

Board Energy Resources & Customer Services Committee Meeting and Special SMUD Board of Directors Meeting

Date: Wednesday, August 18, 2021

Time: Scheduled to begin at 5:30 p.m.

Location: Virtual Meeting (online)

Powering forward. Together.



AGENDA BOARD ENERGY RESOURCES & CUSTOMER SERVICES COMMITTEE MEETING AND SPECIAL SMUD BOARD OF DIRECTORS MEETING

Wednesday, August 18, 2021

Scheduled to begin at 5:30 p.m.

Zoom Webinar Link: [Join Energy Resources & Customer Services Committee Meeting Here](#)

Webinar ID: 160 457 9621

Password: 104764

Phone Dial-in Number: 1-669-254-5252

In accordance with the Governor's Executive Order N-29-20 and the Emergency Board Meeting Procedures adopted by the SMUD Board of Directors, the regular Board meeting and other public meetings are closed to the public to align with state, local, and federal guidelines and social distancing recommendations for the containment of the coronavirus.

Live video streams and indexed archives of meetings are available at:

http://smud.granicus.com/ViewPublisher.php?view_id=16

Members of the public may register to provide verbal comments at an upcoming Board or Committee meeting by emailing a request to speak to PublicComment@smud.org. Please include the date of the meeting, name, and topic or agenda item the requestor wishes to speak on. The request may also be submitted while the meeting is in progress during the standard time for the agenda item or topic. **Pre-registration is strongly encouraged by no later than 3:00 p.m. on the day of the meeting.**

Members of the public may provide written public comments on a specific agenda item or on items not on the agenda (general public comment) by submitting comments via e-mail. Comments may be submitted to PublicComment@smud.org and will be placed into the record of the meeting.

Members of the public that are listening to or watching the live stream of a Committee meeting and wish to submit written comments on a specific agenda item as it is being heard may submit their comments, limited to 250 words or less, to PublicComment@smud.org, noting the agenda item number in the subject line. The Board Committee Chair may read comments for items on the agenda into the record, in her discretion, based upon such factors as the length of the agenda or the number of e-mail comments received. General public comment for items not on the agenda will not be read into the record but will be provided to the Board and placed into the record of the Board meeting if it is received within two hours after the meeting ends.

This Committee meeting is noticed as a joint meeting with the Board of Directors for the purpose of compliance with the Brown Act. In order to preserve the function of the Committee as advisory to the Board, members of the Board may attend and participate in the discussions, but no Board action will be taken. The Energy Resources and Customer Services Committee will review, discuss and provide the Committee's recommendation on the following:

INFORMATIONAL ITEM

1. Jennifer Davidson
David Mericle
GOLDMAN SACHS
Provide the Board with an informational presentation regarding the economy, including impacts of the COVID-19 pandemic.
Presentation: 30 minutes
Discussion: 30 minutes

DISCUSSION ITEM

2. Chad Adair
Authorize the Chief Executive Officer and General Manager to negotiate and execute the **SloughHouse Solar, LLC (SHS) Power Purchase Agreement (PPA)** for a 27-year term, with one optional three-year extension for a total of 30 years, and all other agreements necessary to facilitate the **SHS** project for 50 MW of solar photovoltaic power (Solar PV).
Presentation: 5 minutes
Discussion: 10 minutes

INFORMATIONAL ITEMS (cont.)

3. Public Comment
4. Brandon Rose
Summary of Committee Direction.
Discussion: 1 minute

Pursuant to Resolution No. 20-06-08 adopted on June 18, 2020, Emergency Board Meeting Procedures are in effect:

Members of the public may make either a general public comment or comment on a specific agenda item by submitting comments via email. Comments may be submitted to PublicComment@smud.org. Comments will be provided to the Board and placed into the record of the Committee meeting if it is received within two hours after the meeting ends.

Members of the public that are listening or watching the live stream of a Board meeting and wish to comment on a specific agenda item as it is being heard, may submit their comments, limited to 250 words or less, to PublicComment@smud.org. The Board Committee Chair may read the comments into the record, in her discretion, based upon such factors as the length of the agenda or the number of email comments received. Comments will be provided to the Board and placed into the record of the Committee meeting if it is received within two hours after the meeting ends.

*Members of the public may register to provide verbal comments at an upcoming Board or Committee meeting by emailing a request to speak to PublicComment@smud.org. Please include the date of the meeting, name, and topic or agenda item the requestor wishes to speak on. The request may also be submitted while the meeting is in progress during the standard time for the agenda item or topic. **Pre-registration is strongly encouraged by no later than 3:00 p.m. on the day of the meeting.***

ADA Accessibility Procedures: Upon request, SMUD will generally provide appropriate aids and services leading to effective communication for qualified persons with disabilities so that they can participate equally in this virtual meeting. If you need a reasonable auxiliary aid or service for effective communication to participate, please email Toni.Stelling@smud.org, or contact by phone at (916) 732-7143, no later than 48 hours before this virtual meeting.

SSS No. CFO 21-007	<h1 style="text-align: center;">BOARD AGENDA ITEM</h1> <h2 style="text-align: center;">STAFFING SUMMARY SHEET</h2>	Committee Meeting & Date ERCS
		August 18, 2021
		Board Meeting Date N/A

TO				TO				
1.	Casey Fallon			6.				
2.	Jennifer Davidson			7.				
3.	Frankie McDermott			8.				
4.	Stephen Clemons			9.	Legal			
5.				10.	CEO & General Manager			
Consent Calendar			Yes	No If no, schedule a dry run presentation.		Budgeted	Yes	No (If no, explain in Cost/Budgeted section.)
FROM (IPR) Russell Mills				DEPARTMENT Treasury			MAIL STOP B355	EXT. 6509
							DATE SENT 8/6/21	

NARRATIVE:

Requested Action:

Provide the Board with an informational presentation regarding the economy, including impacts of the COVID-19 pandemic.

Summary:

In the wake of the COVID-19 pandemic, impacts to the economy have been far reaching and will affect how SMUD and other public utilities plan spending and prepare for similar events. In general, there have been impacts on the interest rate markets affecting access to capital and borrowing costs for utilities, inflationary pressure affecting energy and commodity costs, supply chain impacts affecting procurement of all goods and services, and costs and availability of labor resources, among other issues All of these aspects have implications to SMUD and must to be considered in our planning and preparations going forward. David Mericle, the Chief U.S. Economist at Goldman Sachs, one of SMUD’s investment banks, will present a broad overview of the current economic outlook in the aftermath of the pandemic.

Board Policy:

SD-2 Competitive Rates, SD-3 Access to Credit Markets, SD-17 Enterprise Risk Management, BL-8 Delegation to the GM with respect to Procurement

Benefits:

Will help SMUD prepare and plan for operating in the current and near-term economy and business climate, highlighting impacts that need to be considered.

Cost/Budgeted:

N/A

Alternatives:

N/A

Affected Parties:

SMUD and SMUD Customers

Coordination:

Corporate Financial & Administrative Services

Presenter:

Jennifer Davidson, Chief Financial Officer
David Mericle, Chief US Economist, Goldman Sachs

Additional Links:

SUBJECT	COVID-19 Pandemic Economic Impacts	ITEM NO. (FOR LEGAL USE ONLY)
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SSS No.
ET&C 21-032

BOARD AGENDA ITEM

STAFFING SUMMARY SHEET

Committee Meeting & Date
ERCS – 08/18/21
Board Meeting Date
August 19, 2021

TO					TO								
1.	Jessica Kasparian				6.	Maria Veloso Koenig							
2.	Jon Olson				7.	Stephen Clemons							
3.	Mark Willis				8.	Frankie McDermott							
4.	Lora Anguay				9.	Legal							
5.	Bryan Swann				10.	CEO & General Manager							
Consent Calendar		X	Yes		No If no, schedule a dry run presentation.		Budgeted	X	Yes		No (If no, explain in Cost/Budgeted section.)		
FROM (IPR) Mike Roberts					DEPARTMENT Energy Trading & Contracts					MAIL STOP A404		EXT. 6952	DATE SENT 7/29/2021

NARRATIVE:

Requested Action: Authorize the Chief Executive Officer and General Manager, or his designee, to negotiate and execute the SloughHouse Solar, LLC (SHS) Power Purchase Agreement (PPA) for a 27-year term, with one optional three-year extension for a total of 30 years, substantially in the form attached, and all other agreements necessary to facilitate the SHS project for 50 MW of solar photovoltaic power (Solar PV).

Summary: In 2020, SMUD received a competitive offer from DE Shaw Renewables Investment company (DESRI). SMUD conducted an evaluation of the market and determined that the SHS project offer provided superior value vs. alternatives. SMUD and DESRI negotiated a mutually beneficial PPA under which SMUD will purchase the energy, capacity, and environmental attributes, including Portfolio Content Category 1 Renewable Energy Credits (PCC1 RECs). The SHS project provides SMUD full dispatch rights to 50 MW of Solar PV energy at a fixed price of \$34.46 per MWh at the Point of Interconnection to SMUD's 69kV distribution system. The scheduled commercial operation date is December 31, 2023. SMUD has an option to purchase the facility after year 10. The project is located in the eastern portion of SMUD's service territory.

In addition to the PPA, SMUD is negotiating an Interconnection and Operating Agreement (IA), and a Reimbursement and Waiver Agreement, that define the requirements for interconnection and certain project development responsibilities and terms.

Board Policy: SD-2, Competitive Rates; SD-7, Environmental Leadership; SD-9, Resource Planning: This contract provides economic, zero carbon power and will be a key contributor to achieving SMUD's 2030 Zero Carbon Plan. Allows access to relatively low cost and carbon free power generated within SMUD's territory and delivered directly to SMUD.

Benefits: Over 125,000 MWh/year of carbon free energy generated locally, or over 1% of our annual load.

Cost/Budgeted: Expenses for the project have been included in the budget and financial forecast. The average annual cost is approximately \$4.3 million.

Alternatives: Rely on other sources for carbon free energy.

Affected Parties: Energy Trading & Contracts, Energy Settlements, Resource Planning, Budget Office, Grid Operations, Treasury, Real Estate, Power Generation, Grid Planning, Research and Development.

Coordination: Energy Contracts

Presenter: Chad Adair, Manager, Energy Contracts

Additional Links:

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SUBJECT	SloughHouse Solar, LLC (SHS) 50 MW Solar PV Power Purchase Agreement	ITEM NO. <i>(FOR LEGAL USE ONLY)</i>
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ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.

POWER PURCHASE AGREEMENT
BETWEEN
SACRAMENTO MUNICIPAL UTILITY DISTRICT
AND
SloughHouse Solar, LLC
DATED []

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This POWER PURCHASE AGREEMENT (the "Agreement") for an Eligible Renewable Energy Resource is made and entered into this _____ day of _____, 2021, ("Effective Date"), by and between the Sacramento Municipal Utility District ("SMUD"), and SloughHouse Solar, LLC ("Seller"). SMUD and [_____] are sometimes referred to in this Agreement individually as a "Party" and collectively as the "Parties."

- A. Seller desires to interconnect and operate a fully integrated solar photovoltaic generation (the "Project"), as described in Exhibit A, to be located within SMUD's service territory and interconnected to SMUD's 69 kV distribution line (the "SMUD 69kV System")
- B. The Parties wish to enter into a power purchase agreement for the sale and purchase of all Energy, Capacity, Capacity Attributes, and Environmental Attributes from the Project directly to SMUD.
- C. In conjunction with this Agreement, the Parties wish to execute a Interconnection and Operating Agreement (together the two agreements are referred to as the "Definitive Agreements").
- D. This Agreement requires the Seller to be a retail customer and to obtain retail electrical service from SMUD to serve certain electrical loads at the premises identified in Exhibit A, except as otherwise permitted under SMUD's tariffs. This Agreement does not constitute an agreement by SMUD to provide retail electrical service to Seller. Such arrangements must be made separately between SMUD and Seller.
- E. An affiliate of Navajo Tribal Utility Authority may provide development assistance to the Project alongside the Seller, and as such, a portion of the Project proceeds may go to support electrification on the Navajo Nation.

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

1. DEFINITION OF TERMS; RULES OF INTERPRETATION

1.1 DEFINITION OF TERMS

10-year Purchase Option: Has the meaning set forth in Section 19.1.

Accepted Compliance Expenditures: Has the meaning set forth in Section 3.4.3.

Actual Annual Solar Insolation: The actual amount of solar insolation at the Project site for each Contract Year, as reflected in the Solar Irradiance Data obtained from Solar Anywhere or other mutually agreeable third party, or as derived using another mutually agreeable mechanism.

Adjusted EAEP (AEAEP): The Expected Annual Energy Production adjusted for Actual Annual Solar Insolation according to the formula set forth in the definition of Expected Annual Energy Production (EAEP).

Adjusted MAEP (AMAEP): The Minimum Annual Energy Production adjusted for Actual Annual Solar Insolation according to the formula set forth in the definition of Minimum Annual Energy Production (MAEP).

Affiliate: Has the meaning set forth in Section 17.1.2.

Agreement: Has the meaning set forth in the Preamble.

Annual Energy Production (AEP): For any particular Contract Year, is equal to the total MWh generated by the Project and delivered to SMUD measured at the Project Meter. Any impact on production due to Force Majeure, SMUD Curtailment or SMUD's breach of this Agreement or the Interconnection Agreement that prevents or excuses Seller from delivering Energy to the Delivery Point, and Dispatch Down Periods, shall adjust the AEP according to the AAEP formula.

Adjusted Annual Energy Production (AAEP) =

AEP + Deemed Delivered Energy that could have been generated by the Project and delivered to SMUD but for (i) Force Majeure, (ii) SMUD Curtailment, (iii) SMUD's breach of this Agreement or the Interconnection Agreement that prevents or excuses Seller from delivering Energy to the Delivery Point, or (iv) Dispatch Down Periods.

Index Price: The applicable hourly Locational Marginal Price "LMP" for the Project, or if the LMP has not been established for the Project, the applicable hourly NP-15 EZ Gen Hub Price.

Available Capacity: The power output from the Project at the Delivery Point, expressed in megawatts (AC), that is available to generate Energy.

Balancing Authority: Entity responsible for the reliable planning and operation of the bulk power system in a defined area.

Bank: Has the meaning set forth in Section 9.2.

Bankrupt: With respect to any entity, such entity that (a) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar Law, (b) has any such petition filed or commenced against it which remains unstayed or undismissed for a period of ninety (90) days, (c) makes an assignment or any general arrangement for the benefit of creditors, (d) otherwise becomes bankrupt or insolvent (however evidenced), (e) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (f) is generally unable to pay its debts as they fall due.

Bid: Has the meaning set forth in the CAISO Tariff.

Business Day: Any Monday through Friday, inclusive, but excluding days that are observed as business holidays by either Party or days that are NERC Holidays.

CAISO: The California Independent System Operator Corporation or its successor.

CAISO Balancing Authority Area: 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 grid reliability.

CAISO Tariff: The California Independent System Operator Corporation Agreement and Tariff, Business Practice Manuals (BPMs), and Operating Restrictions, including the rules, protocols, procedures and standards attached thereto, as the same may be amended or modified from time-to-time and approved by FERC.

California Energy Commission (CEC): The agency responsible for certifying eligible renewable resources and tracking the procurement of such resources.

California Renewables Portfolio Standard (RPS): The standard, codified in Public Utilities Code (PUC) Sections 399.11 through 399.20, and Public Resources Code Sections 25740 through 25751, as may be amended from time to time.

Capacity: The instantaneous ability of a generator to produce Energy (real power) at a specified output at the Delivery Point. Capacity is measured in megawatts ("MW") AC or kilowatts ("kW") AC.

Capacity Attributes: Any current or future defined characteristic, status, 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, charge and discharge energy or provide 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 requirement or any other measure by an entity invested with the authority under federal or state law, to require SMUD to procure, or to procure at SMUD's expense, Resource Adequacy or other such products. For the avoidance of doubt, Capacity Attributes shall not include, and Seller shall have the right in its sole discretion to seek compensation for, reactive power and/or reactive power capability of the Project, and any such compensation shall be the sole property of Seller.

Capacity Shortfall: The Expected Capacity less the Installed Capacity that has been commissioned and is capable of reliably delivering Energy and meeting minimum functionality requirements under Section 2.3.7.

Change of Control: Any circumstance in which Ultimate Parent ceases (i) to retain the ability to control, directly or indirectly, the decision-making of Seller, or (ii) to own, directly or indirectly through one or more intermediate entities, more than fifty percent (50%) of the outstanding equity interests (measured by either voting power or economic interests) in Seller; provided that in calculating ownership percentages for all purposes of the foregoing:

- a) any ownership interest in Seller held by Ultimate Parent indirectly through one or more intermediate entities shall not be counted towards Ultimate Parent's ownership interest in Seller unless Ultimate Parent directly or indirectly owns more than fifty percent (50%) of the outstanding equity interests (measured by either voting power or economic interests) in each such intermediate entity; and
- b) ownership interests in Seller owned directly or indirectly by any lender (including any tax equity provider and any agent acting for or on behalf of such lender) shall be excluded from the total outstanding equity interests in Seller;

Provided that any Permitted Transfer shall not constitute or be deemed a "Change of Control." Furthermore, a foreclosure by any lender on the direct or indirect ownership interests in Seller (including a transfer in lieu of foreclosure or any Permitted Transfer) shall not constitute or be deemed a "Change of Control".

Clear Sky Model Report: A document which will contain agreed-upon irradiance and energy parameters for use in connection with Section 6.8 of this Agreement, and which has been acknowledged by the Parties as of the date hereof and is incorporated herein by reference; provided, however, that the Parties agree to amend and update the Clear Sky Model Report to the extent necessary to reflect the final equipment selection and actual size of the Project as of 180 days after the Commercial Operation Date. This document shall include an 8760 hourly representation of solar insolation at the Project, and shall include one minute data for every hour.

Closing: Has the meaning set forth in Section 19.3.

Closing Date: Has the meaning set forth in Section 19.3.

COD Conditions: Has the meaning set forth in Section 2.3.4.

COD Notice: Has the meaning set forth in Section 2.3.4.

Commercial Operation: The period of operation of the Project once the Commercial Operation Date has occurred.

Commercial Operation Date (COD): The date specified in the Commercial Operation Date Confirmation Letter on which the Project shall conform to the requirements for Commercial Operation.

Commercial Operation Date Confirmation Letter: A letter that the Parties execute and exchange in accordance with this Agreement, the form of which is attached as Exhibit E.

Compliance Expenditure Cap: Has the meaning set forth in Section 3.4.1.

Compliance Expenditure(s): Has the meaning set forth in Section 3.4.1.

Contract Price: The price set forth on Exhibit B, as may be adjusted in accordance with this Agreement

Contract Year: Any of the one-year periods during the Delivery Term, with the first Contract Year commencing on the COD and ending on the last day of the twelfth (12th) full month thereafter and each subsequent Contract Year commencing on the applicable anniversary of such date.

Costs: Has the meaning set forth in Section 8.5.1(c).

Day-Ahead Market: Has the meaning as defined in the CAISO Tariff.

Deemed Delivered Energy: The amount of Energy expressed in MWh that the Project would have produced and delivered to the Delivery Point, but that is not produced by the Project and delivered to the Delivery Point during a SMUD Curtailment, Dispatch Down Period, Force Majeure period or otherwise due to SMUD's breach of this Agreement or the Interconnection Agreement that prevents or excuses Seller from delivering Energy to the Delivery Point, which amount shall be calculated as set forth in Section 6.8 Determination of Deemed Delivered Energy.

Defaulting Party: Has the meaning set forth in Section 8.2.1.

Deficit Damages: Has the meaning set forth in Section 2.3.8.

Definitive Agreements: Has the meaning set forth in the Preamble.

Delay Damages: The compensation paid by Seller to SMUD due to a failure of Seller to meet the Scheduled Commercial Operation Date.

Delay LD Start Date: Has the meaning set forth in Section 2.3.7.

Delivery Point: The interconnection location of the Project on the high-side of the step-up transformers that interconnect to the SMUD 69kV System, where SMUD accepts title to the Product and associated attributes as described herein. The Delivery Point is identified in Exhibit A and is at the same location as the Point of Interconnection. For clarity the interconnection is made at two physical connection points to the SMUD 69kV System, and the Delivery Point combines the two interconnection points..

Delivery Term: Has the meaning set forth in Section 2.3.1.

Delivery Term Security: Has the meaning set forth in Section 9.2.

Development Security: Has the meaning set forth in Section 9.1.

Dispatch; Dispatchability: The ability of a generating unit to increase or decrease generation, or to be brought on line or shut down at the request of a utility's system operator.

Dispatch Down Instruction: Any direction, instruction or order to reduce the generation or delivery of Energy for the following reasons:

- a) An Emergency Condition;
- b) Any direction, instruction, or order given by RC West Reliability Coordinator or its successor (whether through the scheduling coordinator, Balancing Authority, or Host Electric Utility) for warnings of an Emergency Condition, or imminent condition or situation, which jeopardizes SMUD's Electric System or other Electric System integrity or the integrity of other systems to which they are connected; such direction, instruction, or order may result from a warning or forecast of overgeneration conditions but only to the extent such overgeneration is an imminent reliability issue. To the extent practicable under the circumstances and consistent with Prudent Utility Practice, any such curtailment of the Project shall be on an equitable, non-discriminatory basis. For purposes of clarity, any direction instruction, or order for overgeneration resulting from any economic scheduling or bidding of the Project is not a Dispatch Down Instruction and is a SMUD Curtailment;

provided, however, Dispatch Down Instructions shall not include any SMUD Curtailment.

Dispatch Down Period: Any period of reduction of the Project output or its generation of Products arising out of a Dispatch Down Instruction, including any ramp up and ramp down periods.

Distribution System: 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).

Early Termination Date: Has the meaning set forth in Section 8.4.

Effective Date: Has the meaning set forth in the Preamble.

EIM: Shall mean the Western Energy Imbalance Market.

EIM Participating Resource: has the meaning set forth in the CAISO Tariff.

Electric System: The integrated electric generation, transmission, and distribution facilities owned or controlled by an electric utility.

Electrical Losses: All transmission or transformation losses between the Project and the Delivery Point, including losses associated with delivery of Energy to the Delivery Point.

Eligible Renewable Energy Resource (ERR): An Eligible Renewable Energy Resource as defined 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, as defined in the CEC Renewables Portfolio Standard Eligibility Guidebook, as may be amended or supplemented from time to time.

Emergency Condition: Any abnormal system condition that requires automatic or immediate manual action to prevent or limit the failure of transmission or distribution facilities or generation supply or that could adversely affect the reliability or integrity of the Bulk Electric System, SMUD Electric System, or an Electric System owned or controlled by a non-SMUD entity. As used in this definition of System Emergency, with respect to any action that may or must be taken, or judgment or determination of a Party, such action or judgment shall be exercised, or such determination shall be made, (i) in good faith, (ii) where applicable, in accordance with Prudent Utility Practice, and (iii) in a non-discriminatory manner. Emergency Condition includes a condition or situation:

- (a) That in SMUD's or Seller's reasonable judgment will likely endanger life or property;
- (b) That in the reasonable judgement of SMUD, is imminently likely to cause a material adverse effect on the security of, or damage to, SMUD's Electric System, SMUD's Interconnection Facilities or the Electric Systems of others entities to which the SMUD Electric System is directly connected;
- (c) An imminent condition or situation, which jeopardizes SMUD's Electric System reliability or integrity, or the reliability or integrity of other Electric Systems to which the SMUD is connected, or
- (d) That in the reasonable judgment of Seller, is imminently likely to cause a material adverse effect on the security of, or damage to, the Facility or Seller's interconnection facilities. System restoration or black start shall be considered a System Emergency; provided, however, that the Facility shall not be obligated to possess black start capability EMS: Has the meaning set forth in Section 5.4.

