA 95423, from which the Energy, Capacity Attributes, and Green Attributes delivered hereunder

shall be generated and Scheduled as applicable. The Project is certified by the CEC as an Eligible Renewable Energy Resource as a small hydroelectric project, CEC Renewable Project No.60161A. The Project's WREGIS registration number is W607.

1.59 **“Prudent Electrical Practices”** means those practices, methods and acts that would be implemented and followed by prudent operators of electric energy generating facilities in the Western United States, similar to the Project, during the relevant time period, which practices, methods and acts, in the exercise of prudent and responsible professional judgment in the light of the facts known at the time the decision was made, could reasonably have been expected to accomplish the desired result consistent with good business practices, reliability, and safety. Seller acknowledges that the use of Prudent Electrical Practices by Seller does not exempt Seller from any obligations set forth in this Agreement. Prudent Electrical Practices include, at a minimum, those professionally responsible practices, methods and acts described in the preceding paragraph that comply with manufacturers' warranties, restrictions in this Agreement, and the requirements of governmental authorities, WECC standards, the CAISO and applicable laws.

1.60 **“Reactive Power”** means imaginary power which does not result in real work and which can be present in alternating current systems as a result of a component of the electrical current which is 90 degrees out of phase with the applicable electrical potential or voltage. Reactive Power can be measured in megavolt amperes reactive (“MVA_r”) or kilovolt amperes reactive (“kVA_r”).

1.61 **“Real Power”** means Energy produced at a specified rate and which can be measured in megawatts (“MW”) or kilowatts (“kW”).

1.62 **“Renewable Energy Credit”** or **“REC”** means a certificate of proof that one unit of electricity was generated by an Eligible Renewable Energy Resource, as defined in Decision 08-08-028 of the CPUC, or as defined by the CPUC or applicable California law. The REC shall represent all renewable, environmental, and Green Attributes associated with electricity production by an Eligible Renewable Energy Resource. RECs are accumulated on a MWh basis and one REC represents the Green Attributes made available by the generation of 1,000 kWh from the Project. For purposes of this Agreement, the term REC shall be synonymous with the term green tag, green ticket, tradable renewable certificates, WREGIS Certificate or any other term used to describe the documentation that evidences the renewable, environmental, and Green Attributes associated with electricity production by an Eligible Renewable Energy Resource.

1.63 **“REC Attestation and Bill of Sale”** means the forms through which Seller documents and makes certain declarations with respect to the monthly total of RECs transferred to Buyer under this Agreement.

1.64 **“REC Value”** means \$ [REDACTED] /MWh.

1.65 **“Resource Adequacy”** or **“RA”** means the procurement obligation of load serving entities, as such obligations are described in CPUC Decisions D.04-10-035 and D.05-10-042 and subsequent CPUC decisions addressing Resource Adequacy issues, as those obligations may be altered from time to time in the CPUC Resource Adequacy Rulemakings (R.) 04-04-003, R.05-12-013, R.08-01-025, R.09-10-032, R.10-04-012, R.11-10-023, R.14-10-010, and R.17-09-020 or

by any successor proceeding, and the Resource Adequacy supply obligations of generators provided in the CAISO Tariff, including Section 40 of such Tariff, taking into account any CPUC or CAISO process to establish or determine NQC.

1.66 “**Resource Adequacy Capacity**” has the meaning set forth in the Tariff.

1.67 “**Resource Adequacy Plan**” has the meaning set forth in the Tariff.

1.68 “**Revenue Meter**” means the revenue quality meter used by either the CAISO or applicable Host Electric Utility to measure the Energy at the Delivery Point, which is generated by the Project for settlement and billing purposes.

1.69 “**RPS-Certification**” means a finding by the CEC that the Project qualifies as an ERR for the purposes of the California RPS, and that all Energy produced by the Project qualifies as generation from an ERR, as is currently documented by WREGIS.

1.70 “**Schedule**” means any schedule for the delivery, production or use of Energy, Capacity, and/or transmission which complies with NERC scheduling (NERC tagging) requirements and the scheduling timelines specified in this Agreement, and if required for submission to the CAISO, meet the requirements for a CAISO Schedule.

1.71 “**Scheduled Energy**” means Energy intended for delivery, or to be, delivered, according to Scheduling Coordinator to Scheduling Coordinator procedures where the Schedule for such Energy was properly created using the applicable industry standard Scheduling practices and protocols.

1.72 “**Scheduling**” means the act of producing a Schedule.

1.73 “**Scheduling Coordinator**” or “**SC**” means an entity authorized to submit to the CAISO a balanced generation or demand schedule on behalf of one or more generators, and one or more end-user customers.

1.74 “**Scheduling Coordination Service**” means the performance of the duties of a Scheduling Coordinator on another entity’s behalf.

1.75 “**Showing Month**” means the calendar month of the Delivery Term that is the subject of the related Compliance Showing.

1.76 “**Site**” means the location of the Project.

1.77 “**Supply Plan**” has the meaning set forth in the Tariff.

1.78 “**Tariff**” means the CAISO Tariff as it may be amended from time to time.

1.79 “**Term**” has the meaning given to it in Section 2.1 of this Agreement.

1.80 “**Transmission Losses**” means (a) for Energy, any Energy lost in the transmission and/or transformation of either Energy or Reactive Power or otherwise made unavailable for useful

purposes at the Delivery Point, (b) for Real Power, any Real Power lost in the transmission and/or transformation of either Real Power or Reactive Power or otherwise made unavailable for useful purposes at the Delivery Point, (c) for Reactive Power, any Reactive Power lost in the transmission and/or transformation of either Real Power or Reactive Power or otherwise made unavailable for useful purposes at the Delivery Point, and (d) for Capacity and ancillary services, a reduction in the ability at any applicable time to provide Real Power, Reactive Power or Energy to the Delivery Point as a result of Transmission Losses as defined for Energy, Real Power and Reactive Power.

1.81 “**Transmission System**” means the relatively high voltage wires, transformers and related equipment owned (or controlled by) a particular electric utility (or grid operator) and generally used by that electric utility (or grid operator) to move bulk quantities of power between different electric utilities or from large electric generators to a utility's Distribution System (as opposed to using it to make final delivery of electric power to end-use retail customers).

1.82 “**WECC**” means the Western Electricity Coordinating Council or its successor.

1.83 “**Work**” means (a) work or operations performed by a Party or on a Party’s behalf, and (b) materials, parts or equipment furnished in connection with such work or, operations, including (i) warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of “a Party's work,” and (ii) the providing of or failure to provide warnings or instructions.

1.84 “**WREGIS**” means the Western Renewable Energy Generation Information System, or any successor renewable energy tracking system for implementing the California RPS.

1.85 “**WREGIS Certificate**” means the certificate created by the WREGIS system as such term is defined in the WREGIS account holder agreement, or successor agreement setting forth the terms and conditions of service by WREGIS.

2. TERM AND TERMINATION

2.1 Term and Termination. This Agreement shall govern Seller’s deliveries of Energy, Capacity Attributes, and Green Attributes from the Project to Buyer starting June 1, 2020 and extending through May 31, 2025 (the “**Delivery Term**”). This Agreement shall be effective on the Effective Date and shall remain effective throughout the Delivery Term unless terminated earlier pursuant to the terms herein (the “**Term**”); *provided*, however, that the Parties may mutually agree to extend the Delivery Term for an additional five (5) year period by providing at least six (6) months’ notice to each other prior to the expiration of the initial Delivery Term. Obligations remaining following expiration of the Delivery Term or an Early Termination Date, related to settlement and delivery of RECs, for settlement adjustments from the CAISO related to Energy delivered, and other covenants and conditions specified in this Agreement shall remain until satisfied.

2.2 Seller’s Termination Right. Seller shall have the right, but not the obligation, to terminate this Agreement without default or liability to Buyer upon sixty (60) Days written notice if Seller is able to participate in a CPUC-governed standard tariff or contract program that would provide Seller with compensation for Product in excess of the compensation provided to Seller

under this Agreement.

3. PURCHASE AND SALE OF PRODUCT

3.1 Purchase and Sale of Product. Seller shall sell and deliver, and Buyer shall purchase and receive, all of the Product generated by the Project during the Delivery Term pursuant to the terms of this Agreement. Seller shall deliver WREGIS Certificates in an amount equal to the Energy actually produced by the Project and delivered to Buyer at the Delivery Point. Seller shall supply Product only from the Project. Further, Seller shall supply Product from the Project whenever available consistent with Prudent Electrical Practices and shall use commercially reasonable efforts to maximize availability of the Project.

3.1.1 Renewable Generation. Seller shall generate all Energy sold to Buyer under this Agreement utilizing water supplied from Indian Valley Reservoir. Buyer shall not be obligated to purchase and pay Seller for any Energy that is not generated utilizing water supplied from Indian Valley Reservoir.

3.1.2 Delivery Point. All Energy sold to Buyer under this Agreement shall be delivered to Buyer at the Delivery Point, or at any other point(s) as the Parties may mutually agree in writing from time to time.

3.1.3 Energy Delivery. To the extent that transmission service is necessary for Seller to make required deliveries of Energy to the Delivery Point, Seller shall reserve and utilize, at its own expense, firm transmission service from the Project to the Delivery Point in the amount necessary for delivery of all Energy sold to Buyer under this Agreement. To the extent that transmission service is necessary for Buyer to take receipt of Energy as required at the Delivery Point, Buyer shall arrange and be responsible for transmission service from the Delivery Point. Title to and risk of loss associated with the Energy shall pass from Seller to Buyer at the Delivery Point, in accordance with the Scheduling procedures set forth in this Agreement.

3.1.4 Transmission Losses. Except as specifically stated otherwise, all Capacity and Energy amounts specified herein are amounts as provided at the Delivery Point, without additional reduction by Transmission Losses included by Seller in transmitting such products to the Delivery Point. Seller shall have considered such factors prior to specifying the amount of net Energy to be made available at the Delivery Point. All Schedules shall be for amounts to be delivered to Buyer or to be provided on Buyer's behalf at the Delivery Point.

3.1.5 Transmission and Distribution Service. Seller, at its sole cost, shall maintain generator Interconnection Agreements for the interconnection of the Project to the Host Electric Utility's Distribution System or Transmission System. If the Delivery Point is not at the high side of the substation interconnecting the Project to the Transmission System, then Seller shall be responsible, at Seller's sole cost, for maintaining firm contractual rights and Distribution Service to transmit the Energy to the Delivery Point.

3.2 Purchase and Sale of Green Attributes. Seller shall sell and deliver, and Buyer shall purchase and receive from Seller, all rights, title, and interest in all Green Attributes associated

with Energy produced by the Project and delivered to Buyer at the Delivery Point; *provided*, Buyer shall not be obligated to purchase or pay Seller for any Green Attributes associated with any amount of Energy that is not generated by water supplied from Indian Valley Reservoir. Seller's sale of Green Attributes shall be documented by WREGIS Certificates deposited into Buyer's WREGIS account. If other forms of attestation are requested by Buyer to confirm Buyer's ownership of Green Attributes generated by the Project, then Buyer shall provide Seller with such forms of attestations, and Seller shall provide such attestations thereafter. Seller agrees to sell and make all such Green Attributes available to Buyer to the fullest extent allowed by applicable law, in accordance with the terms of this Agreement. Seller warrants that all Green Attributes provided under this Agreement to Buyer shall be free and clear of all liens, security interests, claims and encumbrances.

3.2.1 Reporting of Ownership of Green Attributes. During the Term, Seller shall not report to any person or entity that the Green Attributes sold and conveyed hereunder to Buyer belong to anyone other than Buyer, and Buyer may report that such Green Attributes purchased hereunder belong to Buyer.

3.2.2 Evidence of Green Attributes. Seller shall cooperate with Buyer to register the Project with WREGIS. Seller's delivery of WREGIS Certificates to Buyer's WREGIS account shall be evidence of Seller's delivery of Green Attributes to Buyer. At Buyer's request, Seller shall provide evidence to Buyer, or to third parties, of Buyer's right, title, and interest in such Green Attributes.

3.2.2.1 Cost of Compliance with Green Attribute Reporting. Seller shall be responsible for complying, at its own expense, with any requirements imposed by WREGIS for the purpose of delivering and verifying Buyer's renewable energy purchases under this Agreement.

3.2.2.2 Use of WREGIS to Transfer Green Attributes. The Parties agree that Green Attributes, including any associated RECs, shall be created in WREGIS in the form of WREGIS Certificates. Seller shall, at its sole expense, take all actions and execute all documents or instruments necessary to register the Project within Buyer's WREGIS account so that all WREGIS Certificates associated with all Green Attributes corresponding to all Energy generated by the Project and delivered to Buyer hereunder are issued and tracked in accordance with the requirements of the California RPS and transferred pursuant to the WREGIS operating rules to Buyer. In the event that WREGIS Certificates do not transfer the full value of the Green Attributes purchased by Buyer pursuant to this Agreement, at Buyer's written request, Seller shall work with Buyer to develop a "REC Attestation and Bill of Sale" or additional documentation to effect the complete transfer of the Green Attributes purchased hereunder.

3.2.2.3 Buyer's WREGIS Account. Buyer shall be responsible for all expenses associated with (A) establishing and maintaining Buyer's WREGIS Account, and (B) subsequently transferring or retiring WREGIS Certificates.

3.2.2.4 If there is any deficit or surplus in RECs delivered to Buyer for a calendar month as compared to the Energy generated by the Project and delivered to Buyer hereunder for the same calendar month, other than for reasons due to the fact that RECs are created in whole MWhs, and not fractional MWhs, the Parties shall cooperate in good faith to cause

WREGIS to correct the error or omission resulting in the surplus or deficit (a “**WREGIS Certificate Modification**”). Any error or omission on the part of WREGIS does not relieve Seller of its obligation to provide all Green Attributes from the Project to Buyer. If a WREGIS Certificate Modification is required, Seller shall cooperate with Buyer to provide any supporting documentation pertaining to the WREGIS Certificate Modification.

3.2.2.5 Buyer shall make payment for a given month in accordance with this Agreement. If RECs created for a given month (approximately 90 days following a given month) are less than or greater than the Energy delivered for such month, then: (i) if there is an under delivery of RECs, Buyer shall receive a monetary credit or refund for Seller’s under delivery of RECs in an amount equal to the quantity of RECs that Seller failed to deliver multiplied by the REC Value, and (ii) if there is an over delivery of RECs, then Seller shall receive an additional payment equal to the quantity of excess RECs that Seller delivered multiplied by the REC Value.

3.2.2.6 If WREGIS changes its operating rules after the Effective Date or applies the WREGIS operating rules in a manner inconsistent with this Agreement after the Effective Date, then the Parties shall modify this Agreement in a timely manner as reasonably required to cause and enable RECs to be created in Buyer’s WREGIS Account in a quantity for each given calendar month that is equal to the Energy generated by the Project and delivered to Buyer at the Delivery Point in the same calendar month.

3.2.3 PCC-1 Classification. Seller warrants that the Energy bundled with the RECs from the Project meets the RPS compliance requirements for Portfolio Content Category 1 as set forth in the PUC Code 399.16(b)(1)(A) and CPUC Decision 11-12-052 as of the effective date of this Agreement.