Energy: Electrical energy produced by the Project and delivered with the voltage and quality required by SMUD in accordance with the IA, and measured in megawatt-hours (MWh) or kilowatt-hours (kWh) at the Delivery Point.

Energy Deviation: Has the meaning set forth in Section 7.4.

Environmental Attributes: All Environmental Attributes, as that term is defined in D.08-08-028 of the California Public Utilities Commission, as may be amended, and all renewable energy credits as that term is defined under section 399.12 of the California Public Utilities Code, as may be amended, all Renewable and Environmental Attributes as defined by WREGIS, as well as any credits, carbon benefits, carbon emission reductions, carbon offsets or allowances, howsoever entitled, attributed to the Energy produced by the Project and delivered to the Delivery Point recognized under Assembly Bill 32 Global Warming Solutions Act of 2006, as may be amended.

ETR: Has the meaning set forth in Section 7.6.

Event of Default: Has the meaning set forth in Section 8.2.1.

Excusable Delay: Any delay that is caused by one or more of the following: (i) an event of Force Majeure, (ii) breach of this Agreement by SMUD or other material action or inaction on the part of SMUD that prevents the Seller from fulfilling its obligations, in whole or in part, under this Agreement, (iii) an unforeseen delay in the Permitting process (including any delay by a Governmental Authority in the issuance or maintenance of a Permit) or any other challenge to a Permit that is not a result of any breach by Seller, (iv) a breach by SMUD under the Interconnection Agreement, or (v) a delay in completion of any interconnection or transmission facilities or upgrades related to the Project.

Expected Annual Energy Production (EAEP): The Energy that the Project can be expected to produce during a typical year of operation, factoring in typical weather patterns, expected solar irradiance, etc.

The EAEP for each Contract Year is set forth in Exhibit C. Any variance in the Actual Annual Solar Insolation from typical (up or down) shall adjust the EAEP according to the following formula:

Adjusted EAEP (AEAEP) =

EAEP * (Actual Annual Solar Insolation/Typical Annual Solar Insolation)

Expected Capacity: Is as specified in Exhibit A.

Extended Term: Has the meaning set forth in Section 2.3.1.

Facility Debt: Means the obligations of Seller or its Affiliates to any lender or tax equity investor pursuant to the Financing Documents, including principal of, premium and interest on indebtedness, fees, expenses or penalties, amounts due upon acceleration, prepayment or restructuring, swap or interest rate hedging breakage costs and any fees or interest due with respect to any of the foregoing plus an amount sufficient to ensure that the tax equity investor recovers the greater of (1) its investment balance under generally accepted accounting principles (as determined immediately prior to exercise of the applicable purchase option) and any investment tax credit recaptured as result of such exercise and (2) the amount necessary to allow all tax equity investors to achieve their hurdle rate required for the partnership flip to occur under any tax equity financing (or if any tax equity financing has a fixed date as the flip date, the amount necessary to allow all tax equity investors to achieve a rate of return equal to the rate of return used to determine the flip date under such tax equity financing).

Fair Market Value: Has the meaning set forth in Section 19.6.

FERC: The Federal Energy Regulatory Commission or any successor government agency.

Final Purchase Option: Has the meaning set forth in Section 19.1.

Force Majeure: An event or circumstance occurring after the Effective Date that prevents or delays the ability of one Party from performing obligations under this Agreement, and which is not in the reasonable control of, or the result of negligence of, the Party claiming Force Majeure, and which the claiming Party is unable to overcome or cause to be avoided by the exercise of due diligence. Force Majeure shall include the following events, to the extent consistent with the prior sentence: (a) An act of nature, riot, insurrection, war, explosion, labor dispute, fire, flood, earthquake, volcanic eruption, storm, lightning, tsunami, backwater caused by flood, act of the public enemy, terrorism, or epidemic; (b) Interruption of transmission or generation services as a result of a physical Emergency Condition (and not SMUD Curtailment) not caused by the fault or negligence of the Party claiming Force Majeure and reasonably relied upon and without a reasonable source of substitution to make or receive deliveries hereunder, civil disturbances, strike, labor disturbances, labor or material shortage, national emergency, court order or other action by a Governmental Authority that prevents a Party from fulfilling its obligations under this Agreement (excluding, with respect to any claim by SMUD, any action or inaction of the SMUD Board of Directors or any person with the authority to bind SMUD); (c) any delays in obtaining any permits, authorizations, or entitlements to construct or operate the Project beyond the date as set forth in Exhibit N Project Milestone Schedule, except to the extent caused by the affected Party, and the requirement to obtain any additional permit, authorization or entitlement to construct or operate the Project that is not included in Exhibit N Project Milestone Schedule that arises after the Effective Date if the timeline for obtaining such permit, authorization and entitlement affects Seller's ability to achieve any milestone hereunder. Under no circumstances shall either Party's financial incapacity, Seller's ability to sell Products at a more favorable price or under more favorable conditions or SMUD's ability to acquire Products at a more favorable price or under more favorable conditions or other economic reasons constitute an event of Force Majeure. The term "Force Majeure" does not include Forced Outages to the extent such are not caused or exacerbated by an event of Force Majeure as described above, nor does it include Seller's inability to obtain financing or other equipment and instruments necessary to plan for, construct, or operate the Project.

Forced Outage: Means an unplanned outage of one or more of the Project's components that results in a reduction of the ability of the Project to produce Energy, and that is not the result of a Force Majeure event and specifically excludes any planned maintenance or Planned Outage.

Full Access: Has the meaning set forth in Section 19.2.

GHG: Means greenhouse gas.

Governmental Authority: The federal government of the United States, and any state, county, municipal or local government or regulatory department, body, political subdivision, commission, agency, instrumentality, ministry, court, judicial or administrative body, taxing authority, or other authority thereof (including any corporation or other entity owned or controlled by any of the foregoing) having jurisdiction

over any Party, the Project, the site of the Project, or the rights or obligations of any Party under this Agreement, whether acting under actual or assumed authority, provided, however, that SMUD and Seller shall not be considered a Governmental Authority hereunder. The CAISO shall be considered a Governmental Authority.

Green-e: The national independent certification and verification program for renewable energy. Green-e developed the Green-e Renewable Energy Standard of Canada and the United States, as may be amended from time to time, or replacement verification program.

Green-e Standard: The Green-e Energy Tracking Attestation Form for generators participating in a tracking system, currently available at <https://www.tfaforms.com/4652008> as such form may be updated from time to time, with Seller electing WREGIS on such form.

Guaranteed Commercial Operation Date or Guaranteed COD: The date that is nine (9) months after the Scheduled Commercial Operation Date, as specified in Exhibit A and subject to day-for-day extension to the extent the Scheduled Commercial Operation Date is extended as provided in Section 2.3.7.

Host Electric Utility: 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.

Installed Capacity: The amount of Capacity installed that shall be provided from the Project to SMUD at the Delivery Point. Installed Capacity is measured at the Delivery Point, after any applicable Project step-up transformer losses, and where applicable, losses up to the Delivery Point.

Integral Station Service Load: That subset of station service load that is so integrated with the Project design that it is not feasible for SMUD to meter and serve such demand during Project operations on a stand-alone basis.

Interconnection Agreement or IA: The Interconnection and Operating Agreement (IA) between SMUD and Seller specific to the interconnection of the Project to the SMUD 69kV System.

Interest Rate: Shall be the lesser of (a) 4% plus the “prime rate” of interest as published on that date in the Wall Street Journal, and generally defined therein as “the base rate on corporate loans posted by at least 75% of the nation’s 30 largest banks,” or if the Wall Street Journal is not published on a date for which such interest rate must be determined, the “prime rate” published in the Wall Street Journal on the nearest-preceding date on which the Wall Street Journal was published, or if the Wall Street Journal is no longer in publication, such other similar interest rate reasonably agreed to by the Parties, and (b) the highest rate permitted under applicable Law.

ITC or Investment Tax Credit: The investment tax credit established pursuant to Section 48 of the United States Internal Revenue Code of 1986, as it may be amended from time to time.

J. Aron: Has the meaning set forth in Section 17.2.

Law: Any statute, law, treaty, rule, regulation, ordinance, code, enactment, injunction, order, writ, decision, authorization, judgment, decree or other written legal or regulatory determination or restriction by a court or Governmental Authority of competent jurisdiction.

Letter of Credit: One or more irrevocable, standby letters of credit issued by a Qualified Issuer in substantially the form set forth in Exhibit Q.

Loss: Has the meaning set forth in Section 8.5.1(a).

Maximum Hourly Energy Delivery: The maximum energy (MW) that SMUD will make payment for in any delivery hour, which is equal to Expected Capacity * 1 hour.

Measurement Period: Any two consecutive Contract Year periods during the Delivery Term.

Minimum Annual Energy Production (MAEP): For the first Contract Year, an amount equal to 90% of the Expected Annual Energy Production (EAEP) amount for such Contract Year and thereafter, the amount equal to 90% of the sum of the two Expected Annual Energy Production (EAEP) amounts during a Measurement Period, as set forth in Exhibit C. Any variance in the Actual Annual Solar Insolation from typical (up or down) shall adjust the MAEP according to the following formula.

Adjusted Minimum Annual Energy Production (AMAEP) =

MAEP * (Sum of Actual Annual Solar Insolation amounts for the two Contract Years in the Measurement Period / Sum of the Typical Annual Solar Insolation amounts for the two Contract Years in the Measurement Period)

Monthly Settlement Amount: On and after COD, the monthly settlement amount will equal (a) the Energy delivered to and metered at the Project Meter (in MWh) plus Deemed Delivered Energy during SMUD Curtailment or SMUD's breach of the Agreement or the Interconnection Agreement that prevents or excuses Seller from delivering Energy to the Delivery Point, times (b) the Contract Price, subject to adjustment as set forth in Section 2.4.2(b) for REC delivery shortfalls.

Moody's: Moody's Investors Service, Inc., or any successor organization thereto.

MW: Megawatt(s) of alternating current.

MWh (Megawatt-hours): A unit of energy measurement corresponding to 1,000 kilowatt-hours.

NERC: The North American Electric Reliability Corporation, or any successor organization.

NERC Holidays: Days that NERC establishes as holidays for electric energy trading.

Non-Defaulting Party: Has the meaning set forth in Section 8.2.2(a).

NP-15: The zone within the CAISO Balancing Authority area designated as North of Path 15 by the CAISO for congestion settlement purposes.

NP-15 EZ Gen Hub Price: The day-ahead hourly locational marginal price as published by the CAISO for generator transactions in the NP-15 zone of the CAISO.

Option Notice: Has the meaning set forth in Section 19.1.

Outage Notification Procedure: The outage notification procedure outlined in Exhibit G.

Party/Parties: SMUD and Seller are referred to individually as a "Party" and collectively as "Parties."

PCC1 REC Price: Has the meaning set forth in Section 2.4.2(b).

Performance Tolerance Band: Has the meaning set forth in Section 7.4.

Permits: Permits, licenses, certificates, concessions, consents, waivers, exemptions, variances, franchises, orders, decrees, rights, registrations, submissions, determinations, authorizations, approvals, registrations, orders, and filings.

Permitted Transfer: Means

- a) Foreclosure by any lender on the direct or indirect ownership interests in Seller (including a transfer in lieu of foreclosure or any transfer to a Qualified Transferee);
- b) Any direct or indirect transfer of equity interests in Seller in connection with a tax equity financing (for purposes of clarity, this does not prohibit or otherwise restrict any transfer of interests in the Project);
- c) Any direct or indirect transfer of this Agreement or equity interests in Seller to an Affiliate of Seller (including any investment fund or partnership for which an Affiliate of Seller is the managing member), provided that in the case of a transfer of this Agreement only, such Affiliate's creditworthiness is equal to or better than that of Seller;
- d) Any direct or indirect transfer of this Agreement or any equity interests in Seller to a person succeeding to all or substantially all of the assets of Seller; or
- e) Any direct or indirect transfer of this Agreement or any equity interests in Seller to a Qualified Transferee.

PG Damages: Has the meaning set forth in Section 2.4.8.

PG Shortfall: Has the meaning set forth in Section 2.4.8.

Planned Outage: An outage that has been scheduled in advance pursuant to the provisions of Section 7.5 of one or more of the Project's components that results in a reduction of the ability of the Project to produce Energy.

Plant Controller: Device or compilation of devices used to take inputs either directly or indirectly from SMUD. Plant Controller must be capable of interfacing with SMUD's Supervisory Control and Data Acquisition System SCADA using industry standard protocol such as DNP3.0. The Plant Controller or Controllers will be capable of individual and combined control of each of the 25MW solar fields independently.

Pmax: The maximum generation potential of the Project at any point in time

Point of Interconnection: Either of the two specific point of interconnection locations at the 69kV side of the disconnect switch as shown in IA Exhibit C Interconnection One Line Diagram. For clarity there are two physical points of interconnection of the Sloughhouse Project. The two POIs are to be aggregated as a single Delivery Point.

Portfolio Content Category 1 (PCC1): Renewable energy comprised of Energy and Environmental Attributes meeting the criteria defined by the CEC Renewables Portfolio Standard Eligibility Guidebook, for Portfolio Content Category 1, as may be amended or supplemented from time to time, and meeting any applicable regulations promulgated by the CEC.

Product: All Energy, Environmental Attributes (including but not limited to Renewable Energy Certificates (RECs)), Capacity, and Capacity Attributes of the Project, in each case which are or can be produced by or associated with generation from the Project. Product must count in SMUD's Renewables Portfolio Standard (RPS) portfolio as a Portfolio Content Category One (PCC 1) resource, as defined by the CEC RPS Eligibility Guidebook, as may be amended or supplemented from time to time or otherwise consistent with applicable regulations promulgated by the CEC as generated by the Project and delivered to the Delivery Point under this Agreement. Product includes, but is not limited to, all Energy and energy-related products and energy-related attributes currently defined as Energy, Capacity, Capacity rights, flexibility, frequency response, ancillary services, and green attributes. Any energy product or feature that can be valued intrinsically or extrinsically is included in Product. For the avoidance of doubt, there are no products or energy-related products or energy-related attributes retained by Seller.

Project: Has the meaning provided in the recitals.

Project Meter: The bi-directional revenue quality meter or meters, along with a compatible data processing gateway or remote intelligence gateway, telemetering equipment and data acquisition services sufficient for monitoring, recording and reporting, in real time, the amount of Energy produced by the Project. For clarity, (i) the Project will contain multiple measurement devices that will make up the Project Meter, and, unless otherwise indicated, references to the Project Meter shall mean all such measurement devices and the aggregated data of all such measurement devices, taken together, and (ii) the Project Meter will be located, and the Energy will be measured, at the high voltage side of the main step up transformer .

Proposed Purchase Notice: Has the meaning provided in Section 2.3.2.

Proposed Sale Notice: Has the meaning provided in Section 2.3.2.

Prudent Utility Practice: Those practices, methods and acts that would be implemented and followed by prudent operators of solar photovoltaic 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 prudent business practices, reliability, and safety. Seller acknowledges that the use of Prudent Utility Practice by Seller does not exempt Seller from any obligations set forth in this Agreement.

Prudent Utility Practice includes, at a minimum, those professionally responsible practices, methods and acts described in the preceding paragraph that comply with manufacturers' warranties, restrictions in this Agreement, the IA, the requirements of Governmental Authorities, and WECC and NERC standards. Prudent Utility Practice is not required to be the optimum practice, method or act to the exclusion of all others.

Prudent Utility Practice also includes taking reasonable steps in accordance with the first sentence of this definition to ensure that:

- a) Equipment, materials, resources, and supplies, including spare parts inventories, are available to meet the Project's needs;
- b) Sufficient operating personnel are available at all times and are adequately experienced and trained and licensed as necessary to operate the Project properly and efficiently, and are capable of responding to reasonably foreseeable emergency conditions at the Project and emergencies whether caused by events on or off the Project site;
- c) Preventive, routine, and non-routine maintenance and repairs are performed on a basis that ensures reliable, long-term and safe operation of the Project, and are performed by knowledgeable, trained, and experienced personnel utilizing proper equipment and tools;
- d) Appropriate monitoring and testing are performed to ensure equipment is functioning as designed;
- e) Equipment is not operated in a reckless manner, in violation of manufacturer's guidelines, warranty requirements, or in a manner unsafe to workers, the general public, or the connecting utility's Electric System or contrary to environmental laws, permits or regulations or without regard to defined limitations such as, flood conditions, safety inspection requirements, operating voltage, current, volt ampere reactive (VAR) loading, frequency, rotational speed, polarity, synchronization, and control system limits; and

- f) Equipment and components are designed and manufactured to meet or exceed the standard of durability that is generally used for solar photovoltaic electric energy generating facilities operating in the Western United States and will function properly over the full range of ambient temperature and weather conditions reasonably expected to occur at the Project site and under both normal and emergency conditions.

Purchase Option: Has the meaning set forth in Section 19.1.

Purchase Option Due Diligence Period: Has the meaning set forth in Section 19.2.

Purchase Price: Has the meaning set forth in Section 19.1.

PV: Photovoltaic.

Qualified Issuer: Has the meaning set forth in Section 9.2.

Qualified Transferee: Means a person that (a) for the three (3) preceding years, has owned or operated (or had access to the expertise required to operate through committed management agreements with its Affiliates or through a committed operations and maintenance agreement with any person) at least 100 MWs of renewable energy generation facilities and (b) either itself or its direct or indirect parent, has (i) a tangible net worth of at least \$50,000,000 or (ii) a credit rating of "BBB-" or higher by S&P or "Baa3" or higher by Moody's.

RC West Reliability Coordinator: The entity that fulfills the duties of the Reliability Coordinator, as defined by NERC, and as delegated by the WECC, for its Reliability Coordinator Area in the western United States and western Canada, or CAISO Reliability Coordinator or any successor organization.

Real-Time Market: Has the meaning as defined in the CAISO Tariff.

Real-Time Price: The CAISO Locational Marginal Price (or "LMP") at the Project as defined in the CAISO Tariff. If there is more than one applicable Real-Time Price for the same period of time, Real-Time Price shall mean the price associated with the shortest time interval.

Reimbursement Agreement: means that certain Reimbursement and Waiver Agreement entered into between the Parties as of the date hereof.

Renewable Energy Credit (REC): A certificate of proof issued by WREGIS that an Eligible Renewable Energy Resource (ERR) has generated one megawatt hour (MWh or 1,000 kWh) of electricity. A REC shall also have the same meaning as in California Public Utilities Code Section 399.12(h). Currently RECs are used to convey Environmental Attributes associated with electricity production by a renewable energy resource. For purposes of this Agreement, the term REC shall be synonymous with bundled or unbundled renewable energy credit, tradable renewable energy certificates, WREGIS certificate, or any other term used to describe the documentation that evidences the renewable and Environmental Attributes associated with electricity production by an Eligible Renewable Energy Resource.

Required Percentage: Ninety percent (90%) of the Expected Capacity.

Resource Adequacy: A requirement by a Governmental Authority or in accordance with its FERC-approved tariff, or a policy approved by a local regulatory authority, that is binding upon either Party and that requires such Party procure a certain amount of electric generating Capacity.

RPS Certification: A certification by the CEC that the Project is eligible for the purposes of the California Renewable Portfolio Standard, and that all Energy produced by the Project, qualifies as generation from an Eligible Renewable Energy Resource.

RPS Pre-Certification: A pre-certification by the CEC, obtained by Seller that the Project is eligible for purposes of the California Renewables Portfolio Standard.

S&P: Standard & Poor's Financial Services, LLC (a subsidiary of McGraw-Hill Companies), or any successor organization thereto.

Scheduled Commercial Operation Date: The planned Commercial Operation Date of the Project set forth in Exhibit A, as such date may be extended as provided in Section 2.3.7.

Scheduling: The act of producing, or relating to the production of, a schedule for the delivery, production or use of Energy, Capacity, and/or transmission that is in compliance with NERC Scheduling (NERC tagging) requirements.

Scheduling Coordinator: Has the meaning set forth in the CAISO Tariff.

Scheduling Penalties: Has the meaning set forth in Section 7.4.

Seller: The Party so identified in the preamble of this Agreement, and its successors and permitted assigns.

Settlement Interval: Has the meaning set forth in Section 7.4.

Settlement Period: Has the meaning set forth in Section 2.4.7(a).

SMUD: The Sacramento Municipal Utility District

SMUD Curtailment: Any curtailments, interruptions, or reductions of Project output that are not due to a Dispatch Down Instruction, as further described in Section 6.7. For the avoidance of doubt, SMUD Curtailment includes (i) any discretionary curtailment ordered by or arising from SMUD, (ii) any economic curtailments, including any curtailment arising out of any pre-scheduling, scheduling, bidding or offering activities with respect to the Project, and (iii) any curtailments that are deemed SMUD Curtailment under Section 7.6.

SMUD Revenue Meter: A revenue meter operated by SMUD that determines the amount of Energy measured at the applicable meter location.

SMUD Service Territory: The geographical area in which SMUD is the provider of distribution service. This includes virtually all of Sacramento County and a small part of neighboring Placer County.

Solar Irradiance Data: Data used for measuring solar insolation comprising global horizontal irradiance (GHI, W/m²), diffuse horizontal irradiance (DHI, W/m²), and direct normal irradiance (DNI, W/m²), and as otherwise agreed upon by the Parties.

Surety Bond: A surety bond issued for the benefit of the SMUD issued by a surety that is (i) is duly licensed or authorized in the State of California to issue bonds for the limits required and (ii) is otherwise mutually agreed to by Seller and Buyer.

Suspension Date: Has the meaning set forth in Section 8.2.2(b)(ii).

Term: Has the meaning set forth in Section 8.1.

Termination Event: Has the meaning set forth in Section 8.3.

Termination Payment: Has the meaning set forth in Section 8.5.

Test Energy: The Product produced by the Project, delivered to SMUD at the Delivery Point, and purchased by SMUD pursuant to Section 2.4.1 of this Agreement, prior to the Commercial Operation Date.

Third-Party SC: Has the meaning set forth in Section 7.2

Transfer: Has the meaning set forth in Section 17.1.

Typical Annual Solar Insolation: The typical annual solar insolation at the Project site, derived from Solar Irradiance Data provided from 3rd Party source as mutually agreed by the Parties. The Typical Annual Solar Insolation is set forth in Exhibit D.

Ultimate Parent: DESRI Holdings, L.P.

VER Forecast: The CAISO process covering variable energy resources scheduling in Day Ahead and forward markets where automated forecast updates displace placeholder energy schedules at the fifteen-minute and five-minute intervals of each hour.

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

WREGIS: Has the meaning set forth in Exhibit H.

WREGIS Certificate: Has the meaning set forth in Exhibit H.

WREGIS Operating Rules: Has the meaning set forth in Exhibit H.

WREGIS Shortfall: Has the meaning set forth in Section 2.4.2(b).

1.2 RULES OF INTERPRETATION

In this Agreement, except as expressly stated otherwise or unless the context otherwise requires:

1.2.1 headings and the rendering of text in bold and italics are for convenience and reference purposes only and do not affect the meaning or interpretation of this Agreement;

1.2.2 words importing the singular include the plural and vice versa and the masculine, feminine and neuter genders include all genders;

1.2.3 the words “hereof”, “herein”, and “hereunder” and words of similar import shall refer to this Agreement as a whole and not to any particular provision of this Agreement;

1.2.4 a reference to an Article, Section, paragraph, clause, Party, or Exhibit is a reference to that Section, paragraph, clause of, or that Party or Exhibit to, this Agreement unless otherwise specified;

1.2.5 a reference to a document or agreement, including this Agreement shall mean such document, agreement or this Agreement including any amendment or supplement to, or replacement, novation or modification of this Agreement, but disregarding any amendment, supplement, replacement, novation or modification made in breach of such document, agreement or this Agreement;

1.2.6 a reference to a person or entity includes that person’s or entity’s successors and permitted assigns;

1.2.7 the term “including” means “including without limitation” and any list of examples following such term shall in no way restrict or limit the generality of the word or provision in respect of which such examples are provided;

1.2.8 references to any statute, code or statutory provision are to be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or reenacted, and include references to all bylaws, instruments, orders and regulations for the time being made thereunder or deriving validity therefrom unless the context otherwise requires;

1.2.9 in the event of a conflict, a mathematical formula or other precise description of a concept or a term shall prevail over words providing a more general description of a concept or a term;

1.2.10 references to any amount of money shall mean a reference to the amount in United States Dollars;

1.2.11 the expression “and/or” when used as a conjunction shall connote “any or all of”;

1.2.12 words, phrases or expressions not otherwise defined herein that (i) have a generally accepted meaning in Prudent Utility Practice shall have such meaning in this Agreement or (ii) do not have well known and generally accepted meaning in Prudent Utility Practice but that have well known and generally accepted technical or trade meanings, shall have such recognized meanings; and

1.2.13 each Party acknowledges that it was represented by counsel in connection with this Agreement and that it or its counsel reviewed this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

2. PROJECT; PURCHASE AND SALE OF PRODUCTS

2.1 Project and Expected Capacity

This Agreement governs SMUD's purchase of the Product from the Project as described in Exhibit A. The Expected Capacity is shown in Exhibit A. Seller shall be permitted to modify, augment and/or replace the Project and its equipment and components with other equipment and components, at any time prior to or following Commercial Operation, so long as the Expected Capacity, as measured at the Delivery Point, is not modified. Notwithstanding the foregoing, at least ninety (90) days prior to the date on which Seller reasonably anticipates that Commercial Operation will occur, Seller will provide SMUD with a written notice that sets forth the Expected Capacity based on the final design of the Project and a final version of Exhibit A, which shall identify any updates or changes to certain of the equipment and components set forth in Exhibit A as attached to this Agreement. During the Delivery Term, Seller may modify the Project and its equipment and components from time to time so long as Seller provides SMUD with reasonably prompt written notice setting forth any modifications to Exhibit A. Once provided by Seller, this Agreement shall be deemed amended to include such final or modified version of Exhibit A.

2.2 Products Purchased

During the Delivery Term, Seller shall sell and deliver, or cause to be delivered, and SMUD shall purchase and receive, or cause to be received, all Products at the Contract Price. All Products shall be supplied only from the Project, and shall be supplied from the Project only to SMUD and all Products are supplied “as-available”. Seller may not interrupt deliveries for economic reasons, unless directed by SMUD pursuant to Section 6.7. Notwithstanding the foregoing, Seller may interrupt or reduce deliveries due to Force Majeure, Planned Outages, Forced Outages, Dispatch Down Instructions, SMUD Curtailments, reduced solar

insolation, and in mitigation of a SMUD breach of this Agreement preventing or excusing Seller from delivering Product at the Delivery Point.

As of the Effective Date and during the Delivery Term and except as otherwise provided in Section 3.4, Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement that the Project's output delivered to SMUD qualified under the requirements of California Public Utilities Code 399.16(b)(1) of the Public Utilities Code for a Portfolio Content Category 1 transaction.

2.3 Delivery Term, Delivery Point, and Commercial Operation

2.3.1 Delivery Term

The "**Delivery Term**" shall commence at the start of the hour ending 01:00 PST on the COD and shall expire at the completion of the hour ending 24:00 PST on the last day of the twenty-seventh (27th) Contract Year thereafter unless terminated earlier as set forth herein, including for exercise of the Project Purchase Option, or extended pursuant to this Section 2.3.1; provided, that either Party may extend the Delivery Term beyond the initial 27 Contract Years for three (3) additional Contract Years (the "**Extended Term**") by providing notice to the other Party within twelve (12) months prior to the end of the 27th Contract Year; provided that an independent, licensed appraisal and valuation consultant that is mutually agreed upon by SMUD and Seller has determined that the Delivery Term and the Extended Term shall not extend for more than eighty percent (80%) of the estimated useful life of the Project and the estimated remaining residual value of the Project at the conclusion of the Extended Term shall be equal to at least twenty percent (20%) of the original cost of the Project.

2.3.2 Right of First Refusal for Project Energy after Delivery Term

No later than twelve (12) months prior to the end of the thirtieth (30th) Contract Year, if Seller chooses to sell Energy from the Project to any third party, Seller shall first provide notice of such intended sale to SMUD ("**Proposed Sale Notice**"). Upon receipt of such Proposed Sale Notice, SMUD will have thirty (30) days in which to provide notice to Seller indicating SMUD's interest in negotiating with Seller to purchase Products from the Project, which notice shall include SMUD's proposed contract price for such continued purchase ("**Proposed Purchase Notice**"). If SMUD provides such Proposed Purchase Notice to Seller, then the Parties shall undertake for a period of sixty (60) days from the date of SMUD's Proposed Purchase Notice to determine if they are able to reach mutual agreement on the terms and conditions of a sale under a separate agreement of the Products to SMUD after the end of the thirtieth (30th) Contract Year. If SMUD does not timely provide a Proposed Purchase Notice to Seller or if the Parties are unable to agree upon the terms and conditions of any sale of Products to SMUD within such 60-day negotiation period set forth above, then Seller shall be free to negotiate for the sale of energy and other products from the Project to any third party thereafter. For the avoidance of doubt, Seller is not obligated to provide such Proposed Sale Notice if it does not intend to make third party sales after the end of the Delivery Term or if Seller determines in its reasonable discretion that sales to SMUD after the thirtieth (30th) Contract Year would negatively impact its ability to qualify for the Investment Tax Credit, due to extension of the Term for more than eighty percent (80%) of the estimated useful life of the Project, or the estimated remaining residual value of the Project at the conclusion of the extended Term would be less than twenty percent (20%) of the original cost of the Project; and neither Party is obligated to enter into any agreement as a result of any negotiations after the Proposed Purchase Notice is provided.

2.3.3 Scheduled Commercial Operation Date

The Scheduled Commercial Operation Date of the Project is shown in Exhibit A.

2.3.4 Requirements for Commercial Operation

Commercial Operation shall have been achieved when each of the following conditions have been satisfied or waived by the Parties ("**COD Conditions**"):

- a) The Required Percentage of the Expected Capacity has been installed, fully commissioned, and satisfactorily completed all startup testing;
- b) An independent engineer, that is a registered professional engineer in California, has provided a certificate with a PE stamp, certifying that testing pursuant to ASTM E2848-13 (2018) (Standard Test Method for Reporting Photovoltaic Non-Concentrator System Performance) over a data collection period of seven days or once the minimum quantity of data has been collected if such minimum quantity of data is collected over less than seven days has reported the Installed Capacity of the Project and such Installed Capacity is capable of delivering the Required Percentage of the Expected Capacity at the Delivery Point, in accordance with Prudent Utility Practice, on a reliable and a continuous basis without operator intervention, with the exception of normal daily shut-down during hours of insufficient solar irradiation, as demonstrated through a 168-hour continuous operation test of the Project (taking into account the photovoltaic nature of the Project);
- c) Seller has provided for and SMUD has successfully completed Pre-Commercial Operation Date Testing and Modifications as specified in the IA [Section 6 and Appendix G and Appendix H];
- d) Meteorological and any other site data as specified in IA Appendix H are capable of being received by SMUD and/or a third party for the purposes of creating a generation forecast;
- e) The Control Facilities (as defined in the IA) required pursuant to the IA are operational;
- f) Seller has provided documentation demonstrating a NERC Generator Owner (GO) registration and a NERC Generator Operator (GOP) registration are in progress or have completed for the Project, such as a screenshot of the registration request demonstrating that the pertinent NERC registration is in progress.
- g) Seller has provided official contact information, including direct telephone numbers and email addresses for the Project GOP's Control Center personnel and the corresponding Supervisor/Manager/Director responsible for the Control Center operations;
- h) A Permission To Operate (PTO) letter has been signed and executed by SMUD's Director of Grid Operations (consistent with Prudent Utility Practice and IA requirements), not to be unreasonably withheld, conditioned or delayed (it being understood and agreed that this condition shall be deemed to be achieved upon issuance of the permission to operate notice in accordance with Section 7 of the IA); and
- i) Seller has issued the COD Notice.

Seller shall issue a notice of Commercial Operation to SMUD when it believes that the Project has satisfied all COD Conditions (a "**COD Notice**"). A COD Notice shall include all necessary supporting documentation of the satisfaction or occurrence of all COD Conditions. SMUD shall have ten (10) days to review the COD Notice and raise any reasonable objections to Seller's satisfaction of any COD Conditions; provided, however, that Seller's COD Notice shall be deemed accepted by SMUD if SMUD fails to object within such time period. The Commercial Operation Date will be the date upon which Seller submits its COD Notice to SMUD, unless SMUD timely objects to Seller's evidence of the COD Conditions, then the Commercial

Operation Date will be the date upon which such evidence is provided to SMUD's reasonable satisfaction or is deemed to have been accepted by SMUD.

2.3.5 [Reserved]

2.3.6 Commercial Operation Date Confirmation Letter

Upon satisfaction of the COD Conditions, SMUD shall execute and then provide to Seller for execution, the "Commercial Operation Date Confirmation Letter." The fully executed versions shall be attached as Exhibit E to this Agreement.

2.3.7 Payment for Delay of Commercial Operation; Extension of Scheduled COD

If the Project fails to achieve Commercial Operation of the Required Percentage of the Expected Capacity, on or before the date that is three (3) months after the Scheduled Commercial Operation Date (as such date may be extended as provided herein) (the "**Delay LD Start Date**"), then Seller shall pay SMUD Delay Damages of \$74/MW/day for each day following the Delay LD Start Date for each MW or portion thereof by which the Capacity of the Project that has been commissioned and is capable of reliably delivering Energy and minimum functionality for such capacity consistent with Appendices G and H of the Interconnection Agreement (provided that SMUD's inability to receive data shall not be deemed the Project's inability to satisfy the minimum functionality requirement) to the Delivery Point is less than the full Expected Capacity, to be adjusted daily for as additional parts of the Project are commissioned and become capable of reliably delivering Energy to the Delivery Point, until the earlier of (i) Commercial Operation, or (ii) the Guaranteed Commercial Operation Date. The Parties agree that SMUD's receipt of Delay Damages shall be SMUD's sole and exclusive remedy for any default prior to the Commercial Operation Date, but shall not be construed as SMUD's declaration that an Event of Default or Termination Event has occurred under any provision of Article 8.

The Scheduled Commercial Operation Date shall be extended on a day-for day basis and Seller shall not owe SMUD Delay Damages for any Excusable Delay.

2.3.8 Payment for Deficit Damages

- j) If Seller achieves Commercial Operation with less than the Expected Capacity, then Seller shall use commercially reasonable efforts following the Commercial Operation Date to cause the remaining portion of the Expected Capacity to achieve Commercial Operation. If Seller has not caused the Capacity Shortfall to achieve Commercial Operation on or before one hundred eighty (180) days after the COD, then Seller shall pay SMUD damages equal to the Capacity Shortfall multiplied by \$320,000/MW ("**Deficit Damages**"). However, if the reason for the Capacity Shortfall is the result of permitting or local fire jurisdiction restrictions (e.g. reduced site size), not due to the breach of Seller, then Seller shall not be obligated to pay any Deficit Damages associated directly with the portion of Expected Capacity not built because of such restrictions. The Expected Annual Energy Production and Minimum Annual Energy Production will be reduced proportionately to account for the final Installed Capacity at the end of such one hundred eighty (180)-day period, and thereafter, the Capacity will be equal to such final amount for all purposes under this Agreement. The Parties agree that SMUD's receipt of Deficit Damages shall be SMUD's sole and exclusive remedy for failure to achieve Commercial Operation with less than one hundred percent (100%) of the Expected Capacity.

2.3.9 Cap on Damages.

Notwithstanding anything in this Agreement to the contrary, Delay Damages owed by Seller to SMUD hereunder together with any Deficit Damages shall not exceed the Development Security provided by Seller pursuant to Section 9.1.

2.4 Payment for Products Purchased

2.4.1 Pre-Commercial Energy Price

If the Pre-COD Index Price is greater than zero dollars (\$0) prior to the Commercial Operation Date, SMUD will pay (a) for Test Energy produced by the Project, by multiplying (i) 70% of the Pre-COD Index Price by (ii) the applicable hourly Energy quantity (in MWh) as measured by the Project Meter and (b) \$10 for each REC associated with the Test Energy that is confirmed to be a valid PCC1 REC and is transferred into Buyer's WREGIS subaccount. If the Pre-COD Index Price is less than zero dollars (\$0) prior to the Commercial Operation Date, SMUD will pay (A) for Test Energy produced by the Project by multiplying (1) 100% of the Pre-COD Index Price by (2) the applicable hourly Energy quantity (in MWh) as measured by the Project Meter, and (B) \$10 for each REC associated with the Test Energy that is confirmed to be a valid PCC1 REC and is transferred into Buyer's WREGIS subaccount.

2.4.2 Contract Price after Commercial Operation Date

- a) Subject to Sections 2.4.2(b) and 2.4.2(c), once the Project has achieved Commercial Operation, SMUD shall pay Seller the Monthly Settlement Amount.
- b) In the event that Seller fails to transfer to SMUD WREGIS Certificates associated with the amount of PV Energy delivered to the Delivery Point within one hundred ten (110) days after the end of the month that the Energy was generated and delivered to SMUD at the Delivery Point and the cause of such failure is due to Seller's actions or inactions inconsistent with its obligations under this Agreement ("**WREGIS Shortfall**"), then the Contract Price associated with such Energy previously delivered at the Delivery Point and paid for by SMUD will be discounted by an amount equal to the PCC1 REC Price. The "**PCC1 REC Price**" means the market value as determined by SMUD using commercially reasonable efforts for PCC1 RECs based on the average of 3 broker quotes for NP-15 Solar PV CEC RPS PCC1 RECs but in no event more than \$15/MWh. SMUD will provide notice to Seller of any WREGIS Shortfall, including SMUD's calculation and supporting evidence for the PCC1 REC Price and volume of Energy for which Seller owes SMUD a refund. Any WREGIS Shortfall will be presumed to be due to Seller's actions or inactions inconsistent with the requirements of this Agreement unless Seller demonstrates to SMUD's commercially reasonable satisfaction that such shortfall was not the result of Seller's actions or inactions inconsistent with its obligations under this Agreement. Any disputes with respect to the cause of a WREGIS Shortfall or the calculation of the PCC1 REC Price will be resolved pursuant to the provisions of Section 21. Seller shall provide a true-up payment to SMUD or SMUD may offset its payment to Seller in the next regular settlement for any amounts owed by Seller to SMUD pursuant to this Section 2.4.2(b). If Seller cures a WREGIS Shortfall within thirty (30) days after Seller has refunded the PCC1 REC Price to SMUD, then SMUD shall refund all or part of the true-up amounts associated with such cure to Seller in the next invoice after such WREGIS shortfall is cured. If, within the six (6) month period the REC is not delivered, Seller shall provide a true-up settlement to reflect the discounted Contract Price.

2.4.3 [Reserved]

2.4.4 Energy in Excess of Capacity

Seller shall not receive payment for Products delivered in any hour to SMUD in excess of the Maximum Hourly Energy Delivery.

2.4.5 System Losses

Energy produced by this Project, which is interconnected to the SMUD 69kV System, shall be measured using a SMUD Revenue Meter at the Point of Interconnection.

2.4.6 Title and Risk of Loss

Title to and risk of loss related to the Products produced from the Project shall transfer from Seller to SMUD at the Delivery Point. Except as provided hereunder, Seller warrants that it will deliver to SMUD all Products from the Project free and clear of all liens, security interests, claims and encumbrances, or any interest therein or thereto by any person arising prior to the Delivery Point.

2.4.7 Settlement Payments

- a) Following the end of each calendar month ("**Settlement Period**"), Seller shall deliver to SMUD Seller's determination of Deemed Delivered Energy within ten (10) calendar days after the end of such Settlement Period. SMUD shall deliver to Seller a settlement checkout statement which shall include (i) a calculation of the Monthly Settlement Amount and (ii) a summary of Energy produced by the Project as measured by the Project Meter in each hour of the Settlement Period by the 25th of each month. SMUD shall pay the Monthly Settlement Amount with respect to such month by the last day of the month, subject to the provisions of Section 2.4.7(b).
- b) A Party may in good faith, dispute the correctness or absence of any settlement or adjustment to a settlement rendered under this Agreement or adjust any settlement for any arithmetic or computational error within twenty-four (24) months of the end of the Contract Year of which the subject settlement was rendered. In the event a settlement or portion thereof, or any other claim or adjustment arising hereunder is disputed, payment of the undisputed portion of the settlement shall be required to be made when due in accordance with this Section 2.4.7, with notice of the objection given to the Party issuing such settlement. Any billing dispute or billing adjustment shall be in writing and shall state the basis for such dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved, however the Party in receipt of the dispute notice is required to respond to such dispute notice with reasonable supporting documentation no later than ten (10) Business Days following delivery of such notice. If it is determined that an adjustment to the settlement is appropriate or an underpayment was made, then such payment shall be required to be made within ten (10) Business Days of such determination along with interest accrued at the Interest Rate from and including the due date to but excluding the date paid. Overpayments by a Party shall, at the option of the Party making such overpayment, be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to a settlement is waived unless the other Party is notified in accordance with this Section 2.4.7 within twenty-four (24)

months after the settlement is rendered or any specific adjustment to the settlement is made.

SMUD shall have the right, but not the obligation, to read the Project's meter on a daily basis.

2.4.8 Production Guarantee (PG); Project Performance; PG Damages

Seller shall make any necessary and commercially reasonable repairs with the intent of optimizing (to the extent commercially reasonable) the availability of Energy from the Project to SMUD.

Within thirty (30) days after the end of each Contract Year, Seller shall submit (i) its calculation of the AAEP for the previous Contract Year based on Seller's records related to Project generation, Dispatch Down Periods, SMUD Curtailment, Force Majeure and any SMUD breach and (ii) an annual report of actual annual solar insolation data for SMUD's review and use in calculating the AAEP and the Minimum Annual Energy Production for the previous Measurement Period.

If, at the end of any Measurement Period, the sum of the Adjusted AEP amounts for the two Contract Years in the Measurement Period is less than the AMAEP for such Measurement Period (such shortfall, if any, the "**PG Shortfall**"), then Seller shall pay SMUD PG Damages for each MWh of PG Shortfall for such Measurement Period. The "**PG Damages**" shall equal the market price for shortfall energy at Index Price and RECs as determined by SMUD using commercially reasonable efforts based on the average of three broker quotes for NP-15 Solar PV CEC RPS PCC1 RECs but in no event shall the PG Damages rate exceed the Contract Price.

The PG Damages provided above shall be Seller's sole obligation and SMUD's sole remedy in the event of a failure by Seller to meet the Measurement Period production guarantee under this Agreement.

3. CERTIFICATION AS AN ELIGIBLE RENEWABLE ENERGY RESOURCE

3.1 CEC RPS and Green-e Certifications

Subject to Section 3.4, SMUD requires that all renewable energy sold under this Agreement will meet the RPS requirements. At its own expense but subject to Section 3.4, Seller shall comply with the following:

- a) Commensurate with the Commercial Operation Date or as soon as reasonably practicable thereafter, Seller shall also provide a completed Green-e generator registration and attestation form (under the Green-e Standard) to SMUD and the Center for Resource Solutions, and Seller shall provide evidence of Green-e eligibility.
- b) Seller shall file an application with the CEC for RPS Pre-Certification as soon as possible after the Effective Date and shall obtain CEC Pre-Certification no later than the start of construction of the Project.
- c) In no event later than thirty (30) business days after the Commercial Operation Date (COD), Seller shall file for full RPS Certification of the Project with the CEC.
- d) Seller shall respond to inquiries from the CEC related to its applications for CEC Pre-Certification and RPS Certification within five (5) Business Days of receipt of such inquiry.
- e) Except as otherwise provided in Section 3.4, Seller shall maintain such RPS Certification throughout the Delivery Term at its own expense.

- f) Seller shall ensure that throughout the Delivery Term, Energy and Environmental Attributes from the Project delivered to the Delivery Point meet the criteria of California Public Utilities Code 399.16(b)(1); and ensure that the electricity and RECs from the Project are bundled according to the applicable CEC RPSEligibility Guidebook.

3.2 Environmental Attribute Delivery Obligation

Seller shall sell and deliver, and SMUD shall receive and purchase from Seller, all rights, title, and interest in all Environmental Attributes associated with Energy produced by the Project and delivered to SMUD at the Delivery Point whether now existing or that hereafter come into existence prior to and including the Delivery Term. Seller agrees to sell to SMUD all such Environmental Attributes to the fullest extent allowable by applicable Law, and convey the same to SMUD in accordance with the procedures in Exhibit H. Seller warrants that all Environmental Attributes provided to SMUD shall be free and clear of all liens, security interests, claims and encumbrances.

3.3 WREGIS Registration

Documentation of Environmental Attributes associated with the Energy produced under this Agreement shall be tracked through WREGIS. Seller shall assign rights to register the Project in WREGIS to SMUD, such that RECs are deposited directly into SMUD's WREGIS account. Subject to Exhibit H and Section 3.4, Seller shall be responsible for all WREGIS costs and fees associated with the issuance/creation of WREGIS RECs for the Project, and SMUD shall be responsible for any fees associated with the transfer and/or retirement of such WREGIS RECs to SMUD. WREGIS REC identification information shall support both CEC RPS and Green-e Standard REC retirements. At least forty-five (45) days before the end of the Term, or as soon as practicable before the date of any early termination of this Agreement before the end of the Term, SMUD shall take all actions necessary to terminate the assignment of registration rights in WREGIS associated with the Project as of the last day of the Term.

3.4 Change in Law

3.4.1 The Parties agree that expenditures to comply with the requirements of this Agreement ("**Compliance Expenditures**") that Seller shall be required to bear during the term of this Agreement shall be capped at a total of \$25,000 per Contract Year and \$375,000 in the aggregate over the Term ("**Compliance Expenditure Cap**").

3.4.2 If a change in Law occurs after the Effective Date that affects Seller's compliance with its obligations under this Section 3, Seller shall not be in breach of such obligations if Seller has used commercially reasonable efforts to comply with such change in Law as it pertains to such obligations. For purposes of this Section 3.4.2, the term "commercially reasonable efforts" shall not require additional out-of-pocket expenditures in the aggregate in excess of the Compliance Expenditure Cap in complying with the changes in Law described in this Section 3 unless SMUD and Seller have agreed in writing for SMUD to reimburse Seller for or to pay directly such excess expenditures.

3.4.3 Within thirty (30) calendar days after the end of each calendar quarter during the Term, Seller shall provide SMUD with a report describing the Compliance Expenditures that Seller incurred during that calendar quarter and the total Compliance Expenditures incurred during the Contract Year that includes such calendar quarter. Prior to incurring Compliance Expenditures that are anticipated to exceed \$25,000, Seller shall notify SMUD of the expected Compliance Expenditures. Following such notice, the Parties shall attempt to agree to limit such Compliance Expenditures to the extent practicable; provided, however, that nothing herein limits Seller's right to incur Compliance Expenditures that Seller believes in good faith must be incurred for Seller to comply with its obligations under this Agreement, as long as the above notification provisions are met. If Seller determines that costs in excess of the Compliance Expenditure Cap will have to be incurred, then

Seller shall notify SMUD and provide documentation and calculations to support the expected excess costs. SMUD may then: (1) approve the expected excess costs and notify Seller of such approval, and Seller shall comply upon receipt of notice of SMUD's approval and SMUD's payment for the expected excess costs (such costs, "**Accepted Compliance Expenditures**"); or (2) elect not to pay Seller for the expected excess costs and notify Seller of such decision, in which case this Agreement shall continue in full force and effect and Seller shall continue to be excused from performing any obligation that causes, or would cause, the incurrence of such Compliance Expenditures in excess of the Compliance Expenditure Cap. SMUD is not required to reimburse Seller for any Compliance Expenditures unless and until SMUD agrees to the expected Compliance Expenditures in excess of the Compliance Expenditure Cap. To the extent that SMUD has not agreed to reimburse, or has not reimbursed, Seller for any Accepted Compliance Expenditures, then SMUD is deemed to have waived Seller's obligation that causes, or would cause, the incurrence of such Compliance Expenditures in excess of the Compliance Expenditure Cap and (x) Seller will not be in default under this Agreement for failure to satisfy any such obligation and (y) payments to Seller under this Agreement during the entirety of the Delivery Term will not decrease as a result of such change in Law and will be maintained as if all such obligations were taken.