3.2.4 CEC Certification. Seller shall maintain RPS-Certification throughout the Term of the Agreement.

4. CHARGES

4.1 Payments by Buyer. During the Delivery Term, Buyer shall pay Seller a Monthly Energy Charge for the amount of Energy delivered to the Delivery Point and reflected in the Final Schedules. The Monthly Energy Charge varies depending on the particular hours of delivery, as further specified below. For the purpose of calculating the Monthly Energy Charge, the Final Schedules shall be as measured by the Seller’s CAISO Revenue Meter at the Delivery Point adjusted for any Transmission Losses.

$$\text{Monthly Energy Charge} = (\text{On-Peak Final Schedules} \times \text{On-Peak Hours Energy Price}) + (\text{Off-Peak Final Schedules} \times \text{Off-Peak Hours Energy Price})$$

On-Peak Hours Energy Price: \$ [REDACTED]/MWh

Off-Peak Hours Energy Price: \$ [REDACTED]/MWh

On-Peak Hours	Off-Peak Hours
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HE 7 – 22 Monday through Saturday except NERC Holidays	All Other Hours (Includes all day on Sundays and NERC Holidays)
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4.2 CAISO and Transmission Provider Fees. All charges and costs imposed upon generators or incurred in delivering Energy to the Delivery Point, which may include Operating Reserves, transmission costs and charges, distribution service charges imposed by the Pacific Gas & Electric Company, and any costs or charges for Transmission Losses, marginal losses and congestion due to the difference in location between the Project and the Delivery Point, shall be borne by Seller.

4.3 Distribution and Interconnection Costs. Seller shall be responsible for all fees, costs, or charges associated with interconnection of the Project with the CAISO Balancing Authority Area or Host Electric Utility distribution system, including, without limitation, any special facilities charges and distribution service charges.

4.4 Imbalance Energy Charges. Seller shall be responsible for any CAISO Imbalance Energy charges and shall reimburse Buyer for any charges imposed on Buyer by CAISO that are incurred due to imbalances associated with the Project. Buyer shall be fully responsible for acts and omissions of Buyer’s SC and shall indemnify Seller for all CAISO Penalties, cost, charges and liabilities resulting from any acts, omissions, costs, charges and liabilities resulting from a failure of Buyer’s SC to comply with this Agreement or the Tariff.

5. RESOURCE ADEQUACY CAPACITY RIGHTS

5.1 Sale of Capacity Attributes. Buyer shall be entitled to all Capacity Attributes associated with the Project during the Delivery Term. The consideration for all such Capacity Attributes is included within the Monthly Energy Charge. During the Delivery Term, Seller shall not sell or attempt to sell the Capacity Attributes to any other Person except Buyer, and Seller shall not report to any person or entity that the Project’s Capacity Attributes belong to anyone other than Buyer.

5.2 At Buyer’s request, Seller shall cooperate with Buyer to: (i) execute such documents and instruments as may be reasonably required to effect recognition and transfer of the Capacity Attributes to Buyer; and (ii) cooperate reasonably with Buyer in order that Buyer may satisfy the Resource Adequacy requirements, if any, including: (A) assisting Buyer to register the Project with the CAISO so that the Capacity Attributes are able to be recognized and counted for Buyer’s Resource Adequacy purposes; (B) assisting Buyer in making such annual submissions to the CAISO associated with establishing the correct quantity of the Facility’s Capacity Attributes; (C) coordinating with Buyer on the submission to the CAISO of monthly Supply Plan submissions (or corrections), as required by the CAISO Tariff; and (D) cooperating with Buyer to provide the CAISO all necessary information for annual and other outage planning.

5.3 Seller shall deliver such additional documents, instruments, submissions and information as may be requested by Buyer in connection with Buyer’s purchase of Capacity Attributes; *provided*, that in responding to any such requests, Seller shall have no obligation to provide any consent, certification, representation, information or other document, or enter into any

agreement, that materially adversely affects, or could reasonably be expected to have or result in a material adverse effect on, any of Seller's rights, benefits, risks and/or obligations under this Agreement.

5.4 Seller shall cooperate with Buyer to deliver the Capacity Attributes by submitting the Project and its NQC to the CAISO in Seller's Supply Plan. The Capacity Attributes shall be deemed delivered and received when the CIRA Tool shows the Supply Plan accepted for the NQC from the Project by CAISO or Seller complies with Buyer's instruction to withhold all or part of the NQC from Seller's Supply Plan for any Showing Month during the Delivery Term but Seller otherwise delivers the amount of NQC that Buyer does not direct Seller to withhold. Seller has failed to deliver the Capacity Attributes if (i) Buyer has elected to submit the NQC from the Facility in its Resource Adequacy Plan and such submission is accepted by the CPUC and the CAISO but the Supply Plan and Resource Adequacy Plan are not matched in the CIRA Tool and are rejected by CAISO, or (ii) Seller fails to submit in its Supply Plan the volume of NQC for any Showing Month in such amount as instructed by Buyer for the applicable Showing Month. Seller will not have failed to deliver the Capacity Attributes if Buyer fails to submit or chooses not to submit the Facility and the NQC in its Resource Adequacy Plan with the CPUC or CAISO.

6. SCHEDULING OF ENERGY

6.1 General. The Parties agree that Scheduling hereunder shall follow the procedures established by the WECC and as set forth in this Agreement. Subject to the terms of this Agreement, if there are any differences between WECC procedures and the procedures set forth in this Section 6, this Section 6 shall control. Notwithstanding the foregoing, if the Scheduling provisions in this Section 6 cause Seller or Buyer to violate WECC standards or any terms of its agreements with the CAISO (including CAISO Tariff provisions), then the Parties shall promptly meet to resolve the issue, such that no violation occurs.

6.2 Scheduling Coordination Service. Throughout the Delivery Term, Buyer shall provide Scheduling Coordination Service with respect to the Project's Energy.

6.2.1 Daily Prescheduling. In accordance with this Section 6, Seller shall forecast Project output fourteen (14) Days ahead and submit such Schedule of hourly Project output via email to Buyer on a weekly basis. In advance of 5:00 a.m. each Prescheduling Day, Seller shall notify Buyer or Buyer's designee of any changes to the previously submitted Schedule on an exception basis, with the prior Schedule controlling if no changes are communicated. Seller shall make available and deliver Energy for each hour of the Preschedule so determined. Seller shall notify Buyer or Buyer's designee at the time of Prescheduling if Seller is prevented from making Capacity and Energy available for the Day being Prescheduled due to an unforeseen circumstance.

6.2.1.1 Buyer or Buyer's designee, acting as Seller's Scheduling Coordinator, shall self-schedule (bid in as a price-taker) the amounts specified in the email into the CAISO's IFM.

6.2.1.2 Buyer, as purchaser of Project output, may use the negative IFM uplift credit provided generators that self-schedule into the CAISO's IFM.

6.2.1.3 Once Energy is Scheduled pursuant to this Agreement, Seller shall deliver such Energy, subject to any hourly adjustments provided for pursuant to this Agreement.

6.2.2 Hour-Ahead Schedules. In accordance with this Section 6, if necessary to comply with applicable law, regulations or CAISO protocol, or to avoid financial penalties, Seller may request Delivery-Day changes to the Preschedule adopted under this Agreement to reflect any changes to the anticipated output of the Project. Seller is responsible for forecasting any Delivery-Day changes to Project output, and to provide any such Delivery-Day changes to Buyer or Buyer's designee via telephone.

6.2.2.1 Subject to notification at least thirty (30) minutes prior to the earlier of applicable CAISO and NERC scheduling deadlines, Buyer or Buyer's designee, acting as Seller's Scheduling Coordinator, shall implement such requests for Delivery-Day changes to the adopted Preschedule by placing revised self-schedules (bid in as a price-taker) into the hour-ahead market that reflect the changes to Project Energy, except in the event of hour-ahead market failures.

6.2.3 Intra-Hour Scheduling. Except as this Section 6.2.3 might be subsequently modified pursuant to the express provisions of this Agreement, Seller shall have no right to make intra-hour (i.e., after the close of the CAISO's hour-ahead market) Schedule changes.

6.2.4 Scheduling Coordination Pass-through of Charges. Buyer shall pass through to Seller any and all credits or charges from the CAISO directed to the generation owner at the generator PNode for the Project, unless otherwise indicated in this Agreement, including but not limited to:

6.2.4.1 Any charges for energy, congestion, and losses that Buyer receives from the CAISO due to hourly Imbalance Energy associated with Scheduling Energy from the Project;

6.2.4.2 Any charges, penalties, or fees imposed by the CAISO due to the difference between actual Project output and Scheduled Project output in any hour;

6.2.4.3 Any CAISO fees and charges normally assessed to generators, including Grid Management Charges (as such term is defined in the relevant CAISO tariff), and any other CAISO charges or fees which are related to Scheduling of Energy from the Project (including any that come into existence during the Term of this Agreement) but only to the extent that such charges, penalties, or fees are a direct result of CAISO rules as they are applied to the Project individually and not simply a pro rata share of Buyer's cumulative charges as a Scheduling Coordinator from the CAISO;

6.2.4.4 Any resettlements of past monthly bills implemented by the CAISO;

6.2.4.5 Any resettlements of past monthly bills which result from corrections made in response to the discovery of inaccurate meter data; provided however any

such cost shall not be passed through to the extent that such costs are a direct result of actions or inactions by Buyer or Buyer's designee performing as Seller's Scheduling Coordinator, that conflict with any directions explicitly provided by Seller; and

6.2.4.6 Any shortfall between the hourly DA PNode LMP times the hourly Final Schedule Energy values and the payments for Energy received from the CAISO for Day Ahead, Hour Ahead and Real Time energy deliveries. Buyer shall be entitled to receive the DA PNode LMP for Energy delivered to Buyer, including any DA PNode LMP adjustments made by the CAISO.

6.2.5 Timing of Pass-Through of Charges. The Parties acknowledge that due to the CAISO settlement timelines, the above-referenced CAISO fees and charges will not be passed through to Seller in the same month that they are incurred. Instead, Buyer shall pass through such fees and charges, as defined in Section 6.2.4, after it receives the settlement invoices from the CAISO.

6.2.6 CAISO Adjustments. Seller acknowledges that the CAISO may issue revised settlement statements that change the amount due from Seller for a previous month, and that Buyer will pass through any such charges or credits to Seller. Seller agrees that it is responsible for paying any such additional charges.

6.2.7 LIMITATION OF LIABILITY. THE BUYER SCHEDULING COORDINATION SERVICES ARE PROVIDED "AS IS" FOR USE IN AN ELECTRONIC TRADING ENVIRONMENT. BUYER DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS OR IMPLIED, RELATING TO BUYER SCHEDULING COORDINATION SERVICES. INCLUDING ALL WARRANTIES OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES ARISING FROM ANY CLAIMED COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OR TRADE PRACTICE. BUYER MAKES NO REPRESENTATIONS THAT THE BUYER SCHEDULING COORDINATION SERVICES WILL OPERATE WITHOUT INTERRUPTION OR BE ERROR FREE. ANY CLAIM ARISING FROM AN ALLEGATION OF BUYER'S NEGLIGENCE, OR FROM AN ALLEGATION OF BREACH OF CONTRACT BY BUYER THAT ARISE OUT OF OR RELATE TO BUYER'S PROVISION OF SCHEDULING COORDINATION SERVICE, SHALL BE SUBJECT TO THE FOLLOWING LIMITATIONS: (i) NO SUCH CLAIM MAY BE BROUGHT FOR BUYER ACTS OR FAILURES TO ACT OCCURING DURING THE FIRST SEVENTY-FIVE (75) DAYS OF THE AGREEMENT; AND (ii) BUYER'S MAXIMUM LIABILITY TO SELLER UNDER THIS AGREEMENT ARISING OUT OF OR RELATED TO BUYER'S PROVISION OF SCHEDULING COORDINATION SERVICE SHALL NOT EXCEED \$50,000 PER CALENDAR YEAR; AND (iii) ANY SUCH CLAIM MUST BE BROUGHT WITHIN SIX (6) MONTHS OF THE EVENT GIVING RISE TO THE CLAIM. IF ANY SUCH CLAIM IS NOT BROUGHT WITHIN SUCH SIX (6) MONTH PERIOD, THE RIGHT TO DO SO SHALL BE DEEMED WAIVED, IRRESPECTIVE OF ANY DIFFERENT TIME LIMIT SET FORTH IN ANY STATUTE OF LIMITATIONS THAT OTHERWISE WOULD APPLY. WITH RESPECT TO CLAIMS THAT ARE SUBJECT TO THE LIMITS SET FORTH IN THIS SECTION, SELLER ACKNOWLEDGES THAT IT MAY HAVE CLAIMS IN ANY GIVEN CALENDAR YEAR THAT INDIVIDUALLY OR

COLLECTIVELY INVOLVE MORE THAN \$50,000 AND SELLER EXPRESSLY WAIVES ITS RIGHT TO PURSUE ANY SUCH CLAIM TO THE EXTENT THAT IT EXCEEDS SUCH LIMITS.

6.2.8 Final Schedules. For purposes of calculating monthly settlements and billing, the metered MWh as measured by the Seller's CAISO Revenue Meter at the Delivery Point adjusted for any Transmission Losses shall be considered final schedules ("**Final Schedules**"). Any discrepancies regarding the Final Schedules shall be resolved by the Parties, in accordance with standard industry practice.

7. OPERATION AND PLANNING

7.1 Access to Meter Data. Seller shall grant Buyer the right and capability of querying the CAISO Revenue Meter. If querying the PG&E meter is required, Seller and Buyer shall cooperate to obtain data Buyer reasonably believes is necessary from PG&E.

7.2 Outages. Seller shall report accurate outage information to Buyer as the Scheduling Coordinator in a timely manner to comply with NERC and CAISO outage reporting requirements. Depending upon the outage type reporting shall be as follows:

7.2.1 Planned Outages. Seller shall notify Buyer using the contacts specified in Exhibit A for Planned Outages. Seller shall not schedule Planned Outages during the months of June to September that reduces the Capacity of the Project by more than ten percent (10%), unless (1) a Planned Outage is required to avoid damage to the Project, (2) a Planned Outage is necessary to maintain equipment warranties and cannot be scheduled outside the months of June through September, (3) a Planned Outage is required in accordance with Prudent Electrical Practices, or (4) the Parties agree otherwise in writing.

7.2.2 Forced Outages. Seller shall promptly provide to Buyer a verbal (telephone) report of any Forced Outage of the Project that will change, or has changed, the ability of the Project to generate Energy that has been scheduled with the CAISO. This report shall include the amount of the generation capability of the Project that will not be available because of the Forced Outage, any modifications needed to the hourly Energy scheduled with the CAISO during the period of the outage, the time at which the Forced Outage began, and the expected return date and time of such generation capability. Seller shall follow-up the verbal notice with a written Forced Outage notification, which shall include all of the above information and shall also include any update as necessary to advise Buyer of changed circumstances, within four (4) hours. Seller shall provide Buyer with updates on any changes to any of the Forced Outage information from the last, most recent update provided to Buyer, such as changes in Project Capacity expected Energy output, expected time of return to service, etc.