3.5 Additional Evidence of Environmental Attribute Conveyance

At SMUD's reasonable request, Seller shall provide additional reasonable evidence to SMUD or to third parties of SMUD's right, title, and interest in Environmental Attributes and information with respect to Environmental Attributes; provided that no such request may impose any material (non-administrative) additional costs on the Seller.

3.6 Modification of Environmental Attribute Reporting and Conveyance Procedure

The Parties shall revise Exhibit H as appropriate and issue a new Exhibit H which shall then become part of the Agreement, subject to Seller acceptance of any changes impacting costs, in order to reflect changes necessary in the Environmental Attribute conveyance procedure for SMUD to be able to receive and report the Environmental Attributes purchased under the Agreement as belonging to SMUD, in the event that:

- a) WREGIS changes the WREGIS Operating Rules after the Effective Date or applies the WREGIS Operating Rules in a manner inconsistent with Exhibit H after the Effective Date; or,
- b) WREGIS is replaced as the primary method that SMUD uses for conveyance of Environmental Attributes, or additional methods to convey all Environmental Attributes are required.

In no event will such revised Exhibit H cause Seller to incur any category of cost for which it is not already otherwise responsible under this Agreement, without prior notice by SMUD and agreement of the Parties as to the appropriateness of such cost belonging with the Seller and subject to Section 3.4.

3.7 Reporting of Ownership of Environmental Attributes

Seller shall not report to any person or entity that the Environmental Attributes sold and conveyed hereunder to SMUD belong to anyone other than SMUD, and SMUD may report under any such program that such Environmental Attributes purchased hereunder belong to SMUD.

3.8 Greenhouse Gas (GHG) Emissions

Seller shall bear all liability for reporting any and all GHG emissions from the Project, and for any compliance obligations under federal, state (including AB 32) and local laws for such emissions.

4. CONVEYANCE OF CAPACITY ATTRIBUTES

4.1 Conveyance of Capacity Attributes

Seller shall provide to SMUD any attestation SMUD requires in order for SMUD to show evidence that it has procured the Capacity Attributes associated with the Project in accordance with the procedure in Exhibit F. At SMUD's reasonable request, provided that no such request may impose any material (non-administrative) additional costs on the Seller, Seller shall execute such documents and instruments as may be reasonably required to affect recognition and transfer of the Capacity Attributes.

4.2 Reporting of Ownership of Capacity Attributes

Seller shall not report to any person or entity that the Capacity Attributes sold and conveyed hereunder to SMUD belong to anyone other than SMUD, and SMUD may report under any such program that such Capacity Attributes purchased hereunder belong to it.

4.3 Modification of Capacity Attribute Conveyance Procedure

SMUD may revise Exhibit F as appropriate, give written notice to Seller regarding the revision, and issue a new Exhibit F which shall then become part of the Agreement, provided that no such modification may impose any material (non-administrative) additional costs or obligations on the Seller, or reduce Seller's compensation hereunder, in order to reflect changes necessary in the Capacity Attribute conveyance procedure for SMUD to be able to receive and report the Capacity Attributes purchased under the Agreement as belonging to SMUD.

In no event will such revised Exhibit F cause Seller to incur any category of cost for which it is not already otherwise responsible under this Agreement without prior notice by SMUD and agreement of the Parties as to the appropriateness of such cost belonging with the Seller.

4.4 Energy Market Participation

The Parties acknowledge and agree that as of the date hereof, SMUD is participating in the EIM and/or other energy markets. The Parties have agreed to a structure in this Agreement to facilitate SMUD's use of the Project to participate in such markets. Notwithstanding, SMUD's joining or continued participation in such markets shall not require Seller to perform any additional measures or incur any additional or increased cost, liability or obligation, in each case other than what Seller is already otherwise expressly obligated under this Agreement, unless compensated by SMUD. If in the future, market rules or policies change, then without limiting Seller's and SMUD's rights under Section 3.4, the Parties shall meet and confer to discuss the new market rules and whether updates to the scheduling, settlements, or other procedures are required and to preserve the economic "benefit of the bargain" to both Parties to this Agreement.

5. INTERCONNECTION; TELEMETERING

5.1 Interconnection Agreement

Seller shall execute a IA with SMUD at the same time as execution of this Agreement. The IA specifies the obligations of the parties thereto with respect to the construction, operation and maintenance of certain interconnection facilities.

5.2 Backup Station Service

Backup Station Service for the Project shall be governed by SMUD's rates, rules, and regulations.

5.3 No Additional Loads

Seller shall not connect any loads not associated with Integral Station Service Loads at the location of the Project in a manner that would reduce the Energy provided from the Project to SMUD hereunder. Seller shall obtain separate retail electric service under existing SMUD tariffs for the service of any such additional loads.

5.4 Telemetry

The Project will require telemetry equipment connected to SMUD's energy management system ("EMS") including the automated dispatch system (ADS) as provided in IA Appendix H, Data Points List.

6. PERMITTING; STANDARD OF CARE; OPERATIONS; CURTAILMENT

6.1 Permitting

Seller shall be responsible for securing all land use and building permits and any other regulatory approvals required for the Project, including but not limited to those required for the interconnection facilities. Milestones for permitting shall be provided to the Seller to support the expected construction schedule for all of the facilities to meet the COD and Seller shall be responsible for ensuring milestones are met.

6.2 Standard of Care

Seller shall pay and be responsible for designing, installing, operating, and maintaining the Project in accordance with all applicable Laws and Prudent Utility Practice.

Seller shall: (a) operate and maintain the Project in a safe manner in accordance with Prudent Utility Practice and (b) maintain any governmental authorizations and permits required for the construction and operation thereof.

SMUD shall: (a) operate and maintain its 69kV System in a safe manner in accordance with Prudent Utility Practice and all applicable Laws, as such Laws may be amended from time to time; and (b) maintain any governmental authorizations and permits required for the construction and operation thereof.

Seller shall provide SMUD a mitigation plan, which shall include a grazing plan developed in consultation with SMUD specifying grazing as a method of vegetation management at the Project site.

6.3 Curtailment - Notice Following Outage or Curtailment

In the monthly settlements process, following any outage or any curtailment SMUD will provide Seller a notice describing whether such curtailment was due to a Dispatch Down Instruction (uncompensated in accordance with Section 6.6) versus SMUD Curtailment (compensated in accordance with Section 6.7), SMUD shall provide such additional information concerning any curtailment claimed to be due to Dispatch Down Instruction as Seller may reasonably request.

6.4 SMUD Performance Excuse

SMUD shall not be obligated to accept or pay for Energy produced by or Capacity provided from the Project during a Force Majeure event that prevents SMUD's ability to accept Energy from the Project, unless the failure to accept such Energy is also a curtailment under Sections 6.6 or 6.7, in which case the terms of Sections 6.6 or 6.7, as applicable, shall apply.

6.5 Dispatchability

Seller shall respond to Dispatch signals from SMUD as required pursuant to Dispatch Down Instructions in accordance with Section 6.6 or SMUD Curtailments in accordance with Section 6.7. Dispatch signals issued pursuant to Section 6.6 or 6.7 are to curtail the generation or deliveries from the Project or to terminate (in whole or in part) any such curtailment. SMUD's communication to Seller in advance of a curtailment need not be greater than that required to support the dispatch interval in the Real-Time Market.

6.5.1 SMUD will have the ability to Dispatch the output of the Project and to curtail the Project in full or in part from 0% to 100% of nominal capability up to the Installed Capacity. Seller shall install a Plant Controller with the ability to accept a control signal from SMUD's Energy Management System (EMS) through a local SMUD remote terminal unit (RTU) to curtail the Project. The Plant Controller shall run in mutually exclusive local or remote control modes. In local control mode, controller modes and setpoints can be selected by an operator from the plant SCADA. In remote control mode, controller modes and setpoints are selected via the SMUD remote terminal unit. Transition between local and remote modes shall be initiated by the SMUD operator via SMUD's EMS. In remote control mode the controller shall track remote setpoints and provide seamless transitioning from remote to local control mode. The plant controller shall be capable of independent and combined control of each of two 25 MW solar fields to provide SMUD the ability to curtail one, or the other, or both banks from 0% to 100% of Pmax simultaneously.]

6.5.2 Active power ramp rate control shall provide for the transition between generation levels at a controlled ramp rate. The controller shall support a power generation ramp rate in compliance with IA requirements (currently 5% to 20% of Pmax per minute).

6.5.3 Dispatchability control accuracy shall be better than a +/- 2 MW average over a five (5) minute interval. Seller shall provide SMUD evidence of this accuracy upon SMUD's request.

6.5.4 Any documented costs, penalties, and charges reasonably incurred by SMUD due to Seller's failure to respond to Dispatch signals (including Dispatch Down Instruction and SMUD Curtailment) in accordance with the terms and conditions of this Agreement shall be the responsibility of Seller; provided that SMUD shall provide Seller with notice of the incurrence of any such documented costs, penalties and/or charges reasonably incurred by SMUD in the next relevant settlement period .

6.6 Dispatch Down Instruction

6.6.1 SMUD may require Seller to interrupt or reduce deliveries of Energy pursuant to a Dispatch Down Instruction. SMUD will not compensate Seller for Deemed Delivered Energy during a Dispatch Down Period.

6.6.2 In the event of a Dispatch Down Instruction, SMUD shall, whenever possible, give Seller reasonable notice of the possibility that the interruption or reduction of deliveries may be required, and shall use commercially reasonable efforts to minimize the impact thereon on Project operations and to minimize the duration of the Dispatch Down Period.

6.6.3 Seller shall have the right, upon reasonable notice, to examine SMUD's records relating to any Dispatch Down Instructions to determine whether any such curtailment meets the criteria set forth in the definition of "Dispatch Down Instruction".

6.7 SMUD Curtailment

6.7.1 Subject to the remainder of this Section 6.7, SMUD shall have the right to instruct Seller to curtail production on an economic basis.

6.7.2 SMUD will pay the Seller the Contract Price for Energy that would have been generated had it not been curtailed due to SMUD Curtailments.

6.7.3 [Reserved]

6.7.4 SMUD will pay Seller the Contract Price for Deemed Delivered Energy due to a SMUD Curtailment, or a breach by SMUD of this Agreement or the Interconnection Agreement. Deemed Delivered Energy due to SMUD Curtailment or a breach by SMUD of this Agreement or the Interconnection Agreement will be included in the calculation of that month's payment to Seller for Energy generated, as described by Exhibit K – Deemed Delivered Energy Calculation Procedure. For the avoidance of doubt, any curtailment as a result of SMUD's economic bidding shall be deemed a SMUD Curtailment.

6.8 Determination of Deemed Delivered Energy

Deemed Delivered Energy shall be determined using (i) the amount of energy forecasted in the final VER Forecast for the delivery period, or (ii) the result of the equation below calculated and provided by Seller, as described in Exhibit K, to reflect the potential generation from the Project, and such calculation shall be validated by SMUD. The Parties agree that the VER Forecast shall be the primary determinant establishing Deemed Delivered Energy. In the event the VER Forecast is not available or is otherwise unsuitable as determined by mutual consent, then the equation below shall be used.

$$E_{Deemed} = E_{Scaled} * (1 - D) * EA - E_{Measured}$$

Where:

- (a) D = Degradation of 0.5%/year beginning on the first day of the second full Contract Year of this Agreement, and annually thereafter;
- (b) EA = Effective availability of 99%; provided that SMUD reserves the right to request from Seller and review data related to a particular Contract Year, and Seller agrees to adjustment of EA to an appropriate value for any Contract Year in which an unusual generation pattern results in a reduced level of generation.
- (c) E_{Deemed} = Deemed Delivered Energy (kWh);
- (d) $E_{Measured}$ = Actual Energy measured at the Project Meter in kWh

(e) $E_{Scaled} = \sum_{i=1}^n \left[\frac{POA_{Measured-i}}{POA_{Modeled-i}} * E_{Modeled-i} \right]$ limited to Maximum Hourly Energy Delivery kWh for any given hour.

Where:

- i. $E_{Modeled-i}$ = AC energy produced by the PVsyst clear sky model as shown in the Clear Sky Model Report Parameters (kWh), as adjusted each year to reflect differences in local time as a result of daylight savings time;

- ii. $POA_{Measured-i}$ = The average of the measured plane-of-array irradiance for the i^{th} hour (W/m^2);
- iii. $POA_{Modeled-i}$ = Modeled plane-of-array irradiance produced by the PVsyst clear sky model for the i^{th} hour (W/m^2) as shown in the Clear Sky Model Report, as adjusted each year to reflect differences in local time as a result of daylight savings time.
- iv. Seller must provide PVsyst clear sky modeled data, with 5 minute granularity, for POA irradiance and AC energy used in calculation to SMUD each year

Note that Parties may mutually agree to select alternate model report to provide more accurate settlement data. The alternative models include, without limitation, an AWS True Power or VER Forecast Model.

7. SCHEDULING AND FORECASTING; OUTAGES; ACCESS RIGHTS

7.1 Scheduling and Forecasting

The Project is located within the SMUD Service Territory, and SMUD will make its own forecasts or contract with a third party for forecasting of Project Energy production for use in its Scheduling process. SMUD shall (1) be responsible for all costs, charges and penalties associated with SMUD's bidding and scheduling rights under this Agreement for scheduling of the Project's Products, and any SMUD Curtailment and all imbalance energy costs, charges and penalties and (2) be entitled to all revenues assessed or provided associated with SMUD's bidding and scheduling of the Project's Products, and any SMUD Curtailment.

Seller shall comply with Exhibit G – Available Capacity Notification Requirements and Outage Notification Procedure.

7.2 Scheduling Coordinator; CAISO Settlements

SMUD shall be the Scheduling Coordinator for scheduling services for the Project, and for both the delivery and receipt of the Product at the Delivery Point, or contract with a third party for Scheduling Coordinator responsibilities (any such third party, a "**Third-Party SC**"). Seller shall pay SMUD an annual fee of \$14,000 with a 2% annual escalator factor during the Term for Scheduling coordination and settlement service. The Scheduling Coordinator requirements include SMUD's EIM or other energy market resource portfolio. As between Seller and SMUD, SMUD is responsible for all acts and omissions of any Third-Party SC and for all cost, charges and liabilities incurred by Third-Party SC to the same extent that SMUD would be responsible under this Agreement for such acts, omissions, costs, charges and liabilities if taken, omitted or incurred by SMUD directly. Seller shall have no liability to a Third-Party SC for any reason under this Agreement. SMUD (as the Scheduling Coordinator) shall be responsible for all settlement functions with the CAISO related to the Project, and shall submit Bids to the CAISO in accordance with this Agreement, the applicable CAISO Tariff, protocols and scheduling practices for Product on a day-ahead, hour-ahead, fifteen-minute market, real-time or other market basis that may develop after the Effective Date, as determined by Buyer consistent with the CAISO Tariff.

7.3 Energy Imbalance Market – EIM or other

SMUD participates in the EIM, and the Parties acknowledge that the Project will be an EIM Participating Resource and such participation will incur imbalance deviation charges. Extensions of the EIM into the Day-Ahead Market may result in additional imbalance deviations, the responsibility for which shall be governed by Section 7.1

7.4 Seller Available Capacity Notification Requirements; Penalties

Seller shall comply with the Available Capacity notification requirements as defined in Exhibit G as it relates to a schedule of the hourly Available Capacity. If in any hour of any month during the Delivery Term both (a) Seller fails to comply with the notification procedures requirements, and (b) the sum of Energy Deviations (defined below) for each of the 12 Settlement Intervals (defined below) in that hour exceed the Performance Tolerance Band (defined below), then Seller is liable for scheduling penalties ("**Scheduling Penalties**") equal to the greater of (i) one hundred fifty percent (150%) of the Contract Price (expressed in \$ / kWh) or (ii) the absolute value of the Real-Time Price, in each case for each kWh of Energy Deviation outside the Performance Tolerance Band. The term "**Energy Deviation**" means the absolute value of the difference, in kWh, in any Settlement Interval between (i) the final accepted Bid submitted for the Project for the hour of the Settlement Interval divided by the number of Settlement Intervals in the hour; and (ii) energy actually delivered from the Project, measured in kWh, such Settlement Interval. The term "**Performance Tolerance Band**" means, in kWh, is equal to: (i) three percent (3%) times; (ii) forecasted Available Capacity times; (iii) one (1) hour; and (c) the term "**Settlement Interval**" means any one of the twelve (12) five (5) minute time intervals beginning on any hour and ending on the next hour.

7.5 Planned Outages

For the purposes of this Agreement a maintenance outage shall constitute a Planned Outage. Planned Outages may only be taken upon thirty (30) days written notice to SMUD. Seller shall use commercially reasonable efforts to not schedule or take any Planned Outages from 6:00 a.m. through 10:00 p.m. Pacific Prevailing Time during the months of May through September unless required by Prudent Utility Practice or applicable Law. Seller shall use commercially reasonable efforts in accordance with Prudent Utility Practice to minimize the frequency and actual duration of Planned Outages and optimize the availability of Energy from the Project. Seller shall provide Planned Outage notifications in accordance with the Outage Notification Procedure detailed in Exhibit G.

7.6 Forced Outages

Seller shall provide Forced Outage notifications in accordance with the Outage Notification Procedures detailed in Exhibit G and Exhibit I, which notification shall include the expected duration of the Forced Outage and the estimated time of return ("**ETR**") of the Project. When Seller desires to return the Project to service, Seller shall notify SMUD of the same. SMUD shall use commercially reasonable efforts to accommodate the return to service as soon as practicable after such request; provided that SMUD shall permit the Project to return to service no later than the ETR. If Seller's notice to return the Project to service occurs prior to the ETR, the following will occur: (i) SMUD will permit the Project to return to service, or (ii) if SMUD is not able to accommodate all or a portion of the Project's Energy due to SMUD's scheduling of replacement energy prior to the ETR, SMUD may deny or reduce such Energy until the occurrence of the ETR on a non-compensable basis, or (iii) if SMUD is not able to accommodate all or a portion of the Project's Energy due to SMUD's scheduling of replacement energy or any other economic reason at or following the ETR, SMUD may curtail such Energy and such curtailment shall be considered a SMUD Curtailment. However, notwithstanding the prior sentence, SMUD may require Seller to interrupt or reduce deliveries of Energy pursuant to a Dispatch Down Instruction due to an event or circumstance at or following the ETR.

7.7 Modification of Outage Notification Procedure

Upon mutual consent of both Parties, SMUD shall modify Exhibit G to reflect changes necessary in the Outage Notification Procedure, give written notice to Seller regarding the revision, and issue a new Exhibit G which shall then become part of the Agreement to reflect changes in the Outage Notification Procedure.

7.8 Access Rights

SMUD, its authorized agents, employees and inspectors, upon advance notice to Seller and at their own cost and expense and subject to Section 12.2, shall have the right to reasonably, periodically visit the Project site and inspect the Project in accordance with the Definitive Agreements.

8. TERM, TERMINATION EVENT AND TERMINATION

8.1 Term

The term of this Agreement (the “**Term**”) shall commence upon the last execution by the duly authorized representatives of each of SMUD and Seller, and shall remain in effect until the conclusion of the Delivery Term, unless terminated sooner pursuant to the terms of this Agreement. All indemnity rights shall survive the termination of this Agreement for twelve (12) months.

8.2 Events of Default; Remedies

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

- a) the Defaulting Party fails to make, when due, any payment required under this Agreement if such failure is not remedied within ten (10) calendar days after receipt of notice from the Non-Defaulting Party;
- b) any representation or warranty made by such Defaulting Party herein is false or misleading in any material respect when made, and such failure is not cured within thirty (30) calendar days after receipt of notice from the Non-Defaulting Party, or such longer period not to exceed sixty (60) days if the failure is not capable of being cured within such thirty (30) days with the exercise of reasonable diligence, so long as the Defaulting Party has commenced and is diligently pursuing a cure during such initial thirty (30)-day period;
- c) the Defaulting Party fails to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate default under this Section 8.2.1 or otherwise has a specific remedy provided in this Agreement), if such failure is not remedied within thirty (30) days of receipt of notice from the Non-Defaulting Party, or such longer period not to exceed ninety (90) days if the failure is not capable of being cured within such thirty (30) days with the exercise of reasonable diligence, so long as the Defaulting Party has commenced and is diligently pursuing a cure during such initial thirty (30)-day period; and/or
- d) the Defaulting Party becomes Bankrupt.

8.2.2 Remedies

- a) Termination for Default. Except as otherwise expressly provided in this Agreement, an Event of Default by a Defaulting Party, the other Party (the “**Non-Defaulting Party**”) shall have the right to (a) terminate this Agreement by providing notice of such termination to the Defaulting Party, which termination shall be effective on a day no earlier than five (5) days after such notice is deemed to be received (as provided in Section 15) and no later than twenty (20) days after such notice is deemed to be received (as provided in Section 15) and, except as provided in Section 8.3 to the contrary, the Defaulting Party shall pay the Non-Defaulting Party a Termination Payment calculated in accordance with Section 8.5, or (b) pursue any other remedies available at law or in equity, including where

appropriate, specific performance or injunctive relief, except to the extent such remedies are expressly limited under this Agreement. If the Non-Defaulting Party fails to terminate this Agreement under clause (a) of this paragraph by notice to the Defaulting Party within six (6) months following the Non-Defaulting Party's declaration of an Event of Default, then the Non-Defaulting Party shall be deemed to have waived its rights to terminate this Agreement pursuant to clause (a) of this paragraph with respect to such Event of Default. If the Non-Defaulting Party elects to terminate this Agreement under clause (a) of this paragraph, then the sole and exclusive remedy available to the Non-Defaulting Party shall be the Termination Payment calculated in accordance with Section 8.5. Notwithstanding any provision herein to the contrary, if Seller commits an Event of Default under this Agreement prior to the Commercial Operation Date, SMUD's sole and exclusive remedy in respect of such Event of Default shall be to terminate this Agreement and retain the Development Security then-held by SMUD pursuant to Section 9.1 (less any Delay Damages already paid by Seller).

b) Suspension.

- i) Duty to Mitigate Damages. In addition to (and without limiting) the remedies for an Event of Default otherwise available at law or in equity, during the existence of an Event of Default, the Non-Defaulting Party shall use commercially reasonable efforts to mitigate the damages incurred as a result of such Event of Default.
 - ii) Right to Suspend. In addition, during the existence of an Event of Default, the Non-Defaulting Party may, by notice to the Defaulting Party, suspend (the date of such notice, the "**Suspension Date**") in whole or in part its payment (excluding accrued payment obligations prior to such Suspension Date) or performance under this Agreement.
 - iii) Responsibility for damages during Suspension. Such suspension shall not relieve the Defaulting Party of its obligations to pay damages arising out of such Event of Default.
 - iv) Resumption of Performance Following Suspension. After the Defaulting Party's cure of such Event of Default, and provided there is no other Event of Default by such Defaulting Party then occurring and this Agreement has not been terminated, the Non-Defaulting Party will resume performance of its obligations under this Agreement.
- c) Termination or Suspension without Cause. Except for the rights to terminate and suspend expressly set forth in this Agreement, neither Party shall have any right to terminate this Agreement or suspend its performance for any reason.