8. PERMITTING, STANDARD OF CARE, OPERATIONS

8.1 Permitting. Seller shall be responsible for obtaining and maintaining all permits and other governmental approvals for the ownership and operation of the Project. Buyer may cooperate in such permitting efforts to the extent reasonably requested by Seller.

8.2 Standard of Care. Seller shall pay the costs of and be responsible for operating and maintaining the Project in accordance with all applicable laws and regulations, and shall comply with all applicable WECC, CAISO, FERC and NERC requirements, and with Prudent Electrical Practices, including applicable interconnection and telemetering requirements set forth in the Interconnection Agreements and the Tariff. Seller shall ensure that: (a) operation and maintenance of the Project is conducted in a safe manner in accordance with the Interconnection Agreements and Prudent Electrical Practices; and (b) any governmental authorizations and permits required for the construction and operation thereof are maintained. Seller shall ensure that any necessary and commercially reasonable repairs are made with the intent of optimizing the availability of electricity to Buyer.

8.3 Operation of the Project. The Project shall be operated in accordance with Prudent Electrical Practices. Seller has an obligation to maximize availability of the Project in accordance with Prudent Electrical Practices. Seller may interrupt or reduce deliveries only due to Force Majeure, curtailment by the CAISO, or any interconnection or transmission service provider, Planned Outages, and Forced Outages. Seller shall take all reasonable measures in accordance with Prudent Electrical Practices to minimize the frequency and actual duration of Planned Outages. All Planned Outages shall be scheduled in advance.

8.4 Buyer Performance Excuse. Buyer shall not be obligated to accept or pay for Energy produced by the Project during a Force Majeure event that prevents Buyer's ability to accept Energy from the Project.

9. FORCE MAJEURE

9.1 Effect of Force Majeure. A Party shall not be considered to be in default in the performance of any of its obligations under this Agreement (other than the obligations of a Party to make payment of amounts due under this Agreement) when and to the extent such Party's performance is prevented by a Force Majeure that, despite the exercise of due diligence, such Party is unable to prevent or mitigate; provided the Party has given a written detailed description of the full particulars of the Force Majeure that are then known to the other Party reasonably promptly after becoming aware thereof (and in any event within fourteen (14) calendar days after the initial occurrence of the claimed Force Majeure) (the "**Force Majeure Notice**"), which notice shall include information with respect to the nature, cause and date and time of commencement of such event, and the anticipated scope and duration of the delay. The Party providing such notice shall be excused from fulfilling its obligations under this Agreement until such time as the Force Majeure has ceased to prevent performance or other remedial action is taken, at which time the Party shall promptly notify the other Party of the resumption of its obligations under this Agreement. In no event shall Buyer be obligated to compensate Seller or any other Person for any losses, expenses or liabilities that Seller or such other Person may sustain as a consequence of any Force Majeure.

9.2 Meaning of Force Majeure. The term "Force Majeure" means any act of God, labor disturbance, act of the public enemy or criminal activity, war, insurrection, riot, fire, storm or flood, earthquake, extreme or unusual weather events, explosion not caused by the affected Party, change in law or any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any similar event or occurrence (i) which prevents one Party

from performing any of its obligations under this Agreement, (ii) which could not reasonably be anticipated and avoided as of the date of this Agreement, (iii) which is not within the reasonable control of, or the result of negligence, willful misconduct, breach of contract, intentional act or omission or wrongdoing on the part of the affected Party (or any subcontractor or Affiliate of that Party, or any Person under the control of that Party or any of its subcontractors or Affiliates, or any Person for whose acts such Affiliate or subcontractor is responsible), and (iv) which by the exercise of due diligence the affected Party is unable to overcome or avoid or cause to be avoided; provided nothing in this clause (iv) shall be construed so as to require either Party to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or labor dispute in which it may be involved. Any Party rendered unable to fulfill any of its obligations by reason of a Force Majeure shall exercise reasonable efforts to remove such inability with reasonable dispatch within a reasonable time period and mitigate the effects of the Force Majeure. The relief from performance shall be of no greater scope and of no longer duration than is required by the Force Majeure. Without limiting the generality of the foregoing, a Force Majeure does not include any of the following (each an “**Unexcused Cause**”): (1) any requirement to meet a renewable portfolio standard or any change (whether voluntary or mandatory) in any renewable portfolio standard that may affect the value of the Energy purchased hereunder; (2) events arising from the failure by Seller to operate or maintain the Project in accordance with this Agreement, unless such failure was itself caused by an event of Force Majeure; (3) any increase of any kind in any cost; (4) delays in or inability of a Party to obtain financing or other economic hardship of any kind; (5) Seller’s ability to sell any Energy at a price in excess of that provided in this Agreement or Buyer’s ability to purchase any Energy at a price less than that provided in this Agreement; (6) failure of third parties to provide goods and services essential to a Party’s performance, unless such failure was itself caused by an event of Force Majeure; (7) Project or related equipment failure of any kind unless caused by a Force Majeure; (8) any changes in the financial condition of Buyer or Seller or any subcontractor or supplier affecting the affected Party’s ability to perform its obligations under this Agreement; (9) inability of Seller to obtain the necessary governmental approvals to operate the Project; or (10) a determination by either Party’s governing body.

9.3 Buyer Excuse. For purposes of this Agreement, a Force Majeure shall be deemed to excuse Buyer from receiving Energy at the Delivery Point if the Force Majeure is not related to the Project, is declared by Buyer, and prevents Buyer from receiving Energy from the Project.

9.4 Termination Due to Force Majeure Event. If based on a Force Majeure Notice, the unaffected Party reasonably concludes that a Force Majeure or its impact on the affected Party or the Project will continue for a period of at least seventy-five percent (75%) of the remaining term of the Agreement, the unaffected Party shall have the right to terminate this Agreement effective upon notice to the affected Party. Any termination of this Agreement in the circumstances described in this section shall be without prejudice to the rights and remedies of either Party for defaults occurring prior to such termination.

10. **EVENTS OF DEFAULT, TERMINATION AND REMEDIES**

10.1 Events of Default. An “Event of Default” shall mean, with respect to a Party (a “**Defaulting Party**”), the occurrence of any of the following:

10.1.1 The failure to make, when due, any payment required pursuant to this

Agreement if such failure is not remedied within five (5) Business Days after written notice;

10.1.2 Any representation or warranty made by such Party herein is false or misleading in any material respect when made, and such default shall not be cured within thirty (30) calendar days after written notice;

10.1.3 The failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default) if such failure shall not be cured within thirty (30) calendar days after written notice; *provided*, however, that if (i) such failure cannot be cured within such thirty (30) calendar day period, (ii) such failure is susceptible of cure within ninety (90) calendar days, (iii) the Defaulting Party is proceeding with diligence and in good faith to cure such failure, and (iv) the Defaulting Party shall have delivered notice to the Non-Defaulting Party describing the details of clauses (i), (ii) and (iii) above and periodic updates regarding its efforts to cure such failure, then such thirty (30) calendar day cure period shall be extended to such date, not to exceed a total of ninety (90) calendar days, as shall be necessary to cure such failure; or

10.1.4 The initiation of an involuntary proceeding against such Party under the bankruptcy, insolvency, or dissolution laws, which involuntary proceeding remains undismissed for ninety (90) calendar days, or in the event of the initiation by such Party of a voluntary proceeding under the bankruptcy, insolvency, or dissolution laws.

10.2 An “Event of Default” shall also include, with respect to Seller, the occurrence of any of the following:

10.2.1 Seller has not sold or delivered any Energy from the Project to Buyer for a period of three hundred and sixty-five (365) consecutive Days.