8.3 Termination Rights

SMUD shall have the right but not the obligation to terminate this Agreement if any of the following occur, each of which is a "**Termination Event**":

8.3.1 Failure to achieve Commercial Operation

In the event Seller fails to achieve Commercial Operation of the Required Percentage of the Expected Capacity by the Guaranteed COD, as that date may be extended by Seller in accordance with the terms and conditions, then SMUD shall have the right, but not the obligation, to terminate this Agreement. To exercise this right, SMUD shall provide Seller with a ten (10) day advance written notice. If Seller achieves

the Commercial Operation Date prior to the end of the ten (10) day notice period, SMUD shall not exercise its right to terminate the Agreement. This deadline shall be extended on a day for day basis if Seller's failure to achieve Commercial Operation in the designated timeframe was caused by an Excusable Delay.

8.3.2 Failure to sell or deliver Energy

If, after the Commercial Operation Date, Seller has not sold or delivered Energy and Environmental Attributes from the Project to SMUD for a period of twelve (12) consecutive months, except due to Force Majeure events, Dispatch Down Periods, SMUD Curtailments and/or SMUD breaches that prevents or excuses Seller from delivering Energy at the Delivery Point, then SMUD shall have the right to terminate this Agreement.

8.3.3 Failure to meet the Minimum Annual Energy Production

If the Adjusted AEP is less than ninety percent (90%) of the Adjusted MAEP, as decreased by one half of one percent (MAEP*.005) beginning on the first day of the second full Contract Year of this Agreement, and annually thereafter, and as adjusted for the Actual Annual Solar Insolation, for any two consecutive Contract Years.

Notice of such termination for this Event of Default shall be given in writing a minimum of sixty (60) calendar days prior to the effectiveness of such termination and within one hundred twenty (120) calendar days following the end of the second of the applicable two Contract Years. SMUD's ability to exercise such termination right in respect of any two consecutive Contract Years shall be deferred for up to one year if Seller has reasonably demonstrated to SMUD, and is actively implementing in good faith, a cure plan for any such failure as described below.

A cure plan may include, but is not limited to, the addition of solar modules to the system at Seller's sole expense. A cure plan that reasonably shows the Project's ability to achieve 90% of the Adjusted MAEP in that current two consecutive Contract Year period (i.e. the cure plan Contract Year and the preceding Contract Year) must be submitted to SMUD in writing within fifteen (15) calendar days of Seller's receipt of SMUD's notice of termination. SMUD shall then have fifteen (15) calendar days after receipt of the cure plan to inform Seller in writing of any reasonable objections to the cure plan. SMUD's non-objection to, or requested modifications to, Seller's cure plan does not waive SMUD's termination rights in the event that the cure plan is not ultimately effective to cause the Adjusted MAEP for the two consecutive Contract Year period of which it is a part to equal or exceed 90%. Any disagreements regarding the cure plan will be resolved in accordance with the dispute resolution provisions in Section 21.

8.3.4 Failure to Comply with RPS Covenants

Except as otherwise provided in Section 3.4, in which case, for the avoidance of doubt there will be no termination right if the cause of such non-compliance is SMUD's choice to not pay costs in excess of the Compliance Expenditure Cap:

- a) Seller fails to obtain RPS Certification for the Project within six (6) months after COD, except if failure to obtain RPS Certification within this six (6) month period is not due to Seller's action or inaction, then Seller shall be provided a day-for-day delay right to obtain RPS Certification up to an additional of six (6) months for a total of no more that twelve (12) months after COD as long as such day-for-day delay is not due to Seller's action or inaction. Seller shall present to SMUD a reasonable plan of action laying out those steps that Seller shall take in order to obtain such certification as quickly as possible, for acceptance by SMUD, which acceptance shall not be unreasonably withheld; or
- b) Subject to Section 3.4, 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, SMUD shall not be obligated to purchase any Energy or other Products from Seller hereunder, but Seller may sell such Energy and other Products to third parties.

8.4 Declaration of a Termination Event

If a Termination Event has occurred, SMUD shall have the right to: (a) send notice, designating a day, no earlier than five (5) days after such notice is deemed to be received (as provided in Section 15) and no later than twenty (20) days after such notice is deemed to be received (as provided in Section 15) (unless, in each case, a longer notice period is set forth in Section 8.3), as an early termination date of this Agreement ("**Early Termination Date**") unless the Parties have agreed to resolve the circumstances giving rise to the Termination Event; (b) except for a termination pursuant to Section 8.3.1 or as elsewhere provided in this Agreement to the contrary, calculate the Termination Payment in accordance with Section 8.5 owed in connection with such Termination Event; and (c) terminate this Agreement and end the Delivery Term effective as of the Early Termination Date. With respect to any Termination Event prior to the Commercial Operation Date, including pursuant to Section 8.3.1, Seller's sole and exclusive liability and SMUD's sole and exclusive remedy aside from terminating this Agreement shall be the forfeiture of Seller's Development Security to SMUD less any Delay Damages already paid by Seller.

8.5 Termination Payment Calculation

If a Termination Event occurs or if this Agreement is terminated following a breach or default as provided in Section 8.2 of this Agreement, in each case ultimately resulting in termination of the Agreement, a "**Termination Payment**" shall be determined in accordance with this Section 8.5. Notwithstanding any provision herein to the contrary, prior to the Commercial Operation Date, the Termination Payment shall be zero dollars (\$0.00).

8.5.1 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 8.5.1(a) below and discounted to present value as set forth under Section 8.5.1(b) below; plus (ii) Non-Defaulting Party's Cost as calculated under Section 8.5.1(c) 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 8.5.1(d) below. If the Termination Payment as so calculated would be less than zero, it shall be deemed to be zero.

- a) The Parties intend that Non-Defaulting Party's "**Loss**" shall be the net 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 8.5. The Loss, if any, suffered by Non-Defaulting Party shall be determined by comparing the value of the remaining Term, applying the lesser of (i) the Adjusted AEP for the most recently completed Contract Year, or (ii) the Minimum Annual Energy Production, and the Contract Price for each year of the remaining Term under the Agreement had it not been terminated to the equivalent quantity with each party obtaining, in good faith and from non-affiliated market participants in the relevant market, two quotes for prices of California RPS PCC 1 bundled renewable energy and RECs for the affected period of a similar quality and quantity in the geographical location closest in proximity to the Delivery Point and averaging the four quotes. If either Party fails to provide two quotes, then the average of the other Party's two quotes shall determine the replacement price. For clarity, if SMUD is the Non-Defaulting Party, the Non-Defaulting Party's Loss equals the amount by which the market price of replacement Products exceeds the Contract Price therefor, and if the Seller is the Non-Defaulting Party, the Non-Defaulting Party's Loss equals the amount by which the Contract Price hereunder exceeds the market price of such replacement Products, less the expenses saved

by Seller due to SMUD's default (if any), which includes, but is not limited to, the cost of production of the Products. To ascertain the market price of a replacement contract, Non-Defaulting Party may consider, among other valuations, quotations from leading dealers in ERR 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. For the avoidance of doubt, if this Agreement is terminated as a result of a SMUD Event of Default and the Interconnection Agreement is also terminated, then the Parties agree it shall be reasonable for Seller to assume no replacement sales will occur in calculating the Termination Payment and therefore, in calculating Seller's Loss, the "market price of replacement Products" shall be deemed to be zero.

- b) The Loss calculated under paragraph (a) shall be discounted to present value using a discount 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).
- c) 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, 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. Consistent with Section 21.2, each Party shall pay and be responsible for their own attorney fees.
- d) 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 to the 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) Business Days following the effective date of termination, or, if the Parties disagree regarding the calculation of the Termination Payment, the date that the calculation of the Termination Payment is resolved pursuant to Section 8.5.2.
- e) In no event, however, shall the calculation of Loss or Costs include any penalties or similar charges imposed by the Non-Defaulting Party.

8.5.2 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 21.

9. CREDITWORTHINESS

9.1 Project Development Security

Within thirty (30) days of the Effective Date, Seller shall provide project development security in the amount equal to the product of (i) \$30/kWac multiplied by (ii) fifty (50) MWac, in the form of cash, Letter of Credit, Surety Bond or guaranty acceptable to SMUD ("**Development Security**"); to be maintained until the start of the Delivery Term.

9.2 Delivery Term Security

Prior to commencement of the Delivery Term, Seller to provide Delivery Term Security in the amount equal to the product of (a) \$75/kWac multiplied by (b) fifty (50) MWac in the form of cash, Surety Bond, Letter of Credit, or guaranty acceptable to SMUD for the duration of the Delivery Term ("**Delivery Term Security**") and SMUD shall return the Development Security provided pursuant to Section 9.1 to Seller. Seller shall maintain the Delivery Term Security for the duration of the Delivery Term.

No lien or other security will be required and SMUD's recourse against Seller shall be limited to the security provided.

"**Qualified Issuer**" is a major U.S. commercial bank or a U.S. branch of a foreign bank ("**Bank**") that, at the time of delivery of a letter of credit, (i) has a combined capital surplus of \$10,000,000,000 and (ii) has a senior unsecured long-term credit rating of at least "A-" by S&P or "A3" by Moody's. If Qualified Issuer fails to meet the foregoing capital surplus and unsecured long-term credit rating requirements, Seller must replace credit support with another Bank.

10. [RESERVED]

11. FORCE MAJEURE

11.1 Effect of Force Majeure

Buyer or Seller, as the case may be, shall be excused from performance under this Agreement to the extent, but only to the extent, that performance hereunder is prevented by an act or event of Force Majeure. The Party invoking Force Majeure shall exercise due diligence to overcome or mitigate the effects of such an act or event of Force Majeure; *provided*, however, that nothing in this Agreement shall be deemed to obligate the Party invoking Force Majeure (a) to forestall or settle any strike, lock-out or other labor dispute against its will; or (b) for Force Majeure affecting Seller only, to purchase electric power to cure the event of Force Majeure.

11.2 Notice of Force Majeure

In the event of any delay or nonperformance resulting from an event of Force Majeure, the Party invoking Force Majeure shall, as soon as practicable under the circumstances, notify the other Party in writing of the nature, cause, date of commencement thereof and the anticipated extent of any delay or interruption in performance.

11.3 Termination Due to Force Majeure Event

If a Party is prevented from performing its material obligations under this Agreement for a period of twelve (12) consecutive months or longer due to Force Majeure, the unaffected Party may terminate this Agreement, without liability of either Party to the other, upon thirty (30) days written notice at any time during the Force Majeure event.

12. INDEMNITY

12.1 Indemnity by Seller

Seller shall defend, release, indemnify and hold harmless SMUD, its directors, officers, employees, agents, and representatives against and from any and all losses, claims, demands, liabilities and expenses, actions or suits, including reasonable costs and attorney's fees, resulting from, or arising out of or in any way connected with claims by third parties associated with the acts or omissions of Seller, its directors, officers, employees, agents and representatives relating to: (i) the Energy delivered at the Delivery Point; (ii) Seller's operation and/or maintenance of the Project; or (iii) this Agreement; excepting only such loss, claim, action

or suit to the extent caused by the willful misconduct or gross negligence of SMUD, its agents, employees, directors or officers.

12.2 Indemnity by SMUD

SMUD shall defend, release, indemnify and hold harmless Seller, its directors, officers, employees, agents, and representatives against and from any and all losses, claims, demands, liabilities and expenses, actions or suits, including reasonable costs and attorney's fees resulting from, or arising out of or in any way connected with claims by third parties associated with acts or omissions of SMUD, its directors, officers, employees, agents, and representatives, relating to: (i) the Energy delivered by Seller under this Agreement after the Delivery Point, (ii) SMUD's operation and/or maintenance of its Electric System; or (iii) this Agreement; excepting only such loss, claim, action or suit to the extent caused by the willful misconduct or gross negligence of Seller, its agents, employees, directors or officers.

13. LIMITATION OF DAMAGES

EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY; SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED UNLESS EXPRESSLY HEREIN PROVIDED. EXCEPT WITH REGARD TO INDEMNIFICATION OF THIRD PARTY CLAIMS IN ACCORDANCE WITH SECTION 12, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, OR OTHERWISE. UNLESS EXPRESSLY HEREIN PROVIDED, AND SUBJECT TO THE PROVISIONS OF SECTION 12, IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. THE TERMINATION PAYMENT UNDER SECTION 8.5.1 IS NOT SUBJECT TO THE LIMITATION OF DAMAGES PROVISION SET FORTH IN THIS SECTION 13. THE PARTIES EXPRESSLY ACKNOWLEDGE AND AGREE THAT THE LIMITATION OF DAMAGES PROVISIONS CONTAINED IN THIS SECTION 13 WILL NOT LIMIT THE RECOVERY BY SELLER OF DAMAGES BASED ON THE VALUE OF ANY ITC OR OTHER TAX BENEFITS THAT ARE LOST, UNAVAILABLE, DISALLOWED, REDUCED OR RECAPTURED THAT ARE REQUIRED TO BE REPAYED, DETERMINED ON AN AFTER-TAX BASIS, BY SELLER, SELLER'S DIRECT OR INDIRECT OWNERS, A LENDER, A TAX EQUITY INVESTOR OR ANY OF THEIR AFFILIATES DUE TO AN EVENT OF DEFAULT BY SMUD THAT SELLER HAS NOT BEEN ABLE TO MITIGATE AFTER USE OF COMMERCIALY REASONABLE EFFORTS (WHICH SUCH AMOUNTS WILL BE DEEMED TO BE DIRECT DAMAGES RECOVERABLE BY SELLER).

14. REPRESENTATION AND WARRANTIES; COVENANTS

14.1 Representations and Warranties

On the Effective Date, each Party represents and warrants to the other Party that:

14.1.1 It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

14.1.2 The execution, delivery and performance of this Agreement is within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;

14.1.3 This Agreement and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms;

14.1.4 It is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its actual knowledge, threatened against it which would result in it being or becoming Bankrupt;

14.1.5 There are not pending or to its actual knowledge threatened legal proceedings against it or any of its affiliates that could materially adversely affect its ability to perform its obligations under this Agreement; and

14.1.6 It is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of, and understands and accepts, the terms, conditions and risks of this Agreement.

14.2 General Covenants

Each Party covenants that throughout the Term of this Agreement:

14.2.1 It shall continue to be duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

14.2.2 It shall maintain (or obtain from time to time as required, including through renewal, as applicable) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement; and

14.2.3 It shall perform its obligations under this Agreement in a manner that does not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it.

14.3 SMUD Representations and Warranties

14.3.1 As of the Effective Date and throughout the Delivery Term, SMUD represents and warrants to Seller that:

14.3.2 SMUD is subject to claims and to suit for damages in connection with its obligations under this Agreement pursuant to and in accordance with the laws of the State of California applicable to municipal utility districts;

14.3.3 SMUD is a "local public entity" as defined in Section 900.4 of the Government Code of the State of California.

15. NOTICES

Notices shall, unless otherwise specified herein, be in writing and may be delivered by hand delivery, United States mail, overnight courier service, facsimile or electronic messaging (e-mail). Whenever this Agreement requires or permits delivery of a "notice" (or requires a Party to "notify"), the Party with such right or obligation shall provide a written communication in the manner specified below. A notice sent by facsimile transmission or email will be recognized and shall be deemed received on the Business Day on which such notice was transmitted if received before 5 p.m. Pacific prevailing time (and if received after 5 p.m., on the next Business Day) and a notice by overnight mail or courier shall be deemed to have been received two (2) Business Days after it was sent or such earlier time as is confirmed by the receiving Party

unless it confirms a prior oral communication, in which case any such notice shall be deemed received on the day sent. A Party may change its addresses by providing notice of same in accordance with this provision. All written notices shall be directed as shown in Exhibit I. Either Party may request a change to Exhibit I as necessary to keep the Exhibit I information current without amendment to this Agreement.

16. SET OFF

Each Party shall be entitled to offset amounts owed by the other Party under this Agreement from the amounts owed to it under the Agreement.

17. ASSIGNMENT

17.1 There shall be no Change of Control of any interest in the Project or sale, transfer or assignment of this Agreement (collectively, a "**Transfer**") without the prior written consent of the other Party, which consent shall not be unreasonably withheld; provided, however;

17.1.1 A Transfer of (i) this Agreement or (ii) any direct or indirect ownership interests in Seller, in each case to any lender or its designee as collateral for any financing or refinancing of the Project, shall not constitute an assignment, Change of Control or Transfer requiring the consent of SMUD under this Agreement. Any such Transfer shall not relieve Seller of its obligations under this Agreement arising prior to the effective date of such Transfer. To facilitate Seller's obtaining of financing in connection with the Project, SMUD shall provide such consents to assignments, certifications, estoppels, opinions, representations, information or other documents as may be reasonably requested by Seller or the lenders in connection with the debt or tax equity financing of the Project, as applicable; provided that in responding to any such request, SMUD shall have no obligation to (a) provide any consent, certification, representation, information or other document, or enter into any agreement, that materially and adversely affects, or that could reasonably be expected to have or result in a material adverse effect on, any of SMUD's rights, benefits, risks and/or obligations under this Agreement (other than terms customary in connection with the applicable financing) or (b) incur any unreimbursed third-party expense. Seller shall reimburse, or shall cause the lender(s) to reimburse, SMUD for the incremental direct third party expenses (including the reasonably documented fees and expenses of SMUD's counsel) incurred by SMUD in the preparation, negotiation, execution and/or delivery of any documents requested by Seller or the lenders, and provided by SMUD, pursuant to this Section 17.1.1. Upon written request of Seller, SMUD will negotiate a Consent and Agreement between Seller and Seller's lender and/or tax equity investor in the form reasonably acceptable to SMUD, substantially in the form attached herein as Exhibit L.

17.1.2 Without limitation as to other reasonable grounds for withholding consent, the Parties hereby agree that it shall be reasonable under this Agreement and under any applicable Law for SMUD to withhold consent to any proposed Transfer, where at the time of the Assignment, the assignee is not concurrently assuming all of the future obligations under the IA as well as the future obligations under this Agreement; provided that if the Seller is not in default under the this Agreement and notwithstanding the foregoing, no consent shall be required for any Permitted Transfer. Any such Transfer shall not relieve Seller of its obligations under this Agreement arising prior to the effective date of such Transfer. Notwithstanding the foregoing, Seller shall, within thirty (30) days prior to such Transfer, provide SMUD with written notice of any Transfer permitted under this Section 17.1, which notice shall identify the transferee and contain evidence that the transferee has assumed or will assume all of the obligations under this Agreement arising after the date of the Transfer, and reasonable proof that the Transfer qualifies as an exempt transfer under this Section 17.1. The term "**Affiliate**" as used herein means, with respect

to Seller, any corporation or limited liability company that directly or indirectly controls, is controlled by, or is under common control with, Seller.

17.2 SMUD may request that Seller enter negotiations to permit SMUD's limited assignment of a portion of SMUD's rights and obligations under this Agreement to J. Aron and Company, LLC ("**J. Aron**") at any time upon not less than 30 days' notice by delivering a written request for such assignment. Following any such request by SMUD, (a) Seller, SMUD and J. Aron shall negotiate in good faith the execution of a limited assignment agreement based on the form attached hereto as Exhibit R, and (b) if requested by Seller, Seller and SMUD shall negotiate in good faith an indemnity and/or a legal opinion, to be provided by SMUD for the benefit of Seller, in form and substance satisfactory to Seller.

18. SMUD CLEAN ENERGY COMMUNITY LEADERS – MARK GALL MEMORIAL SCHOLARSHIP.

Seller shall pay SMUD five thousand dollars (\$5,000) in each of Contract Years 1 through 6, for SMUD to use for the purposes of administering a scholarship program for high school seniors attending post-secondary two- or four-year colleges in SMUD partner communities who have a demonstrated interest in renewable energy development in the greater Sacramento area.

19. PROJECT PURCHASE OPTION

Seller hereby grants to SMUD the right and option to purchase all of Seller's right, title and interest in and to the Project and Products the terms set forth herein.

19.1 SMUD shall have the option (the "**Purchase Option**") to terminate this Agreement and purchase from Seller the Project and Products for the greater of (a) the Fair Market Value of the Project and Products, as described in Section 19.6 and (b) the amount of Facility Debt as of the date of the issuance of the Purchase Option, (the higher of (a) and (b), the "**Purchase Price**"), in accordance with this Section 19. SMUD may exercise the Purchase Option upon (i) the tenth (10th) anniversary of the Commercial Operation Date, or (ii) the expiration of the Delivery Term. In the event SMUD desires to exercise the Purchase Option, SMUD shall deliver to Seller a notice indicating SMUD's intent to exercise the Purchase Option (an "**Option Notice**") on or before the date which is no less than six (6) months prior to the no less than six (6) months prior to the tenth (10th) anniversary of the Commercial Operation Date (the "**10-year Purchase Option**"), or no less than six (6) months prior to the end of the Delivery Term (the "**Final Purchase Option**").

19.2 For a period of six (6) months following delivery of the Option Notice with respect to the 10-year Purchase Option, and the Final Purchase Option (the "**Purchase Option Due Diligence Period**"), SMUD and its representatives shall have the right to conduct any and all due diligence which SMUD may reasonably deem necessary with respect to the Project and Products. Seller shall during the Purchase Option Due Diligence Period make available to SMUD and its representatives full access to the Project, related title work, surveys, contracts, data and records and operating personnel ("**Full Access**"). The Purchase Option Due Diligence Period will be extended day-for-day to the extent that, due to Seller's default, Force Majeure or any other reason not attributable to Seller, Full Access cannot be provided.

19.3 SMUD and Seller shall execute a Purchase and Sale Agreement under which Seller will sell and SMUD, or its assign, will purchase the Project at a closing for the purchase and sale of the Project (the "**Closing**") to be held on a date which is within six (6) months following the 12-year Purchase Option or the Final Purchase Option, as applicable, (the "**Closing Date**") at a location selected by SMUD.

19.4 Between the date of the Option Notice and the Closing Date, Seller may not take any actions that would materially adversely affect the Project site, the Project and Products or SMUD's

interest in purchasing the Project and Products. Under this Agreement, among other standard provisions, effective as of the Closing:

19.4.1 Seller shall transfer the Project and Products to SMUD on an as-is, where-is basis, and Seller shall not be required to make any representations or warranties with regard to the Project and Products; *provided, however*, that Seller shall remove any encumbrances placed on the Project and Products by Seller at Seller's expense. No such transfer shall relieve Seller of any liability whatsoever arising from the violation, breach or default by Seller of this Agreement, any transferred contract, transferred permit, transferred intellectual property or other transferred asset, or resulting from any act or omission by Seller that occurred prior to the Closing Date.

19.4.2 Seller shall transfer the Project and Products to SMUD, free and clear of all liens and encumbrances. Seller shall assign and transfer to SMUD all of its right, title and interest in the following: (a) all raw materials, consumables and spare parts, in each case, to the extent relating to the Project and Products; (b) all tangible personal property to the extent relating to the Project and Products; (c) all intangible personal property, including permits, patents, patent licenses, patent applications, trade names, trademarks, trademark registrations and applications therefore, trade secrets, copyrights, know-how, secret formulae and any other intellectual property rights, in each case, to the extent exclusively used by Seller in the operation of the Project and Products; (d) all buildings and fixtures to the extent relating to the Project and Products; (e) computerized and non-computerized records, reports, data, files, and information, in each case, to the extent exclusively used by Seller in the operation of the Project and Products; (f) all design, construction and equipment warranties and guarantees related to the Project and Products in which Seller has any remaining rights against engineers, contractors, suppliers, equipment manufacturers or other persons; and (g) all permits and entitlements. Notwithstanding this Section 19.4.2, Seller shall have the right to retain copies of, and shall have the right to use, any and all records, reports, data, files and information assigned and transferred by Seller to SMUD pursuant to Section 19.4.2(e) for its internal business use, which may include by way of illustration and not be way of limitation: (i) use in accordance with Seller's standard document retention policies; (ii) responding to or otherwise complying with regulatory audits or requests; (iii) responding to third party due diligence requests; (iv) complying with applicable Laws; (v) responding to or defending third party claims or allegations; or (vi) enforcing, defending or interpreting Seller's rights, claims or remedies under this Agreement.