10.2.2 Seller’s failure to maintain RPS Certification for the Project, if such failure is not cured within thirty (30) Days after written notice; provided that during any period where Seller has not maintained RPS Certification for the Project, whether before or after written notice, Buyer shall not be obligated to purchase any Energy and Green Attributes from Seller hereunder, but Seller may sell such Energy and Green Attributes to third parties.

10.3 Declaration of an Event of Default. If an Event of Default has occurred and is continuing, the other Party (“**Non-Defaulting Party**”) shall have the right to: (a) send notice, designating a day, no earlier than five (5) calendar days after such notice is deemed to be received and no later than twenty (20) calendar days after such notice is deemed to be received, as an early termination date of this Agreement (“**Early Termination Date**”) unless the Parties have agreed to resolve the circumstances giving rise to the Event of Default; (b) accelerate all amounts owing between the Parties; and (c) terminate this Agreement and end the Delivery Term effective as of the Early Termination Date. For all claims, causes of action and damages with respect to an Event of Default, in addition to the right to terminate this Agreement, the Non-Defaulting Party shall be entitled to recover actual damages allowed by law unless otherwise limited by this Agreement. Neither the enumeration of Events of Default in Section 10.1 or 10.2, nor the termination of this Agreement by a Non-Defaulting Party, shall limit the right of a Non-Defaulting Party to rights and remedies available at law, including claims for breach of contract or failure to perform by the other

Party and for direct damages incurred by the Non-Defaulting Party as a result of the termination of this Agreement, subject in each case to any limitations in this Agreement.

10.4 Termination Payment Calculation. If an Event of Default occurs, ultimately resulting in termination of the Agreement, a Termination Payment shall be determined in accordance with this Section 10.4.

10.4.1 The “**Termination Payment**” payable by the Defaulting Party to the Non-Defaulting Party shall equal: (i) Non-Defaulting Party’s Loss as calculated under Section 10.4.1.1 below and discounted to present value as set forth under Section 10.4.1.2 below; plus (ii) Non-Defaulting Party’s Cost as calculated under Section 10.4.1.3 below; which will then be aggregated with any amounts owed to the Non-Defaulting Party as of the Early Termination Date and any set-offs to which Defaulting Party is entitled as set forth under Section 10.4.1.4 below. If the Termination Payment as so calculated would be less than zero, it shall be deemed to be zero.

10.4.1.1 The Parties intend that Non-Defaulting Party’s Loss shall be the economic loss (exclusive of Costs), if any, resulting from the termination of the Agreement, determined in a commercially reasonable manner as calculated in accordance with this Section 10.4 (“**Loss**”). The Loss, if any, suffered by Non-Defaulting Party shall be determined by comparing the estimated value of Monthly Energy Charges for the remainder of the Delivery Term had the Agreement not been terminated to the market cost of procuring California RPS PCC 1 bundled renewable energy and RECs and associated Capacity of a similar quality and quantity in the geographical location closest in proximity to the Delivery Point for the remainder of the Delivery Term (“**Replacement Cost**”). The Replacement Cost shall be determined by averaging four reasonably priced quotes, two of which shall be obtained by Buyer and two of which shall be obtained by Seller. If either Party fails to provide two quotes, then the average of the other Party’s two quotes shall determine the Replacement Cost. For clarity, if Buyer is the Non-Defaulting Party, the Non-Defaulting Party’s Loss equals the amount by which the Replacement Cost exceeds the estimated value of Monthly Energy Charges for the remainder of the Delivery Term. If Seller is the Non-Defaulting Party, the Non-Defaulting Party’s Loss equals the amount by which the estimated value of Monthly Energy Charges for the remainder of the Delivery Term hereunder exceeds the Replacement Cost, less the expenses saved by Seller due to Buyer’s default, which includes, but is not limited to, the cost of production of the Energy, Capacity Attributes, and Green Attributes. To ascertain the Replacement Cost, the Non-Defaulting Party may consider, among other valuations, quotations from leading dealers in renewable contracts, and other bona fide third-party offers, all adjusted for the length of the remaining Term and differences in transmission. It is expressly agreed that Non-Defaulting Party shall not be required to enter into replacement transactions in order to determine the Termination Payment.

10.4.1.2 The Loss calculated under Section 10.4.1.1 shall be discounted to present value using the present value rate of six percent (6%) as of the time of termination (to take into account the period between the time notice of termination was effective and when such amount would have otherwise been due pursuant to this Agreement).

10.4.1.3 Non-Defaulting Party’s Costs shall be calculated as the sum of the brokerage fees, commissions and other similar transaction costs and expenses reasonably incurred in terminating and replacing the Agreement, including, reasonable transmission costs

associated with any replacement contract, and reasonable attorneys' fees, if any, incurred in connection with Non-Defaulting Party enforcing its rights with regard to the Agreement. Non-Defaulting shall use reasonable efforts to mitigate or eliminate Costs.

10.4.1.4 Non-Defaulting Party shall add any amounts owed by the Defaulting Party to the Non-Defaulting Party as of the Early Termination Date to, and shall set-off any amounts owing by the Non-Defaulting Party as of the Early Termination Date, against the Termination Payment so that all such amounts are aggregated and/or netted to a single amount. The net amount due shall be paid within thirty (30) Days following the effective date of termination, or, if the Parties disagree regarding the calculation of the Termination Payment, the date that the Parties agree on the Termination Payment pursuant to Section 10.4.2 below.

10.4.1.5 In no event, however, shall the calculation of Loss or Costs include any penalties or similar charges imposed by the Non-Defaulting Party.

10.4.2 If the Defaulting Party reasonably disagrees with the calculation of the Termination Payment and the Parties cannot otherwise resolve their differences, the calculation issue shall be resolved in accordance with Section 15 of this Agreement.

11. BILLING AND PAYMENTS

11.1 General. Billing and payment for the Energy, Capacity Attributes, and Green Attributes sold and purchased under this Agreement and any other amounts due and payable hereunder shall be as set forth in this Agreement, including in Section 11.

11.2 Invoices.

11.2.1 Amounts Owed by Buyer. Within ten (10) Days of the close of each month of the Delivery Term, Buyer shall prepare and electronically forward to Seller, at the address set forth on Exhibit A, an invoice that shows the Monthly Energy Charge as calculated in accordance with Section 4.1. Seller shall have twenty (10) Days to dispute the invoice. Buyer shall pay the undisputed amount of each invoice within thirty (30) Days of Buyer's delivery of each invoice to Seller. When the due date falls on a Day which is not a Business Day the payment shall be due the following Business Day.

11.2.2 Amounts Owed to Buyer. The invoice shall set forth, as applicable, any fees and charges due and owing to Buyer pursuant to this Agreement, which include, but are not limited to, any charges that are passed through from the CAISO per this Agreement.

11.3 Form of Invoice. The Parties shall include in each invoice sufficient detail to allow the other Party to verify the charges. The Parties shall send any required invoice related communication under this Agreement to the addresses set forth in Exhibit A.

11.4 Method of Payment.

11.4.1 Payments to Seller. Buyer shall pay to Seller, by wire transfer of immediately available funds (or electronically through the Automated Clearinghouse (ACH) to the account specified in Exhibit A.

11.4.2 Payments to Buyer. In the event that the amount owed to Buyer by Seller for any month exceeds the amount owed by Buyer to Seller, Seller shall pay to Buyer, by wire transfer of immediately available funds to the account specified in Exhibit A. If an amount is due to Buyer, then Buyer will issue an invoice to Seller. Seller will pay the invoice within ten (10) Days of receipt of such invoice or on the last Business Day of the month, whichever is later. When the due date falls on a Day which is not a Business Day the payment shall be due the following Business Day.

11.5 Disputed Settlement Statements. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to any invoice, rendered under this Agreement or adjust any invoice for any arithmetic, computational, meter data or other error within three (3) months of the date of the invoice, or the date the adjustment to an invoice was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed at the time payment is due, payment of the disputed portion of the invoice shall be required to be made when due, with notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Upon resolution of the dispute, any required reimbursement shall be made within seven (7) Business Days of such resolution along with interest accrued at the Interest Rate from and including the date paid.

11.6 Interest on Past Due Amounts. Late payments shall bear interest accrued at the Interest Rate from the date due until paid.

12. AUDIT RIGHTS

Seller and Buyer shall each have the right to audit and examine any relevant information to the extent necessary to verify the accuracy of any invoice, charge, or computation provided for in this Agreement (including the accuracy and supporting documentation for the delivery of Green Attributes and Capacity Attributes under this Agreement). Any such audit shall be performed at the expense of the Party conducting the audit and shall be undertaken by such Party or its representatives at its sole expense and during normal working hours and in conformance with generally accepted auditing standards. The right of any Party to audit shall continue for a period of one (1) year following receipt of any invoice or, if applicable, REC Attestation and Bill of Sale, which right shall be exercised by a Party delivering written notice to the other Party on or before the close of said one (1) year period that such Party has elected to conduct an audit. All audits shall be performed as soon as reasonably possible after delivery of the written notice that an audit will be conducted. The failure of a Party to timely deliver notice within said one (1) year period shall result in a conclusive and irrefutable presumption that the invoice or, if applicable, REC Attestation and Bill of Sale in question was correct. Each Party shall retain all records and documentation necessary for verification of all invoices, Green Attributes, Capacity Attributes, and payments required by this Agreement for the one (1) year period allowed for the giving of notice that an audit will be conducted, and for so long thereafter as necessary to complete any then ongoing audit process and finally resolve any disputes.

13. NOTICES

13.1 General. Except as specifically provided below, any notice or notification required,

permitted or contemplated hereunder shall be in writing, shall be addressed to the Party to be notified at the address set forth in Exhibit A or at such other address as a Party may designate for itself from time to time by notice hereunder, and shall be deemed to have been validly served, given or delivered: (i) five (5) Business Days following deposit in the United States mail, with proper first class postage prepaid; (ii) the next Business Day after such notice was delivered to a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement, satisfactory with such carrier, made for the payment of such fees; or, (iii) upon receipt of notice given by personal delivery.

13.2 Forced Outage Notices. Notices of Forced Outage or other outage notifications made by Seller pursuant to this Agreement shall be made verbally to the appropriate Party at the phone number specified in Exhibit A, followed by written notice via e-mail to the addressee listed in Exhibit A. For events affecting only Delivery-Days not yet Prescheduled, verbal and e-mail notices shall be directed to the Buyer Prescheduling Contacts listed in Exhibit A. For all other events, verbal and e-mail notices shall be directed to the Buyer Real-Time Scheduling Contacts listed in Exhibit A. Notice will be effective at the time verbally given. A Party may change its contact person(s) or contact information specified in Exhibit A by giving notice of the change to the other Party.

14. LIMITATION OF LIABILITY AND INDEMNITY

14.1 LIMITATION OF LIABILITY. NEITHER PARTY HEREUNDER SHALL BE LIABLE FOR SPECIAL, INCIDENTAL, EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES, WHETHER BASED ON CONTRACT OR TORT (INCLUDING SUCH PARTY'S OWN NEGLIGENCE) AND INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, LOSS OF USE OF THE EQUIPMENT OR ANY ASSOCIATED EQUIPMENT, COST OF CAPITAL, COST OF PURCHASED POWER, COST OF SUBSTITUTE EQUIPMENT, FACILITIES OR SERVICES, DOWNTIME COSTS, OR CLAIMS OF CUSTOMERS OF SELLER OR OF BUYER FOR SUCH DAMAGES. THIS PROVISION IS NOT INTENDED TO LIMIT THE RIGHT OF EITHER PARTY TO OBTAIN COVER DAMAGES FOR BREACH OF THIS AGREEMENT.

14.2 Indemnities.

14.2.1 Indemnity by Seller. Seller shall release, indemnify and hold harmless Buyer, its directors, officers, agents, and representatives against and from any and all loss, claims, actions or suits, including reasonable costs and reasonable attorney's fees, resulting from, or arising out of or in any way connected with (i) the Product delivered under this Agreement to and at the Delivery Point; (ii) Seller's operation and/or maintenance of the Project; or (iii) Seller's actions or inactions with respect to this Agreement, including, without limitation any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to, or death of, persons, or for damage to or destruction of property belonging to Buyer, Seller, or others, excepting only such loss, claim, action or suit as may be caused solely by the willful misconduct or gross negligence of Buyer, its agents, employees, directors or officers.

14.2.2 Indemnity by Buyer. Buyer shall release, indemnify and hold harmless Seller, its directors, officers, agents, and representatives against and from any and all loss, claims,

actions or suits, including costs and attorney's fees resulting from, or arising out of or in any way connected with the Product delivered by Seller under this Agreement after the Delivery Point, or Buyer's actions or inactions with respect to this Agreement, including, without limitation any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to, or death of, persons, or for damage to or destruction of property belonging to Buyer, Seller, or others, excepting only such loss, claim, action or suit as may be caused solely by the willful misconduct or gross negligence of Seller, its agents, employees, directors or officers.

15. DISPUTE RESOLUTION

15.1 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.

15.2 In the event of any dispute arising under the PPA, within ten (10) Days following the receipt of a written notice from either Party identifying such dispute, the authorized members of the Parties' senior management shall meet, negotiate and attempt, in good faith, to resolve the dispute quickly, informally and inexpensively. If the Parties are unable to resolve a dispute arising hereunder within thirty (30) Days of initiating such discussions, the parties shall submit the dispute to mediation prior to seeking any and all remedies available to it at Law in or equity. The venue shall be the Superior Court in Sacramento County. Each Party shall pay and be responsible for their own attorney fees.

16. REPRESENTATIONS, COVENANTS, AND WARRANTIES

16.1 Seller's Representations and Warranties. Seller represents and warrants as follows:

16.1.1 Seller is duly organized and validly existing and in good standing under the laws of the State of California.

16.1.2 Seller has the requisite power and authority to enter into this Agreement and to perform according to the terms hereof.

16.1.3 Seller's management has taken all actions required to authorize the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby.

16.1.4 This Agreement is a valid and legally binding obligation of Seller, enforceable against Seller in accordance with its terms (except as the enforceability of this Agreement may be limited by bankruptcy, insolvency, bank moratorium or similar laws affecting creditors' rights generally and laws restricting the availability of equitable remedies and except as the enforceability of this Agreement may be subject to general principles of equity, whether or not such enforceability is considered in a proceeding at equity or in law).

16.1.5 As of the first date of the Delivery Term (i) the Project qualifies and is certified by the CEC as an Eligible Renewable Energy Resource; and (ii) the Project's output delivered to Buyer qualifies under the requirements of the California Renewable Portfolio

Standard.

16.1.6 The Project meets the criteria of a renewable electricity generation facility as defined in Chapter 8.6 of Division 15 of the California Public Resources Code and as specified by guidelines adopted thereunder, and the Project is not a hybrid system.

16.2 Buyer Representations and Warranties. Buyer represents and warrants as follows:

16.2.1 Buyer is duly organized, validly existing and in good standing under the laws of the State of California.

16.2.2 Buyer has the requisite corporate power and authority to enter into this Agreement and to perform according to the terms hereof.

16.2.3 The execution and delivery of this Agreement does not contravene any provision of, or constitute a default under, any indenture, mortgage, or other material agreement binding on Buyer or any valid order of any court, or any regulatory agency or other body having authority to which Buyer is subject.