19.4.3 All items relating to the ownership and operation of the Project and Products, which are customarily prorated, shall be prorated as of the Closing Date. Seller shall be liable with respect to items or obligations that relate to any time period prior to the Closing Date and SMUD shall be liable with respect to items or obligations relating to time periods after the Closing Date, and to the extent practicable, shall be credited to Seller's settlement account.

19.5 This and the other Definitive Agreements shall terminate upon the Closing Date and (a) the payment in full to Seller of the Purchase Price and (b) the satisfaction or payment of all other obligations due to either Party under this Agreement.

19.6 The "**Fair Market Value**" of the Project and Products shall be the value determined by the mutual agreement of SMUD and Seller after receipt by Seller of SMUD's Option Notice requesting a determination of the Fair Market Value, or if there is no such agreement, the value determined by an independent appraiser as provided under this Section 19.6. Within ten (10) days of Seller's receipt of an Option Notice, SMUD and Seller shall jointly select a recognized independent appraiser, with experience and expertise in the solar photovoltaic industry to value such Project and Products with whom the Parties will discuss methods and assumptions. Such appraiser shall act reasonably and in good faith to determine the Fair Market Value and shall set forth such

determination in a written opinion delivered to the Parties within a timeframe established upon appointment of the appraiser, aspirationally no later than thirty (30) days after the date of appointment. The valuation made by the appraiser shall be the Fair Market Value in the absence of fraud or manifest error. The costs of the appraisal shall be borne by SMUD. If the Parties are unable to agree on the selection of an appraiser, such appraiser shall be jointly selected by the appraiser firm proposed by SMUD and the appraiser firm proposed by the Seller. The appraiser shall determine the Fair Market Value as the amount a willing buyer would pay for the Project and Products and all rights and interests associated therewith, in an arm's-length transaction, to a willing seller under no compulsion to sell, assuming that this Agreement remains in full force and effect, and that the Project is able to generate revenue for the then-remaining Term at the prices set forth in this Agreement, assuming that thereafter the Project is able to generate revenue at a rate equal to the then fair market rates for the Products and any other products and services associated with and/or produced by the Project, and assuming that the Project will remain in place on the site for the remaining useful life of the Project.

20. APPLICABLE LAW

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

21. DISPUTE RESOLUTION

21.1 Trial; Venue

The Parties agree that any suit, action or other legal proceeding by or against any Party (or its Affiliates or designees) with respect to or arising out of this Agreement shall be brought in the courts of the State of California sitting in the County of Sacramento, California.

21.2 Dispute Resolution

If the Parties are unable to resolve a dispute with respect to this Agreement, either Party shall send a notice to the other requesting a meeting at which senior officers or officials of the Parties shall attempt to resolve the dispute. If the Parties are unable to resolve the dispute within ten (10) calendar days after the meeting notice is received by the Party to whom it is directed, or such longer period as the Parties may agree, then either Party may elect to resolve such dispute in the courts of the State of California. Each Party shall pay and be responsible for their own attorney fees.

22. SEVERABILITY

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

23. COUNTERPARTS

This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall be deemed one and the same Agreement. Delivery of an executed counterpart of this Agreement by facsimile or PDF transmission will be deemed as effective as delivery of an originally executed counterpart. Each Party delivering an executed counterpart of this Agreement by facsimile or PDF transmission will also deliver an originally executed counterpart, but the failure of any Party to deliver an originally executed counterpart of this Agreement will not affect the validity or effectiveness of this Agreement.

24. GENERAL

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

25. MOBILE SIERRA

Notwithstanding any provision of this Agreement, neither Party shall seek, nor shall they support any third party in seeking, to prospectively or retroactively revise the rates, terms or conditions of service of this Agreement through application or complaint to FERC pursuant to the provisions of Section 205, 206 or 306 of the Federal Power Act, or any other provisions of the Federal Power Act, absent prior written agreement of the Parties. Further, absent the prior agreement in writing by both Parties, the standard of review for changes to the rates, terms or conditions of service of this Agreement 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 Service Corp.*, 350 US 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 US 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).

26. SERVICE CONTRACT; FORWARD AGREEMENT

The Parties intend that this Agreement will be treated as a service contract pursuant to Section 7701(e)(3) of the Internal Revenue Code for the sale to SMUD of energy produced at an alternative energy Project, and the Parties shall not file any tax returns inconsistent with such treatment. The Parties agree that this Agreement constitutes a ‘forward contract’ as defined in the United States Bankruptcy Code and that each Party is a “Forward Contract Merchant” within the meaning of the United States Bankruptcy Code.

27. ENTIRE AGREEMENT

This Agreement, together with the IA, and the Reimbursement and Waiver Agreement, constitutes the entire agreement between the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between the Parties with respect to the subject matter hereof and thereof. Other than the IA, and the Reimbursement and Waiver Agreement, there are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, either Party’s compliance with its obligations under this Agreement.

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

SACRAMENTO MUNICIPAL UTILITY []
DISTRICT

By: _____

Name:
Title:

Date: _____

By: _____

Name:
Title:

Date: _____

EXHIBITS

Exhibit A – Description and Location of Project

Exhibit B – Contract Price

Exhibit C – Project Performance Benchmarks

Exhibit D – Average Solar Irradiance by Month

Exhibit E – Commercial Operation Date Confirmation Letter

Exhibit F – Capacity Attribute Reporting and Conveyance Procedure

Exhibit G – Available Capacity Notification Requirements and Outage Notification Procedure

Exhibit H – Environmental Attribute Reporting and Conveyance Procedure

Exhibit I – Notices

Exhibit J – Reserved

Exhibit K – Deemed Delivered Energy Calculation Procedure

Exhibit L – Form of Consent and Agreement to Collateral Assignment

Exhibit M – Reserved

Exhibit N – Project Milestone Schedule

Exhibit O – Reserved

Exhibit P – Metering Diagram

Exhibit Q – Form of Letter of Credit

Exhibit R – Form of Limited Assignment Agreement

Exhibit A

DESCRIPTION AND LOCATION OF PROJECT

- A.1 The Project is described as a PV system, comprised of PV arrays, inverters, and associated facilities and equipment. Final inverter count to be provided after commissioning testing.
- A.2 The Project is located in Sacramento County at 7794 Dillard Rd, Sloughhouse, CA 95683 (GPS coordinates: (38.4672631, -121.1756708)).
- A.3 The Project's primary fuel is solar.
- A.4 The Expected Capacity is 50 MW AC at the Delivery Point, or such lesser amount as calculated pursuant to PPA Section 2.3.8.
- A.5 The expected Installed Capacity is 50 MWac measured at the Delivery Point. The Final Installed Capacity to be reported by Seller to SMUD in accordance with Sections 2.3.4 and 2.3.8 is _____ MWac, but shall not exceed 50 MWac Capacity. Pursuant to Section 2.1, at least ninety (90) days prior to the date on which Seller reasonably anticipates that Commercial Operation will occur, Seller will provide SMUD a final version of Exhibit A which will include updates to the values set forth in this Section A.5 based on the final design of the Project.
- The expected rated capacity of each PV panel is _____ Wdc
The number of panels expected to be installed is _____ panels
The expected rated capacity of each inverter is _____ kWac (limited to 25 MWac total at each POI)
The number of inverters expected to be installed is _____ inverters.
- A.6 The Delivery Point is the location of the interconnection of the Project on the high-side of the step-up transformer that interconnects to the SMUD 69kV System, as shown in Exhibit C to the IA.
- A.7 The Scheduled Commercial Operation Date is December 31, 2023.
- A.8 The Guaranteed COD for Commercial Operation is nine (9) months after the Scheduled COD; i.e. September 30, 2024, subject to day-for-day extension to the extent the Scheduled COD is extended.
- A.9 Meters
a. Project Meter: See Exhibit P
b. SMUD Revenue Meter: See Exhibit P
- A.12 Design Standards
Electrical subsystems, including but not limited to the solar array equipment, medium voltage collection system, and solar 69kV substation, shall comply with relevant IEEE, NESC, NEC, ANSI, NFPA, ASCE, IBC, ASTM, CPUC General Orders, and SMUD specific design standards set forth in the IA.

Exhibit B

Contract Price

The "Contract Price" with respect to each Contract Year is set forth in the table immediately below:

Contract Year	Contract Price
1 – 27	\$34.46/MWh (flat) with no escalation,
28 – 30 (if the Delivery Term is extended hereunder)	\$34.46/MWh (flat) with no escalation,

Exhibit C

PROJECT PERFORMANCE BENCHMARKS

Year of Term	Expected Annual Energy Production (MWh)	Minimum Annual Energy Production (MWh)
1	131,957	118,761
2	131,297	118,167
3	130,637	117,573
4	129,978	116,980
5	129,318	116,386
6	128,658	115,792
7	127,998	115,198
8	127,338	114,604
9	126,679	114,011
10	126,019	113,417
11	125,359	112,823
12	124,699	112,229
13	124,039	111,635
14	123,380	111,042
15	122,720	110,448
16	122,060	109,854
17	121,400	109,260
18	120,741	108,667
19	120,081	108,073
20	119,421	107,479
21	118,761	106,885
22	118,101	106,291
23	117,442	105,698
24	116,782	105,104
25	116,122	104,510
26	115,462	103,916
27	114,803	103,323
28	114,143	102,729
29	113,483	102,135
30	131,957	101,541

Both the Expected Annual Energy Production (EAEP) and Minimum Annual Energy Production (MAEP) include an annual degradation rate of 0.5%.

The Expected Annual Energy Production and Minimum Annual Energy Production will be updated by Seller to account for the final equipment selection of the Project and the Parties will revise this Exhibit to update such values and issue a new Exhibit which shall then become part of the Agreement. No formal amendment of the Agreement is required to update this Exhibit.

Upon mutual consent of the Parties, a new Exhibit C may be issued. When updated, the Parties will insert a new effective date for this Exhibit C, which will replace the prior Exhibit C.

Effective Date Month, Day, Year

Signature of Seller

Signature of SMUD

Exhibit D
AVERAGE SOLAR IRRADIANCE BY MONTH

[To be updated within 180 days prior to the Commercial Operation Date]

For Typical Weather Year Energy Calculation

Month	Solar Irradiance (kWh/m ² /day)
January	60.90
February	86.00
March	142.30
April	182.60
May	226.00
June	240.60
July	246.70
August	220.00
September	172.80
October	128.50
November	77.30
December	58.90
Annual Average	153.55
Annual Total	1842.50

Source of data: Clean Power Research – Solar Anywhere 1 km grid, Typical GHI/DNI year, V3.2, average values, 60-minute resolution reviewed, scaled and rebalanced by AWS Truepower on 04/20/18.

If Seller delivers revised data for use in Exhibit D reflecting irradiance data provided by Seller's third party service provider, then (i) SMUD shall review such revised data and (ii) will not unreasonably withhold acceptance of such revised data. Subject to the foregoing sentence, upon mutual consent of the Parties, a new Exhibit D may be issued. When updated, the Parties will insert a new effective date for this Exhibit D, which will replace the prior Exhibit D.

Effective Date Month, Day, Year _____

Signature of Seller

Signature of SMUD

Exhibit E

COMMERCIAL OPERATION DATE CONFIRMATION LETTER

In accordance with the terms of that certain Power Purchase Agreement dated _____ ("Agreement") by and between the Sacramento Municipal Utility District ("SMUD") and [_____] ("Seller"), this letter serves to document the parties further agreement that (i) the COD Conditions for the occurrence of the Commercial Operation Date have been satisfied, and (ii) SMUD has received the energy, as specified in the Agreement, as of this ____ day of ____.

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

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

SELLER

Sacramento Municipal Utility
District

By: _____

By: _____

Name:

Name:

Title:

Title: Director, Energy Trading &
Contracts

Date: _____

Date: _____

Exhibit F

CAPACITY ATTRIBUTE REPORTING AND CONVEYANCE PROCEDURE

F.1 Additional Definitions for the Conveyance of Capacity:

None.

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

F.3 Changes in Capacity Attribute Conveyance Procedure. Subject to Section 4.3, SMUD may revise this Exhibit F as appropriate, give written notice to Seller regarding the revision, and issue a new Exhibit F, which shall then become part of the Agreement in the event that the method for reporting and conveying Capacity Attributes changes from the process described herein provided that no update to this Exhibit F shall be permitted to impose any material (non-administrative) additional costs on Seller.

Exhibit G

AVAILABLE CAPACITY NOTIFICATION

REQUIREMENTS AND OUTAGE NOTIFICATION PROCEDURE

G.1 Additional Definitions for the Outage Notification Procedure: None.

G.2 [Available Capacity Notification Requirements].

G.2.1 No later than (a) three (3) months prior to the Commercial Operation Date, and (b) on or before July 1 for each calendar year thereafter for every subsequent Contract Year during the Delivery Term, Seller shall provide to SMUD a schedule of the hourly Available Capacity for each day in each month of the following calendar year in a form reasonably acceptable to SMUD.

G.2.2 Ten (10) Business Days before the beginning of each month during the Delivery Term, Seller shall provide to SMUD a schedule of the hourly Available Capacity for each day of the following month in a form reasonably acceptable to SMUD.

G.2.3 Weekly Notification of Available Capacity

G.2.3.1 The SELLER will contact the SMUD Day Ahead Trading Desk, as provided in Exhibit I Notices, on a weekly basis in order to provide information on expected plant usage during the following week.

G.2.3.2 The information shall include the available capacity, by hour, expected for the Generating.

G.2.3.3 SELLER shall provide such information on the Wednesday prior to the affected week which begins on Monday and shall be communicated in an agreed upon format by email (primary) or fax (secondary), and confirmed by phone.

G.2.3.4 A sample Schedule is shown in Section G.2.6, herein.

G.2.4 Day Ahead Notification of Available Capacity (Prescheduling)

G.2.4.1 Preschedule days are days when the SMUD Day Ahead Trader plans for the resources and generation necessary to serve SMUD load for a day or number of days subsequent to the day of prescheduling. The following is the current typical prescheduling pattern followed by SMUD Day Ahead Traders: on Monday for Tuesday, On Tuesday for Wednesday, on Wednesday for Thursday, on Thursday for Friday and Saturday, and on Friday for Sunday and Monday. This pattern will change periodically to accommodate WECC stipulated designated holidays, and may change due to changes in WECC scheduling practices or adoption by SMUD of the prevailing Regional Transmission Organization/Independent System Operator, or its replacement's scheduling protocols. Said changes shall be communicated telephonically to the SELLER by SMUD and confirmed by email or fax. The WECC preschedule days can be found on the WECC web site at <https://www.wecc.biz>.

G.2.4.2 No later than 0600 of each preschedule day, the SELLER shall provide the SMUD Day Ahead Trader with an Available Capacity schedule. The information shall include the available capacity, by hour, expected for the Project ("Day-Ahead Notification of Available Capacity").

G.2.4.3 If Seller fails to provide SMUD with a Day-Ahead Notification of Available Capacity Notification as required in Section G.2.4.2, then, (a) until Seller provides a Day-Ahead Available Capacity Notification, SMUD may rely on the most recent Day-Ahead Available Capacity Notification submitted by Seller to SMUD and (b) Seller shall be subject to Scheduling Penalties as provided in Section 7.4 of the Agreement to the extent incurred by SMUD.

G.2.5 Active Day Notification of Available Capacity

G.2.5.1 In the event of a change of at least 1 MW of Available Capacity that may be expected by the SELLER from the pre-scheduled quantities of power, such as for unplanned Project outages, the SELLER will provide the SMUD Real Time Trader with the changes in hourly power quantities provided during pre-scheduling ("Active Day Notification").

G.2.5.2 If Seller fails to provide SMUD with an Active Day Notification of Available Capacity as required in Section G.2.5.1, then, (a) until Seller provides an Active Day Available Capacity Notification, SMUD may rely on the most recent Day-Ahead Notification of Available Capacity submitted by Seller to SMUD and (b) Seller shall be subject to Scheduling Penalties as provided in Section 7.4 of the Agreement to the extent incurred by SMUD.

G.2.6 Sample Prescheduling Table

Date: ____/____/____							
Weekly Preschedule Template			Prepared & Sent By:				
	Monday ____/____/____	Tuesday ____/____/____	Wednesday ____/____/____	Thursday ____/____/____	Friday ____/____/____	Saturday ____/____/____	Sunday ____/____/____
Hour Ending	Day Ahead Schedule (MW)	Day Ahead Schedule (MW)	Day Ahead Schedule (MW)	Day Ahead Schedule (MW)	Day Ahead Schedule (MW)	Day Ahead Schedule (MW)	Day Ahead Schedule (MW)
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
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24							
AVG.							

- G.3 Planned Outage Notifications. In addition to the 30 days advance written notice in regard to a Planned Outage as per Section 7.5, Seller shall notify SMUD at least 72 hours in advance of Planned Outages that result in a reduction in the effective output of the Project during period over which the Planned Outage is scheduled. Notification should be by email to the addresses shown in the Outages section of the Notices, Exhibit I.
- G.4 Notification of PV Array Cleaning. If Seller has scheduled cleaning for PV arrays, Seller shall notify SMUD at least 72 hours in advance of scheduled cleaning, and should include details of the cleaning plan. Seller shall also follow-up with SMUD after cleaning of the Project in order to verify the actual cleaning dates and times. Notification should be made by email to the addresses shown in the Planned Outages section of the Notices, Exhibit I.
- G.5 Forced Outage Notifications. Pursuant to Section 7.6, as soon as reasonably practicable after Seller is aware of a Forced Outage of the Project that impacts the ability of the Project to produce Energy in excess of 1 MW_{AC} of the Expected Capacity, Seller shall notify SMUD of the Forced Outage, including the Capacity of the Project that is impacted, and the expected duration of the Forced Outage. As soon as is possible, but not less than two (2) hours prior to the return of the Project to service following such Forced Outage Seller shall notify SMUD of the return to service details. Notification shall be made in accordance with the Outages section of the Notices, Exhibit I.
- G.6 Changes in Outage Notification Procedure. Upon mutual consent of both Parties, SMUD shall revise this Exhibit G as appropriate, give written notice to Seller regarding the revision, and issue a new Exhibit G, which shall then become part of the Agreement to reflect changes in the Outage Notification Procedure.
- G.7 Automated Data Reporting: Seller's IA specifies automatic data reporting requirement (IA Appendix H).

Annual Outage Forecast: Seller shall report to SMUD annually, at least 30 days prior to the beginning of a Contract Year, a forecast of planned maintenance outages including the estimated duration and timing of outages in the prompt Contract Year. The Annual Outage Forecast shall be revised and reported by Seller on an "as needed" basis.

Upon mutual consent of the Parties, a new Exhibit G may be issued., When updated, the Parties will insert a new effective date for this Exhibit G, which will replace the prior Exhibit G.

Effective Date Month, Day, Year _____

Signature of Seller

Signature of SMUD

Exhibit H

ENVIRONMENTAL ATTRIBUTE REPORTING AND CONVEYANCE PROCEDURE

H.1 Additional Definitions for the Conveyance of Environmental Attributes:

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

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

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

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

H.2 Renewable Energy Credits. Environmental Attributes shall be conveyed by Seller to SMUD through Renewable Energy Credits which shall be registered tracked and conveyed to SMUD using WREGIS.

H.3 WREGIS Registration. Prior to the Commercial Operation Date, SMUD will initiate registration of the Project in SMUD’s WREGIS account on behalf of Seller. Final acceptance by WREGIS requires submittal by SMUD of Exhibit E, “Commercial Operation Date Confirmation Letter.” SMUD shall charge back to Seller any costs for issuance or creation of WREGIS Certificates for the Project.

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

H.5 Qualified Reporting Entity. SMUD shall be the Qualified Reporting Entity for Project, and shall be responsible for providing metered Project output data to WREGIS in accordance with WREGIS reporting guidelines

H.6 Reporting of Environmental Attributes. In lieu of Seller transferring the WREGIS Certificates using Certificate Transfers from Seller’s WREGIS account to the WREGIS account of SMUD, SMUD shall report the Project as being directly in its WREGIS account, which will preclude Seller from reporting the Project in its own WREGIS account.

H.6.1 By avoiding the use of Certificate Transfers, there will be no transaction costs to Seller or SMUD for the Certificate Transfers that would otherwise be used.

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

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

H.6.4 Should a WREGIS Certificate Modification be required to reflect any errors or omissions regarding the Environmental Attributes from the Project SMUD will manage the submission of the WREGIS Certificate Modification.

H.6.5 Due to the expected delay in the creation of WREGIS Certificates relative to the timing of settlement payments under Section 2.4, SMUD shall make a settlement payment for a given month in accordance with Section 2.4 before the WREGIS Certificates for such month may be created in SMUD's WREGIS account. Notwithstanding this delay, SMUD shall have all right and title to all such WREGIS Certificates upon payment to Seller in accordance with Section 2.4.

H.7 Changes in Environmental Attributes Reporting and Conveyance Procedure. Subject to Sections 3.4 and 3.6, SMUD may revise this Exhibit H as appropriate, give written notice Seller regarding the revision, and issue a new Exhibit H which shall then become part of the Agreement, in order to reflect changes necessary in the Environmental Attribute conveyance procedure for SMUD to be able to receive and report the Environmental Attributes purchased under this Agreement as belonging to SMUD provided that no such updated Exhibit H may impose new material (non-administrative) additional costs on Seller.

Upon mutual consent of the Parties, a new Exhibit H may be issued., When updated, the Parties will insert a new effective date for this Exhibit H, which will replace the prior Exhibit H.

Effective Date Month, Day, Year _____

Signature of Seller

Signature of SMUD

Exhibit I

NOTICES

All notices shall be directed as follows:

I.1 For Contract Administration

To SMUD:

Sacramento Municipal Utility District
Power Contracts Administration

6301 S Street
Sacramento, CA 95817-1899

Or,

P.O. Box 15830
Sacramento, CA 95852-1830

Phone: (916) 732-6244

Email: PowerContractsAdministration@smud.org

To Seller:

[_____]

1166 Avenue of the Americas, Ninth Floor
New York, NY 10036

c/o D. E. Shaw Renewable Investments

Attn: Hy Martin, Chief Development Officer

Phone: 212-478-0000

Fax: 212-478-0100

Email: desri-notices@world.deshaw.com, hy.martin@deshaw.com

I.2 For Billing and Settlements

To SMUD:

Energy Settlements

Phone: (916) 732-6312

Email: EnergySettlements@smud.org

To Seller:

[_____]

1166 Avenue of the Americas, Ninth Floor
New York, NY 10036

c/o D. E. Shaw Renewable Investments

Attn: Hy Martin, Chief Development Officer

Phone: 212-478-0000

Fax: 212-478-0100

Email: desri-notices@world.deshaw.com, hy.martin@deshaw.com

I.3 For Scheduling

To SMUD:

Day Ahead Trading Desk

Phone: (916) 732-5669
Email: dayaheadtrading@smud.org;

To Seller:

[_____]

1166 Avenue of the Americas, Ninth Floor
New York, NY 10036
c/o D. E. Shaw Renewable Investments
Attn: Hy Martin, Chief Development Officer
Phone: 212-478-0000
Fax: 212-478-0100
Email: desri-notices@world.deshaw.com, hy.martin@deshaw.com

I.4 For Planned Outages

Note:

All planned solar generation outage scheduling requests must be processed by SMUD's Power Generation department. Seller must submit outage plans to SMUD Power Generation by contacting:

SMUD Power Generation Planned Outage Requests:
Laurie.Johnson@smud.org (916) 732-4822

Ryan.Donovan@smud.org (916) 732-6240

SMUD Power Generation will then process the notice to inform DSO, PSO and ET&C of the planned outage.