16.2.4 This Agreement is a valid and legally binding obligation of Buyer, enforceable against Buyer in accordance with its terms (except as the enforceability of this Agreement may be limited by bankruptcy, insolvency, bank. moratorium or similar laws affecting creditors' rights generally and laws restricting the availability of equitable remedies and except as the enforceability of this Agreement may be subject to general principles of equity, whether or not such enforceability is considered in a proceeding at equity or in law).

17. CONGESTION HEDGING RIGHTS

Seller shall attest to any authorities, as necessary, as to Buyer's exclusive rights to the Product from the Project, as necessary for Scheduling, transmission service applications, congestion management purposes, or marginal losses management purposes.

18. ASSIGNMENT

Neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld; provided, however, that notwithstanding the foregoing, Buyer, without the consent of Seller (and without relieving itself from liability hereunder), may transfer, sell, pledge, encumber, or assign this Agreement or the accounts, revenues or proceeds hereof to a successor entity. Seller shall pay Buyer's out of pocket expenses, including reasonable attorneys' fees, incurred to provide consents, estoppels, or other required documentation in connection with Seller's financing for the Facility. Buyer will have no obligation to provide any consent, or enter into any agreement, that materially and adversely affects any of Buyer's rights, benefits, risks or obligations under the Agreement. Any direct or indirect change of control of Seller (whether voluntary or by operation of law) will be deemed an assignment and will require the prior written consent of Buyer, which shall not be unreasonably withheld.

19. MISCELLANEOUS

19.1 Partial Invalidity and Severability. The invalidity, in whole or in part, of any of the articles, sections or paragraphs of this Agreement will not affect the validity of the remainder or such articles, sections or paragraphs. Should any provision of this Agreement be held illegal, such illegality shall not invalidate the whole of this Agreement; instead, the Parties shall use their best efforts to reform the Agreement in order to give effect to the original intent of the Parties and to maintain the balance of the equities of the transaction contemplated by this Agreement in all material respects.

19.2 Amendment. No modification, amendment, or other change to this Agreement will be effective unless consented to in writing by each of the Parties.

19.3 Waiver. Failure, delay or forbearance by any Party to exercise any of its rights or remedies under this Agreement shall not constitute a waiver of such rights or remedies. No Party shall be deemed to have waived or forborne any right or remedy resulting from such failure to perform unless it has made such waiver specifically in writing and signed by an authorized officer of such Party.

19.4 Counterparts. This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall be deemed one and the same Agreement. Electronic signatures shall have the same effect as original signatures.

19.5 Mutual Cooperation. The Parties shall do and shall perform all such acts and things and shall execute all such deeds, documents and writings and shall give all such further assurances as may be necessary to carry out the intent of this Agreement. In particular, if any governmental or administrative approval, permit, order or other authorization shall be necessary relative to any provision of this Agreement or any transaction contemplated by this Agreement, then each Party shall use all commercially reasonable efforts to assist in the obtaining of such approval, permit, order or other authorization.

19.6 No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement, and this Agreement shall not impart any rights enforceable by any Person that is not a Party.

19.7 Headings. The various headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of the provisions.

19.8 Interpretation: Drafting Construction. Whenever the singular or masculine or neuter is used in this Agreement, the same shall be construed as meaning the plural or feminine or body politic or corporate and vice versa, as the context so requires. Whenever the words "include(s)" or "including" are used in this Agreement, they should be interpreted to mean include(s) or including, but not limited to. Because both Parties have participated in the drafting of this Agreement, the rule of contract construction that resolves ambiguities against the drafter shall not apply.

19.9 Entire Agreement. This Agreement (including the attached Exhibit, which is incorporated by this reference) and all amendments to this Agreement contain the complete

agreement between Seller and Buyer with respect to the matters contained in this Agreement and supersede all other agreements, whether written or oral, with respect to the matters contained in this Agreement.

19.10 Applicable Law. The validity, interpretation and effect of this Agreement shall be governed exclusively by the laws of the State of California, without reference to any of its laws that would direct the application of the laws of a different jurisdiction.

19.11 No Dedication of Facilities. Any undertaking by one Party to another Party under any provision of this Agreement shall not constitute the dedication of the electric system, electric generation facilities, or any portion thereof of the undertaking Party to the public or to the other Party, and it is understood and agreed that any such undertaking under any provision of this Agreement by a Party shall cease upon the termination of such Party's obligations under this Agreement.

19.12 Greenhouse Gas Liability. Seller acknowledges and accepts any and all greenhouse gas liability and costs resulting from federal, state, regional, or local legislation or government rules requiring the Parties to pay taxes or obtain GHG emissions allowances or other rights to emit greenhouse gas (a) for the generation, delivery or sale of (or receipt and purchase of) Energy at the Delivery Point pursuant to this Agreement.

19.13 No Recourse to Buyer's Members. Seller hereby acknowledges that Buyer is organized as a Joint Powers Authority in accordance with the Joint Powers Act of the State of California (Government Code Section 6500 *et seq.*) pursuant to an agreement executed by the Cities of Davis and Woodland, and the County of Yolo (the "**Joint Power Agreement**"), that Buyer is a public entity separate from its members, and that under the Joint Powers Agreement the members have no liability for any obligations or liabilities of Buyer. The Parties shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement, and the Parties agree that they shall have no rights against, and shall not make any claim, take any actions or assert any remedies against, any of Buyer's members, any cities or counties participating in Buyer's community choice aggregation program, or any of Buyer's retail customers in connection with this Agreement.

(This area is intentionally blank)

IN WITNESS WHEREOF, representatives of the Parties have executed this Agreement on the date set forth below, causing this Agreement to be effective as of the Effective Date:

Yolo County Flood Control and Water Conservation District

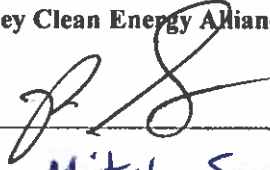
By: 

Name: Tim O'Halloran

Title: General Manager

Date: 5-8-2020

Valley Clean Energy Alliance

By: 

Name: Mitch Sears

Title: Interim General Manager

Date: 5/22/2020

**EXHIBIT A
NOTICES**

YOLO COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT ("Seller")	VALLEY CLEAN ENERGY ALLIANCE ("Buyer")
All Notices: Street: [REDACTED] City: [REDACTED] Attn: [REDACTED] Phone: [REDACTED] Email: [REDACTED]	All Notices: Street: [REDACTED] City: [REDACTED] Attn: [REDACTED] Phone: [REDACTED] Email: [REDACTED]
Reference Numbers: Duns: [REDACTED] Federal Tax ID Number: [REDACTED]	Reference Numbers: Duns: [REDACTED] Federal Tax ID Number: [REDACTED]
Invoices: Attn: [REDACTED] Phone: [REDACTED] E-mail: [REDACTED]	Invoices: Attn: [REDACTED] Phone: [REDACTED] E-mail: [REDACTED]
Scheduling: Attn: [REDACTED] Phone: [REDACTED] Email: [REDACTED]	Scheduling: Attn: [REDACTED] Phone: [REDACTED] Email: [REDACTED]
Confirmations: Attn: [REDACTED] Phone: [REDACTED] Email: [REDACTED]	Confirmations: Attn: [REDACTED] Phone: [REDACTED] Email: [REDACTED]
Payments: Attn: [REDACTED] Phone: [REDACTED] E-mail: [REDACTED]	Payments: Attn: [REDACTED] Phone: [REDACTED] E-mail: [REDACTED]
Wire Transfer: BNK: [REDACTED] ABA: [REDACTED] ACCT: [REDACTED]	Wire Transfer: BNK: [REDACTED] ABA: [REDACTED] ACCT: [REDACTED]