SMUD Real-Time Notifications: SMUD Real-Time Power System Operator-Generation
(916) 732-6225 SMUD Shift Senior Power System Operator (916) 732-6730

To SMUD:

SMUD Power Generation Planned Outage Requests:
Laurie.Johnson@smud.org (916) 732-4822

Ryan.Donovan@smud.org (916) 732-6240

To Seller:

[_____]

1166 Avenue of the Americas, Ninth Floor
New York, NY 10036
c/o D. E. Shaw Renewable Investments
Attn: Hy Martin, Chief Development Officer
Phone: 212-478-0000
Fax: 212-478-0100
Email: desri-notices@world.deshaw.com, hy.martin@deshaw.com

I.5 For Forced Outages

To SMUD:

Forced outages are coordinated by SMUD's Distribution System Operator.

Forced outages are reported by Seller by contacting the real-time DSO. (916) 732-5334 or 916-455-1671. The SMUD DSO will then notify the SMUD PSO who will continue the generation outage reporting process and notify Power Generation and ET&C.

To Seller:

[_____]

1166 Avenue of the Americas, Ninth Floor
New York, NY 10036
c/o D. E. Shaw Renewable Investments
Attn: Hy Martin, Chief Development Officer
Phone: 212-478-0000
Fax: 212-478-0100
Email: desri-notices@world.deshaw.com, hy.martin@deshaw.com

I.6 Same-day Phone Notification of Outages

In addition to the email distribution, phone notification is required for planned or forced outages, or requests for energization, as follows:

To SMUD:

Distribution System Operations
Phone: 916-455-1671. Call first thing in the morning with regard to outages.

To Seller:

[_____]

1166 Avenue of the Americas, Ninth Floor
New York, NY 10036
c/o D. E. Shaw Renewable Investments
Attn: Hy Martin, Chief Development Officer
Phone: 212-478-0000
Fax: 212-478-0100
Email: desri-notices@world.deshaw.com, hy.martin@deshaw.com

I.7 Notification Requirements for Start/Completion of Planned Outages & Normal Start-up/Shutdown

Prior to starting, and at the completion of, a Planned Outage, contact the Power System Operator to report and coordinate the start or completion time of the Planned Outage.

Prior to paralleling or after disconnection from the SMUD 69kV system, always contact the Distribution System Operator with the following as applicable:

- Intent to parallel before any start-up,

- After the unit has paralleled, report the parallel time and intended unit output,
- After any separation, report the separation time as well as the date and time estimated for return to service.

Distribution System Operations
Phone: 916-455-1671.

I.8 Changes to Exhibit I

Either Party may request a change to Exhibit I as necessary to keep the information current. The Parties shall update Exhibit I prior to COD to ensure consistency with other notice provisions in this Agreement, subject to mutual agreement. Such changes to Notices generally do not require a PPA amendment

I.9 General Requirements for Forced and Scheduled Outages – SMUD coordination process

These general requirements are incorporated into this PPA and are extracted from SMUD applicable Standard Practice/Operating procedures entitled “Solar Operating Process” as may be amended or replaced from time to time. Updates to relevant procedural documents are to be incorporated herein upon effectiveness of the Standard Practice (when approved by SMUD management) without a requirement to amend this PPA; *provided* that no such updates shall be effective under this PPA unless and until such updates have been provided in writing to Seller. Notwithstanding anything herein to the contrary, to the extent of any conflict between Section 7.6 and this Section I.9 (as modified), Section 7.6 shall control.

Planned Outages including the ETR are to be scheduled and logged in iTOA (integrated Tools for Operations Application) as other generating resources in compliance with applicable Standard Practice /Operating procedure and specifically ETC 15-046. The Seller's operator will send planned outage requests to SMUD [Power Generation department] who will input the data into iTOA for processing. SMUD Outage Coordination will process the requests as outlined in applicable Standard Practice /Operating procedure and specifically ETC 15-046. SMUD planned outages of facilities that limit or restrict the output of the generator shall be coordinated with the Seller's operator to the extent practicable[, provided that in the event that the parties cannot agree, SMUD may establish the outage times and return dates].

Seller shall notify SMUD [Power Generation department] of all planned outages at least thirty (30) days in advance of outage with an email containing the outage start date and time and return date and time, emergency restoration time and description of the planned maintenance or other work that curtails the energy output to SMUD. SMUD [Power Generation department] will create an iTOA request and provide [_____] via email confirmation of the Planned Outage.

Rescheduling Planned Outages

In the event that the Planned Outage period (either start or end date & time) of the Project is revised the Seller's operator shall:

(a) Prior to Outage Start

- (i) Greater than 6 days prior to start of outage advise SMUD [Power Generation] department via email with the new start or end date & time

- (ii) Less than 6 days and greater than 48 hours prior to start of outage advise SMUD [Power Generation] department and [Energy Trading & Contracts] via email and phone notification
- (iii) Less than 48 hours prior to start of outage advise SMUD [Power Generation] department via phone notification followed up with email to also include [Energy Trading & Contracts]
- (b) Active Outage (after planned start date & time)
 - (i) Advise SMUD [PSO]; who will promptly review the request, coordinate internally with other SMUD departments
 - (ii) Seller may revise the ETR [so long as the request can be accommodated without creating a reliability concern for SMUD].
 - (iii) Once the revised ETR is logged into iTOA it becomes the new ETR for the Project.

In any case SMUD requires a minimum of 2 hours' prior notice of ETR (end date & time) changes to allow SMUD sufficient time to coordinate internally and effectuate the power market processes. SMUD has the discretion to allow an early return or retain the scheduled return time.

SMUD will endeavor to accommodate changes to the Project's ETR as described in Section 7.6. In the event that the return date is modified by SMUD, SMUD shall promptly advise the Seller's operator accordingly.

Real-Time Outage Management

[The SMUD DSO is responsible for the Distribution system connected to the Project and to ensure changes in generation do not create an adverse impact to the safe operation of the SMUD distribution system. The SMUD PSO is responsible for ensuring that Project's generating facilities data is input into EMS for energy and capacity purposes, iTOA and external market outage management system is updated and to keep track of the photovoltaic facilities status so that after-the-fact accounting may take place. SMUD shall give Seller reasonable notice of the possibility that interruption or reduction of deliveries may be required.

The [____] operator shall communicate real-time operating details to the PSO. This includes parallel, separation times, coordinating planned maintenance to start, planned or forced maintenance start and end date and times changes and any issues relating to AGC, voltage control or protection systems.]

Forced Outages

The Seller's operator is obligated to report Forced Outages to the SMUD [PSO] as soon as reasonably practicable but not more than 1 hour after Seller is aware of a Forced Outage that impacts the ability of the Project to produce Energy in excess of 5 MWAC. This does not include limitations associated with solar radiance.

Forced Outage notification to SMUD DSO via phone notification shall include

- (a) Start date and time the outage occurred,
- (b) Estimated capability or availability,
- (c) Expected end date and time of the outage or estimated time of return (ETR),
- (d) Cause or any outage details if known, such as impacted equipment.

The SMUD DSO will contact SMUD PSO who will create a Forced Outage card in iTOA, update external outage management system and notify the [Real-Time Energy Traders] with the details including the ETR as logged in iTOA.

Active Outages

The Seller's operator is obligated to report any material change in outage status to the SMUD [DSO], as soon as reasonably practicable but not more than 1 hour after Seller is aware of a Forced Outage that impacts the ability of the Project to produce Energy in excess of a 5 MWAC.

Rescheduled Forced or Active Outages

In the event that Forced Outage [or Active Outage] period (during outage, until ETR) or currently reported capability of the facility is revised the Seller's operator shall:

- (a) Greater than 6 days before ETR:
 - (i) Advise SMUD [Power Generation department] via email who will communicate changes internally to SMUD PSO and [Energy Trading & Contracts].
 - (ii) SMUD [PSO] will update iTOA and external outage management system for the new ETR.
 - (iii) SMUD [Power Generation department] to provide confirmation of new ETR
- (b) Less than 6 days, but greater than 48-hours before ETR
 - (i) Contact SMUD [DSO] via phone
 - (ii) Email SMUD [Power Generation department and Energy Trading & Contracts]
- (c) Less than 48-hour notification before ETR
 - (i) Contact SMUD [DSO] via phone

In any case SMUD requires a minimum of 2 hours' notice to allow SMUD sufficient time to coordinate internally and effectuate the power market process. SMUD has the discretion to allow an early return or retain the scheduled return time.

SMUD DSO will promptly review the request, coordinate with SMUD PSO who will then process the information internally with other SMUD departments, revise the ETR and update external outage management systems so long as the request can be accommodated without creating a reliability concern for SMUD. Once the revised ETR is logged into iTOA it becomes the new ETR for the generator.

SMUD will endeavor to accommodate changes to the generator's ETR as described in PPA Section 7.6 Forced Outages. In the event that the return date is modified SMUD, SMUD shall promptly advise the Seller's operator accordingly.

When a bulk electric system disturbance impacts Seller the SMUD PSO will notify the Seller's operator with necessary information and then create a forced iTOA card to document the outage and then shall notify the SMUD Real-Time Energy Trader.

Upon mutual consent of the Parties, a new Exhibit I may be issued., When updated, the Parties will insert a new effective date for this Exhibit I, which will replace the prior Exhibit I.

Effective Date Month, Day, Year _____

Signature of Seller

Signature of SMUD

Exhibit J

Reserved

Exhibit K

DEEMED DELIVERED ENERGY CALCULATION PROCEDURE

K.1 Additional Definitions for this Procedure:

None.

K.2 Calculation of Deemed Delivered Energy. Following a curtailment that is caused by (i) Force Majeure, (ii) SMUD Curtailment, (iii) SMUD's breach of this Agreement or the Interconnection Agreement that prevents or excuses Seller from delivering Energy to the Delivery Point, (iv) Forced Outages or Planned Outages and (v) Dispatch Down Periods, Seller shall submit to SMUD calculation of the hourly energy that would have been generated in accordance with Section 6.8.

K.3 Verification of Deemed Delivered Energy. SMUD may perform a verification of Deemed Delivered Energy utilizing data from either 1) SMUD's POA sensor mounted on a tracking arrays; or 2) data received directly from Seller's POA sensor mounted on a tracking array.

K.4 Changes in Exhibit K Procedure. Upon mutual consent of both Parties, SMUD shall revise this Exhibit K as appropriate, give written notice to Seller regarding the revision, and issue a new Exhibit K, which shall then become part of the Agreement to reflect changes in this Procedure.

Upon mutual consent of the Parties, a new Exhibit K may be issued., When updated, the Parties will insert a new effective date for this Exhibit K, which will replace the prior Exhibit K.

Effective Date Month, Day, Year _____

Signature of Seller

Signature of SMUD

Exhibit L

FORM OF CONSENT AND AGREEMENT TO COLLATERAL ASSIGNMENT

This CONSENT AND AGREEMENT (this "Consent"), dated as of _____, 20____, is entered into by and among the Sacramento Municipal Utility District, a California Municipal Utility District formed and existing under the laws of the State of California (together with its successors and permitted assigns, "SMUD") ("Buyer"), _____ (together with its successors, designees and assigns in its capacity, "Lender"), [____], a [limited liability company] formed and existing under the laws of the State of XX (together with its successors and permitted assigns, "Seller"). Unless otherwise defined, all capitalized terms have the meaning given in the Power Purchase Agreement (as hereinafter defined).

RECITALS

A. Seller intends to develop, construct, install, test, own, operate and use (i) an approximately 50MW_{ac} solar photovoltaic electric Project ("the Project") located in Sacramento County XXXX.

B. In order to partially finance the development, construction, installation, testing, operation and use of the Project, the Seller and/or one or more of its Affiliates has entered into that certain **[Financing Agreement,]** dated as of _____ (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Financing Agreement"), among Seller and/or one or more of its Affiliates, the financial institutions from time to time parties thereto as lenders and/or issuing banks, and Lender as agent on behalf of such financial institutions, pursuant to which, among other things, such financial institutions have extended commitments to make loans and other financial accommodations to, and for the benefit of, Seller.

C. Buyer and Seller have entered into that certain Power Purchase Agreement, dated as of _____ (attached hereto and incorporated herein by reference, as amended, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof and hereof, the "Power Purchase Agreement").

D. Pursuant to a [security agreement] executed by Seller and Lender (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Security Agreement"), Seller has agreed, among other things, to assign, as collateral security for [its] [their] obligations under the Financing Agreement and related documents (collectively, the "Financing Documents"), all of its right, title and interest in, to and under the Power Purchase Agreement [and the Project PPA] to Lender for the benefit of Lender and each other entity or person providing collateral security under the Financing Documents.

E. It is a requirement under the Financing Agreement that SMUD and the other parties hereto execute this Consent.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the parties hereto hereby agree as follows:

1. CONSENT TO ASSIGNMENT. Subject to the terms and conditions below, SMUD consents to a complete assignment of all rights and obligations of the Power Purchase Agreement by Seller to Lender pursuant to the Financing Documents.

2. LIMITATIONS ON ASSIGNMENT.

(a) Lender shall be entitled (but not obligated) to exercise all rights and to cure any defaults of Seller under the Power Purchase Agreement, subject to applicable notice and cure periods provided in the Power Purchase Agreement and as set forth herein. Upon receipt of notice from Lender, SMUD agrees to accept such exercise and cure by Lender if timely made by Lender under the Power Purchase Agreement and this Consent. Upon receipt of Lender's written instructions and to the extent allowed by law, SMUD agrees to make directly to such account as Lender may direct SMUD in writing from time to time, all payments to be made by SMUD to Seller under the Power Purchase Agreement from and after SMUD's receipt of such instructions, and Seller consents to any such action. SMUD shall have no liability to Seller under the Power Purchase Agreement or this Consent for directing such payments to Lender in accordance with this subsection (a).

(b) SMUD agrees to deliver duplicates or copies of all notices of default delivered by SMUD under or pursuant to the Power Purchase Agreement to Lender in accordance with the notice provisions of this Consent. SMUD shall deliver any such notices concurrently with delivery of the notice to Seller under the Power Purchase Agreement. In the event of a default or breach by Seller in the performance of any of its obligations under the Power Purchase Agreement, or upon the occurrence or non-occurrence of any event or condition under the Power Purchase Agreement which would immediately or with the passage of any applicable grace period or the giving of notice, or both, enable Buyer to terminate the Power Purchase Agreement or to suspend performance of its obligations thereunder (hereinafter, a "Default"), Buyer shall not terminate the Power Purchase Agreement or suspend performance of its obligations thereunder until it first gives written notice of such Default to Lender and affords Lender a period of time until (i) the expiration of the Seller's cure period under the Power Purchase Agreement, if any, plus (ii) (x) thirty (30) days after expiration of such cure period if such Default is the failure to pay amounts to Buyer which are due and payable under the Power Purchase Agreement, or (y) sixty (60) days after expiration of such cure period if such Default is a non-payment Default, in each such case, to cure such Default (provided that during the applicable cure period Lender or Seller continues to perform each of Seller's other obligations under the Power Purchase Agreement). If (i) possession of the Project is necessary to cure such Default or (ii) if the Default can only be cured by the Seller and is not curable by Lender, such as the insolvency, bankruptcy, general assignment for the benefit of the secured parties under the Financing Agreement, or appointment of a receiver, trustee, custodian or liquidator of the Seller or its properties, and, in each such case, Lender or its successor(s), assignee(s) and/or designee(s) declares an "Event of Default" under the Financing Agreement and Lender commences foreclosure proceedings or any other proceedings necessary to take possession of the Project, Lender or its successors(s), assignee(s) and/or designee(s) will be allowed a reasonable period to complete such proceedings; provided that, once commenced, Lender, or its successor(s), assignee(s) and/or designee(s) shall pursue such proceedings with due dispatch; and provided further, that if the Default can only be cured by the Seller and is not curable by Lender, such as the insolvency, bankruptcy, general assignment for the benefit of the secured parties under the Financing Agreement, or appointment of a receiver, trustee, custodian or liquidator of the Seller or its properties, Lender shall be entitled to assume in writing the rights and obligations of Seller under the Power Purchase Agreement and provided such assumption occurs, Buyer shall not be entitled to terminate the Power Purchase Agreement or suspend its performance thereunder as a result of such Default so long as Lender or its successor(s), assignee(s) and/or designee(s) continue to perform all of Seller's obligations (other than those that can only be performed by Seller). If either the Lender or its successor(s), assignee(s) and/or designee(s) is prohibited by any court order or bankruptcy or insolvency proceedings of Seller from curing the Default or from commencing or prosecuting such proceedings, the foregoing time periods shall be extended by the period of such prohibition, provided that Lender or its successor(s), assignee(s) and/or designee(s) is pursuing relief from such prohibition with due dispatch. SMUD shall recognize the Lenders or their designee(s) or assignee(s) as the applicable party under the Power Purchase Agreement provided that such Lender or their designee(s) or assignee(s) assume in writing the obligations of Seller under the Power Purchase Agreement, including, without limitation, satisfaction and compliance with all credit provisions of the Power Purchase Agreement and provided further that such Lender or their designee(s) or assignee(s) has a creditworthiness and total credit support at least equal to that of Seller as of the date hereof. Seller shall pay Buyer \$20,000 per assignment of PPA and/or IA to cover Buyer's internal and external costs associated with

such assignment. For the avoidance of doubt, Seller's payment of \$20,000 is the full reimbursement of expenses for assignment of both the PPA and IA.

I In the event that the Agreement is rejected by a trustee or debtor-in-possession in any bankruptcy or insolvency proceeding, and if, within thirty (30) days after such rejection, the Lender shall so request, SMUD will execute and deliver to Lender a new power purchase agreement, which shall be on the same terms and conditions as the original Agreement for the remaining term of the original Power Purchase Agreement before giving effect to such rejection, and which shall require Lender to cure any defaults then existing under the original Power Purchase Agreement. Notwithstanding the foregoing, the execution of any new power purchase agreement will be subject to approval by SMUD's Board of Directors to the extent required by SMUD's policies and receipt of all regulatory approvals required by law, including those associated with any renewable energy or environmental objectives met by, or required of, the original Power Purchase Agreement. SMUD will use good faith efforts to promptly obtain (if applicable) such Board approval and any necessary regulatory approvals.

(d) In the event Lender or its designee(s) or assignee(s) elect(s) to perform Seller's obligations under the Agreement, succeed to Seller's interest under the Power Purchase Agreement, or enter into a new power purchase agreement as provided in subparagraph 2I above, the recourse of SMUD against Lender or its designee(s) and assignee(s) shall be limited to such party or parties' interests in the Project, the credit support required under the Power Purchase Agreement, and any currently existing guaranties made to the benefit of SMUD by Seller, Seller's Affiliates or Seller's insurers to the extent such guaranties have not been exhausted at the time of assignment.

I In the event Lender or its designee(s) or assignee(s) succeed to Seller's interest under the Power Purchase Agreement, Lender or its designee(s) or assignee(s) shall cure any then-existing payment and performance defaults under the Power Purchase Agreement, except any performance defaults of Seller itself, which by their nature are not susceptible of being cured. Lender and its designee(s) or assignee(s) shall have the right to assign their interest in the Power Purchase Agreement to a person or entity to whom Seller's interest in the Project is transferred, provided such transferee assumes in writing the obligations of Seller under the Power Purchase Agreement and has a creditworthiness and total credit support at least equal to that of Seller as of the date hereof. Upon such assignment and assumption in writing, Lender and its designee(s) or assignee(s) (including their agents and employees) shall be released from any further liability thereunder accruing from and after the date of such assignment, to the extent of the interest assigned.

3. REPRESENTATIONS AND WARRANTIES.

(a) SMUD hereby represents and warrants that as of the date of this Consent:

- i. It (1) is duly formed and validly existing under the laws of the State of California, and (2) has all requisite power and authority to enter into and to perform its obligations hereunder and under the Power Purchase Agreement, and to carry out the terms hereof and thereof and the transactions contemplated hereby and thereby;
- ii. the execution, delivery and performance of this Consent and the Power Purchase Agreement have been duly authorized by all necessary action on its part and do not require any approvals, material filings with, or consents of any entity or person which have not previously been obtained or made;
- iii. this Consent and the Power Purchase Agreement are in full force and effect;
- iv. this Consent and the Power Purchase Agreement have been duly

executed and delivered on its behalf and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except as the enforceability thereof may be limited by (1) bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally and (2) general equitable principles (whether considered in a proceeding in equity or at law);

- v. there is no litigation, investigation or other proceeding pending for which SMUD has received service of process or, to SMUD's actual knowledge, threatened against SMUD relating solely to this Consent, the Power Purchase Agreement and the transactions contemplated hereby and thereby;
- vi. the execution, delivery and performance by it of this Consent, the Agreement, and the consummation of the transactions contemplated hereby, will not result in any violation of, breach of or default under any term of any material contract or material agreement to which it is a party or by which it or its property is bound, or of any material requirements of law presently in effect having applicability to it, the violation, breach or default of which could have a material adverse effect on its ability to perform its obligations under this Consent;
- vii. neither SMUD nor, to SMUD's actual knowledge, any other party to the Power Purchase Agreement, is in default of any of its obligations thereunder, and no disputes exist between Buyer and Seller thereunder; and
- viii. to SMUD's actual knowledge, (1) no Force Majeure event exists under, and as defined in, the Power Purchase Agreement and (2) no event or condition exists which would either immediately or with the passage of any applicable grace period or giving of notice, or both, enable either SMUD or Seller to terminate or suspend its obligations under the Power Purchase Agreement.

4. CONFIRMATION. SMUD will not, without the prior written consent of Lender (such consent not to be unreasonably withheld), (i) cancel or terminate the Power Purchase Agreement, or consent to or accept any cancellation, termination or suspension thereof by Seller, (ii) sell, assign or otherwise dispose (by operation of law or otherwise) of any part of its interest in the Power Purchase Agreement, except as provided in the Power Purchase Agreement, or (iii) amend or modify the Power Purchase Agreement.

5. NOTICES. All notices required or permitted hereunder shall be in writing and shall be effective (a) upon receipt if hand delivered, (b) upon telephonic verification of receipt if sent by facsimile and (c) if otherwise delivered, upon the earlier of receipt or seven (7) Business Days after being sent registered or certified mail, return receipt requested, with proper postage affixed thereto, or by private courier or delivery service with charges prepaid, and addressed as specified below:

If to SMUD:

[_____]

[_____]

[_____]

Telephone No.: [_____]

Telecopy No.: [_____]

Attn: [_____]

If to Lender:

[_____]

[_____]

[_____]

Telephone No.: [_____]

Telecopy No.: [_____]

Attn: [_____]

If to Seller:

[_____]

[_____]

[_____]

Telephone No.: [_____]

Telecopy No.: [_____]

Attn: [_____]

Any party shall have the right to change its address for notice hereunder to any other location within the United States by giving thirty (30) days' written notice to the other parties in the manner set forth above.

6. ASSIGNMENT, TERMINATION, AMENDMENT. This Consent shall be binding upon and benefit the successors and assigns of the parties hereto and their respective successors, transferees and assigns (including without limitation, any entity that refinances all or any portion of the obligations under the Financing Agreement). SMUD agrees (a) to confirm such continuing obligation in writing upon the reasonable request of (and at the expense of) Seller, Lender or any of their respective successors, transferees or assigns, and (b) to cause any successor-in-interest to SMUD with respect to its interest in the Power Purchase Agreement to assume, in writing in form and substance reasonably satisfactory to Lender, the obligations of SMUD hereunder. Any purported assignment or transfer of the Power Purchase Agreement not in conjunction with the written instrument of assumption contemplated by the foregoing clause (b) shall be null and void. No termination, amendment, or variation of any provisions of this Consent shall be effective unless in writing and

signed by the parties hereto. No waiver of any provisions of this Consent shall be effective unless in writing and signed by the party waiving any of its rights hereunder.

7 GOVERNING LAW. This Consent shall be governed by the laws of the State of California applicable to contracts made and to be performed in such State. THE STATE COURTS SITUATED IN THE STATE OF CALIFORNIA SHALL HAVE EXCLUSIVE JURISDICTION TO RESOLVE ANY DISPUTES WITH RESPECT TO THIS CONSENT AND AGREEMENT WITH SMUD, SELLER, ASSIGNOR, AND LENDER IRREVOCABLY CONSENTING TO THE JURISDICTION THEREOF FOR ANY ACTIONS, SUITS, OR PROCEEDINGS ARISING OUT OF OR RELATING TO THIS CONSENT.

8 **COUNTERPARTS.** This Consent may be executed in one or more duplicate counterparts, and when executed and delivered by all the parties listed below, shall constitute a single binding agreement.

9 **SEVERABILITY.** In case any provision of this Consent or the obligations of any of the parties hereto, shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions, or the obligations of the other parties hereto, shall not in any way be affected or impaired thereby.

10. **ACKNOWLEDGMENTS BY SELLER.** Seller, by its execution hereof, acknowledges and agrees that neither the execution of this Consent, the performance by SMUD of any of the obligations of SMUD hereunder, the exercise of any of the rights of SMUD hereunder, or the acceptance by SMUD of performance of the Power Purchase Agreement by any party other than Seller shall (1) release Seller from any obligation of Seller under the Power Purchase Agreement, (2) constitute a consent by SMUD to, or impute knowledge to SMUD of, any specific terms or conditions of the Financing Agreement, the Security Agreement or any of the other Financing Documents, or (3) except as expressly set forth in this Consent, constitute a waiver by SMUD of any of its rights under the Power Purchase Agreement. Seller and Lender acknowledge hereby for the benefit of SMUD that this Consent does not alter, amend, modify or impair (or purport to alter, amend, modify or impair) any provisions of the Power Purchase Agreement except as provided herein.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto by their officers thereunto duly authorized, have duly executed this Consent as of the date first set forth above.

SACRAMENTO MUNICIPAL UTILITY DISTRICT

By: _____

Name: _____

Title: _____,

a _____

[LENDER]

By: _____

Name: _____

Title: _____, as Lender

[____]

By: _____

Name: _____

Title: _____

**Exhibit M
Reserved**

:

Exhibit N

PROJECT MILESTONE SCHEDULE

Below is a list of key project milestones and the targeted completion date for each. Completion Dates are based on expected PPA COD by Dec 31, 2023, and sequential order of completion is required. Additional milestone information and requirements are provided in SMUD's Policy and Procedure 11-01 "Interconnection Guidelines," Rule 16, and Rule 21. Additional milestones are identified in the IA.

Milestone	Responsible Party	Completion Date	Contract
Secure Real Estate and provide SMUD necessary easement(s) to interconnect to 69kV System approved by SMUD Real Estate dept. Submittal to SMUD must be delivered 30 days prior to Completion Date	Seller	Nov 30, 2021	IA
Approval to Build Letter from SMUD.	SMUD	March 1, 2022	PPA
Submittal of final versions of single line drawing, substation layout and elevation, and site plans with GPS coordinates	Seller	>30 days prior to SMUD's issuance of letter	
Completed Environmental Review (CEQA/NEPA)	Seller	June 1, 2022	PPA
Secure Land Use/Environmental Permits	Seller	August 1, 2022	PPA
Building Permit – copy delivered to SMUD	Seller	Sept 1, 2022	PPA
Substation 100% Construction Documents	Seller	Sept 1, 2022	IA
SCADA Data Points list submitted to SMUD	Seller	Dec 1, 2022	IA
SMUD Line Design finalized	SMUD	Feb 28, 2023	IA
Seller delivers conforming design package documentation to SMUD (as required by Rule 16 and Rule 21), and a copy of the Building Permit	Seller	>6 months prior to Feb 28, 2023	IA
Project substation construction complete	Seller	Oct 1, 2023	IA
SMUD Line Construction complete	SMUD	Nov 1, 2023	IA
Facility Owner Energization Test Plan submitted to SMUD	Seller	>180 days prior to start of testing	IA
Permission to soak transformer	SMUD	Following submittal of Test Plan and completion of substation completion	IA
Permission to Operate	SMUD	Following transformer soak	IA
Facility demonstrates Expected Capacity	Seller	Following Permission to Operate	IA
Curtailment testing	Seller/SMUD	Following demonstration of Expected Capacity	IA
Energization Test Completion letter and acceptance by SMUD	Seller	Following Energization Test	IA
COD	Seller	December 31, 2023	PPA
GCOD	Seller	December 31, 2024	PPA

Upon mutual consent of the Parties, a new Exhibit N may be issued., When updated, the Parties will insert a new effective date for this Exhibit N, which will replace the prior Exhibit N.

Effective Date Month, Day, Year _____

Signature of Seller

Signature of SMUD

Exhibit O
Reserved

EXHIBIT P
METERING DIAGRAM

Sloughhouse – Metering Diagram

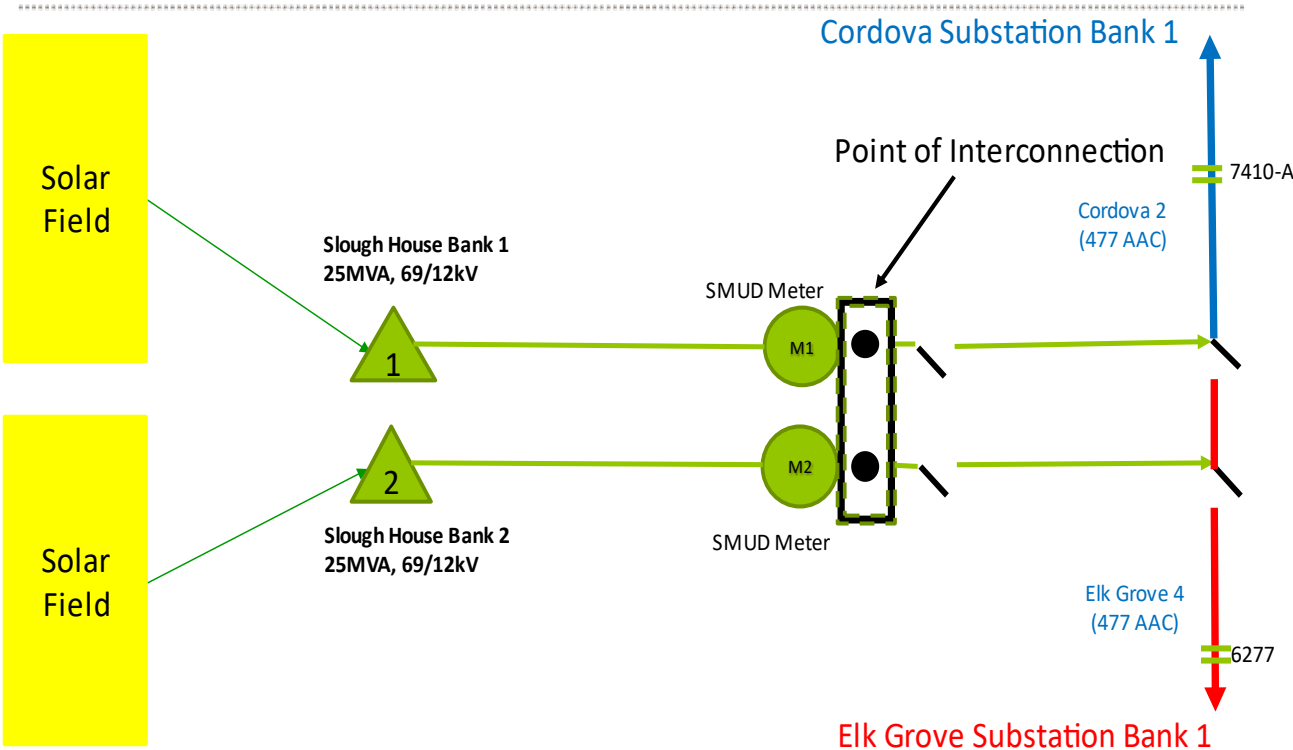


EXHIBIT Q
FORM OF LETTER OF CREDIT

LETTER OF CREDIT

To: Sacramento Municipal Utility District
Energy Contracts Administration
6301 S Street, MS A404
Sacramento, CA 95817-1899

Re: Our Irrevocable Standby Letter of Credit No. [_____]
In the Amount of US\$ [_____] ([_____] and xx/100 U.S. Dollars)

Gentlemen:

We hereby open our irrevocable standby Letter of Credit Number No.[_____] in favor of the Sacramento Municipal Utility District ("Beneficiary"), by order and for account of [_____] ("Account Party"), [company address], available at sight upon demand at our counters, at [_____] , or upon presentation by facsimile transmission at [_____] , for an amount of US\$ [_____] ([_____] and xx/100 U.S. Dollars) and against presentation one of the following documents:

1- Statement signed by a person purported to be an authorized representative of Beneficiary stating that: [_____] (the "Seller") is in default under the agreement between Beneficiary and Seller, dated [_____] , or under any transaction contemplated thereby (whether by failure to perform or pay any obligation thereunder or by occurrence of a "default", "event of default" or similar term as defined in such agreement, any other agreement between Beneficiary and Seller, or otherwise). The amount due to Beneficiary is US \$_____."

Or

2. Statement signed by a person purported to be an authorized representative of Beneficiary stating that: "[_____] ("Seller") has terminated the agreement between Beneficiary and Seller dated [_____] pursuant to such agreement. The amount due to Beneficiary is US \$_____."

Or

3. Statement signed by a person purported to be an authorized representative of Beneficiary stating that: "as of the close of business on _____[insert date, which is less than forty-five (45) days prior to the expiration date of the Letter of Credit] you have provided written notice to us indicating your election not to permit extension of this Letter of Credit beyond its current expiry date. The amount due to Beneficiary, whether or not a default has occurred, is U.S. \$_____."

Special Conditions:

- All costs and banking charges pertaining to this Letter of Credit are for the account of Account Party.
- Partial and multiple drawings are permitted.
- Presentation of the Letter of Credit and Documents 1, 2 or 3 above may be made (i) in person, (ii) by first class certified and registered U.S. mail, by (iii) overnight mail on or before the expiration date or (iv) by facsimile transmission.

This Letter of Credit expires on [one year anniversary of date of issuance] at our counters.

We hereby engage with Beneficiary that upon presentation or facsimile transmission of a document as specified under and in compliance with the terms of this Letter of Credit, this Letter of Credit will be duly honored in the amount stated in Document 1, 2 or 3 above. If presentation is made by facsimile transaction, original documents are not required. If a document or facsimile transmission is so presented by 1:00 pm New York time on any banking day, we will honor the same in full in immediately available funds on the next banking day and, if so presented after 1:00 pm New York time on a banking day, we will honor the same in full in immediately available funds by noon on the second succeeding banking day.

It is a condition of this Letter of Credit that it shall be deemed automatically extended without an amendment for a one year period beginning on the present expiry date hereof and upon each anniversary of such date, unless at least ninety (90) days prior to any such expiry date we have sent you written notice by registered mail or overnight courier service that we elect not to permit this Letter of Credit to be so extended beyond the then current expiry date, and it will expire on its then current expiry date. No presentation made under this Letter of Credit after such expiry date will be honored.

Except as stated herein, this letter of credit is not subject to any condition or qualification and is our individual obligation which is in no way contingent upon reimbursement or any right of subrogation. We irrevocably waive any and all rights of subrogation, whether as provided by statute or otherwise, now or hereafter that might, but for such waiver exist, in respect to this letter of credit or any payment we make under it, as to the Applicant, Beneficiary, or the transaction between Beneficiary and [____]. We further give irrevocable notice that we are not now and will not be the secondary obligor or co-obligor of [____]'s obligation and liabilities to Beneficiary for any purpose. Our obligations to Beneficiary under this letter of credit are our primary obligations and are strictly as stated herein

We agree that if this Letter of Credit would otherwise expire during, or within 30 days after, an interruption of our business caused by an act of god, riot, civil commotion, insurrection,

act of terrorism, war or any other cause beyond our control or by any strike or lockout, then this Letter of Credit shall expire on the 30th day following the day on which we resume our business after the cause of such interruption has been removed or eliminated and any drawing on this Letter of Credit which could properly have been made but for such interruption shall be permitted during such extended period.

This Letter of Credit shall be governed by the International Standby Practices 1998, International Chamber of Commerce Publication No. 590 ("ISP98"), except to the extent that the terms hereof are inconsistent with the provisions of the ISP98, in which case the terms of this Letter of Credit shall govern.

[____], a [_____]

Authorized Signature(s)

EXHIBIT R
FORM OF LIMITED ASSIGNMENT

This Limited Assignment Agreement (this “**Assignment Agreement**” or “**Agreement**”) is entered into as of [_____] (the “**Effective Date**”) by and among _____, LLC, a Delaware limited liability company (“**PPA Seller**”), _____, a California municipal utility district (“**PPA Buyer**” or “**SMUD**”), and J. Aron & Company LLC, a New York limited liability company (“**J. Aron**”), and relates to that certain power purchase agreement (the “**PPA**”) between PPA Buyer and PPA Seller as described on Appendix 1. Unless the context otherwise specifies or requires, capitalized terms used but not defined in this Agreement have the meanings set forth in the PPA.

In consideration of the premises above and the mutual covenants and agreements herein set forth, PPA Seller, PPA Buyer and J. Aron (the “**Parties**” hereto; each is a “**Party**”) agree as follows:

1. Limited Assignment and Delegation.

- (a) PPA Buyer hereby assigns, transfers and conveys to J. Aron all right, title and interest in and to the rights of PPA Buyer under the PPA to purchase and accept delivery of the products described on Appendix 1 (the “**Assigned Products**”) in accordance with the terms of the PPA during the Assignment Period (as defined in Appendix 1), as such rights may be limited or further described in the “Further Information” section on [Appendix 1] (the “**Assigned Product Rights**”). All other rights of PPA Buyer under the PPA are expressly reserved for PPA Buyer.
- (b) PPA Buyer hereby delegates to J. Aron the obligation to pay for all Assigned Products that are actually purchased and delivered to J. Aron pursuant to the Assigned Product Rights during the Assignment Period (the “**Delivered Product Payment Obligation**” and together with the Assigned Product Rights, collectively the “**Assigned Rights and Obligations**”). Notwithstanding the foregoing, all obligations of PPA Buyer under the PPA (including all Delivered Product Payment Obligations) are expressly retained by PPA Buyer, and remain an obligation of PPA Buyer notwithstanding the assignment of the Assigned Products or the delegation to J. Aron of any Delivered Product Payment Obligations. To the extent J. Aron fails to make any payment under the PPA for the Assigned Products under and in accordance with the PPA by the applicable due date for set forth in the PPA, PPA Buyer agrees that it will remain responsible for such payment and shall make such payment to PPA Seller within five (5) Business Days (as defined in the PPA) of receiving notice of such non-payment from PPA Seller.
- (c) J. Aron hereby accepts and PPA Seller hereby consents and agrees to the assignment, transfer, conveyance and delegation described in clauses (a) and (b) above, subject to PPA Buyer’s retention and assumption of all obligations of the PPA Buyer under the PPA.

- (d) All rights to dispatch and schedule the Project and the Assigned Products shall be retained by PPA Buyer and, for avoidance of doubt, J. Aron shall not have any such rights. All dispatch and scheduling of the Project and the Assigned Products and other communications related to the PPA shall take place between PPA Buyer and PPA Seller pursuant to the terms of the PPA; provided that (i) PPA Buyer will provide to J. Aron copies of all scheduling communications, billing statements, generation reports and other notices delivered under the PPA during the Assignment Period contemporaneously upon delivery thereof to the other party to the PPA; (ii) title to Assigned Product will pass to J. Aron upon delivery by PPA Seller in accordance with the PPA; and (iii) PPA Buyer is hereby authorized by J. Aron to and shall act as J. Aron's agent with regard to exercising any and all rights under the PPA relating to dispatching the Project and scheduling Assigned Product.
- (e) PPA Seller acknowledges that J. Aron has the right to purchase receivables due from PPA Buyer for any Assigned Products purchased and delivered under the PPA. To the extent J. Aron purchases any such receivables due from PPA Buyer, J. Aron may transfer such receivables to PPA Seller and apply the face amount thereof as a reduction to any Delivered Product Payment Obligation. Notwithstanding the foregoing, (i) PPA Buyer shall ensure that all payments due to PPA Seller under the terms of the PPA are made to PPA Seller in accordance with the terms of the PPA and (ii) to the extent either (x) J. Aron does not pay PPA Seller for any Delivered Product Payment Obligation, or (y) any Delivered Product Payment Obligation is reduced as described in the preceding sentence, PPA Buyer shall pay PPA Seller for any such failure to pay or reduction, such that PPA Seller receives all payments due to PPA Seller in accordance with the terms of the PPA.

2. Assignment Early Termination.

- (a) The Assignment Period may be terminated early upon the occurrence of any of the following:
- (1) delivery of a written notice of termination by either J. Aron or PPA Buyer to each of the other Parties hereto;
 - (2) delivery of a written notice of termination by PPA Seller to each of J. Aron and PPA Buyer following J. Aron's failure to pay when due any amounts owed to PPA Seller in respect of any Delivered Product Payment Obligation and such failure continues for one business day following receipt by J. Aron of written notice thereof;
 - (3) delivery of a written notice of termination by PPA Seller to each of J. Aron and PPA Buyer following (i) J. Aron's breach of any term of this Assignment or (ii) PPA Buyer's breach of any term of this Assignment;

- (4) delivery of a written notice of termination by PPA Seller to each of J. Aron and PPA Buyer following PPA Buyer's failure to pay when due any amounts owed to PPA Seller in respect of any receivables due from PPA Buyer for any Assigned Products;
 - (5) delivery of a written notice of termination by PPA Seller to each of J. Aron and PPA Buyer following (i) PPA Buyer's breach of the PPA or (ii) J. Aron's breach of the PPA; or
 - (6) delivery of a written notice of termination by PPA Seller to each of J. Aron and PPA Buyer following PPA Buyer's breach of the [Indemnity Agreement].
- (b) The Assignment Period will end as of the date specified in the termination notice, which date shall not be earlier than the end of the last day of the calendar month in which such notice is delivered if termination is pursuant to clauses (a)(1) or (a)(2).
- (c) All Assigned Rights and Obligations shall revert from J. Aron to PPA Buyer upon the expiration of or early termination of the Assignment Period, provided that (i) J. Aron shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered to J. Aron prior to the end of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the expiration or early termination of the Assignment Period. Notwithstanding anything herein to the contrary, PPA Buyer's obligations under the second and third sentence of Section 1(b) and the last sentence of Section 1(e) shall survive any termination of this Assignment.

3. Representations and Warranties. The PPA Buyer represents and warrants to J. Aron that (a) the PPA is in full force and effect; (b) no event or circumstance exists (or would exist with the passage of time or the giving of notice) that would give either Party the right to terminate the PPA or suspend performance thereunder; and (c) all of its obligations under the PPA required to be performed on or before the Assignment Period Start Date have been fulfilled.

4. Notices. Any notice, demand, or request required or authorized by this Assignment Agreement to be given by one Party to another Party shall be delivered in accordance with Article 15 and Exhibit I of the PPA and to the addresses of each of PPA Seller and PPA Buyer specified in the PPA. PPA Seller and PPA Buyer agree to notify J. Aron of any updates to such notice information. Notices to J. Aron shall be provided to the following address, as such address may be updated by J. Aron from time to time by notice to the other Parties:

J. Aron & Company LLC
200 West Street
New York, New York 10282-2198

Email: gs-prepay-notices@gs.com

5. Miscellaneous. Articles 1.2 (Rules of Interpretation), 22 (Severability), 23 (Counterparts), and 24 (General) of the PPA are incorporated by reference into this Agreement, *mutatis mutandis*, as if fully set forth herein.

6. Governing Law, Jurisdiction, Waiver of Jury Trial

(a) **Governing Law.** This Assignment Agreement and the rights and duties of the parties under this Assignment Agreement will be governed by and construed, enforced and performed in accordance with the laws of the state of [California], without reference to any conflicts of laws provisions that would direct the application of another jurisdiction's laws.

(b) **Jurisdiction.** Each party submits to the exclusive jurisdiction of the [state courts of California], or the federal courts of the United States of America for the Northern District of California, sitting in the city and county of San Francisco. Where a lawsuit arises under or in relation to the PPA, or [Indemnity Agreement], the PPA Seller may, at its option, consolidate the disputes, and PPA Buyer and J. Aron hereby consent to any such consolidation to the maximum extent permitted by applicable Law. PPA Buyer and J. Aron agree to join as defendants in any lawsuit or other legal action under or arising out of the PPA or [Indemnity Agreement].

(c) **Waiver of Right to Trial by Jury.** Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to this assignment agreement.

7. Assignment. PPA Buyer and J. Aron shall not assign, transfer or sell this Agreement without PPA Seller's prior written consent. PPA Seller may, without the consent of PPA Buyer or J. Aron, assign this Agreement (i) together with any permitted assignment of the PPA or (ii) as collateral to any financing party. In connection with any financing by PPA Seller for the Project, PPA Buyer and J. Aron shall each provide such consents to collateral assignments (which consent(s) from J. Aron shall not require any extended cure periods or any requirement for a replacement agreement), estoppels, opinions (which opinions may only be requested to be provided by PPA Buyer), information or other documents as may be reasonably requested, in accordance with market practice, by PPA Seller or the financing parties in connection with the execution of the debt, tax equity or other financing of the Project. Without limiting the foregoing, at the reasonable request of PPA Seller, PPA Buyer shall confirm in writing to the applicable financing parties under any such financing and J. Aron shall acknowledge, PPA Buyer's obligations under the second and third sentence of Section 1(b) and the last sentence of Section 1(e).

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the Parties have executed this Assignment Agreement effective as of the date first set forth above.

[Add signature blocks]

Authorized Signature(s)

SSS No.
BOD 2021-003

BOARD AGENDA ITEM

STAFFING SUMMARY SHEET

Committee Meeting & Date
ERCS 2021
Board Meeting Date
N/A

TO				TO								
1.	Stephen Clemons			6.								
2.	Frankie McDermott			7.								
3.				8.								
4.				9.	Legal							
5.				10.	CEO & General Manager							
Consent Calendar			Yes	x	No If no, schedule a dry run presentation.		Budgeted		Yes	No (If no, explain in Cost/Budgeted section.)		
FROM (IPR) Brandon Rose / Donna Lofton				DEPARTMENT Board Office				MAIL STOP B307		EXT. 5079	DATE SENT 12/22/20	

NARRATIVE:

Requested Action: Provide a summary of committee direction from the Board to Staff.

Summary: During a Board discussion at the January 2017 Policy Committee, the Board requested having an on-going opportunity to do a wrap up period at the end of each committee meeting to summarize various Board member suggestions and requests that were made at the meeting in an effort to make clear the will of the Board. The Committee Chair will summarize Board member requests that come out of the committee presentations for this meeting.

Board Policy: GP-4 Agenda Planning states the Board will focus on the results the Board wants the organization to achieve.
(Number & Title)

Benefits: Having an agendaized opportunity to summarize the Board's requests and suggestions that arise during the committee meeting will help clarify what the will of the Board.

Cost/Budgeted: N/A

Alternatives: Not summarize the Board's requests at this meeting.

Affected Parties: Board of Directors and Executive Staff

Coordination: Donna Lofton, Special Assistant to the Board

Presenter: Brandon Rose, ERCS Committee Chair

Additional Links:

SUBJECT
Summary of Committee Direction

ITEM NO. (FOR LEGAL USE ONLY)

ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.